



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

22 DEC 2020

Dear

On 31 July 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

A copy of the Deaf Aotearoa New Zealand contract/agreement

I would like to apologise that this information was not provided to you earlier.

Please find attached a copy of the Ministry's contract with Deaf Aotearoa Holdings Limited dated 14 February 2020 and the contract variation for New Zealand Sign Language Week 2020-2022, dated 23 March 2020.

You will note that the names of some individuals are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government
- to increase the ability of the public to participate in the making and administration of our laws and policies
- to lead to greater accountability in the conduct of public affairs.

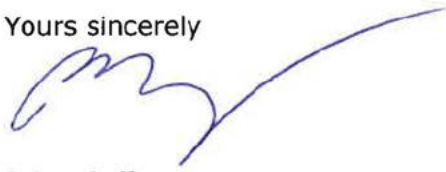
This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the Deaf Aotearoa New Zealand Sign Language contract/agreement, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

If you would like a sign language translation of this letter, please do not hesitate to contact the Ministry and we can arrange a translation for you.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Brian Coffey', with a long, sweeping horizontal line extending to the right.

Brian Coffey
Director
Office for Disability Issues



MINISTRY OF SOCIAL DEVELOPMENT

Te Manatū Whakahiato Ora

**CONTRACT
FOR COMMERCIAL SERVICES**

BETWEEN

THE MINISTRY OF SOCIAL DEVELOPMENT

AND

DEAF AOTEAROA HOLDINGS LIMITED

Commercial in Confidence

A handwritten signature in black ink, appearing to be 'dr'.

Table of Contents

Parties.....	4
Background.....	4
Agreement	4
1 Definitions and Interpretation	4
2 Engagement	6
3 Term	6
4 Relationship between the Parties.....	6
5 Responsibilities of the Provider.....	6
6 Warranties	8
7 Payment	9
8 Confidentiality	10
9 MSD Reporting Obligations.....	10
10 Publication	11
11 Ownership	11
12 Indemnities	12
13 Force Majeure.....	12
14 Dispute Resolution.....	13
15 No Assignment or Sub-Contracting.....	13
16 Termination.....	13
17 Changes Following a Government Directive	15
18 No Expectation Regarding Further or Other Agreements.....	15
19 Waiver	15
20 Cumulative Rights.....	15
21 Further Assurances.....	15
22 Severance	15
23 Notice	15

24	Costs	16
25	Variation	16
26	Solicitation for Employment.....	16
27	Entire Agreement.....	16
28	Law	17
29	Privity of Contract	17
	Execution	17
	Schedule 1: Services	18
1	Services:.....	18
2	Deliverables:.....	18
	Schedule 2: Personnel	23
	Schedule 3: Payment.....	24
	Schedule 4: Relationship Management.....	25
1	Objectives.....	25
2	Good Faith.....	26
3	Personnel	26
4	Reports.....	28
5	Meetings.....	29
6	Relationship Issues.....	30

Agreement signed this

day of February 2020

Parties

- 1 Ministry of Social Development ("**MSD**")
- 2 Deaf Aotearoa Holdings Limited, NZBN: 9429032494242, having its Registered Office at 1836 Great North Road, Avondale, Auckland, 1026 ("**the Provider**")

Background

- A The Provider agrees to provide the services set out in the Statement of Work for this Agreement:
 - a. to lift the status and profile of NZSL as an Official Language of New Zealand – a language all New Zealanders can use
 - b. for Deaf community members to use and share NZSL
 - c. for hearing people to meet Deaf people; breaking down barriers
 - d. for hearing people to have some experience of NZSL, with a view to some choosing to continue their learning and engagement
 - e. to highlight the use and learning of NZSL in education, government service, and social and community contexts.
- B MSD wishes to engage the Provider to provide the Services.
- C The Provider agrees to provide the Services to MSD in accordance with the terms of this Agreement.

Agreement

1 Definitions and Interpretation

- 1.1 In this Agreement (including the Background), unless the context otherwise requires:

"Agreement" means this Contract for Services together with its Schedules.

"Commencement Date" means the date specified as such in clause 3 (*Term*).

"Confidential Information" means any information of a confidential nature or relating to the Services that MSD discloses to the Provider or the Provider obtains in the course of carrying out the Services including:

- (a) personal information relating to people associated with the Services;
- (b) information relating to the administration, business affairs, or financial or commercial arrangements of MSD;
- (c) Information relating to any product, process or methodology associated with the Services.

"Deliverables" means all items specified as Deliverables in Schedule 1 (Services).

"Expiry Date" means the date specified as such in clause 3 (Term).

"Fee" means the amount payable by MSD for the Deliverables, as specified in Schedule 3 (Payment).

"Intellectual Property Rights" means all intellectual property rights whether conferred by statute, at common law or in equity, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.

"New Intellectual Property Rights" means Intellectual Property Rights developed after the date of this Agreement and incorporated into the Deliverables.

"Pre-existing Intellectual Property Rights" means Intellectual Property Rights developed before the date of this Agreement.

"Previously Funded Materials" means all deliverables and other outputs created by the Provider or Deaf Aotearoa New Zealand Incorporated under or in accordance with:

- (a) previous funding grants from MSD to the Provider or Deaf Aotearoa New Zealand Incorporated; and
- (b) contracts for services between MSD, and the Provider and/or Deaf Aotearoa New Zealand Incorporated.

Protected Name means any registered or unregistered trade name or trade mark used by the Provider specifically in connection with and to describe its business, its campaigns and its services.

"Services" includes Deliverables and are described in Schedule 1 (Services).

"Working Day" means any day of the week other than a Saturday, Sunday or public or statutory holiday.

1.2 Unless the context otherwise requires, the following rules of interpretation shall apply to this Agreement:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender includes the other gender;
- (c) where a word or phrase is defined its other grammatical forms have a corresponding meaning;

- (d) a reference to a person includes a body corporate, an unincorporated body of persons, or any other entity;
- (e) a reference to a section, clause, or schedule is to a section, clause, or schedule in this Agreement;
- (f) a reference to any party in this Agreement includes that party's successors or permitted assigns; and
- (g) a reference to any legislation includes any amendment, consolidation, re-enactment or replacement of that legislation.

2 Engagement

- 2.1 MSD engages the Provider to provide the Services and the Provider accepts the engagement on the terms and conditions of this Agreement.

3 Term

- 3.1 This Agreement commences on signing (Commencement Date) and expires on 30 June 2022 (Expiry Date) unless terminated earlier in accordance with this Agreement.

4 Relationship between the Parties

- 4.1 **Independent Contractor.** The relationship between MSD and the Provider is that of principal and contractor and nothing in this Agreement will be taken as constituting the Provider to be an employee, partner, or agent of MSD for any purpose. The Provider has no right or authority to assume or create any obligations of any kind or to make any representations or warranties for or on behalf of MSD.
- 4.2 **Non Exclusivity.** The Provider acknowledges that this Agreement is not an exclusive arrangement and MSD may purchase any goods or services from other suppliers.
- 4.3 **Good Faith.** The parties must communicate with each other honestly and in good faith during the term of this Agreement, including communicating any known risks.
- 4.4 **Relationship Principles and Management.** The parties must adhere to the relationship principles and relationship management process as described in Schedule 4 (*Relationship Management*).

5 Responsibilities of the Provider

- 5.1 **Provider Responsibilities.** The Provider must:
- (a) perform the Services and deliver the Deliverables with all due care, skill and diligence and to the highest industry standards, including maintaining sufficient resources;

- (b) comply with all relevant New Zealand law and such other requirements that may apply to the Services or this Agreement;
- (c) work with MSD's employees and contractors as required, in a competent and professional manner;
- (d) comply with MSD's reasonable directions and instructions in relation to the performance of the Services;
- (e) comply with, and ensure that its personnel comply with MSD's reasonable requests for the Provider's personnel to submit to checks (for example, bankruptcy or criminal conviction checks) or complete any declaration forms (for example, conflicts of interest or benefit history) as necessary and appropriate in the context of the Services being provided;
- (f) make its personnel available at reasonable times for meetings with representatives of MSD in relation to the performance of the Services;
- (g) provide the Services through the use of the personnel listed in Schedule 2 (*Personnel*). The Provider may not use personnel not listed in Schedule 2 (*Personnel*) without MSD's approval (such approval is not to be unreasonably withheld) in each instance;
- (h) comply with, and ensure that its personnel comply with, any Ministry policy (including Health and Safety policies, and email and internet usage policies) while working on MSD's premises. MSD must provide copies of any policies to the Provider at the Provider's request;
- (i) correct any errors in the Services detected by MSD up to one month after purported completion of the relevant Services at MSD's request. The Provider shall carry out such correction work as is necessary immediately, at its own cost, and without unnecessary inconvenience to MSD, its employees or contractors; and
- (j) not accept work from other sources that will in any way impair or affect its ability to provide the Services in accordance with the terms of this Agreement.

5.2 Removal of Personnel. Where the Provider becomes aware that any of the Provider's personnel, including agents or sub-contractors engaged in providing the Services:

- (a) commits any act of dishonesty;
- (b) in any way brings MSD into disrepute;
- (c) commits an act that in MSD's reasonable opinion is inconsistent with clause 5.1 above;
- (d) is convicted of a criminal offence or engages in criminal behaviour; or
- (e) is otherwise unable to perform the Services to MSD's reasonable satisfaction,

the Provider must immediately remove the personnel from providing the Services or being in direct contact with MSD.

5.3 Audit. MSD may carry out an assessment of the performance of the Services and Fees for the purpose of ascertaining that the information that is provided to MSD in accordance with this Agreement is accurate. The Provider must cooperate with any assessment and allow MSD or its authorised agents access to:

- (a) the Provider's premises and any of its sub-contractor's premises where Services are delivered or applicable records are kept;
- (b) personnel involved in providing the Services;
- (c) records and information about the Services and any Fees charged under this Agreement.

MSD will:

- (a) give the Provider at least 3 Working Days' notice of any assessment;
- (b) visit during normal business hours or other reasonable times depending on the matter being assessed; and
- (c) provide the Provider with feedback on the results of the assessment.

6 Warranties

6.1 The Provider warrants that it is authorised to enter this Agreement and when providing the Services, it shall at all times:

- (a) use personnel who possess adequate skills and have the knowledge, ability and qualifications necessary to provide the Services;
- (b) use appropriate materials and resources of high quality;
- (c) have sufficient professional indemnity insurance to cover all liabilities arising as a result of this Agreement; and
- (d) ensure that the personnel used in providing the Services have been properly vetted (including checks required by MSD such as criminal conviction or bankruptcy checks) by the Provider to the intent that such personnel are of good, honest and reputable character.

6.2 The Provider further warrants that in providing the Services the Provider shall not be:

- (a) in breach of any obligation to any other person or entity;
- (b) infringing any rights (including intellectual property rights) of any other person or entity; or
- (c) in a position of actual, potential or perceived conflict of interest with any other party or entity that might affect the Provider's performance of the Services or its contractual relationship with MSD.



- 6.3 The parties acknowledge that all goods and services supplied under this Agreement are acquired by MSD for business purposes and accordingly (to the extent permitted by law) the guarantees provided under the Consumer Guarantees Act 1993 shall not apply to the supply of such goods and services.

7 Payment

- 7.1 MSD must pay the Provider the Fee in accordance with Schedule 3 (*Payment*) and this clause.
- 7.2 **Payment.** Payments will only be made by MSD:
- (a) upon receipt of a valid invoice and sufficient particulars for MSD to confirm that the invoice is correct;
 - (b) in respect of Services that have been provided in accordance with the requirements of this Agreement; and
 - (c) where the Provider has performed all of its obligations in accordance with this Agreement that are required to be performed at the due date for payment.
- 7.3 **Disbursements.** Except as provided in Schedule 3 (*Payment*) of this Agreement, the Provider is not entitled to any payments or reimbursements of any disbursements or costs incurred by it in the performance of the Services or its obligations under this Agreement.
- 7.4 **Disputed Invoice.** If MSD disputes the payment of any invoice or part thereof, MSD will pay any undisputed part of the invoice and the dispute will be resolved in accordance with clause 14 (*Dispute Resolution*).
- 7.5 **Payment Process.** The parties agree to apply the following payment processes:
- (a) the Provider will invoice MSD by the 5th Working Day of the month following the month in which the Services have been provided and MSD will pay by the 20th day of that month; and
 - (b) MSD will pay the Fee by direct credit to the Provider's nominated bank account.
- 7.6 **Taxes.** MSD is only obliged to pay goods and services tax payable under the Goods and Services Tax Act 1985 ("GST") in respect of the Fee and any other payment under this Agreement to the Provider on presentation of valid and appropriate invoices. If required under the Tax Administration Act 1994 or Income Tax Act 2007, MSD shall deduct any withholding taxes applicable from the Fee. The Provider is responsible for obtaining any exemption or reduced rate certificates for any applicable withholding taxes applying in New Zealand and MSD shall be entitled to deduct withholding taxes if, in its sole opinion, there may be a liability to deduct. The Provider is responsible for all taxes and other liabilities, including (without limitation) levies under the Injury Prevention, Rehabilitation, and Compensation Act 2001, in respect of its employees. The Provider indemnifies MSD in respect of any liability resulting from its failure to meet its responsibilities in this clause.

8 Confidentiality

- 8.1 The Provider must not at any time, without MSD's written consent in each instance, disclose, or allow to be disclosed, to any third party any Confidential Information except:
- (a) as required by law;
 - (b) if the Provider is a company subject to the New Zealand Stock Exchange Rules, as required by those rules;
 - (c) to its professional advisors;
 - (d) information already in the public domain other than by breach of any duty of confidentiality; or
 - (e) as permitted by this Agreement.
- 8.2 The Provider must maintain security arrangements appropriate to the circumstances in relation to all Confidential Information.
- 8.3 The Provider must ensure that its personnel and any permitted agents, consultants, subcontractors and assigns are aware of and comply with the provisions of this clause. The Provider shall be liable for any breach of this clause by any of its personnel and any permitted agents, consultants, subcontractors or assigns.
- 8.4 The Provider fully indemnifies MSD for all costs, claims, or damages, incurred or suffered by MSD as a consequence of any breach of this clause.

9 MSD Reporting Obligations

- 9.1 **Information Held by Provider.** Any information held by the Provider for the purpose of this Agreement is treated as if held by MSD for reporting purposes. The Provider must supply any such information MSD requests to enable it to comply with its reporting obligations including:
- (a) under the Official Information Act 1982;
 - (b) Parliamentary questions; or
 - (c) any other applicable reporting requirements.
- 9.2 **Official Information Act 1982.** The Provider acknowledges that MSD is subject to the provisions of the Official Information Act 1982 and may be required to disclose information pursuant to that Act. The Provider should mark any information "Commercial: In Confidence" if the Provider wishes to protect specific commercial information. MSD does not guarantee, however, that such marked information will be protected from disclosure. The Provider must immediately forward any request made under the Official Information Act 1982 received by the Provider to MSD.

10 Publication

10.1 Neither party may make any public statement about the other party, this Agreement, or the Services without the other party's written consent in each instance.

11 Ownership

11.1 Pre-existing Intellectual Property Rights remain the property of their current owner.

11.2 New Intellectual Property Rights in the Deliverables become the property of the Provider when they are created.

11.3 The Provider grants to the Crown a perpetual, non-exclusive, royalty-free and irrevocable licence to use, for any purpose, all Intellectual Property Rights in:

- (a) the Deliverables; and
- (b) the Previously Funded Materials.

Subject to clause 11.4, this licence includes the right to use, copy, modify and distribute the Deliverables and the Previously Funded Materials and to sub-license any Intellectual Property Rights in the Deliverables and Previously Funded Materials, and the Deliverables and Previously Funded Materials themselves, for re-use under:

- (c) any Creative Commons licence referred to in the New Zealand Government Open Access and Licensing framework (which is available at <https://www.data.govt.nz/manage-data/policies/nzgoal/>); or
- (d) such other licence as MSD may consider appropriate.

11.4 Regardless of any such licence chosen, MSD will make it clear that, whilst any material subject to the Intellectual Property Rights covered by the licence that includes a Protected Name can be copied and distributed in its entirety without modification, licensees:

- (a) must not use or modify a Protected Name for their own purposes;
- (b) must, if they modify any such materials, remove the Protected Name from all modified versions;
- (c) may use the materials only for a purpose that is set out in paragraph A of the Background to this Agreement or that is related to one of those purposes; and
- (d) if they use the materials in an unmodified form, may not recover a charge from MSD or any other person for the materials;
- (e) if they modify the materials, may not recover a charge from MSD or any other person that exceeds a reasonable cost for their time and effort in making the modifications;
- (f) in respect of any licences granted under clause 11.3(d):

- (i) must give appropriate credit, provide a link to the licence, and indicate if any changes to the materials are made; and
- (ii) must not apply legal terms or technological materials that legally restrict others from doing anything the licence permits.

11.5 Without limitation to clause 8 (Confidentiality) and except for MSD or government logos, coats of arms and emblems, MSD grants to the Provider a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in the Deliverables that are not owned by the Provider (if any).

11.6 The Provider warrants that it is legally entitled to do the things stated in clause 11.3 with the Intellectual Property Rights in the Deliverables and the Previously Funded Materials.

11.7 The Provider shall not incorporate third party proprietary materials into the Deliverables without the prior written consent of MSD on each occasion. Where MSD agrees that the Provider may incorporate such third party proprietary materials, the Provider must obtain for the benefit of the Crown all licences that may be required by MSD in respect of such materials at no additional expense to MSD (including, to avoid doubt, licences that enable the Crown to grant any sub-licence referred to in clause 11.3).

12 Indemnities

12.1 **Third Party.** The Provider indemnifies MSD for any costs, claims, or damages arising out of, and shall at MSD's request, and subject to any conditions imposed at MSD's discretion, at its own cost defend or settle, any claim, action or proceedings brought against MSD:

- (a) based upon a claim of intellectual property rights infringement in relation to the Services;
- (b) arising from any negligent or wilful acts or omissions of the Provider; or
- (c) arising from the Provider's breach of this Agreement.

12.2 **Physical Damage to Property.** The Provider indemnifies MSD for any costs, claims, or damages arising out of physical damage to MSD's property caused by any negligent or wilful acts or omissions of the Provider.

13 Force Majeure

13.1 Neither party will be liable for any default or delay in any obligation of this Agreement caused by an event reasonably beyond its control, provided that the party claiming force majeure could not have reasonably been expected to make provision for that event.

13.2 The party who claims the protection of this clause must:

- (a) immediately give the other party notice of the circumstances and the likely period of the delay; and

- (b) take all reasonable steps to mitigate the default or reduce the period of the delay.

13.3 If an event referred to in this clause has the effect of preventing compliance with the obligations of a party for more than 30 days, the other party may immediately terminate this Agreement by giving written notice.

14 Dispute Resolution

14.1 **Compliance With This Clause.** Neither party may commence any court or arbitration proceedings relating to any dispute arising from this Agreement until it has complied with this clause and followed the correct escalation process in Schedule 4 (*Relationship Management*), unless proceedings are necessary to preserve the rights of either party.

14.2 **Notice and Good Faith.** The party claiming that a dispute exists must give written notice to the other party specifying the nature of the dispute. When a notice is received both parties must use their best endeavours to cooperate to resolve the dispute in good faith.

14.3 **Mediation.** If the dispute is not settled within 10 Working Days of the notice, the parties shall participate in mediation with a mutually acceptable mediator. If the parties cannot agree on a mediator within 5 Working Days of the notice, the Chairperson of LEADR New Zealand Incorporated will appoint the mediator. The mediation fee will be divided equally between the parties.

14.4 **Arbitration.** If the dispute is not settled within 30 days of the start of the process, the parties shall refer the matter to a single arbitrator. If the parties cannot agree on the arbitrator, each party shall appoint one arbitrator and these two arbitrators will jointly umpire. The arbitration will be conducted in accordance with the Arbitration Act 1996. The arbitration costs will be divided equally between the parties.

14.5 **Continuation of Agreement.** Both parties must continue to comply with their obligations in this Agreement until the dispute is resolved, except that payments may be withheld to the extent that they are disputed.

15 No Assignment or Sub-Contracting

15.1 The Provider may not assign, transfer or sub-contract any of its rights or obligations under this Agreement without the prior written consent of MSD. In the case of sub-contracting, MSD will not unreasonably withhold or delay its consent (which, to avoid doubt, may be granted by email).

15.2 If MSD consents to a sub-contractor being appointed the Provider shall not be relieved of its obligations under this Agreement.

16 Termination

16.1 **Termination by MSD.** MSD may terminate this Agreement on written notice if the Provider:

- (a) commits a material breach of this Agreement which is not capable of being remedied;

- (b) breaches clause 8 (*Confidentiality*) whether intentionally or accidentally;
- (c) breaches this Agreement and fails to remedy the breach within 30 days of receiving written notice of the breach;
- (d) has repeatedly breached this Agreement and irrespective of whether or not the breaches are remedied, MSD determines that the Provider is unable or unwilling to consistently perform the Agreement to MSD's satisfaction;
- (e) ceases to conduct any substantial part of its business in a normal manner or threatens to do so; is the subject of a bankruptcy order; is or is deemed to be unable to pay its debts as they fall due; becomes insolvent for the benefit of its creditors; has any of its assets subject to any form of seizure; goes into voluntary or compulsory liquidation; has a receiver, administrator or any similar officer appointed; is wound-up; or suffers any analogous event.

16.2 Suspension. Rather than terminate this Agreement for breach, MSD may, at its discretion and without affecting its right to terminate, suspend payment of any Fees until such time as the breach has been remedied.

16.3 Partial Termination. MSD may, at its discretion, partially terminate this Agreement in respect of those parts which have not yet been performed by the Provider and can reasonably be severed from the remainder of the Agreement.

16.4 Termination by the Provider. The Provider may terminate this Agreement immediately on written notice if MSD fails to pay in full any sum of money due to the Provider under this Agreement within 30 days from the date for payment and MSD fails to remedy the default within a further 7 days after notice of the default unless the amount unpaid is disputed.

16.5 Termination for Convenience. MSD may terminate this Agreement at its convenience by giving the Provider at least 30 days' notice in writing.

16.6 Process Following Termination. Following the expiry or termination of this Agreement:

- (a) all Fees and other payments outstanding prior to the date of expiry or termination will become immediately due and payable;
- (b) MSD shall be entitled to recover any Fees paid to the Provider for Services that have not yet been performed or completed;
- (c) each party shall, as and when reasonably requested in writing by the other party, promptly deliver to the other (or at the party's option destroy) all of the other party's property, including intellectual property, and Confidential Information in its possession or under its control, and certify that it has done so; and
- (d) provided all invoices have been paid in accordance with the Agreement, the Provider shall promptly deliver to MSD all work in progress on any Deliverables in the Provider's possession or control.

16.7 Effects of Termination. The expiry or termination of this Agreement will:

- (a) be without prejudice to the rights of the parties accrued up to the date of such expiry or termination; and
- (b) not affect any clauses that were intended to have a continuing effect, including clauses 6 (*Warranties*), 8 (*Confidentiality*), 9 (*Ministry Reporting Obligations*), 10 (*Publication*), 11 (*Ownership*), 14 (*Dispute Resolution*), 16.6 (*Process following termination*), and 16.7 (*Effects of termination*).

17 Changes Following a Government Directive

17.1 The Provider accepts that MSD is acting on behalf of the Government and must implement Government instructions. If there is a change of Government policy or a new Government instruction that materially affects the parties' rights and obligations under this Agreement, then the parties will agree between them how to vary this Agreement.

17.2 If agreement under clause 17.1 is not reached between the parties within 30 days, then MSD may terminate the terms of this Agreement by giving the Provider 30 days' written notice of any such termination.

18 No Expectation Regarding Further or Other Agreements

18.1 Neither this Agreement, nor the fact that the Provider provides the Services to MSD, creates any obligation upon either party to enter into any further Agreement with the other.

19 Waiver

19.1 No waiver of any breach of this Agreement shall be deemed to be a waiver of any other or any subsequent breach. The failure of either party to enforce any provision of the Agreement at any time shall not be a waiver of such provision.

20 Cumulative Rights

20.1 The rights of each party under this Agreement are cumulative upon and not exclusive of any rights provided by law.

21 Further Assurances

21.1 Each party to this Agreement will take all steps as may reasonably be required by the other party to give full effect to the terms of this Agreement.

22 Severance

22.1 Any clause of this Agreement that is found to be unenforceable, illegal or invalid shall be deleted and shall not affect any other clause.

23 Notice

23.1 Any notice to be given by one party to the other for the purposes of this Agreement (including notice of change of address for service) may be given by personal delivery, mail, , or email. If the date of arrival cannot be proved notice by

mail shall be treated as having been delivered on the 3rd Work Day after it is posted, provided that the letter was properly addressed. An email that arrives after 5pm on a non-Working Day shall be treated as having been delivered on the next Working Day.

23.2 The initial address for service of MSD is

Ministry of Social Development
P O Box 1556
National Office
Wellington 6140

The Aurora Centre
56 The Terrace
Wellington 6011

Attention: ~~9(2)(a)~~, Senior Advisor, Office for Disability Issues

23.3 The initial address for service of the Provider is:

Deaf Aotearoa Holdings Limited Level 3, 12 Johnston St, Wellington

Attention: Victoria Manning, GM-Strategy

24 Costs

24.1 Each party shall pay its own costs in connection with the preparation and execution of this Agreement.

25 Variation

25.1 No variation to this Agreement shall be effective unless it is in writing and signed by an authorised representative of both parties.

26 Solicitation for Employment

26.1 During the term of this Agreement and for a period of 6 months after its expiry or termination, neither party shall, without the other's written consent, deliberately solicit for employment or hire any person who is or has been employed by the other and involved in the delivery of the Services. This does not apply where a person has responded to a legitimate advertisement.

27 Entire Agreement

27.1 This document records the entire agreement between the parties and supersedes all previous oral or written agreements or understandings dealing with the same subject matter.

28 Law

28.1 This Agreement is governed by and interpreted in accordance with the laws of New Zealand.

29 Privity of Contract

29.1 No third party may enforce this Agreement.

Execution

Signed for the Ministry of Social Development by Debbie Power, Chief Executive.




Signed




Date

Signed by Lachlan Keating, Chief Executive

I have authority to sign for **DEAF AOTEAROA HOLDINGS LIMITED.**



Signed



Date

Schedule 1: Services

The Provider must provide the Services and deliver the Deliverables as set out in this schedule.

1 Services:

- 1.1 The Provider must provide:
- 1.2 A national advertising campaign
- 1.3 Local and national Deaf-led events
- 1.4 Opportunities to learn NZSL will be developed, promoted and delivered.

2 Deliverables:

- 2.1 The Provider must deliver the following:

National Advertising Campaign:

Deaf Aotearoa will develop a three-year campaign strategy, involving Deaf people, that will provide coherent themes and guidance for the national advertising campaign, national events and opportunities to learn NZSL for the 2020 – 2022 years.

Deaf Aotearoa will produce and design campaign material, images, collateral and resources consistent with the three-year campaign strategy. All NZSL Week promotional material shows positive images of Deaf people signing and provides people with information about where you can learn NZSL. All campaign promotional material is distributed widely throughout New Zealand.

Deaf Aotearoa's promotional material and resources includes:

- **Booklets:**

- 25 signs to learn in the Family
- 25 signs to learn in Medical Settings
- 25 signs to learn for First Signs families
- 25 signs to learn of Māori concepts
- 25 signs to learn at Work

25 signs to learn at the Weekend

25 signs for Bars and Restaurants

- **Flyers** *"Had a Taste: Want to Learn More?"*
- **Alphabet cards and posters** that include how to introduce yourself in NZSL.
- **NZSL Week posters**
- **NZSL Week adverts**
Deaf Aotearoa will promote existing NZSL Week adverts and produce a new advert, for NZSL week 2021. NZSL Week adverts will be distributed widely across a range of unpaid and paid media channels including for example television ads; digital ads OnDemand, on Facebook, Google, YouTube, Instagram; bus side ads; billboards, Eyelites.
- **NZSL Awards 2020 and 2022**
Deaf Aotearoa will host the NZSL Awards biennially.
- **NZSL Week Leaders Challenge**
Deaf Aotearoa will organise the NZSL Leaders Challenge and promote this widely.

1.5 Local Deaf-led events

Deaf Aotearoa's local Deaf-led events throughout the country will include:

The initiation of local events is firmly rooted in local Deaf communities. Deaf Aotearoa has 14 offices throughout New Zealand from Whangarei to Invercargill where staff are in contact with their local Deaf community members on a daily basis. This provides consistent, regular and ongoing opportunities for local Deaf community members to share their feedback and ideas about their local NZSL Week events. Each year, for the past 13 years, Deaf Aotearoa staff ask their local communities what NZSL Week events and activities they want to have and be involved in, including seeking feedback on previous years events. Because our staff are in touch with their local Deaf community members throughout the whole year, ideas that are expressed at any time (e.g.: any local Deaf community gathering) are captured by our staff and feed into ongoing and

regular ideas and discussions, at the local level, for their NZSL Week local events and activities.

All Deaf Aotearoa's processes for coordinating and providing local Deaf-led NZSL Week events focus on ensuring input and leadership by the local Deaf communities and has a long history of co-delivering NZSL Week events in partnership with Deaf clubs around the country.

Deaf Aotearoa staff have built up strong capability to engage their local community and to deliver events that fit well with the local community's interests. Deaf communities in each locality are starkly different and events enjoyed and appreciated by each local Deaf community are very different.

The events that we co-ordinate are in response to requests from the local Deaf communities located in the same regions as our 14 offices, as well as regions where we do not have offices such as Rotorua, Whakatane and Whanganui. Deaf communities across New Zealand vary significantly in their interests and capacities, and Deaf Aotearoa engages each local Deaf community from our 14 offices – where are local staff best understand their local Deaf communities. Events that the Auckland Deaf community want will be very different to the events that are requested by the Wellington Deaf community and different again to events that the Hawkes Bay or Rotorua Deaf community want.

It is important that NZSL Week events respond to, and are led by, the local Deaf communities. Our staff are on the ground engaging with their local Deaf communities throughout the year, and this includes engaging local Deaf people to be involved in designing the events they want Deaf Aotearoa's support to organise for their local celebrations of their language. Thus, engaging the local Deaf communities for input to the NZSL Week events for their area is not only a once a year tasks done in the months prior to NZSL Week. For example, some good event ideas from local communities are suggested immediately after NZSL Week and our staff capture these to implement in the next year's NZSL Week or for other celebrations such as International Week of the Deaf.

Deaf Aotearoa staff liaise with the event or activity organiser, or the place that the Deaf community want to participate in. Our staff ensure qualified NZSL Interpreters are booked and support the organisation in providing any Deaf awareness education to help ensure the event venue is well prepared for Deaf participants and to ensure its success. Deaf Aotearoa staff also liaise with organisations and event organisers to request a reduced rate for any costs for Deaf people.

In organising the local Deaf community events, Deaf Aotearoa staff take all opportunities to ensure those events put Deaf people in leadership roles. For example, for a local family picnic our Deaf staff provide paid roles for their local

NZSL Tutors and other Deaf community members to lead the event and the conversations to show their leadership and to put them in positions of being positive language models.

Deaf Aotearoa engage Māori Deaf people in the Deaf communities in all 14 of our office locations. Some of these communities have a higher proportion of Māori Deaf people than others, and Deaf Aotearoa staff are on the ground year-round developing and maintaining relationships with local Māori Deaf people and their local iwi, marae and Māori organisations. In preparing events for NZSL Week our local staff engage Māori Deaf people and actively seek their involvement and leadership in the local events.

Our staff around the country are constantly looking to engage new Deaf community members, including hard-of-hearing people, deafblind, Māori and Pacific Deaf people and their whānau and families with deaf children. Our staff do this by regularly organising local events and promoting open invitations to come and learn and practice NZSL such as quiz nights in local Deaf clubs and local bars; family events and picnics; and gatherings for First Signs families, etc. This helps ensure the reach of our NZSL events is inclusive of all community members, potential future community members and the wider public.

Deaf Aotearoa's commitment to providing Deaf leadership opportunities is also firmly implemented internally ensuring that our Deaf staff have key roles and opportunities to contribute to the success of NZSL Week. This includes our Deaf staff in every office and at every level in the organisation from Management to Team Leaders to our Business Support Assistants and our Facilitators working on the ground in their local communities.

Deaf Aotearoa's internal, backroom coordination of NZSL Week events includes our intranet system that has been specifically designed, is fit-for-purpose and is continuously improved and upgraded. Our intranet includes efficient booking and communication systems that we have reviewed and adapted each year to continually improve efficiencies.

Deaf Aotearoa's staff assist the local community to organise a range of events aimed at engaging a variety of diverse audiences, including:

Events for the general public aimed at engaging the hearing public to gain awareness and an appreciation of NZSL. Deaf Aotearoa takes care to ensure that Deaf people are fronting these public facing events/activities. Deaf Aotearoa also provides lots of resources for sharing with the public at these events, such as booklets, alphabet cards, balloons, tattoos, flyers, etc. Examples of public events include promoting and celebrating NZSL in shopping malls, public parks, markets, libraries, museums, theatres etc. People who



participate in NZSL Taster Classes are invited to attend and participate in NZSL Week events.

Deaf Aotearoa plans to host or support 35-45 local and national events annually

1.6 Opportunities to learn NZSL will be developed, promoted and delivered.

Deaf Aotearoa will develop, advertise and deliver opportunities to learn NZSL, including by providing the following activities:

Introductory Taster Classes

Taster Classes aim to raise awareness of NZSL by giving people a real-life, face-to-face opportunity to learn a little bit of NZSL that acts as a hook to get people to learn more NZSL. Taster classes are delivered in schools, workplaces, services providers, Maori organisations and marae, businesses and government agencies

Deaf Aotearoa will deliver between 250 – 350 classes each year

Online NZSL learning opportunities

Deaf Aotearoa will develop online NZSL taster class material and opportunities to learn a little NZSL online. These online NZSL learning opportunities will include links to the LearnNZSL site and other links to further develop NZSL skills.

Online taster classes will be developed in phases over the three years and will include targeting early childcare education, primary schools, high schools and health services, businesses and for Māori environments.

Schedule 2: Personnel

The Provider's key personnel who will provide the Services are:

General Manager - Strategy

Victoria Manning

Victoria.manning@deaf.org.nz

First Signs Team Leader

9(2)(a)

9(2)(a)@deaf.org.nz

Schedule 3: Payment**1 Payment**

- 1.1 Payments will be made for the three deliverables as set out in Schedule 1, Section 2 of this agreement: Services – Deliverables:

National advertising campaign

- (a) Local and national Deaf-led events
 - (b) Development, promotion and delivery of Opportunities to learn NZSL.
- 1.2 The Payments for each deliverable will be based on the cost elements set out in Schedule 1, Section 2 of this agreement: Services – Deliverables, noting that for years 2 and 3 of this Agreement these will be finalised by agreement between both parties at each Annual Review as described in Section 5: Meetings.
- 1.3 MSD must pay the Provider for the Services as set out in this Schedule, subject to completion of the relevant deliverables and milestones to the satisfaction of MSD.

Year	Deliverables	Payment (plus GST if any)	Payment Due Date
2020	Milestone 1	\$200,000	On signing
	Milestone 2	\$70,000	30 April 2020
	Milestone 3	\$30,000	31 May 2020
	Total Annual Fee	\$300,000	2020
2021	Milestone 1	\$100,000	31 October 2020
	Milestone 2	\$100,000	31 January 2021
	Milestone 3	\$70,000	30 April 2021
	Milestone 4	\$30,000	31 May 2021
	Total Annual Fee	\$300,000	2021
2022	Milestone 1	\$100,000	31 October 2021
	Milestone 2	\$100,000	31 January 2022
	Milestone 3	\$70,000	30 April 2022
	Milestone 4	\$30,000	31 May 2022
	Total Annual Fee	\$300,000	2022
Total Fee		\$900,000	2019 to 2022

Schedule 4: Relationship Management

1 Objectives

- 1.1 **Relationship Principles.** The parties shall work together in a manner that reflects the following relationship principles:

Relationship Principles
<ul style="list-style-type: none"> • Open, honest and transparent communication. • Effective engagement across strategic and operational levels. • Providing proactive and timely feedback. • Display high levels of commitment, proactivity, flexibility, adaptability and timeliness. • Work within a relationship framework that includes executive engagement, customer satisfaction measures and business planning as key processes. • Provide personnel that have the requisite skills, attitude and attributes to add value to the relationship. • Adherence to Public Sector standards and ethics.

- 1.2 **Objectives of the Parties.** The parties' objectives for this Agreement are described below for reference purposes. A party may update its Objectives from time to time on written notice to the other. Except as provided elsewhere in this Agreement, neither party has any responsibility for achieving the other party's Objectives

MSD Objectives	Provider Objectives
<ul style="list-style-type: none"> • Development of a positive relationship. • Work closely with the Provider to ensure it has a strong understanding of MSD's business. • Effective engagement across all levels to support the delivery of MSD's core objectives. • Drive continual improvement in the services provided throughout the term of the Agreement. • Obtain feedback from the Provider on new or updated services that may best support MSD's business objectives. • Create shared strategies to maximise the value of the 	<ul style="list-style-type: none"> • Positive reference site. • Development of a positive relationship. • Prompt payment of invoices. • Provision of proactive reporting and advice that positively contributes to improving the overall outcomes of the Services and facilitates identification of opportunities for further development of the relationship with MSD. • Commitment to continuous improvement for solutions and services provided by the Provider. • Proactive feedback from MSD regarding the Services provided. • Commitment to achieving ongoing

relationship to all parties for mutual benefit.	and improving value for money outcomes for MSD.
<ul style="list-style-type: none"> Manage the Services in a cost effective manner with the aims of reducing total cost of ownership and improving value for money. 	

- 1.3 **Use in Interpretation.** The Objectives are not intended to expand the scope of the parties' obligations under this Agreement or to alter the plain meaning of this Agreement. However, to the extent this Agreement does not address a particular circumstance or is otherwise unclear or ambiguous, this Agreement is to be interpreted so as to give full effect to the Objectives.

2 Good Faith

- 2.1 Each party must act in good faith in all matters relating to this Agreement including, without abandoning its own interests, acting fairly, honestly, reasonably, faithfully to any agreed common purpose and consistently with the reasonable expectations of the other party.

3 Personnel

- 3.1 **Relationship Managers.** Each party must maintain the appointment of a suitably qualified and experienced person as its relationship manager for this Agreement. Each party may change its appointee on written notice without formal variation of this Agreement to the other from time to time, and will ensure adequate handover between appointees. At the commencement of this Agreement, the appointees are:

Ministry	The Provider
Brian Coffey, Director Office for Disability Issues	Victoria Manning

- 3.2 **Relationship Roles.** Each party must maintain the involvement of suitably qualified and experienced people in the roles below. Each party may change its appointee on written notice without formal variation of the Agreement to the other from time to time and will ensure adequate handover between appointees. At the commencement of this Agreement, the appointees are:

(a) The Provider's Roles

Title	Role	Appointee
Relationship Owner	Ultimate responsibility for the Provider's relationship with MSD. Highest escalation point.	Lachlan Keating

Relationship Manager	Developing the relationship between the parties. MSD's main contact point. Responsible for strategic planning, executive relationships, and service escalations.	Victoria Manning
Service Manager	Overall coordination of the Services. Provision of quotes, custom services and information.	Victoria Manning
Account Manager	Fully accountable for MSD account on a daily basis. Provides day-to-day account planning, pricing and Provider resource coordination. Responds to MSD's requests for account information.	Victoria Manning
Contract Manager	Contract administration throughout the term of the Agreement.	Victoria Manning

(b) MSD's Roles

Title	Role	Appointee
Relationship Owner	Ultimate responsibility for Ministry's relationship with the Provider. Highest escalation point.	Julia Bergman, General Manager Disability Seniors and International Policy
Relationship Manager	Developing the relationship between the parties.	Brian Coffey, Director Office for Disability Issues
Day-to-Day Manager	Monitoring provision of the Services. Management of the commercial arrangements. Discuss business development objectives and opportunities. Attend and contribute to review meetings. Ensure the Provider is meeting MSD's expectations. Provides feedback on score cards and performance.	9(2)(a) Senior Advisor Office for Disability Issues

	Responsible for service escalations.	
Contract Manager	Contract administration throughout the term of the Agreement.	9(2)(a) Senior Advisor Office for Disability Issues

4 Reports

- 4.1 The Provider shall provide MSD with the following reports. In this clause a Triannual Service Performance Report means four months from and including 5 July, 5 November and 5 April:

Report name	Content	When
Annual Report	<ul style="list-style-type: none"> • Year in review. Summary of the relationship, Services and key initiatives over the past year. • Objectives. Extent to which each party's Objectives are, in the Provider's opinion, being met, plus any risks in meeting each party's Objectives, and how each risk should be managed. • Future influences. Significant events expected in the upcoming year, including key initiatives, business strategies, technology changes and the wider environment. • Options/recommendations. Description of options and recommended changes to the relationship, services or agreement. 	5 Working Days before the Annual Review Meeting
Risk Register	<p>For each significant risk relating to this Agreement:</p> <ul style="list-style-type: none"> • A description of the risk. • The impact should the event occur. • The probability of its occurrence. • A summary of the planned response should the event occur. • A summary of the mitigation (the actions taken in advance to reduce the probability and/or impact of the event). 	3 Working Days before the Triannual Service Meeting
Action Register	<p>For each action agreed between the parties:</p> <ul style="list-style-type: none"> • A description of the action. • The name of the person it is assigned to. • A description of when it must be completed. • A description of its status. 	3 Working Days before the Triannual Service Meeting
Triannual Service Performance	<ul style="list-style-type: none"> • Achievement of desired levels of Service for the previous 4 month period. • Deliverables during the previous 4 months. • Projection of Deliverables for the following 4 	By 5 th day of July, November and April

Reports	months. <ul style="list-style-type: none"> Issues/exception reporting detailing issues raised, issue status, and trend analysis. Accumulated costs for invoicing. Third party support functions. 	(unless MSD agrees otherwise)
Ad Hoc Progress Reports	The Provider shall provide written progress reports as reasonably requested by MSD. Any progress report supplied must: <ul style="list-style-type: none"> clearly identify what actions and Deliverables have been implemented since the last progress report; and Identify any problems or circumstances that have arisen or may arise that may impact the Services provided by the Provider. 	Within 5 Working Days of receiving a request from MSD

5 Meetings

5.1 Annual Review. The parties shall meet as follows:

Chair/Convener	MSD	
Location/timing	Two hours, each May. Wellington.	
Objectives	<ul style="list-style-type: none"> Review Objectives Review performance including customer satisfaction and Service delivery Discuss future influences 	
	MSD	The Provider
Attendees	<ul style="list-style-type: none"> Relationship Owner Relationship Manager Invitees 	<ul style="list-style-type: none"> Relationship Owner Relationship Manager Invitees
Input	<ul style="list-style-type: none"> Agenda Previous minutes 	<ul style="list-style-type: none"> Annual Report Comments on agenda
Output	<ul style="list-style-type: none"> Minutes Communication to team 	<ul style="list-style-type: none"> Communication to team

5.2 Triannual Service Meeting. The parties shall meet as follows:

Chair/Convener	The Provider
Location/timing	Two hours each 4 months (timed to coincide with the Triannual Service Performance Reports described in paragraph 4 of this Schedule). Wellington. These meetings may from time to time be online if agreed by both parties.
Objectives	<ul style="list-style-type: none"> Review significant Service trends and issues Agree non-significant changes to policies, the Services

and this Agreement (if required)		
	MSD	The Provider
Attendees	<ul style="list-style-type: none"> Relationship Manager Day-to-Day Manager 	<ul style="list-style-type: none"> Relationship Manager Service Manager
Input	<ul style="list-style-type: none"> Agenda Previous minutes Comments on agenda 	<ul style="list-style-type: none"> Reports <ul style="list-style-type: none"> Triannual Service Performance Report Risk Register Action Register Agenda Previous minutes
Output	<ul style="list-style-type: none"> Minutes Communication to team 	<ul style="list-style-type: none"> Minutes Updated <ul style="list-style-type: none"> Risk Register Issues Register Action Register Communication to team

6 Relationship Issues

- 6.1 **Escalation.** If a problem in relation to this Agreement is not, to the reasonable satisfaction of either party, being resolved at the operational level, then either party may escalate the problem in accordance with the levels set out below. Contacts at the appropriate level of escalation will use reasonable endeavours to promptly resolve the problem. If the escalation process fails to bring about a satisfactory solution, either party may commence dispute resolution procedures in accordance with clause 14 (*Dispute Resolution*).

Escalation Level	Ministry Contact	The Provider Contact
First	Day-to-Day Manager	Service Manager
Second	Relationship Manager	Relationship Manager
Third	Relationship Owner	Relationship Owner

Contract Variation New Zealand Sign Language Week 2020 – 2022 dated 23rd March 2020

Parties:

1. The Sovereign in Right of New Zealand acting by and through the Chief Executive of the Ministry of Social Development ('MSD')
2. Deaf Aotearoa Holdings Limited, NZBN: 9429032494242, having its Registered Office at 1836 Great North Road, Avondale, Auckland, 1026 ("the Provider")

Background:

1. MSD and the Provider have entered into an Agreement for the Provision of New Zealand Sign Language week 2020-2022, between the periods of 14 February 2020 (Commencement Date) and expires on 30 June 2022 (Expiry Date)
2. The COVID-19 pandemic and government restrictions to reduce the spread of illness places Deaf Aotearoa at risk of not delivering the contract outcomes.
3. To mitigate the risks for NZSL week 2020, Deaf Aotearoa will deliver NZSL week 2020 during the week of 21 – 27 September 2020. During this week, the International Day of Sign Languages will also be celebrated and will share the theme "Sign language is for everyone".

Agreement:

1. The words and expressions used in this Contract Variation have the same meanings as in the Agreement.
2. As per this Contract Variation 1, the Provider now wishes to Amend the fourth Schedule (Reporting) to vary the reporting as set out below:
 - Risk register for NZSL week 2020: tabled at the following triannual meeting 5th July
 - Risk register (2021 & 2022): tabled at the following triannual meeting for the following year (5 November)
3. As per this Contract Variation 1, the Provider now wishes to Amend the third Schedule (Payments) to vary the payment schedule. The following variations to contract have been agreed as set out below:
2020 adjusted payment schedule:
\$70,000 22 June 2020 (Original date: 30 April 2020)
\$30,000 5 October 2020 (Original date: 31 May 2020)
4. The parties confirm all other terms and conditions of the Agreement remain unchanged and continue to have full force and effect.

Execution

Signed for the Ministry of Social Development by Brian Coffey, Director, Office for Disability Issues

Signed

Date

23/3/20

Signed by Lachlan Keating, Chief Executive
I have authority to sign for DEAF AOTEAROA HOLDINGS LIMITED.

Signed

Date

23/3/2020