**Service Agreement**

THIS SERVICE AGREEMENT (hereinafter referred to as “**Agreement**”) is made on the , by and between the following parties:

 a company incorporated under the British Virgin Islands, with its registered address at (hereinafter referred to as “**Party A**”); and

 a company incorporated under the laws of the Republic of China (Taiwan), with its registered address at (hereinafter referred to as “Party B”); and

Party A and Party B are hereinafter to as a “Party” individually and as “Parties” collectively.

Whereas Party B agrees to provide under Party A’s commission;

NOW THEREFORE, both Parties conclude this Agreement for compliance as follows:

**Article 1**  Term of this Agreement

**Article 2** Content of the Service

1.
2.
3.
4.

**Article 3** Payment Amount and Term

1. Party A agrees to pay (US$ , tax included) per month (“monthly Fee”) to Party B as expense for using the Service (please refer to “Order Form” for realizing content).
2. Party A agrees to pay Overages specified in “Order Form” per month as incurred. The amount of individual Overage will be calculated on a monthly basis and listed separately in the invoice issued by Party B, charged together with the monthly Fee specified in Article 3(a).
3. Party A agrees to pay (US$ , tax included) to Party B concurrently as the one-off payment for Professional Service-Integration and Emergency Turn up as specified in “Order Form”.
4. Payment Term: Party B shall issue an invoice to Party A for the monthly Fee within the first 5 days of each month. Party A shall pay to Party B each month and payment shall be settled by wire transfer/T/T on or before the end of the same month in which Party A received the invoice). Party A is not allowed to offset the payment of the monthly Fee against any other Fee or refuse to pay except in such cases as provided for in this Agreement.

**Article 4** Guarantee of Service and Indemnification for Outage

1. Party B agrees to provide a level of service demonstrating 100% Uptime (or no Outages as defined below) measured over a period of one month.
2. An “Outage” is defined as the unavailability of the Service for any length of time except in case where there is a planned and scheduled maintenance work to be conducted by Party B. If Party B is required to perform scheduled or planned maintenance work that will render the Services unavailable or can reasonably be expected to affect Party A’s operations, Party B must notify Party A at least forty eight (48) hours in advance of the scheduled or planned maintenance, otherwise the unavailability will not be considered as a scheduled or planned maintenance.
3. If Party B fails to meet the above service level, Party A will receive (as its sole remedy) a credit equal to Party A’s committed monthly Fee for the day in which the failure occurs, not to exceed 30 days of fees. For purposes of determining the monthly Fee for the day, the monthly Fee of Party A shall be divided by 30 days.
4. Party B shall also indemnify Party A on demand against loss, damage, liability or costs incurred by Party A arising from or due to Party B’s Service provided however the following loss are exempted:

d.1 Loss of Party A’s data;

d.2 Loss of Party A’s profit;

d.3 Loss of Party A’s sale;

d.4 Loss of Party A’s customer;

d.5 Party A’s business interruption;

d.6 Party A’s any other indirect loss.

d.7 The cost of replacement service.

 The amount of Party B’s indemnification shall not exceed the total monthly Fees paid by Party A for the last three (3) months prior to the event causing the damage provided however such limitation will not apply if all direct and/or indirect loss resulted from death or injury of some person due to one party’s intention or gross negligence or one party’s damages resulted from the other party’s fraud or illegal behavior.

**Article 5** Confidentiality

1. Each party agrees that other party’s business secret, technology material, other information not yet disclosed to public, or business intelligence which obtained or realized due to fulfillment of the obligations under this Agreement (the above are collectively referred to as Confidential Information and whether in oral, written or in any other form and regardless if with notation of “Confidential” on them or not) are trade secret of the provider of Confidential Information. The receiver of such Confidential Information shall strictly keep them in confidential and shall not use, disclose or deliver to other parties for their use the Confidential Information of the provider, and any infringement of copyright or other intellectual property rights such as aping, imitation, copy, modification, distribution, transfer, conversion or any other infringing behavior are forbidden. The receiver shall use Confidential Information disclosed to them only in connection with the proper performance of this Agreement.
2. Both Parties shall endeavor with the due care of a good administrator to maintain safety of transmission and of the database in the mainframe computer, and shall comply with related regulation provided in Personal Data Protection Law and other related regulation for protecting privacy. In the event that either party acts against such obligation, the defaulting party shall indemnify the other party against any loss or damage incurred by the other party solely arising from such breach of obligation.
3. In addition to the Parties, this Article on Confidentiality shall also apply to any other party who are permitted by either party to participate in fulfillment of this Agreement (“Relevant Person”). The Relevant Person shall ensure to keep such Confidential Information of either Party confidential.
4. This Article on Confidentiality shall bind both parties and any other party who are permitted by either party to participate in fulfillment of this Agreement and shall survive for a period of three (3) years upon expiration or termination of this Agreement.

**Article 6** Reservation of right

1. During the period of fulfillment of this Agreement, Party A reserves all legal title to any material, documents in any form it delivers to Party B. Unless for the purpose of the fulfillment of this Agreement, Party B may not argue any right against Party A’s right to such material or documents without Party A’s prior written consent or use them publicly in any form/method or deliver them to other parties, whether for their use or not.
2. In the event any disputes/lawsuit between Party B and third party arose from any form of material, documents provided to Party B by Party A, Party B shall notify Party A upon realization or acquiring information of such disputes/lawsuit. Party A shall provide Party B with necessary assistance in connection with such disputes/lawsuit and Party B may request Party A to participate in handling the process for Party B’s favor, including but not limited to allowing Party A be a party of settlement agreement or a Participant of a lawsuit case and Party A shall not refuse without reasonable reason.

**Article 7** Intellectual Property Clause

* 1. Either party shall take required juristic actions, if necessary, to ensure that any service, technology, material or any other related content used or prepared for this Agreement or provided to the other party by one party will not infringe or violate trademark, patent, copyright or any other right which belong to any third party, including natural person, corporation, or legal entity.
	2. Party B agrees to hold Party A exempted from any liability in connection with any service, technology, material or any other related content used or prepared for this Agreement or provided to Party A, including infringement of any third party’s patent, copyright, confidential information or trade secret or a reasonable legal fee incurred due to the alleged or proved infringement. Party A will provide Party B with an immediate notice in connection with such claim of damages/compensation brought against Party A and shall not take any action until receipt of Party B’s prompt decision with regard to the defense of such claim. Party B may either procure the defence or settlement of such claim. Party A shall provide adequate assistance and cooperation to Party B in such damages/compensation lawsuit. Party A shall give Party B sole authority to procure the defense or settlement of such litigation or dispute.
	3. Party A agrees to respect all intellectual property rights of Party B and/or its licensor and promises to endeavor in regards of business to hold such rights harmless from infringement. In the event that Party A learns about any infringement or possible infringement of Party B and/or its licensor’s intellectual property rights, Party A shall notify Party B immediately. Party A agrees to provide Party B with necessary assistance for Party B’s argument/defense of intellectual property rights.
	4. Neither the execution of this Agreement nor Party A’s acceptance of the Service specified in Article 2 thereof shall constitute or be construed as conferring on Party A a license or right over any intellectual property rights (including but not limited to patent, trademark, and/or copyright) derived from content of the Service.

**Article 8** Termination

1. In the event that either party applies for or is subject to an application for a settlement or a declaration of bankruptcy under the Bankruptcy Act, applies for dissolution, reorganization or ceases operations of the company, is blacklisted by the Clearing House, or any financial institution, the other party may terminate this Agreement with written notice at least thirty (30) days prior to the intended date of termination
2. Unless otherwise provided herein or permitted by Party B, Party A shall not terminate the service or apply for refund ahead of time. Party A is entitled to terminate this Agreement ahead of time in the event that Party B fails to provide Service content/level or reach Service quality specified in this Agreement and fails to improve or rectify it within time limit set forth in Party A’s written notice but in no case shall the time limit be less than a period of five (5) business days from receipt of the notice.
3. Party A shall settle all payment which shall be paid to Party B before exercising its termination right specified in the above two (2) paragraphs.
4. In the event that Party A breaches this Agreement and fails to improve or rectify such breach within a period of no less than fifteen (15) Business Days from receipt of Party B’s written notice, Party B may terminate this Agreement. Under such circumstance, Party A shall pay and Party B shall be entitled to claim a termination charge (at its sole remedy) equal to 100% of the fees that would have become due for the remainder of the Term as a reasonable measure of actual damages, in addition to all fees outstanding at the date of termination.
5. Any enforceable right or obligation/responsibility of parties which arose from this Agreement before termination of this Agreement shall not be released or diminished when this Agreement is terminated.
6. In the event that Party B’s licensor alters the content of the service or discontinues the service provided to Party B and Party A does not agree to the alteration or modification of the service provided to it by Party B, Party A shall have the right to terminate this Agreement upon written notice to Party B at least five (5) days prior to the intended date of termination. In such circumstance, Party A shall comply with its obligation under Article 7(c) and not be liable to pay any form of damages to Party B.
7. Upon the termination of this Agreement, Party B shall immediately cease to provide the Services to Party A. Each Party shall deliver to, or procure the delivery to, the other Party of all materials, documents and Confidential Information of the other Party within its possession; all Fees outstanding as at termination shall be immediately settled and paid by Party A to Party B; and neither Party shall make any Press Release or statement without the prior written consent of the other.
8. In the event that the term of this Agreement expired, both parties shall negotiate to enter into new agreement. This Agreement will not be renewed or extended automatically. In the event either Party has an intention to renew the agreement, it shall notify the other Party of this intention to renew at least thirty (30) days prior to the expiration of the term of this Agreement.

**Article 9** Force Majeure

If performance of this Agreement is interfered with, for any length of time during term of this Agreement, by an Act of God, war, civil commotion, epidemics, or other similar occurrence which are beyond the reasonable control of either party, neither party shall be held responsible for non-performance of this Agreement for such length of time.

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**Article 10** Miscellaneous

* 1. Since this agreement is executed, both parties agree and have no objection that any previous agreement(s) or minutes of meeting(s) unspecified in this Agreement will be deemed as invalid.
	2. In the event that any party’s address is altered after this Agreement is executed, such party shall notify another in writing immediately. In the event that any party fails to perform obligation of notice for address alteration, such failing party agree that the contacting address of said Party is the address specified in this Agreement and any document or notice sent to the address specified in this Agreement is valid and binding on such Party. Notices and documents shall be treated as received as follows: if delivered by hand, when delivered; if sent by first class post, forty-eight (48) hours after posting; if sent by air mail post, seventy-two (72) hours after posting; if sent by fax, upon sending. Any notices that would be treated as received out of Business Hours shall be deemed given on the next Business Day.
	3. Nothing in this Agreement and no action of performance thereof shall constitute or be deemed as creating or establishing a relationship of partnership, joint venture, sales agency between the parties and neither shall it constitute a party as a representative of the other party. One party shall have no right to represent itself as agent of the other and it shall have no authority or power to bind the other or to contract in the name of or create a liability against the other in any way or for any purpose.
	4. Party B may indicate that Party A is its client publicly and produce report which describes successful utilization of Kona and eDNS services for promotional purpose, provided however content of such report shall be informed to Party A before publishing. Party A is entitled to recommend revision of this report to Party B to the extent that Party B’s promotional intention will not be affected.

**Article 11** Completeness of this Agreement

This Agreement shall not be added, deleted or modified without signature of each party’s duly authorized officer or representative and in written form since execution thereof. The Schedules to this Agreement shall constitute a part of this Agreement, provided however that any content of the Schedules is dissimilar with content of this Agreement, content of this Agreement shall prevail. Both parties agree that any annex executed sometime in the future shall constitute a part of this Agreement.

**Article 12** Assignment

Neither portion nor the whole part of rights and obligations conferred or specified hereby shall be sold, offered for sell, leased out, assigned or transferred in any other form, to any person, firm or corporation without prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

**Article 13** Amendment, Revision, and Modification

Any amendment, revision, or modification, of specified matters of this Agreement shall be conducted or supplemented in written form after permitted by both parties.

**Article 14** Interpretations of this Agreement and Jurisdiction

1. In the event that there is any matter not specified herein or any doubts for interpretation of this Agreement and so that the performance of this Agreement is affected (“Disputes”), both parties agree to endeavor to negotiate to resolve the Disputes, if any, in accordance with the principle of good faith and related laws and regulations of the Republic of China (Taiwan).
2. In the event of failure for negotiation of disputes or resolving the Dispute and therefore any litigation arose therefrom, both parties agree that the Taipei District Court of Taiwan shall be the court in the first instance.
3. This Agreement shall be construed in accordance with and governed by the laws of the Republic of China (Taiwan).

**Article 15** Counterparts

This Agreement shall be executed in duplicate originals, with each of equally binding force and each party shall hold one original for evidence and compliance.

**Article 16** Schedules of this Agreement

The Schedules to this Agreement shall have the same effectiveness with this Agreement after execution thereof by both parties. In the event there is a discrepancy with the content of Schedules as against the content of this Agreement, the content of this Agreement shall prevail.

Schedules:

 1: Order form for Kona Site Defender 75Mbps Service and Enhanced DNS Service

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by authorized officers or representatives, as of the date and year first above written.

For and Behalf of For and Behalf of

 VAT No.:

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Name: Name:

Title: Director Title: Director