

DATED _____

(1) << >>

(2) << >>

**WEBSITE DEVELOPMENT AGREEMENT
PROVIDING FOR THIRD PARTY, CONTRACTOR & NEW SOFTWARE**

THIS AGREEMENT is made the day of

BETWEEN:

- (1) <<Name of Contractor>> a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> (“the Contractor”) and
- (2) <<Name of Client>> a company registered in <<Country of Registration>> under number <<Company Registration number>> whose registered office is at <<Registered office>> (“the Client”)

RECITALS:

- (1) The Client wishes to launch <<insert description of business>> on the Internet and is wholly dependent on supply by the Contractor of a fully functioning website capable of extension and modification in order to achieve a successful launch.
- (2) The Client has agreed to procure and the Contractor to supply a website upon the following terms and conditions.

IT IS NOW AGREED as follows:

1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

“Acceptance Date”	the date on which the Client’s Website is accepted pursuant to clause 7 and as indicated on a Final Project Acceptance Form;
“Acceptance Tests”	the Acceptance Tests for acceptance of the Client’s Website referred to in clause 7;
“affiliate”	means in relation to any company: <ul style="list-style-type: none">• any subsidiary or holding company of that company or any subsidiary of the holding company, or• any other entity controlling or controlled by that company;
“business day”	a day (excluding Saturdays) on which banks generally are open in the City of London for the transaction of normal banking business (other than solely for trading and settlement in Euros);
“Completion Date”	the date as set out in the Development Programme on or before which successful completion is planned to occur;
“confidential information”	all business, technical, financial or other information created or exchanged between the parties in the course of the Project including the existence of the Project and the development of the Client’s Website;

“Content”

“corrections”

“Client’s Website”

**“Development
Programme”**

“Documentation”

“Effective Date”

“enhancements”

“a fatal defect”

**“Final Project
Acceptance Form”**

**“Functional
Specifications”**

“Host Server”

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, photographs, images, moving
ions and other material featured,
e Client’s Website;

or fixes made to the Software or
context requires that are necessary
y bug, malfunction or other defect
at the Client’s Website or any part
lly as specified in and conforms to
e Functional Specifications;

yperText Markup Language or
o-compatible language and with
hypertext transfer protocol, to be
nd installed by the Contractor in
unctional Specifications and to be
Wide Web users using <<specify

Project as modified from time to
n the terms of this agreement the
t at the date of this agreement is

nical documentation and training
dable form to enable a reasonably
tor to run the Client’s Website;

generally the date the Project

endment, modification or
ftware or any part of it resulting in
are or any part of it being varied;

ith requirements of the Functional
in consequence of faulty design,
o or any other reason that results
tor being unable to operate the
useful manner to facilitate the
Client’s business;

d dated by the Client confirming
en completed and tested and
satisfaction (accepting the project
ered to their satisfaction (rejecting
or certain deliverables);

ons for the Client’s Website a copy
schedule 2;

and include minimum environment

“intellectual property rights”

“Internet”

“New Software”

“Price”

“Project”

“Project Co-ordinator”

“Project Manager”

“Project Team”

“a serious defect”

“Software”

“Source Code Deposit Agreement”

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de marks, rights in domain
s, copyrights and database rights
not and any applications to
ly for registration of any of the
fidential information and all other
nts of a similar or corresponding
ubsist now or in the future in any

omputer systems, including
World Wide Web;

ing all enhancements and
than the Contractor Software and
e;

the Client to the Contractor in
ply and development of the
ed in schedule 3;

nt and installation of the Client’s

being duly appointed by the
ent’s principal representative for
vision of the Project;

being duly appointed by the
e Contractor’s principal
urpose and supervision of the
chedule 7;

ontractor to carry out the Project

ith requirements of the Functional
in consequence of faulty design,
o or any other reason that would
the performance of the Client’s
Client will be unable to operate the
expected level of performance
ial additional costs and expenses
defect;

computer or other machine
al specifications, logic, logic
orthographic representations,
ub-routines, file structures, coding
or object codes, listings, test
gnostic programs or other material
g part of the Client’s Website and
Client’s Website to operate
effectively on the Host Server;

it agreement [in the form of the
e << >>];

“successful completion” of the Client’s Website so that it passes the Tests and performs functionally and otherwise meets the Functional

“Contractor Software” Software that is the Contractor’s and is listed in schedule 4 (including any corrections of it);

“Terms of Payment” of the Price specified in schedule

“Third Party Software” Software that belongs to a third party and including all enhancements and

“a trivial defect” Software which does not comply with requirements of the Functional Specifications in consequence of faulty design, programming or any other reason which does not result from the performance of the

“User Training” Training provided by the Contractor to the Client and to the Client’s skilled employees of the Client to enable them to use the Client’s Website and the Software in accordance with the Functional Specifications;

“a virus” A computer virus that copies itself or is copied to other computers including without limitation magnetic storage devices, floppy disks, chips, electronic cartridges, compact discs and destroys, alters or damages the user’s files or causes annoyance to the user and interferes with the operation of computer programmes such as ‘worms’, ‘Trojan Horses’, ‘logic bombs’;

“a visitor” A person who has accessed (or but for a Trivial Defect would have accessed) the

“a website” A website (or more pages) on the World Wide Web written in Hypertext Markup Language or in a compatible language;

“working hours” 0900 hours and 1730 hours>> on any

“World Wide Web” The World Wide Web over the Internet for the retrieval of information using hypertext transfer

2. Interpretation

2.1 In this agreement unless the context otherwise requires:

2.1.1 any reference to a company is to be construed in accordance with the Interpretation Act 2006 section 1159;

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2.1.2 reference to a party to this agreement and includes the assignees and/or the respective successors in the whole of his undertaking;

2.1.3 reference to a person, individual, company, firm, agency of a state, or any undertaking of any legal personality and irrespective of the form in which it was incorporated or exists;

2.1.4 reference to an instrument or any of its provisions is to be construed as a reference to that statute or statutory instrument or to any instrument amended or re-enacted;

2.1.5 words denoting the plural and vice versa and words denoting the singular and vice versa include all genders;

2.1.6 reference to clauses or paragraphs or schedules is to recitals, clauses, paragraphs or schedules to this agreement;

2.1.7 'control' is to be construed in accordance with the Corporation Tax Act 2010 section 949 and 'controlled' shall be construed accordingly;

2.1.8 'includes' and 'including' are to be construed including without limitation.

2.2 The index to and the schedules to this agreement are for information only and shall be ignored in construing this agreement.

2.3 The schedules form part of the provisions of this agreement and references to this agreement shall be construed in the context otherwise requires, including the schedules.

3. Principal Duties of the Contractor

3.1 In consideration of the sum of the Price and subject to the terms and conditions of this agreement, the Contractor shall with effect from the Effective Date act as the Project Manager and shall on behalf of the Client carry out the Development Programme and may be, advise and assist the Client in the Project.

3.2 In pursuance of the terms of this agreement and in accordance with recital 1, the Contractor undertakes with effect from the Effective Date:

3.2.1 to advise the Client on all matters arising in the course of the Project;

3.2.2 to design, write, develop, test, deploy and maintain the Website to ensure that it meets the Functional Requirements and conforms to the dates specified therefor in the Development Programme;

3.2.3 to provide training to the employees of the Client so that they can acquire the knowledge required by suitably qualified personnel to operate the Client's Website; and

3.2.4 to perform his duties under this agreement to the best of his skill, knowledge, care, diligence and in accordance with the standards and practice and with all due regard to the Client's interests.

4. Project Management

4.1 The Contractor shall appoint a Project Manager and make him available to the Client for the duration of the Project. The Contractor shall ensure that the Project Manager is available to the Client for the duration of the Project.

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that the Project Manager shall promptly, reasonably and in good faith, and to the general satisfaction of the Client, shall procure that the Project Manager:

the period of this agreement acts as a whole, and without prejudice to the above, shall procure that the Project

4.1.1 makes available the resources required by the Client;

of effort as are from time to time required for the Development Programme;

4.1.2 gives equal weight to all the activities being carried out by the Project Manager; and

over any and all the other business activities of the Client and the Project Manager; and

4.1.3 keeps detailed records of all the work done by him and the Project Team and at the Client's request either produces a copy of such records on reasonable notice by the Client or on request provides the Client with copies of such records which shall be confidential to the Client.

and things done by him and the Project Team and at the Client's request either produces a copy of such records on reasonable notice by the Client or on request provides the Client with copies of such records which shall be confidential to the Client.

4.2 The Client shall appoint a Project Co-ordinator and make him available to the Project Manager and the Project Team. The Client shall ensure that the Project Co-ordinator is responsible for:

Co-ordinator and make him available to the Project Manager and the Project Team. The Client shall ensure that the Project Co-ordinator is responsible for:

4.2.1 organising and co-ordinating the work of the Project Team and shall review the progress of the work;

at least at weekly intervals at which they shall review the progress of the work; and

4.2.2 provide all the resources required for the proper performance of the work.

the resources required by the Contractor for the provision of the Services.

For the avoidance of doubt, the Project Co-ordinator shall not be responsible for the Development Programme.

the Project Manager and the Project Co-ordinator shall not alter any material aspects of the Development Programme.

4.3 If the Project Manager is prevented by illness or injury from performing his duties for more than three consecutive working days, the Client shall make available an alternative suitably qualified and experienced Project Co-ordinator.

If the Project Co-ordinator is prevented by illness or injury from performing his duties for more than three consecutive working days the Contractor or the Client shall make available an alternative suitably qualified and experienced Project Co-ordinator to the Project Co-ordinator's absence for more than three consecutive working days the Contractor shall make available an alternative suitably qualified and experienced Project Co-ordinator.

4.4 The Contractor shall provide the Project Team and the Project Co-ordinator with the resources necessary from time to time in order to complete the Development Programme. The Contractor shall ensure that such personnel individually and as a team suitably qualified to carry out the Development Programme.

The provision of the services of the Project Team and the Project Co-ordinator shall be necessary from time to time in order to complete the Development Programme. The Contractor shall ensure that such personnel individually and as a team suitably qualified to carry out the Development Programme.

4.5 Throughout the period of this agreement the Client and the Contractor shall afford each other's obligations under the agreement and otherwise fulfil its duties and obligations under the agreement, the Client and the Contractor shall respectively:

The Client and the Contractor shall afford each other's obligations under the agreement and otherwise fulfil its duties and obligations under the agreement, the Client and the Contractor shall respectively:

4.5.1 make available the resources required for the proper performance of the work;

provide sufficient working space and resources as may reasonably require;

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- 4.5.2 afford the Contractor such occasional typing and photocopying facilities, including the use of telephone, fax machines and computers as may be required; and
- 4.5.3 advise the Contractor of any other nominees of the rules and regulations in force for the conduct of personnel at his premises. He shall ensure that his personnel and other nominees comply with such rules and regulations.

5. Principal Duties of Client

The Client shall deliver the data in the agreed format and the Contractor shall update the Client's data in accordance with the agreement.

6. Variations

- 6.1 The Client may at any time request a variation to the Development Programme. The Contractor shall, upon notice of such request to the Contractor, indicate by notice in writing to the Client the Contractor will perform the variation requested. The Contractor shall indicate the effect of the variation on the Price and the Development Programme. It is recognised that a variation may result in either an increase or decrease in the Price but shall not be subject to the Contractor Scale. For the purpose of this clause, the Contractor shall carry out the work pursuant to clause 6.1.
- 6.2 Within 5 working days of the Contractor's notice, the Client shall, in writing, elect by written notice, whether or not he wishes the variation to proceed. The Contractor expressly agrees that any variation shall be binding upon the Client unless it is amended by the Client, in which case the variation shall be deemed automatically to be a variation within the meaning of this clause.
- 6.3 If the Contractor agrees to perform the variation upon the terms of the agreement, this agreement shall be deemed amended so as to include the variation and there shall be no need for a new agreement.
- 6.4 If the Contractor agrees to perform the variation on terms other than those of the agreement, the Client shall, within 5 working days of the Contractor's written notice, elect by written notice, whether or not he wishes the variation to proceed. The Contractor expressly agrees that any variation shall be binding upon the Client unless it is amended by the Client, in which case the variation shall be deemed automatically to be a variation within the meaning of this clause.

7. Testing and Acceptance

- 7.1 At the dates set out in the Development Programme, the Client shall commence the performance of the Acceptance Tests. The Contractor shall advise the Client of the results of the Acceptance Tests. Selection of the

Contractor, where relevant, in the Contractor's efforts to ensure that it is correct and that it is required to do so pursuant to this agreement.

Contractor, where relevant, in the Contractor's efforts to ensure that it is correct and that it is required to do so pursuant to this agreement.

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Acceptance Tests shall be subject to the approval of the Client. The Contractor shall only proceed with the Client upon the Contractor's written approval in a manner not provided for in the Agreement. The Contractor shall be deemed to have accepted the Tests if he neither approves nor rejects them within 14 days of the Client's written approval.

of the Client but is subject to the approval of the Client. The Contractor shall not be unreasonably withheld. The Contractor shall carry out the Acceptance Tests suggested by the Client's Website to operate in a manner not provided for in the specifications. The Contractor shall carry out the Tests if he neither approves nor rejects them within 14 days of the Client's written approval.

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7.2 Following delivery and acceptance of the Client's Website, the Contractor shall carry out the Acceptance Tests for it. If the Project Manager determines that the Client's Website has failed, the Contractor shall promptly give written notice to the Client, specifying the reasons for which he considers the Client's Website has failed. On receipt of the notice the Contractor shall, within 14 days, advise the Client of them, and shall then make any necessary enhancements to the Client's Website to ensure that the Client's Website will pass the Acceptance Tests. Following successful completion of the Acceptance Tests, the Contractor shall procure the repetition of the tests on the terms set out in this Agreement.

of the Client's Website, the Client shall carry out the Acceptance Tests. If they are carried out, at the time fixed by the Client, and the Client in his sole discretion considers that the Client's Website has failed, he shall give written notice to the Contractor, specifying the reasons for which he considers the Client's Website has failed. On receipt of the notice the Contractor shall, within 14 days, advise the Client of them, and shall then make any necessary enhancements to the Client's Website (including corrections or improvements) to ensure that the Client's Website will pass the Acceptance Tests. Following successful completion of the Acceptance Tests, the Contractor shall procure the repetition of the tests as is necessary on the terms set out in this Agreement.

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7.3 If the Client's Website fails to pass the Acceptance Tests pursuant to clause 7.2, the Contractor shall, within 14 days, advise the Client of the reasons for which he considers the Client's Website has failed, and shall then make any necessary enhancements to the Client's Website to ensure that the Client's Website will pass the Acceptance Tests. Following successful completion of the Acceptance Tests, the Contractor shall procure the repetition of the tests on the terms set out in this Agreement.

of the Client's Website, the Contractor shall carry out the Acceptance Tests and on investigation of the reasons for which the Client's Website has failed, as a result of an error by the Client, the Contractor shall, within 14 days, advise the Client of the costs of the investigation and the Contractor's then current price list.

7.4 The Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

of the Client's Website, the Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

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7.5 Notwithstanding anything to the contrary in the Agreement, the Client, final acceptance of the Client's Website shall be evidenced by receipt by the Contractor of the signed Final Project Acceptance Form and shall be deemed to have been accepted by the Client.

of the Client's Website, the Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

7.6 Risk of loss or damage to the Client's Website, the Software, the Content or the Documentation shall be borne by the Client only upon successful completion of the Client's Website.

of the Client's Website, the Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

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8. Training

At the times specified for the Client's Website, the Contractor shall provide the User Training to the Client as are agreed by the dates set out for the Client's Website. Training at the Contractor's request of the Client shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

of the Client's Website, the Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

9. Price and Payment

9.1 In consideration of the Contractor's duties under this Agreement by the Client, the Contractor shall pay the Contractor the Price of the Client's Website, the Software, the Content or the Documentation.

of the Client's Website, the Contractor shall complete the Client's Website by the Completion Date upon which the Client's Website shall be deemed to have been successfully completed. Any delay in achieving successful completion of the Client's Website due to delay or error beyond the control of the Contractor shall be at the Contractor's risk and shall be as agreed or determined by an independent expert's decision.

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- 9.2 The Price is inclusive of all materials but excludes:
- 9.2.1 VAT, which, shall be borne by the Client; and
- 9.2.2 expenses as follows:
- All payments to the Contractor shall be made within <<e.g. 14 business days>> after receipt of the Contractor's invoices. All payments to be made by the Client shall be in pounds sterling and shall be made by a cheque payable to the account of the Contractor at a bank to be nominated in writing by the Contractor.
- 9.3 The Contractor will be responsible for the extent and nature of the activities to be carried out by the Contractor under the Project Programme and obtain all necessary information, including but not limited to, agencies and all other circumstances influencing the inclusion of other rates and prices, and shall calculate the Price. The Price shall not be subject to any increase whatsoever.
- 9.4 Payment by the Client shall be without prejudice to any claims or rights the Client may have against the Contractor. Payment shall not constitute any admission by the Client as to the liability of the Contractor of his obligations under this agreement.
- 9.5 The Contractor Scale shall be reasonable. Any increase in the scale shall be reasonable and shall be subject to any such increase for other companies of the Contractor. The increase shall take effect one month after notice of the increase has been given to the Client.
- 9.6 The Contractor shall be responsible for the incidental expenses incurred in the course of the Project, including goods and services, subject to the following provisions:
- 9.6.1 the Contractor shall be responsible for the expenses incurred in the course of the Project, including goods and services, subject to the following provisions:
- 9.6.2 any third party expenses incurred in relation to the Project shall be subject to the prior approval of the Client before being incurred.
- 9.6.3 the third party expenses incurred in connection with the Project shall not exceed £<< >> in total, and any third party expenses exceeding that amount shall be the responsibility of the Client;
- 9.6.4 any expense incurred by the Contractor as a consequence of any amendment to the terms of the Project shall be the responsibility of the Client, without prejudice to the avoidance of doubt shall be outside the scope of the Project.
10. **Third Party Software**
- 10.1 The Contractor grants the Client an exclusive, perpetual, royalty-free licence to use the Software (together with all related documentation) in connection with the Project.
- 10.2 The right to use the Software shall include the right for the Client:
- 10.2.1 to copy the Software; and
- 10.2.2 to provide back-up facilities; and

10.2.2 to modify and [REDACTED] Software.

11. Contractor Software

- 11.1 The Contractor grants the Client an exclusive, perpetual, royalty-free licence to use the Contractor Software (together with all related documentation) in connection with the Client's Website.
- 11.2 The right to use granted under clause 11.1 shall include the right for the Client:
- 11.2.1 to copy the Contractor Software; and
 - 11.2.2 to modify and [REDACTED] Software.
- 11.3 The Contractor shall, within 14 days of the Acceptance Date, execute the Source Code Deposit and ensure its execution by the software escrow agent identified in the Source Code Deposit, and provide a copy of the Contractor Software to the escrow agent.

12. New Software and Content

- 12.1 The Contractor assigns to the Client all right, title and interest (including all intellectual property rights) in the New Software and the Content.
- 12.2 The Contractor shall ensure that the Client from time to time execute all documents and do all acts that may reasonably require for the purpose of giving effect to clause 12.1.

13. Contractor's Undertaking

- The Contractor undertakes to the Client:
- 13.1 to comply with all applicable laws, regulations, codes of practice and laws relating in any way to the operation of the Client's Website [and the Host Server];
 - 13.2 not to 'frame' (in the context of a web browser segment of it into a separate web page at the same time) the Client's Website with another party's website or a website so that both can be viewed at the same time; and
 - 13.3 not to link to any third party website without the prior written consent of the Client;
 - 13.4 not to use 'Metatags' or other meta-information without the consent of the Client.

14. Warranty

- 14.1 The Contractor warrants to the Client that:
- 14.1.1 the Client's Website will pass the Acceptance Tests by the Completion Date;
 - 14.1.2 the Client's Website will perform as set out in the Functional Specification and function as described in the Specification, and the Contractor will provide clear adequate instructions to the Client's Website to make full and proper use of the Client's Website;

14.1.3 the Contractor's rights and liabilities to and in the

14.1.4 the Client's use of the Software by the Client or any third party;

14.1.5 no third party
agreement
infringe any

14.1.6 the Client with the Software

14.1.7 none of the \$

14.1.8 all services provided to the public in a timely and efficient manner, and acting with a high degree of integrity and industry practice.

14.2 If the Contractor receives a claim for the warranties set out in this clause, the Contractor shall promptly remedy the error with an example of the correct work.

14.3 The Contractor shall be liable to the Client for the same damages as provided in 14.1.2 unless he has taken all reasonable steps to prevent the loss or damage, in which case the Contractor shall be liable to the Client for no more than the extent of the loss or damage prevented. The Contractor shall be liable to the Client for the same damages as provided in 14.1.2 unless he has taken all reasonable steps to prevent the loss or damage, in which case the Contractor shall be liable to the Client for no more than the extent of the loss or damage prevented. The Contractor shall be liable to the Client for the same damages as provided in 14.1.2 unless he has taken all reasonable steps to prevent the loss or damage, in which case the Contractor shall be liable to the Client for no more than the extent of the loss or damage prevented.

14.4 Save as expressly
terms and condition
custom, statute or
quality or fitness t
statutorily implied te

15. Intellectual Property Right

The Contractor agrees to damage, costs, legal co whatsoever incurred or su indirect or consequential a claims or proceedings brou property rights by the Client

15.1 this indemnity shall
property rights arising
Client's Website, the
them by the Client
combination with the
Contractor;

15.2 in addition to the above, the Package or any part thereof, or any advisers likely to be involved, shall be communicated in writing anything necessary to avoid infringing without affecting

to have the right to grant all the
ports to grant to the Client pursuant

Client's Website, the Content and Intellectual property rights of any third

outstanding at the date of this
te, the Content or the Software
);

te require no software other than
Website on the Host Server;

• *Journal of the American Academy of Child and Adolescent Psychiatry*, 1999, 38, 10, 1299-1306.

the Contractor will be provided in skilled and experienced personnel in accordance with best of current

ce from the Client of any breach of
contractor shall at his own expense
sition. The Client must indicate the
correct result.

ation under the warranty in clause
e of the defect or error in question
after the Acceptance Date>>. The
ut prejudice to any other right or

ent all representations, warranties, written, express or implied by law, but not limited to satisfactory use, are excluded, save for the

against any and all liability, loss, other expenses of any nature by a third party whether direct, or contractual, tortious or other arising from infringement of his intellectual property or the Software, provided that:

ment of the third party's intellectual
any alteration or modification to the
are ("the Package") or any part of
of the Package or any part of it in
not supplied or approved by the

in injunction restraining use of the
in the opinion of the Client's legal
a third party (and that opinion is
, the Contractor shall either do
or the appropriate part of it non-
contractor's other duties and obligations

- under this agreement the Client the right to co
- 15.3 the Client gives writ soon as reasonably
- 15.4 the Client makes authority to defend expense; and
- 15.5 the Client gives the any claims or proce
16. **Confidentiality**
- 16.1 During the term of agreement for any following obligations ('the Disclosing Party')
- 16.2 Subject to clause 16
- 16.2.1 may not use the performa
- 16.2.2 may not disc the prior writ
- 16.2.3 shall make confidential
- 16.3 The obligations of not apply to any cor
- 16.3.1 is in the po Party or is p receipt by th
- 16.3.2 is or become fault of the R
- 16.3.3 is required to
- 16.3.4 is received i on reasona obligations of of it and who Party.
- 16.4 Without prejudice t have, the Receiving breach of this cla damage, be entitle threatened or actual damages or other re
- 16.5 The obligations of t the expiry or the ter
17. **Liability**
- 17.1 Notwithstanding any to the Client for dea
- from the third party granting the e or the part of it that infringes;
- ctor of any claim or proceeding as ot of it;
- y and gives the Contractor sole edings at the Contractor's cost and
- ble assistance in connection with s cost and expense.
- er termination or expiration of this << >> starting on <<date>>], the disclosing confidential information e Receiving Party').
- ation for any purpose other than der this agreement;
- ormation to any person except with sing Party; and
- t the use or disclosure of the
- the provisions of this clause shall t
- he free disposal of the Receiving e in the public domain prior to its
- non-confidential basis through no
- licable law or regulation; or
- iving Party from a third party who, ceiving Party claims to have no party to this agreement in respect of confidence upon the Receiving
- medies the Disclosing Party may and agrees that in the event of y shall, without proof of special other equitable remedy for any s of this clause in addition to any y be entitled.
- visions of this clause shall survive nt for whatever reason.
- greement, the Contractor's liability n his own negligence or that of his

- employees, agents or subcontractors shall not be limited.
- 17.2 The Contractor's liability in respect of any breach of his contractual obligations, in whole or in part, any representation, statement or tortious act or omission shall not be limited by any limitation of the amount or type of damages, compensation or benefits payable by or for an insurance policy or otherwise arising under or in connection with this agreement.
- 17.3 The Contractor shall be liable for any indirect or consequential loss the Client may suffer as a result of the Contractor's negligence which is reasonably foreseeable or the Contractor was advised by the Client incurring it.
- 17.4 It is a condition precedent to the Client's claim that the Contractor undertakes to cover with an insurance office of his choice the full performance of all his duties and obligations under this agreement in particular but without prejudice to the general liability accepted by him under the provisions of this clause. The Contractor agrees to produce a copy of an insurance policy satisfactory to the Client together with evidence of the validity of the policy within 30 days of the date of this agreement, failing which the Client shall have the right to terminate this agreement forthwith by giving written notice to the Contractor, without liability to the Contractor.
- 18. Termination**
- 18.1 A party ('the Initiating Party') may terminate this agreement with immediate effect by written notice to the other party ('the Breaching Party') on or at any time after the occurrence of any of the events specified in clause 18.2.
- 18.2 The events are:
- 18.2.1 the Breaching Party's failure to perform its obligations under the agreement and failing to remedy the breach within <<e.g. 30 days>> starting on the day after the Breaching Party giving details of the breach and a request for remedy to the Initiating Party to remedy the breach;
- 18.2.2 the Breaching Party's failure to obtain a court order for winding up or a court order for the Breaching Party's petition for the Breaching Party's winding up or a court order for the Breaching Party's winding up or a court order for the Breaching Party's winding up in seven days (other than, in each case, for the purpose of the Breaching Party's amalgamation or reconstruction in such a manner as to result in the Breaching Party being bound by or assume the obligations of this agreement);
- 18.2.3 the making of an assignment in relation to the Breaching Party or the appointment of a receiver or an encumbrancer taking possession of the Breaching Party; or
- 18.2.4 the Breaching Party's failure to make an arrangement or composition with his creditors generally or an application to a court of competent jurisdiction for the purpose of the Breaching Party's creditors generally.
- 18.3 An act or omission of the Breaching Party, is under common control with, or is controlled by a party who is a party to this agreement on his part if it were an act or omission of the Breaching Party, shall be deemed to be a breach of this agreement by the party.
- 18.4 Termination of this agreement shall not affect either:

- 18.4.1 the accrued
this agreem
without limita
- 18.4.2 provisions th
remain in ful

the parties arising in any way out of
termination and in particular but
damages against the other; or

survive this agreement, which shall

19. **Non-solicitation of Staff**

The Client agrees that during the term of the Agreement and for an additional period of << >> after termination, the Client shall not directly or indirectly canvas with a view to recruiting or offering or providing employment to any employee of or contractor of the Contractor engaged in the performance of the Project without the prior written consent of the Contractor.

ment and for an additional period of << >> after termination, the Client shall not directly or indirectly canvas with a view to recruiting or offering or providing employment to any employee of or contractor of the Contractor engaged in the performance of the Project without the prior written consent of the Contractor.

20. **Assignment**

20.1 [Subject to the provisions of the Agreement, neither party shall assign, transfer, sub-contract, or in any other manner make over to any third party the benefit or burden of the Agreement and/or burden of the Agreement, without the prior written consent of the other, which consent shall not be withheld or delayed. In particular, and without prejudice to the generality of the foregoing, the Contractor shall not in any other manner make over to any third party the Contractor Software or the benefit or burden of the Contractor Software License Agreement without the prior written consent of the Client, which consent shall not be withheld or delayed.]

neither party shall assign, transfer, sub-contract, or in any other manner make over to any third party the benefit or burden of the Agreement and/or burden of the Agreement, without the prior written consent of the other, which consent shall not be withheld or delayed. In particular, and without prejudice to the generality of the foregoing, the Contractor shall not in any other manner make over to any third party the Contractor Software or the benefit or burden of the Contractor Software License Agreement without the prior written consent of the Client, which consent shall not be withheld or delayed.]

20.2 [The Client shall be entitled to assign, transfer, sub-contract, or in any other manner make over the benefit or burden of the Agreement and/or burden of the Agreement to any Client with which it may merge or to which it may transfer its assets and liabilities, and any other company undertakes and shall perform the rights and powers conferred upon the Client under the provisions of this Agreement being as otherwise made over.]

r written consent of the Contractor in any other manner make over the benefit or burden of the Agreement and/or burden of the Agreement to any Client with which it may merge or to which it may transfer its assets and liabilities, and any other company undertakes and shall perform the rights and powers conferred upon the Client under the provisions of this Agreement being as otherwise made over.]

21. **Force Majeure**

21.1 Neither party shall be liable to the other party for non-performance or any non-performance of any obligations under the Agreement if the time for performance shall be extended according to the provisions of this Agreement due to an event or circumstance beyond the reasonable control of that party ('an event of force majeure').

ch of this agreement or otherwise for non-performance or any non-performance of any obligations under the Agreement if the time for performance shall be extended according to the provisions of this Agreement due to an event or circumstance beyond the reasonable control of that party ('an event of force majeure').

21.2 The party relying on the event of force majeure shall promptly notify the other party of the nature and extent of the event of force majeure giving rise to the event of force majeure.

romptly notify the other party of the nature and extent of the event of force majeure giving rise to the event of force majeure.

21.3 If the event of force majeure prevails for a continuous period in excess of <<e.g. the date on which it began, the other party may give notice terminating this agreement. The notice to terminate must specify the date on which the event of force majeure began, which must be not less than <<e.g. 30>> days. Once a notice to terminate is given, this agreement will terminate on the termination date. Neither party shall have any liability to the other party for non-performance or any non-performance of any obligations under the Agreement due to an event of force majeure which have accrued prior to the termination date.

revails for a continuous period in excess of <<e.g. the date on which it began, the other party may give notice terminating this agreement. The notice to terminate must specify the date on which the event of force majeure began, which must be not less than <<e.g. 30>> days. Once a notice to terminate is given, this agreement will terminate on the termination date. Neither party shall have any liability to the other party for non-performance or any non-performance of any obligations under the Agreement due to an event of force majeure which have accrued prior to the termination date.

22. **Dispute Resolution**

- 22.1 All disputes arising from the Project Management Agreement shall be referred to the financial coordinator. If they are unable to resolve the dispute, it may be referred to an expert.
- 22.2 The expert must have the qualifications and practical experience to resolve the particular dispute, agreed by the parties or in the event of failure to agree shall be the President for the time being of the Law Society.
- 22.3 The parties shall provide the expert all information reasonably requested by him for the purpose of the dispute, imposing appropriate obligations of confidentiality.
- 22.4 The parties shall request the expert to make his decision within 30 days. If this is not possible, the parties shall co-operate to achieve this objective.
- 22.5 The parties shall share the costs of the expert equally. The expert's fees shall be borne upon each of the parties.
- 22.6 The dates set out in the programme shall be postponed by a period to be agreed by the expert. For the avoidance of doubt, this clause provide for a form of reference to arbitration.

23. **Waiver**

- 23.1 A waiver of any term of this agreement shall be effective only if given in writing by the waiving party and then only if it is given.
- 23.2 No failure or delay in exercising any right, power or privilege under this agreement shall be taken as a waiver of it, nor shall any such failure, power or privilege preclude any exercise of any other right, power or privilege.
- 23.3 No breach of any provision of this agreement shall be waived or discharged except with the express agreement of the parties.

24. **Invalidity**

- 24.1 If any provision of this agreement is held to be void or becomes invalid, illegal or unenforceable in any jurisdiction, whether or not pursuant to any judgment, the validity, enforceability or effect of any other provision of this agreement shall not be affected or impaired in any jurisdiction.
- 24.1.1 the validity, enforceability or effect of any other provision of this agreement shall not be affected or impaired in any jurisdiction.
- 24.1.2 the validity, enforceability or effect of any other provision of this agreement shall not be affected or impaired in any jurisdiction.
- 24.2 If any provision of this agreement is held to be void or declared illegal, invalid or unenforceable for any reason, that provision shall be divisible and shall not be deleted from this agreement. If any such provision is deleted, the validity of the remaining provisions of this agreement shall not be affected. If any such provision is deleted, the parties shall

use their best endeavours to substitute provision of the parties.

good faith with a view to agreeing a substitute provision reflecting the commercial intention of the parties.

25. Remedies

25.1 The rights and remedies provided by this agreement are cumulative with and not exclusive of those provided by law.

25.2 Without prejudice to the remedies of the parties, each party acknowledges for the purposes of this agreement that damages might not be an adequate remedy for breach of the provisions of this agreement and that, accordingly, either party may, without proof of special damage to performance and other equitable grounds, seek remedies for breach of the provisions of this agreement by the other party.

The rights and remedies provided by this agreement are cumulative with and not exclusive of those provided by law.

Without prejudice to the remedies of the parties, each party acknowledges for the purposes of this agreement that damages might not be an adequate remedy for breach of the provisions of this agreement and that, accordingly, either party may, without proof of special damage to performance and other equitable grounds, seek remedies for breach of the provisions of this agreement by the other party.

26. Notices

26.1 Any notice, demand or other communication in connection with the performance of this agreement shall be in writing and shall be delivered to the relevant addressee by hand, fax or prepaid first class post (air mail if posted to or from outside the United Kingdom):

in the case of the Contractor:

<<address>>

Fax:

Attention:

in the case of the Client:

<<address>>

Fax:

Attention:

and shall be deemed to have been given or made as follows:

26.1.1 if personally delivered to the relevant addressee at the address of the relevant party,

26.1.2 if sent by first class post, three business days after the date of posting,

26.1.3 if sent by air mail, two business days after the date of posting, and

26.1.4 if sent by fax, immediately after the date of posting, and

provided that if, in the case of the Contractor, any notice, demand or other communication is sent by fax after 1700 hours, it shall be deemed to have been given or made at the start of the next business day.

Any notice, demand or other communication given or made under or in connection with the performance of this agreement shall be in writing and shall be delivered to the relevant addressee by hand, fax or prepaid first class post (air mail if posted to or from outside the United Kingdom):

and shall be deemed to have been given or made as follows:

26.1.1 if personally delivered to the relevant addressee at the address of the relevant party,

26.1.2 if sent by first class post, three business days after the date of posting,

26.1.3 if sent by air mail, two business days after the date of posting, and

provided that if, in the case of the Contractor, any notice, demand or other communication is sent by fax after 1700 hours, it shall be deemed to have been given or made at the start of the next business day.

26.2 A party may notify the other party of a change to his name, address or other details for the purposes of the above clause provided that the notification is in writing and is only be effective on:

26.2.1 the date specified in the notification to take place

the date specified in the notification to take place or, if no date is specified, the date on which the change is notified to the other party.

26.2.2 the date on which the change is notified to the other party.

26.2.2 if no date is specified is less than five business days after the date is given, the date falling five business days after the date is given.

27. **Entire Agreement**

27.1 This agreement constitutes the entire understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this agreement. No party is entitled to rely on any agreement, understanding or arrangement not set forth in this agreement save for any representation made by a party.

27.2 Unless otherwise provided, this agreement may be amended or modified only by a written agreement signed by both of the parties.

28. **Announcements**

Both parties agree not to disclose to bankers or other professional advisers the fact of or details of this agreement. The text of any announcement or in the media concerning this agreement shall require the approval of each party.

29. **Relationship of the Parties**

Nothing in this agreement shall constitute an association, joint venture, partnership, or any other co-operative entity.

30. **Governing Law and Jurisdiction**

30.1 This agreement, and any dispute or controversy, proceedings or claim of any nature arising out of or in connection with this agreement or its performance, shall be governed by the laws of England.

30.2 The parties irrevocably and exclusively submit to the jurisdiction of the courts of England for the purpose of determining any suit, action or proceedings and/or for the enforcement of any judgement against them or their respective assets.

31. **Exclusion of Third Party Rights**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no person other than the parties shall have any rights under it, nor shall it be enforceable under it.

IN WITNESS WHEREOF this Agreement is
before written

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Contractor Name>>

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Client Name>>

In the presence of
<<Name & Address of Witness>>

S

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executed the day and year first

The Development Programme

<<Insert Details>>

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The Functional Specifications

<<Insert Details>>

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The Price and Terms of Payment

<<Insert Details>>

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The Contractor Software

<<Insert Details>>

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The Third Party Software

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The Contractor Scale

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The Project Team

<<Insert Details>>

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