

SCHEDULE

The Project

Enhance a usage reporting program for a high-traffic website that provides online journals, books and reference works.

.....
Signed for and on behalf of VRL

Print:.....

Position:.....

Date:.....

.....
**Signed for and on behalf of Wingpath Ltd
and the Representative**

Print:.....

Position:.....

Date:.....

TERMS AND CONDITIONS (Supplier Project)

1 The Supplier shall

- 1.1. provide the Services promptly, efficiently and professionally using its own skill and expertise in good faith and with due care during the Contract Term, at all times being responsible for payment of its own expenses whether or not classified as Expenses, and upon termination deliver up to the Client or End User all materials of the Client or End User in its possession;
- 1.2. perform the Services as it considers appropriate using its own equipment where appropriate subject only to the proper requirements of the Project; and abide by such rules and regulations of the Client or End User as are relevant to independent contractors and the Special Terms but not so that the Supplier's discretion in providing the Services is compromised; and without charge correct any defective works carried out by it provided that such defects are notified to the Supplier by VRL no later than 5 pm on the Warranty Date;
- 1.3. immediately report in writing to VRL any deficiency by the Client or End User in providing such information and facilities to the Supplier as are necessary to enable the Supplier to provide the Services;
- 1.4. keep written records of project time spent and at the end of each week have such records agreed and signed by a person authorised by the Client and promptly (no later than six weeks) thereafter submit the signed records to VRL with the Supplier's invoice calculated at the Contract Rate plus VAT where appropriate together with any Expenses;
- 1.5. fully indemnify and keep indemnified VRL and the Client against any loss claim or damages including costs arising from (a) any breach of this agreement or any negligent or unlawful act or omission by the Supplier and if there is an Insurance Limit specified, maintain a professional indemnity insurance policy up to the Insurance Limit during the Insurance Period, and (b) any third party liability claim against VRL arising from any act or omission of the Supplier or the Representative and maintain insurance for that purpose up to the limit of £1 million, and provide to VRL evidence of such insurance upon request;
- 1.6. be entitled to suspend the Services for any periods during which the Supplier is obliged to allow the Representative time off in order to comply with the Working Time Regulations 1998, provided that notice of time off for annual leave for the Representative shall first be given by the Supplier to VRL not less than 14 days prior to the relevant leave period.

2 The Supplier warrants that

- 2.1 an adequate description or scope of the Project has been, or shall promptly be, determined by the Supplier with the Client or End User and, by providing the Services, the Supplier has the specialist contemporary skills and expertise to meet the Project requirements and that it will at its own expense ensure, by training or otherwise, that any Representative is appropriately skilled for that purpose and shall undertake the work using the required standard of workmanship;
- 2.2 it has identified to VRL the person to be engaged by the Supplier for the purposes of performing this contract on its behalf as the Named Representative and that the Named Representative has been so engaged for a period of not less than the Contract Term or, in the case of a person other than the Named Representative, will be engaged for the relevant part of the Contract Term;
- 2.3 no person being a Representative has been convicted of any criminal offence that may reasonably affect VRL's decision to engage the Supplier or the Client's decision to allow the Supplier access to its site or systems, information or property for the purposes of supplying the Services, nor is any charge pending for such an offence;
- 2.4 the Project requirements do not oblige the Supplier or Representative to act under the control of the Client in any capacity;
- 2.5 it is authorised as agent on behalf of each Representative, to bind the Named Representative to this clause and any Representative to clauses 3, 6.3 and 6.5 but not further or otherwise and in signing this agreement it agrees on behalf of the Named Representative during and after this agreement
 - (a) that if a Guarantee is applicable in the event of breach of this agreement by the Supplier the Named Representative shall, upon receipt of a written request by VRL, perform or discharge the obligations of the Supplier due under or arising from this agreement, and
 - (b) that the Named Representative will comply with this clause, and
 - (c) that the consideration for the agreement by the Named Representative in this clause and clause 3 is the agreement between the Parties;
- 2.6 it accepts that VRL is free to contract with the Client on any terms that it thinks fit in accordance with its own commercial practice.

3 The Supplier and the Representative shall not

- 3.1 during the Contract Term or thereafter for a period equivalent to the period of this agreement (but not being less than 3 months nor more than 12 months) either directly or indirectly (whether under a contract of services or contract for services or through any third party) provide similar consultancy services to the Client or End User except by contract through VRL unless the Supplier shall first have paid to VRL a fee of 25% of the total remuneration including the value of benefits attributed by the Inland Revenue agreed to be paid or provided by the Client or End User for the relevant period of provision of such services (but not exceeding 12 months) plus VAT;
- 3.2 at any time divulge to any party or use for its/his own benefit any information capable of being confidential relating to the affairs business or methods of VRL or the Client or End User or information received from VRL or the Client or End User except that which is in the public domain or is trivial or obvious or authorised to be released or required by Court Order to be disclosed;
- 3.3 discuss with the Client or End User the terms of this agreement except as strictly as required for the Project or engage in work for any third party capable of being in conflict with the best interests of VRL, the Client or End User without having first given to VRL and the Client or End User notice of such conflict;
- 3.4 import any software onto electronic or computer systems of the Client or End User without the prior written consent of the Client or End User;
- 3.5 use any facilities provided to it by the Client or End User for any purpose other than is authorised by the Client or End User.

4 Payment: In accordance with the Payment Terms VRL shall pay the Supplier on invoices submitted by the Supplier pursuant to Clause 1.4 only save that VRL may as a set off deduct or withhold sums from payments due to the Supplier where VRL has suffered loss for which the Supplier is liable.

5. Termination

5.1 Either party may terminate this agreement on or after the Commencement Date either

- (a) if a period of Notice to Terminate is specified for that party, upon giving notice to the other of not less than the relevant period of Notice, or
- (b) immediately by giving notice if the other becomes insolvent within the meaning of the Insolvency Act 1986 or any amendment thereto, or has a winding up order made against it or passes a resolution to wind up, or enters into any arrangement with its creditors, or passes a resolution to cease trading or actually ceases trading, or is in material breach of any of the terms of this agreement (material breach including failure to make payment of any invoice for more than 28 days after the due date in accordance with the Payment Terms) without prejudice to any claim arising from any such breach.

- 5.2 This Agreement shall be terminated immediately** (a) if VRL gives notice to that effect in the event that the Supplier fails to provide information requested prior to the Commencement Date within 10 working days of the Commencement Date or in the opinion of VRL the Supplier fails to provide a full and satisfactory service to the Client; or (b) if the Client Agreement is rejected by the Client prior to the Commencement Date or is terminated for any reason; or (c) If in the sole opinion of VRL (which need not be reasonable) VRL considers that either the Client or the Supplier may not be able to or willing to perform its obligations to VRL, VRL may without prejudice to any other remedy available to it and without liability to the Supplier, either terminate or suspend this agreement at its sole discretion, in the case of suspension for such period as it considers appropriate but for not longer than 14 days. VRL shall promptly notify the Supplier verbally or otherwise of such termination or suspension. Supplier shall not be entitled to payment during any period of suspension.
- 5.3** Subject only to earlier termination under clause 5.1 or 5.2, this agreement will terminate upon the earlier of the Estimated Date or the End Date, save that if the Project has not been completed by the Estimated Date termination shall be upon the date of actual conclusion of the Project, and the Supplier shall notify VRL in each case as soon as is practicable of the likely date of conclusion and also upon actual conclusion.
- 6 General**
- 6.1** The Supplier having agreed the Project with the Client or End User, VRL shall not be liable for any loss or damages arising out of any misdescription of the Project or representation made by VRL the Client or End User to the Supplier and which may have induced the Supplier to enter into this agreement.
- 6.2** The Supplier's interests against the Client are protected by statute. Accordingly VRL shall not be liable for any loss claimed by Supplier unless expressly provided by statute. Without prejudice to this provision VRL liability shall be limited to £1million except in cases of death or personal injury for which VRL is liable. The Client has the benefit of clauses 1.1, 1.5, 2.1, 3.2 to 3.5, and 6.3 pursuant to the Contracts (Rights of Third Parties) Act 1999. VRL is not a legal agent for the Client or End User.
- 6.3** Save as provided in this clause, the benefit of any work undertaken by the Supplier including any copyright or intellectual rights of any kind in such work shall respectively be and remain the property of the Client or End User, as appropriate, and the Supplier shall procure that the appropriate Representative will sign all documents reasonably required for verification of such rights; rights existing in the method, technique and know how of the Supplier shall remain the property of the Supplier.
- 6.4** For the purposes of clauses 3.1 and 3.2, "Client" and "End User" shall include any Associate of the Client or End User, "Associate" having the meaning attributed to it by s.435 Insolvency Act 1986.
- 6.5** This agreement is not intended to and does not create or reflect a contract of employment between any two parties referred to and there is no implied restraint upon the Representative or the Supplier in providing services, not in conflict with the Client's interests, to any other party, nor does this agreement confer any obligation upon any party to provide or accept further work during the course of this agreement or following the Termination Date or upon the Supplier to integrate into the Client or End User workforce.
- 6.6** Even though this agreement may have been terminated, any clause intended to have effect following termination, shall survive and continue in effect; each portion of this agreement, defined by punctuation and paragraphs, is separate, distinct and severable and to give meaning to the intention of the Parties the Court may modify any portion that may otherwise be void; subject thereto, any void portion may be severed and the remaining provisions shall continue in force.
- 6.7** Notices shall be in writing sent to the addressee by first class post, by fax or by electronic mail, and shall be deemed to have been received, in the case of post on the postal date following the date of posting, in the case of fax on the date of transmission, and in the case of electronic mail on the date electronic confirmation of receipt is received. In the case of service by more than one method the date of the first valid service applies.
- 6.8** VRL may, but the Supplier may not without VRL prior written consent, assign any or all of its rights and obligations under this agreement.
- 6.9** If a person other than the Named Representative is to perform any part or all of the Services on behalf of the Supplier whether by way of sub-contract or otherwise, the Supplier may use such person provided only that it has the prior written consent of VRL which consent will not be withheld in the case of a suitably qualified person in respect of whom the Supplier has given warranties identical to those contained in clause 2 other than clause 2.5. The Supplier may not in those circumstances charge for any agreed lead in time.
- 6.10** This is the sole and entire agreement between the Parties and may not be varied save by agreement of both Parties (whether orally or otherwise) and confirmed in writing by VRL and signed by an authorised officer of VRL.
- 6.11** This agreement is governed by English Law and shall be subject to the exclusive jurisdiction of the English Courts.