THIS AGREEMENT is dated [DATE]. This date shall also be known as the Effective Date.

Parties

1. [FULL COMPANY NAME] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS]

OR

[FULL INDIVIDUAL NAME], resident of [ADDRESS]

(Developer)

1. [FULL COMPANY NAME] incorporated and registered in [COUNTRY OF INCORPORATION] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Customer).

Background

The parties have agreed that the Developer shall provide the Customer with website design and development and related services on the terms and conditions set out in this agreement.

BUSINESS TERMS

1. Scope of the project

The Developer shall:

* + 1. provide the design and development services as set out in [Schedule 3](#a241886) (Services). The provision by the Developer of the Services shall also be referred to as the project (Project);
    2. design, develop and deliver the website (Site) to be located at [URL];
       1. as per the specification for the Site set out in [Schedule 2](#a85711) (Site Specification);
       2. in three key phases identified in Schedule 1(Phases) in accordance with the agreed timetable (Project Plan);
    3. design, develop and deliver the software for the Site commissioned by the Customer as set out in [Schedule 2](#a85711).

1. Development and acceptance of site
   1. This clause describes how the Site is to be accepted or understood to be accepted by the Customer (Acceptance). Here, Acceptance Certificate means the format of certificate given to the Developer by the Customer to acknowledge Acceptance and Acceptance Tests mean the tests to be carried out on the Site.
   2. Once the Developer has completed the design and development of the Site in accordance with Phase [RELEVANT PHASE NUMBER] of the Project Plan, the Developer shall invite the Customer to attend Acceptance Tests. This shall be repeated once the Developer has completed the design and development of the Site in accordance with Phase [RELEVANT PHASE NUMBER] and for any further development works agreed by the parties from time to time.
   3. The Acceptance Tests shall test compliance of the Site with the Site Specification. The form and detail of such tests is set out in [Schedule 4](#a1038940).
   4. Acceptance of the Site shall occur when the Site has passed the Acceptance Tests. The Customer shall sign the Acceptance Certificate in respect of the Site and return it to the Developer as soon as reasonably practicable after Acceptance.
   5. In the event that any Acceptance Tests are not passed, the failures that cause the relevant tests to be failed (Defects) shall be drawn up and documented by the Developer and presented to the Customer for discussion on how best to rectify such Defects.
   6. If any failure to pass the Acceptance Tests results from a Defect which is caused by the Customer, or by one of the Customer's sub-contractors or agents for whom the Developer has no responsibility (Non-Developer Defect):
      1. the Site shall be deemed to have passed the Acceptance Tests;
      2. the Customer shall sign and return the Acceptance Certificate to the Developer within five bank working days of Acceptance;
      3. the Developer shall provide all assistance reasonably requested by the Customer in remedying any Non-Developer Defect by supplying additional services or products;
      4. if such assistance is requested, the Customer shall pay the Developer in full for all such additional services and products at the Developer's then current fees and prices.
   7. The Developer shall remedy any Defects promptly in order to ensure that the Site passes the Acceptance Tests on a retest.
   8. If such a retest demonstrates that the Site is still not in accordance with the Site Specification, the Customer may, by written notice to the Developer, choose to fix a new date for carrying out further tests on the Site on the same terms and conditions as the retest at the Developer’s cost.
   9. If the Site fails the retest in this clause:
      1. the Customer may, by written notice to the Developer, choose to accept the Site subject to a reduction of the charges set out in Schedule 5, such reduction to be an amount that is reasonable, taking into account the circumstances; or
      2. to reject the Site as not being in conformity with this agreement, in which event this agreement shall automatically terminate and the Developer shall forthwith refund to the Customer all sums already paid to the Developer under this agreement.
2. Third party products

The third party software products listed in Schedule 2 (Third Party Products), shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such Third Party Products is included in the charges payable as per clause [5.1](#a925545).

1. Project management

Each party shall appoint a project manager who shall:

* + 1. provide professional and prompt liaison with the other party; and
    2. have the necessary expertise and authority to commit the relevant party.

1. Charges and payment
   1. Following Acceptance, the Developer shall issue a [APPROPRIATE SALES OR TURNOVER TAX IN APPLICABLE JURISDICTION] invoice in respect of the charges, and the Customer shall pay to the Developer the charges calculated correctly in accordance with Schedule 5 and set out in such invoice within 30 days of receipt of it, except for any amount in respect of which there is a genuine dispute.
   2. All charges are exclusive [APPROPRIATE SALES OR TURNOVER TAX IN APPLICABLE JURISDICTION].
2. Site content
   1. Subject to the description of Services noted in Schedule 3, the Developer shall update the Site with materials provided from time to time by the Customer.
   2. The Developer shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that the content of the Site (other than the Customer materials) constitutes Inappropriate Content.

GENERAL LEGAL TERMS

1. Warranties
   1. Each of the parties warrants to the other that it has full power and authority to enter into and perform this agreement.
   2. The Developer shall perform the Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards.
   3. The Developer warrants that operation of the Site will be uninterrupted and free of errors, viruses and material defects and that the Site will perform in accordance with the Site Specification for a period of 12 months from Acceptance. If the Site does not so perform, the Developer shall, for no additional charge, promptly ensure that the Site complies with the Site Specification.
2. Limitation of remedies and liability
   1. Nothing in this agreement shall operate to exclude or limit either party's liability for:
      1. any breach of the terms implied by [APPROPRIATE LEGISLATION IN APPLICABLE JURISDICTION]; or
      2. any other liability which cannot be excluded or limited under applicable law.
   2. Neither party shall be liable to the other for any loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.
   3. Subject to clause 8.1, each party's aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with this agreement or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed [AMOUNT].
3. Intellectual property rights
   1. Intellectual Property Rights shall mean all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off.
   2. All Intellectual Property Rights in the Site Specification and the Site (including in the content of the Site and the Site Software) arising in connection with this agreement shall be the property of the Customer, and the Developer hereby assigns all such Intellectual Property Rights to the Customer. The parties shall execute all documents necessary to give effect to this clause.
   3. The Developer shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim of infringement of Intellectual Property Rights of a third party.
   4. The indemnity in clause 9.3 is subject to the following conditions:
      1. the Customer promptly notifying the Developer in writing of the claim;
      2. the Customer making no admissions or settlements without the Developer's prior written consent;
      3. the Customer giving the Developer all information and assistance that the Developer may reasonably require; and
      4. the Customer allowing the Developer complete control over the litigation and settlement of any action or claim.
   5. The Developer shall not use or re-create the look and feel of the Site or anything substantially similar to it.
4. Term and termination
   1. This agreement shall commence on the Effective Date and shall (subject to earlier termination pursuant to this clause) terminate automatically on Acceptance of the Site and payment of all outstanding sums.
   2. Either party may terminate this agreement immediately at any time by written notice to the other party if:
      1. that other party commits any material breach of its obligations under this agreement which (if remediable) is not remedied within 14 days after the service of written notice specifying the breach and requiring it to be remedied; or
      2. that other party becomes insolvent or there is a change of control at the other party, or the other party ceases to trade; or
      3. that other party has been subject to a Force Majeure Event for a continuous period of more than 90 days.
   3. On expiry or termination of this agreement:
      1. all licences granted to the Developer under this agreement shall terminate immediately;
      2. the Developer shall promptly return all Customer materials and all copies of the Site Specification to the Customer, and shall provide to the Customer an electronic copy of the Site (including all content on the Site); and
      3. all provisions of this agreement shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.
5. Data protection
   1. The Developer warrants that, to the extent it processes any Personal Data on behalf of the Customer:
      1. it shall act only on instructions from the Customer; and
      2. it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
   2. In this clause, Personal Data has the meaning given in the [RELEVANT LEGISLATION IN APPLICABLE JURISDICTION].
6. Force majeure
   1. Force Majeure Event shall mean any event arising which is beyond the reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war).
   2. A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this agreement shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay will continue. The affected party shall take all reasonable steps to mitigate the effect of the Force Majeure Event.
7. Confidentiality
   1. Confidential Information shall mean all information whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the parties), where the information is:
      1. identified as confidential at the time of disclosure; or
      2. ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.
   2. Each party shall protect the Confidential Information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
   3. Confidential Information may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information received.
   4. The obligations set out in this clause shall not apply to Confidential Information which the receiving party can demonstrate:
      1. is or has become publicly known other than through breach of this clause; or
      2. was in possession of the receiving party prior to disclosure by the other party; or
      3. was received by the receiving party from an independent third party who has full right of disclosure; or
      4. was independently developed by the receiving party; or
      5. was required to be disclosed by governmental authority, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement.
   5. The obligations of confidentiality in this clause shall not be affected by the expiry or termination of this agreement.
   6. This clause supersedes the terms of any Non-Disclosure Agreement between the Developer and the Customer, which is hereby terminated.
8. Audit

The Customer shall have the right to audit the Developer's compliance with this agreement on giving seven days' written notice to the Developer. At the Customer's option, this audit may cover documents only or may include onsite audit, subject to the customer notifying the Developer of the identity of any onsite auditors and giving confirmation that any external auditors have entered into appropriate confidentiality agreements.

1. Notices
   1. A notice given under this agreement:
      1. shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
      2. shall be sent for the attention of the person, and to the address, fax number or e-mail address given in this clause (or such other person, address, fax number or e-mail address as the receiving party may have notified to the other, such notice to take effect five days from the notice being received); and
      3. shall be:
         1. delivered personally; or
         2. sent by fax or e-mail; or
         3. sent by pre-paid first-class post, recorded delivery or registered post; or
         4. (if the notice is to be served or posted outside the country from which it is sent) sent by registered airmail.
   2. The addresses for service of notice are:
      1. for the Customer:

Address:For the attention of:Fax number:E-mail:

* + 1. for the Developer:

Address:For the attention of:Fax number:E-mail:

* 1. A notice is deemed to have been received:
     1. if delivered personally, at the time of delivery; or
     2. in the case of fax or e-mail, at the time of transmission, provided a confirmatory copy is sent by first-class pre-paid post or by personal delivery before the end of the next bank working day; or
     3. in the case of pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting; or
     4. in the case of registered airmail, five days from the date of posting; or
     5. if deemed receipt under the previous paragraphs of this clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt.
  2. To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number or e-mail address of the relevant party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

1. Publicity

All media releases, public announcements and public disclosures by the Developer relating to this agreement or its subject matter, including promotional or marketing material, shall be co-ordinated with the Customer and approved by the Customer prior to release.

1. Assignment

The Developer may not assign or transfer any of its rights or obligations under this agreement. The Customer may assign or transfer any of its rights or obligations under this agreement, provided it gives prior written notice to the Developer.

1. Entire agreement

Except as provided in this clause, neither party shall have any remedy in respect of any untrue statement (whether written or oral) made to it on which it relied in entering into this agreement (Misrepresentation), and neither party shall have any liability other than pursuant to the express terms of this agreement. Nothing in this agreement shall exclude or limit either party's liability for any Misrepresentation made knowing that it was untrue. Each party's liability for Misrepresentation as to a fundamental matter, including as to a matter fundamental to that party's ability to perform its obligations under this agreement, shall be subject to the limit set out in the Limitation of Liability clause.

1. Third party rights
   1. The right of the parties to terminate, rescind, or agree any amendment, variation, waiver or settlement under this agreement is not subject to the consent of any person who is not a party to this agreement.
   2. This agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person.
2. Variation and waiver
   1. A variation of this agreement shall be in writing and signed by or on behalf of both parties to this agreement.
   2. A waiver of any right under this agreement is only effective if it is in writing, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.
   3. Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.
3. Severance
   1. If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
   2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
4. Governing law and jurisdiction
   1. This agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of [APPLICABLE JURISDICTION].
   2. The parties irrevocably agree that the courts of [APPLICABLE JURISDICTION] have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement.

This agreement has been entered into on the date stated at the beginning of it.

1. Project plan
2. Site Software and Specification
3. Services
4. Acceptance Tests
5. Charges

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| EXECUTED AS PER APPLICABLE LAW |