



AN AGREEMENT FOR THE PROVISION OF SERVICES

1. Agreement

made on the 1st November 1996

BETWEEN

- HMW Computing Limited of Hamilton House 1 Temple Avenue London EC4Y 0HA, a company incorporated in England (hereinafter called "the Client". Such expression shall include any members of the HMW Computing Limited group of companies for the time being and from time to time) of the one part **and**
- Phil Last Limited of 146 Crossbrook Street Cheshunt, a company incorporated in England (hereinafter called "The Supplier")

WHEREAS

- The Client has identified a need for expert help and assistance in the performance and completion of certain services.
- The Supplier has the required level of expertise and has agreed to provide the required assistance on the terms of this Agreement.

WHEREBY IT IS AGREED AS FOLLOWS:-

2. Service

1. In consideration of the payment of the "Fee Payable" by the Client to the Supplier, the Supplier shall provide the services set out under the heading "Services" in the Schedule hereto.
2. The location of the work will be as set out under "Location" in the Schedule and may only be varied with agreement of the Supplier and Client. If Supplier staff are required to work on the Client's premises the Client will be responsible for ensuring that the Supplier's staff are provided without charge with such suitable office accommodation and services including telephone, typing and photocopying facilities as they may reasonably require which shall be used by such staff solely for the purpose of the service.
3. The Supplier shall ensure that the services provided under this agreement are duly performed with diligence and skill at all times and shall take all reasonable steps to comply with any timetable or other targets for progress or delivery of the whole or any agreed part of the Services or the completion of the Services as specified under "Service Timetable" in the attached schedule(s).
4. Because of the nature of the work to be undertaken by the Supplier, both parties accept that it may be necessary to alter or adapt the Services and that any additional works required may not be included in the Fee Payable as detailed in this Agreement. The parties accept that, save as set out in Clause 6, any changes or additions to the Services or the terms of this Agreement will be valid only if agreed in writing by the Supplier and the Client.
5. The Supplier reserves the right to revise the Fee Payable if any changes are proposed to the Services under Clause 4 above. The Supplier will inform the Client of any proposed changes to the Fee Payable in writing and these changes will not be valid until accepted in writing by the Client.
6. The Supplier warrants that all personnel involved in the performance of the Services shall be suitably skilled and experienced to perform properly the tasks assigned to them.
7. The Supplier may at any time and without giving the Client prior notification make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or make any changes to the Services which do not materially affect the nature or quality of the Services. In such circumstances, the Supplier reserves the right reasonably to revise the Fee Payable in the light of such changes.

Phil Last Limited

Agreement for Services- 18-Dec-96

L:\WebTemplates\Xtra\files\ProvisionOfServicesPGL.doc

Author: Chris Hogan
Page 1 of 8

3.Fees

8. The fee payable for the services will be as listed under “Fee payable” in the Schedule. The Fee Payable is based on the schedule as listed under “Service Timetable” in the Schedule, if appropriate. Value Added Tax will be added to the Fees Payable in accordance with Government legislation in force at the time of raising the invoice.
9. The Supplier shall submit invoices to the Client in respect of either
 1. each project milestone achieved as listed under “Service Timetable” *or*
 2. each calendar month worked accompanied, if necessary, by time sheets certified by the person for whom the work is done.
10. The Supplier may render Invoices on an interim basis. Payment will be made within 28 days of the invoice date. The Supplier is entitled to charge interest to the Client on any outstanding amounts at the rate of 8% . Such interest will begin to accrue from 28 days after the date agreed for payment under this Agreement and will continue to accrue until judgment or sooner payment.
11. The Client shall make no contribution to holiday pay, pension or sickness pay of any personnel of the Supplier. No personnel of the Supplier will be considered an employee of the Client for any purpose.

4.Expenses

12. The cost of transporting supplies necessary to the assignment, long distance telephone calls and all reasonable expenses incurred by the Supplier will be borne by the Client.
13. If the Agreement provides that the personnel of the Supplier shall work at the premises of the Client in circumstances which make it impracticable for them to return to their normal place of abode at the end of each working day, the Client shall pay the Supplier expenses as set out in the said Schedule under the heading “Expenses”. The Supplier may add to its Invoices for the Fees all Expenses so incurred.

5.Insurance

14. Each party shall indemnify the other from and against and insure against death or personal injury to any person to the extent caused by any act, omission, default or negligence of the Supplier or Client their employees, agents or sub-contractors.
 1. The Supplier shall ensure that it has valid and adequate Professional Indemnity Insurance, Public Liability and Employer’s Liability Insurance in force throughout the duration of this Agreement.
 2. The Client shall ensure that valid and adequate Public Liability Insurance remains in force throughout the duration of this Agreement.

6.Duration

15. This Agreement shall commence from the date hereof, unless agreed otherwise in the Schedule, and shall remain in force until the Services are completed as defined in the Schedule unless terminated early under the terms of this Agreement or by mutual consent.
16. The commencement date of the provision of the said Services shall be as listed under “Commencement Date” in the Schedule.
17. The period of provision of Services shall continue until the date listed under “Completion Date” in the Schedule, and in the accordance with the timetable (if any) set out in the schedule.
18. The Supplier shall endeavour to complete the services within any time specified in the schedule for their completion. The Supplier shall not be liable to the Client or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of the Supplier’s obligations in relation to the Specified Service, if the delay or failure was due to any cause beyond the Supplier’s reasonable control.

7.Termination

19. All notices required by these conditions to be written may be served by letter or fax. Notices to the Company shall be served at their address shown previously in this Agreement or such other address as such party may have notified in writing to the other. The notice shall be deemed to have been received:
 1. In the case of delivery by hand, when delivered; or
 2. In the case of pre-paid post, on the second day following the day of posting; or
 3. In the case of facsimile, on acknowledgement by the recipient facsimile receiving equipment, provided that the facsimile is confirmed by post.
20. This Agreement may be terminated by either Party:
 1. Immediately, if the other shall be in breach of any of the terms of this Agreement and said other Party (in the case of a breach capable of being remedied) has not remedied such breach within 30 days of written notice so to do. SAVE THAT no notice of termination may be given by pursuant to this sub-clause until all the procedures set out in Clause 23 below have been exhausted.
 2. immediately by either Party if it becomes apparent that the other has become insolvent or has had a receiver appointed or has called a meeting of creditors or resolved to go into liquidation (except for amalgamation or reconstruction while solvent) or has suffered a petition for compulsory winding up.
 3. by either party giving in writing the notice listed under "Notice" in the Schedule. In the absence of any entry being shown against Notice in the Schedule and in the absence of a fixed period having been agreed for the work, then the termination notice shall be four weeks.
21. The Supplier may terminate this Agreement:
 1. by giving the Client written notice if the Client is in default of any agreed payments under this Agreement and has failed to remedy that default within 30 days of receiving a written demand from the Supplier; or
 2. by giving the Client written notice if the Client fails to accord the Supplier the reasonable access to premises, equipment, personnel or other information required for the Supplier to perform the Specified Service; or
 3. by giving the Client written notice if, in the Supplier's opinion, it is no longer appropriate for the Agreement to continue in force.
 4. If the Client commits a breach of the Agreement which he fails to remedy or fails to commence to remedy to the Supplier's satisfaction within four days of written notice from the Supplier to do so
22. The Client may terminate this Agreement:
 1. The Client may terminate this Agreement forthwith if the Supplier fails to provide a reasonable level or quality of service,
 2. If in the opinion of the Client it is no longer appropriate for the Agreement to remain in force
23. In the event that this Agreement is terminated before the completion of the Services, the Supplier shall be entitled to payment by the Client for work completed.

8. Client's Obligations

24. The Client shall, at its own expense, provide the Supplier with all documents or other materials and data or other information necessary for the completion of the Specified Service, in sufficient time to enable the Supplier to provide the Specified Service in accordance with any timetable or other target for progress or completion agreed in writing between the parties.
25. The Client shall be responsible for the content of all documents or other materials and shall ensure the accuracy of all data or other information provided to the Supplier in the course of this Agreement.
26. The Client shall, at its own expense, retain duplicate copies of all documents or other material and data or other information provided to the Supplier and/or its personnel and shall insure against its accidental loss or damage. The Supplier shall have no liability for any such loss or damage, howsoever caused.
27. The Client shall ensure that the Supplier and its personnel are accorded sufficient access to any of the Client's premises, information, data or personnel and use of any equipment that is reasonably necessary for the completion of the Specified Services. Where the Supplier requires access to any third party premises, information, data or personnel, the Client will make all reasonable efforts to arrange this for the Supplier.
28. The Client shall ensure that the Client and the Client's staff and premises comply with all relevant legislation or other regulations relating to health and safety matters and shall ensure that the Supplier's personnel are provided with a safe working environment. In this context, the Client shall ensure that the Supplier and the Supplier's personnel are not prevented from complying with any relevant legislation or regulation.
29. The Client shall not take on any direct control over or responsibility for the Supplier's personnel. In particular, the Client acknowledges that the Supplier's personnel are professionals who will use their own initiative as to the manner in which the Specified Service is delivered and will not be subject to, or to the right of, supervision, direction or control as to the manner in which they render the Specified Service.
30. The Client acknowledges and accepts that the Supplier is in business on its own account and therefore may be engaged by other parties simultaneously to its performance of the Specification.

9. Supplier's Obligations

31. Where required, the Supplier will submit timesheets in a form to be agreed between the Client and the Supplier to provide a record of the work done by the Supplier's personnel.
32. The Supplier may obtain or provide extra resources (whether in the form of equipment or personnel) of the requisite standard in order to ensure that the Services are completed in accordance with the Schedule, if, in the Supplier's discretion this is appropriate in order to comply with any agreed timetables or targets set out in the Schedule.
33. The Supplier shall have the right to supply one or more substitutes of equivalent calibre and experience of equivalent expertise to work in place of the Supplier's original personnel. The Supplier will in any event use its best endeavours at all times to maintain continuity on its part throughout the period of supply of the Services. The Supplier acknowledges that the Client has the right to refuse to accept the substitute personnel if, in the reasonable view of the Client, the substitute personnel have insufficient qualifications or expertise.
34. Where substitution occurs, the other terms and conditions of this contract, and in particular (but not limited to) Fees Payable and the timetable of the project, will remain unchanged, unless otherwise agreed by both parties in writing. For the avoidance of doubt, the Supplier shall be responsible for the payments and expenses of the substitute personnel.
35. In the event that the Supplier cannot provide either the original personnel or acceptable substitute personnel, the Client is entitled to terminate this Agreement forthwith.

10. Limitation of Liability

36. Neither party shall be liable to the other for any non-performance or delay in the performance of the services hereunder directly or indirectly caused by or resulting from an Act of God, outbreak of hostility (whether or not war is declared), insurrection, riot, civil disturbance, vandalism, Government Act or Regulation, fire, flood, accident, theft, strike, lock-out or trade dispute caused by or resulting from any other event or circumstances whatsoever beyond its' reasonable control.
37. The Services have been negotiated and agreed by the Supplier with the Client in the context of information provided by the Client as to the Client's particular needs and requirements. The Services have been prepared and costed accordingly. Therefore:
 1. the Client shall not be liable for any loss or damage suffered by The Supplier or any of its personnel working under this Contract save to the extent that such loss or damage results from any act or default of the Client its servants and agents, and The Supplier shall not be liable for any loss or damage to, or any claims against, the Client save to the extent that such loss, damage of claim result from the negligent performance by The Supplier of the Agreement.
 2. the Supplier shall have no liability to the Client for any delay, loss, damage, costs, expenses or other claims for compensation arising from any information or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client,
 3. the Supplier shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from the Client making use of the Specified Service for any purpose not clearly disclosed to the Supplier or from the Client allowing a third party to make use of the Specified Service;
 4. except in respect of death or personal injury caused by the Supplier's negligence, or as expressly agreed in writing between the parties, the Supplier shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, other than under the express terms of this Agreement, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Supplier, its servants or agents or otherwise) which arises out of or in connection with the provision of the Specified Service or its use by the Client.
 5. except in respect of death or personal injury caused by the Supplier's negligence, or as expressly agreed in writing between the parties, the entire liability of the Supplier under or in connection with this Agreement or the Specified Service shall not exceed the amount of the Supplier's total anticipated charges for providing the Specified Service as detailed in the Schedule to this Agreement.

11. Confidentiality

38. The execution of this Agreement and any associated agreements, necessarily commits the parties to place confidential information, belonging to one of the parties, at the other's disposal; it is also inevitable that the employees of the parties, in accordance with the execution of the agreement, necessarily or incidentally have knowledge of this confidential information. Consequently, both parties shall undertake to agree and sign the separate Confidentiality Agreement which accompanies this Agreement.

12.Warranties

39. The Supplier warrants to the Client that the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Schedule to this Agreement and any timetables or other targets agreed.
40. Where, in connection with the provision of the Services, the Supplier provides any goods supplied by a third party, the Supplier does not give any warranty or guarantee as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Client the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to the Supplier.
41. The Supplier warrants that so far as it is aware all information regarding the Supplier's personnel's expertise, experience and qualifications provided to the Client is complete and accurate and up to date.
42. The Supplier warrants that it will, when utilising any of its own equipment or intellectual property in carrying out the engagement, ensure that any security requirements reasonably required by the Client are complied with

13.Intellectual Property

43. Intellectual Property Rights means any and all patents, patent applications, know-how, trade marks, trade mark applications, trade names, registered design, copyright, database rights or other similar intellectual property rights created, developed, subsisting or used in connection with the Services and whether in existence at the date hereof or created in the future.
44. Patent, copyright and other intellectual property rights and all programmes written for the Client in connection with this Agreement will be vested in the Client which reserves the right to use the said programmes or any portion of them for other purposes unless otherwise agreed between the parties hereto.
45. Unless agreed otherwise in writing between the Client and the , the Client shall retain ownership of all Intellectual Property Rights of whatever nature, whether registered or not, in the documents or other material and data or other information provided to the Supplier in the context of this Agreement. For the avoidance of doubt, the Client shall not be deemed to have granted the Supplier any licence to use the documents or other material and data or other information other than for the purposes of this Agreement.
46. Unless agreed otherwise in writing between the Client and the Supplier, the Supplier shall retain ownership of all Intellectual Property Rights of whatever nature, whether registered or not, in all documents or other material and data or other information and devices or processes provided or created by the Supplier in the provision of the Services save that the Supplier shall be deemed to have granted the Client a non-exclusive and non-assignable licence to make use of any such documents or other material and data or other information and devices or processes in the context of the Services.
47. Where appropriate, the Supplier shall be deemed to have asserted its moral rights over any documents or other material provided or created by the Supplier in the provision of the Services.
48. Both Parties warrant that no documents or other material and data or other information and devices or processes will be provided by the other Party for use in connection with the provision of the Services which infringe any third party intellectual property rights;
49. In the event that a claim for the infringement of third party Intellectual Property Rights is made or intimated against one Party in relation to documents or other material, data and other information or devices and processes provided to that Party by the other for use in the provision of the Services **or** which the Party dictated should be used by the other in the execution of the Services, the said Party shall indemnify the other against any and all costs, expenses, damages or other losses suffered or payments made by the other Party in connection with the claim and any associated judgment or settlement.

14. General

50. If at any time question, dispute or difference whatsoever shall arise between the Company and the Client in relation to or in connection with this Agreement to a significant extent either party may call a meeting, which shall be held within 14 days of the date of the notice calling the same (unless otherwise agreed) and will be attended by senior management of both parties. The purpose of the meeting shall be to review and agree so far as is practicable the action taken to solve the problems which have given rise to the calling of the meeting and the parties shall negotiate with each other in good faith to that end:
51. During the period of this Agreement or any continuation thereof, or during the period of six months from the termination of this Agreement, or any such continuation, for whatever reason, the Client or any subsidiary related or associated Supplier of the Client will not offer employment to , or enter into a contract with, employees of, or personnel working under contract with, the Supplier or any subsidiary or associated company of the Supplier, directly involved in the provision or use of the Services without the prior written agreement of the Supplier.
52. During the period of this Agreement or any continuation thereof, or during the period of six months from the termination of this Agreement, or any such continuation, for whatever reason, the Supplier hereby agrees not to enter into a contract directly or indirectly to provide services for those of the Client's customers for whom services have been performed under this contract, provided that this restriction shall not apply if the customer was introduced to the Client by The Supplier
53. No waiver or forbearance by either party, whether express or implied, in enforcing any of its rights under this Agreement shall prejudice its right to do so in the future and it is agreed that a waiver of a right on one occasion shall not constitute a waiver of such right in the future. No waiver shall be effective unless in writing and signed by an authorised representative of the relevant party.
54. The parties to this Agreement are independent businesses and nothing in this Agreement or by virtue of performing it shall be taken as creating a relationship of agent to principal, employer to employee, partnership or joint venture between the Supplier (and/or any of its personnel) and the Client. Neither party shall be entitled to authority or power to bind the other or to contract in the name of or create a liability against the other Party in any way or for any purpose
55. The Client is under no obligation to offer work to the Supplier and the Supplier is under no obligation to accept any work which may be offered by the Client. Neither party wishes to create or imply any mutuality of obligation between themselves either in the course of, or between, any performance of Service under the Specification
56. Neither party shall use the name(s), trademark(s) or trade name(s), whether registered or not, of the other party in publicity releases or advertising or in any other manner, including customer lists, without securing the prior written approval of the other party.
57. Any additional terms and conditions to this Agreement are listed under “Additional Terms and Conditions” in the Schedule and no other terms or conditions expressly stated or implied elsewhere should apply to this agreement save as would necessarily have to be implied to make it workable in practise.
58. Save for changes to the Services, (which must be agreed in accordance with Clause 4), the terms of this Agreement including the Schedules may only be varied when the variation is recorded in writing and agreed by both parties
59. The headings, titles and subtitles used in this Agreement are for ease of reference only and shall not control or affect the meaning or construction of any provision hereof.
60. Both parties agree that the terms of this Agreement are fair and reasonable in all the circumstances.
61. All the Clauses of this Agreement which are not fully performed within the period of this Agreement or are capable of having effect thereafter shall survive and remain in full force and effect beyond the expiration or earlier termination of this Agreement



AN AGREEMENT FOR THE PROVISION OF SERVICES

- 62. The terms of this Agreement represent the entire agreement between the parties and supersede any previous representations or agreements whether recorded in writing or otherwise.
- 63. This Agreement shall be governed by and construed in accordance with the laws of England and any dispute hereunder shall be subject to the exclusive jurisdiction of the English Courts. If any part, term or provision of this Agreement, not being of a fundamental nature, be held illegal or unenforceable, the validity of the remainder of this Agreement shall not be affected.

15. IN WITNESS WHEREOF

the parties hereto have hereunder set their respective hands the day and year first above written.

SIGNED for and on behalf of the Supplier _____
Name & Position _____
Date _____
in the presence of _____

SIGNED for and on behalf of the Client _____
Name & Position _____
Date _____
in the presence of _____