

TERM SHEET

PARTIES:

(1) SCHOOL	(2) WILTSHIRE COUNCIL
	[Contact name:] Telephone: Wiltshire Council Fax: Bythesea Road Email: Trowbridge Reference: Wiltshire Invoice number: BA14 8JN
SIGNED BY:	SIGNED BY:
DATE:	DATE:

DURATION:

1 year	2 years	3 years
<i>(TICK)</i>		
COMMENCEMENT DATE:		

PRICE PER YEAR:

Band 1 (Schools with 1 – 50 Employees)	£110.00
Band 2 (51 – 150 Employees)	£230.00
Band 3 (151 – 250 Employees)	£314.00

TOTAL PRICE TO PAY (BAND x YEAR(S)):	£
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SERVICES TO BE PROVIDED:

(1) SCHOOL RECRUITMENT SERVICE WEBSITE

This is the primary service to be used by the School to post vacancies and manage its communications with potential applicants. The service puts the whole application process online for jobseekers, from searching for vacancies and receiving alerts to applying for jobs and arranging interview times. Jobseekers are able to apply on the system for all types of school-based vacancies. This service is provided by use of the Licensed Program which Wiltshire Council is a Licensee but will allow the benefit of the Licence to third party School users.

(2) TRAINING

Wiltshire Council shall provide at least 1 member of staff at the School full training to use the Licensed Program so that they can use the School Recruitment Service completely. Any user manuals shall also be provided. Staff may go on to train additional members of staff at the School.

(3) SUPPORT

Wiltshire Council shall provide support services in respect of using the Schools Recruitment Service Website. Support shall include advice by telephone, fax, email or post or posting on the Council's website of the use of the Licensed Program. If Wiltshire Council is unable to provide appropriate support advice to the School in respect of the Schools Recruitment Service Website, the School shall be entitled to contact Tribal Resourcing Limited, the developer of the Licensed Program for further technical support.

(4) ADVERTISEMENTS

Five (5) advertisements in the school bulletin will be included with the subscription fee.

Additional advertisements shall be charged at the following rates:

- (i) £11 per advert for each school who have subscribed and use Wiltshire Council Lifecycle service.
- (ii) £65 per advert for any other school.

SCHOOLS RECRUITMENT SERVICE

WILTSHIRE COUNCIL COPY

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1. DEFINITIONS

1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (**Conditions**).

Contract: the Term Sheet and these Terms and Conditions. This shall also include the School's purchase order and the Council's acceptance of it, or the School's acceptance of a quotation for Services by the Council under clause 2.2

School: the school that purchases Services from the Council.

School's Equipment: any equipment, systems, cabling or facilities provided by the School and used directly or indirectly in the supply of the Services.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Licensed Program: the School Recruitment Service Website together with all documents, information and materials provided by the Council relating to the Services which existed prior to the commencement of the Contract.

Services: the services to be provided by the Council under the Contract as set out in the Terms Sheet together with any other services which the Council provides, or agrees to provide, to the School.

Term Sheet: the Terms agreed between the Council and School to which these Terms and Conditions shall apply.

Council: Wiltshire Council

Council's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Council or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the School.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

2. APPLICATION OF CONDITIONS

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over any inconsistent terms or conditions contained, or referred to, in the School's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the School, or implied by law, trade custom, practice or course of dealing.

2.2 The School's purchase order, or the School's acceptance of a quotation for Services by the Council, constitutes an offer by the School to purchase the Services on these Conditions. No offer placed by the School shall be accepted by the Council other than:

- (a) by a written acknowledgement issued and executed by the Council; or
- (b) (if earlier) by the Council starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The School's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

3. COMMENCEMENT AND DURATION

3.1 The Services supplied under the Contract shall be provided by the Council to the School from the date specified in the Term Sheet.

3.2 Subject to condition 10, the Services supplied under the Contract shall continue to be supplied for a period stated in the Term Sheet unless the Contract is terminated by one of the Parties giving to the other party no less than 3 months' written notice. No refund of any payments will be applicable.

4. COUNCIL'S OBLIGATIONS

4.1 The Council shall use reasonable endeavours to make available the benefit of the Services, and to the School, in accordance in all material respects

4.2 The Council shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that may apply at any of the School's premises when providing the Services, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

5. SCHOOL'S OBLIGATIONS

5.1 The School shall:

- (a) co-operate with the Council in all matters relating to the Services;
- (b) provide the Council, its agents, subcontractors, consultants and employees, in a timely manner with access to the School's premises, office accommodation, data and other facilities as reasonably required by the Council;
- (c) ensure that all School's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;
- (d) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Council's Equipment, the use of In-put Material and the use of the School's Equipment in

relation to the Council's Equipment insofar as such licences, consents and legislation relate to the School's business, premises, staff and equipment, in all cases before the date on which the Services are to start;

- 5.2 If the Council's performance of its obligations under the Contract is prevented or delayed by any act or omission of the School, its agents, subcontractors, consultants or employees, the Council shall not be liable for any costs, charges or losses sustained or incurred by the School arising directly or indirectly from such prevention or delay.
- 5.3 The School shall be liable to pay to the Council, on demand, all reasonable costs, charges or losses sustained or incurred by the Council (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the School's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Council confirming such costs, charges and losses to the School in writing.

6. CHARGES AND PAYMENT

- 6.1 In consideration of the provision of the Services by the Council, the School shall pay the charges as set out in Term Sheet. The Council shall invoice the School for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate.
- 6.2 The parties agree that the Council may review and increase the charges set out in the Term Sheet, provided that such charges cannot be increased more than once in any 12 month period. The Council will give the School prior written notice of any such increase at least 1 month before the proposed date of the increase.
- 6.3 The School shall pay each invoice submitted to it by the Council, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by the Council.
- 6.4 Without prejudice to any other right or remedy that it may have, if the School fails to pay the Council on the due date, the Council may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the School shall pay the interest immediately on demand. The Council may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
 - (b) suspend all Services until payment has been made in full.

- 6.5 All sums payable to the Council under the Contract shall become due immediately on its termination, despite any other provision. This condition 6.5 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 6.6 The Council may, without prejudice to any other rights it may have, set off any liability of the School to the Council against any liability of the Council to the School.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 As between the School and the Council, all Intellectual Property Rights and all other rights in the Licensed Program shall be owned by the Council. Subject to condition 7.1, the Council licenses all such rights to the School free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the School to make reasonable use of the Deliverables and the Services.
- 7.2 The School acknowledges that, where the Council does not own the Licensed Program, the School's use of rights in Licensed Program is conditional on the Council obtaining a written consent (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Council to license such rights to the School.

8. CONFIDENTIALITY AND THE COUNCIL'S PROPERTY

- 8.1 The School shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the School by the Council, its employees, agents, consultants or subcontractors and any other confidential information concerning the Council's business or its products which the School may obtain.
- 8.2 The School may disclose such information:
- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the School's obligations under the Contract; and
 - (b) as may be required by law, court order or any governmental or regulatory authority.

9. LIMITATION OF LIABILITY

- 9.1 This condition 9 sets out the entire financial liability of the Council (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the School in respect of:
- (a) any breach of the Contract;
 - (b) any use made by the School of the Services, and
 - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

- 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these Conditions limits or excludes the liability of the Council:
- (a) for death or personal injury resulting from negligence; or
 - (b) for any damage or liability incurred by the School as a result of fraud or fraudulent misrepresentation by the Council; or
- 9.4 Subject to condition 9.2 and condition 9.3
- (a) the Council shall not be liable for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill and/or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of contract; or
 - (vi) loss of corruption of data or information; or
 - (vii) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - (b) the Council's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited the price paid for the Services.

10. TERMINATION

- 10.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other on giving the other not less than 3 months written notice or immediately on giving notice to the other if:
- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
 - (b) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - (c) the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
 - (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or [(being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- (e) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or

10.2 The Council may terminate this contract forthwith if its licence on respect of the Licence Program is terminated by the software provider (Tribal Resourcing Limited). The Council shall use its reasonable endeavours to reimburse any excess subscription payments but cannot guarantee any reimbursement which the school shall acknowledge.

11. FORCE MAJEURE

The Council shall have no liability to the School under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Council or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Councils or subcontractors.

12. VARIATION

12.1 The Council may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If the Council requests a change to the scope of the Services for any other reason, the School shall not unreasonably withhold or delay consent to it.

13. WAIVER

13.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14. SEVERANCE

14.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

15. ENTIRE AGREEMENT

15.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

16. ASSIGNMENT

16.1 The School shall not, without the prior written consent of the Council, assign, transfer, charge, mortgage, subcontract any of its rights or obligations under the Contract.

16.2 The Council may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

17. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

18. RIGHTS OF THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

19. NOTICES

19.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in the Term Sheet, or as otherwise specified by the relevant party by notice in writing to the other party.

20. GOVERNING LAW AND JURISDICTION

20.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.