**SOFTWARE DEVELOPMENT WORK ORDER AGREEMENT**

**THIS** **SOFTWARE DEVELOPMENT WORK ORDER** **AGREEMENT** (the “**Agreement**”) is made on the day of Two Thousand and

**BETWEEN**

**……….** a limited liability company incorporated in the Republic of Kenya of Post Office Box Number , Nairobi in the Republic of Kenya (hereinafter referred to as "**……..**") and;

**…………….** a limited liability company incorporated in the Republic of ……., and having its principal place of business at ………….. in ……… (hereinafter referred to as "**VIRTUAL QUEST**").

**WHEREAS:**

……. carries on the business of providing ….

……….. wishes to develop a software to manage and operate …..

…………. has specialised and expert knowledge and experience in software development including but not limited to education oriented software for use in an educational environment.

…………… has requested …………. to design and develop ……..s proprietary software applications and …………… has to do so on the terms and conditions herein set out.

**NOW THEREFORE** in consideration of the terms and of the mutual covenants and conditions herein contained it is hereby agreed between the parties as follows**:**

# **DEFINITIONS AND INTERPRETATION**

## In this Agreement unless the context otherwise requires:

# **PRODUCTS FOR DEVELOPMENT**

## …………. retains ……….. and ………… agrees to develop the following products that will run on both UNIX and Microsoft Server platforms.

### Computer curriculum for nursery, primary and secondary schools. The Secondary School curriculum should compliment the Kenya Ministry of Education curriculum as per Kenya Institute of Education and ICT GCSE/GCE/IGCE/Cambridge Syllabuses (Commonalities).

### Physics, Chemistry, Biology CBT’s as per KCSE, GCSE and IB Syllabus.

### Virtual Physics, Biology and Chemistry labs.

### Online Test Module.

### Parent Information System with Visual Net.

### Learning Management System (Macromedia Shockwave).

### Financial Management System (Oracle Financials).

### AIDS Lessons for Standard 1 to 8.

# **PRODUCT BRIEF**

## **Computer curriculum**

 The development of the computer curriculum entails two separate stages of education system and two versions of secondary curriculum for the Kenyan and British syllabi of computer studies and ICT respectively. The secondary part should compliment the syllabus provided by the respective education boards. The primary section with regards to standards 1 to 3 will contain basic skill activities. The curriculum will be deployed through Broadband/IP/VSAT and the design will take into account minimum utilization of bandwidth. The product will have two dimensions; technology and general knowledge. There will be 12 lessons per term with three terms in a school calendar year. The duration of each lesson shall be 1 hour. The 11th lesson should focus on examination preparation. The 12th lesson should be intergrated with the evaluation test (online examination). A question data bank will be established pertaining to the technology area covered. Training the teachers for further training of students should be covered on CBT. The training session should be deployable via Broadband/IP/VSAT.

## **CBTs**

 The development entails conversion of the learning platform from conventional to digital. The lessons will be captivating and will involve capturing and displaying the concepts and methodologies used by the teachers in explanation of the concepts for ease of comprehension in Sciences. Platform portability and deployment flexibility are essential. Development should cater for inbuilt security features.

## **Virtual Labs**

 Virtual Physics, Biology and Chemistry labs are to be developed as per the syllabus.

## **Online Examination Module**

The question data bank will cover the entire subject.

Students’ weaknesses shall be identified and solutions provided.

The module will cater for time constraints.

Reward mechanisms will be built-in for encouragement

The questions will be categorised for ease of evaluation for subsequent student guidance.

## **Parent Information System with Visual Net**

 The Parent Information System will be a dynamic database that will be hosted on the school website that will be accessible by parents, through a user name and password to their child(ren)’s performance data pertaining to exam, sports, etc. the data will be captured at the school administration for subsequent upload to the website database. Respective screens have to be designed for data entry. The software should also have the option to send important information via SMS directly to the parent’s mobile phone.

## **Learning Management System**

 This will be an interface between the users and the products on the server and will be integrated with the financial management system. User accessibility will be controlled by the LMS and audit trail shall be maintained.

## **Financial Management System**

 Automatic billing for the services offered through VSAT will be controlled by the Financial Management System.

## **AIDS Lessons**

 Lessons on the disease AIDS will be developed for standards 1 to 8 as per KCPE syllabus and as per the agreed standards set for KCSE CBT’s above.

# **SYLLABUS REFERENCE**

## Republic of Kenya Ministry of Education Science & Technology Syllabus by Kenya Institute of Education (KIE) – Primary and Secondary – 2002

## GCSE Syllabus – Secondary

## IB – International Baccalaureate – [www.ibo.org](http://www.ibo.org)

##

# **OTHER GENERAL TERMS**

## As development shall be done in phases, on completion of each module the delivery will entail handing over of the source codes as well.

## All development work must be documented.

## The end products must conform to international standards for software development and strict quality control measures shall be implemented throughout the development stages.

## Illustrations and references must be African.

## Names used in lessons should be neutral.

## Professionals must be recruited for the projects and AFRIKIDS should evaluate the CVs prior to VIRTUAL QUEST confirming their services.

## Audio and background music should be carefully evaluated for suitability.

## Professional services should be sought on selection of prominent colours and design that shall be used for all backgrounds and templates on the software screens to give the products a distinct look and feel, class and global status.

## The menus and the general structure of the software shall be standardized.

## Software that shall be selected for development have to be approved.

## All rights to the software shall belong to AFRIKIDS LIMITED, P O Box 14636, 00100 Nairobi.

## Strict security shall be observed to ensure that copies of software are not personalized and taken out by development staff.

## The products will be vigorously tested and standards used for the testing shall be impressed upon to AFRIKIDS.

# **THIRD PARTY SOFTWARE**

VIRTUAL QUEST will build the e-curriculum lessons and associated management administrative software using one or more of the following application platforms:

SUN SOLARIX (UNIX)

WINDOWS 2003 SERVER

Microsoft Office / Star Office / Open Office

Macromedia Authorware, StudioMX, Flash

Macromedia Shockwave

Java Server Pages

IIS/APACHE Web Server

ORACLE / MS SQL Server DBMS

.Net / Visual Basic

Any other software will have to be approved by management committee to be constituted a per clause 15 of this Agreement.

# **PROJECT PHASES**

## The phase for the project are set out as per the project plan contained in the schedule hereto.

## The time scales for the phases is as per the agreed upon schedule prior to the commencement of the project. Thereafter any changes will be granted through mutual consent of both the parties.

# **QUALITY MANAGEMENT**

## ………. will provide IT Products and Services, ensuring complete customer care through personalized services, on-line time delivery of all negotiated and contracted requirements; and by continually building efficient processes, improving the skills of it’s employees, empowering them, and adopting the state of art technologies.

## …….. will adopt SIX SIGMA project management methodology to ensure delivery of defect free products that meet the customer needs to the highest possible degree. In particular …….. will use the DFSS technique with SIX SIGMA and use all standards within this technique for quality management in requirement gathering, design, development, testing and implementation stages.

## …….. shall employ modified waterfall SDLC methodology for software development, using prototypes and ideation charts to review project progress from time to time.

# **SECURITY ADMINISTRATION**

## …………. will build security routines to ensure strictly authorized use and for prevention of unauthorized access and hacking. ………… will ensure that routines for robust deployment of the software and data and build proper routines for backup and recovery.

## ………….. will build appropriate interfaces to licence management and financial modules, which may be built in future so that lesson and program deployment and use can automatically be controlled by the system itself with or without human intervention.

## Security must be administered at different level and ……….’s in-house system administrator must have facility to control the access rights of individual user to access individual screen or program.

# **DOCUMENTATION**

## The following documentation shall be supplied by …….. to ……….. along with the delivery of software as per the project delivery listed in the Schedule hereto.

### List of programs

### List of library modules used

### Lesson documentation, installation instruction manual

### User manuals

### Support documents for teachers

### UAT test plans and approval sheets

### Lesson plan Grid

## …………. information systems will properly index and preserve all project related documentation for a period of 24 months after the conclusion of the project, ………. may call for audit of any or all of the above documents; …….. will comply with the request 7 days of such request. Further ………… will have an absolute right to visit the development center and carry out an on spot audit of documentation and work in progress.

# **LIMITATION OF LIABILITIES**

## At any point of time if ………… defaults in carrying out its obligations under this Agreement its total liability for ………… shall include:

### Handing over of

All design documentation

All ideation sheets

All finished and semi-finished source code and process sheets

All test data and test result sheets

Other documents and electronic media as agreed at each stage of project review.

### Repayment of any un-invoiced advance or payments towards unapproved work.

## On the other hand if ……….defaults in carrying out its obligations under this Agreement, its total liability at any point shall not exceed the total payment commitment made to ……….. thus far under this Agreement.

# **FORCE MAJEURE**

Neither ………….. nor …………. shall e liable to the other in respect of any non-performance of this Agreement due to a cause beyond its reasonable control including without limitation any industrial action or industrial dispute provided that the affected party shall notify the other of such cause as soon as possible and shall as possible and shall use all reasonable endeavours to resume performance at the earliest practicable time and provided further that notwithstanding such cause ………. shall pay any invoices of ……. which are outstanding in respect of project phases already completed and delivered in accordance with this Agreement.

# **DEVELOPMENT FEE**

## While this Agreement remains in effect, ………agrees to pay ………. the total amount of United States Dollars One Hundred and Fifty Thousand (USD 150,000) in full and final payment of all work undertaken.

## The development cost of United States Dollars One Hundred and Fifty Thousand (USD 150,000) shall be paid in installments as stated below:

| **Stage** | **Amount (USD)** | **Due Date** |
| --- | --- | --- |

| 1st Installment – Setup Fee for the Project | 35,000 | 20.11.2003 |
| --- | --- | --- |

| 2nd Installment – Phase 1 Completion | 35,000 | 31.03.2004 |
| --- | --- | --- |

| 3rd Installment – Phase 2 Completion | 35,000 | 31.07.2004 |
| --- | --- | --- |

| 4th Installment – Phase 3 Completion  | 35,000 | 30.09.2004 |
| --- | --- | --- |

| 5th Installment – Phase 4 Completion | 35,000 | 31.12.2004 |
| --- | --- | --- |

| **Total** | **150,000** |  |
| --- | --- | --- |

# **BILLING PROCESS**

## …………. will invoice …….S for the services provided as per this Agreement.

## After due authentication, ……… shall pay ……… the invoice amount within 10 working days of receipt of the invoice.

## All invoices and payments will be in United States Dollars only.

# **MANAGEMENT COMMITTEE**

## The parties shall form a management committee for the purpose of coordinating and managing the project. Each party shall appoint representatives to the management committee and such representatives will be recognised as senior members of the parties.

## The management committee shall meet at least monthly and unless otherwise agreed such meeting will be held in Chennai.

## The management committee shall have the power to amend or vary this Agreement or approve any matter requiring the consent of either party and will be responsible for monitoring the progress of the project and for agreeing on solutions to any problems which may arise in the course of the project. Any such solutions shall not be implemented under this Agreement until both parties have duly executed a written variation of this Agreement.

# **INTELLECTUAL PROPERTY OF THE SOFTWARE**

## ……… agrees that any intellectual property rights created ……… software systems and arising out of or relating to the services carried out by ……. software systems for …….. pursuant to this Agreement will vest in …………absolutely and that ………. will have no time title right or interest whether legal or beneficial in any of such intellectual property rights.

## …………… acknowledges that the software developed and all associated documents and materials constitute the confidential and proprietary information of ………….

## ………………. agrees to treat the same in strict confidence and agrees to save as provided herein not to disclose, duplicate or otherwise reproduce any of the same in whole or in part and without prejudice to the generality of the foregoing agrees that it will not at any time:

### Copy the whole or any part of the software or such materials or documents except for back up purpose greed in advance with …………… or;

### Modify, merge or combine the whole or any part of the modified system with any other software without the prior written consent of ……………

# **CERTAIN RESTRICTIONS**

## Termination: either party may terminate this Agreement without giving any reason, provided that they give a two month notice if such termination is made within the first three months from the date of this Agreement, and a three month notice if such termination is made during the remaining term of this Agreement.

## ………… will hand over all completed and any unfinished work to ………. in such a manner as to facilitate transition by another developer, should ………… appoint such a developer.

## ……….. will as soon as reasonable, clear all invoices previously raised by …….for work completed and approved by ………. ………….. may at its will suitably compensate ………. for the un-invoiced work and any project dismantling cost that …….. may incur.

# **INDEPENDENCE OF PARTIES**

## **Independent entities**

The parties acknowledge and agree that each is a separate, independent business entity and not a partner, joint venture, employee, or agent of the other.

## **No power to bind**

Neither party shall have the power or authority to enter contracts in the name of or incur obligations on behalf of, or otherwise bind the other party.

## **Employees**

The employees of one party shall not be deemed employees of the other party for any purpose. Neither party shall be liable for wages, salaries, bonuses, withholding taxes, fringe benefits, severance pay, continuation of employment, or other obligations to the employees of the other party.

## **Manner of performance of services**

……………. shall determine in its discretion the manner of performance of the services provided for under this Agreement.

# **GENERAL**

## **No waiver**

No waiver of a right or claim under this Agreement shall be effective unless in writing and signed by the waiving party. Waiver of a particular right or claim shall not constitute waiver of any other right or claim.

## **Time of the essence**

Time is of the essence in this Agreement.

## **Construction**

### This Agreement shall be governed by and construed in accordance with the laws of Kenya. The Agreement shall be interpreted in accordance with reasonable and fair meaning of its term, rather than being construed against any party as the draftsman of all or any party.

### This Agreement may only be amended by mutual consent by a subsequent written agreement signed by both parties.

**IN WITNESS** whereof the parties have duly executed this Agreement the day and year first hereinabove written.

**SEALED** with the **COMMON SEAL** of)

**……………….** in the presence of: )

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Director )

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Director/Secretary )

**SEALED** with the **COMMON SEAL** of)

**………………** in thepresence of: )

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Director )

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Director/Secretary )

**Drawn By:**

**.**