

Library LTC4

National Library of Scotland Freelance Contractor Agreement & Schedule

Freelance Contractor Agreement Guidance Notes

Completing the Contract Schedule

All the information that you need to insert is contained in [Square brackets] in the Contract Schedule. Apart from the contractor's name at the top of the first page, you should not need to insert any specifics in the actual Contractor Agreement.

All [square brackets] and xx fields should be completed as required, or deleted as appropriate. Clauses 1 – 11 in the Contract Schedule must be completed as directed. Do not renumber or rename these clauses as they refer to definitions in the agreement.

The Contract Schedule should contain a full description of the services the Contractor has agreed to perform. Fees are defined in 5a as a payment rate per hour or day, or 5b as a fixed fee. Please ensure that the fees are inserted correctly, and that the alternative clause is deleted.

The Contractor Agreement

This Agreement is a standardised document to be used as a starting point in negotiations.

Should you need to amend the standardised Freelance Contractor Agreement:

- Clause numbers may need to be re-numbered if there are deletions / additions to the Agreement.
- All (“definitions”) need to cross reference the definitions in the Contractor Schedule
- Care must be taken to ensure all such references are correct.

Before issuing the Contractor Agreement and Contract Schedule:

- All [square brackets] and xx should be removed and the information within inserted or deleted before the document is signed.
- Remove this guidance page.
- Sign where indicated in the Contractor Agreement and Contract Schedule.
- Keep a copy of the Contractor Agreement and signed Contract Schedule.

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

Agreement for Freelance Services

Parties to the Agreement

This Agreement is an agreement for the provision of services and is made on the date the Contractor signs the Agreement:-

- (1) The National Library of Scotland (SCO11086), (the Library), George IV Bridge, Edinburgh, EH1 1EW ('The Client') and
- (2) NAME: [ENTER NAME] ("the Contractor")
ADDRESS [ENTER ADDRESS]

Duration

The Agreement will start on the date the Contractor signs the Agreement and will continue, subject to clause 25 below, for the duration of xx weeks / months / years from the start date. If either party wishes to terminate the Agreement prior to the aforementioned date, not less than four weeks' prior written notice must be given by either party to the other to terminate it.

Purpose of the Agreement

The Contractor will provide services ("the Services") detailed in the attached schedule the terms set out below.

Additional Terms and Conditions

1. The Client will engage the Services of the Contractor at the location(s) stipulated in the Contract schedule, or at such other premises as may from time to time be mutually agreed. For the avoidance of doubt, the Contractor will provide the Services for such hours and at such places as are necessary for the proper performance of the Services.
2. The Client will pay to the Contractor the fee stipulated in the Contract schedule ("the Fee"), (plus VAT if any) for the Services which the Contractor provides to the Library. The Fee shall be paid by the Library within 30 days of the Client receiving an appropriate invoice from the Contractor marked payable by the Client. The Contractor shall submit an invoice each month stating the Services provided in the period covered and the amount of the fee plus VAT due.
3. The parties agree that this is a contract for the provision of services by the Contractor to the Client and that the Contractor is engaged on a self-employed basis. The Contractor will be solely responsible for accounting to the appropriate authorities for all tax (including VAT) and National Insurance deductions in relation to the Fees. The Contractor will keep accurate records to show he or she has complied with his obligations under this clause 3 and will produce these to the Client if asked to do so. The Contractor will indemnify and

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

keep indemnified the Client in respect of all income tax, National Insurance contributions and other payments (including any interest or penalties on them) which the appropriate authorities determine are due from the Client to the Contractor under this Agreement. Should the Client become liable to pay, or shall pay, any income tax, National Insurance contributions and other payments (including any interest or penalties on them) which the appropriate authorities determine are due from the Client to the Contractor under this Agreement on behalf of the Contractor, the Client shall be entitled to deduct these amounts from any amounts payable to the Contractor. This will not affect the self employed status of the Contractor. The Contractor will not be entitled to receive and shall not receive payment of salary, holiday or other absence pay, pension or other benefits from the Client.

- 4 . The Contractor warrants and represents to the Client that he or she is an independent contractor. The parties agree that the Contractor is not, and is not intended to be, an employee, agent, partner or worker of the Client and the Contractor shall not hold itself out as such. Nothing contained in this Agreement shall be construed or have effect as constituting any relationship of employer and employee between the Client and the Contractor. This Agreement does not constitute a partnership or joint venture between the Client and the Contractor.
- 5 . The relationship of the Contractor to the Client will be that of independent contractor and nothing in this Agreement will make the Contractor an employee, worker, partner, agent or trustee of the Client and the Contractor shall not hold himself out as such. Unless specifically authorised to do so by the Client in writing,
 - 5.1 the Contractor shall not have any right or power to contract on behalf of the Client in relation to third parties;
 - 5.2 the Contractor shall have no authority to incur any expenditure in the name of or for the account of the Client; and
 - 5.3 the Contractor shall not hold itself out as having authority to bind the Client.
- 6 . For the avoidance of doubt, the Contractor shall be fully responsible for and shall indemnify the Client for and in respect of:
 - 6.1 any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the Contractor in respect of the Services, where such recovery is not prohibited by law. The Contractor shall further indemnify the Client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Client's negligence or wilful default;
 - 6.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

Contractor against the Client arising out of or in connection with the provision of the Services.

The Client may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Contractor.

7. The Contractor acknowledges that the Client will rely upon the Contractor's skills and judgement in relation to the Services. The Contractor undertakes to provide the Services with all due care, skill and ability and use their best endeavours to promote the interests of the Client.
8. Under no circumstances should expenses be incurred without the prior agreement of the Client. Where expenses are agreed then they should be claimed through the submission of the appropriate form, which will be supplied by the Client.
9. The Client will ensure that any claims for payment of expenses which are submitted by the Contractor will be processed expeditiously and in accordance with the Client's regulations on expenses.
10. The Contractor must obtain a **Disclosure Scotland Certificate/PVG Scheme Record** (edit as relevant to your department) before the commencement of the Services.
11. The Contractor will at all times, act in a professional and responsible manner, and will not do anything to bring the reputation of the Client into disrepute.
12. The Contractor will at all times work to a professional standard and will meet the specifications provided by the Client with regard to the content and quality of the work provided and the materials used.
13. The Contractor shall immediately disclose to the Client any conflict of interest which arises in relation to the provision of the Services as a result of any present or future appointment, employment or other interest of the Contractor.
14. The Contractor shall not while engaged to provide the Services to the Client or at any time afterwards:-
 - 14.1 use for his own purposes or for any purposes other than those of the Client; or
 - 14.2 through any failure to exercise due care and diligence, cause any unauthorised disclosure of;

any trade secrets or confidential information. Confidential Information means any information belonging to the Client, or any of its Clients, whether oral, written, or electronically recorded concerning the business and affairs of the Client and its Clients including any procedures, equipment, practices, plans or information of any kind which might have a bearing on the physical security of the collection or premises of the Client, and any other information specifically

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

identified by the Client as confidential or known to the Contractor as being held by the Client under a duty of confidentiality to a third party, in either case coming to his/her attention in the course of or for the purposes of providing the Services. The Contractor must at all times use his best endeavours to prevent publication or disclosure of any trade secrets or confidential information. These restrictions shall cease to apply to any information which shall become available to the public generally otherwise than through default by the Contractor.

- 15 . The Contractor shall not at any time after he or she has completed the provision of the Services for whatever reason, represent himself as being in any way still currently connected with the business or activities of the Client.
- 16 . The Contractor agrees to abide by the Client rules and policies directed by the Client in place from time to time in force at the premises where the Services are provided relating to child protection, security, fire, health and safety, social media, use of information and communications systems, anti-harassment and bullying and use and care of equipment. The Contractor will report to the Client any unsafe working conditions or practices.
- 17 . Nothing in this Agreement will prevent the Contractor from being engaged by or supplying similar services to any third party during or after the currency of this Agreement, provided in all cases that such third party supply shall not entail or be likely to lead to a breach of the Contractor's confidentiality obligations to the Client, or the Contractor's obligations under clause 13 of this Agreement relating to conflict of interest, or otherwise interfere in any way with the full and efficient performance of the Contractor's obligations in respect of the Services.
- 18 . The Contractor may, at any time but always with the prior written approval of the Client (such consent not to be unreasonably withheld or delayed) appoint a suitably qualified and skilled substitute who shall hold a valid Disclosure Scotland Certificate/PVG Scheme Record (all to be determined by and at the sole discretion of the Client) to perform the Services on his behalf, provided that the substitute shall be required to enter into direct undertakings with the Client, including with regard to confidentiality. If the Client accepts the substitute, the Contractor shall continue to invoice the Client in accordance with clause 2 and shall be responsible for the remuneration of the substitute. For the avoidance of doubt, the Contractor will continue to be subject to all duties and obligations under this Agreement for the duration of the appointment of the substitute.
- 19 . The Contractor will inform [POSITION] as soon as reasonably practicable if he or she is unable to provide the Services due to illness or injury. For the avoidance of doubt, no fee shall be payable in respect of any period during which the Services are not provided unless this is agreed in advance with the Client.
- 20 . The Contractor acknowledges that he or she shall not acquire rights or title to any intellectual property or any Services provided by him for the purposes of

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

the Client under this Agreement. The rights and title in all Services provided by the Contractor to the Client shall be and remain with the Client as shall those in any documents provided to the Contractor for the purposes of his providing the Services and in any notes, copies or extracts derived from those documents which the Contractor might make in the drawing up of the Services.

21. The Contractor shall have liability for and shall indemnify and keep indemnified the Client and its employees and directors against any and all losses, costs (including reasonable legal costs), liabilities and damages suffered or incurred by the Client a result of the Contractor or any other person authorised by the Contractor to act on his behalf to provide the Services or any breach of any term of this Agreement by the Contractor, or any other person authorised by the Contractor to act on his behalf including any negligent or reckless act, omission or default in the provision of the Services and shall accordingly maintain in force during the engagement full and comprehensive and adequate insurance policies covering professional indemnity insurance and public liability. The Contractor shall ensure that the insurance policies are taken out with reputable insurers that are acceptable to the Client.
22. For the purposes of the Data Protection Act 2018 (and any statutory modification thereof, and the General Data Protection Regulation) and the Library's own policies and published privacy information, the Contractor consents to the holding and processing of personal data provided by the Contractor to the Client for all purposes relating to the performance of this Agreement including, but not limited to:
 - 22.1 paying the Contractor's Fees; and
 - 22.2 providing references and information, if necessary, to governmental and quasi-governmental bodies for social security and other purposes, the Inland Revenue and the Contributions Agency.
23. The Client will collect and process information relating to the Contractor in accordance with the privacy notice which is [available [INSERT WHERE THE PRIVACY NOTICE IS AVAILABLE] OR annexed to this Agreement].
24. The Client agrees that any Substitute appointed under clause 18 is a third-party processor of personal data under this agreement. The Contractor confirms that it will enter into a written agreement, which incorporates terms which are substantially similar to those set out in clause 25, with the Substitute. The Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by the Contractor pursuant to this clause 24.
25. The Client shall have the right to terminate this Agreement immediately without liability or payment to the Contractor (other than for any figures by way of fee or expenses accrued due up to the date of that termination) if at any time the Contractor:-
 - 25.1 commits a substantial breach of any of his/ her obligations hereunder and (if that breach is capable of remedy) fails to remedy it within the time

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

- reasonably permitted to him for this purpose in any notice in writing provided to him by the Client. It is acknowledged by the parties that the following breaches (without limitation) are not capable of remedy: a criminal act committed by the Contractor in the course of providing the Services: a breach of clause 14 above or inability on the part of the Contractor to provide the Services.
- 25.2 dies or is incapacitated (including by reason of illness or accident) from providing the Services, becomes bankrupt, has a Receiver appointed over all or any of his/her assets or is convicted of an indictable offence.
- 25.3 is in the reasonable opinion of the Client negligent or incompetent in the performance or provision of the Services
- 25.4 fails for any reasons to provide the Services for a cumulative period in excess of three weeks during any one month period of this Agreement.
26. On the termination of this Agreement for whatever reason the Contractor shall:-
- 26.1 deliver to the Client forthwith all property and original Confidential Information of its or any of its Clients which may then be in his/her possession or control, including without limitation any records, plans, programs, designs, specifications, samples and documentation in any form and shall, in the case of any data held on his/her own computer, irretrievably erase all such data, code and programs, as well as the Library pass.
- 26.2 cease to hold themselves out as in any way connected with the Client
- 26.3 thereafter observe the duty of confidentiality as set out in 13 of this Agreement notwithstanding its termination.
27. This Agreement will govern the entire Agreement and understanding between the Client and the Contractor from the date above until terminated. It supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. Nothing in this clause shall limit or exclude any liability for fraud.
28. This Agreement shall be governed by and construed in accordance with Scots Law and the parties to this Agreement submit to the exclusive jurisdiction of the Scottish Courts.
29. The Contractor may be engaged, employed or concerned in any other business, trade, profession or other activity which does not place the Contractor in a conflict of interest with the Client.

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

30. A person who is not a party to this agreement shall not have any rights to enforce any term of this agreement under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

In witness whereof, this document and the preceding [INSERT] pages together with the [INSERT NUMBER] Schedules/Appendices hereto have been subscribed as follows.

(Signed) [ENTER NAME]
Contractor (Printed)

in the presence of:

.....
(Witness signature)

Date:

(Signed) [ENTER NAME]
(Printed)

For and on behalf of the Client

Date:

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

Contract Schedule

Schedule for Delivery of Services to National Library of Scotland

1. The Contractor:
2. Contractor
Address:
3. The Services
Specifies explicitly what is being contracted,
4. Insurance Public liability minimum level of cover: 5,000,000

 Professional indemnity minimum level of cover: £XXX
5. Fee: £XXX
6. Agreed “None”
Expenses:
7. Location *Enter Location(s) here*
8. Cancellation Fee: n/a
9. Library Contact: *Enter contact here*
10. Equipment:
11. Copyright and Intellectual Property:

If this differs from the standard contract, you should state

For and on behalf of the Client:

Name:
Department:
Date:

Signed:

For and on behalf of the Contractor:

The Contractor:

Date:

Signed:

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

Appendix 1: Freelance Self Employed Status Form

National Library of Scotland

Freelancer self employed status

1. Full Name	_____
2. Address	_____ _____ _____
3. Unique Tax Ref	___ _ _ _ _
4. Tax Office
5. Bank
Bank Address
Account Number
Sort Code
6. <i>Signed</i>
7. <i>Date</i>

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

<u>For Office Use</u>	
Department Received	/ /
Copy to Finance Department	/ /

<u>For Finance Dept Use</u>	
Finance Dept Approved	/ /
Approved by:	

The National Library of Scotland is a registered Scottish Charity. Scottish Charity No SC011086

Appendix 2: Privacy Notice

Please see the National Library of Scotland website (www.nls.uk) for information on our privacy notices

<https://www.nls.uk/privacy> <https://www.nls.uk/privacy#notices>