



Terms and Conditions of Business

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Table of Contents

Table of Contents.....	2
SECTION A: GENERAL TERMS.....	4
1. Interpretation.....	4
2. Basis of contract.....	6
3. Supplier's Appointed Representative.....	6
4. Goods.....	6
5. Delivery of Goods.....	7
6. Quality of Goods.....	8
7. Title & Risk.....	9
8. Supply of Services.....	10
9. Change to Goods or Services.....	11
10. Customers Obligations.....	11
11. Charges and Payment.....	13
12. Intellectual Property Rights.....	14
13. Confidentiality.....	15
14. Limitation of Liability.....	15
15. Termination.....	17
16. Consequences of Termination.....	18
17. Data Protection.....	19
18. General.....	20
SECTION B: HARDWARE SERVICING.....	23
19. Definitions.....	23
20. Service Location.....	23
21. Pre and Post Service Tests.....	23
22. Data Loss During Service.....	23
23. Service Costs.....	24
SECTION C: HOSTING SERVICES.....	25
24. Domain Name Registration and Transfers.....	25
25. IP Addresses.....	25
26. Colocation Services.....	25
27. Data Centre Internet Access ("DCIA") & Multi Protocol Label Switching ("MPLS") Access.....	26
28. Dedicated Services.....	26
29. Service Level Agreement.....	27
SECTION D: SOFTWARE DEVELOPMENT SERVICES.....	28
30. Definitions.....	28
31. Services.....	29
32. Pre-installation testing.....	29
33. Software delivery, installation and delays.....	30
34. New Releases and New Versions.....	30

35.	Acceptance tests.....	30
36.	Acceptance	31
37.	Software Warranty	31
38.	Ownership.....	31
39.	Software licence and documentation.....	32
40.	Transfer or reproduction of licensed software	33
41.	Use and adaptation of licensed software.....	33
42.	Training.....	33
43.	Disclaimer	34
44.	Consequences of Termination.....	34
SECTION E: SEARCH ENGINE OPTIMISATION SERVICES		35
45.	Definitions	35
46.	Search Engine Optimisation Services	35
47.	Customer Acknowledgments	35
48.	Customer Obligations	36
49.	Subcontractors.....	36
SECTION F: CONTINUAL CARE PACKAGES.....		37
50.	Definitions	37
51.	Continual Care Packages – Package Details	37
52.	Application of Terms	37
53.	Upgrade and Update Commitment.....	37

SECTION A: GENERAL TERMS

The terms contained in Section A apply to the provision of all goods and services by Computer Service Centre Ltd t/a Computer Service Centre. Terms which apply to the provision of specific services are set out in sections B to F below. The terms contained in sections B to F apply in addition to these general terms except in the case of any inconsistency between the terms, in which case the relevant terms in Sections B to F shall take precedence where they apply.

The Customer's attention is particularly drawn to the provisions of clause 14.

1. Interpretation

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 18.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions and the Proposal.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Customer Materials: the content or materials including text and images provided by the Customer to the Supplier for incorporation into the Deliverables.

Customer Representative: a person whose identity is made known to the Supplier who is duly authorised by the Customer to act on its behalf in relation to the Contract.

Data Controller: has the meaning given to it in Data Protection Legislation.

Data Processor: has the meaning given to it in Data Protection Legislation.

Data Protection Legislation: all applicable statutes, laws, secondary legislation, rules, regulations and guidance from a Supervisory Authority (or its UK equivalent) relating to privacy, confidentiality, security, direct marketing or data protection of Personal Data or corporate data (including any national laws implementing any such legislation (including Directives 95/46/EC, 2002/58/EC and 97/66/EC)), including the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI2003/2426), the Regulation of Investigatory Powers Act 2000 and the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699) and, from implementation, the General Data Protection Regulation and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the General Data Protection Regulation or the Data Protection Act 1998.

Data Subject: has the meaning given to it in Data Protection Legislation.

Deliverables: all products and materials developed by the Supplier as outlined in the Proposal in any media, including, without limitation, computer programs, data, diagrams, databases, software, reports and Proposals (including drafts).

Delivery Location: has the meaning set out in clause 5.2

Force Majeure Event: has the meaning given to it in clause 18.1 section a)

General Data Protection Regulation: Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, 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.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's Proposal, as the case may be.

Personal Data: has the meaning given to it in Data Protection Legislation.

Proposal: the proposal provided by the Supplier to the Customer including any relevant specification documents describing or outlining the Goods and/or Services (including the Deliverables) to be provided.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Proposal.

Supervisory Authority: has the meaning given to it in Data Protection Legislation.

Supplier: Computer Service Centre Ltd trading as Computer Service Centre registered in England and Wales with company number 04517529.

Supplier Materials: has the meaning set out in clause 10.1 section h)

Supplier's Appointed Representative: the Supplier's representative who will be the Customer's primary point of contact, appointed in accordance with clause 3.1.

1.2 Construction. In these Conditions, the following rules apply :

- a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- b) a reference to a party includes its personal representatives, successors or permitted assigns;
- c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- e) a reference to **writing** or **written** includes faxes and e-mails.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted upon the earlier of:
 - (a) the Supplier issuing written acceptance of the Order; or
 - (b) the Supplier commencing performance of the Orderat which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract and the Proposal constitute the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Each separate Order placed by the Customer and accepted by the Supplier shall constitute a separate contract.
- 2.5 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures or on the Supplier's website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.7 Any quotation given by the Supplier shall not constitute an offer, and, unless otherwise stated, is only valid for a period of 30 days from its date of issue.
- 2.8 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Supplier's Appointed Representative

- 3.1 The Supplier shall appoint the Supplier's Appointed Representative who shall have authority to contractually bind the Supplier on all matters relating to the Contract. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's Appointed Representative for the duration of the Contract, but may replace him or her from time to time where reasonably necessary in the interests of the Supplier's business.

4. Goods

- 4.1 The Goods are as described in the Proposal.
- 4.2 To the extent that the Goods are to be manufactured or modified in accordance with a specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual

or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of such specification. This clause 4.2 shall survive termination of the Contract.

- 4.3 The Supplier reserves the right to amend the specification of the Goods if required:
- a) to comply with any applicable statutory or regulatory requirements;
 - b) to reflect technological changes; or
 - c) for any other operational or commercial reason provided that such change does not materially reduce the quality or fitness for purpose of the Goods,
- and the Supplier shall notify the Customer in such event.

5. Delivery of Goods

- 5.1 The Supplier shall ensure that:
- a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - b) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 5.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 5.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 5.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, delay or failure in the supply chain or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 5.6 If the Customer fails to accept or take delivery of the Goods within 5 Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused

by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
- b) the Supplier may store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance); or
- c) the Supplier may resell or otherwise dispose of part or all of the Goods and charge the Customer for any shortfall below the price of the Goods.

5.7 The Customer shall not be entitled to reject the Goods if the Supplier delivers more or less than the quantity of Goods ordered, but:

- a) in the case of excess delivery the Supplier shall arrange for the excess to be returned at its expense; and
- b) In the case of short delivery the Supplier shall in its sole discretion make up the shortfall by one or more further deliveries or make a pro-rata adjustment to the Order invoice,

subject always to the Customer having notified the Supplier of such excess or short delivery within 24 hours of delivery and having provided the Supplier with a copy of the relevant delivery note within 7 days of delivery.

5.8 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment or any other contract between the Customer and the Supplier whether for the supply of goods or services.

6. Quality of Goods

6.1 The Supplier warrants that on delivery the Goods shall:

- a) conform in all material respects with their description;
- b) be free from material defects in design, material and workmanship;
- c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- d) be fit for any purpose held out by the Supplier.

6.2 Subject to clause 6.3, if:

- a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;

- b) the Supplier is given a reasonable opportunity of examining such Goods; and
- c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 6.1 if:

- a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.2;
- b) the defect arises because the Customer failed to follow the Supplier's (or any third party manufacturer's) oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- c) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
- d) the Customer alters or repairs such Goods without the written consent of the Supplier;
- e) the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal working conditions, improper use or use outside of the normal application of the Goods;
- f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

6.4 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.

6.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 6.2.

6.6 Where the Goods supplied have been sourced from a third party manufacturer the Supplier shall, in so far as it is reasonably able to do so, pass on the benefit of any manufacturer's warranty to the Customer.

7. Title & Risk

7.1 The risk in the Goods shall pass to the Customer on completion of delivery.

7.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:

- a) the Goods; and

- b) any other goods or services that the Supplier has supplied to the Customer under the Contract or under any other contract in respect of which payment has become due.

7.3 Until title to the Goods has passed to the Customer, the Customer shall:

- a) hold the Goods on a fiduciary basis as the Supplier's bailee;
- b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- e) notify the Supplier immediately if it becomes subject to any of the events listed in clause 15.1 section b) to clause 15.1 section i); and
- f) give the Supplier such information relating to the Goods as the Supplier may require from time to time,

but the Customer may use the Goods in the ordinary course of its business.

7.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 15.1 section b) to clause 15.1 section i), or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. Supply of Services

8.1 The Supplier shall provide the Services to the Customer in accordance with the Proposal in all material respects.

8.2 The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

8.3 The Supplier reserves the right to amend the specification of the Services if required:

- a) to comply with any applicable statutory or regulatory requirements;
- b) to reflect technological changes; or

- c) for any other operation or commercial reason provided that such change does not materially reduce the quality or fitness for purpose of the Services,
and the Supplier shall notify the Customer in such event.

- 8.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 8.5 Where the Supplier is providing a number of services to the Customer, each type of service shall be deemed to be subject to a separate contract and no delay in the performance or defect in the quality of any individual service Services shall entitle the Customer to terminate any other contract whether for the supply of goods or services entered into with the Supplier. This provision is without prejudice to the Supplier's rights under clause 15.4.

9. Change to Goods or Services

- 9.1 The Customer Representative and the Supplier's Appointed Representative shall maintain regular communication regarding the status of the Goods and/or Services provided under the Contract. If either party wishes to change the scope of the Goods and/or Services (other than where the provisions of clause 4.3 or clause 8.3 apply), it shall submit details of the requested change to the other in writing.
- 9.2 If either party requests a change to the scope or execution of the Goods and/or Services the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
 - a) the likely time required to implement the change;
 - b) any variations to the Supplier's charges arising from the change;
 - c) the amendments to be made to the Proposal in light of the change; and
 - d) any other impact of the change on the terms of the Contract or on any other contract between the Customer and the Supplier.
- 9.3 If either party requests a change to the scope of the Goods or Services, the other shall not unreasonably withhold or delay consent to it.
- 9.4 The Supplier shall have no obligation to comply with any change requested by the Customer unless and until the Supplier and the Customer have agreed in writing on the necessary variations to the charges, the Proposal and any other relevant terms of the Contract or any other contract to take account of the change.

10. Customers Obligations

- 10.1 The Customer shall:
 - a) ensure that the terms of the Order and the Proposal are complete and accurate;

- b) ensure that the Supplier is provided with current contact details for the Customer Representative;
- c) co-operate with the Supplier in all matters relating to the Goods and Services;
- d) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Goods and Services;
- e) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Goods and Services, and ensure that such information is accurate in all material respects;
- f) prepare the Customer's premises for the supply of the Goods and Services;
- g) obtain and maintain all necessary licences, permissions and consents which may be required for the Goods and Services before the date on which the Goods are to be delivered and the Services are to start;
- h) keep and maintain all materials, equipment, documents, data, drawings, code and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- i) cooperate fully and promptly with the Supplier in approving and verifying the accuracy of all draft, mock up or test materials prepared for its consideration and in particular in reviewing and approving any data input work undertaken by the Supplier in the course of the provision of the Services.

10.2 If the Supplier's performance of any of its obligations in respect of the Goods or Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- a) the Supplier shall without limiting its other rights or remedies have the right to suspend delivery of the Goods or performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 10.2; and
- c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising from the Customer Default (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere).

- 10.3 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of the Contract to the expiry of 6 months after delivery of the Goods and/or completion of the Services, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Supplier.
- 10.4 Any consent given by the Supplier in accordance with condition 10.3 shall be subject to the Customer paying to the Supplier a sum equivalent to 50% of the then current annual remuneration of the Supplier's employee or sub-contractor or, if higher, 50% of the annual remuneration to be paid by the Customer to such employee or sub-contractor.

11. Charges and Payment

- 11.1 The price for Goods shall be the price set out in the Proposal or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 11.2 The charges for Services shall be calculated in accordance with the Proposal or, if no price is quoted, the Supplier's published standard hourly rates as at the date of performance. The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 11.3 The Supplier reserves the right to:
- a) increase its charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 3 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 4 weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 4 weeks' written notice to the Customer; and
 - b) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
 - c) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - d) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the specification; or
 - e) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

11.4 In respect of Goods, the Supplier shall invoice the Customer before, on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer at such intervals as are set out in the Proposal or as otherwise agreed in writing between the Supplier and the Customer.

11.5 The Customer shall pay each invoice submitted by the Supplier:

- a) In full and in cleared funds to a bank account nominated in writing by the Supplier immediately upon receipt unless otherwise stated on the face of the invoice; or
- b) By way of monthly payment by direct debit for such sum as agreed between the Supplier and Customer from time to time; and

in either case time for payment shall be of the essence of the Contract.

11.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

11.7 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 3 per cent per annum above the then current Handelsbanken base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

11.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

12. Intellectual Property Rights

12.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and the Services including the Deliverables shall be owned by the Supplier. The Supplier hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Goods and the Services including the Deliverables as is envisaged by the parties. If the Supplier terminates the Contract under clause 15.1 this licence will automatically terminate.

12.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services including the Deliverables, the Customer's use of any such Intellectual Property Rights is

conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

12.3 All Supplier Materials are the exclusive property of the Supplier.

12.4 The Customer warrants that it is the owner or licensed user of all Customer Materials and fully indemnifies the Supplier against all damages, losses and expenses arising out of any action or claim that the Customer Materials:

- a) infringe the Intellectual Property Rights of any third party;
- b) comprise any content which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous;
- c) breach any confidentiality obligations;
- d) are erroneous, misleading or inaccurate;
- e) infringe any applicable laws, regulations or third party rights; or
- f) include any personal data without the specific consent of the data subject.

13. Confidentiality

13.1 The Customer 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 Customer by the Supplier, its employees, agents or subcontractors, and any other confidential information concerning the Supplier's business or its products or its services which the Customer may obtain. The Customer shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Customer's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Customer.

13.2 All Supplier Materials shall at all times be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation

13.3 This clause 13 shall survive termination of the Contract, howsoever arising.

14. Limitation of Liability

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

14.1 The following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- a) any breach of the Contract;
- b) any use made by the Customer of the Goods, Services or Deliverables or any part of them; and
- c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

14.2 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

14.3 Nothing in these conditions excludes the liability of the Supplier:

- a) for death or personal injury caused by the Supplier's negligence; or
- b) for fraud or fraudulent misrepresentation.

14.4 Subject to condition 14.2 and condition 14.3:

- a) the Supplier shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 - i. loss of profits; or
 - ii. loss of business; or
 - iii. depletion of goodwill or similar losses; or
 - iv. loss of anticipated savings; or
 - v. loss of goods; or
 - vi. loss of contract; or
 - vii. loss of use; or
 - viii. loss or corruption of data or information; or
 - ix. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- b) the Supplier'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 to the price paid for the Goods and/or Services under the Contract.

14.5 This clause 14 shall survive termination of the Contract.

15. Termination

15.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 20 Business Days after receipt of notice in writing of the breach;
- b) 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 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 10 Business Days;
- g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- h) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- i) 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;
- j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.1 section b) to clause 15.1 section i) (inclusive);

- k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
 - l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 15.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract at any time by giving the Customer 1 months' written notice.
- 15.3 The Customer may terminate the Contract by giving the Supplier notice in writing as specified in the Proposal. Where no notice period is specified in the Proposal the Customer shall give the Supplier not less than 1 months' written notice.
- 15.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend or terminate the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:
- a) the Customer fails to pay any amount due under this Contract on the due date for payment; or
 - b) the Customer becomes subject to any of the events listed in clause 15.1 section b) to clause 15.1 section i), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

16. Consequences of Termination

- 16.1 On termination of the Contract for any reason:
- a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - b) the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

- 16.2 In the event that the Customer requires the cooperation or assistance of the Supplier in affecting any handover of Services to an alternative service provider upon termination the Supplier shall be entitled to charge the Customer for all time incurred in providing such cooperation and assistance and recover all costs incurred in so doing in accordance with clause 11.
- 16.3 Unless otherwise agreed with the Customer and subject to the Customer paying such fees and expenses as may be specified by the Supplier, the Supplier shall be entitled to delete or otherwise dispose of all Customer Materials and data following termination.

17. Data Protection

- 17.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 17 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 17.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and the Supplier is the Data Processor. The Proposal sets out the scope, nature and purpose of the processing by the Supplier, the duration of the processing and the types of Personal Data to be processed under this Contract.
- 17.3 Without prejudice to the generality of clause 17.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Contract.
- 17.4 Without prejudice to the generality of clause 17.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Contract:
- a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data ("**Applicable Laws**"). The Customer acknowledges that, unless the Supplier is relying on Applicable Laws, the Supplier is relying on the Customer's instructions to process the Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - c) ensure that all officers, employees, agents and consultants of the Supplier who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained;

- e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - f) notify the Customer without undue delay on becoming aware of a Personal Data breach; and
 - g) at the written direction of the Customer, to the extent technically practicable, delete or return (at the Customer's cost) Personal Data and copies thereof within 90 days of termination of the Contract unless required by Applicable Law or some other legitimate reason to store the Personal Data.
- 17.5 The Customer consents to the Supplier appointing, at its sole discretion, any person as a third-party processor of Personal Data under this Contract, so long as the Supplier confirms that it has entered or (as the case may be) will enter into a written agreement with the third-party processor incorporating terms which are substantially similar to those set out in this clause 17.
- 17.6 The Supplier shall not be liable for any claim by a Data Subject arising out of or in connection with any act or omission by the Supplier, to the extent that such act or omission resulted directly or indirectly from the Customer's instructions.

18. General

18.1 Force majeure:

- a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party 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 suppliers or subcontractors.
- b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- c) If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 6 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

18.2 Assignment and subcontracting:

- a) The Supplier may at any time assign, transfer, charge, 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.
- b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

18.3 Notices:

- a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number or by e-mail.
- b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax or e-mail, on the next Business Day after transmission.
- c) This clause 18.3 shall not apply to the service of any proceedings or other documents in any legal action.

18.4 Waiver and cumulative remedies:

- a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. 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.
- b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

18.5 Severance:

- a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18.6 No partnership: 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.

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

- 18.8 Variation: Except as otherwise set out in these Conditions, the Supplier shall be entitled to make variations to these Conditions by providing written notice of the variation to the Customer which shall include written notice of variation made available via the customer portal.
- 18.9 Governing law and jurisdiction: This 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

SECTION B: HARDWARE SERVICING

The terms contained in this Section B apply only in relation to the provision of hardware servicing services by Computer Service Centre Ltd t/a Computer Service Centre. The terms within this Section B apply in addition to the general terms in Section A except in the case of any inconsistency between the terms, in which case the terms in this Section B shall take precedence where they apply.

19. Definitions

19.1 In this Section B, the following definitions apply:

Service Items: such items as the Supplier agrees to Service as detailed in the Proposal.

Service: shall mean the servicing, repair, upgrading or rebuilding of the Service Items as detailed in the Proposal.

20. Service Location

20.1 The Supplier may in its sole discretion perform the Service at the Customer's premises or at such alternative location as it shall consider appropriate.

20.2 Where the Service is to be performed at the Customer's premises, the Customer warrants that it will provide the Supplier with access to its premises at reasonable times to allow the performance of the Service and will provide such other materials or facilities as the Supplier may reasonably request.

20.3 Where the Service is to be performed at a location other than the Customer's premises, the Customer shall ensure that the Service Items are made available for collection by the Supplier in accordance with the Supplier's instructions and shall make all such arrangements as the Supplier may reasonably require to accommodate the return and reinstallation of the Service Items following the Service.

20.4 The Service Items shall remain at the Customer's risk at all times during the Service including when removed from the Customer's premises and during transit.

21. Pre and Post Service Tests

21.1 The Supplier shall perform such tests on the Service Items both before and after the Service as it shall in its sole discretion deem appropriate to ascertain the effectiveness of the Service and the satisfactory operation of the Service Item in light of the Service to be or having been performed.

21.2 The Customer acknowledges and agrees that there shall be no obligation on the Supplier to undertake full functionality testing on any Service Item following Service.

22. Data Loss During Service

22.1 The Customer acknowledges that it is solely responsible for ensuring that all data held on Service Items is fully backed up before the commencement of the Service.

22.2 The Customer acknowledges and agrees that the Supplier shall be fully entitled to format or otherwise remove any data from any hard drives or disks within the system of any Service Item in its sole discretion and without prior warning or notice to the Customer.

22.3 The Customer hereby releases the Supplier from all liability whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise arising from formatting, corruption or removal of data during Service.

23. Service Costs

23.1 The Customer acknowledges that once the Supplier begins performance of a Service it may identify additional work required in relation to Service Items. In the event that the price and costs charged to the Customer will be less than £100 more (excluding VAT) than originally estimated by the Supplier, the Customer shall be deemed to consent to the Supplier undertaking the additional work or incurring the additional costs without notifying the Customer in advance. In the event that the additional work or costs will result in an increase of price or costs of £100 or more (excluding VAT) above the Supplier's original estimate, the change of service provisions in clause 9 shall apply.

SECTION C: HOSTING SERVICES

The terms contained in this Section C apply only in relation to the provision of hosting services by Computer Service Centre Ltd t/a Computer Service Centre. The terms within this Section C apply in addition to the general terms in Section A except in the case of any inconsistency between the terms, in which case the terms in this Section C shall take precedence where they apply.

24. Domain Name Registration and Transfers

- 24.1 Notwithstanding clause 18.6 if the Customer instructs the Supplier to obtain and/or manage a domain name for the Customer, the Supplier shall act as an agent for the Customer in dealing with the relevant domain name registration authority.
- 24.2 The Supplier gives no warranty that the domain name requested will not infringe the rights of any third party and all such enquiries shall be the responsibility of the Customer, and the domain name shall form the Customer's intellectual property for the purposes of this agreement.
- 24.3 The Customer acknowledges that its use of any domain name shall be subject to the rules and policies imposed by the applicable domain name registration authority from time to time and that any breach of these rules and policies may result in the refusal, cancellation, suspension or transfer of its registration. The Supplier shall have no liability whatsoever in respect of any failure by the Customer to comply with the rules and policies of the domain name registration authority or for any loss arising as a result of such failure.

25. IP Addresses

- 25.1 If the Supplier licences to the Customer an IP address as part of the Services, such IP address shall (to the extent permitted by law) revert to the Supplier after termination of the Contract for any reason whatsoever, whereupon the Customer shall cease using the address. At any time after such termination, the Supplier may re-assign the address to another user.
- 25.2 If the Supplier should need to change any IP address the Customer will be provided with at least 20 Business Days notice of such change. The Customer acknowledges that the Supplier shall have no liability for any temporary loss of service during the time taken to implement such change and agrees that it shall be fully responsible for re-configuring its equipment to accommodate such change.

26. Colocation Services

- 26.1 The Customer warrants that all equipment to be placed in the Supplier's colocation centre is in good working order, fully complies with any restrictions or specifications including as to size and power consumption limits notified by the Supplier from time to time and, if outside of the manufacturer's warranty period, shall have successfully undergone electrical safety testing within the last 12 months.
- 26.2 All equipment shall be clearly marked as belonging to the Customer and shall be provided along with all such user manuals, software, access codes or other documentation as the Supplier may require in order to provide the colocation services.

- 26.3 The Customer warrants that it holds full title to all equipment and that no equipment is subject to any charge in favour of any third party or otherwise subject to any third party interest.
- 26.4 The equipment shall be at the Customer's risk at all times whilst at the colocation centre or in transit from or to the colocation centre and the Customer shall be responsible for insuring the equipment against all risks. The Customer shall maintain such insurance for public liability, material damage and business interruption cover as may be required to ensure that insurance is provided for all of its potential liabilities arising under the Contract and which would usually be covered under such policies irrespective of when any claim in relation to any such liability is made. Such insurance shall be maintained with a reputable insurer and the Customer shall produce on demand adequate proof of such insurance.
- 26.5 The Supplier shall operate such policies and procedures for Customer access to equipment located at the Supplier's colocation centre as it shall in its sole discretion deem appropriate and the Customer acknowledges that it shall only be entitled to access its equipment for the purpose of inspection or the carrying out of maintenance or repair works at such times as shall have been arranged with the Supplier by prior agreement and that such access shall be granted on condition that the Customer or its representative take all due care when in the colocation centre and complies fully with such policies and procedures as the Supply may operate from time to time.
- 26.6 Upon termination of the Contract the Customer agrees that the Supplier may retain all Customer equipment until all charges payable in accordance with clause 16 have been paid in full and in the event of any delay in payment that the Supplier may recover from the Customer its reasonable storage charges for the retention of the equipment until all charges have been paid and equipment is released. In the event that the Customer fails to pay all charges falling due under clause 16 within 20 Business Days of the Supplier shall be entitled to sell the equipment and, having deducted all outstanding charges, account to the Customer for the balance of the sale proceeds.

27. Data Centre Internet Access ("DCIA") & Multi Protocol Label Switching ("MPLS") Access

- 27.1 Subject to downtime resulting from any maintenance to or failure of servers, switches, routers, firewalls, inter connecting cables, patch cabinets or suchlike, the Supplier shall use all reasonable endeavours to maintain standard connectivity uptime of 99.9% provided always that the Supplier shall have no liability in respect of DCIA and MPLS Access failure resulting from a failure in third party equipment or services which, for the purposes of this Section B, shall be deemed a force majeure event subject to the provisions of clause 18.1.

28. Dedicated Services

- 28.1 The Customer acknowledges that legal title to the all servers, switches, routers, firewalls, inter connecting cables, patch cabinets and such like shall remain vested in the Supplier at all times and that the Customer shall not seek to claim ownership of any such equipment or enter into any agreement to sell, transfer, lease, charge, assign by way of security or otherwise deal with such equipment.
- 28.2 The Supplier shall use all reasonable endeavours to maintain all servers, switches, routers, firewalls, inter connecting cables, patch cabinets and such like in good working condition. In the event of any

failure or decline in performance of such equipment other than that arising as the direct result of the Supplier's breach or negligence the Customer specifically acknowledges that the Supplier shall not be deemed liable for any downtime or loss caused to the Customer as the result of such failure or decline in service.

29. Service Level Agreement

- 29.1 Data Centre Network Availability: The Supplier shall use reasonable endeavours to ensure that all servers respond to network pings and that remote access is available 99.9% of the time excluding during any scheduled maintenance period. Network availability includes the Supplier's routers, switching and cabling but specifically excludes the network card and any services or software running on a server.
- 29.2 Critical Infrastructure Availability: The Supplier shall use reasonable endeavours to ensure that servers are supplied with a cool air supply and a constant power supply 99.9% of the time excluding periods of scheduled maintenance. Critical infrastructure includes air conditioning, UPS, PDU and cabling systems but excludes a server's internal power supply.
- 29.3 Server Component Failure: A server component failure shall mean the failure of a critical component of the server operation, including processor, motherboard, power supply, network card, memory, RAID controller and hard disk drives but excluding disk drives which are part of a redundant array such as RAID 1 or RAID 5. In the event of component failure the Supplier will procure the replacement of the faulty component and ensure that the server is repaired and reinstated to operational level under the terms of the equipment manufacturer's warranty.
- 29.4 The Supplier shall bear no liability for any downtime resulting from the operation of its security systems, including its fire security system. In the event of a data centre shut down due to security system alarms the Supplier shall use all reasonable endeavours to restore the data centre to full operation as soon as the data centre has been made safe.
- 29.5 The Supplier provides system and data back ups to all servers which are removed each day post the previous nights backup schedule. All backups are based on a working day rotation.
- 29.6 Unless specifically stated in the Proposal, the Supplier does not replicate the data centre to a secondary location and should anything affect the operation of the data centre service provision may be disrupted or lost. The Customer acknowledges that the Supplier does not offer any disaster recovery plan and agrees that it shall be responsible for implementing its own disaster recovery plan and for maintaining appropriate insurance policies at all times.

SECTION D: SOFTWARE DEVELOPMENT SERVICES

The terms contained in this Section D apply only in relation to the provision of software development services by Computer Service Centre Ltd t/a Computer Service Centre. The terms within this Section D apply in addition to the general terms in Section A except in the case of any inconsistency between the terms, in which case the terms in this Section D shall take precedence where they apply.

30. Definitions

30.1 In this Section D the following definitions shall apply:

Acceptance Certificate: the certificate to be signed by the Customer under clause 35.

Acceptance Date: the date on which the Software is deemed to be accepted by the Customer in accordance with clause 36.

Bespoke Software: any software developed by the Supplier specifically for the Customer as detailed in the Proposal.

Continual Care Package: the continual care package provided by the Supplier as set out in the Proposal and subject to the provisions of Section F hereto.

Defect: an error in the Software that in the reasonable opinion of the Supplier causes it to fail to operate substantially in accordance with the relevant Documentation.

Documentation: the operating manuals, user instruction manuals, technical literature and all other related materials in human-readable or machine-readable forms supplied by the Supplier with the Software.

Licence: the licence granted under clause 37.

Licensed Software: the Supplier Standard Software and the Modified Software and the Bespoke Software as described in the Proposal and all subsequent amendments and updates to, or New Versions or New Releases of, such licensed software as may be provided.

Licensed Users: the employees and agents of the Customer who use the Licensed Software, up to the maximum number specified in the Proposal.

Minor Defects: any bugs, errors, omissions or lack of functionality in the Software that in the reasonable opinion of the Supplier does not prevent it from operating substantially in accordance with the relevant Documentation.

Modified Software: the standard software programs proprietary to the Supplier and/or third parties modified or to be modified by the Supplier in accordance with the Proposal.

New Release: a new release of all or any part of the Software suitable for use by the Customer in which previously identified faults have been remedied or to which any modification, enhancement, revision or update has been made, or to which a further function or functions have been added.

New Version: a new version of the Licensed Software released by the Supplier after acceptance of the Software which provides additional or improved functionality or performance.

Open-Source Software: any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (<http://www.opensource.org/docs/definition.php>) or any libraries or code licensed from time to time under the General Public Licence (as described by the

Free Software Foundation and set out at <http://www.gnu.org/licenses/gpl.html>), or anything similar, included or used in, or in the development of, the Software, or with which the Software is compiled or to which it is linked.

Software: the Supplier Standard Software, the Third-Party Software, the Modified Software, the Open-Source Software and the Bespoke Software.

Supplier Standard Software: the software programs proprietary to the Supplier, listed in the Proposal, which are to be provided to the Customer without modification.

Third-Party Licences: The open-source software licences including any applicable general public and any proprietary third-party software licences.

Third-Party Software: the software programs proprietary to third parties, listed in the Proposal, which are to be provided to the Customer without modification.

Training: the training as specified in the Proposal, to be provided by the Supplier as part of the Services.

31. Services

31.1 The Supplier shall develop the Licensed Software in accordance with the Proposal.

31.2 The Supplier agrees:

- a) to deliver the Software and associated Documentation;
- b) to provide the Continual Care Package in accordance with Section F; and
- c) to provide the Training

subject to the Conditions.

32. Pre-installation testing

32.1 Before delivering any item of Software, the Supplier shall carry out reasonable tests to ensure that such item is in operable condition and is capable of meeting the requirements outlined in the Proposal once properly installed.

32.2 Where required by the Supplier the Customer shall provide the Supplier with such acceptance criteria and test data as may be required by the Supplier for the purpose of conducting the pre-installation tests.

32.3 If the Software fails to pass the pre-installation tests, the Supplier shall remedy the defects and deficiencies, and shall repeat the relevant test(s) within a reasonable time.

33. Software delivery, installation and delays

- 33.1 The Supplier shall use reasonable endeavours to deliver the Software to the Customer in accordance with any schedule detailed in the Proposal but the parties acknowledge and agree that time of delivery shall not be of the essence.
- 33.2 The Supplier shall supply to the Customer, within a reasonable time before the delivery of the Software, such information and assistance as may be necessary to enable the Customer to prepare for the delivery of the Software.
- 33.3 If the Supplier can demonstrate that any delay in delivery caused by the Customer, whether by its acts or omissions, has resulted in an increase in the costs to the Supplier of carrying out its obligations under the Contract, the Supplier may, at its sole discretion, invoice the Customer for such demonstrable costs. The Supplier may invoice the Customer for any such costs that become payable in this way, within 20 Business Days of demonstrating the increase in costs.
- 33.4 If any delivery is delayed because of the acts or omissions of the Supplier, the Supplier shall in no circumstances be liable for any costs that the Customer can demonstrate it incurred as a direct or indirect result of such delay.

34. New Releases and New Versions

- 34.1 The Supplier shall supply the Customer with New Releases in machine-readable form together with related amendments to the Documentation. The Supplier may make such New Releases available for downloading over the internet and will promptly notify the Customer when such downloads are available.
- 34.2 The Supplier shall notify the Customer promptly in writing of the issue of any New Version, specifying the following:
- a) the charge for delivery and installation of the New Version;
 - b) the licence fee payable for the New Version;
 - c) in what way the New Version differs from the previous version in terms of functionality, performance and compatibility.
- 34.3 For the avoidance of doubt, nothing in this agreement shall oblige the Customer to take any New Version unless such New Version addresses a critical security concern.

35. Acceptance tests

- 35.1 The Customer shall have 10 Business Days from the date of delivery of the Software to carry out such testing of the Software as it shall consider necessary to check for any Minor Defects or Defects. In the event that the Customer identifies any such Minor Defects or Defects it shall provide the Supplier with details in writing within 24 hours of discovery.

35.2 Subject to clause 42.2 the Supplier shall remedy Minor Defects or Defects within a reasonable period of time.

35.3 Notwithstanding the presence of any unremedied Minor Defects the Customer shall sign and return the Acceptance Certificate to the Supplier on the eleventh Business Day after delivery of the software. Where any Defects have been notified to the Supplier the Customer shall sign and return the Acceptance Certificate to the Supplier immediately upon the Supplier having remedied such Defects.

36. Acceptance

36.1 Acceptance of the Software shall be deemed to have occurred on whichever is the earliest of:

- a) the signing by the Customer of an Acceptance Certificate;
- b) the remedying of any Defects notified under clause 35.1; or
- c) the use of the Software by the Customer in the normal course of its business.

37. Software Warranty

37.1 The Supplier warrants that for a period of 30 calendar days from the Acceptance Date the Software will remain free from Defects and Minor Defects.

37.2 Subject to clause 37.3, if:

- a) Customer gives notice in writing within 2 Business Days of discovery that any Defect or Minor Defect exists or is suspected; and
- b) the Supplier is given a reasonable opportunity of examining the operation of the Software either remotely or on attendance at the Customer's premises as the Supplier shall elect,

the Supplier shall, subject to clauses 42.1 to 42.3, use its best endeavours to correct the Defect or Minor Defect.

37.3 Any Defects or Minor Defects discovered or suspected more than 30 calendar days after the Acceptance Date or, where discovered or suspected within 30 calendar days of the Acceptance Date but not notified to the Supplier in accordance with clause 37.2 shall not be covered by this warranty and shall only be corrected where covered by a relevant Continual Care Package or subject to the Supplier's standard charges applicable from time to time.

38. Ownership

38.1 The Intellectual Property Rights in the Software (other than the Third-Party Software or the Open-Source Software) are, and shall remain, the property of the Supplier, and the Supplier reserves the right to grant a licence to use the Software to any other party or parties.

- 38.2 The Licensed Software and the Documentation are the property of the Supplier (or the appropriate third-party rights-owner(s)) and the Customer acquires no rights in or to the Licensed Software or the Documentation other than those expressly granted by this agreement.
- 38.3 The Customer shall do, and execute or arrange for the doing and executing of, each necessary act, document and thing that the Supplier may consider necessary or desirable to perfect the right, title and interest of the Supplier in and to the Intellectual Property Rights in the Licensed Software.
- 38.4 The Customer shall use reasonable endeavours to prevent any infringement of the Supplier's Intellectual Property Rights in the Licensed Software and shall promptly report to the Supplier any such infringement that comes to its attention. In particular, the Customer shall:
- a) ensure that each Licensed User, before starting to use the Licensed Software, is made aware that the Licensed Software is proprietary to the Supplier and that it may only be used and copied in accordance with this agreement;
 - b) implement suitable disciplinary procedures for employees who make unauthorised use or copies of the Licensed Software, except as provided for in clause 37; and
 - c) not permit third parties to have access to the Licensed Software without the prior written consent of the Supplier, who may require that such third party executes a written confidentiality agreement before being given access to the Licensed Software.

39. Software licence and documentation

- 39.1 The Supplier grants, subject to the Conditions, the Customer a non-exclusive, non-transferable license to use the Licensed Software and the Documentation for the purpose(s) identified in the Proposal (**Licensed Purposes**).
- 39.2 The Supplier shall provide to the Customer, from time to time, copies of the Documentation containing sufficient up-to-date information for the proper use of the Licensed Software. Such Documentation may be supplied in electronic form.
- 39.3 The Customer may make such further copies of the Documentation as are reasonably necessary for the use of the Licensed Software and for training the Customer's personnel in use of the Licensed Software. The Customer shall ensure that all of the Supplier's proprietary notices are reproduced in any such copy.
- 39.4 The Supplier shall provide the Third-Party Software and the Open-Source Software to the Customer subject to any applicable Third Party Licences, copies of which shall be provided to the Customer, and the Customer agrees to be bound by such licence terms.
- 39.5 The Customer shall comply with the Third-Party Licences and shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such terms howsoever arising.

39.6 The Supplier may treat the Customer's breach of the license granted subject to these Conditions in respect of Licensed Software or of any Third-Party Licence as a breach of the Contract.

40. Transfer or reproduction of licensed software

40.1 The Customer may make such copies of the Licensed Software as are reasonably necessary for use in accordance with the Proposal and for the purposes of backup and security. The Customer has no right to make, or authorise the making of, any other copies of the Licensed Software.

40.2 The Supplier shall at all times own all copies of all or any part of the Licensed Software. For copies recorded on a tangible medium, the Customer shall place on each copy of all or any part of the Licensed Software a clearly visible label indicating that the copy is the property of the Supplier. For electronic copies, the Customer shall ensure that all proprietary notices contained in the Licensed Software shall be maintained in such copies and shall display when the software is run, in the same way as in the case of the Licensed Software as supplied by the Supplier. The Customer shall keep all copies of the Licensed Software in a secure place when not in use and shall, at all times, keep all such copies in its possession or control.

40.3 The Customer shall not:

- a) sub-license, rent, lend, assign or transfer in any other way the Contract or the Licensed Software to any person without the prior written consent of the Supplier; or
- b) give access to the Licensed Software through any network of computers to users who are not employees or agents of the Customer.

41. Use and adaptation of licensed software

41.1 The Customer may use the Licensed Software with other software.

41.2 The Customer may not make adaptations or variations of the Licensed Software without the prior consent of the Supplier.

41.3 The Customer may not and may not cause or authorise any third party to disassemble, decompile, reverse translate or in any other manner decode the Licensed Software, except as permitted by law.

42. Training

42.1 The Supplier shall provide the Training to the Customer in accordance with the Proposal.

42.2 Any additional training required by the Customer shall be provided by the Supplier at the Supplier's standard rates then in force.

42.3 Training shall be carried out at such locations as may be agreed by the Supplier and the Customer. Any special equipment necessary for the Training shall be provided at the Customer's cost by the Supplier.

43. Disclaimer

- 43.1 Without limitation, the Supplier specifically denies any implied or express representation that the Software will be fit:
- a) to operate in conjunction with any hardware items or software products other than with those that are identified in the Documentation as being compatible with the Software;
 - b) to operate on any platform not identified in the Proposal; or
 - c) to operate uninterrupted or error-free.
- 43.2 The Supplier does not warrant or guarantee that it will be able to rectify all Defects, nor that any Defect which does not materially affect the Customer's operations using the Software will be corrected before the issue of the next New Release or free of charge.
- 43.3 Any unauthorised modifications, use or improper installation of the Software by, or on behalf of, the Customer shall render all of the Supplier's warranties and obligations under the Conditions null and void.
- 43.4 The Supplier shall not be obliged to rectify any particular Defect if attempts to rectify such Defect other than normal recovery or diagnostic procedures have been made by the Customer's personnel or third parties without the permission of the Supplier.
- 43.5 The Customer acknowledges that the only warranties in relation to the Third-Party Software or the supply thereof, are those contained in the licence from the third-party supplier(s) of the same, and that to the extent that any of such warranties are given to the Supplier, it will pass on the benefit of such warranties to the Customer.
- 43.6 Any Open-Source Software provided by the Supplier may be used according to the terms and conditions of the specific licence under which the relevant Open-Source Software is distributed, but is provided "as is" and expressly subject to the disclaimer in clause 43.1.

44. Consequences of Termination

- 44.1 On termination of the Contract, the Customer shall either return to the Supplier or, at the Supplier's option, destroy all material copies of the Licensed Software and Documentation, and shall ensure that any copies of the Licensed Software on hard discs or other storage means associated with any computer equipment owned or controlled by the Customer are permanently deleted.

SECTION E: SEARCH ENGINE OPTIMISATION SERVICES

The terms contained in this Section E apply only in relation to the provision of search engine optimisation services by Computer Service Centre Ltd t/a Computer Service Centre. The terms within this Section E apply in addition to the general terms in Section A except in the case of any inconsistency between the terms, in which case the terms in this Section E shall take precedence where they apply.

45. Definitions

45.1 In this Section E the following definitions shall apply:

Website: the website in respect of which the search engine optimisation services are to be provided.

46. Search Engine Optimisation Services

46.1 Unless stated otherwise in the Proposal, the search engine optimisation services may include some or all of the following:

- a) researching keywords and phrases to select appropriate, relevant search terms;
- b) obtaining back links from other related websites and directories in order to generate link popularity and traffic;
- c) editing and/or optimisation of text for various html tags, meta data, page titles, and page text as necessary for search engine optimisation;
- d) analysis and recommendations on the optimal structure of the Website, navigation of the Website, code, etc. for best search engine optimisation purposes;
- e) recommending, as required, additional web pages or content for the purpose of catching keyword/phrase searches; and
- f) creating traffic and ranking reports for the Website and any associated web pages showing rankings in the major search engines,

as dictated by a Continual Care Package or specified in writing by the Supplier.

47. Customer Acknowledgments

47.1 The Customer acknowledges and agrees that the Supplier does not guarantee first position or consistent top ten positions or offer any guarantee whatsoever as to position improvement for any particular keyword, phrase or search term as it is solely at the discretion of the search engines themselves to list a Website.

47.2 The Customer acknowledges that the Supplier has no control over the policies of search engines with respect to the type of websites and/or content that they accept or the way in which websites are ranked either now or in the future. As a result search engines may:

- a) stop accepting submissions from the Supplier for an indefinite period of time with or without notice; or
- b) cease to list a Website at its discretion, however should a Website not reappear within 20 Business Days of it not being listed then the Supplier will re-optimize the applicable Website based on the current policies of the relevant search engine at a cost to be agreed between the parties,

and the Supplier shall not be liable to Client for any such actions of search engines.

47.3 The Supplier is not responsible for changes made to the Website by:

- a) other parties; or
- b) the Client in choosing to link to or obtain a link from a particular website without prior consultation with the Supplier,

that adversely affect the search engine rankings of the Website.

48. Customer Obligations

48.1 To enable the Supplier to provide the search engine optimisation services, the Customer agrees to provide the following:

- a) administrative or back-end access to the Website for analysis of its content and structure;
- b) permission for Supplier to make changes to the Website for the purpose of optimisation;
- c) permission for Supplier to communicate directly with any applicable third parties connected with the Website (for example, the Customer's web designer) in order to provide the Services;
- d) access to existing traffic statistics for the Website in order for analysis and tracking purposes; and
- e) where the Website is lacking in textual content, the Client will provide additional text content in electronic format for the purpose of creating additional or richer web pages.

49. Subcontractors

49.1 The Customer acknowledges that the Supplier may subcontract out the provision of search engine optimisation services and that all permissions granted under clause 48 shall extend to any subcontractor appointed by the Supplier for the provision of the search engine optimisation services.

SECTION F: CONTINUAL CARE PACKAGES

The terms contained in this Section F apply only in relation to the provision continual care packages by Computer Service Centre Ltd t/a Computer Service Centre. The terms within this Section F apply in addition to the general terms in Section A except in the case of any inconsistency between the terms, in which case the terms in this Section F shall take precedence where they apply.

50. Definitions

50.1 In this Section F the following definitions shall apply:

Continual Care Package: shall mean the standard continual care package provided by the Supplier as detailed in the Proposal.

Large Edit: any Software edit taking more than 1 hour but not more than 3 hours to complete and in the case of Website edits which comprise the addition of new webpages or controls.

Minor Edit: any Software edit which takes less than 1 hour to complete and in the case of Website edits which consists only of adding, removing or editing or content on existing pages, headers, footers or controls.

Website: shall mean the Customer's website in respect of which the Continual Care Package is provided.

Software: means as defined in Section D.

51. Continual Care Packages – Package Details

51.1 The Continual Care Package shall be as detailed in the Proposal.

51.2 Should the Customer wish to change to a different continual care package it shall submit a request to the Supplier in accordance with the Change provisions at clause 9. The Customer acknowledges and agrees that the Supplier may refuse any such request in the event that the new continual care package proposed by the Customer does not meet the minimum continual care package recommendation made by the Supplier in relation to the Customer's Website.

52. Application of Terms

52.1 Section C shall apply to hosting services provided as part of the Continual Care Package.

52.2 Section D shall apply to any software development services provided as part of a Continual Care Package.

52.3 Section E shall apply to any search engine optimisation services provided as part of the Continual Care Package.

53. Upgrade and Update Commitment

53.1 The upgrade and update commitment shall only be applicable in the case of upgrades, updates, patches or works which are, in the reasonable opinion of the Supplier, essential to the continued operation of the Software.

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