

STANDARD TERMS AND CONDITIONS OF SALE



INTERPRETATION

- 1.1 In this agreement, the following terms shall have the following meanings:

Acceptance Date: is the date on which (i) the Web site is completed by the Company, (ii) the Company informs the Customer that the Services are ready for use, or (iii) the Customer uses the Services "live", whichever is the earlier;

Acceptance Letter: the letter from the Company identifying the Services being provided to the Customer;

Business Day: any day (other than a Saturday or Sunday) when banks are generally open for business in London;

Change Control Procedures: the procedures set out in **Schedule 1**;

Charges: the charges in respect of the Services provided in writing by Company together with any charges arising from the Change Control Procedures;

Company: Quantumshift Enterprises Limited, a company incorporated in England and Wales (registered number 06024275) whose registered office is at 9, The Crescent, Taunton TA1 4EA. This includes its brands Taunton Broadband and Taunton IT Consultancy as well as Matthew Baker IT consultancy.

The company may act as a sales agent/introducer for BlueShift Internet / Web-Design UK in which case the relevant contract is between the customer and the supplier directly.

Customer: the person firm or company to whom Company has agreed to provide Services;

Domain Name: the domain name to be provided as part of the Services (if any);

Existing Software: any software owned by or licensed to the Customer at the date of this Agreement;

Intellectual Property Rights: all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off;

Materials: any documentation provided to the Customer by Company from time to time;

Personal Data: shall have the meaning given in the Data Protection Act 1998;

Services: the services to be provided by Company as detailed in writing by Company;

Specification: the specifications provided by the Customer and agreed with the Company;

Support: the support of the Software to be provided as part of the Services (if any) as defined in **Schedule 2**;

Third Party Products: hardware or software (not written by Company) required for the Services, to be supplied by others; and

Web site: the web site to be provided as part of the Services (if any).

- 1.2 Clause headings are included in this agreement for ease of reference only and shall not affect the interpretation or construction of this agreement.

- 1.3 Where the context admits or requires, words in the singular include the plural and vice versa.

- 1.4 References to "including" and "include(s)" shall be deemed to mean respectively "including without limitation" and "include(s) without limitation".

THE SERVICES

- 1.5 These Terms and Conditions apply to the provision of any goods or services by Company.

- 1.6 The Company will supply the Services, in accordance with the Acceptance Letter, to the Customer.

- 1.7 Where the Services include the registration of a domain name, the Company shall act as the Customer's agent to register the Domain Name in the Customer's name. The Company will provide the Customer with a copy of the terms and conditions of the domain name registrar.

- 1.8 The Company will conduct its business and provide the Services in accordance with the guidelines laid down by the Computer Trade and Industry Association.

CUSTOMER RESPONSIBILITIES

- 1.9 The Customer acknowledges that Company's ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide) as well as the accuracy and completeness of any information and data the Customer provides to Company. Accordingly, the Customer shall:

- (a) provide the Company with access to, and use of, all information, data and documentation reasonably required by the Company for the performance by the Company of its obligations under this agreement;
- (b) provide such equipment or access to the Customer's equipment as the Company may reasonably require;
- (c) make available such staff and facilities as the Company may reasonably request;
- (d) comply with reasonable instructions or directions by the Company from time to time in respect of the Services;
- (e) conform to such protocols and standards as are issued from time to time in respect of the use of the Internet or the Services;
- (f) renew any registration of the Domain Name;
- (g) fully indemnify the Company against any costs and claims from any third party resulting from the Customer's acts or omissions in respect of the Services; and
- (h) comply with all applicable legislation (including but not limited to matters arising under the Data Protection Act 1998 and the Regulation of Investigatory Powers Act 2000 and their equivalents in other European jurisdictions).

- 1.10 The Customer agrees that it will not (and will ensure that its employees, agents and sub-contractors do not) use the Services for unlawful purposes or in breach of English or other law, including but is not limited to:

- (a) any act or omission which will or is likely to infringe the intellectual property rights of a third party;
- (b) the transmission, display, downloading or uploading of any material or text which is or is likely to be construed as defamatory, offensive, abusive, obscene or which will or is likely to cause unnecessary anxiety or inconvenience to a third party;

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- (c) use of the Services in any way which is or is likely to violate or infringe the rights of any individual, firm or company in the United Kingdom or elsewhere;
 - (d) sending or procuring the sending of unsolicited advertising or promotional material;
 - (e) failing to comply with any instructions given by the Company for reasons of health, safety or the quality of Company's telecommunications carrier's telecommunications services or our system; or
 - (f) using the Services in anyway that will or is likely to make excessive use of Company's (or Company's supplier's) network (including but not limited to sending unsolicited messages or 'spamming').
- 1.11 If the Customer receives notification from the Company or any third party that any material on a web site or other system hosted by the Company is defamatory, in breach of copyright or illegal the Customer will inform the Company immediately and, if so requested, remove the same.

SUPPORT

If Support is included in the Services then (unless otherwise specified in the Services or the Specification) it shall be provided with effect from the Acceptance Date in accordance with **Schedule 2**.

HOSTING

If hosting is included in the Services then (unless otherwise specified in the Services or the Specification) it shall be provided in accordance with **Schedule 3**.

THIRD PARTY PRODUCTS

Where Third Party Products are required for the use of the Company in connection with the Services then the Customer will be responsible for the provision of licences (as well as, if needed, a licence or licences in the name of Company) of these Products. The Company gives no warranty in respect of such Third Party Products and will not be responsible for the maintenance of the same.

PROJECT MANAGEMENT

- 1.12 Each party shall appoint a project manager who shall:
- (a) provide professional and prompt liaison with the other party; and
 - (b) have the necessary expertise and authority to commit the relevant party.
- 1.13 Either project manager may call a meeting of the project managers on not less than 2 Business Days notice and both such managers shall attend a meeting so called, or if unavailable, send a suitably qualified deputy who has the authority to bind the party they represent.
- 1.14 The Company will set the frequency, venue and timing of regular meetings between the project managers and each will attend the same or if unavailable, send a suitably qualified deputy who has the authority to bind the party they represent.
- 1.15 All contact with the Company whether on the telephone, email or fax or otherwise, shall be, unless otherwise agreed, through the Customer's project manager or his or her deputy. The Company shall not be required to respond to communications from other persons.

CHARGES AND PAYMENT

- 1.16 The Company shall levy Charges (by the submission of invoices in accordance with **clause 8.5** below) in respect of the Services in accordance with the terms of the Acceptance Letter. Such Charges (where they are not expressed to be fixed fees) shall be calculated upon a time and materials basis at Company's current rates as provided to the Customer or as agreed between the parties from time to time.

- 1.17 The Company shall during the term of this agreement maintain accurate and up-to-date records of the time spent by its staff upon the Services and the Customer may, in respect of any invoice, request a breakdown in respect of the time spent by Company's staff.
- 1.18 The Customer shall pay a deposit of 40% of the Charges to the extent such Charges are agreed (the **Deposit**) within 28 Business Days prior to the commencement of the Services, which shall be non refundable.
- 1.19 Subject to **clause 8.3**, the Customer shall pay the balance of the Charges on the Acceptance Date.
- 1.20 The Customer shall pay the balance of the Charges levied within 30 days of receipt of invoice.
- 1.21 The Company shall be entitled upon not less than 30 days notice to the Customer and not more than once in every 6 months during the term of this agreement to increase its Charges.
- 1.22 All Charges are exclusive of VAT.
- 1.23 If the Customer fails to pay any amount payable by it under this agreement, the Company shall be entitled but not obliged to charge the Customer interest on the overdue amount, payable by the Customer on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 2% per annum above the base rate for the time being of HSBC. Such interest shall accrue on a daily basis and be compounded quarterly. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

- 1.24 If the Customer fails to pay any sum due under this agreement or any other agreement between the Company and the Customer on its due date then the Company shall be entitled to immediately suspend all work or Services including the licence granted under **clause 11.2** until payment is made. Any costs or expenses incurred by reason of such delay shall be charged to the Customer.

WARRANTIES

- 1.25 Each of the parties warrants to the other that it has full power and authority to enter into and perform this agreement.
- 1.26 The Company agrees that for the first 30 days after the Acceptance Date all bugs and failures of the Web site to comply with the Specification will be corrected, free of charge, as quickly as may be practicable in lieu of an express warranty in this agreement.
- 1.27 The warranties set out in this clause shall not apply to the extent any failure to perform is caused by any documentation supplied by the Customer.
- 1.28 The Customer acknowledges that the Existing Software is its own responsibility and that the Company gives no warranty in respect of the same.
- 1.29 The Customer warrants that it has complied with its internal authority systems and that either purchase orders do not need to be raised or if they do, they will be raised immediately upon execution of this agreement.
- 1.30 Without prejudice to the foregoing the Company does not warrant that the operation of the Services (including the Web site) will be uninterrupted or error free.
- 1.31 The Company warrants that it will submit the Web site for inclusion in a selection of the major search engines and directories. Without prejudice to the foregoing the Company does not warrant the position at which the Web site will appear in the search engine

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results. Unless set out in the Specifications the Web site shall not be specifically tailored to the development and/or improvement of the Web site search engine rankings. Where search engine optimisation is provided the service is performed on a "best efforts" basis.

the Intellectual Property Rights created pursuant to this agreement in respect of the Services (including the Intellectual Property Rights in the design of the Web site (if applicable)) infringes any Intellectual Property Rights of a third party in the UK other than infringements referred to in **clause 11.3**.

- 1.32 This agreement sets out the full extent of Company's obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into this agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

LIMITATION OF REMEDIES AND LIABILITY

- 1.33 Nothing in this agreement shall operate to exclude or limit the Company's liability for:

- (a) death or personal injury caused by its negligence;
- (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (c) fraud; or
- (d) any other liability which cannot be excluded or limited under applicable law.

- 1.34 The Company shall not be liable to the Customer for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.

- 1.35 The Company will be liable to the Customer for damage to the tangible property of the Customer resulting from the negligence of the Company or its employees but the same shall be limited to the sum of £1,000.

- 1.36 Subject to **clauses 10.1** and **10.3**, the Company's aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with this agreement or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed 100% of the total Charges payable by the Customer to Company under this agreement in that calendar year.

- 1.37 Except in respect of claims falling within **clause 1.33**, the Company shall have no liability to the Customer in respect of any claim under this agreement unless the Customer shall have served notice of the same upon Company within one year of the date when the claim arose or the date when the Customer should reasonably have become aware of the same.

INTELLECTUAL PROPERTY RIGHTS

- 1.38 Except as set out below, all Intellectual Property Rights created pursuant to this agreement shall belong to the Company.

- 1.39 Upon payment of all sums due under this agreement, the Company grants the Customer a non-exclusive, royalty free perpetual world wide licence to use all the Intellectual Property Rights created pursuant to this agreement in respect to the Services (including the Intellectual Property Rights in the design of the Web site (if applicable)). The Customer shall not be entitled to assign this licence or grant sub-licences unless otherwise agreed in writing by the Company.

- 1.40 The Customer shall indemnify the Company against all damages, losses and expenses arising as a result of any action or claim that the documentation supplied by the Customer or the Existing Software infringe Intellectual Property Rights of a third party.

- 1.41 The Company shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that

- 1.42 The indemnities in **clauses 1.40** and **1.41** are subject to the indemnified party promptly notifying the indemnifier in writing of the claim, making no admissions or settlements without the indemnifier's prior written consent, giving the indemnifier all information and assistance as the indemnifier may reasonably require and allowing the indemnifier complete control over the litigation and settlement of any action or claim.

- 1.43 The indemnities in **clauses 1.40** and **1.41** may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

DELAY

- 1.44 For the avoidance of doubt time shall not be of the essence and the Company shall incur no liability to the Customer in respect of any failure to complete the Services by the date specified.

DATA PROTECTION

- 1.45 The Company warrants that to the extent it processes any Personal Data on behalf of the Customer it shall act only on instructions from the Customer and it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

- 1.46 The Customer will indemnify the Company against all claims or costs that may be incurred by the Company in using the data supplied by the Customer for any purpose in accordance with this agreement except to the extent that the claim arises from a breach of **clause 1.45**.

TERM AND TERMINATION

- 1.47 This agreement shall (subject to earlier termination pursuant to this clause) terminate automatically on completion of the provision of the Services and payment of all outstanding sums.

- 1.48 Either party may terminate the supply of any Services that are being provided on a time and materials basis by giving 90 days notice to the other. During any period of notice Company shall be entitled to continue working on a time and materials basis.

- 1.49 Support shall continue to be provided by the Company until the Customer gives 90 days notice expiring on any anniversary of the Acceptance Date.

- 1.50 Either party may terminate this agreement immediately at any time by written notice to the other party if:

- (a) that other party commits any material breach of its obligations under this agreement which (if remediable) is not remedied within 14 (fourteen) days after the service of written notice specifying the breach and requiring it to be remedied; or
- (b) that other party ceases to trade (either in whole, or as to any part or division involved in the performance of this agreement) or becomes insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to that party.

- 1.51 On expiry or termination of this agreement, all provisions of this agreement will cease to have effect, save that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

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1.52 Upon termination the Customer shall pay all Charges in respect of the Services completed and each party will return to the other all documents and other materials belonging to the other.

CHANGE CONTROL

1.53 Subject to **clause 15.2**, any request to change the scope of the Services shall be processed in accordance with the Change Control Procedure set out in **Schedule 1**.

1.54 If the Customer instructs the Company to change the scope of the Services, the Company shall be authorised to carry out such change without adopting the Change Control Procedure provided that any additional Charges relating to such change in the scope of the Services does not exceed 25% of the Charges.

FORCE MAJEURE

1.55 For the purposes of this agreement, "**Force Majeure Event**" shall mean any event arising which is beyond the reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war).

1.56 A party who becomes aware of a Force Majeure Event which gives rise to or which is likely to give rise to any failure or delay in performing its obligations under this agreement shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay shall continue. The affected party shall take reasonable steps to mitigate the effect of the Force Majeure Event.

CONFIDENTIALITY

1.57 For the purposes of this agreement, "**Confidential Information**" shall mean all information whether technical or commercial (including all specifications, drawings, designs, disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the parties), where the information is identified as confidential on disclosure or ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

1.58 Each party shall protect the Confidential Information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

1.59 Confidential Information may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided the recipient is bound to keep the Confidential Information received confidential.

1.60 The obligations set out in this clause shall not apply to Confidential Information which the receiving party can demonstrate:

- (a) is or has become publicly known other than through breach of this clause;
- (b) was in possession of the receiving party prior to disclosure by the other party;
- (c) was received by the receiving party from an independent third party who has full right of disclosure;
- (d) was independently developed by the receiving party; or
- (e) was required to be disclosed by governmental authority, provided that the party subject to such requirement to disclose, gives the other prompt written notice of the requirement.

1.61 The obligations of confidentiality in this clause shall not be affected by the expiry or termination of this agreement.

NOTICES AND CONTACT DETAILS

1.62 A notice given under this agreement:

(a) must be sent in the case of the Company, for the attention of the person, and to the address or e-mail address given in this clause (or such other person, address, or e-mail address as the receiving party may have notified to the other), such notice to take effect 5 days from the notice being received; and

(b) must be delivered personally, sent by e-mail, sent by pre-paid first-class post, recorded delivery or registered post or (if the notice is to be served or posted outside the country from which it is sent) sent by registered airmail:

(c) The addresses for service of notice for the Company:

Address: PO Box 859, Taunton TA1 9GH
For the attention of: Matthew Baker
E-mail: matthew@quantumshift.co.uk

1.63 A notice is deemed to have been received if delivered personally, at the time of delivery, in the case of e-mail, at the time of transmission provided a confirmatory copy is sent by first-class pre-paid post or by personal delivery before the end of the next Business Day, in the case of pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting or in the case of registered airmail, 5 days from the date of posting.

1.64 To prove service it is sufficient to prove that the notice was transmitted to the e-mail address of the relevant party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

PUBLICITY

1.65 Save as set out below, all media releases, public announcements and public disclosures by either party relating to this agreement or its subject matter, including promotional or marketing material, shall be co-ordinated with the other party and approved jointly by the parties prior to release.

1.66 The Customer agrees to truthfully respond to a reasonable number of requests for references as to the performance of the Company under this agreement.

1.67 The Customer will make reference to the Company appropriately when any citation of commissioned work is made by the Customer.

1.68 The Company shall be entitled to prepare and distribute a press release about, and marketing materials referring to, this agreement, provided that no confidential information of the Customer shall be included.

GENERAL

1.69 Neither party shall, during this agreement, or within 6 months of its termination, whether on behalf of itself or a third party, solicit or seek to entice away any employee of the other. In the event of breach of this clause the party in default shall pay the other a sum equal to six months gross pay of the employee concerned, such sum being a pre-estimate of the cost of recruitment and training a replacement.

1.70 The customer may not assign the obligations of this contract. The company may assign this contract and any benefits/obligations thereof at any time.

1.71 Save as set out in this clause, neither party shall have any remedy in respect of any untrue statement (whether written or oral) made to it upon which it relied in entering into this agreement ("**Misrepresentation**"), and neither party shall have any liability other than pursuant to the express terms of this agreement. Nothing in this agreement shall exclude or limit either party's liability for any Misrepresentation made knowing that it was untrue. Each party's liability for Misrepresentation as to a fundamental matter, including as to a matter fundamental to that party's ability to perform its obligations under this agreement, shall be subject to the limit set out in **clause 1.36**.

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1.72 This agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, anyone else. The right of the parties to terminate, rescind, or agree any amendment, variation, waiver or settlement under, this agreement is not subject to the consent of any person who is not a party to the agreement.

DISPUTES

1.73 All disputes or differences which may arise between the Company and the Customer in respect of the construction or effect of this agreement or the rights duties and liabilities of the parties hereunder or any matter or event connected with or arising out of this agreement shall be referred, in the first instance to a mediator. If the dispute is not resolved then the matter shall be referred to an expert for determination and such expert shall be chosen by agreement and, in default of agreement, by the President of the Law Society.

1.74 The person so appointed shall act as an expert and not as an arbitrator whose decision (including as to costs) shall, except in the case of manifest error, be final and binding upon the Company and the Customer.

VARIATION AND WAIVER

1.75 A variation of this agreement must be in writing and signed by or on behalf of both parties.

1.76 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.

1.77 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

1.78 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

1.79 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the parties.

GOVERNING LAW AND JURISDICTION

1.80 This agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.

1.81 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement.



SCHEDULE 1 CHANGE CONTROL PROCEDURE

1. The Company and the Customer shall discuss any changes proposed by the other and such discussion shall result in either:
 - a. a written request for a change by the Customer; or
 - b. a written recommendation for a change by the Company;

or, if neither the Customer nor the Company should wish to submit a request or recommendation, the proposal for the change will not proceed.

2. Where a written request for a change is received from the Customer, the Company shall, unless otherwise agreed, submit a Change Control Note ("CC Note") to the Customer within the period agreed between them or, if no such period is agreed, within 5 Business Days from the date of receipt of such request for a change, or inform the Customer that the Company is not able to comply with such written request for a change.
3. A written recommendation for a change by the Company shall be submitted as a CC Note direct to the Customer at the time of such recommendation.
4. Each CC Note shall contain:
 - a. the title of the change;
 - b. the originator and the date of the request or recommendation for the change;
 - c. the reason for the change;
 - d. reasonable details of the change, including any specifications and user facilities;
 - e. the price, if any, of or associated with the change;
 - f. a timetable for implementation ;
 - g. the impact, if any, of the change on other aspects of the agreement in question, including (but not restricted to) the Charges, any dates for completion of any Service, the contractual documentation, and staff resources;
 - h. the date of expiry of validity of the CC Note (which shall not be less than 10 Business Days); and
 - i. provision for signature of the CC Note by the Customer and the Company.
5. For each CC Note submitted, the Customer shall, within the period of validity of the CC Note as envisaged in paragraph 4(h) of this Schedule:
 - a. evaluate the CC Note, and as appropriate either request further information; or approve the CC Note or notify the Company of the rejection of the CC Note; and
 - b. if approved, arrange for two copies of the approved CC Note to be signed for and on behalf of the Customer and the Company. The Company, when signing the CC Note shall allocate a sequential number to the CC Note. The signing of the CC Note will signify acceptance of a Change by both the Customer and the Company.
6. Once signed by the Customer and the Company in accordance with paragraph 4(i) of this Schedule, the change shall be immediately effective and the Customer and the Company shall perform their respective obligations on the basis of the agreed amendment.



SCHEDULE 2 CONSULTANCY

The Services (as described herein) are supplied in accordance with the Company's standard terms and conditions of sale.

Terms used in this Support Services description shall have the same meaning as given in the Company's standard terms and conditions of sale.

Services shall mean the services described in detail below provided by the Company to the Customer.

Repair/Consultancy/Engineer work:

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This covers projects where the Company provides consultancy support to troubleshoot, diagnose and/or resolve a Customer's IT problem either on or off site.

Work can include reinstalling software such as the Customer's operating system, or MS Office, or hardware upgrades / replacement.

Definitions in use in this document

Callout – The Company's arrangement to travel to the Customer's premises at the Customer's request and the booking of an appointment into the Company's diary. Note that this is non-refundable unless a full 24 hours notice is provided. This fee includes all necessary travel to attend the appointment.

Appointment time – The estimated arrival time of an engineer to visit and resolve the problem on site. All times are estimates and it is expected that a "window" of 45 minutes should be provided either side of the appointment time to allow for environmental/operational factors which can cause a delay to the engineer's arrival and are often beyond the Company's control.

Engineer- Member of staff who, in the opinion of the Company, can complete the work within their competency to the satisfaction of the Customer or independent third party. The Company will allocate whichever engineer is available to perform the work but all engineers allocated will of course be able to complete the work within their competency to a high standard.

Resolution - A successful fix or acceptable work-around to address an issue experienced by the Customer.

Consultancy time on site – Advice and support, or work to resolve an issue which is usable on site by the Customer, usually an engineer visit.

Consultancy time off site – The use of remote desktop support / telephone instructions or advice by E-Mail etc.

Per hour charges – The use of up to one hour of an engineer's time. Minimum 1 hour charge, but all subsequent hours are broken into 30 minute intervals which are separately charged. All time spent at the Customer's premises is chargeable.

Brief: (For troubleshooting work)

Upon receipt of the Customer's initial query, the Company will need to identify the nature of the problem including:

A full description of the problem
Any error messages being experienced,
When the problem first arose – e.g. after any hardware device/software was installed
When the problem normally occurs – e.g. when accessing the internet
Who the supplier of the service (eg. Broadband ISP) is
The operating system and software being used – e.g. Windows XP / MS Office
The hardware being used and any network connection
Whether the system is part of a home, office workgroup, corporate LAN or other configuration
Any recent work done to resolve the problem or past investigations
Whether the problem is intermittent or permanent.

The Company may also need to know more about the system to fully identify the problem. It is the Customer's responsibility to co-operate fully, provide the correct necessary information and should such information be inaccurate or missing the Customer will be liable for all additional time incurred by the Company.

Brief: For upgrades or new installations.

If the Customer requests that the Company upgrade their existing system the Company will require full details of the current system including the number of PCs in use, the operating system, any servers in operation, the software being used and a description of the use being made of the system.

The Company will also require details of the expected use/lifecycle of the software and hardware e.g. does the Customer receive new proprietary software each year for their business operations or does the IT requirement remain static?

Next the Company will need to know the desired level of new functionality and the funds/timescale available to achieve this. Any shortcomings from information provided may result in additional time/cost being incurred.

The Company may choose to provide a no obligation audit/consultation and this is strongly recommended. Often the Company will do this free of charge. However, the Company will be under no obligation to offer the audit for free. On such occasions, the Company will of course inform the Customer of the cost prior to starting the audit.

For all work the Company will also require:

All CDs/media/manuals for software installed on the PC including the operating system and any service packs.

The licence key/code for all software applications.

The Customer agrees to identify the Company for any infringement of such licences as software will be installed in good faith if provided to the Company. It shall not be the Company's responsibility to check for licence infringement.

Location:

The Company may choose to repair hardware or software either in-situ at the Customer's premises or collect the equipment for further diagnostic work taking place in our offices/workshops, at the Company's discretion.

Should it be necessary in the Company's opinion for equipment be collected for specialist work, such as hardware repair/upgrade or connection to our LAN, the Customer agrees that it may be worked on in our workshop where it will be covered by our office contents insurance policy up to a maximum value of £1,000.

The Company may require access to the Customer's premises to perform the work and this may be for a number of hours or days. The Customer agrees to have all necessary access, security clearance and insurance (e.g. public liability cover) in place to facilitate this, in advance of and during the complete duration of the work and to comply with any request or instruction issued by the engineer relating to the equipment or work.

Should an engineer attend the Customer's premises, but not be able to gain access/performance the work due to circumstances not within the Company's control e.g. locked doors, the callout and any time used will be chargeable. Should access not be possible for 15 minutes, the engineer may be reallocated to another customer and the appointment rescheduled.

Timescale

The Company aims to provide an accurate resolution timescale however unforeseen problems, project creep and additional customer requirements may extend the time required to complete the work.

The Company aims to return all equipment upon completion of the work or as soon as practical. The Customer agrees that the Company's aim to fix all problems within 24-48 hours however it is possible that due to delivery timescales for parts etc. work may take up to 14 days to complete and/or for required parts to arrive. The Company shall not be liable for any loss of business or inconvenience caused should this timescale be extended but will aim to inform the Customer as soon and often as possible. Should the Customer cancel the work, they will be liable for costs incurred up to the cancellation time.

Parts

The Company will always source parts from our stock or carefully chosen partners. The Company cannot accept parts from third parties for safety and compatibility reasons.

Guarantee

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All parts carry a guarantee of workmanship and reliability for a minimum of 90 days from date of supply to the Customer. This applies whether the parts have been installed during a repair or if purchased separately.

All repairs are guaranteed from defects in workmanship for 90 days from completion of the work. For a claim under this guarantee the system concerned cannot have been modified in any way (either software or hardware on the PC being changed).

Delivery timescales & charges:

The Company aims to carry a selection of commonly used parts in stock however due to the many different types of parts required, this is not always possible. Any parts sourced will usually arrive within 7 days, the majority between 24 and 48 hours from date of order. Delivery charges are additional to part prices quoted, unless shown otherwise, and are typically £5.99 +VAT per item due to their fragile nature.

Callout fees (Guideline – check your agreement)

Within TA1, TA2 and TA3 = £29.99 +VAT

Up to TA7 = £35 +VAT

Up to TA21 = £39.99 +VAT

Exeter = £49 +VAT

Bristol = £59 +VAT

London = Cost of standard class train travel or £100 +VAT whichever is highest.

Hourly rate

Training/Guidance: £25-29.99 + VAT per hour dependent on subject
Engineer/Technician rate: £35 + VAT per hour (workgroup support)
Programming/Database/Spreadsheet Support: £40 + VAT per hour
MCSA/E / Small Business Server Support: £49.99 + VAT per hour. (Domain)

Prices are the same for both on and off site support.

Data and backups:

The Company aims to always do everything in its power to safeguard and/or recover data from Customer IT equipment. However, it is the Customer's responsibility to ensure that they keep at least two current backups which provide the Customer with all necessary information to restore their data should a total loss occur. This applies both to their internal IT / PC systems as well as their web site data / online shop orders.

Prior to work commencing either on or off site, the Customer agrees that they have performed a full backup which has been verified and is accessible should data need to be restored.

The Company shall not be required to work on any of the following systems and by using these Services the Customer agrees that the IT equipment is not used for any of the following purposes:

- 1) Medical, healthcare or other system where injury or death to a person may occur as a result of changes to the IT system.
- 2) Financial or live trading systems where significant/cumulative financial loss may occur as a result of changes to the IT system.
- 3) Oil or petrochemical related industry
- 4) Mission-critical systems
- 5) Chemical, biological, radiological or nuclear industries
- 6) Any location or industry where a risk may be present to any of our staff.

The Customer agrees that in the course of resolving problems, repairing PCs or otherwise investigating your issue, it may sometimes be necessary for a complete system shutdown or reinstallation of the hardware or software to occur. It is possible, this may result in the hard disc drive(s) being erased and all data being permanently destroyed. In such event, the Company aims to inform the Customer (where possible)

prior to this being done. The Customer agrees to indemnify and hold harmless the Company in that such event and also agrees that the Company is not liable for loss of business, consequential, direct or indirect losses such as profits, or valuable information directly or indirectly as a result of loss of data, information or system performance.

Where a server, network or PC has been configured with a backup solution, it is the Customer's responsibility to ensure that they act to safeguard their own data. Any automated backup facility is provided for the client's convenience. It may be necessary for customers to start, stop, reconfigure or respond to the backup software / tape media or other necessary components from time to time and it will not be the Company's responsibility to do this.

Tape media will need periodic replacement to operate efficiently.

Electrical safety:

Dependent on the Customer's industry, it may be a requirement for any equipment in use in the Customer's premises to be safety tested annually or after another period of time. This sometimes includes for example, care homes, hotels, schools etc. The Company will not undertake to do this work and it is the Customer's sole responsibility to organise electrical checks in accordance with all of their other electrical appliances should it be required. It is the Customer's responsibility to ensure that all equipment is located safely on their premises and checked for electrical safety for the safety of themselves and our staff/engineers.

Support/Retainer contracts:

In the case of support contracts, the Company aims to monitor pro-actively and respond re-actively to Customer's IT needs and provide an included time allowance for this on a monthly or annual payment basis.

The support covers the time (only) for: Hardware repairs, software configuration, technical support advice to the Customer, internet access and MS Office queries as well as any industry standard Microsoft software within the competency of the Company's staff. It does not cover support which is delivered from a third party such as the Customer's broadband provider, or bespoke/customised/specialist or non-Microsoft software used by the Customer.

The Company aims in the case of support/retainer contracts to provide the Customer with a priority appointment in the event that one is required.

Where time is included, unused time from one month can be carried forward at the Company's discretion one or two months dependent on the contract type in operation. However, after this time, all unused time is lost and cannot be refunded, replaced or used.

Travel costs are not included in retainer/support contracts and the time may be used on or off site for any mutually agreed purpose within the Company's IT service range/staff competencies.

Cancellation requires a minimum of three month's notice. Should payment not be received the service will be immediately cancelled and any payments that have been received to date are forfeited.



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storage or processing service. It will be the Customer's sole responsibility for this.

The Company may reasonably decide to remove/delete/destroy at any time any data/information held by it without notification/disclosing the reason if the Company believes it to be in breach of any part of its data protection policy, this agreement, is morally or otherwise undesirable to the Company without notice, whether that information is related to a project or is personal. For example hosting of personal web site files / documents.

Customer information may be stored/kept on file electronically in accordance with the data protection act and the Company's policy, registration and legislation for example for the purposes of staff administration, investigation or other requirements by the Company or an outside official agency.

Information on web site traffic, statistics, usage and bandwidth may be stored analysed and used for marketing purposes by the Company.

Domain name registration:

Domain names are registered in good faith and it is the Customer's sole responsibility to check for copyright or other intellectual property infringement. The company may act as a sales agent and refer domain name registration to Web-Design UK/BlueShift Internet.

Should a domain name be decided, specified or agreed it will then be checked for availability. Such availability is not within the Company's control and the Customer cannot be sure of effective registration until a confirmation is received by the appropriate naming authority and paid for in full.

All domain names are registered for a period of one year and will renew annually.

Should payment not be received the domain name will be cancelled and will become available for registration.

Should the Customer not confirm that they wish to renew the domain name 28 days prior to each anniversary of registration, or be unavailable to respond to the Company about this, the domain name will expire and will become available for registration.

All domain names are registered directly with the registry and/or sales agent and the registry may choose to decline registration of a name, or others may object. Such issues are directly between the Customer and the individual or organisation who challenges the registration.

Certain domain names have restrictions and pre-requisites. It is the Customer's sole responsibility to check these and ensure they meet the criteria.

Web space type/platform:

The Customer may choose from Unix (Linux) or Windows 2003 hosting. Items such as .NET, red hat variants etc. may incur an additional charge. It may be possible to change platform during the term of the agreement between the Company and the Customer but the Company will be under no obligation to do so when requested by the Customer and an additional fee may be charged. If no preference is specified the Company will usually provide Linux Unix hosting.

E-Mail / Spam

If the Company provides E-Mail services to the Customer, such E-Mail use is limited to 10MB storage for POP3 E-Mail accounts (except advanced accounts where the use is limited to 100MB).

SMTP outgoing mail server access is provided only for customers using our dial-up / broadband services and only for E-Mail addresses / accounts the Company approves in advance.

It is the Customer's responsibility to arrange for SMTP mail with their ISP if they are not using our internet access services.

Any customer found to be sending unsolicited mail ("spam") or in the opinion of the Company is not making a fair and legitimate use of the

SCHEDULE 3 DOMAIN NAME AND HOSTING SERVICES

The Services (as described herein) are supplied in accordance with the Company's standard terms and conditions of sale.

Terms used in this Domain Names & Hosting Services description shall have the same meaning as given in the Company's standard terms and conditions of sale.

Services shall mean the services described in detail below provided by the Company to the Customer.

The Services may be delivered by a carefully chosen partner of the Company. Where the Company delivers the Services through a carefully chosen partner the terms and conditions of service of such partner shall form part of the agreement between the Company and the Customer. The Company's chosen partner for the registration of domain names and hosting services is Web-Design UK/BlueShift Internet, to which the company acts as a sales agent and their terms and conditions are available from their website.

In some instances the Company offers unlimited use of the Services and "unlimited use" in this context means that the Services must be used in a fair and reasonable manner, in the opinion of the Company, which is not detrimental to the operation of the Company or its staff/customers/services. To facilitate this the Company or its partner(s) may maintain very large ratios of bandwidth and disc space per customer. In rare cases, the Company or its partners may find a customer to be using server resources to such an extent that he or she may jeopardize server performance and resources for other customers. In such instances, the Company and its partners reserve the right to impose the High Resource User Policy for the consideration of all customers and/or immediately suspend or cancel all or some of the Services the Company provides to the Customer.

The Company or its partners may implement the following policy at their or its partners' sole discretion:

When a website is found to be monopolising the resources available the Company and its partners reserve the right to suspend delivery / provision of the Services immediately and without prior notice. This policy is only implemented in extreme circumstances and is intended to prevent the misuse of the Services.

Resources Use: The Customer agrees to use any resources such as web space, bandwidth, FTP / E-Mail, domain names (intangible) and any tangible or other asset(s) etc. provided to him/her for the agreed reason only and not for any other use. All use will be minimised as far as possible and a full account of resource usage provided upon request in a timely manner.

Communication, data and use of services.

The Company may listen to, monitor, intercept and/or block, disable, or destroy any communication at any time without notice in accordance with the law and its data protection / information security policy if the Company believes a breach of policy, contract or this agreement has or is likely to occur, or if the Company believes the use is immoral, unjust, illegal, pornographic or defamatory or extends beyond reasonable use of the Services.

Data storage, collection, and data protection (e.g. from hosting services.)

The Customer agrees to keep backups of all data stored by the Company in the case of a database, web site hosting or other data

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Services will have the relevant Services immediately suspended / cancelled without refund or notice.

Spam/Virus filtering:

The Company offers this service upon request for an additional fee to customers who would like their incoming mail scanned for viruses and spam/junk mail prior to it being delivered to their E-Mail box. This can often significantly reduce junk mail sent to the Customer from third party senders.

Please be advised that this Service is provided in good faith. This Service may delete mail which is legitimate as well as junk as it is not 100% accurate. The Customer agrees to inform the Company of any "white list" or approved / blocked senders in advance to prevent this and the Company cannot be liable should messages be deleted by the system in error.

Storage of data:

No data the Customer stores on its systems can be adult/pornographic in nature, illegal, illicit, immoral, copyright infringing, defamatory or otherwise undesirable in the opinion of the company or a third party.

Where a hosting space is quoted, this space includes statistics gathered for the Customer and is of the size quoted. The size is in Gigabytes where 1 GB = 1,024 MB.

Passwords

These should be kept securely by the Customer. It is not the Company's responsibility to keep records of such information.



SCHEDULE 4 BROADBAND SERVICES

The Services (as described herein) is supplied in accordance with the Company's standard terms and conditions of sale.

Terms used in this Broadband Services description shall have the same meaning as given in the Company's standard terms and conditions of sale.

The services provided by the Company to the Customer shall be the provision of broadband connection, including the services described in more detail below (the **Services**).

The Services may be delivered by a carefully chosen partner of the Company. Where the Company delivers the Services through a carefully chosen partner the terms and conditions of service of such partner shall form part of the agreement between the Company and the Customer. The Company's chosen partner for the Services is Entanet International Limited and their terms and conditions are available from their web site at http://www.entanet.net/fileadmin/entanet/PDF_s/t_c.pdf

In some instances the Company offers unlimited use of the Services and "unlimited use" in this context means that the Services must be used in a fair and reasonable manner, in the opinion of the Company, which is not detrimental to the operation of the Company or its staff / customers / services. To facilitate this the Company or its partner(s) may maintain very large ratios of bandwidth per customer. In rare cases, the Company or its partners may find a customer to be using server resources to such an extent that he or she may jeopardize server performance and resources for other customers. In such instances, the Company and its partners reserve the right to impose the High Resource User Policy, a copy of which can be provided at request by the Customer, for the

consideration of all customers and/or immediately suspend or cancel all or some of the Services the Company provides to the Customer.

The Company or its partners may implement the following policy at the Company's or its partners' sole discretion:

When a website or user or broadband connection is found to be monopolising the Resources (defined as a bandwidth, processor utilization, data transfer, online/connected time or disk space) available the Company and its partners reserve the right to suspend delivery / provision of the Service immediately and without prior notice. The aforementioned is only implemented in extreme circumstances and is intended to prevent the misuse of the Services.

Availability, speed and service delivery:

Where the Customer does not specify a desired connection speed it will be provided at 2mbps or the maximum the line supports, if lower. The Company may at its discretion apply a higher speed.

There is no service level agreement provided by the network infrastructure provider (normally BT) relating to broadband which is a new technology. The Services are not guaranteed to be available 100% of the time and the speed / service availability level the Customer receives is dependent on a number of factors including the Customer's telephone cabling, distance from the exchange and geographic location.

BT may provide a broadband connection which may become unviable due to factors beyond the Company's control. Such events are not within the Company's control and may require the Services to be cancelled. In this event the Customer will be refunded the cost of the broadband connection.

Faults and access

When operating a broadband service, BT or other telecommunications engineers may require access to the Customer's premises. The Customer agrees to co-operate and be available to meet such engineers at the appointed time. In the event that an engineer attends the Customer's premises either due to a fault the Customer has reported to the Company or for the necessary maintenance of the Customer's broadband connection and the engineer is not able to gain access or finds no fault with the Customer's infrastructure, an appointment fee will be charged.

In the event of a fault the Company will refer the matter to BT who have sole authority to investigate the issue. The Customer devolves responsibility for all of its broadband account matters to the Company for this and the delivery of the Services. The Company will aim to process this on the Customer's behalf and help to deliver the highest possible levels of service however it is entirely beyond the Company's control when and what action BT provide and a typical fault resolution timescale by BT may be up to 14 days.

Data transfer allowance:

Where a data transfer allowance is stated, the data transfer is the maximum permitted. Should the use exceed this an overuse charge will apply. It is not the Company's responsibility to monitor or inform the Customer of the data usage.

Contract length and cancellation

Contracts for broadband are from 1 month to 12 months dependent on the requirements of the Customer. This will be clearly shown in the Acceptance Letter. The Services will automatically renew in advance, on the anniversary and once renewed, the Customer will be liable for the cost of the following period unless cancellation has been received in writing in advance. The minimum contract term unless otherwise specified will be 3 months.

Filters

The use of broadband requires the Customer to place a filter on each device on the Customer's telephone line. These filters are available from the Company separately at an additional fee. The filters must be

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attached for the Customer's broadband to function and removal / non use of the filters on any line/extension of the number using broadband will cause damage to both the Customer's IT hardware and telephone equipment as well as potential interference and inability to use the telephone line.

Compatibility:

Broadband may or may not be compatible or available in the Customer's area and extra installation costs may apply dependent on the Customer's site location. The Company will aim to gather as much information from the Customer as possible but may require to perform a site survey prior to installation of broadband. This survey may be at an additional cost.

When the Company receives an order for broadband, the Company will check for service availability. This availability is an indication only, based on maps from BT. Additionally, the service is not compatible with the following: ISDN, Red Care Alarm system, some PABX services, DACS or older style communications infrastructure.

The speed of service is a guide to the transfer rate the Company is prepared to sustain. The actual speed received may vary considerably due to factors beyond the Company's control.

Cabling and telephone line:

It is the Customer's responsibility to ensure that the cabling infrastructure in their premises is correct and working. The Company will provide the broadband on the telephone number supplied by the Customer to the master BT socket indicated by a horizontal line between the BT and Customer network nodes. It is not possible to transfer broadband from one number or line to another without cancellation of the Services / and at an additional cost / activation charges.

Any extension cabling work to reach the location from this point (such as in large buildings) is additional and further costs may apply to do this.

Wireless access points, LANs and wireless broadband services:

The Company is able to provide and install wireless broadband access via a wireless LAN or wireless enabled local area network.

Wireless technology is new and subject to a range of environmental and site topology factors which may be beyond the Company's control.

The Company will provide upon request by the Customer, a wireless network including broadband access and the wireless infrastructure should work well at the location specified by the Customer.

However, it is possible that items such as cordless telephones, large interior or exterior walls, interference from electrical equipment and/or other wireless networks or other such factors may result in a degradation or total loss of the Services in some locations at the Customer's premises. Any indications to the availability, distance of transmission, speed or reliability of the Services at the location are based on predictive models and may not be completely accurate, however will always be provided in good faith.

The Company will aim to ensure the wireless network is encrypted and secure however due to the broadcast nature of wireless, the Services may represent a security risk to the Customer's existing network and care should be exercised regarding this. The Company aims to ensure all wireless networks are encrypted to either 64 or 128 bit and the Customer will need to inform the Company if this is not sufficient, or if broadcast mode is undesirable.

The Company always aims to provide the best quality products it can and all its products are Wi-Fi certified branded wireless products from carefully chosen partners. The Customer agrees to accept the responsibility to check for the risks/suitability of wireless for the Customer's industry/business, premises and neighbouring premises. It is possible that wireless services may interfere, or receive interference from other wireless networks nearby. They may also interfere with medical or communications equipment, and the Customer should inform the Company if its neighbours or you object to this. Additionally, it is often not desirable to locate wireless equipment in schools or hospitals / airports. The Customer agrees to read all notices regarding this on the equipment provided.

Dial-up Internet Access

Where broadband internet access is not requested or available the Company can happily provide dial-up internet access which can be either pay-as-you go, where a fee is charged by the Customer's telecommunications company (at their rates), known as 0845 dial-up; or the Company can provide a fixed monthly fee service including a specified amount of dial-up time on a free or reduced cost number. Should usage exceed the monthly allowance an overuse charge may apply.

The rates for 0845 and 0800 may vary dependent on the Customer's telecommunications provider. Any call charges where the Company quotes them are correct at the time of publication but will be subject to change without notice and are beyond the Company's control.