

## **E-Business Group Ltd - WEB SITE HOSTING CONDITIONS**

### **1. Definitions**

- 1.1 In the Conditions the following words and phrases have the following meanings unless the context requires otherwise:
- 1.2 “Commencement Date” means the commencement date set out in the Hosting Specification;
- 1.3 “E-Business Group Ltd” means E-Business Group Ltd, whose registered office is at E-Business Group Ltd, Dell Centre, Painswick, Nr Stroud, Gloucestershire GL54 4HA, UK;
- 1.4 “Conditions” means these Conditions;
- 1.5 “Contract” means the contract between E-Business Group Ltd and the Customer which includes the Conditions and the Hosting Specification,
- 1.6 “Customer” means the party named in the Hosting Specification to whom E-Business Group Ltd will provide the Service;
- 1.7 “Equipment” means E-Business Group Ltd ’s equipment including hardware and Software supplied in connection with the Contract;
- 1.8 “Fees” means the fees set out in the Hosting Specification which may be varied from time to time by giving the Customer not less than 3 (three) months notice;
- 1.9 “Material” means any material which can be sent, received or transmitted via the Service including data, information, software, graphics, electronic mail, text and sound;
- 1.10 “Name” means any name used in connection with the Service including domain names and mailbox names;
- 1.11 “Service” means the service set out in the Hosting Specification; and
- 1.12 “Software” means any software supplied by E-Business Group Ltd to the Customer in connection with the Contract;

- 1.13 In this Agreement, unless the context requires otherwise:
- 1.13.1 words importing the singular number include the plural and vice versa;
  - 1.13.2 words importing any particular gender include all other genders, references to words importing any particular gender include all other genders;
  - 1.13.3 references to persons include bodies or persons whether corporate or incorporate;
  - 1.13.4 words importing the whole will include a reference to any part; and
  - 1.13.5 the word “include”, “includes”, “including” and “included” will apply without limitation.

## **2. Order Acceptance**

- 2.1 All orders placed by the Customer with E-Business Group Ltd will constitute an offer to E-Business Group Ltd under the Conditions and no contract will exist until E-Business Group Ltd have accepted this offer.
- 2.2 The Contract is subject to these Conditions and no amendment to the Contract will be valid unless confirmed in writing by E-Business Group Ltd.
- 2.3 It is agreed that the Contract prevails over the Customer’s terms and conditions of purchase or similar conditions, if any.

## **3. E-Business Group Ltd ’s Rights and Obligations**

- 3.1 Subject to the Contract, E-Business Group Ltd will provide the Service from the Commencement Date until and unless the Contract is terminated in accordance with the Conditions.
- 3.2 E-Business Group Ltd reserves the right to vary the Service at any time but, where possible, will advise the Customer of any changes.
- 3.3 E-Business Group Ltd reserves the right to remove all Material from its servers that is left for a period of more than 6 (six) months.
- 3.4 E-Business Group Ltd may need to reduce or close down the Service for periods to allow maintenance or repair. E-Business Group Ltd will use its reasonable endeavours to publish information about these periods and complete the work within any time scale specified.

## **4. Installation and Maintenance**

- 4.1 If agreed, E-Business Group Ltd will install and maintain the Software to run the Service.
- 4.2 E-Business Group Ltd will carry out all agreed installation and maintenance either itself or through its appointed agents.
- 4.3 If necessary, the Customer will provide E-Business Group Ltd with reasonable access to its development premises, technical assistance and all other reasonable assistance

which is necessary to install and maintain the Service. This includes power supply, accommodation, and suitable environmental conditions.

4.4 E-Business Group Ltd will, where practicable, provide the Customer with a notice of when it will install and maintain the Service and what facilities it will require from the Customer.

## **5. E-Business Group's Equipment**

5.1 The Customer is responsible for any Equipment which is installed at the Customer's premises.

5.2 E-Business Group Ltd will retain ownership in the Equipment.

5.3 The Customer will not tamper or modify the Equipment other than as is necessary for its normal use.

5.4 The Customer will insure the Equipment for its full replacement value and will be liable to E-Business Group Ltd for all losses incurred by E-Business Group Ltd because of damage to the Equipment except those caused by an act or omission of E-Business Group Ltd, its agents or subcontractors.

5.5 If Software is supplied to the Customer as part of the Equipment, the Customer must comply with any licences relating to the Software.

## **6. Customer's Obligations**

6.1 The Customer is only authorised to use the Service for lawful purposes.

6.2 The Customer must not use itself or allow any other person to use the Service:

6.2.1 to send or receive any unlawful Material which includes Material infringing a third party's intellectual property rights, breaching another party's confidence or trade secret, which is defamatory, offensive, indecent, obscene or which may be abusive, menacing, annoying or a breach of any of the standards of any competent authority;

6.2.2 in breach of any guidelines or instructions issued by E-Business Group Ltd including any policy of use;

6.2.3 in a manner which infringes any internet standards or protocols;

6.2.4 to knowingly or recklessly transmit any Material via the Service which could cause or is likely to cause either physical harm to any computer or economic harm whether to E-Business Group Ltd or to any other internet user. The Customer should ensure it has regularly updated virus and security software in place;

6.3 The Customer must not infringe any third party's rights including intellectual property rights or goodwill.

6.4 Subject to the Contract, the Customer may use the Service to connect to other networks. The Customer must conform with their policies of use and all relevant internet standards

when connecting to other networks. The Customer must not make excessive or inappropriate use of the Service which may or does impact on the use of E-Business Group Ltd , its other customers or other internet users.

- 6.5 If the Customer breaches clause 6.4 then, in addition to its other rights under the Contract, E-Business Group Ltd may restrict the Customer's use of the Service until the Customer has provided E-Business Group Ltd with, in E-Business Group Ltd 's sole discretion, a suitable guarantee about future use.
- 6.6 The Customer will be responsible for all other charges connected with the Service including charges imposed by its telephone service provider.
- 6.7 E-Business Group Ltd is unable to monitor the Customer's use of the Service so the Customer will hold E-Business Group Ltd harmless from all claims, losses, costs, actions, damages, expenses, legal costs or any other liabilities incurred by E-Business Group Ltd (including those arising from settlement of such claims after taking legal advice) as a result of the Customer's use of the Service.
- 6.8 The Customer will defend any claims and pay any amounts in connection with clause 6.7 which are incurred by E-Business Group Ltd. In respect of these claims, the Customer must, at its expense, advise E-Business Group Ltd of their existence, allow E-Business Group Ltd to compromise or settle them and assist E-Business Group Ltd to defend them.
- 6.9 The Customer will be in breach of this clause 6 whether or not it is aware that this Material is being transmitted or the Service is being used in breach of it.
- 6.10 If the Customer breaches clause 6 then E-Business Group Ltd will be entitled to:
  - 6.10.1 terminate the Contract under clause 8.2; or
  - 6.10.2 suspend the Service immediately; and/or
  - 6.10.3 refuse to restore the Service until the Customer has provided E-Business Group Ltd , with, in E-Business Group Ltd 's sole discretion, a suitable guarantee that there will be no future breaches; and/or
  - 6.10.4 remove any Material from its server.

## **7. Price and Payment**

- 7.1 E-Business Group Ltd will invoice the Customer the Fees when these become due. Time is of the essence for payment.
- 7.2 The Customer must pay the invoices within 30 (thirty) days of the invoice date.
- 7.3 E-Business Group Ltd may charge interest on any late payments at the rate of 5 (five)% per annum above the base lending rate of National Westminster Bank PLC as varied from time to time from the due date until the date that the payment is received. In addition, E-Business Group Ltd may exercise its rights under clause 8.2.

## **8. Term and Termination**

- 8.1 The Contract will start on the Commencement Date and continue for a minimum period of 12 (twelve) months. After this initial period, the Customer may end the Contract by giving E-Business Group Ltd not less than 6 (six) months' written notice.
- 8.2 E-Business Group Ltd may either suspend the Service or end the Contract if the Customer:
- 8.2.1 has not paid any invoice on the due date;
  - 8.2.2 breaches the Contract in any other way and (if the breach is capable of remedy) fails to remedy the breach within 21 (twenty one) days from receipt of a written notice setting out how the breach can be remedied; or
  - 8.2.3 is dissolved, becomes insolvent, fails or is unable or admits in writing its inability to pay debts or has instituted against it proceedings seeking a judgement of insolvency, has a resolution passed for its winding up or liquidation or becomes the subject of an appointment of an administrator, receiver, administrative receiver or similar official in respect of its assets or suffers comparable proceeding in any jurisdiction;
  - 8.2.4 is involved in any activity which, in the reasonable opinion of E-Business Group Ltd , may be detrimental to E-Business Group Ltd 's interests or the interest of any other internet user including carrying out or attempting to carry out any criminal activity or breaching any laws or standards of any other competent authority;
  - 8.2.5 is in breach or attempts to breach clause 10; or
  - 8.2.6 misleads or attempts to mislead E-Business Group Ltd in connection with its use of the Service.
- 8.3 Except if the Contract ends under clause 8.4 or clause 8.1, E-Business Group Ltd will charge a cancellation fee which is equivalent to the outstanding Fees for any remaining part of the initial 12 (twelve) month period and the 6 (six) month notice period set out in clause 8.
- 8.4 If the Customer ends the Contract to change its level of service with E-Business Group Ltd , the Customer will not be liable to pay the cancellation fee set out in clause 8.3 provided that the Customer enters into the new contract for a minimum initial period of 1 (one) year.
- 8.5 The ending of the Contract for any reason will be without prejudice to the rights of either party subsisting at the date the Contract ended.

## **9. Consequences of Termination**

- 9.1 At the end of the Contract, the Customer will:-
- 9.1.1 pay all Fees and other monies due to E-Business Group Ltd after deducting all amounts previously received;

- 9.1.2 return all Equipment, including Software, to E-Business Group Ltd which the Customer has in its possession or control;
  - 9.1.3 if requested by E-Business Group Ltd , the Customer will certify that it has complied with clause 9.1.2;
  - 9.1.4 stop using the Service and any internet protocol address allocated to it.
- 9.2 If the Customer fails to comply with clause 9.1, E-Business Group Ltd and/or its authorised representatives will be entitled to enter the Customer's premises or any premises under the Customer's control to remove E-Business Group Ltd 's Equipment. The Customer will be responsible for all costs incurred by E-Business Group Ltd under this clause.
- 9.3 Termination of the Contract will not affect any rights of the parties accrued to them up to the date of termination.

## **10. Assignment, Re-Selling or Sub-Letting**

- 10.1 The Customer must not assign, sub-lease, re-sell or in any way transfer the Service or any of its rights or obligations under the Contract.

## **11. Warranties and Limitation of Liability**

- 11.1 E-Business Group Ltd does not exclude or restrict its liability for death or personal injury caused by its negligence.
- 11.2 E-Business Group Ltd will exercise reasonable skill and care when performing its obligations under this Contract.
- 11.3 The Customer understands that E-Business Group Ltd cannot control or monitor Material sent or received via the Service. In these circumstances, E-Business Group Ltd specifically excludes any warranty to the quality or accuracy of any Material received through the Service.
- 11.4 Subject to the Contract, E-Business Group Ltd will use its reasonable endeavours to ensure that the Service is available but the Customer should take out adequate and appropriate insurance to cover itself against the possibility of loss or corruption of any Material. E-Business Group Ltd will not accept liability for Material, which is lost or corrupted while stored, transmitted, or received via the Service.
- 11.5 It is the Customer's responsibility to ensure it has appropriate and adequate security measures to protect its own computer systems. E-Business Group Ltd does not accept responsibility for any damage to the Customer's computer systems which results from use of the Service.
- 11.6 The Customer understands that E-Business Group Ltd cannot exercise control over Material sent or received via the Service. In these circumstance, E-Business Group Ltd excludes all liability for the transmission and reception of all Material via the Service.
- 11.7 E-Business Group Ltd does not accept liability for:
  - 11.7.1 loss whether direct, indirect or consequential, loss of business, revenue profits,

predicted savings or wasted expenditure;

11.7.2 loss or corruption of Material; and

11.7.3 the acts or omissions of any third parties including telephone service providers.

11.8 Subject to clause 11.1 E-Business Group Ltd 's liability to the Customer in respect of an event or series of connected events in connection with the Contract whether in contract, tort or otherwise, will be limited to £200,000.00 (Two hundred thousand pounds).

## **12. Names and Internet Protocol Address**

12.1 The Customer warrants that it is the owner of or has been authorised to use any Name which it is using in connection with the Service.

12.2 E-Business Group Ltd cannot guarantee that any Name which has been requested as part of the Service will be available or approved for use.

12.3 E-Business Group Ltd may require the Customer to select an alternative Name in the event that this infringes or, in the reasonable opinion of E-Business Group Ltd, may infringe a third party's rights or be in breach of this Contract. In addition to any other rights, E-Business Group Ltd may suspend the Service until a replacement Name has been approved by E-Business Group Ltd.

12.4 The Customer is responsible for any dispute with third parties over its use of Names and it must resolve any dispute with the third party. E-Business Group Ltd will not take part in any dispute but may suspend any part of the Service associated with the disputed Name and may, in its sole discretion, make representations to the relevant naming authority.

12.5 E-Business Group Ltd will retain ownership in any internet protocol addresses it allocates to the Customer. E-Business Group Ltd grants a non-transferable licence to use the internet protocol addresses for the term of the Contract. This licence will automatically end once this Contract ends and the Customer will stop using the internet protocol address.

## **13. General**

13.1 Neither party will be liable for any breach of Contract (except for payment under the Contract) due to any cause beyond its reasonable control including Acts of God, adverse weather conditions, flood, lightening, fire, industrial action, act or omissions of Government or other competent authority, equipment breakdown, war, riot, civil disorder, malicious damage or default of its suppliers.

13.2 The Contract is governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.

13.3 The Contract is the entire agreement between the parties.

13.4 If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part will be deleted and the rest of the Contract will continue to be valid and enforceable to the fullest extent permitted by law.