

Thomas Miller Creative Ltd - Terms of Business

1 Terms of Business

- 1.1 These Terms of Business ("Terms") apply between Thomas Miller Creative Ltd a company incorporated in England and Wales (with registered number 6588438) whose registered office is at 7 Green Close Alresford Hampshire SO24 9DJ (referred to as "Us", "Our", "We", or "THOMAS MILLER" in these Terms); and Our Client (referred to as "You" or "Your" in these Terms).
- 1.2 Please read these Terms carefully. These Terms are made up of a number of constituent parts including any Service Specific Terms applicable to certain digital work set out in the Schedules, the Engagement Letter and each Working Agreement ("Terms"). These Terms shall govern our provision of Services to You and operate to the exclusion of any other terms and conditions referred to in correspondence or elsewhere or implied by trade custom, practice or course of dealing.
- 1.3 By agreeing to these Terms, You also agree to be bound by Our Acceptable Use Policy.

2 Definitions and Interpretation

- 2.1 In these Terms and in each Working Agreement the following terms shall have these meanings:

Acceptable Use Policy	means our acceptable use policy as set out at www.thomasmillerltd.com ;
Agency Material	means all artwork, copy, models, designs, photographs and all other materials created by Us for the Services, provided that it is approved by You and incorporated into Deliverables during the Term;
Applicable Data Protection Law	means the Data Protection Act 1998 or other applicable law or regulation as then may be amended from time to time;
Background Rights	means all Rights which We can demonstrate existed prior to entering into the Terms or were created during the Term but outside the scope of the Services and which are not intended for Your exclusive use (including without limitation computer programs, software, data, reports, and specifications);
Client Materials	means all materials provided to us by You for the purpose of, or in the course of us providing the Services;
Commencement Date	means the date referred to in Clause 3 and as set out in the Working Agreement;
Commissioned Material	means all artwork, copy, models, designs, photographs, films, sound recordings and all other material, the creation of which is commissioned by Us from third parties during the Term;

Customer Content	means any content, proprietary to You which has either been provided to Us, to provide the Services to You, or uploaded directly by You to a site hosted by Us or utilising Our Software;
Deliverables	means any and all work which is provided to you by us in the course of providing the Services;
Engagement Letter	means the letter of confirmation sent from us to you;
Existing Material	means any photograph, TV programme, feature film, character, music, sound recording, performance, book, painting, software or any other material protected by Rights, created by a third party and in existence at the time it is desired to make use of it for the purposes of providing the Services;
Fees	means the Fees for the relevant Service as set out in a Working Agreement;
Force Majeure Event	means any circumstances beyond our reasonable control (including a labour dispute between a party to these Terms and its employees as well as a labour dispute between a third party and its employees)
ICANN	means the Internet Corporation for Assigned Names and Numbers;
Local Administrator Costs	means any registration fees and other costs incurred by Us on Your behalf for the registration or attempted registration of domain names including currency conversions costs and bank charges;
Moral Rights	means all rights described in Part I, Chapter IV of the Copyright Designs and Patents Act 1988 and any similar rights of authors anywhere in the world;
Personal Data	means information defined as such in the Data Protection Act 1998 or any other law or regulation applicable to the information;
Pre-payment Costs Out	means any third party Pre-payment Costs Out or disbursements that are payable, either prior to or during the provision of the Services;
Rights	means any copyright, extended or revived copyright, design right, registered design, patent, performer's property right, trade mark, database right or any similar right exercisable in any part of the world, including any application for registration of any patent, trade mark, registered design or similar register able rights in any part of the world;
Server	means the computer server equipment operated by us or our subcontractors in connection with the provision of web services;
Services	means the services we will provide to you as set out in the Working Agreement, together with any other services which we agree to provide from time to time;
Service Specific Terms	means the additional terms and conditions relevant to certain digital Services as set out in the Schedules;

Term	means the period from the Commencement Date until the termination of this Agreement including any Initial Term;
Terms	means these Terms of Business, its Schedules, the Engagement Letter and any Working Agreements;
Territory	means the territories listed in the relevant Working Agreement, (including advertising in the World Wide Web or any other globally accessible medium);
TLD	means all top level domain names, as varied from time to time;
Users	mean any third party or users of Deliverables in accordance with Clause 14;
Web Site	means the area on the Server allocated by us to you for use by you as a site on the Internet;
Working Agreement	means the Working Agreement entered into between the parties and in accordance with Clause 5;
Working Day	means a day (other than a Saturday or a Sunday) on which the clearing banks in the City of London are open for business;
Working Hours	means 9.30am to 5.30pm on a Working Day; and
Year	means each period of twelve consecutive months during the Term beginning with the Commencement Date and its anniversaries.

2.2 In these Terms (except where the context otherwise requires) clause headings are included for convenience only and shall not affect the interpretation of these Terms, use of the singular includes the plural and vice versa and the use of any gender includes the other genders.

2.3 The Schedules form part of these Terms and shall have effect as if set out in full in the body of these Terms and any reference to these Terms includes the Schedules.

2.4 References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended or re-enacted and to any subordinate legislation made from time to time under that statute or provision.

2.5 All other defined words or phrases shall have the meaning given to them when they first appear in that form.

3 Appointment

3.1 We shall be appointed from the Commencement Date, or as specified in the Working Agreement and subject to any other Term set out in the Schedule(s) herein or the Working Agreement shall continue in full force and effect unless and until terminated by either party giving 30 days notice in writing to the other party.

4 Services

4.1 We will provide the Services to you as set out in each Working Agreement in accordance with these Terms.

4.2 The supply of Services by Us pursuant to these Terms shall be on a non-exclusive basis and you acknowledge that we may, on occasion, be asked to provide Services

which are the same or similar to the Services provided pursuant to these Terms to others.

- 4.3 We will allocate suitable personnel with appropriate levels of experience and seniority provide the Services. You acknowledge and agree that from time to time it may be necessary for us to replace personnel with alternative personnel with similar levels of seniority and experience.

5 Working Agreements for Services

- 5.1 Each Working Agreement shall be agreed in the following manner:
- 5.1.1 We shall, as soon as reasonably practicable, provide You with an estimate setting out the requirements and specifications of the Services discussed, (including but not limited to a description of what is to be done, relevant dates and milestones, details of Deliverables and Fees).
- 5.1.2 We shall discuss the estimate and when it has been agreed, both parties or their Authorised Person shall sign a copy upon which it shall become a Working Agreement forming a binding contract and subject to these Terms.
- 5.2 Once a Working Agreement has been made, no amendment shall be allowed except in accordance with Clause 6.
- 5.3 You will give us clear briefings and ensure that all the facts given about proposed projects and Your Service requirements are accurate. It is your responsibility to ensure that the terms of any Working Agreement are correct.
- 5.4 Unless otherwise expressly specified in the Working Agreement, all estimates that are given by us for Our Fees are valid for a period of 30 days from the date upon which they are given, after which time such estimates shall automatically expire.

6 Changes to the Services

- 6.1 If either party wishes to change the scope or execution of the Services ("Change"), it shall submit details of the requested Change to the other in writing.
- 6.2 If either party requests a Change, We shall, within a reasonable time, provide a written estimate to You of:
- 6.2.1 the likely time required to implement the Change;
- 6.2.2 any necessary variations to Our Fees arising from the Change; and
- 6.2.3 Any other impact of the Change of these Terms.
- 6.3 If You wish Us to proceed with the Change, We have no obligation to do so unless and until the parties have agreed the necessary variations to Our Fees, the Services and any other relevant terms of these Terms to take account of the Change.
- 6.4 Notwithstanding Clause 6.3, we may from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the Fees for the Services.

- 6.5 Unless we notify you to the contrary, no agent of, or person employed by or under Working Agreement with us, has any authority to alter or vary these Terms in any way.
- 6.6 No purported cancellation of any Working Agreement (or part thereof) will be effective unless and until we give written acknowledgement of cancellation. We may, as a condition of such acknowledgement, or otherwise on early termination in accordance with these Terms, impose such reasonable charge for cancellation as We shall consider appropriate, including a charge for any costs (including where relevant Local Administration Costs) and for any work incurred by Us at the date cancellation is acknowledged.
- 6.7 In the event of any such cancellation or amendment, you will reimburse us for any charges or Pre-payment Costs out We incur to which we are already committed. You shall also pay Our Fees covering the cancelled or amended Services, as well as any charges or penalties we incur as a result of the Change or cancellation.

7 Client Materials

- 7.1 Where you provide us with Client Materials, We may reject any physical or digital files or other materials supplied or specified by you who appear to us to be unsuitable for outputting on equipment normally adequate for such purposes without adjustment or other corrective action. We may make a charge for any additional cost incurred thereby.
- 7.2 The additional cost incurred if Client Materials are found by us to be unsuitable during production may be charged to you. In such circumstances we will take every care to secure the best results but shall not be responsible for (i) any imperfect work caused by the unsuitability of such data, and (ii) any delay in delivery occasioned by the additional work.
- 7.3 We may refuse to use any of the Client Materials which in our sole opinion contain defamatory or obscene matter, or may infringe any Rights of any third party.

8 Approvals and Authority

- 8.1 Any reference in these Terms to Your "Written Approval" shall mean written approval by your directors or employees authorised to approve our work and/or expenditure "Authorised Person". You will notify us in writing of the Authorised Person[s] and any change to the Authorised Persons during the Term. We shall not be responsible for any delay in the performance of the Services resulting from the unavailability of an Authorised Person to provide approval.
- 8.2 For the purposes of these Terms Written Approval shall mean approval signified by:
- 8.2.1 any fax, letter or purchase order on Your notepaper bearing the signature of an Authorised Person;
- 8.2.2 oral approval given by an Authorised Person provided this is in circumstances where We deem oral approval appropriate and time does not permit Written Approval and the said oral approval is confirmed within

one Working Day by way either of a contact report from THOMAS MILLER to You or a fax, letter or purchase order in accordance with the preceding sub-clause; or

8.2.3 An e-mail emanating from the personal e-mail address of an Authorised Person.

9 Your Obligations

9.1 You shall:

9.1.1 co-operate with Us in all matters relating to the Services;

9.1.2 where the Services require it, provide Us, Our agents, subcontractors, consultants and employees, in a timely manner at no charge, access to Your premises, office accommodation, data and other facilities as reasonably required by Us;

9.1.3 provide, in a timely manner, such Client Materials and other information as We may require to perform the Services, and ensure that it is accurate;

9.1.4 where the services are to be performed at Your premises, be responsible (at Your own cost) for preparing and maintaining the relevant premises for the supply of the Services;

9.1.5 Obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services and the use of Client Material.

9.2 You shall be liable to pay Us, on demand, all reasonable costs, charges or losses sustained or incurred by Us (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from Your fraud, negligence, failure to perform or delay in the performance of any of Your obligations under these Terms.

10 Fees and Expenses

10.1 You shall pay the Fees for the Services set out in the Working Agreement (or by agreement between the parties as a result of a Change). Unless expressly stated otherwise in the Working Agreement, all amounts payable will be invoiced on the terms of the Working Agreement or as set out in the Engagement Letter.

10.2 Unless stated otherwise in the Working Agreement or Letter of Engagement:

10.2.1 We will supply written estimates for all work to be undertaken; and

10.2.2 We shall require a duly executed Working Agreement agreeing to pay Our Fees before we begin work.

10.3 We shall add the following additional amounts to all invoices:

10.3.1 Pre-payment Costs Out; and

- 10.3.2 Where relevant, a levy of 0.1% of gross media cost in respect of contributions to the Advertising Standards Board of Finance (ASBOF), such levy to be non-refundable in any event.
- 10.4 Where a third party supplier has requested payment in advance of any Pre-payment Costs Out, You agree to pay our invoice for such costs immediately on presentation without abatement, withholding or set-off.
- 10.5 Our Fees are stated exclusive of VAT which (if and to the extent applicable) shall be payable at the prevailing rate.
- 10.6 A charge may be made to cover any additional work involved where copy supplied by you is not clear and legible.
- 10.7 Additional fees shall be charged for any alterations that you make to proofs submitted to you in accordance with Clause 12.1 or additional proofs that are necessitated thereby. When style, type or layout is left to our judgement, such additional Fees as set out in the Working Agreement will be payable for changes made by you.
- 10.8 We reserve the right to demand payment on account in advance of providing any Services and unless otherwise specified in the Letter of Engagement and/or Working Agreement may invoice in respect of work completed or to be carried out, before, during and after completion of such work as We see fit. In the event you instruct us to renew a domain name registration or a cost associated with renewal of hosting (including but not limited to server rental fees) you will be asked to make advance payment of this as a Pre-payment Cost Out.

11 Terms of Payment

- 11.1 Unless stated otherwise in a Working Agreement or Letter of Engagement, terms of payment are strictly fourteen (14) days from date of invoice. If You fail to make a payment in full on the due date then without prejudice to any other right or remedy available to Us, We shall be entitled to:
 - 11.1.1 charge You for all costs incurred in the collection of any amount outstanding, including but without prejudice to the generality of the foregoing all Fees, Pre-payment Costs Out, legal fees and court costs; and
 - 11.1.2 We have the right, at Our option, to suspend performance of the Services until You have paid all outstanding amounts together with all accrued interest due; and if Your late payment of any sum due causes Us to be charged interest or any surcharge by a third party supplier, You shall immediately reimburse Us the amount of such interest or surcharge.
- 11.2 We reserve the right to charge interest (both before and after any judgement) on all invoices presented to You which are not paid by the relevant due date at the annual rate of 3% above the base rate from time to time of NatWest Bank plc. Such interest will accrue on a monthly basis (a part of a month being treated as a full month for the purposes of calculating interest) from the date on which payment became overdue up

to the date on which we receive the full outstanding amount together with all accrued interest.

- 11.3 Where a surcharge is levied by a third party supplier against us due to late payment and this result from late payment by You, You shall immediately reimburse us the amount of such surcharge, together with any accrued interest charged by the supplier in respect of the overdue amount.
- 11.4 If late copy charges are levied by a media owner against us and such charges do not result from our negligent or wilful act or omission, you shall immediately reimburse the amount of such late copy charges to us.

12 Approval and Delivery

- 12.1 Proofs of all work may be submitted for written approval and we shall incur no liability for any errors not corrected by you in proofs so submitted.
- 12.2 In no circumstances shall we be liable for any delay in transit, howsoever caused.
- 12.3 Delivery of Deliverables shall be accepted when tendered and thereupon or, if earlier, on notification that the work has been completed.
- 12.4 Unless otherwise specified, a charge may be made to cover any extra costs involved in making delivery.
- 12.5 Should expedited delivery be agreed, an extra cost may be charged to cover any overtime or any other additional costs involved.
- 12.6 Should work be terminated or suspended at your request or delayed through any default of yours for a period of 30 days, we shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.
- 12.7 Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to Us within three days of delivery (or, in the case of non-delivery, within 7 days of despatch of the goods) and any claim in respect thereof must be made in writing to Us within seven days thereafter. All other claims must be made in writing to us within 14 days of delivery. We shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where You prove that (i) it was not possible to comply with the requirements and (ii) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim made as soon as reasonably possible.
- 12.8 We are entitled to request and receive payment in advance for postage necessary to perform a bulk mailing on your behalf. We are also entitled to a reasonable financing charge on all postage not paid in advance and a handling charge on freight (both air and surface) and courier services to cover administration, handling and materials (for example boxes, envelopes, etc.).
- 12.9 We will endeavour to make to deliver the correct quantity of Deliverables ordered, but where such deliverables include hard copy media, estimates are conditional upon

margins of 10% being allowed for over's or shortage the same to be charged or deducted as appropriate.

13 Media and Suppliers: Business Terms and Selection

- 13.1 Unless otherwise stated these Terms, Our Working Agreements with media and suppliers in respect of the Services may be made in accordance with media rate cards and/or other standard or individual conditions and Working Agreements relevant to the specific Service. The rights and liabilities as between you and us shall correspond to those between us and the various media and other suppliers under such conditions, including in particular any rights of amendment, omission and cancellation. On Your written request, we shall supply you with the relevant terms and conditions.
- 13.2 We shall use reasonable care and skill in the selection and appointment of media and other suppliers and the agreement of the terms and conditions of such appointment. Should you request, we will obtain more than one quote for a particular supply and discuss these with you before placing an order.

14 Intellectual Property

- 14.1 Unless otherwise agreed in a Working Agreement, at the end of the Term and subject to the remainder of this Clause 14, We shall assign to You all Rights in the Agency Material together with the right to sue for damages for the past infringement, provided that You have complied with all of Your obligations under these Terms (including, for the avoidance of doubt, any obligations relating to payment of Fees and the period of notice).
- 14.2 We shall use reasonable endeavours to obtain all usage rights in any Commissioned Material as is deemed reasonably necessary by us.
- 14.3 We shall use reasonable endeavours to obtain all usage rights in Existing Material as is deemed reasonably necessary by us at the time such material is selected or obtained.
- 14.4 We shall use reasonable endeavours to ensure that all Moral Rights in the Agency Material and Commissioned Material are waived together with any Performers' Property Rights (where applicable), but if this is not possible in respect of any Commissioned Material, We will discuss this with You in advance of concluding the relevant commissioning Working Agreement and proceed as agreed.
- 14.5 To the extent that any Agency Material contains Background Rights, such Background Rights remain our property or that of Our Licensor.
- 14.6 Subject to this Clause 14, we grant (or will procure for you) a non-exclusive, non-transferable licence to use Background Rights during the Term for the sole purpose of using the Deliverables.
- 14.7 If we provide or procure any software as part of the Services which comprises Background Rights and/or comprises third party software, you shall use the software only as strictly necessary to benefit from the Services or use the Deliverables. If a

- licence agreement accompanies any software we provide to You, You shall comply with its Terms.
- 14.8 You shall not (a) reproduce, reverse engineer, distribute, disassemble, decompile, modify, adapt, translate, create derivative notes from or transfer or transmit Our Background Rights in any form or by any means or (b) use Our Background Rights for any purpose other than as set out in these Terms.
- 14.9 Where, under these Terms or relevant Service You are permitted to make the Deliverables or the benefit of the Services available for use by Users, You will ensure that all such Users will comply with this Clause 14.
- 14.10 You shall notify Us of any intended use of Deliverables after the Term and in addition to any fee payable for use of software Deliverables specified in the Working Agreement, where such use is outside of the scope set out in the Working Agreement, You will pay Us a fee equivalent to 5% of the gross amounts payable for the media in which the Deliverables are used. Such sums shall be paid to us within 14 days after the due dates for payment in respect of the media in which such Deliverables are used.
- 14.11 Notwithstanding any of the above We shall:
- 14.11.1 be able during and after the Term to use the Deliverables to the extent that they consist of Background Rights and/or Existing Material;
 - 14.11.2 be able during and after the Term to use Deliverables (after first publication, broadcast or transmission on Your behalf) for the purpose of promoting Our business; and
 - 14.11.3 Retain the copyright in any material contained in any presentation made in competition with any other agency in the event of our presentation being unsuccessful.
- 14.12 You grant or will procure for Us a non-exclusive, non-transferable, royalty free licence to use any Client Material furnished by or used by You during the Term, to the extent only as required by Us in order to provide the Services
- 14.13 You are solely responsible for obtaining all intellectual property rights clearances and/or other consents and authorisations necessary in respect of the names, marks or other materials which are the object of the Services and You warrant that Our use of such names, marks or materials and any other information, documents or software which You supply to Us under these Terms shall not infringe any third party's intellectual property rights or be otherwise unlawful or illegal.
- 14.14 On becoming aware of any dispute between You and any other individual or organisation regarding the Client Materials, We reserve the right, at Our sole discretion and without notice or liability to You, to cease any further use of such Client Materials including, without limitation, deleting or suspending them from Our computer systems and/or to make appropriate representations or provide information to any relevant authority or interested party.

- 14.15 You shall maintain the copyright notice specified in writing by THOMAS MILLER on all Deliverables.
- 14.16 We may require you to publish credits, disclaimers or other materials on Deliverables as THOMAS MILLER reasonably deems appropriate. In addition, THOMAS MILLER shall have the right to review Deliverables from time to time and remove or edit content which in its sole discretion THOMAS MILLER considers infringes any applicable laws, regulations or third party rights (such as materials which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) ("Inappropriate Content"). THOMAS MILLER shall notify the customer immediately if it becomes aware if any allegation that any content of may be Inappropriate Content.
- 14.17 You shall indemnify THOMAS MILLER and hold it harmless against all damage, losses and Pre-payment Costs Out arising as a result of any action or claim that the content of the Deliverables (other than the Content created by THOMAS MILLER) constitutes Inappropriate Content.
- 14.18 We are the proprietor of the name 'THOMAS MILLER CREATIVE' in the UK and other countries. All other trademarks, product names and company names or logos used by us are our property of that of their respective owners. No permission is given by Us in respect of the use of any such (or confusingly similar) trade marks, get-up, product names, company names, logos or titles and You acknowledge that such use may constitute an infringement of the holder's rights.

15 Risk and Title

- 15.1 All Deliverables prepared by us and paid for by you will be your property, but you will not necessarily own the copyright(s) or other Rights in them. For the avoidance of doubt, you shall not own the Rights in Existing Materials or Background Rights or Rights in Commissioned Material where such material incorporates third party rights.
- 15.2 The risk in the Deliverables shall pass to you on delivery and you should therefore be insured accordingly.
- 15.3 Notwithstanding delivery and passing of risk, the legal property in, title to a beneficial ownership of the Deliverables shall remain with us until you have paid the Fees in full.
- 15.4 Until payment is made in full You shall possess the Deliverables as fiduciary bailee and agent only and shall store each of the Deliverables securely and separately from Your own goods or those of any other person and in a manner which makes them readily identifiable by reference to Our invoices.
- 15.5 You grant us an irrevocable licence to enter at any time any vehicle or premises owned or occupied by you or in your possession for the purpose of repossessing and removing any of the Deliverables, the property in which has remained ours under Clause 15.4. You indemnify us and hold us harmless against liability in respect of

damage caused to such vehicles or premises in such repossession and removal where such damage was not reasonably practicable to avoid.

- 15.6 All Client Materials shall, while it is in our possession, or in transit to or from you, shall be deemed to be at your risk unless otherwise agreed and you should insure accordingly.
- 15.7 We shall be entitled to make a reasonable charge for the storage of any Client Materials left with us before receipt of the order or after notification to you of completion of the work.
- 15.8 We shall be entitled to return the Client Materials to you by delivery to your offices at the address shown in the Engagement Letter or Working Agreement by giving You 30 day's written notice that we no longer require the Client Materials.
- 15.9 Until payment is made, you may only dispose of the Deliverables by way of sale on behalf of us. Provided that such sale shall be in the ordinary course of your business. You shall, at our request, immediately assign to us any debts arising from such sale.
- 15.10 The provisions of this Clause 15 are without prejudice to our rights and remedies if you fail to pay the Fees in accordance with these Terms.

16 Confidential Information

- 16.1 The parties acknowledge a duty not during or after the Term to disclose without the other's prior written permission any confidential information either concerning the other's business, its business plans, customers or associated companies or resulting from studies or surveys commissioned and paid for by You.
- 16.2 In particular during and after the Term We acknowledge our responsibility to treat in complete confidence all the marketing and sales information and statistics relating to your business which you may supply to us in the course of any Services We provide.
- 16.3 From now on in this Clause 16 "Information" will be used to describe the categories of information referred to in Clauses 16.1 and 16.2.
- 16.4 You acknowledge and agree that any identifiable and original idea or concept presented by Us to You in relation to any promotion or advertising campaign invented or developed by Us shall be acknowledged as being available only for such promotion or campaign and shall not be used for any other purposes whatsoever without Our express prior written consent. Even where no promotion or campaign is agreed, the ideas and concepts presented to you shall remain strictly confidential and shall not be used in any way, including communication to any third party, without our express prior written consent.
- 16.5 For the avoidance of doubt, the restrictions in this Clause 16 shall not prevent:
 - 16.5.1 the disclosure or use of Information in the proper performance of Our duties;
 - 16.5.2 the disclosure of Information if required by law; or
 - 16.5.3 The disclosure of Information which has come into the public domain otherwise than through unauthorised disclosure.

- 16.6 You acknowledge that nothing in these Terms shall affect our rights to use as we see fit any general marketing or advertising intelligence gained by us in the course of our appointment.
- 16.7 We shall be entitled to refer to You as Our client and the name(s) of products in respect of which We provide Services in publicity and promotional material (on and off-line) without Your prior consent, unless You send notice in writing to Us (by post to Thomas Miller Creative, Signal House Jacklyns Lane Alresford SO24 9JJ or by email to hello@thomasmillerltd.com) referencing this clause and requesting no publicity. Any request will only apply to publicity material to be prepared after such notice is given and we will be under no obligation to cease using material printed or published prior to such notice.

17 Warranties and Indemnities

- 17.1 If there is an error in a Deliverable which is published or publication is delayed or does not occur as planned, we will not be liable unless this is caused by our default or neglect.
- 17.2 You agree to indemnify Us and hold Us harmless in relation to any loss or liability, costs (including legal costs) or damages We sustain as a result of Your breach of these Terms;
- 17.3 You warrant that to the best of Your knowledge, information and belief:
- 17.3.1 all information supplied to Us before and during the Term will be accurate and not in any way contrary to any law applicable in any part of the Territory;
 - 17.3.2 that You own the Client Materials and all Rights in them; and
 - 17.3.3 that the Client Materials do not infringe any Rights of any third party and would not if used or published in the Territory or the provision of any Services infringe any Rights of any third party.
- 17.4 You indemnify Us, keep Us indemnified and hold Us and Our directors, officers, employees and agents harmless in respect of all costs, claims, liabilities and Pre-payment Costs Out to which We may be subject as a result of any claim that any of the Client Materials, or any Deliverables created by Us on Your instructions, contain any defamatory or obscene matter or infringes any Rights of any third party. The indemnity shall extend (without limitation) to any amount paid on legal advice in settlement of any such claim and to our legal costs.
- 17.5 You agree to indemnify and keep indemnified and hold Us and Our directors, officers, employees and agents harmless from and against any claim brought against Us by a third party resulting from the provision of Services by Us to You and/or Your use of the Server and/or any domain name registered pursuant to the Services, and in respect of all losses, costs, actions, proceedings, claims, damages, Pre-payment Costs Out (including reasonable legal costs and Pre-payment Costs Out), or liabilities, whatsoever suffered and howsoever incurred by Us or them in consequence of Your

breach or non-observance of these Terms (including but not limited to any failures by You to comply with applicable Data Protection Laws).

- 17.6 You accept full legal responsibility in respect of any Deliverables approved by you for publication and will indemnify us and hold in harmless in respect of any loss or liability, costs (including legal costs) or damages incurred as a result of any use of the Advertising by You.
- 17.7 We may refuse to use any of the Client Materials which in our sole opinion contain defamatory or obscene matter, or may infringe any Rights of any third party.

18 Limitation of Liability

- 18.1 Nothing in these Terms shall exclude or in any way limit Our liability for fraud, or for death or personal injury caused by Our negligence, or any other liability to the extent such liability may not be excluded or limited as a matter of law. Subject to this but including any liability arising under any indemnity under these Terms:
- 18.1.1 Our maximum aggregate liability under or in connection with these Terms, whether in Working Agreement, tort (including negligence) or otherwise, will in no circumstances exceed the total remuneration payable to Us hereunder during the preceding 12 months; and
- 18.1.2 We will not be liable under these Terms for any loss of actual or anticipated income or profits, loss of Working Agreements or for any special, indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of Working Agreement or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.
- 18.2 These terms state the full extent of our obligations and liabilities in respect of the performance of the Services. The parties agree that any condition, warranty representation or other term concerning the performance of the Services which might otherwise be implied into or incorporated in these Terms, whether by statute, common law or otherwise, is excluded to the maximum extent permitted by law.
- 18.3 Whilst We shall use reasonable skill and care in the delivery of the Services You acknowledge that the provision of certain Services: (a) are subject to the inherent technical and operational limitations of the Internet, including, but not limited to, the lack of security and unreliability of its communications, the evolving nature of its organisational, legal and regulatory framework, and the potential inaccuracy and variable standards of its relevant data repositories, such as national domain name registries, and is therefore made without guarantee as to accuracy or completeness for which We shall have no liability to You or any third party;(b) may, in whole or in part, be prohibited, restricted or otherwise subject to relevant third party Working contractual provisions, such as the terms and conditions of Internet naming authorities, for which We shall have no liability to You and You warrant that You shall ensure that You are made aware of, and comply with, such provisions.

- 18.4 We shall have no liability to you where claims are based in whole or part of the failure of your own software or hardware compatibility with the Services provided.
- 18.5 We shall use reasonable endeavours to provide continuing availability of the Server and the Services but we shall not, in any event, be liable for Service interruptions or down time of a Server.
- 18.6 We shall not be liable for any delay or failure to perform Our obligations under these Terms where such delay or failure is due to circumstances beyond Our reasonable control including, without limitation, any act or omission by You, Your agents, subcontractors, consultants, employees or providers of Internet connectivity or for any Force Majeure Event.
- 18.7 Any performance dates, time deadlines or Milestones set out in the Working Agreement are estimates only and time for performance by us shall not be of the essence in these Terms.

19 Termination

- 19.1 We may terminate our agreement with you if you fail to pay any sums due to us as they fall due.
- 19.2 Either party may terminate this agreement by service of notice in accordance with the provisions of Clause 3.
- 19.3 We may terminate forthwith by notice in writing to You if You:
- 19.3.1 are in material breach of any of these Terms and, in the case of a breach capable of remedy, fail to remedy such breach within 30 days of receipt of written notice giving full particulars of the breach and of the steps required to remedy it;
 - 19.3.2 (being a company) pass a resolution for winding up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court makes an order to that effect;
 - 19.3.3 (being a partnership or other unincorporated association) are dissolved or (being a natural person) die;
 - 19.3.4 become or are declared insolvent or convene a meeting of or make (or propose to make) any arrangement or composition with its creditors; or
 - 19.3.5 have a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer appointed over any of its assets; or
 - 19.3.6 Ceases, or threatens to cease, to carry on business.
- 19.4 The parties' rights, duties and responsibilities shall continue in full force during the agreed period of notice and whether or not there is a period of notice, You shall pay all sums due in respect of work done and expenditure committed by Us until the end of the Term.
- 19.5 Upon the termination of these Terms and payment by You of all items properly chargeable to You hereunder, We will give You all reasonable co-operation in transferring, subject to the approval of third parties where required, all reservations,

Working Agreements and arrangements with media or others for space, time or materials yet to be used and subject to Clause 14, all rights and claims thereto.

19.6 On termination of the Agreement We shall be entitled immediately to block Your Web Site and to remove all data located on it. We will hold such data for a period of 14 days and allow you to collect it at your expense, failing which shall be entitled to delete all such data. We shall further be entitled to post such notice in respect of the non-availability of Your Web Site as We think fit.

20 Survival of Obligations on Termination

20.1 The following clauses shall survive the end of the Term: 2, 4, 9, 11 and 12 - 31.

21 Data Protection

21.1 You warrant that any data (including mailing lists or customer databases) supplied to Us shall comply with the requirements of all legislation in force from time to time including, without limitation, all Applicable Data Protection Law.

21.2 You acknowledge that in providing the Services, We may process Personal Data, including, without limit, transferring it outside the European Economic Area and/or disclosing it to third parties. We will have in place adequate technical and organisational security measures so that the confidentiality of this processing complies with Applicable Data Protection Law.

21.3 You will:

21.3.1 comply with, and its acts or omissions will not cause Us to be in breach of, any Applicable Data Protection Law;

21.3.2 obtain adequate consent from Your customers and employees, including for transfers of Personal Data; and

21.3.3 be responsible for the instructions you may give to us regarding the processing of Personal Data. We will act on those instructions as reasonable necessary for the provision of Services.

21.4 We will:

21.4.1 comply with Our responsibilities as a Data Processor; and

21.4.2 Act in accordance with your reasonable instructions in relation to the processing of personal data under this Agreement.

22 Waiver

22.1 The failure of either party to enforce or to exercise at any time or for any period any term of or any right pursuant to these Terms shall not be construed as a waiver of any such term or right and shall in no way affect that party's right later to enforce or exercise it.

23 Non-solicitation

23.1 You agree that You will neither on Your own account or in partnership or association with any person, firm, company or organisation or otherwise and whether directly or indirectly during or for a period of 6 months from the end of the Term solicit or entice away or attempt to solicit or entice away (or authorise the taking of any such action by

any other person) any of our employees, consultants or subcontractors without Our consent.

23.2 Any consent given by Us in accordance with Clause 24.1 shall be subject to You paying to Us a sum equivalent to 20% of the then current annual remuneration of the employees , consultant or subcontractor in question or, if higher, 20% of the annual remuneration to be paid by You to that employee, consultant or subcontractor.

24 Severance

24.1 If any provision of these Terms is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable then such invalidity or unenforceability shall not affect the other provisions of these Terms which shall remain in full force and effect. The parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

25 Assignment

25.1 You shall not assign, transfer, charge or deal in any other manner with these Terms or any of your rights under them without our prior written consent. We reserve the right to assign these Terms (or any part thereof) on notice to you.

26 Sub-Working Contractors

26.1 We may, at our sole and absolute discretion, sub-Working Agreement any or all of our obligations.

27 Third Party Rights

27.1 A person who is not a party to this Agreement has no rights under the Working Agreements (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

28 Entire Agreement

28.1 These Terms and the documents referred to in them (the 'Working Contractual Documentation') constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of these Terms.

28.2 The parties agree that neither of them have been induced to enter into any Working Contractual Documentation in reliance upon any warranty, representation, statement, agreement or undertaking of any kind (whether negligently or innocently made) of any person other than as expressly set out in these Terms as a warranty. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

28.3 No variation of these Terms or of any of the documents referred to in those (including for the avoidance of doubt a Working Agreement or the Engagement Letter) shall be valid unless it is in writing and signed by or on behalf of each of the parties.

29 Notices

29.1 Any notice, invoice or other communication which either party is required by these Terms to serve on the other party shall be sufficiently served if sent to the other party

at its specified on a Working Agreement or the Engagement Letter (or such other address as is notified to the other party in writing) as follows:

- 29.1.1 by hand;
- 29.1.2 by registered or first class post or recorded delivery; or
- 29.1.3 By facsimile transmission confirmed by registered or first class post or recorded delivery.

Notices sent by registered post or recorded delivery shall be deemed to be served three (3) Working Days following the day of posting. Notices sent by facsimile transmission shall be deemed to be served on the day of transmission if transmitted before 4.00 p.m. on a Working Day, but otherwise on the next following Working Day. In all other cases, notices are deemed to be served on the day when they are actually received.

30 Governing Law and Jurisdiction

- 30.1 These Terms shall be governed by and construed in accordance with the law of England and Wales.
- 30.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of England over any claim or matter arising under or in connection with these Terms.

31 Dispute Resolution

- 31.1 If any claim or dispute arises under or in connection with these Terms, the parties will attempt to settle such claim or dispute by negotiation.
- 31.2 If any claim or dispute cannot be settled by negotiation within 21 days after either party has made a written offer to the other party to negotiate a settlement to such claim or dispute, the parties shall, before resorting to court proceedings, attempt to resolve the claim or dispute by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 31.3 If the parties have not settled any claim or dispute by mediation within 42 days from the initiation of the mediation, the dispute shall be referred to and finally resolved by the courts in accordance with clause 30.

SCHEDULE 1

Service Terms: Domain Registration

1 General

- 1.1 In addition to these Terms, all domain name registrations and their use are subject to the terms and conditions of any registrar we may use to fulfil a Working Agreement and the rules and regulations of the relevant Network Information Centre (NIC) or similar registry administrator. As a condition of this Terms You agree to be bound by the rules, regulations and dispute resolution policies applicable to each domain name applied for on your behalf. Details of those terms and conditions are available from the relevant registries. We shall not be liable for losses incurred by your failure to comply with such terms.
- 1.2 We do not warrant or guarantee that the domain name applied for will be registered in your name or that it is capable of being registered by you. Accordingly, you should take no action in respect of your requested domain name(s) until you have been notified that your requested domain name has been registered.
- 1.3 The registration of a domain name and its ongoing use is subject to the relevant naming authority's terms and conditions of use and you are responsible for ensuring that you are aware of those terms and conditions and can and do comply with them. You irrevocably waive any claims you may have against us in respect of the decision of a naming authority to refuse to register a domain name and, without limitation, agree that the administration charge paid by you to us shall be non-refundable in any event.
- 1.4 We accept no responsibility in respect of the use of a domain name by you and any dispute between you and any other individual or organisation regarding a domain name must be resolved between the parties concerned and unless we expressly agree otherwise we will take no part in any such dispute. We reserve the right, on Our becoming aware of such a dispute, at Our sole discretion and without giving any reason, to either suspend or cancel the domain name, and/or to make appropriate representations to the relevant naming authority. You warrant and undertake that to the best of your knowledge and belief neither the registration of the domain name nor the manner in which it is directly or indirectly used by you or any of Your Licensees directly or indirectly infringes the Rights of a third party.
- 1.5 You are solely responsible for providing us with accurate and up-to-date contact information and we shall not accept any responsibility for any cancellation or refusal to renew a domain name by the relevant naming authority due to any failure to provide such information. Any changes made by you to your details are your own responsibility.
- 1.6 We reserve the right to charge an administrative fee in respect of any transfers to another web hosting or domain name registration company.

Information you are required to submit

- 1.7 As part of the registration process, you are required to provide certain information and to update promptly this information as needed to keep it current, complete and accurate.

Additional information maintained about your registration

- 1.8 In addition to the information you provide, we may maintain records relating to your domain name registration. These records may include:
- The original creation date of the registration;
 - The submission date and time of the registration application to Us and by Us to the proper registry;
 - Communications (electronic or paper form) constituting registration orders, modifications, or terminations and related correspondence between You and Us;
 - Records of account for Your domain name registration, including dates and amounts of all payments and refunds;
 - The IP addresses of the primary name server and any secondary name servers for the domain name;
 - The corresponding names of those name servers;
 - The name, postal address, e-mail address, voice telephone number, and where available, fax number of the technical contact for the domain name;
 - The name, postal address, e-mail address, voice telephone number, and where available, fax number of the zone contact for the domain name;
 - The expiration date of the registration; and
 - Information regarding all other activity between you and us regarding your domain name registration and related services.

Obligations relating to provided data

- 1.9 In the event that, in registering the domain name, You are providing information about a third party, You hereby represent and warrant that You have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in these Terms, and (b) that You have obtained that third party's express consent to the disclosure and use of that party's information as set forth in these Terms.
- 1.10 We will take reasonable precautions to protect the information we obtain from you from our loss, misuse, unauthorised access or disclosure or use, or alteration or destruction, or that information. We will have no liability to you or any third party to the extent such reasonable precautions are taken.
- 1.11 You hereby consent to our disclosure and use of information provided by you in connection with the registration of a domain name (including any updates to such information), whether during or after the term of your registration of the domain name or termination of the Services. You hereby irrevocably waive any and all claims and

causes of action you may have arising from such disclosure or use of your domain name registration information by us.

Ownership of data

- 1.12 You agree and acknowledge that we own the Rights in Our domain name database, and all information and derivative works generated from the domain name database.

SCHEDULE 2

Service Terms: Shared Website Hosting / Email / Online Store Systems

- 1.1 These additional Terms apply specifically to any website hosting services that we provide to you.
- 1.2 We specifically exclude any warranty as to the accuracy or quality of information received by any person via the Server and in no event will we be liable for any loss or damage to any data stored on the Server. You are responsible for maintaining insurance cover in respect of any loss or damage to data stored on the Server.
- 1.3 You warrant to us that you will only use these Services and Your Web Site for lawful purposes. In particular, You further warrant and undertake to Us that:
 - 1.3.1 You will not, nor will You authorise or permit any other party to, use the Server in violation of any law or regulation; and
 - 1.3.2 You will conform to Our Acceptable Use Policy from time to time; and
 - 1.3.3 Will not yourself, and will ensure that none of your end users, make excessive or wasteful use of the Server to Our detriment or that of our other customers.
- 1.4 We may suspend the Service immediately in our sole discretion if we receive any complaint that material on the Server may be unlawful, harmful or defamatory or if we believe our standards of Our Acceptable Use Policy have been breached.
- 1.5 We may disclose your name and address to a complaining individual or naming authority if in our reasonable discretion, it is necessary or appropriate to do so.
- 1.6 You are responsible for sending email in accordance with any relevant legislation (including data protection legislation and Distance Selling Regulations) and for sending the same in a secure manner. We will take all reasonable steps to ensure accurate and prompt routing of messages but we will not accept any liability for non-receipt or misrouting or any other failure of email.
- 1.7 Hosting services are provided on the basis of an initial term of 12 months which, [subject always to your right to cancel the Services on payment of any outstanding Fees and/or Pre-payment Costs Out and a cancellation fee equivalent to 90 days' services.] This Service will automatically continue for additional 12 month periods thereafter unless and until terminated in writing on 90 days notice.
- 1.8 You warrant, undertake and agree that:
 - (a) all transactions within any online store system operated by You will be Working Agreements for the sale of goods between You as the merchant and Your end-user customer and You agree that We may include an exclusion of Our liability in respect of such purchases and transactions in such form as We deem appropriate;
 - (b) The information contained within any online store system complies with all applicable law, (including, without limitation, any Distance Selling Regulations and Applicable Data Protection Law);

(c) You will keep secure any identification, password and other confidential information relating to your account and you will notify Us immediately of any known or suspected unauthorised use of your account, or any known or suspected breach of security, including loss, theft or unauthorised disclosure of your password information.

1.9 Whilst we shall use reasonable endeavours to ensure the integrity and security of the Server, We do not guarantee that the Server will be free from unauthorised users or hackers.

SCHEDULE 3

Service Terms: Co-Location, Shared and Dedicated Server Hosting

- 1.1 Co-location and dedicated hosting services are provided on the basis of an initial term of 12 months, except for services defined in 1.2, which, subject always to Your right to cancel the Services on payment of any outstanding Fees and/or Pre-payment Costs Out and a cancellation fee equivalent to 90 days' services, will automatically continue for additional 12 month periods thereafter unless and until terminated in writing on 90 days' notice.
- 1.2 The rental of dedicated hosting services are provided on the basis of an initial term of 24 months which, subject always to Your right to cancel the services on payment of any outstanding charges and a cancellation fee equivalent to the remainder of the services, will automatically continue for additional 12 month periods thereafter unless and until terminated in writing on 90 days' notice.
- 1.3 Unless otherwise agreed in a Working Agreement We will invoice you in advance either monthly, quarterly, annually or bi-annually such payment periods to be agreed prior to the commencement of the Service. The first invoice will cover the set-up, one month's bandwidth, machines rental or purchase (if any) and any additional rack space charges purchased served must be fully paid for before service will commence. We reserve the right to charge you for excess bandwidth used above the agreed bandwidth (such costs to be set out in the relevant Working Agreement).
- 1.4 These Service Levels (SLAs) set out the levels of technical support available in the event of network unavailability and the limits of Our individual responsibilities as regards the Co-Located or dedicated server Services. (A Glossary of terms is included at the end of this Schedule):

TECHNICAL SUPPORT HOURS

Monitoring of Network:	24 hours a day, 365 days a year
Technical support working hours:	Monday to Friday: 9.00am to 5.30pm
Saturday & Sunday:	Emergency cover only
Public holidays:	Emergency cover only

SECURITY

Access to Our data centres is restricted to a limited number of authorised staff. Security controls such as photo ID cards, CCTV, UPS back up and environmental control are all used to protect our data centres.

BACKUPS AND RECOVERY

We can offer all co-located and dedicated servers a range of backup options; monthly, weekly or daily backups. These services are usually at additional cost. In accordance with the Working Agreement, in

the event that You require a recovery from backup, this will be the subject of a technical support call for which cost may be charged depending on the reason for needing system restore.

OUR RESPONSIBILITIES

We will:

- Provide either, a dedicated server or a virtual private server configured to Our server build or rack space for co-located server;
- Provide a 100Mbps Network connection on Our switch;
- Provide power (UPS) to You (Power);
- Upon request, confirm that the relevant server responds to an echo test (Ping);
- Maintain Your server in an appropriate environment as defined in these SLAs;
- Initiate customer requested power recycles or reboots, up to a maximum of 4 occurrences in a calendar month, within technical support working hours. Any additional power recycle requests would incur an additional charge. Please be aware that reboots may cause loss of data and this provision will be activated only upon the failure of an echo test to the customer's server;
- Provide DNS (Domain Name Server) management for Domains registered with Us and on Our Name Servers, at no additional charge, during the Working Agreement period of this service:
 - Adding/ removing Domain names
 - Modifying zone records
 - Managing DNS configuration
 - Providing secondary DNS (if requested)
- Enable server hardware management.

All dedicated servers are provided with the standard manufacturer's hardware warranty. This would be implemented in the following way:

SERVERS PURCHASED BY CUSTOMERS:

We will co-ordinate arrangements between the manufacturer and you. Upon request we can provide alternative solutions.

SERVERS RENTED BY CUSTOMER:

We will implement the warranty and provide a suitable alternative solution whilst repairs are carried out.

YOUR RESPONSIBILITIES

It is your responsibility to operate and manage any dedicated server allocated to you, to ensure the integrity and security of your server and to comply with Our Acceptable Use Policy. We are not responsible for ensuring the integrity and security your servers.

These responsibilities include but are not limited to:

- Carrying out any configuration or customisation work after the initial server build;
- Installing and maintaining applications, ensuring applications are appropriately installed, configured and maintained including the interfaces to the Operating system;
- Maintaining Operating System Software at appropriate levels including the application of available software patches and updates;
- Ensuring adequate virus protection by updating appropriate patches;
- Ensuring that no activity effects the efficiency of the scheduled backup process;
- Ensuring the licenses are held for all software on the server;
- Ensuring that all non-essential ports are closed for security purposes and the provision of all necessary measures to protect the server from possible hacking;
- Abiding by the Acceptable Use Policy;

You should:

- Regularly change your passwords. Under no circumstances should You disclose Your username or passwords to any third parties (except as required to provide support); and
- Be aware of any notices posted on [http:// www.thomasmillerltd.com](http://www.thomasmillerltd.com) and action any consequent recommendations;

REMOVAL FROM NETWORK

We reserve the right to remove any server from the network should we determine, in our absolute discretion, that a server has been compromised or in any way used inappropriately.

Events, which may trigger such actions, include but are not limited to:

- Server known to be involved in a DDoS (Distributed Denial of Service Attack);
- Server found to be probing ports for vulnerabilities on other servers;
- Server is involved in any form of illegal activity;
- Server has been compromised (Cracked/ Hacked);
- Server is causing network disruption however caused; or
- You do not or have been found complying with Our Acceptable Use Policy.

PHYSICAL ACCESS

Our dedicated and co-located server Services are designed to be managed remotely and as such we do not expect you to require physical access to your server. However, subject to agreement with our technical support team, usually in the case where 72 working hours notice is given and the appointment occurs during technical support working hours, there is no additional charge for this physical access (limited to one occasion per calendar month for one hour). Visits which extend beyond these hours will incur a reasonable access fee.

In any other circumstance you will be charged an appropriate access fee.

PLANNED AND EMERGENCY DOWNTIME

We reserve the right to close down customer systems with no notice should emergency maintenance become necessary.

For planned downtime, we will inform you by email.

It is not expected that these planned downtimes will exceed 8hrs per month and this planned downtime is excluded from any calculation of availability.

ACTIVITY/ KPI

Installation of server: Within 5 Working Days of clearance of remittance.
Reboot (during technical support working hours): Within 4 Working Hours of request (please be aware that this may cause loss of data). This does not include problem diagnosis or troubleshooting.

GLOSSARY OF TERMS

Backup	The activity of copying files so that they will be preserved in case of equipment failure or other catastrophe.
CCTV	Closed circuit television.
Crack	To break into a computer system.
DDoS	A distributed denial-of-service (DDoS) attack is one in which a multitude of compromised systems attack a single target, thereby causing denial of service for users of the targeted system.
DLT	Digital Linear Tape is a form of magnetic tape and drive system used for computer data storage and archiving.
DNS	The domain name system (DNS) is the way that Internet domain names are located and translated into Internet Protocol addresses.
Hack	To modify a program/ server, often in an unauthorized manner, by changing the code itself.
Initial server	Build Server Operating System configured and set up with the latest available patches and/or service packs from the manufacturer. Additionally installation and configuration of any specific third party software requested by the customer and agreed by Us upon initial order placement.
Internet Protocol (IP)	The method or protocol by which data is sent from one computer to another on the Internet.
Network	The network infrastructure provided between the customer's server and the internet exchange.
Ping (echo test)	A basic Internet program that lets You verify that a particular IP address exists and can accept requests.
Pipe	Provision of uncontented network and internet connectivity.

Power Provision of uninterruptible power supply.

Reboot Power recycling of the server.

UPS Uninterruptible power supply.

Technical support other than described above, may be purchased separately as Consultative Support and is provided in accordance with Our Standard rate card (available on request).

In the event that any downtime is caused by your intervention/error and then you approve the use of Consultative Support to remedy the error, then you are liable for the relevant Consultative Support charges incurred in resolving the problem.

It is not possible for us to offer DNS management for domains that are not on Our Name Servers. We offer a free transfer service for domains transferred to Our DNS but may be subject to registrar fees for registry changes.

We will replace failed hardware but we are not liable for downtime or loss of data (or any other loss which may be legally excluded) that results from hardware failure.