

I. PARTIES

Bibliographic Data Services Limited: A Company registered in Scotland, with company number 154602, whose registered office is at Annandale House, The Crichton, Bankend Road, Dumfries DG1 4TA (the "**Company**"); and

[Customer Name] A company registered in [Territory], with the Company number [Company Number], whose registered office is at [Registered Address] (the "**Customer**")

II. AGREEMENT

This Agreement sets out the understanding of the parties for the provision of the Services by the Company to the Customer. Please note that this Agreement sets out our standard terms of business and to the extent that any provision is not applicable to the Services described in the Specification, such provision shall not apply.

III. DEFINITIONS

The following definitions and interpretations shall apply to this Agreement:

1. **Business Day:** a day other than a Saturday, Sunday or public holiday in Scotland when banks in Edinburgh are open for business.
2. **Business Hours:** the hours between 9:00 and 17:00 GMT / BST dependent upon daylight savings time.
3. **Commencement Date:** When deposit is received or the date on which the Company begins working on the Services, whichever comes first.
4. **Confidential Information:** all information whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or during discussions between the parties), where the information is:
 - 4.1 identified as confidential at the time of disclosure; or
 - 4.2 ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.
5. **Content:** shall mean any kind of text, information, images, documents, or audio or video material which can be incorporated in a website for access by a visitor to that website.
6. **Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and

protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

7. **Specification:** the specific terms setting out details of the Services as set out in Schedule 1: Payment & Payment Schedule, Schedule 2: Service Levels, Schedule 3: Additional Terms.
8. **Services:** the services to be provided by the Company to the Customer in accordance with this Agreement details of which are set out in the Specification.
9. **Connectivity Services:** services provided by the Company to the Customer for Internet and Communications connectivity. These services include: Business Broadband, Wi-Fi, Cellular Connectivity, Starlink Connectivity, Voice over Internet Protocol (VoIP) and Telephony Services.
10. **Term:** the period of the agreement as defined in Schedule 1, if no term is defined in Schedule 1 the term will be 12 months.

IV. INTERPRETATION

1. Clause, Appendix and Schedule headings do not affect the interpretation of this Agreement.
2. References to clauses, Appendices and Schedules are (unless otherwise provided) references to the clauses, Appendices and Schedules of this Agreement.
3. If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules or Appendices, the provisions in the main body of this Agreement shall prevail.
4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
5. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
6. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
7. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
8. Any notice under this Agreement shall be in writing and marked for the attention of 'The Directors'. Notice shall be deemed to have been received when sent to a party's registered office by i) first class pre-paid post, 3 days after it is posted; or ii) by courier or by hand delivery, upon delivery if delivered before 4.00pm on any Business Day, and the next Business Day if delivered after 4.00pm. For the purposes of this Agreement written notice shall not include email unless specifically included.

V. DELIVERY, TERM & RENEWAL

- 1.1 This Agreement shall be for the Term as specified. The term shall run from the Commencement Date, unless otherwise set out in Schedule 1.
- 1.2 The renewal date is the date that follows the last day of the Term of the current agreement. This date will be the commencement date of the renewed agreement if no intention not to renew has been given.
- 1.3 This Agreement shall be renewed automatically for the specified Term, or 12 months (whichever is longer), unless either party gives written notice to the other at least fourteen days (14) days prior to the renewal date with their intention not to renew.
- 1.4 The Company shall give written notice to the Customer at least thirty (30) days prior to the renewal date setting out any changes to the fees chargeable under this Agreement in the absence of which the existing terms shall continue to apply for the renewed term.
- 1.5 The fees for all services provided by the Company shall be subject to an annual increase of a minimum of the prevailing UK Consumer Price Index (CPI, as published by the Office for National Statistics) plus 3.9%. This annual increase shall apply as a baseline across all services unless a later clause specifies an alternative review or adjustment method. The Company may, at its discretion, also apply further increases where justified by additional factors, including (but not limited to) increases in supplier costs, changes in applicable law or regulation, or changes in the scope or nature of the services provided.
2. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
 - 2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment;
 - 2.2 the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 Business Days after being notified in writing to do so;
 - 2.3 the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - 2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- 2.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
 - 2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
 - 2.7 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party;
 - 2.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - 2.9 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
 - 2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - 2.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 2.12 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause V.2.4 to Clause V.2.11 (inclusive).
3. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
 4. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

VI. PAYMENT & PAYMENT SCHEDULE

1. The Customer shall pay the amounts set out in Schedule 1 below to the Company on dates specified in Schedule 1.
2. Where the Company is entitled to receive any sums (including any costs charges or expenses) under this Agreement, the Company may invoice the Customer for such sums. Such invoices shall be paid by the Customer within the terms as stated on the invoice.

3. A surcharge will apply to any invoice that remains outstanding for more than 28 days past the invoice due date, an automatic administrative surcharge of 5% of the unpaid amount will be added to cover administrative and recovery costs.
4. No set-off and late payment remedies
 - 4.1 The Customer shall pay all amounts due under this Agreement in full without any deduction or withholding except as required by law and shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment.
 - 4.2 Without prejudice to any other rights or remedies, the Company reserves the right to charge interest and recover compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on any overdue amounts and/or apply the surcharge in clause VI.3, to the extent permitted by law.
 - 4.3 Time shall be of the essence in respect of the Customer's payment obligations under this Agreement.
5. Direct Debit
 - 5.1 The Customer may, subject to mutual agreement, opt to pay for services under a payment schedule via Direct Debit instead of receiving invoices.
 - 5.2 Opting for a Direct Debit payment schedule does not alter the term of this Agreement or the Customer's obligation to pay the full amount outlined in Schedule 1.
 - 5.3 The Company will request a single monthly Direct Debit payment covering the total value of all services the Customer has agreed to pay through a Direct Debit payment schedule.
 - 5.4 If the Customer agrees to additional services payable by Direct Debit, the monthly requested amount will be adjusted accordingly to reflect the revised total amount payable.
 - 5.5 In the event of a change to the pricing of any service included in the Direct Debit payment schedule, the Company will provide the Customer with at least thirty (30) days' written notice of any changes to the Direct Debit amount.
 - 5.6 The Customer must ensure sufficient funds are available in their account to meet Direct Debit requests. If a Direct Debit request is unsuccessful due to the Customer's bank being unable to release the funds, the Customer shall be liable for an administration fee. This fee will cover the transaction costs and the administrative expenses incurred by the Company in rescheduling the payment. The administration fee shall be equal to 2% of the transaction value, with a minimum charge of £10, exclusive of VAT. The Company will notify the Customer of any failed payments and charges in writing.

VII. INTELLECTUAL PROPERTY RIGHTS

1. The Company warrants, to the best of its knowledge, that no part of the Services shall infringe the rights, including any Intellectual Property Rights, of any third party; and

2. The Company warrants that subject to clause IX.2, it shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred or paid by the Customer arising out of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the Services.
3. In relation to the Services:
 - 3.1 Save for any third-party content or material licensed by the Customer, and subject to clause VII.3.2, all Intellectual Property Rights arising in connection with the Services created specifically for the Customer under this Agreement shall be the property of the Customer.
 - 3.2 Subject to the Customer paying all sums due under this Agreement in full, the Company assigns to the Customer, with full title guarantee and free from all third-party rights, all Intellectual Property Rights that arise in connection with the Services and are created specifically for the Customer under this Agreement, excluding any Company Background IP (as defined in Schedule3, clause 10.1).
 - 3.3 the Company shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and execute all such other documents as the Customer may from time to time require for the purpose of securing for the Customer all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with Clause VII.3.2.
 - 3.4 The Company retains all Intellectual Property Rights in its pre-existing materials, tools, code libraries, templates, processes, know-how and methodologies, and any general improvements to the same, whether or not incorporated into the deliverables.
4. The Customer warrants that the supply of Content by the Customer to the Company shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
5. The Customer warrants that subject to clause IX.2, it shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred or paid by the Company arising out of or in connection with any claim brought against the Company for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the content provided by the Customer to the Company in connection with the Services.

VIII. WARRANTIES

1. Each of the parties warrants to the other that it has full power and authority to enter into and perform this Agreement.
2. The Company shall perform the Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards.

IX. LIMITATION OF REMEDIES AND LIABILITY

1. Nothing in this Agreement shall operate to exclude or limit either party's liability for:
 - 1.1 death or personal injury caused by its negligence; or
 - 1.2 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; or
 - 1.3 fraud; or
 - 1.4 the deliberate default or wilful misconduct of that party, its employees, agents or subcontractors; or
 - 1.5 any other liability which cannot be excluded or limited under applicable law.
2. Neither party shall be liable to the other for any loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage howsoever arising.
3. Subject to clause IX.1, the total aggregate liability of the Company to the Customer arising out of or in connection with this Agreement (whether in contract, delict, negligence, misrepresentation, restitution or otherwise) shall not exceed 100% of the fees actually paid by the Customer in the twelve (12) months immediately preceding the event giving rise to the claim.
4. The Company shall not be liable for any loss, destruction, alteration or corruption of data, except to the extent caused by the Company's fraud or wilful misconduct or negligence.
5. The Company shall not be liable for any claim unless the Customer notifies the Company in writing of the claim within twelve (12) months of the Customer becoming aware, or reasonably should have become aware, of the circumstances giving rise to the claim.

X. FORCE MAJEURE

1. Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the

period of delay or non-performance continues for 30 Business Days, the party not affected may terminate this Agreement by giving 5 business days' written notice to the affected party.

XI. CONFIDENTIALITY

1. 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.
2. Confidential Information may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information received.
3. The obligations set out in this clause shall not apply to Confidential Information which the receiving party can demonstrate:
 - 3.1 is or has become publicly known other than through breach of this clause; or
 - 3.2 was in possession of the receiving party prior to disclosure by the other party; or
 - 3.3 was received by the receiving party from an independent third party who has full right of disclosure; or
 - 3.4 was independently developed by the receiving party; or
 - 3.5 was required to be disclosed by governmental authority, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement.
4. The obligations of confidentiality in this clause shall not be affected by the expiry or termination of this Agreement.

XII. DATA PROTECTION

1. Where any personal data is made available to the Company by the Customer as part of the Services, the Company warrants that it shall (i) process that personal data only so far as may be necessary to complete its obligations under this Agreement; (ii) comply with the EU General Data Protection Regulation and the UK Data Protection Act 2018 (together the "Data Protection Laws") with regard to the personal data as they apply to the Company; (iii) protect the rights of all data subjects and ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, personal data; and report any suspected or actual personal data breach(es) promptly (and in any event within 48 hours of becoming aware of the breach) to

the Customer in writing and shall provide assistance to the Customer in dealing with any actual or suspected data breach.

2. For the purposes of this section, the terms “personal data”, “process”, “data subject” and “personal data breaches” shall have the meanings given to them in the Data Protection Laws.

XIII. GENERAL

1. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
3. The Company may subcontract any of its obligations under this Agreement, provided that it remains responsible for the acts and omissions of its subcontractors. The Customer may not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Company.
4. All media releases, public announcements and public disclosures by the Company relating to this Agreement or its subject matter, including promotional or marketing material, shall be co-ordinated with the Customer and approved by the Customer in writing prior to release.
5. No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

XIV. GOVERNING LAW

1. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation are governed by and construed in accordance with the law of England.

XV. JURISDICTION

1. Each party irrevocably agrees that the courts of England shall have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

SCHEDULE 1
PAYMENT & PAYMENT SCHEDULE

The charges in respect of the Services including any Design, Development, Annual Support, Hosting, Subscription, Media, Installation, Rental, Equipment, Training and Other Service charges, together with due dates, are set out in the table below;

<u>Charge:</u>	<u>Schedule:</u>	<u>Amount:</u>
Development Charges:	50% on project inception, 50% on project completion includes all works items set out in the attached Schedule of Work	
Ongoing Charges:		
Support Charges:	Hosting & Maintenance payable as follows: Payable annually in advance Pro rata year	
Term:	the service(s) will be supplied for 12 months	

N.B. all figures quoted are exclusive of VAT.

N.B. All project delivery dates, implementation timelines and time estimates are provided as reasonable estimates only and are not guaranteed.

SCHEDULE 2
SERVICE LEVEL

*[Schedule 2 details agreed upon Service Level Agreements
for the provision of services defined in Schedule 1]*

SCHEDULE 3

ADDITIONAL TERMS FOR THE PROVISION OF SPECIFIC GOODS AND SERVICES

1. Project Duration

Any indication given by the Company of a project's duration is to be considered by the Customer to be an estimation. Whilst every effort will be made to achieve agreed delivery dates, the Company cannot accept liability or be held financially responsible for any targets or deadlines being missed for reasons outside of the Company's reasonable control.

2. Project Completion

The Company considers the project complete upon receipt of the Customer's written (or emailed) confirmation of acceptance. The Customer shall be deemed to have accepted any goods or services that are delivered by the Company and made available to the general public by, or on behalf of, the Customer (i.e. website going live, Use of Service).

3. Project Charges

The charges for any products or services provided by the Company shall be clearly set out in Schedule 1 of this Agreement and shall become due and payable as per the payment schedule as specified in Schedule 1. Where an advance payment or deposit is specified the Company will not commence work until it has received the first payment due.

4. Expenses & Third-Party Costs

In the event that the Company shall incur any expenses or be required to make any disbursements in connection with a project the Company shall be entitled to invoice the Customer in advance provided that such expenses or disbursements have been agreed between the parties in writing.

5. VAT

All charges for goods and services are subject to VAT where applicable at the prevailing rate.

6. Alterations

The Customer agrees that any features or developments not set out in this Agreement or in the Specifications or required to be carried out after acceptance of goods and services will be liable to a separate charge, subject to any warranty protection offered in the Agreement. All additional features and developments and their associated charges must be accepted in writing (or via email) by the Customer before proceeding with the work.

7. Ownership

All goods remain the property of the Company until paid for in full.

8. Default

8.1 A Customer account shall be considered in default if it remains unpaid for 31 days from the receipt of invoice, unless subject to a bona fide dispute. The Company shall be considered entitled, by immediate written notice to the Customer, to remove the Company's and/or the Customer's material from any and all computer systems under the Company's control until the amount due has been fully paid. This includes any and all unpaid monies, unless subject to a bona fide dispute, due for Services, including, but not limited to, hosting, domain registration, search engine submission, design and maintenance, sub-contractors, printers, photographers and libraries. The Customer agrees to pay The Company's reasonable costs incurred by any such removal and subsequent restoration.

8.2 Removal of such materials does not relieve the Customer of its obligation to pay the due amount. Customers whose accounts are in default agree to pay the Company's reasonable legal expenses and third-party collection agency fees in the enforcement of this Agreement.

9. Copyrights and Trademarks

9.1 Copyright of all graphic design work is retained by the Company including, but not limited to, copy, concepts, ideas, proofs and illustrations (unless specifically released in writing) until all invoices properly due for that work have been settled, at which point full copyright will be passed to the Customer.

9.2 If multiple design concepts are submitted, only the concept chosen by the Customer is deemed to be given by the Company as fulfilling the contract. All other artwork designs remain the property of the Company, unless agreed in writing. This shall not include any Customer names, logos, Confidential Information or other Intellectual Property Rights which may have been incorporated into the design concept, which shall remain the property of the Customer.

9.3 By supplying text, images and other data to the Company for inclusion in the Customer's brochure or other medium, the Customer declares that it holds the appropriate copyright and/or trademark permissions and grants the Company permission to use this material freely in the pursuit of the design set out in the Specifications. The ownership of such materials will remain with the Customer, or rightful copyright or trademark owner.

- 9.4 It remains the Customer's responsibility to seek copyright protection if desired for any creative/intellectual property provided to the Customer by the Company.
- 9.5 Should the Company, or the Customer supply an image, text, audio clip or any other file for use in a website, multimedia presentation, print item, exhibition, advertisement or any other medium believing it to be copyright and royalty free, which subsequently emerges to have such copyright or royalty usage limitations, the Customer will agree to allow the Company to remove and/or replace the file with a suitable substitute which is copyright and royalty-free.
- 9.6 All design work where there is a risk that another party may make a claim, should be registered by the Customer with the appropriate authorities prior to publishing or first use or searches and legal advice sought as to its use. The Company will not be held responsible for any and all damages resulting from such claims.

10. Licensing

- 10.1 Any software, code, templates, tools, libraries, frameworks, utilities, processes, know-how, methodologies or other materials owned by the Company prior to the Commencement Date, or developed independently of the Customer's specific requirements (together "Company Background IP"), shall remain the property of the Company. Where any Company Background IP is incorporated into, or is necessary for the use of, any deliverables or Services provided under this Agreement, the Company grants the Customer a non-exclusive, non-transferable, perpetual licence to use that Company Background IP solely as required for the Customer's internal business purposes in connection with the deliverables, including for the purposes of operating, maintaining, supporting and modifying the deliverables (whether by the Customer or by third parties acting on the Customer's behalf). The Customer shall not sell, sublicense, distribute, publish, transfer, assign or otherwise make any Company Background IP available to any third party, except to the extent necessary for third parties to provide hosting, maintenance, support or development services to the Customer in relation to the deliverables, and in each case only where those third parties are bound by confidentiality obligations no less protective than those set out in this Agreement.
- 10.2 Any software, code, plugin or other third-party material used in a web or digital project remains the property of the creator and any ongoing licence fees or fees for upgrades are the responsibility of the Customer, not the Company. The Company shall inform the Customer in writing of any such fees, and obtain their written approval, prior to incorporating any such software, code, plugin or other third-party material.

11. Web Services

- 11.1 Once the website design is complete, the Company will provide the Customer with the opportunity to review the delivered work. Any requests for additional changes that do not form part of the Specifications may incur additional charges.
- 11.2 Unless otherwise agreed in writing the Company will host, maintain and support the Customer's website in accordance with the **Basic** Level of Service described in Schedule 2.
- 11.3 The Company will construct the Customer's website in accordance with the Specifications.
- 11.4 Upon termination or expiry of this Agreement, howsoever occurring, the Company shall, if requested by the Customer in writing, promptly deliver a full electronic copy of the Customer's website, including all object and source code, to the Customer in such format as the Customer may reasonably require, together with any other content, material or property provided to or prepared by the Company pursuant to this Agreement. The Company shall also provide all such assistance as is reasonably requested by the Customer in transferring the hosting of the Customer's website to the Customer or another service provider, subject to payment of the Company's expenses reasonably incurred.
- 11.5 Website Support services shall be delivered during Business Hours on Business Days. Any requests for support outside these times may incur additional charges.

12. Website Hosting

- 12.1 The Company provides a hosting service for all Customer websites and will use reasonable endeavours to ensure site availability. The Company does not guarantee continuous service and will accept no liability for loss of service, whatever the cause, unless we have failed to use such reasonable endeavours. We do not constantly check the websites we host to ensure they are functioning correctly, but can provide availability monitoring services. These are set out in Schedule 2 if applicable. It is the responsibility of the Customer to ensure their website is functioning as it should and report any issues to The Company.
- 12.2 The Company does not routinely provide access to any cPanel or domain control panels. In the event the Customer has been provided access, the Company accepts no liability for any issues caused.
- 12.3 Hosting provided for Apps may incur additional costs. These are set out in Schedule 1.

13. Website Content

The Company has no responsibility to provide support in relation to control and operation of site Content although we may assist on a goodwill basis or under your support terms. Customer bears sole legal and other responsibility for all site Content. We do not, and are not obliged to, check site Content.

14. SSL Certificates

SSL certificates are not configured as standard but are available at an additional cost. The Company is not responsible for the renewal of SSL Certificates, which are the sole responsibility of the Customer. Unless the Company is contracted to fulfil the renewal of your SSL in which instance you will receive a renewal notice 12 weeks prior to your renewal and will be invoiced in due course unless cancellation is requested as per your renewal notice. It is the responsibility of the Customer to keep the Company informed of the correct contact information for these renewal notices.

15. Domain Names

The Company is not responsible for the renewal of domain names, which are the sole responsibility of the Customer / domain owner. Unless the Company is contracted to fulfil the renewal of your domain or provide external hosting services, in which instance you will receive a renewal notice 12 weeks prior to your renewal and will be invoiced in due course unless cancellation is requested as per your renewal notice. It is the responsibility of the Customer to keep the Company informed of the correct contact information for these renewal notices.

16. Email and Software Services

- 16.1 The Company offers Email Services, with various options available. These are charged per mailbox.
- 16.2 The Company also offers Office365 and Office365 Business options. These are charged per licence.
- 16.3 Legacy Email services which were included as part of your domain have now been withdrawn. This provided a limited email service and the Company does not offer any support for this legacy service. We can no longer provide additional mailboxes or additional storage.
- 16.4 Support for anyone that uses the Legacy Email service shall be chargeable at the discretion of the Company.
- 16.5 It is the Customer's responsibility to ensure that migration of emails or backups of emails have been taken prior to any service transfer or cancellation date.
- 16.6 The Company may charge for any assistance in the recovery of emails from backups.
- 16.7 Support for email can be purchased separately under an IT Support contract.

17. Search Engine Submission

The Company cannot guarantee any particular placement with any internet search engine. Acceptance by any search engine cannot be guaranteed and when a site is accepted, the time it takes to appear in search results varies from one search engine to another. Rankings will also vary as new sites are added. The Company recommend that customers use a professional SEO company and are happy to provide details of such companies but accept no responsibility for their services.

18. Design Credits

- 18.1 With respect to any printed material, exhibition displays or advertisements produced by the Company for the Customer under this Agreement the Customer agrees to allow the Company to include a small credit or in the case of the Customer's website a link to the Company's own website. This will usually be in the form of a small logo or line of text placed towards the bottom of the page.
- 18.2 The Customer also agrees to allow the Company to place all designs on the Company's own website for portfolio and demonstration purposes and to use any designs in its own publicity.
- 18.3 If the Customer is not in agreement with the provisions of 18.1 or 18.2 they must notify the Company in writing.

19. Rights of Refusal

The Company will not include in its designs, any text, images or other data provided by the Customer which it deems to be immoral, offensive, obscene or illegal. All advertising material must conform to all standards laid down by all relevant advertising standards authorities. Any images and/or data that the Company does include in all good faith, and then finds out that it contravenes the terms of this Agreement, the Customer is obliged to allow the Company to remove the contravention without hindrance, or penalty, by immediate written notice to the Customer. The Company is to be held in no way responsible for any such data provided by the Customer being included.

20. Cancellation

- 20.1 The Customer may give notice to cancel this contract at any time up to 14 days before the renewal date.
- 20.2 The Customer shall be liable for payment of fees for the fully agreed term upon cancellation.
- 20.3 In the event the Customer cancels this Agreement any deposits or other sums paid in advance under this Agreement are forfeit and shall not be refunded.
- 20.4 No refunds will be given for any mid-term cancellations.

21. DNS Routing

The Company is not responsible for DNS routing.

22. Data and Storage Usage

The Company reserves the right to apply reasonable data caps on bandwidth usage and storage but at present apply none apart from on email accounts.

23. Software Patches & Updates

Security patches / updates will be applied under your support terms.

24. IT Support Contract

Support can be provided and can be quoted for on a case-by-case basis. Where we provide additional IT Support the scope of what that covers will be specified under a separate IT Support contract separate from this Agreement.

- 24.1 All travel costs for IT Support services within Dumfries are included under this agreement. Travel outside Dumfries will incur a mileage charge of £0.45 per mile.
- 24.2 IT Support, where provided as a service, shall be delivered during Business Hours on Business Days. Any requests for support outside these times may incur additional charges.
- 24.3 Where this Agreement includes on-site IT Support, such support shall be provided only at the site(s) specified in Schedule 1. On-site support at any other location not listed in Schedule 1 will be subject to separate charges for travel time, on-site time, and mileage.
- 24.4 IT Support under this Agreement is subject to the following exclusions:
 - 24.4.1 This Agreement does not cover faults or issues arising from the use of equipment, software, or services in a manner not recommended by the manufacturer or vendor.
 - 24.4.2 If the Customer has made unauthorised or reckless modifications to the configuration or setup of any equipment, software, or services, support may be withdrawn at the Company's discretion.
 - 24.4.3 If the Customer prevents the Company from performing required maintenance or updates, resolution of any issues may be delayed.
 - 24.4.4 The Company may, at its sole discretion and subject to availability, provide loan equipment. The Customer shall be responsible for any consumables required for such equipment.
 - 24.4.5 All loan equipment remains the property of the Company. If the Customer fails to return such equipment or make it available for collection by the agreed date, the Company reserves the right to charge The Customer the full market value of the equipment.
- 24.5 The Customer shall have the following responsibilities:
 - 24.5.1 Promptly notify the Company of any faults, issues, or service requests.

- 24.5.2 Provide the Company with reasonable access to equipment, software, and systems to enable maintenance, updates, and issue prevention.
- 24.5.3 Ensure that operating system and software updates are installed as they become available.
- 24.5.4 Inform the Company of any proposed changes to the IT environment that may affect support or system stability.
- 24.5.5 Maintain and assume full responsibility for all backups, except where this responsibility is expressly assigned to the Company and detailed in Schedule 1.
- 24.5.6 Maintain open and effective communication with the Company.
- 24.5.7 Ensure that all software (excluding the operating system) and hardware which requires support under this Agreement are covered by an active and valid vendor support contract.

25. Plug-ins

- 25.1 On occasion, when budget, time or requested functionality limits the opportunity for a bespoke build, an off-the-shelf solution in the form of a third-party plug-in may be implemented.
- 25.2 Whilst the Company endeavours to minimise ongoing costs, updating plugins may incur increased subscription costs and or additional development in order to keep your site functionality working correctly. Any such costs shall be approved by the Customer in writing and in advance of any work taking place.
- 25.3 Costs for third-party Plug-in(s) will be billed when the plug-in(s) are purchased and annually on the same date thereafter. This may be prior to the site going live as the plugin(s) will be required to complete development and integration with your project.

26. Hosting & Support

- 26.1 Fees for the Company's hosting and/or support services are due at the commencement of each period of service and are non-refundable. Where the Customer engages third-party hosting or related services directly, all associated fees remain the sole responsibility of the Customer, and the Company shall not be liable for their payment.
- 26.2 The Company will review and may increase the hosting and/or support fee once a year on the anniversary of this contract. Any increase to hosting fees will normally reflect general market conditions and supplier costs. Any increase to support fees may also consider the level of support required by the Customer during the previous contract term.

27. Software Support Contracts

- 27.1 A software support contract covers the correction of defects where functionality previously delivered to specification as part of a software or website development project ceases to operate as intended. Where such issues arise, the Company will address and resolve them under the Customer's software support contract.
- 27.2 The Customer's software support contract does not cover changes required as a result of external factors outside the Company's control, including but not limited to changes in third-party services (such as analytics providers, payment gateways, or hosting platforms), or changes introduced by external suppliers or providers.
- 27.3 Changes to logic, workflows, or business processes requested by the Customer are not covered under the Customer's software support contract. Such changes are considered new development work and will be subject to separate scoping and charges.
- 27.4 Initial software support charges are estimated by the Company based on the complexity of the project or product covered by the contract. The level of support required by the Customer may vary from year to year. Accordingly, software support fees for each renewal period may be recalculated with reference to the Customer's actual support usage during the preceding term.
- 27.5 If the Company determines that any issue raised by the Customer falls outside the scope of the Customer's software support contract, the Customer will be notified. Issues arising from external factors as described in clause 27.2 or from new development requirements as described in clause 27.3 will be treated as out of scope. Where applicable, the Company will provide an indicative estimate of the fees required to complete the requested changes.
- 27.6 Routine updates, content additions, or media changes to websites or applications are not considered to fall under the contract if such tasks are manageable through a provided Content Management System or are reasonably expected to remain static. Such requests are more appropriately addressed through separately purchased Call-Off development time or by a paid development project.

28. Project Abandonment

A project shall be treated as abandoned in the event the Customer fails to respond to requests for information or instructions or fails in any way to provide assistance requested for commencing, continuing or delivering the project for a period of three (3) months from the date of any such request, after which period the Customer shall be in breach of this Agreement. The project will be closed and any monies paid by the Customer, including deposits, are forfeit.

29. Logo Design

- 29.1 When producing a new logo design, the Company will compile a design brief with the Customer. Based on that brief, the Company will then produce three visuals for client consideration. Of the

three options the Customer indicates a preference and amendments are made as required within the time allocated for design. Thereafter, any further amendments will be charged accordingly at our standard hourly rate.

- 29.2 For a refresh of an existing logo the Company will provide one visual to the Customer for feedback. Amendments are made as required within the time allocated for the design. Thereafter, any further amendments will be charged accordingly at our standard hourly rate.

30. Call Off (prepaid development time)

- 30.1 The Company offers a prepaid development package referred to as Call Off. The minimum hours required for a purchase of this package is 25 hours. This is payable in advance at the agreed hourly rate as specified in the Agreement and is non-refundable. Call Off is charged at a discount to our normal development rate.
- 30.2 Any work carried out by the Company under Call Off will be scheduled at our sole discretion. All work carried out by the Company under Call Off is tracked and logged and a report can be produced setting out details of the work that has been carried out and the time spent on request.
- 30.3 Once all Call Off time has been used up the Company will contact you to discuss any further requirements. For the avoidance of doubt the purchase of a block of Call Off time does not imply that any work carried out under Call Off will be completed or delivered within the Call Off time purchased.
- 30.4 There is no limitation on the time you have to use any Call Off hours.

31. Passwords

- 31.1 The Company will supply the Customer with passwords in order to access the administration area of their website; at which time the Customer has the ability to change their password(s).
- 31.2 The Customer accepts responsibility for setting secure passwords for accessing any software or websites produced on their behalf by the Company
- 31.3 The Company will not accept liability for any security intrusions as a result of weak passwords set by the Customer; and reserves the right to invalidate or change passwords without notice should they believe a password or login has been compromised.

32. Hosted and Subscription Services

- 32.1 For the purposes of these Terms and Conditions, "Hosted and Subscription Services" shall mean any hosted, subscription, reseller, connectivity, telecommunications, cloud, email, software licensing, domain, internet, Voice over IP, infrastructure, or third-party services provisioned, supplied, managed, renewed, administered, or billed by the Company on behalf of the Customer.

- 32.2 All dates provided relating to the installation and activation of Hosted and Subscription Services are estimates. The Company will do its best to meet these dates however we cannot guarantee your service will be activated on those dates.
- 32.3 Technical support queries should be raised via our Helpdesk by emailing support@bdslive.com and you will receive a response within 4 hours on Business Days and in Business Hours.
- 32.4 The contract term for any Hosted and Subscription Service as specified in Schedule 1 starts from the first billing date and not when this contract is signed.
- 32.5 Should the Customer cancel the service after the installation is completed, no refund will be made to the Customer for the installation undertaken.
- 32.6 The Company will use best endeavours to ensure that Hosted and Subscription Services are available at all times. The Customer however indemnifies the Company from any losses whatsoever, be it loss of business information, loss of data or any other direct or indirect financial losses resulting from unavailability or interruption of the service regardless of whether such a claim is based on breach of contract, intentional or negligent breach of duty of care, implied warranties or otherwise, including where the Company, its service providers or employees are negligent.
- 32.7 Hosted and Subscription Services are renewed automatically. The renewal term unless otherwise stated in Schedule 1 will be the same as the Term of this Agreement and will be charged as agreed. No refunds will be given for any mid-term cancellations.
- 32.8 Some Hosted and Subscription Services have a monthly capped allowance, as detailed in your payment schedule. If this agreed allowance is used within the monthly period your services will cease and will require an additional paid-for upgrade to continue the service.
- 32.9 Whilst the Company endeavours to minimise ongoing costs we reserve the right to increase the monthly charge if our prices are increased by our provider. We will notify you of any increases at that time.
- 32.10 Hosted and Subscription Services may be restricted if we do not receive monthly payment.
- 32.11 The Service is provided for your use only (unless otherwise specifically stated) and you agree not to, whether for a fee or without charge, sell, transfer, trade, resell, re-provision, redistribute, or rent the Service, any portion of the Service, use of the Service, or access to the Service, including, but not limited to, reselling capabilities enabled or used by a specific application (including, without limitation, Voice Over Internet Protocol (VoIP) via wired, wireless or other means). For example, you agree that the Service is not to be used to trunk or facilitate public internet access (hotspots) or any other public use of the Service, or for any high-volume purpose.
- 32.12 The Company reserves the right to clear any configuration and return equipment to factory defaults on any equipment that was configured to supply any Hosted and Subscription Service on the termination of this Agreement or charge a fee to pass on the configuration as we see fit.

- 32.13 Hosted and Subscription Services are only available to Customers who maintain an active support or maintenance agreement with the Company, unless otherwise agreed in writing by the Company. Upon termination, expiry, or cancellation of such support or maintenance agreement, the Customer must immediately arrange for any Hosted and Subscription Services to be transferred to an alternative provider or cancelled.
- 32.14 The Company reserves the right, upon termination, expiry, or cancellation of any applicable support or maintenance agreement, to suspend, terminate, restrict, remove access to, cease administration of, or disconnect any Hosted and Subscription Services without further notice or liability where arrangements have not been made by the Customer for transfer or cancellation of the relevant services.
- 32.15 The Company will use reasonable endeavours to assist with the transfer of Hosted and Subscription Services to an alternative provider where requested by the Customer, however such work may be chargeable at the Company's standard rates.
- 32.16 The Company reserves the right to charge an administration fee for the transfer, migration, termination, cancellation, or offboarding of any Hosted and Subscription Services, particularly where such services are terminated during a minimum term or contractual commitment period.
- 32.17 The Customer shall remain liable for any third-party cancellation charges, early termination fees, minimum term charges, or other costs incurred by the Company as a result of the cancellation, transfer, or termination of Hosted and Subscription Services before the end of any applicable contractual term.

33. Rental

Any equipment provided as part of a rental agreement remains the sole property of the Company.