



### **Definitions**

*In these Terms and Conditions the following words and phrases shall have the following meanings and have full contractual effect. "We, Us, Our, Spiderweb" - means Spiderweb Internet Limited whose address for service is Spiderweb Internet Limited, Rosebank, 17 Givendale Road, Scarborough, YO12 6LE. "You, Your" - means any individual, firm, partnership, limited company or other legal entity, accessing this website or contracting or seeking to contract with us. "Acceptable Use Policy" - the section of these Terms and Conditions describing the actions prohibited by Spiderweb in respect of the use of the Service by You or any third party; "Affiliates" - shall mean any entity controlling (directly or indirectly), controlled by or under common control with a party; "Agreement" - the contract between you and us incorporating these Terms and Conditions; "Service" - means the service chosen by you as described in the appropriate Service Package. "Service Components" - means a discrete service option from the following set of options: -*

*Domain Name Registration.*

*Web Site Hosting.*

*Email Accounts.*

*Tailored web based administration module "Control Panel."*

*Software Development.*

*Ecommerce functionality.*

*Live statistics.*

*ODBC database connectivity.*

*Global Domains.*

*File Transfer Protocol*

*Service Level Agreement (guaranteed 98% uptime) "Service Package" - means a specified bundle of Service Components. The Service Packages are more specifically set out at Schedule B and may vary from time to time. "Spiderweb Network" - those points of presence, network hubs and host computers owned or operated by Spiderweb or Spiderweb Subcontractors or agents. "Spiderweb Terms" - means these terms and conditions. "Spiderweb Subcontractor" - Spiderweb may at its discretion subcontract or delegate certain Components of a Service Package to designated Spiderweb Subcontractors. Spiderweb Subcontractor Terms and Conditions are deemed to be incorporated into this Agreement as appropriate and in an efficacious manner.*

### *2. Provision of Service and applicable terms and conditions*

*2.1 We will provide to you the Service as described in the appropriate Service Package consisting of the appropriate Service Components in accordance with the Spiderweb Terms.*

*2.2 Where a Service component is subcontracted to or delegated to a Spiderweb Subcontractor, you agree to be bound by the Terms and Conditions of the relevant Spiderweb. The Spiderweb Subcontractor's Terms and Conditions shall be definitive and shall prevail over the Spiderweb Terms if there is any inconsistency.*

*2.3 Where a Software Development Component is included in a Service Package, it may be subject to a separate bespoke software contract between you and us which is to be read in addition to the Spiderweb Terms. The separate software development contract shall be definitive and shall prevail if there is any inconsistency.*

2.4 We may vary the Service Packages at any time but shall use all reasonable endeavours to notify you by email before effecting any such variation, or as soon as practicable thereafter. If it can be demonstrated that such variation will materially affect or alter the Service delivered then you may terminate this agreement without penalty upon giving one month's notice in writing. Such termination shall be your sole remedy.

2.5 You are responsible for establishing your own connection to the internet via a reputable internet service provider.

### 3. Term and Termination

3.1 We will provide the Service and shall continue to provide the Service unless the Service or this Agreement is terminated according to the terms set out below.

3.2 After the expiry of 12 months from the date of the Agreement, either party may terminate the Service or this Agreement at any time by giving the other party one month's prior notice in writing.

3.3 We may (without prejudice to any other right or remedy we may have) suspend the Service temporarily without notice (although you remain liable to pay all charges during such suspension), or terminate the Service or this Agreement by immediate notice if you: · do not pay any invoice within 14 days of it falling due · breach this agreement in any other way · provide us with any false, inaccurate or misleading information · are suspected, in our reasonable opinion, of involvement with fraud or attempted fraud or any other criminal offence in connection with the use of the Service.

3.4 If the Service or this Agreement is terminated before the expiry of 12 months from the date of the Agreement, we will charge you a termination fee of the remainder of the total Annual fee in respect of the chosen Service Package.

3.5 If you terminate the Service or this Agreement in order to switch to a different Spiderweb Service Package at any time, you will not be liable to pay any termination fee provided that you agree to enter into a new agreement for the different Spiderweb Service Package for a new term of at least one year.

3.6 Termination of this Agreement for any reason shall be without prejudice to our rights accrued as at the date of termination.

### 4. Improper Use

4.1 You may use the Spiderweb Network and/or the Service for lawful purposes only.

4.2 You will not (nor will you authorise or permit any other person or entity to) use the Service or the Spiderweb Network to send, receive or store any material which is in violation of any law or regulation or which is defamatory, offensive, abusive, indecent, obscene or menacing, or in breach of confidence, privacy, trade secrets, or in breach of any third party intellectual property rights (including copyright), or in breach of any other rights; · to cause annoyance, inconvenience or needless anxiety; in breach of any instructions we have provided to you in respect of the use of the Service; · other than in conformity with our Acceptable Use Policy (at Clauses XXX to XXX of these Terms and Conditions), of any connected networks, and of the Internet Standards and Protocols.

4.3 You will not use a domain name so as to infringe the rights of any other person or company whether in statute or common law, in a corresponding trademark or name.

4.4 Any breach of this Clause 4 by you shall be deemed to be a material breach of this Agreement and shall entitle us to terminate the Agreement pursuant to Clause 3 and, for this purpose, it shall be irrelevant whether you are aware of the content of any material so transmitted or not.

4.5 We may suspend the Service without notice with immediate effect if, in our reasonable opinion, you are in breach of this Clause 4 and we may refuse to restore the Service until you give us an acceptable written assurance that there will be no further contravention. Failure by you to provide an acceptable assurance to us within 21 days of our requesting such assurance shall entitle us to terminate this Agreement and/ or the Service forthwith.

4.6 You acknowledge and agree that we do not as a matter of course monitor your use of the Service and/or the Spiderweb Network and trust you to use the Service and/or the Spiderweb Network in accordance with the terms of this Agreement, hence you agree to indemnify and keep us indemnified from any claim brought by a third party resulting from your use of the Service or the Spiderweb Network, including but not limited to infringement of any intellectual

property right of any kind, legislation or regulation. You will pay all costs, damages, awards, fees (including reasonable legal fees) and judgements finally awarded against us arising from such claims, and will provide us with notice of such claims, full authority to defend, compromise or settle such claims and all reasonable assistance necessary to defend such claims, at your sole expense. We agree that any actions taken by us in respect of such claims will be taken in consultation with you.

4.7 You may use the Spiderweb Network to link into other networks worldwide and you agree to conform to the acceptable use policies of such networks. In addition you undertake to conform to the Internet Standards. If communications by you do not conform to these standards, or if you make profligate use of the Spiderweb Network or the Service to the detriment of us or our customers, we reserve the right to restrict the passage of your communications until you give us an acceptable undertaking as to use.

4.8 Any application that overloads the Spiderweb Network by whatever means will be considered as making profligate use of the Network and is prohibited. Use of IP multicast other than by means provided and co-ordinated by Spiderweb is likewise prohibited.

4.9 You acknowledge that any violation of systems or network security may incur criminal or civil liability. We will fully co-operate with and may initiate investigations of such violations. Examples of system or network security violations include, without limitation, the following : Unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the system or network; · Unauthorised monitoring of data or traffic on any network or system without express authorisation of the owner of the system or network; · Interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks; · Forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting. · Circumvention of user authentication or security of any host, network, or account (referred to as "cracking" or "hacking") · Interfering with service to any user, host, or network (referred to as "denial of service attacks")

4.10 It is explicitly prohibited to send unsolicited bulk mail messages ("junk mail" or "spam") of any kind (commercial advertising, political tracts, announcements) etc. It is also explicitly prohibited to allow others to send unsolicited bulk mail messages either directly or by relaying through the Users systems

## 5. Warranties, Exclusions, Indemnities and Limitation of Liability

5.1 We do not exclude or restrict liability for death or personal injury caused by our negligence.

5.2 In performing our obligations under this Agreement, we shall exercise the reasonable care and skill of a competent Internet service provider.

5.3 You acknowledge and agree that we are unable to exercise control over the content of the information transmitted via the Spiderweb Network and/or the Service and that we do not examine the use to which customers put the Service or the nature of the information and/or software they are sending or receiving, hence, we hereby exclude all liability of any kind for the transmission or reception of infringing information of whatever nature.

5.4 While we will use all reasonable endeavours to provide a prompt and continuing service, you are responsible for insuring yourself and/or your organisation against all loss or damage to data, hence, we will not be liable to you for any loss of or damage to data stored/transmitted on/using the Service and/or the Spiderweb Network.

5.5 You acknowledge and agree that it is your responsibility to adopt appropriate security measures for the protection your computer systems including hardware, software and data from viruses, worms, trojans or other items of a destructive nature and further accept responsibility for ensuring that any third parties who access your computer system or receive data from your computer system are similarly protected.

5.6 We will not be liable to you, whether in contract, tort or otherwise for loss, whether direct or indirect, of business, revenue or profits, anticipated savings or wasted expenditure, corruption or destruction of data or for any indirect or consequential loss whatsoever; or for the acts or omissions of other providers of telecommunication services or for faults in or failures of their apparatus.

5.7 In any event, except in respect of claims pursuant to Clause 5.1 above, our liability to you in respect of an event or series of connected events arising out of or in connection with the

*Agreement, whether in contract, tort or otherwise, shall be limited to the Annual Fee for the Service Package or the sum actually paid by you to us whichever is the lesser.*

*5.8 We do not intend that electronic data transmitted by you is accessed or intercepted by unauthorised third parties. You accept the risk of such access or interception however and agree you will not hold us liable for damage or loss of whatever nature caused by such access or flowing from such an interception.*

*5.9 We will use our reasonable endeavours to ensure the integrity of data and electronic communications but it is not possible to guarantee such integrity and we hereby exclude all liability howsoever arising including due to negligence for any loss or damage of any kind caused by viruses, worms, trojans corruption or other destructive items known or unknown and including damage due to the interception of, use of, or access to data including without limitation commercial details, confidential information, personal data or credit card data by any third party.*

*5.10 You agree that you will remove all offensive, defamatory or libellous material from any data submitted to us or the Spiderweb Network and further agree that you will indemnify us for any liability in damages and costs we may face due to any breach of this clause.*

*5.11 From time to time, this web site may carry links to other web sites or web pages. These links are provided to enhance the interest and usefulness of this web site. We do not endorse or otherwise have any responsibility for the said other web sites. 5.12 We shall not be responsible for any loss or damage to you arising directly from an Act of God, consequent of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, by or under the order of the Government or Public Authority, riot, civil commotion, strike, lockout, stoppage or restraint of labour from whatsoever cause, whether partial or general or any other cause beyond our reasonable control.*

*5.13 Where these terms and conditions incorporate the terms and conditions of a Spiderweb Subcontractor, you agree that you are bound by those terms and conditions and where you breach those terms and conditions and any liability attaches to us as a result of such breach, you agree that you will indemnify us for any liability and damages and costs we may face due to your breach of the said terms.*

*5.14 Each provision of this Clause 6 excluding or limiting liability shall be construed separately, and shall apply and survive even if for any reason one or other of these provisions is held inapplicable or unenforceable in any circumstances and shall remain in force notwithstanding the termination or expiry of this Agreement.*

## *6. Domain Name registration*

*6.1 You confirm and warrant that you are the owner of, or that you have been and are duly authorised by the owner to use, any trade mark or name requested or allocated as your Name.*

*6.2 You acknowledge that Spiderweb cannot guarantee that any Name you request will be available or approved for use.*

*6.3 We have the right to require you to select a replacement Name and may suspend the Service if, in our opinion, there are reasonable grounds for us to believe that your current choice of Name is, or is likely to be, in breach of the provisions of Clause 4.3*

*6.4 If the Service includes the registration of an Internet domain name you acknowledge and agree that: · we do not represent, warrant or guarantee that any domain name applied for by you or on your behalf will be registered in your requested name or is capable of being registered by you or that the use of such domain name by you will not infringe any third party rights. Accordingly, you should take no action in respect of your requested domain name(s) until you have been notified in writing that your requested domain name has been duly registered and we will not be liable for any such action taken by you. · the registration of the domain name and its ongoing use by you is subject to the relevant naming authority's terms and conditions of use and you undertake to us that you will comply with such terms and conditions. You hereby irrevocably waive any claims you may have against us in respect of any decision of a naming authority to refuse to register a domain name and, without limitation, you acknowledge and agree that any administration or other charge paid by you in respect of the registration of the domain name is non-refundable in any event. · 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 we will take no part in any such dispute. We reserve the right, on becoming aware of such a dispute concerning a domain name, at our sole discretion and*

*without giving any reason, to either suspend or cancel the relevant service associated with the domain name, and/or to make such representations to the relevant naming authority as we deem appropriate. Any Internet Protocol address allocated by us to you shall at all times remain our sole property and you will have a non-transferable licence to use such address for the duration of this Agreement. If this Agreement is terminated for whatever reason, your licence to use the Internet Protocol address shall automatically terminate and thereafter you will not use such address.*

#### **GENERAL 7.**

*Payment 7.1 All invoices raised by us are due for payment within 7 days of the date of the invoice and time shall be of the essence. 7.2 We reserve the right to charge interest on all overdue invoices at the rate of 2% of the outstanding balance per month or part month, whichever is the greater, until the date of actual payment whether before or after judgment.*

*7.3 All Charges are subject to VAT at the prevailing rate, and are not subject to discount. 7.4 All sums shall be paid to us immediately when due without deduction and payment shall not be withheld or deferred on account of any claim, counterclaim or set-off.*

*7.5. We shall be entitled to set-off any of your liabilities to us (whether present, future, actual or contingent) against any amounts owing to you without having to give notice prior to the set-off.*

#### **8. Invalidity**

*8.1 All parties agree that if any provision of this agreement is found to be void or unenforceable in whole or in part, the agreement shall continue to be valid as to the other provisions and the remainder of the affected provision.*

*8.2 No failure or delay by us in exercising any right under this Agreement shall be construed as a waiver or release of that right unless otherwise agreed in writing by us.*

#### **9. Whole Contract**

*9.1 This Agreement together with any document expressly referred to in any of its terms and together with any further Agreement as to an appropriate Service Package component, represents the entire agreement between the parties in respect of its subject matter and supersedes and replaces any prior written or oral agreements, representations, undertakings or understandings between them in respect of such matters. No oral explanation or oral information given by any party shall alter the interpretation of this Agreement.. You confirm that in agreeing to enter into this Agreement you have not relied on any representation save insofar as the same has expressly been made a representation in this Agreement and you agree that you shall have no remedy in respect of any misrepresentation which has not become a term of this Agreement save that your agreement contained in this clause shall not apply in respect of any fraudulent or negligent misrepresentation whether or not such has become a term of this Agreement.*

#### **10. Assignment**

*10.1 You will not assign, re-sell, sub-lease or in any other way transfer the Service (or any element thereof), or any of your rights or obligations under the terms of this Agreement. Contravention of this restriction in any way, whether successful or not, will entitle us to terminate the Service and/or the Agreement immediately, in which event you will be liable to pay a termination fee calculated in accordance with Clause 3 above.*

#### **11. Data Protection**

*11.1 If you (including your employees and customers) ("Data Subjects") have provided information of a type covered by the Data Protection Act, we or our assignees may use such information to contact the said Data Subjects by email, or post with details of services or products that we believe may be of interest to the said Data Subjects or assign the said information. If you do not wish us to use the said information in this way, you should apply in writing to the Data Compliance Officer at Spiderweb Internet, Rosebank, 17 Givendale Road, Scarborough, YO12 6LE.*

*11.2 The Data Protection Act allows a Data Subject to request that we provides details of personal information held about the Data Subject . If a Data Subject wishes to make such a request, it should apply in writing to the Data Compliance Officer at the address above.*

*11.3 If a Data Subject believes that any personal information held by us is incorrect or*

*incomplete, it should apply in writing to the Data Compliance Officer at the address above.*

*11.4 The internet is global and data crosses international borders in ways which cannot be predicted. By using our web site and or services, Data Subjects consent to these data transfers and acknowledge that data provided by them may cross international boundaries to countries outside of the European Union.*

*11.5 You confirm that it is your obligation to inform your employees and customers of the processing of Data pursuant to the clauses in this section and to ensure that such employees and customers have given their consent to such processing in accordance with applicable data protection legislation.*

## *12. Insolvency*

*12.1 If you shall become insolvent or if a receiving order is made against you or if you shall enter into an arrangement or composition with Creditors or if being a Company you shall go into liquidation whether voluntary or otherwise or if a Receiver or Manager on behalf of a Creditor shall be appointed or if you shall have a petition presented against you or shall call any meeting of creditors or enter into Administration, then we shall be entitled by written notice to cancel the Contract forthwith without compensation to you but without prejudice to any action or remedy which shall have accrued or shall accrue thereafter to us.*

## *13. Intellectual Property*

*13.1 This web site, all domain names, URLs, web pages, data, information, links, programming code, design, layout and look & feel and electronic and physical documents and emails pertaining to the above are owned by us and are subject to copyright and other Intellectual Property rights owned by us or are used under licence from third party copyright owners.*

*13.2. This web site, including this page, may contain other proprietary notices and copyright information, the terms of which must be observed and followed. Certain images and information at this Site are the copyright or trademark of third parties and any use is subject to the terms and conditions of such third parties.*

## *14. Browsers*

*14.1 Browsers who access this web site for any purpose hereby agree that access to this web site is sufficient consideration for a contractual relationship to be formed between us and the said Browsers subject to these Terms and Conditions which is binding upon the said Browsers.*

## *15. Ecommerce Transactions*

*15.1 You accept full responsibility for ensuring that any ecommerce transaction involving an online payment by credit card or otherwise to us in respect of any service provided by us is properly authorised by you and you agree that any such transaction which is not so authorised or which for any other reason results in a chargeback, claim or dispute by any payment organisation such that we suffer a financial loss or any claim that you will indemnify us in respect of the said loss or claim and any costs incurred in dealing with the said loss or claim.*

## *16. Law and Jurisdiction*

*16.1 These Terms are governed by the law of England and Wales and are subject to the non-exclusive jurisdiction of the Courts of England and Wales.*

*16.2 We reserve the right to refer any dispute to mediation and/or a binding from of independent adjudication where costs are irrecoverable at our sole discretion.*

*16.3 All parties agree that It is not intended that any rights shall arise under The Contracts (Rights of Third Parties) Act 1999, and any such rights, obligations, liabilities or causes of action are hereby excluded.*

*16.4 In the event that this agreement is translated from English into another language the English version shall be definitive and shall prevail if there is any inconsistency.*

## *17. Version Control*

*17.1 These Terms and Conditions are subject to Version Control. This is Version 1.2 dated 20.04.2001*

*Schedule A: Spiderweb Subcontractors As required and deemed necessary by Spiderweb  
Internet Limited  
Schedule B: Service Packages  
See web site [www.spiderweb.co.uk](http://www.spiderweb.co.uk)*