

Please read these Terms and Conditions carefully. All contracts that the Developer may enter into from time to time for the provision of the Developer's services shall be governed by these Terms and Conditions, and the Developer will ask the Customer for the Customer's express written acceptance of these Terms and Conditions before providing any such services to the Customer.

1. Definitions

1.1 In these Terms and Conditions:

"**Acceptance Criteria**" means:

- (a) the Software conforming in all respects with the Specification; and
- (b) the Software being free from Defects;

"**Acceptance Period**" means a period of 14 Business Days following the supply of the Software to the Customer or the resupply of the Software to the Customer in accordance with Clause 4, or such other period as the parties may agree in writing;

"**Acceptance Tests**" means a set of tests designed to establish whether the Software meets the Acceptance Criteria, providing that the exact form of the tests shall be agreed and documented by the developer acting reasonably;

"**Assignment Works**" means the visual appearance of the Software (including page layouts, artwork, photographs, logos, graphics, animations, video works and text comprised in the Software) together with all mark-ups and style sheets comprised in or generated by the Software;

"**Business Day**" means any weekday other than a bank or public holiday in England;

"**Business Hours**" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"**Charges**" means the following amounts:

- (a) the amounts specified in Section 7 of the Statement of Work;
- (b) such amounts as may be agreed in writing by the parties from time to time; and
- (c) amounts calculated by multiplying the Developer's standard time-based charging rates (as notified by the Developer to the Customer before the date of the Contract) by the time spent by the Developer's personnel performing the Services (rounded up by the Developer to the nearest quarter hour);

"**Confidential Information**" means the Developer Confidential Information and the Customer Confidential Information;

"**Contract**" means a particular contract made under these Terms and Conditions between the Developer and the Customer;

"**Customer**" means the person or entity identified as such in Section 1 of the Statement of Work;

"**Customer Confidential Information**" means any information disclosed by or on behalf of the Customer to the Developer any time before the termination of the Contract (whether disclosed in

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writing, orally or otherwise) that at the time of disclosure was marked as "confidential" or should have been understood by the Developer (acting reasonably) to be confidential;

"Customer Materials" means all works and materials supplied by or on behalf of the Customer to the Developer for incorporation into or integration with the Software, or for use in connection with the Services];

"Customer Personal Data" means any Personal Data that is processed by the Developer on behalf of the Customer in relation to the Contract

"Data Protection Laws" means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

"Developer" means Blue Squirrel Software Ltd, a company incorporated in England and Wales (06794562.) having its registered office at The Guesten 15 College Green Worcester Worcestershire WR1 2LH;

"Developer Confidential Information" means any information disclosed by or on behalf of the Developer to the Customer at any time before the termination of the Contract (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;

"Developer Credit" means a textual credit for the Developer incorporating a link to the website of the Developer, in a form agreed by the parties acting reasonably;

"Developer Indemnity Event" has the meaning given to it in Clause 18.1;

"Development Services" means the design and development of the Software, Website or Web-app by the Developer;

"Documentation" means the documentation for the Software produced by the Developer and delivered or made available by the Developer to the Customer;

"Effective Date" means the date of execution of the Contract;

"Expenses" means the travel, accommodation and subsistence expenses that are reasonably necessary for, and incurred by the Developer exclusively in connection with, the performance of the Developer's obligations under the Contract;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, pandemics, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

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"Licensed Works" means the Software, Website, and any Documentation excluding Third Party Materials and the Customer Materials;

"Personal Data" has the meaning given to it in the Data Protection Laws applicable in the United Kingdom from time to time;

"Remedy Period" means a period of 20 Business Days following the Customer giving to the Developer a notice that the Software has failed the Acceptance Tests, or such other period as the parties may agree in writing;

"Services" means any services that the Developer provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"Software" (or "Website") means the software, website or web application developed or to be developed by the Developer for the Customer under the Contract, as specified in the Statement of Work, including all the Source Code for that website created by the Developer in the course of providing the Services;

"Software Defect" (or "Website Defect") means a defect, error or bug in the Software or website having a material adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

1. any act or omission of the Customer or any person authorised by the Customer to use the Software;
2. any use of the Software contrary to the Documentation by the Customer or any person authorised by the Customer to use the Software;
3. a failure of the Customer to perform or observe any of its obligations in this Agreement; and/or
4. an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"Software Specifications" (or "Website Specification") means the specification for the Software or Website set out in Section 2 of the Statement of Work, as it may be varied by the written agreement of the parties from time to time.

"Source Code" means software code in human-readable form, including human-readable code compiled to create software or decompiled from software, but excluding interpreted code;

"Statement of Work" means a written statement of work agreed by or on behalf of each of the parties;

"Term" means the term of the Contract, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Terms and Conditions" means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions and the Statement of Work, including any amendments to that documentation from time to time;

"Third Party Materials" means the works and/or materials comprised in the Software excluding the Customer Materials, the Intellectual Property Rights in which are owned by a third party, and which are specified in Section 5 of the Statement of Work or which the parties agree in writing shall be incorporated into the Software;

2. Term

- 2.1 The Contract shall come into force upon the Effective Date.
- 2.2 The Contract shall continue in force indefinitely, subject to termination in accordance with Clause 21 or any other provision of these Terms and Conditions.
- 2.3 Unless the parties expressly agree otherwise in writing, each Statement of Work shall create a distinct contract under these Terms and Conditions.

3. Development Services

- 3.1 The Developer shall provide the Development Services to the Customer.
- 3.2 The Developer use reasonable endeavors to ensure that the Development Services are provided in accordance with the timetable set out in Section 6 of the Statement of Work.
- 3.3 The Customer acknowledges that a delay in the Customer performing its obligations under these Terms and Conditions may result in a delay in the performance of the Development Services; and subject to Clause 19.1 the Developer will not be liable to the Customer in respect of any failure to meet the Development Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under these Terms and Conditions.
- 3.4 The Developer shall ensure that the Source Code, and any interpreted code, comprised in the Software created by or on behalf of the Developer during the provision of the Development Services is written to a professional standard, conforms with any coding standards document agreed between the parties, and incorporates sufficient reasonable commentary to enable a competent third party developer to understand, adapt, maintain and update the code.
- 3.5 The Developer shall keep the Customer reasonably informed of the progress of the Development Services and, in particular, shall inform the Customer of any substantial obstacles or likely delays in the performance of the Development Services.
- 3.6 The Developer shall during the course of the Development Services at the request of the Customer make accessible to the Customer a current development version of the Software for the purposes of enabling the Customer to assess the progress of the Development Services and provide feedback to the Developer regarding the Software.
- 3.7 If the Contract terminates (for whatever reason) before the delivery of the completed Software to the Customer, the Developer must within 14 days following such termination deliver to the Customer all work in progress towards the Software.

4. Acceptance procedure

- 4.1 During each Acceptance Period, the Developer shall ensure that the Software is accessible to the Customer and the Customer shall carry out the Acceptance Tests.
- 4.2 The Developer hereby grants to the Customer a non-exclusive non-transferable and non-sublicensable licence to use the Software during each Acceptance Period solely for the purpose of conducting the Acceptance Tests.

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- 4.3 The Developer shall provide to the Customer at the Customer's cost and expense all such assistance and co-operation in relation to the carrying out of the Acceptance Tests as the Customer may reasonably request.
- 4.4 Before the end of each Acceptance Period, the Customer shall give to the Developer a written notice specifying whether the Acceptance Tests have been passed or failed.
- 4.5 If the Customer fails to give to the Developer a written notice in accordance with Clause 4.4 or uses the Software for any purpose other than the conduct of the Acceptance Tests, then the Software shall be deemed to have passed the Acceptance Tests.
- 4.6 If the Customer notifies the Developer that the Acceptance Tests have been failed, then the Customer must provide to the Developer, at the same time as the giving of the notice, written details of the results of the Acceptance Tests including full details of the identified failure.
- 4.7 If the Customer notifies the Developer that the Software has failed the Acceptance Tests:
- (a) if the Developer agrees with the Customer that the Software has not passed the Acceptance Tests, then the Developer must correct the issue and re-supply the Software to the Customer before the end of the Remedy Period; or
 - (b) otherwise, then the parties must meet as soon as practicable and in any case before the expiry of the Remedy Period and use their best endeavours to agree whether the Software has not passed the Acceptance Tests and, if appropriate, a plan of action reasonably satisfactory to both parties, and they must record any agreement reached in writing.
- 4.8 Notwithstanding the other provisions of this Clause 4, but subject to any written agreement of the parties to the contrary, the maximum number of rounds of Acceptance Tests under this Clause 4 shall be 5, and if the Acceptance Criteria have not been met by the end of the final round of Acceptance Tests, the Developer shall be deemed to be in material breach of the Contract.
- 4.9 If the Customer notifies the Developer that the Software has passed the Acceptance Tests or the Software is deemed to have passed the Acceptance Tests under this Clause 4, then subject to Clause 19.1 the Customer will have no right to make any claim under or otherwise rely upon any warranty given by the Developer to the Customer in these Terms and Conditions in relation to the conformance of the Software to the Software Specification or the absence of Software Defects from the Software, unless the Customer could not reasonably have been expected to have identified the breach of that warranty during the testing process.

5. Customer obligations

- 5.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Developer, or procure for the Developer, such:
- (a) co-operation, support and advice;
 - (b) information and documentation; and
 - (c) governmental, legal and regulatory licences, consents and permits,
 - (d) as are reasonably necessary to enable the Developer to perform its obligations under the Contract.

5.2 The Customer must provide to the Developer, or procure for the Developer, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by the Developer to enable the Developer to perform its obligations under the Contract.

6. Customer Materials

6.1 The Customer must supply to the Developer the Customer Materials specified in Section 4 of the Statement of Work, in accordance with the timetable specified in Section 6 of the Statement of Work.

6.2 The Customer hereby grants to the Developer a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Materials to the extent reasonably required for the performance of the Developer's obligations and the exercise of the Developer's rights under these Terms and Conditions, together with the right to sub-license these rights to the extent reasonably required for the performance of the Developer's obligations and the exercise of the Developer's rights under these Terms and Conditions.

6.3 The Customer warrants to the Developer that the Customer Materials will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

7. Intellectual Property Rights

7.1 The Developer hereby grants to the Customer a worldwide, non-exclusive and non-expiring licence to copy, store, and otherwise use the Software and the Documentation (excluding the Third Party Materials and the Customer Materials) for the following lawful purposes: a) business promotion and marketing, b) business data management, providing the Customer must not: sell, resell, rent, lease, supply, distribute or redistribute the Software. This license shall take effect in respect of work upon and from the delivery of that work to the Customer.

7.2 Subject to any express written agreement between the parties, the Developer shall ensure that the Third Party Materials are:

- (a) licensed to the Customer in accordance with the relevant licensor's standard licensing terms (which the Customer acknowledges may be open source or *Creative Commons* licensing terms);
- (b) licensed to the Customer on reasonable terms notified by the Developer to the Customer;
- (c) sub-licensed by the Developer to the Customer on reasonable terms notified in writing by the Developer to the Customer; or
- (d) sub-licensed by the Developer to the Customer on the basis of a non-exclusive, worldwide, perpetual and irrevocable licence to use the Third Party Materials in connection with the Software.

8. Reversion of assignments and licences

8.1 Notwithstanding any other provision of these Terms and Conditions, the licences and assignments granted by the Developer to the Customer under these Terms and Conditions are subject to the payment by the Customer of all amounts owing to the Developer under the Contract in full and on time.

8.2 If the Customer owes any amount to the Developer under the Contract and fails to pay that amount to the Developer within 30 days following the receipt of a notice requiring it to do so and specifying that the licences will terminate if the amount remains unpaid, then the Developer may immediately terminate the licences granted by the Developer under these Terms and Conditions by giving written notice of reversion and termination to the Customer.

9. Developer Credit

9.1 The Developer may include the Developer Credit within the software, in a position to be agreed by the parties acting reasonably.

9.2 The Customer must retain the Developer Credit and any adapted versions, must not interfere with the Developer Credit in any way which will have or may reasonably be expected to have a negative impact upon the value of the Developer Credit to the Developer, and may only remove the Developer Credit at the Developer's request.

10. Charges

10.1 The Customer shall pay the Charges to the Developer in accordance with these Terms and Conditions.

10.2 If the Charges are based in whole or part upon the time spent by the Developer performing the Services, the Developer must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to the Developer any Charges in respect of Services performed in breach of this Clause 10.2.

10.3 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value-added taxes, which will be added to those amounts and payable by the Customer to the Developer.

10.4 The Developer may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation.

11. Expenses

11.1 The Customer shall reimburse the Developer in respect of any Expenses, providing that the Developer must obtain the prior written authorisation of the Customer before incurring any Expenses exceeding such limitations as may be agreed in writing by the parties from time to time.

11.2 The Developer must collect and collate evidence of all Expenses, and must retain such evidence during the Term and for a period of 90 days following the end of the Term.

11.3 Within 10 Business Days following receipt of a written request from the Customer to do so, the Developer must supply to the Customer such copies of the evidence for the Expenses in the possession or control of the Developer as the Customer may specify in that written request.

12. Timesheets

12.1 The Developer must:

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- (a) ensure that the personnel providing Services, the Charges for which will be based in whole or part upon the time spent in the performance of those Services, complete reasonably detailed records of their time spent providing those Services; and
 - (b) retain such records during the Term, and for a period of [at least 12 months] following the end of the Term.

13.2 Within 10 Business Days following receipt of a written request, the Developer shall supply to the Customer copies of such of the timesheets referred to in Clause 12.1 and in the Developer's possession or control as the Customer may specify in that written request.

13. Payments

13.1 The Developer shall issue invoices for the Charges to the Customer from time to time during the Term.

13.2 The Customer must pay the Charges to the Developer within the period of 14 days following the issue of an invoice in accordance with this Clause 13.

13.3 The Customer must pay the Charges by debit card, credit card, direct debit or bank transfer using such payment details as are notified by the Developer to the Customer from time to time.

13.4 If the Customer does not pay any amount properly due to the Developer under these Terms and Conditions, the Developer may:

- (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
- (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

14. Confidentiality obligations

14.1 The Developer must:

- (a) keep the Customer Confidential Information strictly confidential;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions no less onerous than those contained in these Terms and Conditions;
- (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Developer uses to protect the Developer's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Customer Confidential Information;

14.2 The Customer must:

- (a) keep the Developer Confidential Information strictly confidential;
- (b) not disclose the Developer Confidential Information to any person without the Developer's prior written consent, and then only under conditions of confidentiality no less onerous than those contained in these Terms and Conditions;
- (c) use the same degree of care to protect the confidentiality of the Developer Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;

(d) act in good faith at all times in relation to the Developer Confidential Information

14.3 Upon the termination of the Contract, each party must immediately cease to use the other party's Confidential Information.

14.4 Following the termination of the Contract, within 5 Business Days following the date of termination of the Contract, the relevant party must destroy or return to the other party (at the other party's option) all media containing the other party's Confidential Information, and must irrevocably delete the other party's Confidential Information from its computer systems.

14.5 The provisions of this Clause 14 shall continue in force indefinitely for a period of 5 years following the termination of the Contract, at the end of which period they will cease to have effect.

15. Data protection

15.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.

16. Warranties

16.1 The Developer shall provide the Services with reasonable skill and care.

16.2 The Developer warrants to the Customer that:

- (a) the Developer has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions;
- (b) the Developer will comply with all applicable legal and regulatory requirements applying to the exercise of the Developer's rights and the fulfilment of the Developer's obligations under these Terms and Conditions; and
- (c) the Developer has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

16.3 The Developer warrants to the Customer that:

- (a) the Software as provided will conform in all material respects with the Software Specification;
- (b) the Software will be supplied free from Software Defects and will remain free from Software Defects for a period of at least 12 months following the supply of the Software;
- (c) the Software will be supplied free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and

(d) the Software/Website shall incorporate security features reflecting the requirements of good industry practice.

16.4 The Developer warrants to the Customer that the Software and Documentation, when used by the Customer in accordance with these Terms and Conditions, will not breach any laws, statutes or regulations applicable under English law; providing however that the Developer shall have no liabilities under this Clause 16.4 in respect of any such breach caused by the Customer Materials or the Third Party Materials.

16.5 The Developer warrants to the Customer that the Software and Documentation, when used by the Customer in accordance with these Terms and Conditions, will not infringe the Intellectual

Property Rights of any person in any jurisdiction and under any applicable law; providing however that the Developer shall have no liabilities under this Clause 16.5 in respect of any such infringement caused by the Customer Materials or the Third Party Materials.

16.6 If the Developer reasonably determines, or any third party alleges, that the use of the Software by the Customer in accordance with these Terms and Conditions infringes any person's Intellectual Property Rights, the Developer may at its own cost and expense:

- (a) modify the Software in such a way that it no longer infringes the relevant Intellectual Property Rights, providing that any such modification must not introduce any Software Defects into the Software and must not result in the Software failing to conform with the Software Specification; or
- (b) procure for the Customer the right to use the Software in accordance with these Terms and Conditions.

16.7 The Customer warrants to the Developer that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.

16.8 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Contract will be implied into the Contract or any related contract.

17. Acknowledgements and warranty limitations

17.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, the Developer gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

17.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, the Developer gives no warranty or representation that the Software will be entirely secure.

17.3 The Customer acknowledges that the Software is only designed to be compatible with that software (including web browser and web server software) that is specified as compatible in the Software Specification; and the Developer does not warrant or represent that the Software will be compatible with any other software.

17.4 The Customer acknowledges that the Developer will not provide any legal, financial, accountancy or taxation advice under these Terms and Conditions or in relation to the Software; and, except to the extent expressly provided otherwise in these Terms and Conditions, the Developer does not warrant or represent that the Software or the use of the Software by the Customer or any other person will not give rise to any legal liability on the part of the Customer or any other person.

18. Indemnities

18.1 The Developer shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any breach by the Developer of this Agreement (a "**Developer Indemnity Event**").

- 18.2 The Customer must:
- (a) upon becoming aware of an actual or potential Developer Indemnity Event, notify the Developer;
 - (b) provide to the Developer all such assistance as may be reasonably requested by the Developer in relation to the Developer Indemnity Event;
 - (c) allow the Developer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Developer Indemnity Event; and
 - (d) not admit liability to any third party in connection with the Developer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Developer Indemnity Event without the prior written consent of the Developer,

the Developer's obligation to indemnify the Customer under Clause 18.1 shall not apply unless the Customer complies with the requirements of this Clause 18.2.

- 18.3 The Customer shall indemnify and shall keep indemnified the Developer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Developer and arising directly or indirectly as a result of any breach by the Customer of this Agreement (a "**Customer Indemnity Event**").

19. Limitations and exclusions of liability

- 19.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

- 19.2 The limitations and exclusions of liability set out in this Clause 19 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 19.1; and
- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

- 19.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.

- 19.4 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

- 19.5 Neither party shall not be liable to the other party in respect of any loss of revenue or income.

- 19.6 Neither party shall not be liable to the other party in respect of any loss of use or production.

- 19.7 Neither party shall not be liable to the other party in respect of any loss of business, contracts or opportunities.

- 19.8 Neither party shall not be liable to the other party in respect of any loss or corruption of any data or database.

19.9 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

19.10 The liability of each party to the other party under the Contract in respect of any event or series of related events shall not exceed the greater of:

- (a) £50,000; and
- (b) the total amount paid and payable by the Customer to the Developer under the Contract in the 12-month period preceding the commencement of the event or events.

19.11 The aggregate liability of each party to the other party under the Contract shall not exceed the greater of:

- (a) £100,000; and
- (b) the total amount paid and payable by the Customer to the Developer under the Contract.

20. Force Majeure Event

20.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Contract (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

20.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Contract, must:

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

20.3 A party whose performance of its obligations under the Contract is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

21. Termination

21.1 The Developer may terminate the Contract by giving to the Customer not less than 30 days written notice of termination.

21.2 The Customer may terminate the Contract by giving to the Developer not less than 30 days' written notice of termination.

21.3 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:

- (a) the other party commits any material breach of the Contract, and the breach is not remediable;
- (b) the other party commits a material breach of the Contract, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
- (c) the other party persistently breaches the Contract (irrespective of whether such breaches collectively constitute a material breach).

21.4 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:

- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract); or
- (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

21.5 The Developer may terminate the Contract immediately by giving written notice to the Customer if:

- (a) any amount due to be paid by the Customer to the Developer under the Contract is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Developer has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate the Contract in accordance with this Clause 21.5.

22. Effects of termination

22.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.7, 4.9, 7.1, 7.4, 8, 9, 11.2, 11.3, 12, 13.2, 13.4, 14, 15.1, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8, 15.9, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17, 15.18, 19, 22, 25 and 26.

22.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Contract shall not affect the accrued rights of either party.

22.3 Within 30 days following the termination of the Contract for any reason:

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- (a) the Customer must pay to the Developer any Charges in respect of Services provided to the Customer before the termination of the Contract; and
- (b) the Developer must refund to the Customer any Charges paid by the Customer to the Developer in respect of Services that were to be provided to the Customer after the termination of the Contract, without prejudice to the parties' other legal rights.

23. Notices

23.1 Any notice given under these Terms and Conditions must be in writing, whether or not described as "written notice" in these Terms and Conditions.

23.2 Any notice from one party to the other party under these Terms and Conditions must be given by one of the following methods (using the relevant contact details set out in Section 8 of the Statement of Work):

- (a) delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or
- (b) sent by recorded signed-for post, in which case the notice shall be deemed to be received 2 Business Days following posting,
- (c) sent by email, in which case the notice shall be deemed to be received 1 Business after being sent.

providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.

23.3 The addressee and contact details set out in Section 8 of the Statement of Work may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 23.

24. Subcontracting

24.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Developer may subcontract any of its obligations under the Contract, providing that the Developer must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.

24.2 The Developer shall remain responsible to the Customer for the performance of any subcontracted obligations.

25. General

25.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.

25.2 If any provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Contract will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that

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would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

25.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.

25.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these Terms and Conditions.

25.5 The Contract is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Contract are not subject to the consent of any third party.

25.6 Subject to Clause 19.1, these Terms and Conditions shall constitute the entire agreement between the parties in relation to the subject matter of these Terms and Conditions and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

25.7 The Contract shall be governed by and construed in accordance with English law.

25.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.

26. Interpretation

26.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

26.2 The Clause headings do not affect the interpretation of these Terms and Conditions.

26.3 References in these Terms and Conditions to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

26.4 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

Appendix 1

Professional Services Rates

Unless explicitly agreed otherwise by Blue Squirrel Software Ltd, the following professional service rates will be charged (exclusive of VAT):

	Per Hour	Per Day (8 Hours)
Development/Consultation	£105.00	£720.00

Minimum charge: Quarter of an hour