











but reserves the right to make minor alterations without notice to the customer where necessary, and this shall not constitute breach of the Contract.

12.10 Any modifications customers require after the finished web design is handed over to the customer must be made in writing or by email. Customers will incur a maintenance fee for any changes.

12.11 Invoices may include any fees or expenses that were authorised verbally in order to expedite a project. 12.12

6 + shall not be held liable for any incidental or consequential damages which arise from the failure to perform any aspect of the project in a timely or acceptable manner, regardless of whether such failure was caused by intentional or negligent acts or omissions of 6 + or a third party.

#### **E-Mail Services (including E-Mail forwarding)**

13.1 Customer undertakes that it will not (and will ensure that others under its control will not) via E-Mail:

12.1.1 transmit Inappropriate Material;

13.1.2 infringe the Intellectual Property Rights of any third party;

13.1.3 make use of the Server to an extent or in a manner which in SH's reasonable opinion is excessive, wasteful or otherwise to the detriment of SH, any of SH's customers or any other third party, including but not limited to:-

13.1.3.1 the transmission of spam E-Mail; or

13.1.3.2 the transmission of insulting criticism or remarks intended to incite anger.

13.2 When sending E-Mail, Customer acknowledges that it is responsible for complying with any Relevant Legislation.

13.3 Customer acknowledges that SH is not responsible for the security of the contents of E-Mail sent or received by Customer.

13.4 SH will use its reasonable endeavours to ensure that messages are routed accurately and promptly but does not accept any liability for non-receipt, non-delivery or misrouting of E-Mail or any other failure of the E-Mail system.

13.5 SH's policy is to respect the privacy of E-Mail messages sent, received forwarded or otherwise dealt with by it and Customer acknowledges that SH will therefore not monitor, edit or disclose the contents of such messages unless required to do so by law or competent authority or to protect 6 + V rights and/or position.

13.6 Customer acknowledges that all E-Mail services will be covered by 6 + V Fair Use outlined under Clause 15.

#### **Dedicated/Co-Located Servers**

14.1 6 + will liaise with its customer and the data-centre where the dedicated or co-located server will be located.

14.1.1 While 6 + will be very selective over the data-centre it selects on the customer's behalf 6 + accepts no responsibility for the reliability of hardware, network or power.

14.1. Customer acknowledges and accepts that it is not only bound by 6 + V Terms and Conditions but that of its chosen service provider for servers.

14.1.2 Where the chosen service provider has a Service Level Agreement (SLA) in place and they fall below the agreement, 6 + will on the customer's behalf recover any refunds and pass on to the customer where available.

14.2 6 + guarantees to its dedicated server clients that defective hardware will be replaced within 8 hours of signalling the problem via our telephone number or e-mail address, regardless of the time of day, and 6 + agreeing that the hardware has failed.

14.2.1 In case of hardware unavailability, a temporary server of similar specifications (if available) will be offered to the client.

14.3. Customer warrants that it has the necessary knowledge referred to in Clause 11.2 above and acknowledges that it is not the responsibility of 6 + to provide such knowledge or to provide customer support unless otherwise agreed in writing with SH.

14.4 Customer acknowledges and accepts that it bears sole responsibility, legal and otherwise, for the content of all Material appearing on its server. For the avoidance of doubt, this clause shall apply to all Material, whether posted on Customer's server by or on behalf of Customer (whether by SH or a third party).

14.5 Customer warrants, represents and undertakes in relation to all Material that:

14.5.1 it is not Inappropriate Material;

14.5.2 Customer either has sole ownership of all Intellectual Property Rights in such Material in each jurisdiction from which the server may be accessed and/or has obtained full and effective licence(s) from all relevant third parties allowing Customer or a third party acting on behalf of Customer to use the Material and to permit its dissemination worldwide;

14.6 Customer undertakes not to link to any Inappropriate Material from its server.

14.7 SH shall retain the right at all times to refuse to post any Material and to suspend availability of the server, place a prominent notice on the server where an allegation of defamation or Intellectual

Property Right infringement is made by a third party or place a link on the Website to another Website containing the alleged version of events and/or to remove any Material already appearing on the server which in the opinion of SH may under the laws of any jurisdiction from which it is possible to access the relevant server :

14.7.1 constitutes or would if posted constitute Inappropriate Material;

14.7.2 breaches or would if posted breach Relevant Legislation or any other applicable regulations, standards or codes of practice (notwithstanding that compliance may not be compulsory); and/or

14.7.3 harms or would if posted harm the reputation of SH in any way.

14.8 SH's rights to suspend availability of Customer's server and/or remove content under Clause 11.7 above shall be without prejudice to Customer's sole responsibility for content of the server under Clause 11.4 and to the warranties given by Customer relating to that content in Clause 11.5.

14.9 Posting of Material by SH on the server shall not under any circumstances constitute a waiver of any of its rights in relation to such Material or of its rights in relation to any breach of Customer's obligations under this Agreement.

#### **15. Fair Use**

15.1 All our web hosting and E-Mail services are covered by the following Fair Use Policy:

15.1.1 SH's Fair Use is based on average resources. If a customer is using in excess of 10% of the average resources then they will be deemed in breach of our Fair Use Policy. SH will not terminate services but will work with the customer to find a suitable replacement product.

15.1.2 Where a new product is required the customer's initial commitment will be moved onto the new product.

#### **16. Intellectual property rights and licence agreement**

16.1 All IPRs relating to the Services, Hardware and/or Software including without limit any Internet Protocol Addresses assigned to the Customer are and shall remain the property of SH reserves the right to change the Internet Protocol Address assigned to the Customer at any time, however SH shall endeavour to give reasonable notice of the change and shall use reasonable endeavours to reduce disruption to the Customer resulting from such changes.

16.2 Title to the Hardware and Software (both legal and equitable) is and shall at all times remain with SH and the Customer shall keep the Software and Hardware free of all liens, encumbrances and charges and protect it from any and all judicial process.

16.3 SH grants to the Customer a non-exclusive non-transferable licence to use the Software on the Hardware and/or Clientware and in conjunction with the Services and except as provided for in the Contract the Customer is not permitted to sub-licence any rights granted under the Contract to any third party. The Customer agrees that it will not itself, or through a third party:

16.3.1 copy the Software, except as is necessary to install on Hardware and for internal, archiving purposes. In the

event that the Client makes any copies of the Software, the Client shall reproduce all proprietary notices on such copies;

16.3.2 reverse engineer, decompile, disassemble or otherwise attempt to derive source code from the Software;

16.3.3 sell, lease, license, transfer or sublicense the Software or associated documentation; or

16.3.4 write or develop any derivative or other software programs based, in whole or in part, upon the Software or any confidential information.

#### **17. Risk and Title**

17.1 The Customer acknowledges that the allocation of risk in any Equipment shall pass to the Customer.

17.2 The Customer acknowledges that with relation to dedicated servers SH shall retain ownership of the Equipment.

#### **18. Disputes/Arbitration**

18.1 In the event of any dispute over the quality of Service received the Client will inform the Managing Director in writing. The Managing Director will then undertake a full review of all complaints received and shall offer up a report within 4 weeks of receipt.

18.2 Any dispute arising out of or in connection with the contract shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English courts.

#### **19. Force Majeure**

19.1 If SH is prevented or delayed in or from performing any of its obligations under these terms and conditions or the Contract due to circumstances beyond its control such as but not limited to governmental acts, war, riots, strikes or trade disputes (including by and with our own employees), technical failure, mechanical faults, general availability of the Internet, power failure, communications failure, weather, flood, fire or explosion, natural or local emergency SH shall not be liable for this.

This Agreement does not affect your statutory rights.