

1 DEFINITIONS

1.1 In this Agreement, the following expressions shall have the following meanings unless the context otherwise requires:

'Acceptable Use Policy' means the policies and rules that exist now or which may be amended, modified or published from time to time by Precedent Hosting which are posted on the Precedent Hosting Site;

'Customer Software' means the software provided by the Applicant to Precedent Hosting to enable it to or assist it in providing any Services;

"Data Activity" means the amount of data transfer measured in Gigabytes per month transmitted across Precedent Hosting's Network by the Applicant's use of the Web Hosting Services and or Server Rental Services.

'Domain Name' means the domain name which the Applicant wishes to register, display and exploit on the internet;

"Domain Name Services" means the domain name services specified in Clause 3;

'Effective Date' means the date of acceptance of the Agreement by Precedent Hosting;

'Fees' means the registration, renewal and/or other fees as posted on the Precedent Hosting Site from time to time payable by the Applicant to Precedent Hosting in respect of the provision of the relevant Services;

'Intellectual Property Rights' means all copyright, trade marks, service marks, patents, design rights and any other intellectual property right (whether registered or not);

'Information' means the information provided by the Applicant on the Order Form and any other information relating to the Domain Name, the Services or this Agreement submitted by the Applicant to Precedent Hosting; 'Money Back Guarantee' means the guarantee as posted on the Precedent Hosting Site from time to time 'Order Form' means the order form posted on the Precedent Hosting Site which the Applicant has completed and submitted to Precedent Hosting;

'Personal Data' means information which relates to the Applicant or individuals employed or engaged by the Applicant who can be identified from that information or from that information and other information held by or likely to be held by Precedent Hosting;

'Registry' means the relevant domain name registry with whom Precedent Hosting arranges to register the Domain Name;

'Server' means the server or servers provided to the Applicant on the terms of the Sever Rental Services;

'Services' means Domain Name Services, the Website Hosting Services and any other services posted on the Precedent Hosting Site as selected by the Applicant and which the Applicant wishes Precedent Hosting to provide;

'Precedent Hosting Site' means the Precedent Hosting web site located at <http://www.pdhosting.co.uk> and accessible by that or any other URL.

"the Third Party Software" means the "open source" operating and applications software made available by third party software vendors;

"the Website" means the website or sites in respect of which Precedent Hosting provides the Website Hosting Services as specified in Clause 4;

"Website Hosting Services" means the website hosting services specified in Clause 4.

1.2 The headings contained in this Agreement are for reference only and shall not affect their interpretation.

1.3 Precedent Hosting may at any time correct any typographical or other errors or omissions in any document posted on the Precedent Hosting Site relating to the provision of the Services, the Policies or otherwise without any liability whatsoever to the Applicant.

2 SUPPLY OF SERVICES

2.1 Precedent Hosting will provide the Services to the Applicant subject to the terms and conditions contained in this Agreement. Any changes or additions to the Services or this Agreement must be agreed in writing by Precedent Hosting and the Applicant.

2.2 Precedent Hosting will provide the Services exercising reasonable skill and care but otherwise it will have no obligation, duty or liability to the Applicant in contract, tort, for breach of statutory duty or otherwise. In the event of material breach of this clause, the applicant's only remedy against Precedent Hosting will be to terminate this agreement and a right to recover actual damages suffered which will not exceed the total amount of fees paid by the applicant to Precedent Hosting for provision of the services affected by Precedent Hosting's breach, less any sums chargeable in respect of usage in accordance with these terms and conditions and/or the refund policy. This does not affect the Applicant's statutory rights.

2.3 Precedent Hosting will commence performance of the services following despatch of its acceptance of the applicant's offer and the applicant agrees and acknowledges that he will not be able to exercise any right he may have to cancel this agreement under the Consumer Protection (Distance Selling) Regulations 2000 (as amended or modified).

2.4 The Acceptable Use Policy, Refund Policy, Money Back Guarantee, and Data Protection and Privacy Policy ("the Policies"), and where applicable the Service Level Agreement are incorporated into this Agreement by reference. The Applicant agrees and acknowledges that by entering into this Agreement he will be bound to and will abide by these policies.

2.5 Precedent Hosting may modify, amend and/or revise the Policies from time to time and the Applicant is responsible for reviewing the Policies on a regular basis. Any modifications, amendments and/or revisions to the Policies necessary to comply with any applicable statutory or other legal requirements will be effective immediately on the date of posting on the Precedent Hosting Site. All other modifications, amendments and/or revisions to the Policies will be effective twenty (20) days after the date of posting on the Precedent Hosting Site and will have retrospective effect.

3 DOMAIN NAME SERVICES

3.1 Precedent Hosting will provide the Domain Name Services on an "as available" basis. The acceptance by Precedent Hosting of the Applicant's application to register the Domain Name is not an acknowledgement by Precedent Hosting of the availability of the Domain Name and such application will be subject to the successful registration of the Domain Name at the Registry which shall be signified by the Domain Name being displayed on the Registry's WHOIS directory as being registered to the Applicant.

3.2 In the event the Domain Name is not successfully registered with the Registry or if Precedent Hosting declines to accept the Applicant's Order Form for whatever reason, Precedent Hosting will

refund the Fees to the Applicant. Precedent Hosting will not be liable to the Applicant for any loss or damage howsoever arising or resulting from any inability to register the Domain Name or by any refusal by Precedent Hosting of the Applicant's Order Form. Please note: Precedent Hosting will not be liable to refund the fees to the applicant if, for any reason after registration, the applicant is forced to relinquish the domain name or, subject to the Refund Policy, if the applicant cancels his order.

3.3 The Applicant agrees and acknowledges that registration of and use of the Domain Name may be subject to the Registry's own acceptable use policies, rules or other terms and conditions. By submitting the order form to Precedent Hosting, the applicant agrees to be bound by any such policies, rules or other terms and conditions and to fully and effectively indemnify Precedent Hosting in respect of any and all losses, costs, expenses or liability suffered or incurred by Precedent Hosting in the event of or as a result of or arising out of any breach of this clause 3.3. Upon successful registration of the domain name, it is the applicant's responsibility to review and familiarise himself with the relevant registry's policies, rules and other terms and conditions.

3.4 Precedent Hosting's sole obligation in relation to renewal of domain names, and then only for so long as this agreement for the provision of domain name services remains in force, shall be to issue one reminder to the applicant at its last notified email address as to the renewal date of the relevant domain name. Precedent Hosting shall have no obligation in relation to renewal other than as specified above, and shall have no liability to the applicant for any failure of the applicant to renew any domain name, whether or not such email notification is delivered.

3.5 In the event of any conflict between this Agreement, the Acceptable Use Policy and/or the Registry terms and conditions, the following precedence will apply:

- (a) the Registry's terms and conditions;
- (b) the Acceptable Use Policy; and
- (c) this Agreement

4 WEBSITE HOSTING SERVICES

4.1 In return for the payment of the Website Hosting Fees and compliance by the Applicant with the terms of this Agreement, Precedent Hosting agrees to provide a hosting service in respect of the Website for the term specified.

4.2 Precedent Hosting's liability in respect of the availability of the Website is limited as specified in the Service Level Agreement. Precedent Hosting's obligation is to act as host only. The Applicant acknowledges that it has sole responsibility and liability for the design and maintenance of the Website.

4.3 Following despatch of its acceptance of the Applicant's offer, Precedent Hosting will install the Third Party Software and/or Customer Software on the relevant server, and issue password[s] to the Applicant.

4.4 The Applicant acknowledges and agrees that Precedent Hosting may monitor use of the Website, traffic to and there from and content thereof as specified in the Acceptable Use Policy.

5 SOFTWARE

5.1 Where the Applicant requests Precedent Hosting to provide any Third Party Software, whether in connection with the Server Rental Service, the Website Hosting Service or any other Service, the Third Party Software is provided on as "as is" and "as available" basis. Precedent Hosting gives no warranties or other undertakings of any kind in relation to the Third Party Software. Where any licence is needed for any Third Party Software, the Applicant agrees that such software will not be provided until the Applicant has paid any necessary licence and/or other fees and associated costs, and that it will comply with the terms of any software licence.

5.2 In relation to the Customer Software, the Applicant warrants and undertakes to Precedent Hosting that it is entitled to provide the Customer Software to Precedent Hosting to use the purpose of providing the Services, that the Customer Software is free from viruses and any other disabling devices, that if any licence fee shall be payable in respect of such use, the Applicant will bear the same, and that it will, prior to commencement of use of the Customer Software by Precedent Hosting, provide to Precedent Hosting copies of any licence terms with which Precedent Hosting is required to comply. If the licence terms are, in the sole discretion of Precedent Hosting, onerous, Precedent Hosting shall be entitled to decline to use the Customer Software, without liability of any nature to the Applicant. The Applicant will fully and effectively indemnify Precedent Hosting, its employees, agents and contractors from and against any liability, loss or claim whatsoever and all costs and expenses (including, without limitation, legal costs and expenses) incurred in relation to or arising out of any breach of the Applicant's obligations under this Clause 5.

6 OBLIGATIONS OF THE APPLICANT

6.1 The Applicant will pay to Precedent Hosting the Fees applicable at the time the Applicant submits the Order Form or at the time of the renewal of this Agreement as provided in clause 8 or as otherwise specified as appropriate in the Simple.Com Site. Precedent Hosting reserves the right at any time to revise the Fees without notice.

6.2 The Applicant undertakes and warrants to Precedent Hosting that the Information is true, accurate and complete in all material respects. The Applicant also undertakes and warrants that he will maintain and keep the Information true, accurate and complete in all material respects by immediately notifying Precedent Hosting of any change that is required to be made to the Information (including but not limited to informing Precedent Hosting of any changes in the Applicant's address and/or contact details).

6.3 The Applicant undertakes and warrants to Precedent Hosting as follows:

- (a) to the best of the Applicant's knowledge, information and belief, neither the registration of the Domain Name nor the provision of the Services nor the manner in which they are to be directly or indirectly used will infringe the Intellectual Property rights of any third party;
- (b) that the Applicant has the full right, power, legal capacity, ability and authority to enter into this Agreement;
- (c) that use of the Domain Name and the Services will be strictly subject to the terms and conditions of this Agreement, the Acceptable Use Policy and the policies, rules and terms and conditions of the Registry, all of which may be amended, revised or modified from time to time and it is the Applicant's responsibility to review these documents on a regular basis;
- (d) the Applicant will use the Services and will display and exploit the Domain Name or the Services in good faith;
- (e) the Applicant will fully comply with any Terms and Conditions of the Registry;
- (f) the Applicant understands and agrees that Precedent Hosting has no responsibility for the content of the Website or any other website of the Applicant, whether hosted using the Services or not, and that the Applicant is responsible for those website including but not limited to ensuring their accuracy, complying with the Acceptable Use Policy, and ensuring that such websites are secure and adequately protected from viruses and other disabling devices; and
- (g) the Applicant will not make use of the Services, nor operate, display or exploit the Domain Name in any way so as to infringe any subsisting right of any third party.

6.4 The Applicant understands and agrees that use of the Services, use of the Domain Name and access to any website located at the Domain Name address by third parties will be subject to the local laws of the country where such third party is resident and the Applicant warrants to Precedent Hosting that he will use the Services and will operate, display and exploit the Domain Name, the website, any website or other functions operated using the Servers and any other websites located at

the Domain Name address in accordance with all relevant national and international laws and regulations.

6.5 The applicant will be responsible for and will fully and effectively indemnify and keep indemnified Precedent Hosting, its employees, agents and contractors from and against any liability, loss or claim whatsoever and costs and expenses (including, without limitation, legal costs and expenses) incurred in relation to or arising as a result of any breach of the applicant's obligations under this clause 6 by either the applicant, its employees, agents or contractors.

7 LIMITATION OF LIABILITY

7.1 The Applicant acknowledges that the Fees for the Services are calculated on the basis of the limitations on liability as set out in this Agreement and that, accordingly, the limitations on liability set out in this Agreement are reasonable in the circumstances. If requested by the Applicant, Precedent Hosting will provide alternative Fee quotations, based upon acceptance by Precedent Hosting of higher levels of liability, such level of liability to be specified in Precedent Hosting's quotation.

7.2 Subject as expressly provided to the contrary in this agreement and except in respect of fraud, or death or personal injury caused by the negligence of Precedent Hosting, Precedent Hosting will not be liable to the applicant by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of this agreement for loss of data, profits or contracts nor for any indirect, incidental, special or consequential loss or damage, costs, expenses or other claims for compensation relating to the use or the inability to use the domain name, the servers, the web-site or in any other way related to or in connection with the provision of the services, whether caused by the negligence of Precedent Hosting, its employees or agents or otherwise and whether such action arises in contract, tort or otherwise.

7.3 Save as expressly provided to the contrary in the Service Level Agreement, Precedent Hosting will not be liable for any damages or losses whether direct or indirect that the applicant may suffer as a result of service or systems failure whether caused by systems or services under Precedent Hosting's control or otherwise, including but not limited to domain name system failure, server failure, access delays or interruptions, data non-delivery or mis-delivery, any acts of God, delays in provision of the services, breaches of security or unauthorised use of the domain name, web-site or server arising from "hacking" or otherwise, even if Precedent Hosting has been advised of the potential for such damages and even if Precedent Hosting may reasonably foresee such possible damages.

7.4 Precedent Hosting is not liable for the loss of any emails sent to mailboxes of any configuration or sent from email accounts related services provided by Precedent Hosting. Precedent Hosting is not responsible for any email stored in mailboxes provided by Precedent Hosting. Applicant only has an expectation of preserving email downloaded from mailboxes provided by Precedent Hosting.

7.5 In no event shall the liability of Precedent Hosting under this agreement (including, for the avoidance of doubt, but not limited to the service level agreement and the refund policy) exceed the aggregate sums specified in clause 2.2.

7.6 While Precedent Hosting makes regular maintenance updates to its systems and services, it will not be liable for any damages or losses whether direct or indirect that the Applicant may suffer as a result of any virus, Trojan horse or other disabling device that affects services or systems whether under the control of Precedent Hosting or otherwise.

7.7 The applicant will indemnify Precedent Hosting and keep Precedent Hosting fully and effectively indemnified on demand against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands proceedings and actions which Precedent Hosting may sustain or incur in relation to the domain name the hosting service, the server provision and/or any other services brought or

threatened against Precedent Hosting by any third party, except in the event of death or personal injury caused by the negligence of Precedent Hosting.

7.8 Subject to clause 13.2, the parties expressly exclude any rights of third parties who may otherwise be entitled to enforce the terms of this Agreement as if they were a party to it or otherwise able to rely on the provisions of the Contracts (Rights of Third Parties) Act 1999 as enacted or modified from time to time.

7.9 Subject as expressly provided in this Agreement, and except where the Services are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.10 Subject to clause 2.3, where the services are sold under a consumer transaction (as defined by the Consumer Transaction (Restrictions on Statements) Order 1976) the statutory rights of the applicant are not affected by the terms and conditions of this agreement.

8 TERM, AND TERMINATION AND RENEWALS

8.1 This Agreement shall come into force on the Effective Date and subject to earlier termination as provided under this Agreement, including but not limited to the Refund Policy, will continue for the period specified in the service agreement.

8.2 Approximately two months before the expiry of the term, Precedent Hosting shall submit to the Applicant a renewal notice accompanied by an emailed invoice. If the Applicant pays the invoice prior to the expiry of the term, this Agreement will continue in force for the further period specified in the renewal notice. If the Applicant has not paid the invoice by the expiry of the term, this Agreement shall automatically terminate, and Precedent Hosting shall cease to provide any further Services to the Applicant without any liability to the Applicant. For the avoidance of doubt, this may include termination of Domain Name and/or Website Hosting, and termination of access to the Servers.

8.3 Precedent Hosting shall be entitled to terminate this Agreement immediately without notice if the Applicant is in material breach of any obligation under this Agreement. A material breach includes but is not limited to:

- (a) if the Applicant provides materially false, inaccurate, incomplete or misleading information; or
- (b) if the Applicant fails to correct material errors or omissions relating to the Information resulting in the Information becoming false, inaccurate, incomplete or misleading.

8.4 Precedent Hosting shall be entitled to terminate this Agreement immediately upon written notice if:

- (a) the Applicant is in breach (other than material breach) of any obligation under this Agreement and, in the case of breach capable of remedy, it shall not have been remedied by the Applicant within thirty (30) days following receipt of a written notice from Precedent Hosting specifying the breach and requiring its remedy; or
- (b) the Applicant becomes insolvent, has a receiver appointed over the whole or any part of its assets, enters into any composition with creditors, or has an order made or resolution passed for it to be wound up (otherwise than for the purposes of a scheme for solvent amalgamation or reconstruction) or, in the case of an individual or partnership, becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed.

8.5 The Applicant shall be entitled to terminate this Agreement immediately upon giving notice to Precedent Hosting if:

- (a) Precedent Hosting is in material breach of any obligation under this Agreement and, in the case of a breach capable of remedy, it shall not have been remedied by Precedent Hosting within thirty (30)

days following receipt of a written notice from the Applicant specifying the breach and requiring its remedy; or

(b) Precedent Hosting becomes insolvent, has a receiver appointed over the whole or any part of its assets, enters into any composition with creditors, or has an order made or resolution passed for it to be wound up (otherwise than for the purposes of a scheme for solvent amalgamation or reconstruction).

8.6 The Applicant acknowledges that termination of this Agreement for any reason will result in Precedent Hosting ceasing to provide the Services, with all the consequences that flow from such cessation, including, but not limited to, deletion of hosting account(s) and mailboxes.

8.7 Termination of this Agreement by either party pursuant to clause 8.2, 8.3 or 8.4 or 8.5 (as appropriate) shall be without prejudice to the accrued rights of either party.

9 REFUND POLICY

9.1 All requests for refunds for hosting plans must be in writing and sent by first class post to the registered offices of Precedent Hosting. Precedent Hosting may, in its discretion, accept requests by fax. In the case of credit card orders, all refunds will be to the credit account used for the original transaction. Refunds are for complete months of unused service calculated from the date service commenced.

9.2 Refunds are only available for hosting plans, if notification is received from the Applicant within 48 hours of order. A handling charge of £5.00 plus vat per hosting account may apply.

9.3 Refunds are not available for Set-Up fees, SSL Certificates, Domain names or any other products or services provided by Precedent Hosting.

9.4 No refunds will be made if we terminate your hosting or other services due to violation of our Acceptable Use Policy or any other violation of our Terms and Conditions, except as may be provided therein. This does not affect your statutory rights.

10 SERVICE LEVEL GUARANTEE

10.1 This Guarantee applies to Precedent Hosting, hosting plans only.

10.2 Our Service Level Guarantee is calculated weekly. If the Precedent Hosting Network is unavailable for less than 98.1% in any calendar week (calculated from 00:01 Monday to 23:59 Sunday) the Applicant is eligible for one day of credit to Applicant's hosting plan for every hour service is unavailable to a maximum of the monthly cost of the hosting or server rental plan.

10.3 The Service Level Guarantee only covers the network and servers owned by Precedent Hosting.

10.4 The Service Level Guarantee excludes server configuration error, hardware failure, routing problems, domain registry and DNS problems.

10.5 The Service Level Guarantee does not apply if Applicant's website or server is unavailable due to natural disasters or meteorological phenomenon, fire, flood, explosion, accident, acts of terrorism, acts of any governmental authority, Acts of God, war or other outbreak of hostilities, riots or other civil disturbance, strike or other industrial disputes, criminal damage, acts or omissions of providers of telecommunication services, or other force majeure occurrence.

10.6 Claims must be in writing and faxed or posted to Precedent Hosting, stating the times Applicant's site was unavailable, connection procedures attempted by Applicant, and supporting documentary evidence.

10.7 Precedent Hosting is not responsible for lost e-mails or in delays in delivering e-mail.

11 DATA PROTECTION

11.1 Except to the extent that Precedent Hosting is required or permitted by law, any Information which is Personal Data will be used solely as set out in the Website Data Protection and Privacy Policy on the Precedent Hosting Site from time to time.

11.2 In the event Precedent Hosting does not accept the Applicant's offer to enter into this Agreement, the Personal Data will not be held for longer than is necessary, after which time it will be destroyed.

11.3 In the event Precedent Hosting accept the Applicant's offer to enter into this Agreement, the Personal Data will form part of the Applicant's customer records and Precedent Hosting will be entitled to use it for all purposes connected with the provision of the Services, such Services including, but not limited to, the provision of the Personal Data to the Registry.

11.4 As part of the provision of the Services, the Personal Data may be transferred outside the European Economic Area ("EEA") and by supplying the Personal Data, the Applicant hereby consents to any such transfer. The Applicant confirms that he is aware that countries outside the EEA may have less extensive protection for Personal Data than the United Kingdom.

11.5 Precedent Hosting may wish to use the Personal Data to send the Applicant information about its Services and/or products. If the Applicant does not wish to receive any such information, he may send a notice to Precedent Hosting in accordance with clause 13.3 indicating that he does not wish to receive such information, or respond as specified in the Website Data Protection and Privacy Policy.

12 TRANSFER REQUESTS

12.1 The Applicant may request Precedent Hosting to transfer technical control of the Domain Name to another service provider at any time during the term of this Agreement.

12.2 The Applicant understands and acknowledges that by submitting a request to transfer technical control of the Domain Name, the Applicant releases Precedent Hosting from all obligations, claims, liabilities and/or demands arising out of or in relation to the Domain Name Services under this Agreement.

12.3 On receipt of a transfer request, Precedent Hosting will use its reasonable endeavours to process such request but shall not be responsible for any delay in effecting such transfer.

12.4 Precedent Hosting shall not be obliged to process a transfer request until:

- (a) the Applicant has provided all information necessary to effect such transfer; and
- (b) the Applicant has paid all Fees in full; and
- (c) the Applicant has paid any applicable transfer fee to Precedent Hosting.

12.5 If the registration term of the domain has expired or is within 14 days of expiry the Applicant must pay a renewal fee to Precedent Hosting before the transfer request can be processed.

13 GENERAL

13.1 This Agreement including all the documents incorporated by reference within it constitutes the entire agreement between the Applicant and Precedent Hosting, supersedes any previous agreement or understanding and may not be varied except as provided for in this Agreement.

13.2 Precedent Hosting is entitled to assign this Agreement and all or any of its rights or obligations hereunder without the prior written consent of the Applicant. The Applicant is not entitled to assign this Agreement nor all or any of its rights or obligations hereunder without the prior written consent of Precedent Hosting.

13.3 Except where expressly provided to the contrary in this Agreement, any notice required or permitted to be given by either party to the other under this Agreement shall be in writing and delivered or sent by first class post to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the other party.

13.4 No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of any breach of this Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.5 If any provision in this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.

13.6 This Agreement shall be governed by and construed in accordance with English law and shall be subject to the non-exclusive jurisdiction of the English Courts.