



Web Hosting Agreement

Version 1.0

Web Hosting Agreement

DATE

PARTIES

(1) Warren Creative, a limited company incorporated in England and Wales, Registration Number 03871425, having its registered office at A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ (the **Company**); and

(2) COMPANY NAME:

Please tick appropriate box:

Limited Company Public Limited Company
incorporated in England and Wales (Registration Number _____)

having its registered office at:

(the **Customer**).

Please
complete
your
company
details



BACKGROUND

The Company has expertise in the provision of hosting services and related services, and the Customer has appointed the Company to provide hosting services and related services on the terms of this Agreement.

AGREEMENT

1. Definitions and Interpretation

1.1 In this Agreement:

Affiliate means a company, firm or individual that Controls, is Controlled by, or is under common Control with the relevant company, firm or individual;

Agreement means this agreement (including the Schedule) and any amendments to it from time to time;

Business Day means any week day (Mon-Fri), other than a bank or public holiday in England;

Business Hours means between 09:00 and 17:30 on a Business Day;

Charges means the amounts payable by the Customer to the Company under or in relation to this Agreement (as set out in the Company's terms and conditions including for the avoidance of doubt any which are separately agreed in writing between the Company and the Customer as expressly anticipated in this Agreement);

Confidential Information means:

(a) any information supplied (whether supplied in writing, orally or otherwise) by one party to the other party marked as "confidential", described as "confidential" or reasonably understood to be confidential; and

(b) in accordance with the information provided in the Confidentiality Agreement presented on the Company's website;

Control means the legal power to control (directly or indirectly) the management of an entity (and "Controlled" will be construed accordingly);

Effective Date means the date of execution of this Agreement;

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 or problems with the internet or a part of the internet, hacker 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, terrorist attacks and wars);

Hosted Materials means all websites, web applications, software, information, data, databases and other works and materials stored, transmitted, published or processed using the Services;

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

Minimum Term means the period of 1 Year starting on the Effective Date;

Personal Data has the meaning given to it in the Data Protection Act 1998;

Prohibited Content means:

- (a) material which breaches any applicable laws, regulations or legally binding codes, or infringes any third party Intellectual Property Rights or other third party rights, or may give rise to any form of legal action against the Company or the Customer or any third party;
- (b) pornographic or lewd material; and
- (c) messages or communications which are offensive, abusive, indecent or obscene, are likely to cause annoyance, inconvenience or anxiety to another internet user, or constitute spam or bulk unsolicited mail;

Resources means the resources specified in the Schedule;

Services means the services provided under this Agreement;

Start Date means the date agreed as the start date for commencement of hosting;

Term means the term of this Agreement; and

Year means a period of 365 days (or 366 days if there is a 29 February during the relevant period) starting on the Effective Date or on any anniversary of the Effective Date.

- 1.2 In this Agreement, 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.
- 1.3 The Clause headings do not affect the interpretation of this Agreement.
- 1.4 The ejusdem generis rule is not intended to be used in the interpretation of this Agreement; it follows that a general concept or category utilised in this Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.

2. Term

This Agreement will come into force on the Effective Date and will continue in force indefinitely, unless and until terminated in accordance with Clause 20.

3. Implementation and Transition

3.1 The Company will make available the Services on or before the Start Date.

3.2 At the request of the Customer, the Company will:

(a) where the Company holds any Customer website(s) on its development servers, transfer such website(s) from its development servers; or

(b) use reasonable endeavours to assist with the transition of any Customer website(s) from any third party host.

4. Dedicated Hosting

4.1 The Company will make available for the exclusive use of the Customer a dedicated server to the Customer, and will grant to the Customer administration rights with respect to that server.

4.2 The Customer acknowledges that the Company will provide adequate support in connection with the administration of the dedicated server, and the Company has all necessary expertise to configure, manage and keep the dedicated server secure at all times.

4.3 The Customer will not configure, or allow any other person to configure, a dedicated server in any way contrary to the guidelines published on the Company website from time to time.

4.4 For the avoidance of doubt, dedicated servers made available under this Agreement will remain the property of the Company at all times.

4.5 Charges payable in respect of dedicated servers will be as specified in Clause 12.

5. Email Services

5.1 This Clause 5 applies where the Company agrees to provide to the Customer email transmission, storage and/or management services.

5.2 The Company will provide POP3/IMAP and webmail email services to the Customer.

5.3 All mailboxes will be protected by anti-spam and anti-virus software.

5.4 If the Customer or a mailbox exceeds the relevant storage limit set out in the Schedule and/or notified by the Company to the Customer from time to time, the Company may delete stored emails to bring the Customer or mailbox within the storage limit.

5.5 Charges payable in respect of email services will be as separately agreed in writing between the Company and the Customer.

6. Domain Name Registration

6.1 Subject to the payment of the applicable Charges in advance, the Company will attempt to register domain names that the Customer orders using the domain registration services of the Company, but does not warrant that it will be able to do so. Domain name orders will be subject to the provisions of this Clause 6.

6.2 Charges in respect of domain name registrations are non-refundable.

- 6.3 Domain name registrations will be subject to periodic renewal fees and transfer fees as stated on the Company website from time to time.
- 6.4 The Customer warrants that the information submitted for the purposes of a domain name registration is current, accurate and complete, that it has the legal right to apply for and use the domain name, and that its use of the domain name will not infringe any person's Intellectual Property Rights or other legal rights.
- 6.5 The Customer undertakes to keep the information required for the purposes of a domain name registration up-to-date (which changes may be subject to additional Charges).
- 6.6 The Customer acknowledges that certain information submitted for the purposes of a domain name registration will be published on the internet via "WHOIS" services.
- 6.7 The Company may reject in its sole discretion any request to register a particular domain name.
- 6.8 The Company will not offer any advice in relation to any actual or potential domain name dispute, and will have no liability in respect of the suspension or loss of a domain name by the Customer as a result of any domain name arbitration procedure or court proceedings.
- 6.9 The Company will have no responsibility for Customer's use or retention of a domain name once registered, and it will be the Customer's responsibility to ensure that domain names are renewed and that applicable renewal charges are paid.
- 6.10 The Customer acknowledges that domain names will be subject to the rules and policies from time to time of the relevant registry or registration authority, and Customer agrees to abide by all such rules and policies.
- 6.11 The Customer agrees to the terms of the applicable domain name registration agreement (as amended from time to time) applicable to your relevant URL.
- 6.12 Charges payable in respect of domain name services will be as separately agreed in writing between the Company and the Customer.

7. SSL Certificates

- 7.1 Subject to the payment of the applicable Charges in advance, the Company will attempt to obtain SSL certificates that the Customer orders. SSL certificate orders will be subject to the provisions of this Clause 9.
- 7.2 Charges in respect of SSL certificates are non-refundable.
- 7.3 SSL certificates will be subject to periodic fees as stated on the Company website from time to time.
- 7.4 The Customer warrants that the information submitted for the purposes of an SSL certificate is current, accurate and complete.
- 7.5 The Customer undertakes to keep the information required for the purposes of an SSL certificate up-to-date.
- 7.6 The Customer agrees to the terms of the applicable SSL subscription agreement (as amended from time to time).
- 7.7 Charges payable in respect of SSL certificates will be will be as separately agreed in writing between the Company and the Customer.

8. Support

- 8.1 The Company will make available, on Business Days between the hours of 9.00am and 5.30pm

(GMT), an email support facility for the purpose of providing support to the Customer (and the Company's other customers). The Company will use reasonable endeavours to respond to requests for support within a reasonable period of time.

- 8.2 The Company will use reasonable endeavours to ensure that a member of its support staff can be reached by mobile phone outside Business Hours in the case of an emergency.
- 8.3 The Customer must make all requests for support Services via email in the first instance, followed by telephone support, and all such requests must include at least the following information: your name, company name, details of problem and contact information.
- 8.4 The Company will use reasonable endeavours to resolve issues raised by the Customer promptly.
- 8.5 Subject to Clause 10.6, the Company will:
 - (a) make back-ups of the Hosted Materials on a monthly basis (only on the understanding that the Customer has made additional payment for such Service; and
 - (b) that if a back-up service is agreed, the Company will arrange for the off-site storage of a current back-up of the Hosted Materials in a suitable data-fireproof safe (which will be over-written on the following off-site back-up date).
- 8.6 The Company will not make back-ups of email messages that have been downloaded by the Customer.
- 8.7 Charges payable in respect of support services will be will be as separately agreed in writing between the Company and the Customer.

9. Services: General Provisions

- 9.1 The Company may suspend some or all of the Services at any time in order to carry out scheduled maintenance or repairs.

10. Customer Responsibilities

- 10.1 The Customer will provide the Company with all co-operation, information and documentation reasonably required for the provision of the Services, and the Customer will be responsible for procuring any third party co-operation reasonably required for the provision of the Services.
- 10.2 The Services are provided to the Customer only, and the Customer may not resell the Services to any third party.
- 10.3 The Customer will be responsible for obtaining suitable licences of third party software (such as email client software) which are required for the full use of the Services.
- 10.4 It is the Customer's responsibility to keep any passwords relating to the Services confidential, and to change such passwords on a regular basis. The Customer will notify the Company immediately if it becomes aware that a password relating to the Services is or may have been compromised or misused.

11. Acceptable Use

- 11.1 The Customer must not use any of the Services:
 - (a) to host, store, send, relay or process any Prohibited Content;
 - (b) for any purpose which is unlawful, fraudulent, or infringes any third party rights;
 - (c) in any way which may put the Company in breach of a contractual or other obligation owed by the Company to any internet service provider.

- 11.2 The Customer acknowledges that the Company does not purport to monitor the content of Hosted Materials or the use of the Services.
- 11.3 Where the Company reasonably suspects that there has been a breach of the provisions of this Clause 13, the Company may:
- (a) delete or amend the relevant Hosted Materials; and/or
 - (b) suspend any or all of the Services and/or the Customer's access to any or all Services while it investigates the matter.
- 11.4 Any breach by the Customer of this Clause 13 will be deemed to be a material breach of this Agreement for the purposes of Clause 18.

12. Charges and payment

- 12.1 The annual fee for hosting is £150 which shall be paid in advance by the Customer on the Effective Date and on each anniversary of the Effective Date.
- 12.2 The Customer will pay the Charges to the Company within 30 days of the date of issue of an invoice.
- 12.3 All Charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise.
- 12.4 Charges must be paid by BACS or by cheque (using such payment details as are notified by the Company to the Customer from time to time).
- 12.5 If the Customer does not pay any amount properly due to the Company under or in connection with this Agreement, the Company may:
- (a) charge the Customer interest on the overdue amount at the rate of 5% per year above the base rate of NatWest Bank Plc from time to time (which interest will accrue daily until the date of actual payment, be compounded quarterly, and be payable on demand); or
 - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
 - (c) suspend the provision of the Services under this agreement without incurring any liability whatever to the Customer.
- 12.6 The Company may vary the Charges by giving to the Customer at least 60 days' notice of variation expiring at any time after the end of the Minimum Term by an amount not exceeding the increase during the preceding 12 months in the Retail Prices Index (all items) published by the UK Office of National Statistics.

13. Warranties

- 13.1 The Customer warrants to the Company that it has the legal right and authority to enter into and perform its obligations under this Agreement.
- 13.2 The Company warrants to the Customer:
- (a) that it has the legal right and authority to enter into and perform its obligations under this Agreement; and
 - (b) that it will perform its obligations under this Agreement with reasonable care and skill.
- 13.3 All of the parties' liabilities and obligations in respect of the subject matter of this Agreement are expressly set out in the terms of this Agreement. To the maximum extent permitted by applicable law, no other terms concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

14. Indemnity

The Customer hereby indemnifies and undertakes to keep indemnified the Company against all liabilities, losses, costs, expenses (including legal expenses and amounts paid upon advice in settlement of any legal action) arising out of or in connection with:

- (a) any breach by the Customer of any term of this Agreement; and
- (b) any activity upon, or any breach of security of, the Customer's dedicated or co-located server, and any malfunction of the Customer's co-located server.

15. Limitations of liability

15.1 Nothing in this Agreement will exclude or limit the liability of either party for:

- (a) death or personal injury caused by that party's negligence;
- (b) fraud or fraudulent misrepresentation on the part of that party; or
- (c) any other liability which may not be excluded or limited under applicable law.

15.2 Subject to Clause 15.1, the Company's liability to the Customer under or in connection with this Agreement or any collateral contract, whether in contract or tort (including negligence), will be limited as follows:

- (a) the Company shall not be liable for any:
 - (i) loss of profits, income or anticipated savings,
 - (ii) loss or corruption of any data, database or software,
 - (iii) reputational damage or damage to goodwill;
 - (iv) loss of any commercial opportunity, or
 - (v) indirect, special or consequential loss or damage;
- (b) the Company shall not be liable for any losses arising out of a Force Majeure Event; and
- (c) the Company's liability in relation to any event or series of related events will in no circumstances exceed the total amount paid (or, if greater, payable) by the Customer to the Company under the Agreement during the 12 month period immediately preceding the event or series of events.

16. Data Protection

16.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Company under this Agreement, and that the processing of that Personal Data by the Company for the purposes of and in accordance with the terms of this Agreement will not breach any applicable laws (including the Data Protection Act 1998).

16.2 The Company warrants that:

- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Company on behalf of the Customer; and
- (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by the Company on behalf of the Customer.

17. Confidentiality and Publicity

17.1 Each party will keep confidential the Confidential Information of the other party, and will not disclose that Confidential Information except as expressly permitted by this Clause 19.

- 17.2** Each party will protect the confidentiality of the Confidential Information of the other party using at least reasonable security measures.
- 17.3** The Confidential Information of a party may be disclosed by the other party to its employees and professional advisers, provided that each recipient is legally bound to protect the confidentiality of the Confidential Information.
- 17.4** These obligations of confidentiality will not apply to Confidential Information that:
- (a) has been published or is known to the public (other than as a result of a breach of this Agreement);
 - (b) is known to the receiving party, and can be shown by the receiving party to have been known to it, before disclosure by the other party; or
 - (c) is required to be disclosed by law, or by an order (binding upon the relevant party) of a competent governmental authority, regulatory body or stock exchange.
- 17.5** Neither party will make any public disclosure relating to this Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the other party, not to be unreasonably withheld or delayed.

18. Termination

- 18.1** Either party may terminate this Agreement at any time by giving at least 60 days' written notice to the other party expiring at any time after the end of the Minimum Term.
- 18.2** Either party may terminate this Agreement immediately by giving written notice to the other party if the other party:
- (a) commits any breach of any term of this Agreement, and:
 - (i) the breach is not remediable; or
 - (ii) the breach is remediable, but other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
 - (b) persistently breaches the terms of this Agreement.
- 18.3** Either party may terminate this Agreement immediately by giving written notice 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 this Agreement);
 - (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

19. Effects of Termination

- 19.1 Upon termination all the provisions of this Agreement will cease to have effect, save that the following provisions of this Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely Clauses 1, 12.5, 14, 15, 17.1 to 17.4, 19 or 20.3 to 20.12).
- 19.2 Termination of this Agreement will not affect either party's accrued rights (including accrued rights to be paid) as at the date of termination.
- 19.3 If this Agreement is terminated under Clause 18.1, or by the Customer under Clause 18.2 or 18.3 (but not in any other case):
- (a) the Company will promptly provide to the Customer an electronic copy of the Hosted Materials;
 - (b) the Company will provide such assistance as is reasonably requested by the Customer to transfer the hosting of the Hosted Materials to the Customer or another service provider, subject to payment of the Company's reasonable expenses; and
 - (c) the Customer will be entitled to a refund of any Charges paid by the Customer to the Company in respect of any Services which were to be performed after the date of effective termination, and will be released from any obligation to pay such Charges to the Company (such amount to be calculated by the Company using any reasonable methodology).
- 19.4 Save as provided in Clause 21.3(c), the Customer will not be entitled to any refund of Charges on termination, and will not be released from any obligation to pay Charges to the Company.

20. General

- 20.1 Any notice given under this Agreement must be in writing (whether or not described as "written notice" in this Agreement) and must be delivered personally, sent by pre-paid first class post, or sent by email, for the attention of the relevant person, and to the relevant address or email address given below (or as notified by one party to the other in accordance with this Clause).

The Company

Warren Creative, Lynn House, Ivy Arch Road, Worthing, West Sussex BN14 8BX.
Email: info@warrencreative.com

The Customer

Address:

Email:

- 20.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):
- (a) where the notice is delivered personally, at the time of delivery;
 - (b) where the notice sent by first class post, 48 hours after posting; and
 - (c) where the notice sent by email, at the time of the transmission (providing the sending party retains written evidence of the transmission).
- 20.3 No breach of any provision of this Agreement will be waived except with the express written consent of the party not in breach.
- 20.4 If a Clause of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of this Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were

Please
complete
your
company
details



deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).

- 20.5** Nothing in this Agreement will constitute a partnership, agency relationship or contract of employment between the parties.
- 20.6** This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.
- 20.7** Either party may freely assign its/their rights and obligations under this Agreement without the other party's consent to any Affiliate of the assigning party or any successor to all or substantial part of the business of the assigning party from time to time. Save as expressly provided in this Clause or elsewhere in this Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in this Agreement or any rights or obligations under this Agreement.
- 20.8** The Company may sub-contract any of its obligations under this Agreement to any third party.
- 20.9** Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil their obligations under this Agreement.
- 20.10** This Agreement 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 this Agreement are not subject to the consent of any third party.
- 20.11** This Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of this Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this Agreement. Subject to Clause 17.1, each party acknowledges that no representations or promises not expressly contained in this Agreement have been made by or on behalf of the other party.
- 20.12** This Agreement will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

Warren Creative, Lynn House, Ivy Arch Road, Worthing, West Sussex BN14 8BX
Telephone: 01903 790 090 Email: info@warrencreative.com

Registered in England and Wales as a Limited Company. Reg No.03871425.
Registered Office: A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ
VAT Registered No.750 2761 45

Web Hosting Agreement

Your Copy - to be retained by you, the Client

DATE

PARTIES

(1) Warren Creative, a limited company incorporated in England and Wales, Registration Number 03871425, having its registered office at A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ (the **Company**); and

(2) COMPANY NAME:

Please tick appropriate box:

Limited Company Public Limited Company
incorporated in England and Wales (Registration Number _____)

having its registered office at:

(the **Customer**).

The parties have indicated their acceptance of this Agreement by executing it below.

EXECUTION

SIGNED by Stuart Warren, duly authorised for and on behalf of the Company

Date:

SIGNED by _____ duly authorised for and on behalf of the Customer

Date:

Warren Creative, Lynn House, Ivy Arch Road, Worthing, West Sussex BN14 8BX
Telephone: 01903 790 090 Email: info@warrencreative.com

Registered in England and Wales as a Limited Company. Reg No.03871425.
Registered Office: A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ
VAT Registered No.750 2761 45

Please
complete
your
company
details



Please
sign and
date here



Web Hosting Agreement

Your Copy - to be returned to Warren Creative

DATE

PARTIES

(1) Warren Creative, a limited company incorporated in England and Wales, Registration Number 03871425, having its registered office at A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ (the **Company**); and

(2) COMPANY NAME:

Please tick appropriate box:

Limited Company Public Limited Company
incorporated in England and Wales (Registration Number _____)

having its registered office at:

(the **Customer**).

Please
complete
your
company
details

The parties have indicated their acceptance of this Agreement by executing it below.

EXECUTION

SIGNED by Stuart Warren, duly authorised for and on behalf of the Company

Date:

SIGNED by _____ duly authorised for and on behalf of the Customer

Date:

Please
sign and
date here

Warren Creative, Lynn House, Ivy Arch Road, Worthing, West Sussex BN14 8BX
Telephone: 01903 790 090 Email: info@warrencreative.com

Registered in England and Wales as a Limited Company. Reg No.03871425.
Registered Office: A2 Yeoman Gate, Yeoman Way, Worthing, West Sussex BN13 3QZ
VAT Registered No.750 2761 45