



BIOSTALL

Web hosting terms

Conditions of Supply of Internet Services

BIOSTALL and Property Hive (hereinafter referred to as “BIOSTALL”) are a provider of web development, website hosting services and ongoing support and maintenance of websites. The following conditions set out the terms under which BIOSTALL will provide Services to the Client. These conditions should be read in conjunction with our acceptable use policy:

BIOSTALL reserves the right to change, add, subtract or in any way alter these conditions without the prior consent of the Client.

PART 1 - GENERAL PROVISIONS

3 Service Provision

3.1 BIOSTALL agrees to supply Services to Client(s) on the following conditions, these conditions are not an offer to provide service but a statement of the terms on which we will provide them.

3.2 BIOSTALL will use its reasonable endeavours to provide the Services in accordance with any timescale set out on any Order Confirmation(s), but will not be liable to the Client where, based on those reasonable endeavours, it fails to meet any timescale.

3.3 BIOSTALL will not be liable for any failure to provide the Services resulting from any breach by the Client or its employees, agents or subcontractors of the Agreement.

3.4 BIOSTALL will not be obliged to provide any services not referred to on any Order Confirmation(s). Furthermore, BIOSTALL cannot provide the Services where the Client makes use of incompatible communication systems.

3.5 The terms of the Agreement form the entire agreement between BIOSTALL and the Client in relation to the Services and all other understandings, agreements, warranties, conditions, terms or representations, whether express or implied, statutory or otherwise, are excluded to the fullest extent permitted by law. The Client may not rely upon any representation made or given by any employee of BIOSTALL prior to the Agreement being entered into unless confirmed in the Agreement.

3.6 BIOSTALL reserves the right at any time and from time to time improve, correct or otherwise modify all or any of the Services. BIOSTALL will endeavour to give the Client reasonable notice of any such modification, where this is reasonably practicable.

Suspension

3.7 Without prejudice to its other rights and remedies, BIOSTALL may at its sole discretion suspend the provision of the whole or any part of the Services (temporarily or permanently) and will have no liability to provide the Services on the occurrence of any of the following events:

- 3.7.1 notified or unscheduled upgrade or maintenance of BIOSTALLs IT systems;
- 3.7.2 issue by any competent authority of an order which is binding on BIOSTALL which affects the Services;
- 3.7.3 if the Client fails to pay any Fees or any other sums owing to BIOSTALL by the Client when they fall due;
- 3.7.4 if an event occurs and BIOSTALL deem it to be appropriate to terminate the Agreement;
- 3.7.5 if the bandwidth or computer memory used by the Client in relation to the Services exceeds any agreed or stipulated level and BIOSTALL determines in its sole discretion that suspension is necessary to protect all and any internet solutions provided by BIOSTALL from time to time;
- 3.7.6 failure or deficiencies in the Client System referring but not limited to hardware, server corruption and security breaches.
- 3.7.8 failure by the Client to adhere to any of the provisions outlined in BIOSTALL's acceptable usage policy.

Where BIOSTALL suspends provision of the Services in accordance with clause 3.7.3, it will only be obliged to recommence provision during Business Hours and once the Client has paid all relevant outstanding sums in clear funds.

3.8 The Client will supply in a timely manner all information, instructions, review and feedback reasonably required by BIOSTALL in relation to any work or services being offered or undertaken. BIOSTALL accept no liability for work that has to be rescheduled. In the event that work has to be rescheduled due to The Client failing to supply information, an administration fee may apply.

4 Service Delivery

4.1 The Client acknowledges that, given the nature of such services, BIOSTALL cannot guarantee that the Services, when delivered via the internet, will be uninterrupted or error free.

4.2 To the fullest extent permitted by law and save as provided elsewhere in the Agreement, the Services and any Client Systems and Ancillary Systems are provided by BIOSTALL to the Client on an "as is" and "as available" basis and no warranty or representation (express or implied) of any kind are given in connection with the Agreement including as to satisfactory quality and fitness for a particular purpose. In particular, BIOSTALL gives no warranty or representation that:

- 4.2.1 the Services will meet the Client's requirements;
- 4.2.2 the Services will be provided on an uninterrupted, timely, secure or error-free basis; or
- 4.2.3 any results obtained from use of the Services will be accurate, complete or current.

4.3 BIOSTALL warrants that it will provide the Services with reasonable care and skill and in accordance with any SLA. BIOSTALL will not be liable for a breach of such warranty unless the Client notifies BIOSTALL in writing of such failure within 14 days of the Client becoming aware of the failure.

4.4 If the Client makes a valid claim against BIOSTALL based on a failure by BIOSTALL to comply with the warranty set out in clause 4.3 BIOSTALL may, at its option, take such steps as it deems necessary to remedy such failure or refund such

part of the Fees as relates to such Services, provided that the liability of BIOSTALL under such warranty will in no event exceed one and a quarter times the amount of the Fees paid to BIOSTALL by the Client (excluding VAT and expenses) in the 12 month period prior to the date on which the Client makes the claim. If BIOSTALL complies with this clause, it will have no further liability for a breach of the said warranty.

5 Client's Obligations

5.1 The Client agrees that it shall:

- 5.1.1 save as provided in any Order Confirmation, be responsible for keeping regular and full back ups of all material and data hosted by BIOSTALL on any web site or other system operated by the Client on a daily basis (or more frequent basis if required by best computing practice) including the Client System and/or Ancillary Systems. For the avoidance of any doubt BIOSTALL will not attempt to restore any lost material or data of the Client's except where such loss occurred as a direct result of a BIOSTALL server crash;
- 5.1.2. immediately notify BIOSTALL on becoming aware of any unauthorised use of all or any of the Services and/or relevant part of the Client System;
- 5.1.3 remove or prevent access to any material hosted on any of the Equipment and/or Client System which causes or is likely to cause the Client to be in breach of the Agreement;
- 5.1.4 ensure that it has all necessary consents, permissions and licences to make use of the Services including registration and appropriate consents and approvals under the Data Protection Act 1998;
- 5.1.5 ensure that all material or data hosted by BIOSTALL on any web site operated by the Client from time to time or communicated through such site or using the Client System is checked for viruses and other harmful code and has appropriate security patches applied;
- 5.1.6 independently monitor its bandwidth in relation to the use of Services and report to BIOSTALL any use of bandwidth over and above those agreed or stipulated levels set out in the Order Confirmation,;
- 5.1.7 be entirely liable for all activities conducted and charges incurred under its passwords and user names whether authorised by it or not and the Client acknowledges that BIOSTALL shall not be liable for any loss of confidentiality or for any damages arising from the Client's inability to comply with these Conditions;
- 5.1.8 comply with any security policy notified to it from time to time by BIOSTALL and, in particular, ensure that all passwords and user names provided to it by BIOSTALL are at all times kept confidential, used properly and not disclosed to unauthorised people. If the Client has any reason to believe that any password or user name has become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way or of any other breach of security then the Client will inform BIOSTALL immediately;
- 5.1.9 ensure that all communication details which it provides to BIOSTALL are at all times true, current, accurate and complete. The Client will promptly notify BIOSTALL of any change to such details and acknowledges that BIOSTALL will not be liable for any loss suffered or incurred by the Client as a result of its failure to notify such changes to BIOSTALL. Clients are advised that a failure to at all times have true, accurate and complete communication details may result in the temporary suspension of a Client's account; and

- 5.1.10 ensure that its systems (including the Client System) meet any minimum system specifications notified to the Client from time to time.
- 5.1.11 promptly provide to BIOSTALL and/or its consultants, employees and agents such information and assistance as they may reasonably require in order to be able to carry out the Services and, where relevant, deliver and install any Ancillary Systems.
- 5.1.12 will procure all necessary rights from third parties (including intellectual property licences of computer software and website content including ringtones and music) which are from time to time required in order for BIOSTALL to be able legally to provide the Services to the Client.
- 5.1.13 obtain and maintain insurance over all parts of the Client System which are located on the premises of BIOSTALL or any of its Associated Companies and to provide evidence that such insurance is in place, upon BIOSTALL's demand;
- 5.1.14 complete its own checks to ensure that any registration or renewal has been made successfully.

5.2 The Client agrees that it shall not:

- 5.2.1 use the Services, Ancillary Systems and/or Client System or allow them to be used for any unlawful purpose or for the publication, linking to, issue or display of any unlawful material (including any pirated software or any material which is obscene, pornographic, threatening, malicious, harmful, abusive, defamatory or which breaches the rights including Intellectual Property Rights of any third party or which is or encourages criminal acts or contains any virus, worm, trojan horse or other harmful code) whether under English law or regulation, the laws or regulations of the Client's country or any other place where the results of such purpose or the material in question can be accessed;
- 5.2.2 use the Services, Ancillary Systems and/or Client System or allow them to be used for the publication, linking to, issue or display of any material which in the absolute discretion of BIOSTALL may harm BIOSTALL or any of its Associated Companies or clients or bring BIOSTALL into disrepute or which calls into question any action taken by BIOSTALL on the Client's behalf;
- 5.2.3 use the Services, Ancillary Systems and/or Client System or allow them to be used in breach of good Netiquette practices;
- 5.2.4 provide any technical or other information obtained from BIOSTALL and/or relating to the Services to any person which the Client is aware or ought reasonably be aware may directly or indirectly lead to a breach of any law or regulation;
- 5.2.5 in breach of good Netiquette practices, use any service provided by any third party (including an internet web site and/or email) for the publication, linking to, issue or display of any material which refers to an internet web site hosted by BIOSTALL or any other products or services offered by BIOSTALL from time to time without BIOSTALL's prior written consent;
- 5.2.6 use any part of the BIOSTALL premises except as is reasonably necessary to inspect and maintain any co-located server hosted as part of the Services and the Client shall ensure that such server is kept in good condition and is in its original condition upon the termination of such hosting;
- 5.2.7 whilst present at any BIOSTALL premises, do anything which may be dangerous or a nuisance or inconvenience or to disturb, threaten or abuse any BIOSTALL personnel or other BIOSTALL clients and the Client shall

abide by all health and safety and other policies as BIOSTALL may notify to the Client from time to time in relation to any such premises.

5.3 The Client acknowledges that it has appropriate knowledge of how the internet functions, the systems and products provided to it in connection with the Agreement and what types of use and content are and are not acceptable. The Client acknowledges that BIOSTALL shall have no obligation to:

- 5.3.1 train the Client on its use of the Services or any Ancillary System;
- 5.3.2 manipulate any material which the Client wishes to and/or does post on any web site or other system it operates (including any Client System) or any communication which it issues or sends in connection with any Services; or
- 5.3.3 validate or vet such material for usability, legality, content or correctness.

5.4 The Client also acknowledges that the services and products provided by BIOSTALL are standard packages which are not tailored to specific requirements of the Client, unless confirmed in writing by BIOSTALL to the contrary.

5.5 If, in BIOSTALL's opinion, the Client is in breach of any of the provisions contained in clause 5.2 then BIOSTALL may without prejudice to its other rights and remedies immediately by written notice to the Client:

- 5.5.1 suspend provision of the Services;
- 5.5.2 terminate the Agreement; or
- 5.5.3 amend or remove any Client Materials and/or content appearing on any website or other system hosted by BIOSTALL on behalf of the Client (including any Client System or Ancillary System).

BIOSTALL may also notify appropriate public authorities (governmental or otherwise including the police or other enforcement authority) of any such breach, where it deems necessary.

5.6 Where as part of the Services the Client is entitled (having obtained BIOSTALL's prior written consent) to resell the whole or any part of the Services to a third party then the Client will:

- 5.6.1 procure such third party's compliance with and acceptance of these Conditions;
- 5.6.2 be fully responsible for the acts and omissions of any such third party; and
- 5.6.3 indemnify BIOSTALL for any losses it suffers as a result of such acts or omissions.

5.7 The Client acknowledges and understands that it is required to comply with PCI DSS. The Client is responsible to encrypt sensitive data using appropriate methods. For further details on PCI DSS Compliance and the Client's responsibilities in upholding the standard they need to contact the PCI Security Standards Council.

6 Payment Terms

6.1 The Fees are payable to BIOSTALL subject to the following conditions:

- 6.1.1 Fees payable monthly, quarterly or yearly will be paid in advance and will not be refundable in whole or part if the Agreement or any relevant part is terminated during the period to which the payment relates. Clients will automatically be charged again at the end of their prepay period unless the Client has followed the procedure as per clause 12.1.1;
- 6.1.2 any set up fee will (unless stated to be included within later payments) be payable immediately;
- 6.1.3 additional Fees will become payable if the Client exceeds agreed or stipulated bandwidth use levels. In the event that the Client exceeds the agreed or stipulated bandwidth levels an additional invoice will be produced

and sent to the client which must be paid within thirty (30) days. Additional Fees are charged at the rate of £0.005 per every Mega Byte the Client exceeds over their agreed or stipulated bandwidth level.

6.2 Any total sum for the fees set out in an Order Confirmation is (unless stated in the Order Confirmation to be a fixed and firm amount) an estimate of the fees only and not a fixed price quotation.

6.3 Any sums payable by the Client to BIOSTALL under the Agreement are exclusive of value added tax or any similar taxes, levies or duties, which will be added to such sums and be payable by the Client at the appropriate rate.

6.4 The Client agrees to pay BIOSTALL's invoices within 7 days of invoice due date.

6.5 If invoices are not settled in full by then, the Client will without prejudice to its other rights and remedies (including the right to suspend the Services under clause 3.8.3) be liable to pay interest on any sum outstanding from the due date for payment at the annual rate of 6% above the base lending rate from time to time of Barclays Bank plc accruing on a daily basis until payment is made whether before or after any judgment.

6.6 All Accounts that have any unsettled invoices 20 days after their due date will be suspended. If a further invoice falls due during the suspension of the Client's account then this will be added to outstanding balance owed by the Client.

6.7 All accounts that have any unsettled invoices 20 days after the due date will be passed onto a Debt Recovery Agency, where additional recovery charges and court cost may accrue.

6.8 All sums payable to BIOSTALL under the Agreement must be paid in full with no set off or deduction.

6.9 BIOSTALL has a general and particular lien over the Client System until all claims and money payable by the Client to BIOSTALL on any account whatsoever have been received in full clear funds. If the Client fails to discharge any lien within a reasonable time from the date of notice of exercise then the Client System may be sold in or towards satisfaction of that lien and BIOSTALL will account to the Client for any excess.

6.10 BIOSTALL may make a search in relation to the Client with a credit reference agency (and make other credit enquiries from time to time), keep a record of that search and enquiries, and share that information with third parties. BIOSTALL may also make enquiries about the principle directors/proprietors of the Client with a credit reference agency.

6.11 Where the Client authorises payment of any of the Fees by credit and or debit card (including those associated to a PayPal account) then BIOSTALL may deduct other amounts becoming payable to it under the Agreement from that credit or debit card without obtaining additional authorisation from the Client.

6.12 Without prejudice to any other of its rights and remedies, BIOSTALL will be entitled to remove the Client's data from its systems and any Equipment and/or put the Equipment to any use other than the Client's if any amount due under the Agreement is not paid within 21 days of its due date for payment. BIOSTALL is not required to back up such data or return the same to the Client prior to any such removal or following termination of the Agreement.

6.13 Credit and Vouchers

- 6.13.1 Credit and/or vouchers may be provided to Customers as an alternative resolution to a matter or for any other reason, at the discretion of BIOSTALL.
- 6.13.2 Credit and vouchers are non-refundable and may not be exchanged for cash or redeemed against the purchase of another voucher.

- 6.13.3 BIOSTALL will not accept liability if the credit or voucher has been lost, stolen, destroyed or used without the Customer's consent. BIOSTALL will not replace the credit or voucher or any remaining balance outstanding on the credit or voucher.
- 6.13.4 Resale, trade, sale or reproduction of a BIOSTALL credit or voucher is prohibited. Any attempt to carry out this act may potentially void the credit or voucher at BIOSTALL's discretion.
- 6.13.5 If the full amount of the credit or voucher is not redeemed in one transaction, the remaining balance will be credited to the Customer in a further creditor voucher.
- 6.13.6 BIOSTALL credit or vouchers may be used to purchase goods or services of a higher price than the face value of the credit or voucher upon payment of the difference in value.
- 6.13.7 BIOSTALL credit or vouchers will remain valid for a period of 12 months only from the date of issue. Any unused credit or voucher will be void upon the expiry of the validity period.

7 Confidential Information

7.1 Each party will (unless contrary to law):

- 7.1.1 keep confidential all information obtained from the other under or in connection with the Agreement ("Information");
- 7.1.2 not disclose any Information to any third party without the prior written consent of the other except to such persons and to such extent as may be strictly necessary for the performance of the Agreement;
- 7.1.3 not use any Information otherwise than for the purposes of the Agreement.

7.2 The provisions of clause 7.1 do not apply to Information which:

- 7.2.1 is or becomes public knowledge (otherwise than by breach of this clause); or
- 7.2.2 was in the possession of the party concerned without restriction as to its disclosure before receiving it from the disclosing party; or
- 7.2.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

and nothing in this clause 7 prevents either party from disclosing any Information for a proper purpose to a public authority or any regulatory body, or to a court of law in the United Kingdom or elsewhere in legal proceedings, or to its senior management, its auditors, bankers, lawyers or other professional advisers.

7.3 The provisions of this clause 7 will continue to apply notwithstanding termination of the Agreement.

7.4 The Client, by entering into the Agreement, consents to BIOSTALL sending to the Client by whatever means the Company deems appropriate (whether by email or otherwise) information concerning new products and other services that BIOSTALL and its Associated Companies may from time to time offer.

8 Intellectual Property

8.1 The Client acknowledges and agrees that it will not own or acquire any rights under this Agreement in any Intellectual Property in or relating to the Services or created in performing the Services and that it will have no other rights in or to the Services other than the rights expressly granted by the Agreement.

- 8.1.1 the provision by BIOSTALL of Services making use of information or specifications supplied by the Client;

- 8.1.2 the Client's failure to procure all necessary rights from third parties which are from time to time required in order for BIOSTALL to be able legally to provide the Services; or
- 8.1.3 the use by BIOSTALL in connection with the Agreement of the Client System and the Client Materials.
- 8.1.4 No Intellectual Property Rights created or acquired by BIOSTALL will transfer or be assigned to the Client unless BIOSTALL and the Client have signed a written assignment document to that effect.
- 8.1.5 The Client shall keep the Ancillary Systems in good condition during the continuance of the Agreement and free of all charges, liens and encumbrances and protect it from any and all judicial process.

9 Liability

9.1 The provisions of this clause 9 and the provisions of clauses 4 and 24 set out the entire liability of BIOSTALL (including any liability for the acts or omissions of its consultants, employees, agents and authorised representatives) to the Client in respect of:

- 9.1.1 any breach of the Agreement; and
- 9.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.

9.2 Nothing in the Agreement excludes or limits the liability of BIOSTALL for death or personal injury caused by the negligence of BIOSTALL, fraud or a breach of section 12 of the Sale of Goods Act 1979.

9.3 Subject to clauses 9.2 the total liability of BIOSTALL in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Agreement is limited to:

9.4 £500 per breach for loss of or damage to tangible property; and

9.5 for any other kind of loss, one and a quarter times the amount of sums paid by the Client to BIOSTALL pursuant to the Agreement (excluding VAT and expenses) during the preceding 12 month period.

9.6 BIOSTALL will not be liable to the Client in contract, tort, misrepresentation or otherwise (including negligence), for any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever, or for any loss of profit, loss of business, loss of revenue, loss of contract, loss of goodwill or otherwise (whether direct or indirect), and whether or not caused by the negligence of BIOSTALL or its employees, agents or authorised representatives, which arises out of or in connection with the Agreement.

9.7 The Client acknowledges that the allocation of risk in the Agreement reflects the price paid for the Services and that it is not within the control of BIOSTALL how or for what purposes they are used.

9.8 Where the Client accesses BIOSTALL's services from locations outside the UK, the Client does so, on the Client's own initiative and is responsible for compliance with local laws.

10 Client Indemnity

The Client will fully indemnify and keep BIOSTALL its parent company, sister companies, subsidiaries and affiliates, officers, partners, directors employees and agents fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including legal fees) whatsoever incurred by it and arising from any of the following:

- 10.1 the Client's breach of the Agreement, negligence or other default;

- 10.2 the operation or break down of any IT systems owned or used by the Client including the Client System but not the Equipment; or
- 10.3 the Client's use or misuse of the Services.

11 Force Majeure

Neither party is under any liability to the other party in respect of anything which, apart from this provision, may constitute a breach of the Agreement arising by reason of force majeure which means, in relation to either party, circumstances beyond the reasonable control of that party including acts of God, acts of any governmental or supra-national authority, war or national emergency, riots, civil commotion, fire, network failure, systems fault, unauthorised use or access to the IT systems of BIOSTALL or the Client, explosion, flood, epidemic, lock outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), restraints or delays affecting shipping or carriers, inability or delay in obtaining supplies of adequate or suitable materials and currency restrictions, to the extent outside of its reasonable control.

12 Term and Termination

Without prejudice to the remaining provisions of this clause 12 and any other rights and remedies available to BIOSTALL:

12.1 BIOSTALL will provide the Services for the period of 12 months from the date of the relevant Order Confirmation or, where different, any other period of supply stated on the Order Confirmation (such period being termed the "Initial Period") and will continue beyond that period, subject to termination by:

- 12.1.1 the Client upon serving 30 days' written notice on BIOSTALL following completion of BIOSTALL's prescribed template procedures for terminating the whole or any part of the Agreement (details of which can be obtained from BIOSTALL's Customer Services Team); or
- 12.1.2 BIOSTALL serving 30 days' written notice on the Client to expire at any time after the Initial Period

12.2 BIOSTALL may immediately terminate the Agreement (or at its option, any part of it) by notice in writing to the Client if the Client fails to pay to BIOSTALL any sum due under the Agreement after the due date for payment.

12.3 Either party may terminate the Agreement (or, at its option, any part of it) forthwith by notice in writing to the other if the other party:

- 12.3.1 is in material breach of the Agreement and fails (where the breach is capable of remedy) to remedy the breach within 30 days of the receipt of a request in writing to remedy the breach, such request setting out the breach and indicating that failure to remedy the breach may result in termination of the Agreement;
- 12.3.2 becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986;
- 12.3.3 is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 12.3.4 has a receiver, manager, administrator or administrative receiver appointed over all or any parts of its undertaking, assets or income, has passed a resolution for its winding-up, or has a petition presented to any court for its winding-up or for an administration order; or
- 12.3.5 has ceased or threatened to cease to trade.

12.4 Clients that have purchased the Services as Consumers have the right to cancel the Agreement within 7 working days at no additional cost from either (a) the date the contract is formed; or (b) the date that the Client receives confirmation that the contract is formed from BIOSTALL or whichever is the later. For the purposes of this

clause, the date the contract is formed shall be the date that the Client presses the "Order" button thereby granting consent that the Service commences.

- 12.4.1 The Client can exercise its right to cancel by contacting BIOSTALL at www.biostall.com/contact-us.
- 12.4.2 The Client will no longer have the right detailed in clause 12.4 when, BIOSTALL has commenced the Service with the Client's consent. For the purposes of this clause the Client's consent will be deemed to be given upon the Client pressing the "Order" button.
- 12.4.3 If you do not wish to waive these rights, then BIOSTALL will be unable to commence the Service until the end of the relevant cooling off period which is 7 working days.

13 Consequences of Termination

13.1 Termination of the Agreement is without prejudice to the rights and duties of either party accrued prior to termination.

13.2 The clauses of the Agreement which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

13.3 BIOSTALL will without notice remove the Client's data from its systems and any Equipment following termination. For the purposes of this clause, the date of termination will be either the date that BIOSTALL receives signed authorisation from the Client instructing cancellation of account or the date of expiry of notice of termination served in accordance with these Conditions.

13.4 Upon termination of the Agreement, the Client will forthwith:

- 13.4.1 cease to use the Software, Equipment and Services;
- 13.4.2 erase the Software from the Client System and certify to BIOSTALL that this has been done;
- 13.4.3 return to BIOSTALL any hardware or other equipment loaned to the Client in connection with the Services or any other materials and equipment owned by BIOSTALL; and
- 13.4.4 pay all outstanding invoices raised by BIOSTALL pursuant to the Agreement.

13.5 In the event of termination of the Agreement by the Client part way through the Initial Period, the Client remains obliged to pay for Services comprising the provision of dedicated server hosting for the remainder of that period.

13.6 Where following termination, BIOSTALL is unable to cancel any registration of a domain name registered on behalf of the Client, it may levy a minimum charge to cover the cost of the domain registration fee.

13.7 Where the Client services include the purchase of licensing for software by BIOSTALL on behalf of the client, in the event of termination of the agreement by the client, BIOSTALL are unable to refund any proportion of the software and/or licensing fees incurred.

14 Severability

The illegality, invalidity or unenforceability of any provision of the Agreement will not affect the legality, validity or enforceability of the remainder. If any such provision is found by any court or competent authority to be illegal, invalid or unenforceable, the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

15 Waiver

15.1 The failure or delay by either party in exercising any right, power or remedy of that party under the Agreement will not in any circumstances impair such right, power or remedy nor operate as a waiver of it. The single or partial exercise by either party of any right, power or remedy under the Agreement will not in any circumstances

preclude any other or further exercise of it or the exercise of any other right, power or remedy.

15.2 Any waiver by either party of a breach of or default under any of the terms of the Agreement by the other party is not deemed a waiver of any subsequent breach or default and in no way affects the other terms of the Agreement.

16 Assignment and Subcontracting

The Client may not assign the benefit or delegate the burden of the Agreement nor sub-license any of its rights under the Agreement (including to its Associated Company) without the prior written consent of BIOSTALL. Any consent provided by BIOSTALL under this clause is given on condition that the assignee or licensee, as the case may be, agrees to comply with the terms of the Agreement as if they were the Client. BIOSTALL may sub-contract or assign any or all of its rights and obligations under the Agreement.

17 Amendments

No variation or amendment to the Agreement (including any Order Confirmation) is effective unless agreed in writing and signed by an authorised representative of BIOSTALL.

18 Notices

Any notice to be given or made by either party under or in connection with the Agreement must be in writing and given or made to the other party at its address stated in the Order Form or to such other address as either party may from time to time notify to the other. Every notice, if so addressed, is deemed to have been duly given or made, if delivered by hand, upon delivery at the address of the relevant party, if sent by prepaid first class post, two Business Days after the date of posting and if transmitted by facsimile, at the time of transmission (provided a confirmatory letter is sent by prepaid first class post) provided that, where, in accordance with the above provisions, any notice would otherwise be deemed to be given or made on a day which is not a Business Day or after 4.00 p.m. on a Business Day, such notice shall be deemed to be given or made at 9.00 a.m. on the next Business Day. BIOSTALL may additionally serve notice on the Client under or in connection with the Agreement by email to the Client by sending an email to the contact email address stated on the Order Confirmation(s) or, in the case of a Client for whom BIOSTALL has registered a domain name, to webmaster@[registered domain name], and in such a case the email will be deemed sent once transmitted from BIOSTALL's email server.

19 Applicable Law and Jurisdiction

The construction, performance and validity of the Agreement will be governed by English law and the English courts have jurisdiction to settle any disputes which may arise out of or in connection with it.

PART 2 - ANCILLARY SYSTEMS SUPPLY

20 Provision of Software

20.1 In consideration of payment by the Client of the Fees, BIOSTALL will supply to the Client one copy of the Software and Third Party Software in object code form.

20.2 BIOSTALL grants to the Client the non-exclusive, non-transferable right to Use the Software for so long as the relevant Services continue to be provided subject to the remaining terms of these Conditions.

21 Client's Undertakings

The Client undertakes:

21.1 to maintain accurate and up-to-date records of the number and locations of all copies of the Software;

21.2 to take good care of the Ancillary Systems; and

21.3 not to provide or otherwise make available the Software in whole or in part (including program listings, object and source program listings, object code and source code) in any form to any person other than the Client's employees without the prior written consent of BIOSTALL.

22 Copying

The Client may make only so many copies of the Software as are reasonably necessary for operational security and to Use the Software. Such copies and the media on which they are stored will remain the property of BIOSTALL, and the Client will ensure that all such copies bear BIOSTALL's proprietary notices. The provisions of Part 2 of these Conditions will apply to such copies as it applies to the Software.

23 Alterations

23.1 Except to the extent and in the circumstances expressly required to be permitted by BIOSTALL by law, the Client may not:

- 23.1.1 alter, modify, adapt or translate the whole or any part of the program listings, object and source program listings, object code or source code in the Software in any way whatsoever;
- 23.1.2 permit the whole or any part of the Software to be combined with or become incorporated in any other computer programs; or
- 23.1.3 decompile, disassemble or reverse engineer the Software;

nor attempt to do any of these things.

23.2 To the extent that the law applicable to the Agreement grants the Client the right to decompile the Software in order to obtain information necessary to render the Software interoperable with other computer programs used by the Client, BIOSTALL undertakes to make that information readily available to the Client. BIOSTALL may impose reasonable conditions (including a reasonable fee) for doing so. In order to ensure that the Client receives the appropriate information, the Client must first give to BIOSTALL sufficient details of the Client's objectives and the other computer programs concerned

24 Software Performance

24.1 The Client acknowledges that:

- 24.1.1 software in general is not error-free, and agrees that the existence of such errors will not constitute a breach of the Agreement; and
- 24.1.2 the Ancillary Systems will operate only in conjunction with the Client System and other operating systems that may be notified by BIOSTALL in writing from time to time.

24.2 BIOSTALL will use its reasonable endeavours to check the Software for the most commonly known viruses prior to delivery to the Client. However, the Client is solely responsible for virus scanning the Software and BIOSTALL gives no warranty that the Software will be free from viruses.

24.3 BIOSTALL warrants that (subject to the other provisions of the Agreement) the Ancillary Systems will as at delivery be free from material errors which prevent the Client's use of the Services and conform in all material respects with any applicable specification agreed in writing between the Client and BIOSTALL. BIOSTALL will not be liable for a breach of this warranty:

- 24.3.1 if the error in question has been caused by any modification variation or addition to any part of the Ancillary Systems not performed by BIOSTALL, their incorrect use by the Client, or use with or in connection with systems with which they are incompatible; or
- 24.3.2 where the Client does not notify BIOSTALL in writing of a failure within 14 days of becoming aware of the same.

24.4 If the Client makes a valid claim against BIOSTALL based on the failure by BIOSTALL to comply with the warranty set out in clause 24.3 BIOSTALL will at its option take such steps as it deems necessary to remedy such failure or refund such part of the Fees as relates to the defective Ancillary Systems.

24.5 If BIOSTALL complies with clause 24.4 it will have no further liability for a breach of the warranty set out in clause 24.3.

25 Third Party Software and Services

Any Third Party Software and or Service is supplied to the Client on the basis of the relevant third party's standard licence terms provided to the Client with the relevant Third Party Software and or Service and with which the Client agrees to comply with.

PART 3 - SUPPORT SERVICES

26 Provision of Support Services

26.1 BIOSTALL will provide the Support Services to the Client upon the terms and conditions set out in this Part 3 and Part 1 of these Conditions.

26.2 BIOSTALL will only be obliged to provide the Support Services during Support Hours as detailed on the BIOSTALL website

26.3 The obligation of BIOSTALL to provide Support Services will not extend to:

- 26.3.1 rectification of lost or corrupted data except where such loss is as of a direct result of a BIOSTALL server crash;
- 26.3.2 Ancillary Systems altered modified or varied by other than BIOSTALL;
- 26.3.3 attendance to faults arising from the Client's failure to comply with BIOSTALL's instructions with regard to the use of the Services or any documentation or manuals provided by BIOSTALL, or operator error or omission; or
- 26.3.4 attendance to faults attributable to the use or interaction of an Ancillary System with other software or systems with which it is not compatible.
- 26.3.5 BIOSTALL will charge its standard employee charge out rates (as detailed in any relevant SLA) in addition to the Fees for the carrying out any remedial work described in clauses 26.3.1 to 26.3.4.

26.4 BIOSTALL will use its reasonable endeavours to provide the Support Services in accordance with any applicable SLA.

26.5 Scope of Support Services

BIOSTALL will at no additional charge to the Client initially install the standard operating system Software on to the Client System or, where appropriate, the Equipment. Any re-install will occur a charge, this charge will be detailed in any applicable SLA.

26.6 BIOSTALL will operate a service to assist the Client in relation to the Client's use of the Services and the identification and correction of Defects. Assistance via this service may be requested by the Client and provided by BIOSTALL, by e-mail or helpdesk ticket system provided by BIOSTALL. The service will be obtained by e-mailing such addresses or logging into such ticketing systems, as are notified by BIOSTALL from time to time.

26.7 If a Defect occurs, the following procedure will be followed:

- 26.7.1 the Client will notify BIOSTALL of the Defect and provide such information and assistance as BIOSTALL reasonably requires in connection with such Defect; and

- 26.7.2 BIOSTALL will analyse the Defect and use its reasonable endeavours to rectify the Defect in question or propose a solution in connection with the same, within ten Business Days of being notified of the same under clause 26.6.