

## CUSTOMER AGREEMENT

By and between 24Blackbirds, a company duly registered in the Netherlands and carrying on business at Arnhem in the Netherlands ("24Blackbirds") and the customer.

In consideration of the mutual covenants herein the parties agree to the following which shall apply during the term of this agreement:

### 1. Definitions

1.1 "Package" means proposals for offering various services to be provided by 24Blackbirds at the prices set out as listed online at:

<http://www.24Blackbirds.com>

1.2 "Customer" means an end user who is utilizing services provided by 24Blackbirds.

### 2. Prices

2.1 All prices for packages provided by 24Blackbirds to Customer are in Great British Pounds (£).

2.2 Customer shall be responsible for paying all taxes of any nature which become due with regard to 24Blackbirds services, except for taxes on 24Blackbirds's income, irrespective of which party may be responsible for reporting or collecting such taxes.

2.3 24Blackbirds shall be entitled to increase or decrease the charge for packages from time to time by giving notice to the Customer.

2.4 This Agreement shall endure for a period of 1 year from date of order or renewal date of the account,

### 3. Order Acceptance, Payment

#### 3.1 Order and Acceptance

All orders are subject to acceptance by 24Blackbirds. An order will be deemed accepted by 24Blackbirds when confirmation of the order is sent to Customer by e mail. 24Blackbirds may refuse to accept any order, or delay acceptance pending fulfilment of conditions 24Blackbirds may choose to impose. Such refusal or such conditions may not be unreasonable, however, and 24Blackbirds agrees to provide Customer with reasonable notice via Email or fax of any intent to delay or decline the acceptance of any order. The Customer must certify to be an authorised person when acting on behalf of a company and all Customers must certify to being of legal age to enter in to the agreement

#### 3.2 Payment

3.2.1 Payment shall be made in £ to 24Blackbirds into the account designated by 24Blackbirds, or as may otherwise be agreed in writing by the parties.

FOUR & TWENTY  
BLACKBIRDS

3.2.2 Payment is due upon presentation of invoice. If due to bank charges, transfer fees or the like 24Blackbirds should receive less than its invoice amount, 24Blackbirds will re-invoice Customer for the shortfall.

All annual packages will be automatically renewed on the due date using credit card details on file

3.2.3 If a Customer's credit card is declined Customer will be deemed to be in default and will be liable for a "credit card decline charge" of £25. If a Customer's cheque is returned by the bank as not redeemable Customer will be deemed to be in default and will be liable for a "return cheque" charge of £30.

3.2.4 Should payment in full of any invoice (aside from any shortfalls referred to above) not be received by 24Blackbirds within 7 days after presentation of invoice, 24Blackbirds will impose a debt service charge amounting to one percent (1%) of the overdue balance for each month or portion thereof that the overdue amount remains unpaid.

3.2.5 In situations where the card number on file is declined 24Blackbirds will immediately suspend the facility to purchase services on-line until the outstanding charge is processed successfully. Such interruption does not relieve the subscriber from the obligation to pay the monthly charge. In addition, 24Blackbirds reserves the right to suspend other services until the outstanding debt is cleared. The customer is responsible for all money owed on the account from the time it was established to the time that the customer completes the cancellation request process.

3.2.6 In the event of the Customer defaulting in payment the Customer agrees to pay 24Blackbirds's reasonable expenses including legal and collection agency fees incurred in enforcing its rights under this agreement.

3.2.7. Monthly fees and charges for extra metered services are automatically billed to your account on the 1st of every month. Subscriber is responsible for monitoring transfer, bandwidth utilization, and other metered services.

3.2.8. In order to prevent service interruption in the event that metered utilization exceeds prepaid service level Subscribers must keep a valid credit card on file with 24Blackbirds. Credit card information can be updated by visiting <https://www.24Blackbirds.com>

3.2.9. All files, information and mail under the account will be preserved for 30 days from the date the payment is due. If the payment is not received after 30 days, all files, information and mail under the account will be deleted. If the subscriber wishes to use the service again, the subscriber must re-apply as a new subscriber. For this, an activation fee will be required.

#### 4. Duties and Guarantee of 24Blackbirds

4.1 24Blackbirds will acquire, on request, an Internet Domain Name (only from the Enom or UK Nominet) on behalf of the Customer. In such case the Customer hereby must waive in writing prior to acquisition of said domain name, any and all claims which it may have against 24Blackbirds for any loss, damage, claim or expense arising out of, or in relation to, the registration of such Domain Name in any on-line or off-line network directories, membership lists or registration lists, or the release of the Domain Name from such directories or lists following the termination of services by 24Blackbirds for any reason. Any costs of 24Blackbirds in obtaining,

maintaining or transferring a domain name for Customer or its customers shall be immediately reimbursed to 24Blackbirds upon invoice from 24Blackbirds to Customer.

4.2 24Blackbirds exercises no control whatsoever over the content of the information passing through 24Blackbirds.

4.3 24Blackbirds undertakes to enter into a Service Level Agreement in respect of customers who order dedicated servers, (where the SLA is noted as a part of the service) The website and hardware availability Service Level Agreement is posted on the internet at <http://www.24Blackbirds.com>

## 5. Rules and Regulations

5.1 24Blackbirds may impose reasonable rules and regulations regarding the use of its services from time to time. Customer shall impose such rules and regulations on its customers to the extent necessary to ensure compliance. This Acceptable Usage Policy information is posted on the Internet at: <http://www.24Blackbirds.com>

5.2 The rules and regulations are deemed to be incorporated in this agreement.

## 6. Limitation of 24Blackbirds's Obligations and Liability

6.1 24Blackbirds will utilise its best efforts to maintain acceptable performance of services contracted for, but 24Blackbirds makes absolutely no warranties whatsoever, express or implied, including warranty of merchantability or fitness for a particular purpose. 24Blackbirds cannot guarantee continuous service, service at any particular time, or integrity of data stored or transmitted or received or stored on its system. 24Blackbirds shall not be liable to Customer or any of its customers for any claims or damages which may be suffered by Customer or its customers, including, but not limited to, losses or damages of any and every nature, resulting from the loss of data, inability to access Internet, or inability to transmit or receive information, caused by, or resulting from delays, non-deliveries, or service interruptions whether or not caused by the fault or negligence of 24Blackbirds.

6.2 24Blackbirds may discontinue servicing any Package, or may require fulfilment of conditions 24Blackbirds may choose to impose as a prerequisite for continuing to service any Package. Such discontinuation or requirement may not be unreasonable, however, and 24Blackbirds agrees to provide Customer with reasonable notice via Email and fax of any such intent to discontinue or impose conditions.

6.3 Services provided by 24Blackbirds to Customer shall be deemed accepted for all purposes thirty days after presentation of invoice for such services. If no written claim or objection regarding such services has been received by 24Blackbirds within the 30 day period no claim related to such accepted services shall be raised.

6.4 24Blackbirds's liability to Customer and any end user of any Package or other 24Blackbirds services is limited to the amount paid to and received by 24Blackbirds for services not accepted. In no event shall 24Blackbirds be liable to Customer, or any end user or any other entity for any special, consequential, or other damages, however caused, whether for breach of contract, negligence or otherwise, even if 24Blackbirds has been advised of the possibility of such damage.

6.5 Customer will take all necessary measures to preclude 24Blackbirds from being made a party to any lawsuit or claim regarding 24Blackbirds services provided to any Customer or end user. Customer hereby agrees to indemnify and hold harmless 24Blackbirds from any and all claims of whatever nature brought by any of Customer's customers against 24Blackbirds in excess of the remedy set forth in paragraph 6.4.

## 7. Property Rights

24Blackbirds owns all right, title and interest in 24Blackbirds's trade secrets and know-how relating to the design, function, or operation of Packages and of the hardware and software systems and resources necessary to provide the individual service elements of which they consist.

## 8. Confidentiality

8.1 Customer acknowledges that by reason of its relationship with 24Blackbirds hereunder, it may have access to certain information and materials relating to 24Blackbirds's business, packages, customers, software technology and marketing strategies that is confidential and of substantial value to 24Blackbirds, which value would be impaired if such information were disclosed to third parties.

8.2 The Customer undertakes to enter into 24Blackbirds's mutual Non Disclosure Agreement.

## 9. Relationship of the Parties

The relationship between 24Blackbirds and Customer is that of vendor and vendee. They shall not be construed as being joint ventures, franchiser/franchisee, or employer/employee. This agreement is a commercial agreement between businesses, not a consumer agreement. Customer has no authority, apparent or otherwise, to contract for or on behalf of 24Blackbirds or in any other way legally bind 24Blackbirds in any fashion, nor shall Customer be authorised to make any representations about 24Blackbirds or its services other than to set forth 24Blackbirds's responsibilities as outlined in this agreement.

## 10. Deletion of Data

The Customer agrees that 24Blackbirds has the right to delete all data files or other information that is stored in Customer's account if Customer's account with the Company is terminated for any reason by either 24Blackbirds or Customer.

## 11. Disputes

11.1 The parties shall attempt to resolve all disputes arising out of this agreement in a spirit of co-operation without formal proceedings. Any dispute which cannot be resolved (other than the collection of money due on unpaid invoices) and other than the injunctive relief referred to in paragraph 8 shall be subject to arbitration upon written demand of either party. Arbitration shall take place in Arnhem, the Netherlands or at another location if the parties so agree.

11.2 The arbitration shall take place before an arbitration panel chosen as follows:-

The parties shall each choose an arbitrator and the two arbitrators shall choose a third arbitrator and determine the third arbitrator's compensation. Each party shall have one veto over

the choice of the third arbitrator. The three arbitrators shall schedule an informal proceeding, hear the arguments, and decide the matter by secret majority vote.

11.3 Unless the arbitrators decide otherwise each party shall pay the costs of its own arbitrator, and shall pay half of the other costs of the arbitration proceeding. Each party shall have the right to have the proceedings transcribed.

11.4 The arbitrators shall not have the authority to award punitive damages or any other form of relief not contemplated in the contract.

11.5 The majority of arbitrators shall render a written opinion setting forth the basis on which they arrived at the decision regarding each issue submitted to arbitration; the dissenting arbitrator, if any, shall not issue a dissenting opinion.

11.6 Regarding each issue submitted to arbitration, the decision shall be final and binding only to the extent it is accompanied by a written explanation of the basis upon which it was arrived at.

11.7 Judgment upon the award, if any, rendered by the arbitrators may be entered in any court having jurisdiction thereof.

11.8 Should any legal action permissible under this agreement be instituted to enforce the terms and conditions of this agreement, in particular the right to collect money due on unpaid invoices, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses incurred at both the trial and appellate levels.

## 12. Term, Termination

This agreement shall run until the end of the contract length described above. It shall automatically be renewed on this basis unless terminated in one of the following ways:

12.1 By notifying the other by the account cancellation menu option in the control panel 30 days prior to the termination date that this agreement will not be renewed.

12.2 By 24Blackbirds, upon thirty (30) days' written notice, if Customer breaches any material and substantial provision of this agreement and has not cured such breach by the end of the 30 days.

12.3 By 24Blackbirds, immediately upon giving written notice to Customer, in the event that:-

i) Any bank draft or cheque delivered by Customer to 24Blackbirds in payment for Products is returned unpaid and Customer fails to remedy such non-payment within five business days;

ii) Customer becomes more than thirty (30) days in arrears in payment of its account with 24Blackbirds;

iii) There are instituted bankruptcy or insolvency proceedings against Customer, which are not vacated within sixty (60) days from the date of filing;

iv) Customer institutes voluntary bankruptcy or insolvency proceedings, or otherwise admits insolvency; or

v) Customer makes an assignment of all or part of its assets for the benefit of creditors.

12.4 By 24Blackbirds immediately, if Customer attempts to assign all or any part of this agreement without 24Blackbirds's prior written approval;

12.5 By 24Blackbirds immediately, if Customer fails to cause 24Blackbirds to be informed in writing immediately on the happening of any event specified in this section;

12.6 By Customer, immediately upon giving written notice to 24Blackbirds, if

i) There are instituted bankruptcy or insolvency proceedings against 24Blackbirds, which are not vacated within sixty (60) days from the date of filing;

ii) 24Blackbirds institutes voluntary bankruptcy or insolvency proceedings, or otherwise admits insolvency;

iii) 24Blackbirds makes an assignment of all or part of its assets for the benefit of creditors; or

iv) 24Blackbirds fails to cause Customer to be informed in writing immediately on the happening of any event specified in this section. The provisions of paragraph survive any termination of this agreement.

12.7 24Blackbirds reserves the right to cancel the service at any time. In this event customers will be entitled to a pro rata refund based upon the remaining period of membership.

### 13. Non-assignability

Customer's rights and obligations under this agreement may not be transferred or assigned directly or indirectly without the prior written consent of 24Blackbirds, which consent shall not be unreasonably refused.

### 14. Partial Invalidity

If any provision of this agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect. 24Blackbirds and Customer agree to renegotiate in good faith any term held invalid and to be bound by mutually agreed substitute provision.

### 15. Applicable Law, Jurisdictional Matters

15.1 This agreement takes effect when accepted by 24Blackbirds in the Netherlands. It is to be governed by and construed under the laws of the Netherlands. The courts of the Netherlands shall have exclusive jurisdiction to adjudicate any non-arbitral dispute arising out of this agreement.

15.2 Customer hereby expressly consents to

(i) the jurisdiction of the courts of the Netherlands; and

(ii) service of process being effective upon it by registered mail sent to the address set forth at the beginning of this document, as may be changed from time to time by written notice actually received by 24Blackbirds.

15.3 To the extent permissible by the law of Customer's jurisdiction, Customer waives any requirement that service of process or of any documents be made upon it pursuant to the provisions of the Hague Convention.

## 16. Notices

Except with respect to service of process as set forth in paragraph, all notices may be sent by email, fax or express mail to the email address, fax number or address most recently provided and will be effective upon transmission. Evidence of successful transmission shall be retained.

## 17. Entire Agreement; Modifications

This agreement sets forth the entire agreement and understanding between the parties and merges all prior discussion between them. 24Blackbirds may make changes to this agreement upon thirty (30) days' written notice to Customer, advising of the change and the effective date thereof. Utilisation of 24Blackbirds services by Customer and/or its Customers following the effective date of such change shall constitute acceptance by Customer of such change(s). Otherwise, this agreement may not be modified except by the written consent of both parties.

## 18. Data Protection

To the extent that the customer is a data subject in accordance with the Data Protection Act 1986 (and Act of Tynwald) or the Data Protection Act 1984 (an Act of Parliament) when registering customer's details in terms of this agreement customers giving us its explicit consent to 24Blackbirds holding personal data which the customer provides to 24Blackbirds including any sensitive, personal data as defined in the Data Protection Act 1986 (an Act of Tynwald) or the Data Protection Act 1984 (an Act of Parliament) and disclosing it as necessary for the purposes envisaged in this agreement.

## 19. Disclaimer

19.1 The customer acknowledges that 24Blackbirds cannot be held responsible for the networks nor the services not being transmitted directly or without interruption. 24Blackbirds shall not be liable to the customer for any failure to provide and to transmit all or any part of the 24Blackbirds software. 24Blackbirds does not warrant that the software is fit for the purpose required by customers.

19.2 Except as expressly set out in 19.1 above all warranties, undertakings, conditions and terms expressed or implied whether by common law, statute, custom, trade usage, course of dealings or otherwise (including without limitation as to quality, fitness or purpose, performance or suitability for purpose) in respect of the 24Blackbirds software are hereby excluded to the fullest extent permitted by law.

19.3 24Blackbirds shall in no circumstances be liable to the customer or in connection with this agreement for damages and losses howsoever arising save for (personal injury or death) including any indirect or consequential loss howsoever arising and whether arising by contract, court, any damage caused by the software including viruses and worms or otherwise in so far as is permitted by law including any indirect or consequential loss suffered by the customer as part of its normal course of business

19.4 Notwithstanding the provisions of this clause, should any liability be found against 24Blackbirds the amount of any claim or damages for such liability shall be limited to £100.00 sterling.

## Guidelines

This policy is subject to change, without alternate notice, so please check regularly for updates. This policy is in addition, and considered part of 24Blackbirds's Terms and Conditions. 24Blackbirds will be the sole arbiter as to what constitutes a violation of this provision.

### 1) Web Hosting

1.1) 24Blackbirds reserves the right to suspend or cancel a customer's access to any or all services provided by 24Blackbirds, where 24Blackbirds decides that the account has been inappropriately used. 24Blackbirds reserves the right to refuse service and /or access to its servers to anyone.

1.2) 24Blackbirds offers various levels of web space and bandwidth allowance with the different account types. By this, we mean space for legitimate web site content and bandwidth for visitors to view it. All files on a domain must be part of the active website and linked to the site. Sites should not contain any backups, downloads, or other non-web based content. We will treat all password protected archive (e.g. zip and rar) files as unacceptable. MP3 and other large multimedia files are not web-based content. 24Blackbirds offers a streaming media service for this type of content. All files, information and mail under the account will be preserved for 30 days from the date the payment is due. If the payment is not received after 30 days, all files, information and mail under the account may be deleted. If the subscriber wishes to reuse/reactivate the service, the subscriber may need to re-apply as a new subscriber, and an activation fee may be required.

1.3) Scripts on the site must be designed to produce web-based content, and not to use the server as an application server. Using the server to generate large volumes of email from a database is an example of activity that is not allowed. Scripts should not attempt to manipulate the timeouts on servers. These are set at the present values to ensure the reliability of the server. Sites that reset these do so because they are resource intensive, and adversely affect server performance and are therefore not allowed.

1.4) 24Blackbirds will disable any domain that fails to adhere to the following criteria as soon as we are made aware, in line with current working practices:

1.4.1) The primary purpose of any site must be to provide web-based content to viewers. Files on the site must be linked to the web site.

1.4.2) The primary purpose of any script must be to produce a web page. Scripts that send a single email based upon user entered information, or update a database are acceptable. Scripts

that send bulk email or perform processor intensive database processes are not allowed. All outgoing mail is monitored and filtered.

1.4.3) Sites must not contain Warez, illegal, immoral or copyright material. The onus is on you the customer to prove that you own the rights to publish material, not for 24Blackbirds to prove that you do not.

1.4.4) Sites must not contain MP3 files, as they do not represent active web content. Other multimedia files are acceptable if they are configured to stream to the client rather than download (Please see section 1.2 of this policy).

1.4.5) Sites must not contain password protected archive (e.g. zip or rar) files, or data back ups.

1.4.6) Sites must not contain pornographic or other lewd material. Adult Material includes all pornography, erotic images, or otherwise lewd or obscene content. The designation of "adult material" is left entirely to the discretion of 24Blackbirds.

1.4.7) Sites must not use excessive amounts of server resources. These include bandwidth, processor utilization and / or disk space. When a website is found to be monopolising the resources available 24Blackbirds reserves the right to suspend that site immediately. This policy is only implemented in extreme circumstances and is intended to prevent the misuse of our servers. Customers may be offered an option whereby an upgrade option or hosting addition is necessary.

1.4.8) Sites must not contain scripts that attempt to access privileged server resources, or other sites on the same server.

## 2) Email

2.1) If 24Blackbirds identifies a mailbox or domain that is causing problems; we will either remove the offending mailboxes or change their settings to resolve the issue. In extreme cases, we will disable email or suspend all services to the domain as appropriate.

2.2) Common issues that cause problems are:

2.2.1) Where a mailbox receives large volumes of undeliverable email.

2.2.2) Where mailboxes have forwarders set to other mailboxes where mail cannot be delivered.

2.2.3) Where mailboxes have forwarders and/or auto-responders that generate circular mail loops.

2.3) You may not use 24Blackbirds's Email services for any of the following:

2.3.4) To send messages or communications, which are unsolicited, offensive, abusive, indecent or obscene.

2.3.5) To send messages causing annoyance, inconvenience or anxiety to another user of the Internet.

2.3.6) To send messages for the purpose of Fraud and /or with the intention of committing a criminal offence.

2.4) To prevent the sending of bulk unsolicited mail, SMTP traffic to and from a server will be blocked in the following scenarios:

2.4.1) Where we identify a server that has an open mail relay.

2.4.2) Where a significant volume of mail is sent from a domain in a 10-minute period.

2.4.3) Where we have received significant volumes of complaints concerning unsolicited mail originating from a 24Blackbirds hosted server.

2.5) To prevent 24Blackbirds' IP Addresses being blocked by IP Address blocking, a domain held on 24Blackbirds's servers may be disabled:

2.5.1) Where we have received significant volumes of complaints concerning unsolicited mail originating from or unsolicited email being sent to promote sites being hosted on a 24Blackbirds server.

### 3) Managed or Unmanaged Dedicated Servers

3.1) All dedicated server customers are responsible for the activities and security of their server. Servers will be disconnected from the network in the following scenarios:

3.1.1) Any server that attempts network scans or other possible hacking activities.

3.1.2) 24Blackbirds believe a server has been compromised.

3.1.3) Where there is a sudden increase in a server's use of network capacity, which impacts other servers on the same network.

### 4) General

4.1) 24Blackbirds have a Crime Liaison function and we are committed to assisting, and cooperating with, all law enforcement and government agencies in helping to reduce Internet Crime.

4.2) 24Blackbirds will suspend access to an account which:

4.2.1) Contains invalid or fraudulent details.

4.2.2) Initiates a payment card chargeback.

4.3) If 24Blackbirds disable a site or server, we will:

4.3.1) Send an E-mail to the account contact, informing them of the suspension - please ensure you use an email address that will be unaffected by any suspensions, to ensure that you are immediately made aware of any changes in your account status.

4.3.2) Provide follow up correspondence during office hours from the appropriate department, detailing the reasons for the suspension and what actions, if any, the contact should take to rectify the situation.

4.3.3) Not re-enable any domain or server that has previously been suspended for similar abuse.

4.3.4) Pass the account to the appropriate department to resolve any outstanding issues such as account balance or closure.

4.4) For less serious cases, such as email problems, the support department will contact you during office hours and inform you of any changes made to your account and the reasons for those changes.

4.5) If an action is taken against a site or server, you must correspond only with our support department via your online control panel or via the communication address given in the notifying e-mail. No other departments are able to discuss the details of an Abuse Investigation.

4.6) Restoration of any and all services suspended during an Abuse Investigation will be considered on a case-by-case basis.

## 5) Limited Liability

5.1) Any Liability of the company, including without limitation any liability for damages caused or allegedly caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or Destruction of or unauthorised access to, alteration of, or use of records, Whether for breach of contract, tortious behaviour, negligence, or under any other cause of action, shall be strictly limited to the amount paid by or on behalf of the subscriber to the company for the current month.

5.2) Should any provision of this agreement be held to be illegal, invalid, or unenforceable by a court of law, the legality, validity and enforceability of the remaining provisions of this agreement shall remain unaffected thereby unless otherwise stated.

5.3) These Terms and Conditions supersede all previous representations, understandings or agreements and shall prevail notwithstanding any variance with terms and conditions of any order submitted. Use of 24Blackbirds Service constitutes acceptance of these Terms and Conditions.

Please note: by signing up for any of our services you agree to be bound by all 24Blackbirds's terms and conditions.

We are committed to protecting your privacy. We will only use the information that we collect about you lawfully (in accordance with the Data Protection Act 1998).

We collect information about you for 2 reasons: firstly, to process your order and second, to provide you with the best possible service.

We will not pass your e-mail address to other trusted traders unless you agree.

The type of information we will collect about you includes:

your name  
address  
phone number  
email address

We will never collect sensitive information about you without your explicit consent.

The information we hold will be accurate and up to date. You can check the information that we hold about you by emailing us. If you find any inaccuracies we will delete or correct it promptly.

The personal information which we hold will be held securely in accordance with our internal security policy and the law.

If we intend to transfer your information outside the EEA (European Economic Area) we will always obtain your consent first.

We may use technology to track the patterns of behavior of visitors to our site. This can include using a "cookie" which would be stored on your browser. You can usually modify your browser to prevent this happening. The information collected in this way can be used to identify you unless you modify your browser settings.

If you have any questions/comments about privacy, you should email us at:

[info@24Blackbirds.com](mailto:info@24Blackbirds.com)