

## Terms and Conditions

The terms and conditions applicable to our services (known collectively as the "Terms and Conditions") incorporate and consist of the following:

- \* the terms on this page ("Standard Terms")
- \* any relevant terms and conditions agreed with an individual client ("Specific Terms")
- \* any relevant special offer and price terms agreed for a particular service or piece of work ("Special Terms")

The Terms and Conditions, which came into effect from 26th May 2008, govern our services. If there is any contradiction between the Standard Terms, the Specific Terms and the Special Terms, each will apply in the following order of precedence: Special Terms, Specific Terms, Standard Terms.

By accessing our services, you indicate your acceptance of these Terms and Conditions and agree to be bound by them. If you do not agree with these Terms and Conditions, you should contact us immediately to negotiate "Specific Terms" or "Special Terms" that are mutually agreeable. If no acceptable terms can be agreed, your service will be terminated (see Termination). In these Terms and Conditions, "your Service" means all the services to be provided by us to you, and "we" "us" and "our" means BackEdge Ltd.

### Standard Terms

#### 1. Supply

1.1 These Standard Terms apply to our provision and your use of your Service, along with any equipment we provide to you in connection with your Service.

1.2 We reserve the right to alter or withdraw your Service at any time, on giving you prior warning.

1.3 We will provide your Service and deliver any equipment to the UK address you give us, unless the Specific Terms indicate otherwise.

1.4 If this Service is intended to last for a minimum period or a specific subscription period, details will be set out in the Specific Terms. The minimum or subscription period will start on the date that we provide your Service to you, unless we indicate otherwise.

1.5 We list availability information for our services on our site: [www.backedge.co.uk](http://www.backedge.co.uk) ("our site"). Beyond what we say on our site, we cannot be more specific about the availability of our services.

#### 2. Paying for your Service

2.1 Please see the Specific Terms for the charges specific to your Service.

2.2 You agree to pay all charges for your Service and any equipment provided to you, including any charges for late payment. Your method of payment will be either as set out in these Terms and Conditions or as we otherwise agreed with you. We reserve the right to have you pay all sums due under these Terms and Conditions on demand.

2.3 Accounts in default may be charged interest on the outstanding balance at 8% per annum above "the official dealing rate" as specified in "The Late Payment of Commercial Debts (Rate of Interest) (Scotland) Order 2002", or any subsequent replacement of this made by the Scottish Parliament. All payments due under these Terms and Conditions shall be made by you in full without any right of set off by you.

2.4 All sums due to us under these Terms and Conditions are quoted exclusively of Value Added Tax or other applicable taxes which may from time to time be charged in accordance with the relevant regulations in force at the time and shall be paid by you.

2.5 We reserve the right to suspend or end your Service immediately in the event of any default in payment by you although we will generally not do so until 28 days after a reminder has been sent, unless the Specific Terms say otherwise.

2.6 All subscription charges are invoiced at or near the end of the month in which the Service has been provided and are due on receipt of our invoice.

2.7 Your invoices are available electronically and will be provided by email on request. You agree to pay the charges as soon as your invoice falls due. You may also need to pay a deposit or a payment upfront before you can receive any goods - any such requirement will be made clear prior to our procurement of goods on your behalf.

#### 3. Using your Service

3.1 You must use your Service in accordance with our Acceptable Use Policy and any reasonable instructions that we may give you from time to time. A breach of our Acceptable Use Policy will constitute a material breach of these Terms and Conditions and shall entitle us to end our agreement with you under clause 7.2.

3.2 You must not (or authorise or permit any other party to) use your Service for the transmission of any material which is in violation of any law or regulation or which is defamatory, menacing, obscene, in breach of third party intellectual property rights (including copyright) or in breach of trade secrets. Any breach of this clause will be deemed to be a material breach of our agreement with you and shall entitle us to end our agreement under clause 7.2. Whether you are aware of the content or illegality of any material so transmitted or not shall be irrelevant to this clause.

3.3 In addition to our other rights, we may suspend your Service without notice with immediate effect if in our reasonable opinion you are in breach of these Terms and Conditions or have acted inconsistently with the spirit of these Terms and Conditions. In particular, in addition to our other rights, we may suspend your Service without notice with immediate effect whilst we investigate any allegation that you are in breach of our Acceptable Use Policy or clause 3.2.

3.4 You acknowledge that we are unable to exercise control over the content of the information passing over our network and/or our services, and we hereby exclude all liability of any kind for the transmission or reception of infringing information of whatever nature. This includes email messages and we specifically exclude liability for unsolicited or "spam" email that may be delivered to your mailbox.

3.5 You agree that any content, software or other copyright material we supply to you is for your own company's use and you must not copy, change or publish the material or supply it to any person or use it for any other business purpose.

3.6 You accept that you are using the internet at your own risk. You are responsible for making sure any equipment you use to access your Service is protected against viruses and other malware.

3.7 If your Service gives you content or software licensed by others who ask you to accept their terms of use, you must observe these terms.

3.8 We reserve the right to delete all email from a mailbox in case of denial of service attacks or excessive email traffic (which may include unsolicited or "spam" emails), and terminate access to a mailbox. You will be notified as soon as practicable in this event.

#### 4. Security and Data Protection

4.1 You are responsible for maintaining the confidentiality of your username and password and may not release them to any third party. You are fully responsible for all activities which occur under your username and password. Other users of your username and password shall be bound by these Terms and Conditions as if they were you. You agree to immediately notify us of any unauthorised use of your username or password or any other breach of security of which you become aware.

4.2 Please see our Privacy Policy for information on how we collect, store and deal with your personal data.

#### 5. Suspending your Service

5.1 We may, without ending our agreement, suspend provision of your Service in whole or in part until further notice with immediate effect if we:

- 5.1.1 have reason to end this agreement in accordance with Clause 7;
- 5.1.2 are obliged to comply with an order, instruction or request of Government, an emergency

services organisation, or other administrative authority; or

5.1.3 need to carry out work relating to upgrading or maintenance of our network but providing that we have given you a reasonable period of notice practicable in the circumstances.

5.2 If, as a result of an event described in clause 5.1, we decide to suspend your Service, we still reserve our right to end our agreement with you at a later stage (whether in connection with the same event or not), in accordance with these Terms and Conditions.

#### 6. Our responsibility

6.1 We cannot and do not guarantee that your Service or the equipment we provide to you will be error or fault-free.

6.2 Unless the Specific Terms or Special Terms provide otherwise, we have no responsibility to pay you compensation for any loss that could not have been reasonably foreseen, including for financial loss or loss of data.

6.3 We will not, in any 12-month period, pay you more in compensation than the amounts received from you in payment for your Service in the 12 months preceding a claim (even if we have been negligent), unless the Specific Terms or Special Terms say otherwise.

6.4 We do not limit or exclude our liability for death or personal injury caused by our negligence, for fraud or for any other matter for which liability cannot be excluded or limited by law.

6.5 Nothing in this Clause 6 affects your legal rights relating to faulty or incorrectly described equipment.

#### 7. Term of your Service

7.1 The agreement between us will be formed when you pay your first invoice. The term (including any minimum or subscription period) shall begin when we inform you that your Service is installed and ready for use. This agreement will continue and payments will be taken according to these Terms and Conditions until you request cancellation or if we decide to end our agreement according to these Terms and Conditions.

#### Our rights

7.2 We (without prejudice to our other rights) may end our agreement with you and cancel your Service immediately if:

7.2.1 you breach any clause under these Terms and Conditions;

7.2.2 we are obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other administrative authority, to cease to provide your Service;

7.2.3 you breach our Acceptable Use Policy; or

7.2.4 the provision of your Service would give rise to or cause disruption to the services offered by us to our other customers.

7.3 We can also end this agreement for any reason on giving you a minimum of 30 days' notice at any time.

#### Your rights

7.4 You may end your agreement with us and cancel your Service:

7.4.1 within 7 working days from the day following the day on which we send you an email or paper copy of your first invoice by sending to us an e-mail, letter or fax to the email address, address or fax number specified in clause 8.11.

7.4.2 unless the Specific Terms state otherwise, after the expiry of the minimum period for your Service (where a minimum period is applicable, this will be set out in the Specific Terms or the Special Terms.), at any time on giving us 30 days' written notice to us by e-mail, letter, or fax to the email address, address or fax number specified in clause 8.11.

7.5 If we have provided any equipment at our cost to allow you to use your Service, you agree to return it, following our instructions and at your cost. If we have to collect the equipment, we may charge you our reasonable costs for doing so.

7.6 If you cancel your order under clause 7.4.1, you agree to return any equipment we have sent you, following our instructions and at your cost. If we have to collect the equipment, we may charge you our reasonable costs for doing so.

7.7 Where you return any equipment to us because it is faulty, we may test the equipment. If we find the equipment is faulty and is still covered under the manufacturer's warranty, then we will replace it at our cost. If we find the equipment is not faulty, we will send it back to you and we may charge you our costs for the testing and postage. This does not affect your legal rights relating to equipment which is faulty or wrongly described.

#### On ending the agreement

7.8 In the event of termination, whether initiated by you or us:

7.8.1 no refunds will be given on subscription charges, whether monthly, quarterly or annual, unless the agreement is terminated under Clause 7.4.1 or where we have terminated your agreement under Clause 7.3 during the minimum term or subscription period, in which case we will refund any unused portion of such subscription charges after we have deducted any money you owe to us;

7.8.2 cancellation charges may be payable by you as set out in the Specific Terms;

7.8.3 you shall immediately cease to make use of your Service and return our equipment to us at your cost, unless we specify otherwise in these Terms and Conditions; and

7.8.4 we will cease to provide your Service and certain consequences will flow from such termination including without limitation deletion of emails within your mailboxes.

#### 8. General

8.1 Other than in relation to your obligation to make payments to us, neither party shall be liable in respect of any breach of this contract due to any cause beyond its reasonable control including but not limited to acts of God, flood, lightning or fire, industrial action, act or omission of Government or other competent authority, riot, war or act or omission of another party for whom that party is not responsible.

8.2 From time to time we may need to change these Terms and Conditions. We will publish details of such changes on our site and/or may inform you by email. We shall have the right to modify these Terms and Conditions at any time. It is your responsibility to check these Terms and Conditions for changes and to check for changes published on our site and we will not be responsible for any failure by you to do so. We will also endeavour to let you know about a price increase, or a significant change to these Terms and Conditions that we believe is likely to cause you significant disadvantage one month before it happens.

8.3 We reserve the right to refuse to accept orders for any reason. Where we do refuse to accept your order we will inform you by email that we will not accept your order.

8.4 These Terms and Conditions are governed by and shall be construed in accordance with the laws of Scotland and you hereby submit to the exclusive jurisdiction of the Scottish Courts.

8.5 These Terms and Conditions represent the entire agreement between the parties.

8.6 You must not assign or purport to assign or otherwise deal with any of your rights and obligations hereunder, except if expressly agreed in writing by us.

8.7 We shall have the right to assign, sub-contract or otherwise deal with all or any of our rights and obligations under these terms and conditions to any third party.

8.8 By paying invoiced charges to us, you hereby acknowledge that you have read and accepted these Terms and Conditions.

8.9 Any notice given by us to you under these Terms and Conditions will be given either by email or by a message on our site.

8.10 We will try to resolve any disputes that you may have with us. However, if we cannot resolve any dispute between us your services will be terminated.

8.11 All written notices referred to in clauses 7.4.1 and 7.4.2 should be sent: By post to 4 Jacklin Green, Livingston EH54 8PZ; by fax to 0872 111 7722 or by email to [cancel@backedge.co.uk](mailto:cancel@backedge.co.uk)