Xgeneration General Terms of Service

Xgeneration Limited (hereinafter referred to as "XGEN"), a provider of internet related services including connectivity, co-location, dedicated and shared server, website hosting and domain name services. These General Terms of Service ('the Terms') set out the terms under which XGEN will provide Services to the Client (as such terms are defined below). The Terms should be read in conjunction with XGEN's Acceptable Use Policy which can be viewed at: https://www.xgeneration.co.uk/aup and the Domain Transfer & Ownership Terms and Conditions which can be found at https://www.xgeneration.co.uk/domain-transfer. These Terms will be supplemented from time to time by order confirmation forms setting out specific details relating to services requested by the Client and, as so supplemented, will apply to the exclusion of any other terms and conditions including any which the Client may attempt to introduce. XGEN reserves the right to change, add, subtract or in way alter these Terms without the prior consent of the Client.

To the extent that the Client is deemed to be a consumer (as defined by the Unfair Contract Terms Act 1977) then these Terms will not affect the rights of the Client as a consumer and will apply to the extent that applicable law allows.

By logging into your account or updating files, or by signing an XGEN order form you are deemed to have accepted these Terms.

These Terms are divided into seven parts, however all parts may not apply in every case:

Part 1 applies in all cases.
Part 2 applies where XGEN is to provide software and/or equipment in connection with the Services.
Part 3 applies where the Services include ongoing support and maintenance services.
Part 4 applies where the Services include domain name registration services.
Part 5 applies to the MYSERVER and MYSERVERplus product.
Part 6 applies to the provision of XGEN Hosting Packages.

1. General Provisions

Definitions

In these Conditions, the following expressions will have the following meanings, unless inconsistent with the context:

"Affiliate" A person, organisation, or establishment indirectly associated with XGEN.

"Agreement" the agreement between XGEN and the Client for the provision of Services formed by these Terms, any product specific terms and conditions and the Order Confirmation(s)

"Ancillary Systems" any Software and/or Equipment

"Associated Company" in respect of either party, a subsidiary or holding company of that party or any subsidiary of such holding company and the terms "subsidiary" and **"holding company"** will have the meanings given to them by section 1159 of the Companies Act 2006.

"Business Day" a day which is not a Saturday or Sunday or public or bank holiday in England and Wales

"Business Customer" You are a business customer if you are an commercial entity or an individual (a) registering, using or planning to use the Requested Domain as part of a business trade or profession; (b) purchasing a Domain name during the a "Sunrise" or "Landrush" period as defined in the Domain Name Conditions for the Domain Name Registry (c) at your sole discretion, purchasing a Domain Name for financial or Commercial gain, including, without limitation, for the sole purpose of placing advertisements on the Domain Name; (d) purchased 10 or more Domains and purport to act as a business customer as defined.

"Business Hours" 9am to 5pm on each Business Day

"Client Materials" data, text, images, graphics, videos, logos and other content and material, hardware or equipment provided by the Client in connection with the Agreement for use by XGEN in providing the Services

"Client" as identified on the Order Confirmation(s)

"Consumer" You are a consumer if You are an individual not: (a) registering, registering, using, acquiring, purchasing or planning to use the Requested Domain(s), Hosting package(s) or any other service of XGEN as part of a business trade or profession; (b) at Your sole discretion, purchasing a Domain Name(s), Hosting package(s) or any other service of XGEN for financial or commercial gain, including, without limitation, for the sole purpose of placing advertisements on the Domain Name(s), Hosting Service(s) and/or any other service of XGEN. For the sole purchase of Domains, You shall not be treated as a consumer under the contract if You have purchased or are the registered holder of 10 or more Domain Names or if You purchase a Domain Name(s) during a "Sunrise" or "Landrush" period as defined in the Domain Name Conditions for the Domain Name Registry.

"Client System" the Client's computer system upon which the Software is loaded or otherwise in connection with which the Services are provided

"Conditions" these conditions (in five parts) to be read in conjunction with the Order Confirmation(s)

"Continuous Payment Authorities" A CPA agreement is not a Direct Debit. A CPA is a regular payment that You arrange which authorises XGEN to take payment from your debit or credit card account. It is not an agreement with your bank or card company.

"Defect" any defect in systems having a material effect on the Client's use or operation of the Services or any failure by any Ancillary System to comply with any term of Part 2 of these Conditions

"Domain Services" those domain registration and other related services (if any) provided to the Client by XGEN pursuant to the Agreement, as described on a relevant Order Confirmation

"Equipment" any hardware, cabling and/or other equipment provided to the Client by XGEN in connection with the Agreement

"Fees" the charges due to XGEN under the Agreement in relation to the Services, as set out on the Order Confirmation(s)

"ICANN" Internet Corporation for Assigned Names and Numbers. A California nonprofit, public benefit corporation of which SRSplus is an accredited registrar.

"Initial Period" the period of months from the date of the relevant Order Confirmation or, where different, any other period stated on the Order Confirmation or otherwise.

"Registered Account Holder" You are the Registered Account Holder if you have purchased a service from XGEN for yourself, for a Company or otherwise and control the management of the services. You may grant XGEN the permission to store your registered card details for future payments or otherwise. You have the permission to purchase or cancel the Service(s) or any additional Service(s) that you have purchased.

"Intellectual Property Rights" any and all patents, trademarks, service marks, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating to the same

"Netiquette" generally accepted standards and codes of practice for use of the internet including but not limited to a prohibition on sending bulk unsolicited email, mail bombing or impersonating another person, organisation or website

"Order Confirmation" the order confirmation form(s) submitted by XGEN to the Client by email or otherwise in writing for the provision of the Services, in response to the Client's order or request

"XGEN" means Xgeneration Limited, registered in England and Wales (Company No. 03385197), whose registered office is at Unit 6, Vicarage Farm, Halliford Road, Sunbury-upon-Thames, Middlesex, TW16 6DW

"Services" those development, implementation, consultancy, hosting and other services (if any) provided to the Client pursuant to the Agreement, as described on a relevant Order Confirmation, together with any Support Services and Domain Services

any communications or other software provided to or made available to the Client by XGEN in connection with the Agreement, but excluding Third Party Software

"Support Services" those support and maintenance services provided to the Client pursuant to the Agreement, as described on a relevant Order Confirmation

"Support Hours" the hours 9am to 6pm on each Business Day during which XGEN will provide the Support Services, as set out on a relevant Order Confirmation

"Third Party Software" any software identified as third party software (if any) to be provided to the Client pursuant to the Agreement, as set out in a relevant Order Confirmation

"Use the Software" to load the Software onto and store and run it on the Client System and/or Equipment in accordance with the terms of the Agreement

2. Interpretation

2.1 The headings used in the Agreement are inserted for convenience only and are not intended to be part of nor to affect the meaning or interpretation of any of the Agreement.

2.2 In the Agreement the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context shall admit or require.

2.3 The expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture.

2.4 In the event of a conflict between any of these Conditions and any Order Confirmation, the conflict will be resolved according to the following order of priority: these Conditions then the Order Confirmation.

2.5 The words "include", "includes", "including" and "included" will be construed without limitation unless inconsistent with the context.

2.6 The Agreement (as varied in accordance with its terms) forms the entire understanding of the parties in respect of the matters dealt within it and supersedes all previous agreements, understandings and negotiations between the parties.

2.7 The parties do not intend that any of the terms of the Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not party to it.

2.8 References in these Conditions to clauses mean clauses of these Conditions. References in these Conditions to the provisions of statutes or statutory instruments are deemed to include those provisions as amended or substituted.

3. Service Provision

3.1 The Services are described or referred to on the Order Confirmation(s). XGEN agrees to supply Services to the Client on the following conditions, these conditions are not an offer to provide service but a statement of the terms on which we would provide them.

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

3.3 XGEN 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 XGEN will not be obliged to provide any services not referred to on the Order Confirmation(s). Furthermore, XGEN cannot provide the Services where the Client makes use of what in the sole discretion of XGEN can be deemed as incompatible communication systems

3.5 The terms of the Agreement form the entire agreement between XGEN 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 XGEN prior to the Agreement being entered into unless confirmed in the Agreement.

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

3.7 Without prejudice to its other rights and remedies, XGEN 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 XGEN's IT systems;

3.7.2 issue by any competent authority of an order which is binding on XGEN which affects the Services;

3.7.3 if the Client fails to pay any Fees or any other sums owing to XGEN by the Client when they fall due;

3.7.4 if an event occurs and XGEN 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 XGEN determines in its sole discretion that suspension is necessary to protect all and any internet solutions provided by XGEN from time to time;

3.7.6 if the size of an email, mailing list or cron job used by the Client exceeds any agreed or stipulated size, level or frequency and XGEN determines in its sole discretion that suspension is necessary to protect all and any internet solutions provided by XGEN from time to time; or

3.7.7 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 XGEN's acceptable usage policy.

Where XGEN 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 together with any relevant reinstatement fee as published from time to time by XGEN and has accepted any revised payment terms requested by XGEN (such as payment by direct debit).

3.8 The Client will provide to XGEN those Client Materials identified on the Order Confirmation(s) within a reasonable time period taking account of the obligations of XGEN under the Agreement.

3.9 The Client warrants that the Client Materials will be accurate in all material respects and will not knowingly include material which is illegal, the accessing holding transmitting or supplying of which would be a criminal offence or which is otherwise unlawful or in breach of any applicable law or code of practice applying to such materials. In particular, the Client warrants that all necessary licences, consents and waivers (including those from rights owners, performers and other contributors) are obtained and paid for by the Client. Without prejudice to the foregoing, XGEN may decline to use any Client Materials on any reasonable grounds.

3.10 The Client will supply in a timely manner all information, instructions, review and feedback reasonably required by XGEN in connection with the performance of its obligations under the Agreement and will appoint a representative who is fully empowered and authorised to provide the same.

3.11 The Client acknowledges and understands that XGEN shall verify the email address the Client provides upon registration, upon the purchase of WHOIS Privacy, upon any updates the Client makes, once a year and at any other time XGEN deem necessary. In the event that the Client's email address cannot be verified, the Client's domain(s) shall be suspended within fifteen (15) calendar days and/or removed from the Client's control.

3.12 Further to the above clause 3.11, the Client acknowledges and accepts that XGEN shall keep a log of the verification checks carried out for as long as is deemed necessary by ICANN.

3.13 The Client acknowledges and understands that XGEN shall cross validate postal address information to spec UPU S42 (or any other method) to ensure that it is a legitimate address. In the event that the Client's postal address cannot be verified, the Client's domain(s) shall be suspended within fifteen (15) calendar days and/or removed from the Client's control.

4.Service Delivery

4.1 The Client acknowledges that, given the nature of such services, XGEN 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 XGEN 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, XGEN 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 XGEN warrants that it will provide the Services with reasonable care and skill. XGEN will not be liable for a breach of such warranty unless the Client notifies XGEN 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 XGEN based on a failure by XGEN to comply with the warranty set out in clause 4.3 XGEN 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 XGEN under such warranty will in no event exceed one and a quarter times the amount of the Fees paid to XGEN by the Client (excluding VAT and expenses) in the 12 month period prior to the date on which the Client makes the claim. If XGEN complies with this clause, it will have no further liability for a breach of the said warranty.

4.5 XGEN Customer Services must be contacted via the appropriate method found at: http://35.178.105.15/contact-us/

XGEN shall respond via the same medium the Client contacted XGEN, within a reasonable time. In regards to complaints relating to abusive registration or hosting, Clients agree to contact XGEN in writing at abuse@35.178.105.15 XGEN shall endeavour to respond to such matters within 10 days of receipt of the complaint. All other complaints shall follow the XGEN Complaints and Appeals Procedure.

5.Client's Obligations

5.1 The Client agrees that it will:

5.1.1 immediately notify XGEN on becoming aware of any unauthorised use of all or any of the Services and/or relevant part of the Client System;

5.1.2 not 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;

5.1.3 not use the Services, Ancillary Systems and/or Client System or allow them to be used for the publication, web forwarding, linking to issue of or display of any material which in the absolute discretion of XGEN may harm XGEN or any of its Associated Companies or clients or bring XGEN into disrepute or which calls into question any action taken by XGEN on the Client's behalf;

5.1.4 not use the Services, Ancillary Systems and/or Client System or allow them to be used in breach of good Netiquette practices;

5.1.5 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;

5.1.6 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;

5.1.7 not provide any technical or other information obtained from XGEN 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;

5.1.8 not, 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 XGEN or any other products or services offered by XGEN from time to time without XGEN ' prior written consent;

5.1.9 ensure that all material or data hosted by XGEN 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;

15..10 save as provided in any Order Confirmation, be responsible for keeping regular and full back ups of all material and data hosted by XGEN on any web site or other system operated by the Client from time to time including the Client System and/or Ancillary Systems;

5.1.11 comply with any security policy notified to it from time to time by XGEN and, in particular, ensure that all passwords and user names provided to it by XGEN 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 XGEN immediately;

5.1.12 independently monitor its bandwidth in relation to the use of Services and report to XGEN any use of bandwidth over and above those agreed or stipulated levels as detailed on the XGEN website at the time of purchase. Exceeding stipulated levels will incur additional fees as noted in clause 6.1.3;

5.1.13 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 XGEN shall not be liable for any loss of confidentiality or for any damages arising from the Client's inability to comply with these Conditions;

5.1.14 ensure that the Client obtains and maintains insurance over all parts of the Client System which are located on the premises of XGEN or any of its Associated Companies and to provide evidence that such insurance is in place, upon XGEN's demand;

15.1.15 ensure that all communication details which it provides to XGEN are at all times true, current, accurate and complete. The Client will promptly notify XGEN of any change to such details within 7 days of the change and acknowledges that XGEN will not be liable for any loss suffered or incurred by the Client as a result of its failure to

notify such changes to XGEN; and

5.1.16 ensure that its systems (including the Client System) meet any minimum system specifications notified to the Client from time to time.

5.1.17 read and abide (where applicable) to the following policies, specifications and materials:http://www.icann.org/en/resources/registrars/registrant-rights/educational

5.1.18 provide an active and monitored abuse@emailaddress on their website to allow Law Enforcement Agencies (LEA) to contact them if necessary.

2.0 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, some of which are referred to in clause 5.1.2. The Client acknowledges that XGEN shall have no obligation to:

2.1 train the Client or its staff on its use of the Services or any Ancillary System;

2.2 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

2.3 validate, vet or edit such material for usability, legality, content or correctness.

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

3.0 The Client will promptly provide to XGEN 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.

4.0 The Client will procure all necessary rights from third parties (including intellectual property licences of computer software and website content including but not limited to ringtones, and music and any other relevant media which are from time to time required in order for XGEN to be able legally to provide the Services.

5.0 If, in XGEN's opinion, the Client is in breach of the provisions of clauses 5.1.2 to 5.1.4 then XGEN may without prejudice to its other rights and remedies immediately by written notice to the Client:

5.1 suspend provision of the Services;

5.2 terminate the Agreement.

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

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

6.1 procure such third party's compliance with and acceptance of these Conditions;

6.2 be fully responsible for the acts and omissions of any such third party; and

6.3 indemnify XGEN for any losses it suffers as a result of such acts or omissions.

7.0 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.

8.0 The Client is required to provide the following details when purchasing WHOIS Privacy:

8.1 The first and last legal name of the registered domain name owner;

8.2 The names of the primary name server and secondary name server(s) for the Registered Name;

8.3 The identity of Registrant including Registrant's telephone and fax numbers (including any relevant extension numbers) and email address;

8.4 The original creation date of the registration;

8.5 The expiration date of the registration;

8.6 The name and postal address of the Registered Domain name Holder;

8.7 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name;

8.8 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name;

8.9 The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the billing contact for the Registered Name.

6.Payment Terms

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

6.1.1 Fees payable monthly or yearly will be paid in advance and will not be refundable in whole or part if the Agreement or relevant part is terminated during the period to which the payment relates;

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's monthly data allowance exceeds that specified in the service paid for, XGEN do not prevent any further data usage. Instead, customers will be charged the standard rate of £2.00 + VAT at 20% per Gigabyte of additional data used. It is the responsibility of Clients to maintain and monitor their own data usage and no notifications will be sent by XGEN in this regard. Clients should be advised that the current quoted rate is subject to change without notice.

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 XGEN 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 XGEN's invoices within 7 days of invoice due date. 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 HSBC plc accruing on a daily basis until payment is made whether before or after any judgment.

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

6.6 XGEN has a general and particular lien over the Client System until all claims and money payable by the Client to XGEN on any account whatsoever have been received in full clear funds.

6.7 XGEN 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. XGEN may also make enquiries about the principle directors/proprietors of the Client with a credit reference agency.

6.8 Where the Client authorises payment of any of the Fees by credit and or debit card then XGEN may deduct other amounts becoming payable to it under the Agreement from that credit or debit card without obtaining additional authorisation from the Client. For the avoidance of all doubt the Client must have an active credit or debit card stored on XGEN's systems for the duration of the Agreement.

6.9 Without prejudice to any other of its rights and remedies, XGEN 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 14 days of its due date for payment. XGEN 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.

6.10 XGEN will not refund to the Client the cost of registering a domain name after the Client has submitted the application form for a domain name and it has been registered with the appropriate registrar. This is due to the bespoke nature of domain names.

6.11 Credit and Vouchers

6.11.1 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 XGEN .

6.11.2 Credit and vouchers are non-refundable and may not be exchanged for cash or redeemed against the purchase of another voucher.

6.11.3 XGEN will not accept liability if the credit or voucher has been lost, stolen, destroyed or used without the Customer's consent. XGEN will not replace the credit or voucher or any remaining balance outstanding on the credit or voucher.

6.11.4 Resale, trade, sale or reproduction of a XGEN credit or voucher is prohibited. Any attempt to carry out this act may potentially void the credit or voucher at XGEN 's discretion.

6.11.5 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.

11.6 XGEN 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.

6.11.7 XGEN 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 this period.

6.12 Continuous Payment Authorities (CPA)

6.12.1 The Client acknowledges and understands that XGEN shall presume that the Client accepted and permitted XGEN to store their card details to make regular payments with the same card unless the Client expressly requests that XGEN do not store their card details. Clients accept that removing card details may result in their services not renewing with XGEN .

6.12.2 XGEN agrees to notify the Client when the payment will be taken, whether the payment will be taken from the card on a monthly or yearly basis and the amount to be credited each time.

6.12.3 If the Client purchases a Service online, XGEN shall display the confirmation during the order process on the website and send a confirmation email to the Client. If the Client purchases a Service on the telephone, XGEN shall confirm the purchase on the telephone and send a confirmation email to the Client.

6.12.4 XGEN reserves the right to take the payment from the Client's stored card at any time other than the agreed date, if they have reason to believe that the payment is due and owing. XGEN reserves the right to take a different amount than what was originally agreed, in circumstances where several invoices have built up over a period of time or reminder fees have been added to the overall outstanding balance due to the Client's late payment.

6.12.5 The Client agrees that the CPA authorises XGEN to make payment changes and any other changes where XGEN believe it is necessary in accordance with the agreement. XGEN will endeavour to notify the Client of any changes before they take effect in writing.

6.12.6 XGEN shall in accordance with the CPA agreement provide the Client with the order confirmation for any services purchased. The Client accepts that XGEN will send an automated email to the Client each time a payment has been taken from the card. This will constitute as a summary and confirmation of the payment.

6.12.7 The Client acknowledges that any Services purchased through XGEN will be displayed on the Clients bank statement as XGEN .

6.12.8 The Client can amend the CPA details at any time by contacting the Customer Accounts Team on 08458381550.

6.12.9 The Client acknowledges that Your CPA Agreement will be on going until the Client expressly requests to change or cancel the payment method used for the Services. The Client may at their sole discretion, choose what method they use to pay for the Services. XGEN will not charge the Client a Fee to cancel the CPA, however, the Client may incur a Fee if they fail to pay for the Services thereafter.

6.12.10 The Client acknowledges that the Services or account will not be cancelled if the CPA Agreement is cancelled. The Client agrees to continue to pay for the Services in accordance with the general terms and conditions.

6.12.11 Further and in addition to clause 6.12.10 above XGEN reserve the right to cancel the Client's CPA Agreement if XGEN is no longer able to take payment from the stored card, however, the Client may set up another CPA agreement at the sole discretion of XGEN .

16.2.13 Clients acknowledge and accept that any request for an IPS tag change is subject to additional fees which are non-refundable. Until these fees are paid and received the IPS tag cannot be changed.

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 XGEN sending to the Client by whatever means XGEN deems appropriate (whether by email or otherwise) information concerning new products and other services that XGEN and its Associated Companies may from time to time offer. The Client may elect to opt out to this communication by unsubscribing at the bottom of the marketing email or otherwise.

8.Intellectual Property

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

8.2 The Client will indemnify and keep XGEN indemnified from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, losses, damages, claims, demands, legal costs (on a full indemnity basis) and judgments which XGEN incurs or suffers as a consequence of infringement of any

Intellectual Property Right of any third party arising directly or indirectly from:

8.2.1 the provision by XGEN of Services making use of information or specifications supplied by the Client;

8.2.2 the Client's failure to procure all necessary rights from third parties which are from time to time required in order for XGEN to be able legally to provide the Services; or

8.2.3 the use by XGEN in connection with the Agreement of the Client System and the Client Materials.

8.3 No Intellectual Property Rights created or acquired by XGEN will transfer or be assigned to the Client unless XGEN and the Client have signed a written assignment document to that effect.

8.4 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 XGEN (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 XGEN for death or personal injury caused by the negligence of XGEN, fraud or a breach of section 12 of the Sale of Goods Act 1979.

9.3 Subject to clauses 9.2 XGEN 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 contract, loss of revenue, depletion of goodwill or otherwise (whether direct or indirect), and whether or not caused by the negligence of XGEN or its employees, agents or authorised representatives, which arises out of or in connection with the Agreement is limited to:

9.3.1 £500 per breach for loss of or damage to tangible property; and

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

9.4 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 XGEN how or for what purposes they are used.

9.5 Where the Client accesses XGEN ' services from locations outside the UK, the Client does so, on the Client's own initiative and is responsible for compliance with all and any applicable local laws.

10. Client Indemnity

The Client will fully indemnify and keep XGEN and its Associated Companies, officers, partners, 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 XGEN 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. Termination

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

12.1 XGEN 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"). For the avoidance of doubt, the Initial Term for Search Engine Optimiser includes a 30 day free trial. The supply of services will continue beyond that period for a further minimum 12 months, subject to termination by:

12.1.1 the Client upon serving 30 days' written notice on XGEN following completion of XGEN's prescribed template procedures for terminating the whole or any part of the Agreement (details of which can be obtained from XGEN's Customer Services Team); or

12.1.2 XGEN serving 30 days' written notice on the Client to expire at any time after the Initial Period.

12.2 XGEN 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 XGEN any sum due under the Agreement on 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 serving 30 days 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 14 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 XGEN 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 their right to cancel by contacting XGEN through our support site.

12.4.2 The Client will no longer have the right detailed in clause 12.4 when, XGEN 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 XGEN will be unable to commence the Service until the end of the relevant cooling off period which is 14 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 XGEN 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 XGEN receives 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 XGEN that this has been done;

13.4.3 return to XGEN any hardware or other equipment loaned to the Client in connection with the Services or any other materials and equipment owned by XGEN ; and

13.4.4 pay all outstanding invoices raised by XGEN pursuant to the Agreement and pay for all work in progress not previously paid for on a reasonable pro-rata basis (subject to receipt of an invoice for the same from XGEN).

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, XGEN 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. For the avoidance of all doubt XGEN will not refund to the Client the cost of registering a domain name after the Client has submitted a domain name application form, provided that the domain name has been registered with the appropriate registrar. This is due to the bespoke nature of domain names.

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

13.8 Upon registration of a domain name the Client must set up the domain to point to a name server/IP address of their choice. In the event that the Client fails to point the domain to a name server/IP address of their choice XGEN may at its discretion point the domain to a XGEN IP address displaying the XGEN holding page. Clients accept that this page may contain XGEN advertisements/marketing material.

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 circumstance 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 circumstance 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 XGEN. Any consent provided by XGEN 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. XGEN 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 XGEN.

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. XGEN 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),and in such a case the email will be deemed sent once transmitted from XGEN'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 these Conditions, the following expressions will have the following meanings, unless inconsistent with the context:

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

30.3 XGEN 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 XGEN.

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 XGEN, and the Client will ensure that all such copies bear XGEN ' 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 XGEN 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, XGEN undertakes to make that information readily available to the Client. XGEN 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 XGEN sufficient details of the Client's objectives and the other computer programs concerned

24.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 XGEN in writing from time to time.

24.2 XGEN 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 XGEN gives no warranty that the Software will be free from viruses.

24.3 XGEN 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 XGEN . XGEN 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 XGEN , 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 XGEN in writing of a failure within 14 days of becoming aware of the same.

24.4 If the Client makes a valid claim against XGEN based on the failure by XGEN to comply with the warranty set out in clause 24.3, XGEN 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 XGEN 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 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 with which the Client agrees to comply.

Part 3 – Support Services

26.Provision of Support Services

26.1 XGEN 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 XGEN will only be obliged to provide the Support Services during Support Hours.

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

26.3.1 rectification of lost or corrupted data;

26.3.2 Ancillary Systems altered, modified or varied by those other than XGEN;

26.3.3 attendance to faults arising from the Client's failure to comply with XGEN's instructions with regard to the use of the Services or any documentation or manuals provided by XGEN, 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 XGEN will charge its standard employee charge out rates (as published from time to time by XGEN, depended on the level expertise required) in addition to the Fees for the carrying out any remedial work described in clauses 26.3.1 to 26.

26.4 XGEN will use its reasonable endeavours to provide the Support Services during Support Hours.

26.5 Scope of Support Services

26.6 XGEN 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 incur a charge, such charge will be detailed on the XGEN website.

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

the avoidance of all doubt the helpline service can only be obtained by using the preceding methods of contact. Any other method applied or used by the Client or its staff shall not be deemed as a request for assistance and XGEN may at its sole discretion choose not to answer such a request.

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

26.8.1 the Client will notify XGEN of the Defect and provide such information and assistance as XGEN reasonably requires in connection with such Defect; and

26.8.2 XGEN will analyse the Defect and use its reasonable endeavours to rectify the Defect in question or propose a solution in connection with the same and of being notified of the same under clause 27.6.

Part 4 – Domain Services

27.Service Provision

27.1 XGEN will provide the Domain Services to the Client upon the terms and conditions set out in this Part 4 and Part 1 of these Conditions.

27.2 The Client undertakes and warrants to XGEN that the registration of any domain name requested by it (a "Requested Domain"):

27.2.1 and the manner in which it is to be directly or indirectly used will not infringe any third party rights; and

27.2.2 is not being made in bad faith or could be considered to be an abusive registration under the ICANN or Nominet dispute resolution policies, whichever is appropriate. The Client also confirms and warrants that any Requested Domain will at no time whatsoever be used for any unlawful purpose.

27.3 The Client acknowledges that, whilst XGEN will use its reasonable endeavours to register a Requested Domain, XGEN will not be obliged to accept any request to register or continue to process any registration of a Requested Domain where such a Requested Domain has not been capable of registration.

27.4 The Domain Services are limited to forwarding the application submitted by the Client for registration with the relevant naming authority. For the avoidance of all doubt it shall remain the sole responsibility of the Client to verify if the Requested Domain has been successfully registered with the appropriate authority. Upon successful registration, XGEN will use reasonable endeavours to notify the Client of any renewal dates; however XGEN accepts no liability for the loss of registration of any Domain that has failed to be renewed.

27.5 XGEN makes no representations or warranties (expressed or implied) of any kind (and they are expressly disclaimed) with respect to availability or likelihood of registration of any Requested Domain. The Client acknowledges that XGEN cannot guarantee the reservation or registration of any Requested Domain and that the registration of such domain name will be subject to any registration requirements of the appropriate registry.

27.6 The Client will at all times comply with the terms and conditions (from time to time subsisting) applying to the registration of domain names published by the relevant naming authority (including the domain dispute resolution policy of that authority) and any other authority having similar force.

27.7 If the Client wishes to transfer ownership of a Requested Domain then it will procure that all necessary consents to that transfer are obtained and will by demand of XGEN deliver documentary evidence that all such consents have been obtained. The Client agrees that prior to transferring ownership of a Requested Domain to another person (the "Transferee"), the Client will procure that the Transferee agrees in writing to be bound by the terms of the Agreement. A Requested Domain will not be transferred until XGEN receives such written assurances as it requires that the Transferee is bound by the terms of the Agreement.

27.8 XGEN will not transfer ownership of a Requested Domain until all Fees attributable to the Domain Services which are due have been paid by the Client to XGEN .

27.9 XGEN may from time to time change the registrar that a Requested Domain is held with, at its discretion and without notice to the Client.

27.10 The Client agrees and acknowledges that XGEN will make registration information provided by the Client in relation to the Requested Domain available to ICANN, Nominet or any other appropriate registration authority, the registry administrators, and other third parties as applicable laws may require or permit including the police or other enforcement authority. The Client further acknowledges that XGEN may make publicly available, or directly available to third party vendors, some, or all, of the domain name registration information provided, for purposes of inspection (such as through the WHOIS service) or other purposes as required or permitted by ICANN, Nominet and applicable law. The Client consents to any and all such disclosures, whether during or after the term of registration of the Requested Domain. The Client irrevocably waives any and all claims and causes of action arising from such disclosure or use of the domain name registration information by XGEN .

27.11 XGEN will only allow a domain name owned or managed by the Client to be attached to the ISP tag of XGENERATION or any of its Associated Companies if the Client has an active service account with XGEN or one of its Associated Companies or is holding the domain name within a XGEN holding account.

Part 5 – MYSERVER and MYSERVERPlus

28.Service Provision

28.1 MYSERVER and MYSERVERplus products will be delivered as per the specification on the website only. XGEN reserves the right to change this specification at any time without notice. XGEN will not modify this product in line with a Client's request. This product is delivered on an .as is. and .as available. basis and XGEN does not provide any warranty that the product will be of a satisfactory quality or fit for the Client's purpose. MYSERVER and MYSERVERplus products are NOT provided with the option of additional services such as firewall, backup solutions or server monitoring. The Client is therefore responsible for the back up of data contained on the server; XGEN will NOT perform any data backups whatsoever.

28. 2 XGEN will provide support for MYSERVER and MYSERVEReplus by phone or via e-mail between the hours of 9am and 6pm Monday to Friday, excluding bank holidays. XGEN will not be obliged to provide support at any other time or by any other means.

28.3 XGEN will provide the Client with a control panel to manage MYSERVER and MYSERVERplus products. All management of the product will be performed by the Client through the control panel.

28.4 XGEN will provide security patching and software upgrades as standard with the MYSERVER and MYSERVERplus product. Software upgrades will be at the discretion of XGEN and XGEN will not be required to provide notice of such upgrades. XGEN will also provide maintenance for the server hardware.

28.5 The Client will have the option to request root access to this product. The Client acknowledges that if root access is given the Client will no longer be eligible for security patching, software upgrades, hardware maintenance or technical support. XGEN will have no obligations to the Client other than to provision the service in line with the standard server and connectivity specification.

28.6 These additional terms may be amended by XGEN at any time and without notice to the Client. Any changes will be published on the website and will be deemed to have been accepted 7 days after publication.

Part 6 – Premium Hosting Packages

29.1 The Customer acknowledges that Premium Hosting is a form of shared hosting service which includes dedicated resources for each Premium Hosting Package, but that a Premium Hosting Package does not give the Customer a dedicated server.

29.2The Customer shall be provided with web hosting services with RAM resources and either fixed or unlimited storage, depending on the Premium Hosting package purchased; M, L or XL.

29.3 References to 'unlimited' items shall be read in conjunction with XGEN's Acceptable Use Policy and interpreted accordingly. Unlimited storage for L and XL products shall mean 100GB which can be further expanded via XGEN's customer service team. This soft limit is intended to ensure compliance with XGEN's Acceptable Use Policy.

29.4 The Customer is entirely responsible for ensuring that it has purchased the appropriate level of Premium Hosting package for its intended use. For the avoidance of doubt, the storage and amount of RAM available under each Premium Hosting package level are fixed limits which may not be exceeded by the Customer. Email and database storage shall not be counted towards the Customer's storage limit.

29.5 XGEN shall use all commercially reasonable endeavours to minimize downtime on the Premium Hosting servers, however, it does not give any warranty that access to the Premium Hosting servers will be uninterrupted or error free.

29.6 The 99.99% Premium Service Uptime Guarantee applies to Premium Hosting packages only and not to any other service offered by XGEN.

1 Under the Premium Service Uptime Guarantee, the Customer is entitled to a credit against the Customer's monthly service cost in respect of any periods of downtime (excluding downtime due to pre-planned maintenance work notified to the Customer in ad-vance) during the calendar month according to the following scale:

Network Connectivity Uptime in month	Credit Entitlement
From and including 99.99% to 100%	No Credit
From and including 99.9% up to and excluding 99.99%	10%
Below 99.9%	30%

29.2 To claim a credit under the Premium Service Uptime Guarantee, the Customer must contact XGEN by raising a ticket, through the chat function or by calling Customer Support and stating that they wish to claim a credit under the Premium Hosting Uptime Guarantee.

29.3 The Customer's entitlement to a credit shall be assessed on network connectivity to the platform and the platform delivering the website(s), and not the speed of delivery.

29.4 When claiming a credit under the Premium Hosting Uptime Guarantee, the Customer must provide supporting evidence to XGEN's reasonable satisfaction, which XGEN shall verify to confirm the Customer's entitlement to any credit.

29.5 XGEN reserves the right to refuse to issue a credit in respect of any period of downtime due to pre-planned maintenance work notified to the Customer in advance, any period of downtime due to the Customer's acts or omissions or where the Customer is in breach of XGEN's Acceptable Use Policy. Any credit issued by XGEN under the Premium Hosting Uptime Guarantee shall be applied to the Customer's XGEN account. The Customer may use this credit for new purchases or renewal fees only. The Customer shall not be entitled to any payment in respect of any credits issued by XGEN.

29.6 Any credit issued by XGEN under the Premium Hosting Uptime Guarantee must be used by the Customer within 12 months, failing which the credit will expire.