



1 SUPPLY OF THE SERVICE

- 1.1 Flashbyte Net Ltd (here after referred to "Flashbyte ") shall provide the Specified Service to the Customer subject to the written Agreement (if any) between Flashbyte and the Customer and these Conditions. Subject to the provisions below, any changes or additions to the Specified service or these Conditions will be confirmed in writing by Flashbyte Net Ltd. – latest amendments will be available at www.flashbyte.net website
- 1.2 The Specified Service shall be provided in accordance with Flashbyte's Acceptable Use Policy, its product brochure or other promotional literature relating to the Specified Service in force from time to time, subject to these Conditions. Flashbyte's current Acceptable Use Policy is annexed hereto as Schedule A.
- 1.3 Flashbyte may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Specified Service without any liability to the Client.
- 1.4 Flashbyte may at any time without notifying the Customer make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature and / or quality of the Specified Service.

2 TRANSFERS

- 2.1 Customers transferring into the Flashbyte Net Service are advised that Flashbyte Net Ltd is responsible for the internet services from the point that the customer provides a signed copy of the Flashbyte Terms and Conditions and AUP.
- 2.2 Flashbyte needs sight of a signed copy of the Flashbyte Terms and Conditions and AUP document before accepting any support issues relating to the transferred domain.
- 2.3 All prior contracts with previous ISPs are voided by the acceptance of Flashbyte Services
- 2.4 Flashbyte accepts no liability for prior given services (for whatever reason) provided by the previous ISP
- 2.5 All transfers into Flashbyte will be carried out as far as possible in the background and every effort will be made to ensure minimum of disruption. However the customer should be aware that changes to their own equipment maybe necessary to facilitate a domain move – in particular email settings and dial up will change.
- 2.6 Customers transferring out of Flashbyte Net Ltd are liable to a transfer fee of £25 per domain – payable in advance of transfer.
- 2.7 Transfers out of Flashbyte are only accepted in accordance with the naming authorities conditions and requirements for domain transfers.

3 CHARGES

- 3.1 Subject to any special terms agreed, the Customer shall pay Flashbyte's Standard Charges and any additional sums which are agreed between Flashbyte and the Customer for the provision of the Specified Service or which, in Flashbyte's sole discretion, are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of such or any other cause attributable to the Customer.
- 3.2 All services are provided on a 50% deposit basis unless agreed otherwise. (non refundable)
- 3.3 Hosting, Renewals and Domain charges are paid yearly in advance (or monthly on standing order)
- 3.4 All charges quoted to the Customer for the provision of the Specified Service are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 3.5 All charges quoted to the Customer for the provision of the Specified Service are exclusive of any third party telecommunications charges. All telecommunication charges incurred by the Customer in connection with the use of his Flashbyte account are at all times solely the responsibility of the Customer. Flashbyte accepts neither responsibility nor liability nor will it indemnify the Customer for any such charges incurred.
- 3.6 Flashbyte shall be entitled to invoice the Customer on the day or working day thereafter, on which the Customer places the order with Flashbyte.
- 3.7 Flashbyte's Standard Charges and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax, and without any setoff or other deduction) within 7 days from the date of Flashbyte invoice. Specific terms of payment are indicated on each invoice and are strictly enforced. Termination of web, email and domain use will occur if payment is not met within the payment terms indicated on the invoice.
- 3.8 Late payment - not made on the due date, Flashbyte shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after judgement) at the rate of 10% above the base rate from time to time of Lloyds TSB Bank from the due date until the outstanding amount is paid in full. The immediate suspension of web services following a period of an additional 7 working days and as a last resort legal action will be taken to recover all costs incurred.





4 WARRANTIES

- 4.1 Flashbyte warrants to the Customer that the Specified Service will be provided using reasonable care and skill and, as continuously as reasonably possible, at all times subject to routine and emergency maintenance and downtime occasioned by third parties. Where Flashbyte supplies in connection with the provision of the Specified Service any goods supplied by a third party, Flashbyte does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to Flashbyte.
- 4.2 Flashbyte shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any loss of internet use, web, email, ecommerce, materials, equipment or instructions supplied to and by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer.
- 4.3 Except in respect of death or personal injury caused by Flashbyte negligence, or as expressly provided in these Conditions, Flashbyte shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of Flashbyte, its servants or agents or otherwise) which arise in connection with the provision of the Specified service or their use by the Customer, and the entire liability of Flashbyte under or in connection with the contract shall not exceed the amount of Flashbyte's charges for the provision of the Specified Service, except as expressly provided in these Conditions.
- 4.4 Flashbyte shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Flashbyte's obligations in relation to the Specified Service, if the delay or failure was due to any cause beyond Flashbyte's reasonable control.

5 TERM AND TERMINATION

- 5.1 All services offered by Flashbyte run for an initial term of one year from the invoice date in the case of POP accounts and one year from the Commencement Date of the Agreement between Flashbyte and the Customer in the case of other core services. POP customers are however entitled to cancel their account with Flashbyte by giving notice in writing to the end of the next full calendar month.
- 5.2 Contracts for Flashbyte's other core services shall remain in force for the initial term and thereafter until terminated by either party giving to the other not less than 7 days' written notice given on the last day of the initial term or at any time thereafter but shall be subject to earlier termination as hereinafter provided.
- 5.3 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other goes into liquidation, or (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed.

6 DOMAIN NAMES

- 6.1 Domain names registered on the Customer's behalf are at no time the property of the Customer. The Customer, upon registration, merely receives the right of use of such name(s) as is pointed at the Customer's domain for such time as it is validly registered to the Customer. This provision is subject to such rules of the duly appointed Naming Committees/Organisations as are in force from time to time.
- 6.2 All third party costs arising from the registration of a domain name shall be met by the Customer and are payable to Flashbyte before a formal application for registration is made.
- 6.3 Flashbyte reserves the right to refuse to serve a domain name it is hosting if the Customer exceeds Flashbyte's agreed credit terms. This right continues until payment is received and the account is settled in full to the satisfaction of Flashbyte. This right extends to and includes releasing the domain name to either the Customer or Third Party.
- 6.4 Transfer of Domains into Flashbyte are Free of Charge.
- 6.5 Transfer of Domains out of Flashbyte are charged at £25 per domain.
- 6.6 Corrections to mis-registered domains are the responsibility of the registrant.

7 COPYRIGHT & INTELLECTUAL PROPERTY

- 7.1 A provided website graphics, text and images are the copyright of Flashbyte Net Ltd until full payment is met.
- 7.2 All intellectual property of a designed site remains the property of Flashbyte.





8 BANDWIDTH USAGE

- 8.1 The Customer hereby acknowledges that Flashbyte operates a sliding scale of charges for all web sites it hosts based on Mbit (megabit) usage per day over a period of one calendar month.
- 8.2 The Customer has agreed to limit its use of bandwidth to the amount specified (if any), being that amount ordered by the Customer.
- 8.3 If the Customer's average use of bandwidth exceeds the amount allotted to it under the terms of this Contract for a period of 24 hours then the Customer will be liable to Flashbyte for the difference between the Charges due under the level of bandwidth used and that amount originally allotted to it under this Contract. Price on application.
- 8.4 If the Customers continued use of excessive bandwidth necessitates Flashbyte's contracting with its own bandwidth suppliers for additional bandwidth, then the Customer will be charged by Flashbyte at the higher rate for the bandwidth it uses. Price on application.

9 RECONNECTION

- 9.1 Any Customer wishing to reconnect their cancelled services with Flashbyte may do so upon payment of the relevant Cancellation Fee applicable from time to time and available upon request from Flashbyte in order to cover the Administration costs involved in reconnecting the Customer.

10 CUSTOMER PRIVACY

- 10.1 Flashbyte is registered under the Data Protection Act 1994.
- 10.2 Users are advised Flashbyte limited incoming and outgoing mail to a maximum of 5Mb per mail – all mail above this figure will result in an error.
- 10.3 Each mail account has an allotted space for storage and any users found abusing this space will be disconnected.
- 10.4 All information, mail messages and other data stored on Flashbyte's equipment is treated as private and solely the property of the Customer at all times and will not be duplicated, copied, reproduced or viewed publicly in any way except with express or implied permission of the Customer and/or for the purposes of Flashbyte's back-up services and/or providing the Customer with its support services.
- 10.5 Mail awaiting delivery is stored securely and is non-accessible to other Internet Users. However, once the Customer's decrypted data passes onto the Internet, it is no longer secure and is open to unscrupulous use. Flashbyte cannot accept responsibility or liability for any data or information that becomes available by such means against the wishes of the Customer and Flashbyte recommends the use of encryption for transfer of sensitive data or information.
- 10.6 The Customer accepts that he will be put on Flashbyte's mailing list for receipt of product information etc. unless he informs Flashbyte in writing that he does not wish to receive such material.

11 CONTENT OF CUSTOMER'S DATA

- 11.1 The Customer undertakes that the Customer's data (whether stored or sent over the Internet) will not contain anything obscene, offensive or defamatory and will conform at all times with Flashbyte's Acceptable Use Policy. The Customer will indemnify Flashbyte and keep Flashbyte fully and effectively indemnified against all actions, proceedings, claims, demands, damages and costs (including all legal costs on a full indemnity basis) occasioned to Flashbyte as a result of any breach of the said undertaking.
- 11.2 The customer will take all necessary care to avoid the spread of email/web virus's – and Flashbyte advise customers use and install an up to date antivirus program prior to collecting or sending mail
- 11.3 Flashbyte is not liable of claims in respect of mail sent or received which contains virus's nor of web sites which may also contain such virus's

12 ACCEPTABLE USE POLICY

- 12.1 Flashbyte reserves the right to withdraw its provision of services at any time that it becomes aware of or is notified of the misuse, abuse or illegal use of said services contrary to either the Acceptable Use Policy it operates (annexed hereto as Schedule A) or any statutory regulation or law governing the relationship between Flashbyte and the Customer under this Contract.
- 12.2 Compliance with this Acceptable Use Policy is a contractual requirement. If you fail to do so, your service may be suspended or terminated. Customers who engage in abusive behaviour will be notified that their behaviour is unacceptable and may have their accounts suspended or terminated.





12.3 A suspended account may be restored at Flashbyte Net Ltd's discretion, upon receipt of a written undertaking by the abuser not to commit any future "abuse". All cases are, however, considered by Flashbyte Net Ltd on their individual merits.

13 GENERAL

13.1 These Conditions together with any terms set out in the Agreement (if any) between Flashbyte and the Customer and Flashbyte's Acceptable Use Policy constitute the entire agreement between the parties, supersede any previous agreement or understanding and, subject to Clause below, may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise are excluded to the fullest extent permitted by law.

13.2 Save as otherwise provided in Clause 13.1 above these Conditions shall remain in force for the initial term of the agreement between Flashbyte and the Customer. Upon renewal of the agreement Flashbyte reserves the right to update, alter or amend these Terms and Conditions of Service as it sees fit to comply with any statutory, legislative and/or technical changes or to enhance and improve the services it offers to its customers and the efficiency of said services and for expediency. Upon such changes being made the renewal notice sent to the Customer shall draw the Customer's attention to the change(s) and the Customer shall then be entitled to decide whether to renew the Service on the new terms or exercise its right to terminate the Specified Service with Flashbyte and continue on the existing terms until termination is effective.

13.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.4 No failure or delay by either party in exercising any of its rights under this Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

13.6 Any dispute arising under or in connection with these Conditions or the provision of the Specified Service shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party.

13.7 English law shall apply to the Contract, and the parties agree to submit to the exclusive jurisdiction of the English courts.

I/We have read and agree to the:

Flashbyte's Terms & Conditions (1-4 Pages) and the Acceptable Use Policy (5-6 pages).

Name:- _____

Company:- _____

Date:- _____

Signed:- _____

Position:- _____

On completion of this form please fax to 01702 320156 or post to: AUP & Terms, Flashbyte Net Ltd, Birchwood House, 55 Vanguard Way, Shoeburyness, Essex. SS3 9QY





Schedule A

Flashbyte.net Ltd Acceptable Use Policy (AUP)

Please read this Policy for acceptable use of the Services provided by Flashbyte Net Ltd carefully. Flashbyte Net Ltd. operates this Policy in order to conduct its business in a responsible manner to enable it to provide as uninterrupted and seamless a service to its customers as is reasonably possible. Flashbyte Net Ltd. reserves the right to suspend or terminate the Customer's Specified Service upon receiving notification of the Customer's contravention of any one or more of the following:

General

1. The Customer shall use the Specified Service provided under the terms of its Contract with Flashbyte.net Ltd. for the purposes of gaining access to the Internet and the services thereon.
2. The Customer shall use the Specified Service only for access to and use of the service for its own internal business purposes and shall not make the use of the Specified Service available to any third party nor use it on behalf of or for the benefit of any third party except where such use is within the knowledge of the Customer and is subject to the Conditions of the Contract between the Customer and Flashbyte.net Ltd. or where the Customer is an authorised Flashbyte.net Ltd. Reseller.
3. The Customer shall not send, transmit, make available, copy, retransmit, broadcast or publish (whether directly or indirectly) in whatever form any data, information, material or statement which infringes the intellectual property rights of any person or legal entity or the laws or statutory regulations or contractual rights or laws relating to defamation, contempt, blasphemy, infringement of privacy or personal data rights and any equivalent or related laws in any territory in which they are or may be accessed or made available.
4. The Customer shall not make use of the Specified Service provided to it under the terms of its Agreement with Flashbyte.net Ltd. for the purposes of attempting or establishing unauthorised access to or of facilitating a breach in the security devices of machines, resources or networks without the prior unequivocal consent of the lawful owner of that machine, resource or network.
5. You must not have illegal material on your website or link to content that is illegal. You should be aware that as the Internet is a global network, some activities/material which may be legal in the UK may be illegal elsewhere in the world and vice versa, and you could risk being prosecuted in another country if you publish what is illegal in that country. If you are in doubt, don't do it and take independent legal advice before proceeding.
6. You must not incite disorder or publish any material which would amount to instructions concerning illegal activities.
7. You must not publish content, or link to content in which you do not own the rights, without the permission of the owner of the relevant rights.
8. It is not always obvious whether an activity is innocent, inadvertent, or intentional, but generally webpace users should be aware that what is unacceptable (and possibly illegal) offline (oral or written), applies equally online.
9. Avoid content that may offend. If you have any doubt about the suitability of your content to others, in particular to children, you must give a warning page before reaching the content. If in doubt, don't do it and take independent legal advice before proceeding. In particular, you must not use expressions that are offensive to others on grounds of gender, race colour, religion or other similar categories.
10. You must ensure that your index.htm/html file (the first to be viewed on a site) does not contain any material liable to offend. A clearly readable warning page must be displayed before any adult material is displayed.
11. You must not use your webpace to cause annoyance, inconvenience, offence or needless anxiety.
12. You must not publicise the personal details of others without their consent.
13. You must not use your website to advertise, distribute (or link to another webpage containing) virus creation software, e-mail spamming software, or port scanning software.
14. Your site may not be used to distribute or advertise any of the following:
 - a. Software for sending SPAM (excessive news postings, bulk emails etc.).
 - b. Software for port scanning, virus creation, hacking or any other illegal or antisocial activity.
 - c. Lists of email addresses except where all the addressees have given their explicit permission.
 - d. Any collection of personal data other than in accordance with all applicable data protection legislation.
 - e. Links to websites hosting illegal content, including adult material
 - f. Content designed to offend or cause needless anxiety to others.





Page 6 of 6

15. You must not advertise your Webpages (websites), or cause another person to advertise it, by techniques that would be classified as abuse, e.g. bulk emailing and excessive news posting.

Security

1. You must not share the password for your webspace. Your passwords are your responsibility, and must not be disclosed to any third party. This is also important for your own protection.

Email

1. The Customer shall not make use of the Specified Service to facilitate in the sending of unsolicited bulk email or any other form of email or Usenet "abuse". This applies to material which originates on your system as well as third party material which passes through your system.
2. The Customer shall not make use of the Specified Service to send or cause to be sent or forwarded either large numbers and/or large messages or a message irrespective of size at such frequency that it causes the recipient annoyance and/or causes the recipient's mailbox to become unable to cope with the volume of email traffic directed at it and disables said mailbox.
3. The Customer shall not make use of the Specified Service to send or forward malicious messages and/or viruses to cause annoyance and/or disrupt the use and enjoyment of another user's service whether a customer of Flashbyte.net Ltd. or some other service or online provider.
4. The Customer shall not cause another user of a service provided by either Flashbyte.net Ltd. or some other service or online provider to be subscribed to a mailing list or some other service without their prior express permission for that purpose.
5. The Customer shall not occasion the forging or creation or use of a header and/or address to tend to show that a message originates from a machine or network other than that on which it does originate or that replies to a message are directed to a machine at which the Customer neither has a right nor permission to cause replies to be directed.
6. The customer will take all necessary precautions (by the use of up to date antivirus program) to ensure virus's are not sent or received via the Flashbyte Net Server Systems.

Usenet

1. The rules relating to email outlined above shall be equally applicable to Usenet postings.
2. The Customer shall not use the Specified Service to cause or further the excessive cross- and/or multi-posting of messages to newsgroups and/or bulletin board services.
3. The Customer acknowledges its duty to familiarise itself with and observe the charter of a particular newsgroup before posting.
4. The Customer shall not post binary messages to non-binary newsgroups and vice versa.

Web space

1. The Customer shall not use its own personal and/or corporate web site for the publication and distribution of spamming software, lists of personal or corporate email addresses (except where each and every addressee has given their express permission) or any personal data except where such data is in strict accordance with the Data Protection Act 1984, regulations made pursuant to the Act and subsequent legislation.
2. The Customer shall not use unsolicited email messages or cause such to be used in order to draw attention to, promote or otherwise advertise its web site
3. The Customer shall not publish, hold or cause to be held or accessed via its web site material that is of an illegal nature and/or contrary to the terms of Flashbyte.net Ltd Acceptable Use Policy in force from time to time.

Domains

1. The Customer must accept and readily facilitate the acceptance of mail to [postmaster@ <Customer's domain>](mailto:postmaster@<Customer's domain>).
2. Where the Customer's domain includes a web site, the Customer must accept and readily facilitate the acceptance of mail to [hostmaster@ <Customer's domain>](mailto:hostmaster@<Customer's domain>).

Copyright © Flashbyte.Net Ltd

