

ByteAccess Web Software products (the "WebApplication") are available for your use conditional on your agreement with these terms and conditions.

### 1. Payments:

- a. We offer very competitive rates for our services and therefore do not offer extended credit. Initial system software and related costs are payable by rental on a minimum 12 month contract of if a licence purchase route is preferred, 50% with order in advance and 50% on the first go live date of installation.
- b. Until the Database Design plan and functional specification is completed we cannot be absolutely certain how much work is involved in setting up your system. Therefore in some cases it is impossible to give a definitive project cost until the Database Design day(s) has been completed and approved.
- c. Title to the licence passes when payment has been made in full. This is except Database Design Plans and functional specifications which are payable in full with order.
- d. All other invoices are due within seven days from date of invoice. Attention is drawn to the detail of this in your specific Service Level Agreement (SLA).
- e. If in doubt, Support terms agreed in your signed SLA take precedence over this general document.
- f. If the annual Support invoice is not paid within 30 days of the date of invoice we must reserve the right to withdraw services.
- g. Annual support maintenance and hosting plans (for convenience here referred to collectively as "Support") are payable in advance in full and are for a *minimum* period of 12 months and are renewed automatically for successive periods of 12 months thereafter.
- h. Where agreed, monthly payments for Support will incur a 10% admin fee.
- i. Monthly payments fall due on the first of the month.

### 2. Contract Term & Notice of Termination

- a. The minimum term in all circumstances is twelve (12) months.
- b. On occasion 12 or 36 month contracts for provision of software and related installation services may be agreed on a per user per month basis.
- c. Contracts commence when the Database Design Plan is booked and ByteAccess starts to commit their time to the project. (Note that these support maintenance and hosting charges do not apply for out of the box rented applications).
- d. Subject to any special conditions, the parties shall be entitled to terminate this agreement by giving not less than one (1) month written notice to the other party prior to the end of that 12 month contract.
- e. On termination all fees must be paid up to the termination date. There will be no refunds for any reason.

### 3. Licensing

- a. Software is licensed only to the purchasing company and the stated number of users.
- b. Licensing is concurrent but will only allow 10% or two more user names (whichever is the lower) than the licence paid for to be registered and will only allow the specified number of users access at any one time.
- c. Additional licenses are available for all products.
- d. Copying or reselling the software is forbidden without permission.

#### 4. Products & Services

- a. ByteAccess/wJit based products are web based modular business software packages but note that significant customisation to the standard functionality provided is possible and is chargeable. The packages feature user configuration options so please check with our office or your adviser whether the specific functionality you require can be included free of charge.
- b. To access 99% of ByteAccess/wJit applications you simply need stable access to the internet, there is NOTHING to install on any site unless your application is configured to use MS Office applications. All set up work is undertaken on the basis that you have stable access to the internet operating system and/or network (if VPN based systems have been provided).
- c. No responsibility can be taken for your current internet access, hardware or software installations. We are happy to work with your IT support company or department to help resolve any issues that may arise but this work may be chargeable.
- d. All consultancy services whether concerning technical or marketing services will be provided on a confidential basis to an agreed plan. Site visits use expensive human resources which may not be easily reallocated at short notice. All consultancy, training or site visits booked are subject to a 7-day notice period for cancellation without charge. A 50% cancellation charge may be charged for any visit cancelled within 7 days. For visits cancelled within 48 hours of the appointment the full fee is chargeable.
- e. Any Design work or template alterations within your ByteAccess system are chargeable once the original specification has been approved by you.
- f. Software functionality is as detailed on the product data sheet which is either supplied by your advisor or downloaded from our website [www.byteaccess.com/products/](http://www.byteaccess.com/products/)
- g. Additional programming is undertaken to specific requirements, a specification will be provided prior to any additional programming being completed to ensure we cover your exact needs. The specification must then be agreed before the work is started.
- h. Subject to the purchase of specific days consultancy, ByteAccess Ltd accepts responsibility for the import of data into ByteAccess/wJit based products in accordance with the agreed Database Design Plan. Unless specified to the contrary, ByteAccess Ltd is not responsible for extracting data from any other systems you operate. (although this can be quoted for as a separate process). If payment is by lease rental and cancelled after the implementation process has been started i.e. Database Design plan has been scheduled and / or carried out, payment is still due for the work completed up to the cancellation date.
- i. Any data supplied to you is subject to the appropriate data protection acts and should be used in relation to the appropriate instructions. Advice is available on all relevant areas.
- j. Additional travelling costs may be incurred for each project. These will always be detailed on the proposal provided prior to the project commencing.
- k. If in doubt please tell us. We can only become your business partners if you involve us and the relationship will work best if we are open with each other.

#### 5. Support

- a. Support is available to all users via the purchase of an appropriate support plan. Support plans are compulsory for all software purchases over 5 licenses and must be renewed on an annual basis.
- b. We cannot guarantee that our servers will always be available to you. The precise level of support will be stated in your individual SLA.
- c. You should satisfy yourself that you have appropriate protection against computer viruses whilst using the internet, and that your connection to our WebApplication is secure.

## 6. Intellectual Property

- a. The intellectual property of ByteAccess/wJit Software or in any custom implementations of ByteAccess/wJit Software commissioned by you or in customisation to the ByteAccess/WJit core technology or customization of anything else created by ByteAccess remains the property of ByteAccess Ltd under all circumstances.
- b. Any of your own data we are given access to will be treated as confidential and not shown or used by any third party.
- c. To protect this intellectual property systems must be hosted on a ByteAccess web server unless express agreement in writing is made between ByteAccess and the Customer.
- d. Title of any goods supplied remains the property of ByteAccess Ltd until paid for in full. The intellectual property of the software (including any additional programming) remains with ByteAccess Ltd and is licensed to your company.
- e. All clients are able to ensure the long term performance and availability of their ByteAccess software and ultimately to assure business continuity by purchasing an ESCROW agreement covering the source code of their licensed ByteAccess software.

## 7. Limitation Of Liability

- a. All conditions, terms, representations and warranties relating to the Services supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded, subject always to sub-clause 11.b.
- b. Nothing in these terms and conditions shall exclude our liability for death or personal injury resulting from our negligence.
- c. Our total aggregate liability to you for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by you in respect of the annual license fees that are the subject of any such claim.
- d. In any event no claim shall be brought unless you have notified us of the claim within 3 months of it arising.
- e. In no event shall we be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

## 8. Use of Application Websites

- a. If accessing any part of the WebApplication you agree:
  - i. not to use the WebApplication in such a way that disrupts, interferes with or restricts the use of the WebApplication by others;
  - ii. to ensure that any materials uploaded, displayed or transmitted by you through the WebApplication are not false, offensive, defamatory, threatening, obscene, unlawful and do not breach or infringe the rights of any person anywhere in the world;
  - iii. not to reverse engineer, decompile, copy or adapt any software or other code or scripts forming part of the WebApplication nor attempt to transmit to or via the WebApplication any information that contains a virus, worm, trojan horse, or other harmful or disruptive component;
  - iv. not to change, modify, delete, interfere with or misuse data contained on the WebApplication entered by or relating to any third party user of the WebApplication.
- b. You may not use the WebApplication other than as expressly authorised within these terms and conditions or within the WebApplication itself.
- c. You may download, view and print pages from the WebApplication for your own personal use or private business use (for example, for the purpose of evaluating our products).

- d. You must not remove any trademarks, copyright and other proprietary notices contained in or appearing on any material you download or print from the WebApplication.

## 9. General

- a. The terms of any other agreement in writing with ByteAccess Ltd or any of its subsidiary or affiliated companies, including any software licence or support agreement, shall, insofar as they conflict with these terms of use, prevail.
- b. These terms and conditions shall be governed by and construed and interpreted in accordance with English law and the parties submit to the non-exclusive jurisdiction of the courts of England in respect of any disputes.
- c. The headings in these terms and conditions shall not affect their interpretation.
- d. If any provision of these terms and conditions are held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such provision shall to that extent be deemed not to form part of these terms and conditions but the remaining terms and conditions shall not be affected.
- e. If you have any queries about these terms of use you should contact us by emailing [enquiries@byteaccess.com](mailto:enquiries@byteaccess.com)

## 10. Termination

- a. if you fail to pay any sums due to us as they fall due, we may suspend the Services and/or terminate this Agreement forthwith without notice to you.
- b. if your website files or scripts stored on one of our servers causes, or ByteAccess staff believe that they cause noticeable and detrimental reduction in service for other uses, then we may immediately suspend your Web Site.
- c. if you break any of these terms and conditions and you fail to correct the breach within fourteen (14) days following written notice from us specifying the breach, we may terminate this Agreement forthwith upon written notice.
- d. if you are a company and you go into insolvent liquidation or suffer the appointment of an administrator or administrative receiver or enter into a voluntary arrangement with your creditors, we shall be entitled to terminate this Agreement forthwith without notice to you.
- e. on termination of this Agreement or suspension of the Services we shall be entitled immediately to block your Web Site and to remove all data located on it. We shall be entitled to delete all such data but we may, at our discretion, hold such data for such period as we may decide to allow you to collect it at your expense, subject to payment in full of any amounts withstanding and payable to us. We shall further be entitled to post such notice in respect of the non-availability of your Web Site as we think fit.
- f. The contract shall commence on the commencement date and continue for the Service period and thereafter shall remain in force and effect unless terminated by (1) months written notice by either party subject to the client not being entitled to give notice of termination until expiry of the Service period.

## 11. Notices

- a. Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served two days following the date of posting.

## 12. Law

- a. This Agreement shall be governed by and construed in accordance with English law and you hereby submit to the non-exclusive jurisdiction of the English courts.