

THIS AGREEMENT is made on the date stated in the Particulars between Fenweb Limited whose registered office is at SR Howell & Co, 88 High Street, Ramsey, Cambridgeshire and the Customer whose details are stated on the Particulars for the provision of the Services as detailed in the Particulars upon the terms of this agreement in so far as they relate to the Services

## **1. Definitions**

- 1.1 "Customer" means the customer whose details are set out in the Particulars annexed hereto
- 1.2 "Fenweb" means Fenweb Limited
- 1.3 "Fees" means the fees payable by the Customer or the provision of the Services as set out in the Particulars
- 1.4 "Initial Period" means the period stated in the Particulars
- 1.5 "Particulars" means the schedule of particulars annexed to and forming part of this Agreement
- 1.6 "Service Downtime" means an interruption in the Services arising from the failure of hardware belonging to Fenweb or failure of network or web hosting services provided to Fenweb by third parties which are not caused by any act or omission of the Customer but shall not include any interruption resulting from any maintenance operation carried on by Fenweb or by any third party providing network or web hosting services to Fenweb
- 1.7 "Services" means the Services to be provided by Fenweb as indicated in the Particulars and which relate to the particular conditions applicable to those Services as set out below
- 1.8 "Service" means Web Hosting Services provided to the Customer
- 1.9 "Web Hosting Services" means the services set out in clause 3.8 of this Agreement

## **2. Fenweb Web Page Design Services**

- 2.1 The Customer engages Fenweb to provide its services as a designer and consultant of web pages and Fenweb shall as and when requested by the Customer and within a reasonable time after receiving each such request supply designs for web pages comprising such content as the Customer shall specify and diligently proceed with the preparation of all matters connected with the designing of such web pages as shall be required by the Customer
- 2.2 In consideration of the web page design services to be rendered by Fenweb under this agreement the Customer agrees to pay the Fees specified in the Particulars at the stages of design specified in the Particulars
- 2.3 All Fees and charges shall be paid by the Customer within 28 days after receipt by the Customer of Fenweb's invoice setting out the fees and charges with particulars of the services to which they relate. In the event of a delay to the completion date caused by the Customer not providing content as agreed an interim invoice for up to 75% of the contract value will be submitted on the agreed completion date. This will be payable within 28 days.
- 2.4 On payment of such fees and charges the customer shall sign a statement of satisfaction and return it with the payment
- 2.5 The ownership of and sole rights to the copyright or design rights in any design prepared by Fenweb for the Customer under this Agreement shall be vested in the Customer from the outset and the Customer shall be at liberty to effect and be responsible for securing such protection of the design whether by registration or otherwise as it may see fit
- 2.6 Without prejudice to the Customer's sole ownership and entitlement to copyright into the designs Fenweb shall be entitled to hold itself out as the designer of the web pages and the name of Fenweb and such other details as Fenweb may reasonably require shall appear on the Customer's home web page
- 2.7 The Customer shall obtain all necessary licences and permissions for all material supplied to Fenweb by the Customer for inclusion in the Customer's web pages

## **3. Fenweb Web Hosting Service**

- 3.1 In consideration of the payment by the Customer of the Fees specified in the Particulars Fenweb shall provide Web Hosting Services during the continuation of this Agreement subject to the Customer complying with the terms of this Agreement
- 3.2 The Customer may request that the services and facilities which comprise the Service as set out in the Particulars shall be altered. Any such request must be in writing and shall only be effective if agreed by Fenweb
- 3.3 If requested by the Customer as part of the Service Fenweb will endeavour to register or transfer a Domain Name for the use of the Customer. The Customer must ensure that the domain is correctly registered and maintained at all times. Following termination of the Service the Customer is solely responsible for administering their domain name.
- 3.4 The Service shall commence on the Commencement Date stated in the Particulars and shall continue for the Initial Period stated in the Particulars and thereafter shall continue until terminated by either party in accordance with the terms of this Agreement
- 3.5 The Customer shall comply with all instructions and guidance properly issued by Fenweb in relation to the conduct and content of the Customer's web pages, domain name registration and the Service. All such instructions and guidance shall be deemed to form part of this Agreement
- 3.6 Subject to the payment of fees by the Customer and the compliance by the Customer of the terms and conditions of this Agreement Fenweb shall provide the Service at all times without interruption provided that:
  - 3.6.1 access to the Service of may be interrupted for the purpose of repairs and maintenance
  - 3.6.2 Fenweb shall not be liable for any Service Downtime

3.6.3 Fenweb shall have the right to investigate the Customer's use of the Service and to make such disclosure to third parties as may be required by law

3.7 The Customer's obligations are as follows:

3.7.1 not to use the Service to send or receive any material which is illegal abusive indecent defamatory obscene racist offensive or in breach of copyright or any other rights or which contains computer viruses or similar items which Fenweb considers to be undesirable

3.7.2 not to send unsolicited advertising or mail shots

3.7.3 to back up its own files unless otherwise stated in the Particulars. Fenweb does not offer recovery facilities as part of the Service

3.7.4 not to resell or sublet the Service

3.7.5 to obtain all licences necessary for any software required to use the Service other than software provided by Fenweb in respect of which the Customer agrees to comply with any terms and conditions governing its use

3.7.6 in the event that Fenweb provides any software as part of the Service, Fenweb hereby grants a personal non-exclusive licence to use such software for the receipt of the Services only during the currency of this Agreement

3.8 The Web Hosting Services which Fenweb shall provide to the Customer will comprise the following:

3.8.1 Registration and hosting of 1 customer nominated domain name subject to relevant naming authority restrictions. Additional domain name hosting will be subject to additional charges

3.8.2 Unregulated data transfer

3.8.3 unlimited customer disk space on the server

3.8.4 up to 10 email accounts set up on first providing the service. Unlimited email accounts will be available if the Customer purchases the optional control panel as an additional service

3.8.5 Up to 5 ftp accounts set up on first providing the service

3.8.6 technical support by email only

3.9 If the Customer's use of the Service defined in Clause 3.8 becomes so extensive as to jeopardize the ability of Fenweb to provide its contracted service to its other customers, Fenweb reserves the right to negotiate a different level of service with the Customer or to discontinue its service to the Customer. The Customer shall be liable for any additional or increased costs or fees arising as a result of the increased level of service provided

#### **4. Other Fenweb Services**

4.1 Training Courses

4.1.1 All places on Fenweb training courses must be paid for in full at the time of booking

4.1.2 Fenweb shall provide all course materials.

4.1.3 In the event of cancellation of a booking by a Customer Fenweb shall refund to the Customer 75% of the course fee if cancelled not less than one month before the date of the course and 50% of the course fee if cancelled not less than one week before date of the course

4.1.4 In the event of cancellation of the course by Fenweb, Fenweb shall refund to the Customer the whole of the course fee. Fenweb shall not be liable to the Customer for any further losses arising as a result of such cancellation howsoever arising

4.2 Surveys and Feasibility Studies

4.2.1 Fenweb shall conduct the Survey as detailed in the Particulars of the number of people stated in the Particulars within the categories stated in the Particulars

4.2.2 Fenweb shall provide the results of the Survey within the time period required by the Customer as stated in the Particulars

#### **5. General Provisions**

5.1 Fenweb may alter the amount of the fees or any of its charges at any time after the Initial Period and shall notify the Customer in writing of any alteration and such change shall take effect from a date stated in the notice which shall be not earlier than 30 days after giving of such notice

5.2 Unless this Agreement states otherwise, the Fees are not refundable. All fees are exclusive of VAT which shall be paid by the Customer unless otherwise stated.

5.3 Fenweb may at its discretion charge interest on any amounts due from the Customer under this agreement which are not paid within 28 days of invoice at the rate of 5% above Barclays Bank plc base rate from the date of invoice to the date of actual payment. Fenweb may also charge an administration fee in the event that any cheque or direct debit from a Customer is not honoured

5.4 Fenweb reserves the right to require the Customer to increase the Customer's bandwidth or level of service if in the opinion of Fenweb the Customer's usage pattern or needs warrant such increase. The Customer shall be liable for all increased fees arising from such increase

5.5 Fenweb may (at its option) terminate or suspend the provision of Services to the Customer if:

5.5.1 the Customer fails to pay any Fees or related charges

5.5.2 the Customer shall become insolvent or have an administrator or receiver appointed or enter into liquidation or enter into any arrangement with creditors

5.5.3 the Customer fails to fulfil any of its obligations under this Agreement or interferes with or impairs the Services or services provided to other customers of Fenweb AND in these circumstances no fees shall be refunded to the Customer

5.6 Fenweb may terminate the Services on or after the end of the Initial Period (if any) by giving not less than one calendar month's notice in writing of such termination to the Customer. Upon such termination Fenweb shall return any unused portion of Fees paid in advance of the Customer.

5.7 The Customer may terminate the Service or the Services on or after the end of the Initial Period (if any) by giving not less than one calendar month's notice in writing of such termination to Fenweb.

5.8 Upon termination of this Agreement the parties shall remain liable for all outstanding obligations and Fees and this Agreement shall continue to cover any material sent or received by the Customer for as long as it remains on a Fenweb Service

5.9 Fenweb excludes all liability of any kind for the transmission or reception of information over the Service

5.10 Fenweb shall not in any circumstances be liable under this Agreement or otherwise for any direct or indirect loss, loss of business, revenue, profits or savings, wasted expenditure, corruption or destruction of data or for any indirect or consequential loss whatever whether arising from negligence

breach of contract or otherwise

- 5.11 In any event Fenweb's liability in contract, tort or otherwise howsoever arising out of the or in connection with this Agreement shall in respect of any one or more incidents not exceed the total Fees paid by the Customer to Fenweb in the calendar year in which the incident occurs
- 5.12 The Customer shall indemnify Fenweb against all claims legal proceedings and expenses (including legal fees) arising from the Customers use of the Service or the Services which are brought or threatened against Fenweb by another company or person.
- 5.13 The provisions of clauses 5.9 to 5.13 shall continue to apply notwithstanding the termination or expiry of this Agreement