

# Web Hosting Contract

## Terms & Conditions of Service

1. Fenland Software Ltd undertakes to provide the client with web site hosting facilities as agreed during the time this agreement remains in force.
  - a) Upon request, technical support will be given by telephone, modem and email as to the use of the services provided under this contract and to the diagnosis and rectification of faults in those services. This contract does not bind Fenland Software to provide support in respect of use or malfunction of computer software, computer hardware, associated hardware, operating systems or printers. The service shall be provided between the hours of 9:00am and 5:00pm UK time Monday to Friday (excluding UK public holidays) through Fenland Software's Helpdesk. Fenland Software shall use reasonable endeavours to respond within 24 hours of the client's request.
  - b) Fenland Software does not warrant or guarantee the client uninterrupted or error free service or technical support in circumstances where the fault arises out of:
    - i. The client's failure to implement recommendations or solutions to faults notified to the client by Fenland Software;
    - ii. Any repair, adjustment or alteration made to the hosting configuration by any person (including Fenland Software's Accredited partners) other than Fenland Software without its previous consent;
    - iii. Any cause beyond Fenland Software's reasonable control.
2. The client undertakes to:
  - a) Comply with the terms of Fenland Software's "Acceptable Use Policy" (AUP);
  - b) Use the services provided under this contract only for lawful purposes;
  - c) Not resell web space or any the services supplied under this contract to any third party;
  - d) Make available to Fenland Software without charge, any information or facilities to enable Fenland Software to discharge its obligations under this agreement including, but not limited to, computer print-outs, photocopies of documents, provided always that Fenland Software shall hold as confidential any such information provided by the client;
  - e) Notify Fenland Software of any defect or alleged defect within a period not exceeding 7

# Web Hosting Contract

(seven) days from the date the said defect becomes apparent.

## 3. Acceptable use policy.

- a) Server Resources. Any web site that uses a high amount of server resources (such as, but not limited to, CPU time, memory usage, and network resources) will be given the option to either pay additional fees (which will depend on the resources required), reduce the resources used to an acceptable level, or upgrade the service. Fenland Software will be the sole arbiter of what is considered to be an excessive server usage level. Any Web Hosting and E-Commerce account deemed to be adversely affecting server performance or network integrity may be shut down without prior notice. In this event, Fenland Software will inform the client of the action taken.
- b) Sending unsolicited bulk and/or commercial messages over the Internet (known as "spamming") is absolutely prohibited. The term "spamming" also includes, but is not limited to, maintaining an open SMTP policy, engaging in spamming using the service of another ISP or IPP and referencing in the spam a web site hosted on a server provided by Fenland Software, and selling or distributing software (on a web site residing on a server provided by Fenland Software) that facilitates spamming. Violation of this term will face immediate suspension. Fenland Software reserves the right to determine, in its sole and absolute discretion, what constitutes a violation of this provision.
- c) Any scripts that pose a potential security risk or are deemed to be adversely affecting server performance or network integrity will be shut down or will be automatically removed without prior notice. CGI script sharing with domains not hosted by Fenland Software is expressly forbidden.
- d) Fenland Software does not allow Web Hosting and E-Commerce customers to install their own chat rooms. Chat rooms tend to require significant system resources and therefore cannot be permitted as an account option.
- e) Background Running Jobs and Cron Jobs. Fenland Software will allow programs to run in the background. Such programs will be considered on an individual basis, most control panels we offer allow scheduled/cron jobs to be setup.
- f) Fenland Software does not allow IRC or IRC bots to be operated by Web Hosting and E-Commerce customers.
- g) The legal owner of clients' web sites and accounts with Fenland Software will be the individual or organization whose name is listed in Fenland Software's database as the owner. Clients will fully cooperate with and abide by any and all of Fenland Software's security

© 2008 Fenland Software Ltd.

Registered Office: 47 Butt Road COLCHESTER CO3 3BZ

Registered in England and Wales No. 3433282

# Web Hosting Contract

measures and procedures in the event of any dispute over ownership of clients' web sites and accounts with Fenland Software.

- h) Fenland Software's servers may be used for lawful purposes only. Transmission, storage, or distribution of any information, data, or material in violation of any applicable law or regulation, or that may directly facilitate the violation of any particular law or regulation is prohibited. This includes, but is not limited to: copyrighted material; trademarks; trade secrets or other intellectual property rights used without proper authorization; material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Additionally, in purchasing Fenland Software's services, clients certify that they and/or the organization they represent in procuring services from Fenland Software are not, nor have been designated, a suspected terrorist; are not owned or controlled by a 'suspected terrorist'; and are not on, are not a member of, related to, associated with, or controlled by any organizations on the list contained in the Annex to Executive Order 13224 and all updates thereto.
- i) As apart of shared and reseller hosting, Fenland Software offers all clients a mail server. A maximum of three hundred (300) emails may be sent out in any single hour from a domain. For windows hosting customers, all emails from deleted items will be deleted 15 days, sent items 30 days, inbox 60 days and spam folder 7 days. However these default settings can be changed. The maximum number of mailboxes that can be created on a single domain name is 150 mail box's. Each email sent must have 70 or fewer recipients. The total email allowance per domain name is 1024mb. this means all mailboxes together must not exceed 1024MB, however we can increase this to 2048MB if proven more space is needed, this is on a per domain basis.
- j) Violations of system or network security are prohibited and may result in criminal and civil liability. Examples of system or network security violations include, without limitation the following: unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network; interference with service to any user, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks; forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting.
- k) Use of Fenland Software's services or equipment for creating or sending Internet viruses, worms or Trojan horses, or for pingging, flooding or mail bombing, or engaging in denial of service attacks is prohibited. It is also prohibited for any client to engage in other activity that is intended to disrupt or interfere with, or that results in the disruption of or interference with, the ability of others to effectively use Fenland Software's services and equipment (or

© 2008 Fenland Software Ltd.

Registered Office: 47 Butt Road COLCHESTER CO3 3BZ

Registered in England and Wales No. 3433282

# Web Hosting Contract

any connected network, system, service or equipment) or conduct their business over the Internet.

- l) Adult hosting is only allowed on our UK hosting due to hosting laws. All content hosted must be legal.
  - m) The use of Fenland Software's services to store, post, display, transmit, advertise or otherwise make available child pornography is expressly prohibited. Fenland Software will notify law enforcement agencies when it becomes aware of the presence of child pornography on, or being transmitted through, its services.
  - n) Fenland Software is concerned with the privacy of on-line communications and web sites. In general, the Internet is neither more nor less secure than other means of communication, including mail, facsimile, and voice telephone service, all of which can be intercepted and otherwise compromised. As a matter of prudence, however, Fenland Software urges its clients to assume that all on-line communications are insecure. Fenland Software cannot take any responsibility for the security of information transmitted over its facilities.
  - o) Clients are required to use the Fenland Software network responsibly. This includes respecting other clients of Fenland Software. Fenland Software reserves the right to suspend or cancel service with any client who uses the Fenland Software network in such a way that adversely affects other Fenland Software clients. While Fenland Software may monitor its service electronically to determine that its facilities are operating satisfactorily, as a general practice, Fenland Software does not monitor its clients' communications or activities to determine whether they are in compliance with this AUP. However, when Fenland Software becomes aware of any violation of this AUP or other user agreements, Fenland Software may take any action to stop or correct such violation, including, but not limited to, denying access to Fenland Software's services and equipment or to the Internet.
4. Continuation of Services. In order to insure uninterrupted service to the client's website, this contract will automatically renew at the end of the Billing Cycle unless previously cancelled in accordance with paragraph 5 below. Renewal charges will be those prevailing on the date of renewal according to the service selected.
5. The client may cancel the service at any time by giving notice to Fenland Software but the cancellation will take not effect until the end of the Billing Cycle. The client is at liberty to remove his files from the servers at any time and Fenland Software will assist with this process on request. Notices of cancellation must be received by Fenland Software a minimum of thirty (30) days prior to the end of the Billing Cycle. Fenland Software will confirm the cancellation

© 2008 Fenland Software Ltd.

Registered Office: 47 Butt Road COLCHESTER CO3 3BZ

Registered in England and Wales No. 3433282

# Web Hosting Contract

notice when it is processed.

6. Fenland Software may terminate this agreement forthwith upon written notice without liability in any of the following circumstances:
  - a) Where the client commits to a breach of any of the terms and conditions of this agreement and in circumstances where such breach is capable of rectification has failed to rectify such breach within 14 (fourteen) days of receiving written notice requiring the client to do so, or;
  - b) Where the client fails to make payment after 7 (seven) days notice of any sums due to Fenland Software under this or any other contract with Fenland Software.
  - c) Any notice to be given by either party to the other under the terms of this agreement shall be given by email or letter at the address for such party as may be notified by one party to the other from time to time.
  
7. Limitation of liability.
  - a) EXCEPT AS PROVIDED ABOVE, OR AS EXPRESSED BY STATUTE TO BE INCAPABLE OF EXCLUSION OR LIMITATION, NO OTHER REPRESENTATIVES, WARRANTIES, CONDITIONS AND GUARANTEES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR FITNESS OR PURPOSE AND SATISFACTORY QUALITY, ARE MADE WITH RESPECT TO THIS AGREEMENT OR THE SERVICES BY FENLAND SOFTWARE.
  - b) FENLAND SOFTWARE SHALL NOT BE LIABLE FOR ANY DIRECT INDIRECT OR CONSEQUENTIAL LOSS DAMAGE OR EXPENSE (INCLUDING BUT NOT LIMITED TO LOSS OF DATA, USE, SAVINGS OR PROFITS) SUFFERED OR ARISING IN ANY MANNER WHATSOEVER OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OF THE SERVICES OR FENLAND SOFTWARE'S TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.
  - c) IN NO EVENT SHALL THE TOTAL LIABILITY OF FENLAND SOFTWARE HOWSOEVER ARISING UNDER THIS AGREEMENT OR BY REASON OF ITS SUPPLY OF SOFTWARE EXCEED THE AMOUNT PAID FOR THE SERVICES.
  - d) FENLAND SOFTWARE SHALL NOT BE UNDER ANY LIABILITY TO THE CLIENT IN RESPECT OF ANY CIRCUMSTANCES BEYOND ITS REASONABLE CONTROL.

# Web Hosting Contract

## 8. Invoices and Payment terms.

- a) The client agrees to accept email delivery of invoices.
- b) Unless otherwise agreed in writing, the client shall make payment in advance of the service commencing.

## 9. General.

- a) Any re-seller, distributor or dealer (including any Fenland Software accredited partner) from whom the client purchased software is not appointed or authorised by Fenland Software as its servant or agent. Such persons have no authority (either expressed or implied) to enter into a contract or grant any licence or provide any representation, warranty, condition or guarantee with or to the client on behalf of Fenland Software, or thereby bind Fenland Software. Fenland Software shall not be responsible for any failure of the services due to the use of third party software.
- b) The client is not permitted to assign the benefits and obligations of this agreement to a third party without the prior written consent of Fenland Software. For the avoidance of doubt the client is not permitted to re-sell the web space to any third party.
- c) Failure by Fenland Software to enforce any of the terms and conditions of this agreement shall not be construed as a waiver of its rights.
- d) This agreement constitutes the entire agreement between the parties relating to web hosting services and shall be governed and construed in accordance with the laws of England. Any dispute under this agreement shall be submitted to the exclusive jurisdiction of the English Courts save where Fenland Software otherwise agree. No variation, amendment of or addition to this agreement shall be effective unless Fenland Software's prior agreement in writing be obtained. In the event that any provision of these conditions be held to be void or unenforceable, the remaining provisions shall remain in full force and effect.
- e) To maintain its high standards of customer service, Fenland Software may from time to time record or monitor clients' telephone conversations with Helpdesk staff.

\*\*\*\*\*