

**DATED << >>**

**(1) <<Contractor>>**

**(2) <<Client>>**

## **WEB SITE MAINTENANCE AGREEMENT**

**THIS WEB SITE MAINTENANCE AGREEMENT** is dated << >> and made

**BETWEEN:**

- (1) << >> whose registered office is at << >> (“The Contractor”);
- (2) << >> whose registered office is at << >> (“the Client”).

**RECITALS:**

The Contractor has designed and developed for the Client an Internet web site for << >>, and has agreed to maintain the said web site upon the terms and conditions hereinafter contained.]

**NOW IT IS HEREBY AGREED** as follows:

**1. Definitions**

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

- “the Performance Standards”** means the performance standards to which the Maintenance Services are to be performed as described in Clause 5 and the Schedule;
- “the Web Site”** means the Client’s web site referred to in the recital above;
- “the Program Materials”** means the computer programs provided by the Contractor to the Client which embody the design and structure of the Web Site, as amended or enhanced from time to time;
- “the Maintenance Services”** means the maintenance services to be provided by the Contractor pursuant to Clause 5 of this Agreement;
- “the Maintenance Charge”** means the periodic charge for the Maintenance Services specified in the Schedule as increased from time to time pursuant to Clause 3;
- “the Commencement Date”** means the date on which this Agreement shall become effective as specified in the Schedule;
- “the Initial Period”** means the initial period of this Agreement as specified in the Schedule.

**2. Services to be performed**

The Contractor hereby agrees to provide the Maintenance Services upon the terms and conditions hereinafter contained.

**3. Payment**

- 3.1. In consideration of the Maintenance Services the Client shall pay the

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Maintenance Charge  
The Maintenance Charge shall be considered

as specified in the Schedule.  
without prior demand and no payment  
received by the Contractor.

3.2. Any charges payable in addition to the Maintenance Charge shall be paid on the receipt of the Contractor's invoice therefor.

in addition to the Maintenance Charge  
the receipt of the Contractor's

3.3. The Contractor shall, from time to time after the expiry of the Initial Period, vary the Maintenance Charge to accord with any change in the Schedule of charges by giving to the Client not less than 30 days notice. Where and whenever such notice is given, the Contractor shall be entitled to terminate this Agreement as from the date on which such notice is given, by giving to the Supplier written notice of termination before such date.

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be entitled to terminate this Agreement as  
from the date on which such notice is given,  
by giving to the Supplier written  
notice of termination before such date.

3.4. The Price and any other sums payable under this Agreement are exclusive of Value Added Tax and shall be paid by the Client at the rate and in the manner for the time being in force by law.

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be paid by the Client at the rate and  
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by law.

3.5. If any sum payable by the Client is not paid within 7 days after the due date then (with effect from the Contractor's demand) the Contractor reserves the right to charge interest on such sum on a day to day basis (as well as to suspend the performance of the Agreement) from the date or last date for payment thereof to the date of payment at the rate of 2 per cent above the Bank of England base rate in force compounded monthly. Such interest shall be paid on demand by the Contractor.

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Contractor's other rights and remedies)  
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performance of the Agreement) from the  
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to the date of payment at the  
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>> Bank plc from time to time in  
force compounded monthly. Such interest  
shall be paid on demand by the  
Contractor.

**4 Duration**

This Agreement shall commence on the date specified in the Schedule and shall continue for the Initial Period and shall remain in force thereafter until terminated by either party giving to the other not less than 6 months written notice in writing on or after the last day of the Initial Period or at any time thereafter or until terminated earlier as provided elsewhere in this Agreement.

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notice in writing on or after the last day of the  
Initial Period or at any time thereafter or until  
terminated earlier as provided elsewhere in this  
Agreement.

**5 Error Correction**

5.1 If the Client shall discover any error or defect in the operation or presentation of the Web Site then the Client shall, as soon as possible after such discovery notify the Contractor in writing and provide the Contractor with a documented example of such defect or error.

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Web Site then the Client shall, as soon as  
possible after such discovery notify the  
Contractor in writing and provide the  
Contractor with a documented example of such  
defect or error.

5.2 Upon receipt of such notification the Contractor shall begin work on correcting such error or defect in accordance with the Performance Standards. If the Client requests an emergency correction the Contractor shall use all reasonable endeavours to correct such error or defect as quickly as possible.

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use all reasonable endeavours to correct  
such error or defect as quickly as possible.

5.3 The foregoing error correction provisions shall not include service in respect of:

not include service in respect of:

5.3.1 defects or errors in the operation or presentation of the Web Site made by any third party;

modifications of the Web Site  
requested by the Client; and  
defects or errors in the operation or  
presentation of the Web Site made by  
any third party;

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5.3.2 incorrect use of the Web Site in the operation thereof on the part of the Client or its agents;

5.3.3 errors resulting from the use of hardware or software other than that supplied to the Contractor.

5.4 The Contractor shall be liable for any damage or expense incurred by the Client in accordance with its standard scale of charges in force for any services provided by the Contractor:

5.4.1 at the request of the Client, the Contractor shall do not qualify under the aforesaid error correction sub-clause 5.3.1 in the event of the exclusions referred to in sub-clause 5.3.1.

5.4.2 at the request of the Client, the Contractor shall be liable for any damage or expense incurred by the Client in accordance with its standard scale of charges in force for any services provided by the Contractor, provided that the Contractor considers on reasonable grounds that such liability is necessary.

For the avoidance of doubt, the Contractor shall impose any obligation on the Client in respect of any of the exclusions referred to in sub-clause 5.3.1.

6 **Web Site Operation**

During the continuance of the Web Site, the Contractor shall:-

6.1 ensure that the Web Site is operated (to the extent necessary) on behalf of the Client by competent persons (including the Contractor) only or by persons under their supervision;

6.2 operate the Web Site in accordance with the instructions and training provided by the Client;

6.3 keep full security copies of the Client's databases and computer records in accordance with the Client's computing practice;

6.4 not alter or modify the Web Site in any way whatsoever nor permit the Web Site to be amalgamated with any other Internet Web Site;

6.5 not request, permit or authorise any third party other than the Contractor to provide any maintenance services for the Web Site or the Web Site;

6.6 co-operate fully with the Client in the diagnosis of any error or defect in the Web Site;

6.7 provide such telecommunication facilities as are reasonably required by the Client for testing the Web Site, at the Client's expense;

7 **Proprietary Rights**

7.1 The copyright and all other intellectual property rights of whatever nature in the Web Site made pursuant to this Agreement shall be deemed to be the property of the Contractor as beneficial owner and the Contractor shall hereby assign (by deed) all such rights to the Client.

7.2 Notwithstanding sub-clause 7.1, the Contractor reserves the right to use in its business any skills and techniques acquired or developed by the Contractor in the course of its performance of this Agreement.

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used by it in the per ent.

7.3 The Contractor shall retain a copy of the underlying computer program materials necessary for the proper maintenance and source code and copies of the Program Materials and source code are held in confidence, shall only be used by the Contractor pursuant to this Agreement and shall be delivered up (together with all copies) to the Client forthwith upon the termination of this Agreement (or any extension thereof) (the "Delivery").

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7.4 If any corrected or modified Program Materials shall be made by the Contractor pursuant to this Agreement, then the Contractor shall promptly deliver to the Client:

7.4.1 the source code of the modified version of the Programs in the form of a source code file; and

7.4.2 all other materials necessary to enhance the corrected or modified version of the Programs, including but not limited to any source code or documentation, without reference to any other person.

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8 Confidentiality

Each party shall treat as confidential information all information obtained from the other pursuant to this Agreement and shall not disclose such information to any person (except to its own employees who need to know the same) without the other party's prior written consent. This obligation shall not extend to information which is in the public knowledge or becomes public knowledge or becomes public knowledge as a result of a breach of this Clause) or which is known to the employees of the party who are aware of and have no obligation to keep confidential information to such party. The Contractor shall appoint an agent to receive confidential information to be provided to the Client an undertaking in writing to fulfill the foregoing obligations as to confidentiality under this Agreement.

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9 Poaching Staff

The Client shall not without the prior written consent of the Contractor (and so that each of sub-clauses 9.1 and 9.2 shall constitute a separate agreement and shall be confidential information to the other):

9.1 at any time during the term of this Agreement (or any extension thereof) to the expiry of six months after the termination of this Agreement (as the case may be) solicit or induce any person who is, or shall at any time be, employed by the Contractor to terminate his employment with the Contractor between the date hereof and the date of such termination, or to cause any such person to be so employed. This clause shall not apply to any person who is employed by the Contractor on or after the date of this Agreement (or

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as at the date of completion of employment shall be £<<25,000>> per annum

person's employment if such (or of this Agreement) is less than

9.2 At any time during the period after the Acceptance Date (in any case may be) employment between the date of termination be, one of the Services provided hereunder employed by the Contractor remuneration payable as at the date of completion of employment shall be £<<25,000>> per annum

hereof to the expiry of six months termination of this Agreement (as the case may be) any person who is, or shall at any time after the Termination Date or the date of such termination employees engaged in providing the Services hereunder shall not apply to any person employed on a cross basic contractual basis at the date of this Agreement (or person's employment if such (or of this Agreement) is less than

10 Termination

10.1 Notwithstanding anything to the contrary herein, this Agreement may be terminated:

herein, this Agreement may be

10.1.1 by the Contractor if the Client shall fail to pay any amount due (otherwise than by reason of a dispute between the Contractor) within 14 days after written notice from the Contractor to the Client or

notice in writing to the Client if the Contractor fails to make any payment hereunder (other than by reason of any default on the part of the Contractor) within 14 days after written notice from the Contractor to the Client (such notice to contain a warning of suspension); or

10.1.2 by either party if the other party shall fail to make any payment hereunder (other than as provided in paragraph 10.1.1 above shall apply) and such failure (being remedied) shall have failed, within 30 days after written request in writing from the other party so to do so (such request to contain a warning of suspension); or

notice in writing to the other if the Contractor fails to make any payment hereunder (other than as provided in paragraph 10.1.1 above shall apply) and such failure (being remedied) shall have failed, within 30 days after written request in writing from the other party so to do so (such request to contain a warning of suspension); or

10.1.3 by either party if the other party shall be declared insolvent or if it or over it shall be placed in liquidation or resolution for the purpose of a scheme of arrangement or if a competent jurisdiction shall be entered into by any voluntary arrangement or if it shall cease to

notice in writing to the other if the Contractor is declared insolvent or if it or over it shall be placed in liquidation or resolution for the purpose of a bona fide reconstruction) or a court of law shall make an order to that effect or if the other party shall be placed in administration order or shall enter into any arrangement with its creditors or shall cease or threaten to

10.2 Any termination of this Agreement shall not affect any accrued rights or obligations in force or the continuation of this Agreement by implication intended at the date of termination.

any termination of this Agreement (other than as provided in paragraph 10.1.1 above shall apply) shall not affect any accrued rights or obligations in force or the continuation of this Agreement by implication intended at the date of termination.

10.3 Any termination of this Agreement shall not of itself

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affect the Client's right to use the Web Site.

11 **Assignment**

Neither party shall assign or delegate its rights and obligations hereunder without the prior written consent of the other.

12 **Force Majeure**

Neither party shall be liable for failure to perform any of its obligations hereunder if such delay is caused by events beyond the reasonable control of the party so delaying and such delay is not to a reasonable extension of time for the performance of the obligations.

13 **Liability**

13.1 The Contractor shall be liable for any loss or damage sustained or incurred by the Client in connection with the use of the Program (including without limitation any loss or damage to or corruption or loss or destruction or spoiling of the Client's data) as a result of any defect in the Program or the Materials or the Web Site except to the extent that such loss or damage is caused by or to a reasonable extent by the Contractor in performing its obligations under the Services and then only to the extent not excluded by the limitation of liability provisions of the Client's contract with the Client.

13.2 The Client shall indemnify and hold the Contractor fully and effectively indemnify the Contractor for any loss of or damage to any property or injury to persons or property caused by any negligent act or omission or wilful misconduct of the Contractor or its employees, agents or subcontractors.

13.3 Except in respect of the respective liability provisions of the Client's contract with the Client and (2) in respect of the Client's contract with the Client, the aggregate amount of such loss shall not exceed £<<500,000.

13.4 Notwithstanding anything to the contrary in this Agreement the Contractor shall not be liable to the Client for any loss of or damage to any property or consequential loss or injury to persons or property howsoever caused by any negligent act or omission or wilful misconduct of the Contractor or its employees, agents or subcontractors.

13.5 The Contractor shall be liable for any loss arising out of any failure by the Client to maintain adequate security copies of the Web Site and the Program Materials.

14 **Waiver of Remedies**

No forbearance, delay or inaction by either party in enforcing the provisions of this Agreement shall prejudice or constitute a waiver of any right, power or remedy of either party nor shall any waiver of its rights operate as a waiver of any other right, power or remedy of no right, power or remedy herein conferred upon or reserved to either party, exclusive of any other right, power or remedy available to either party. Each right, power or remedy shall be cumulative.

15 **Notices**

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All notices which are required to be sent to the address of the recipient in England as the recipient may be notified in accordance with the provisions of this Clause. Notices shall be deemed to have been served if by hand when delivered to the recipient or by first class pre-paid letter or facsimile transmission when delivered to the recipient's facsimile transmission when

shall be in writing and shall be sent to the address in the Agreement or such other address in writing as may be given in accordance with the provisions of this Clause. Notices shall be deemed to have been served if by hand when delivered to the recipient or by first class pre-paid letter or facsimile transmission when delivered to the recipient's facsimile transmission when

16 **Headings**

The headings to the Clauses of this Agreement shall not affect the interpretation of this Agreement.

for ease of reference only and shall not affect the interpretation of this Agreement.

17 **Law**

This Agreement shall be governed by the law of England.

and shall be governed by the law of England.

18 **Disputes**

Any dispute which may arise out of or in connection with this Agreement shall be determined by the English courts and shall be subject to the jurisdiction of the English courts.

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SIGNED by duly authorised representatives of the Contractor on the date specified at the beginning of this Agreement

on the date specified at the beginning of this Agreement

SIGNED by

<<Name and Title of person signing for and on behalf of Contractor's name>>

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In the presence of

<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing for and on behalf of Client's name>>

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In the presence of

<<Name & Address of Witness>>

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**Commencement Date:-**

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**Initial Period:-**

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**Maintenance Charge and Payment**

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**Performance Standards:-**

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