

**Bayview Internet Group Monthly Services Agreement**

Bayview Internet Group, LLC a corporation of the State of Texas, having its principal offices at 2707 Bayshore Dr., Bacliff, TX 77518 (hereinafter referred to as "BIG") hereby agrees to provide to:

Company/Organization:		Admin Contact:	
Address:		Phone:	
City:		Email:	
State:			
Zip:		Billing Contact:	
Primary Phone#:		Phone:	
Domain Names:		Email:	
Billing Address:		Initial Setup Fees:	

(hereinafter referred to as "CUSTOMER") the Services (hereinafter referred to as "SERVICES") described below and under the terms set forth in this Agreement (hereinafter referred to as "Agreement").

**A. BIG agrees to furnish to CUSTOMER the following SERVICES:**

1. Web site content hosting services using proprietary "server side" software developed by BIG and others.
2. Initial Web site design, creation, and initial loading to the hosting service defined in A.1 above.

**B. Term, Fees, Delivery, and Payment:**

1. The term of the web site content hosting services portion of this agreement shall be Monthly with automatic renewal at the beginning of each month.

An "Introductory Fee Schedule" of monthly fees due for the services may be quoted to the customer, in which case the term quoted on that schedule applies. At the end of any such "Introductory Fee Schedule" the fee schedule may be changed with thirty (30) days notice to CUSTOMER.

Monthly fees are billed and due on a quarterly basis at the beginning of each quarter. Billings may be prorated as needed to adjust billing cycles to even quarters. The average of usage rates described in the fee schedule will be used on a quarterly basis to adjust the Monthly rate.

2. Initial Web Site design, creation and initial loading fees as quoted to the customer are due as per the "Introductory Fee Schedule" as quoted to customer. In the absence of an "Introductory Fee Schedule" all setup fees are due when the web site is activated and made available to the CUSTOMER via the public Internet.

**C. BIG agrees as follows:**

1. To provide for the hardware, software, programming, and systems operations activity required to make the CUSTOMER's web site available on the public Internet using the domain name(s) specified by the CUSTOMER.
2. To make the service available on the publicly accessible "Internet" via those "web browsers" that BIG deems most popular and appropriate.

2. To coordinate with any hosting, partner, or intervening Internet Service Providers, if any, the setup and operation of ancillary and/or supporting Internet Services that are related to the SERVICES contracted for herein. These may include: DNS, FTP, Email, virus scanning, firewall and router configurations, etc.
3. To make the service available 24 hours a day, 7 days a week to the extent that BIG, deems possible.
4. To not knowingly and intentionally, distribute, release, or make available data from the non-public portions of a CUSTOMER's site without the consent of the CUSTOMER.
5. To follow the Acceptable Use Policy as published by BIG and/or its providers.

**D. CUSTOMER hereby agrees**

1. To be responsible for obtaining access to the Service and that access may involve third party fees (such as Internet service provider or connectivity charges). CUSTOMER is responsible for those fees, including those fees associated with the display or delivery of advertisements. In addition, CUSTOMER must provide and is responsible for all equipment necessary to access the SERVICE.
2. To use the SERVICE only for lawful purposes.
3. To follow the Acceptable Use Policy as published by BIG and/or its suppliers.
4. Agree to terms of any supporting ISP to extent they do not conflict with terms of this agreement.
5. To indemnify and hold BIG, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of content submitted, posted, transmitted or made available through the SERVICE, use of the SERVICE, connection to the SERVICE, use of the domain names, violation of the Acceptable Use Policy, or violation of any rights of another, by the CUSTOMER or

CUSTOMER's employees, members, agents, or customers that occurs during the term of this agreement.

- 6. Not to resell the SERVICES, with the exception that the CUSTOMER may charge fees to access the CUSTOMER's content on the site, and control this access through the authentication mechanisms provided by the SERVICE.
- 7. That BIG has the right at any time and from time to time to modify or discontinue, temporarily or permanently, the SERVICE (or any part thereof) with or without notice. You agree that BIG shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the SERVICE.
- 8. That members, employees, officers, agents, customers of the CUSTOMER to which CUSTOMER issues user ID's and passwords will be notified of and bound by the terms of this agreement. In particular, CUSTOMER will make those individuals to which it issues user ID's and passwords aware of the terms of the then current Acceptable Use Policy.

**E. BIG and CUSTOMER further agree:**

- 1. This agreement constitutes the entire Agreement between the parties hereto and there are no oral agreements, warranties or representations collateral to or affecting the same, other than those referenced herein. No provision of this Agreement shall be deemed waived, amended or modified by either party unless such waiver amendment or modification is in writing and signed by both parties. This agreement shall be governed by the laws of the State of Texas, and the exclusive jurisdiction of the courts located within the county of Galveston, Texas.
- 2. BIG shall not liable for loss of customer data.
- 3. BIG shall not be financially or otherwise liable for accidental, inadvertent or other disclosure of customer data, even in the case that it is proven that, BIG against its own policy, knowingly and intentionally disclosed CUSTOMER data.
- 4. BIG affirms CUSTOMER's copyright in CUSTOMER's data. In the event of termination of service BIG will make available in machine-readable form the customers data. BIG may charge a reasonable fee for this service.
- 5. CUSTOMER is the owner of their respective 2<sup>nd</sup> level domain name (i.e. *yourdomainname.com*) and solely responsible for domain name registration. BIG shall not be liable for domain name registration lapses, errors, or loses that occur, even if BIG has provided registration services on behalf of the CUSTOMER.
- 6. CUSTOMER warrants that they have rights to use the domain names specified and that if such names are trademarked that they have the right to use such marks.
- 7. CUSTOMER understands and agrees that the "proprietary server side software" used to render CUSTOMER data as HTML encoded web pages is the copyrighted property of

BIG and/or its suppliers, and furthermore the CUSTOMER specifically has no interest or rights to said software.

- 8. BIG may transfer this service agreement and client relationship to another party or it may subcontract the servicing of this agreement to another party in whole or part.
- 7. That BIG has the right, at its discretion, to temporarily or permanently deactivate the service, in whole or part for non-payment of any fees due under this agreement.
- 8. BIG may make copies of and transmit Customer Data to any location it deems necessary for backup, archival and testing purposes.
- 9. That any violations of the Acceptable Use Policy, by either the CUSTOMER or BIG, are reason for the immediate suspension or termination of the SERVICE by either party to this agreement.
- 10. BIG may deactivate the SERVICE in whole or part for any violations (determined at BIG's sole discretion) of the Acceptable Use Policy.
- 11. This Agreement is not valid until approved by an authorized representative of BIG.

**F. WARRANTIES**

To the maximum extent permitted by applicable law, BIG and its suppliers disclaim all other warranties, either express or implied, including, but not limited to implied warranties of merchantability and fitness for a particular purpose, with regard to the SERVICE.

To the maximum extent permitted by applicable law, in no event shall BIG or its suppliers be liable for any damages whatsoever (including without limitation, special incidental, consequential, or indirect damages for personal injury, loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use or inability to use the SERVICE, even if BIG or its suppliers have been advised of the possibility of such damages. In any case, BIG's and its supplier's entire liability under any provision of this agreement shall be limited to the amount actually paid by CUSTOMER for the SERVICES.

**H. TERMINATION**

This service agreement may be terminated by the CUSTOMER at end of any calendar month by giving a minimum of one calendar month's written or email notice.

**I. TAXES**

The charges and fees quoted by reference herein do not include any federal, state, county or other taxes (including, but not limited to excise, sales, use, license or permit) howsoever designated and whether levied or based upon such charges, this contract, the SERVICE or its use. Any taxes, penalties, and interest thereon, or amounts in lieu thereof and interest thereon, paid or payable at any time by BIG exclusive of taxes based on net income shall be borne by CUSTOMER.

CUSTOMER:

Name: \_\_\_\_\_ Date: \_\_\_\_\_

12/20/04 – Copyright Bayview Internet Group Approved By BIG \_\_\_\_\_ Date: \_\_\_\_\_