

WEBSITE HOSTING AGREEMENT

BY COMPLETING THE REQUIRED INFORMATION AT THE END OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES READING THIS AGREEMENT AND ENTERING INTO A LEGAL, BINDING CONTRACT WITH TIERRANET INC. (TierraNet)

1. **TierraNet Services.** TierraNet agrees to provide the services described in the attached Detailed Description of Services (Appendix A).
2. **Terms of Service.** Customer agrees to abide by all applicable Terms of Service (<https://www.tierra.net/help/doc/policies/>). With reasonable prior notice to Customer, TierraNet reserves the right to change the Terms of Service from time-to-time, in order to accommodate the needs of its customers, changing laws, and advancing technology.
3. **Payment.** Customer agrees to pay TierraNet the amounts specified in the attached Detailed Description of Services (Appendix A).
4. **Content Control.** Customer will be solely responsible for creating, managing, linking, editing, reviewing, deleting and otherwise controlling all text, pictures, sound, graphics, video and other data for Customer's Website and all user-generated content which is provided on the Website (collectively the "Content"). TierraNet is a conduit only, and Customer has complete discretion of the Content, subject to the attached TierraNet Policies.
5. **Uploads and Backup.** Customer is solely responsible to upload the Content directly to the Website. Customer is solely responsible to maintain a complete and current copy of the Website at a location remote from TierraNet.
6. **Ownership Rights and Licenses.** Customer is the owner of Customer's Domain Name (if applicable) and all of Customer's Content. TierraNet is the owner of TierraNet's Domain Name. Customer grants to TierraNet, in conjunction with Customer's Website only, a nonexclusive, nontransferable royalty-free, worldwide license to reproduce, distribute, publicly display, and digitally perform the Content and the tools and work product (such as the HTML, Java applets, CGI scripts, and ActiveX controls) for Customer's Website. Customer and TierraNet each grant to the other a nonexclusive, nontransferable, royalty-free, worldwide license to use the other's Domain Names, trademarks, service marks, trade names, logos, or other commercial designation for purposes of creating content directories or indexes and for marketing and promoting the Website. The licensing rights granted in this paragraph will automatically terminate with the termination of TierraNet's service for Customer.
7. **Term.** The initial term of this Agreement shall be for **12** month(s). This Agreement shall automatically renew for a similar term thereafter, until terminated by either party with 30 days prior notice.
8. **Termination for Cause.** Customer and TierraNet shall each have the right to terminate this Agreement in the event of any material breach of this Agreement, or breach of the TierraNet Policies. Prior notice and right to cure may or may not be given, depending on the severity of the violation. For example, if Customer violates a law, no prior notice or right to cure will be required.
9. **Referrals Following Termination.** If Customer is required to move its Domain Name following any termination of this Agreement, TierraNet will, for a period of 30 days, maintain the Website's URL. At such URL, TierraNet will provide one Web Page (including a hypertext link) that Customer may use to direct its users to its new Website or other URL of Customer's choosing. However, TierraNet will have no obligation to provide such referral if TierraNet reasonably believes Customer was engaged in illegal activities on the Website.

Initials: _____

10. **TierraNet Warranties.** TierraNet represents that it will provide the quality and quantity of services specified in the Detailed Description of Services (Appendix A).
11. **Customer Warranties.** Customer represents that it will not post, upload, display, or otherwise distribute on the Website any Content that: (a) infringes on any copyright or patent rights of any third party; (b) violates any law or regulation, including without limitation the laws and regulations governing export control; (c) is defamatory or trade libelous; (d) is pornographic or obscene; (e) contains viruses, Trojan horses, worms, time bombs, cancelbots, or other computer programming defects which are intended to damage a user's system or data; or (f) violates the TierraNet Policies.
12. **Disclaimer of Warranties.** EXCEPT AS SET FORTH HEREIN, TIERRANET AND CUSTOMER EACH EXPRESSLY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
13. **Indemnification.** Customer and TierraNet each agree to indemnify, defend and hold harmless the other from and against any third party claim, action, suit, or proceeding arising out of the inaccuracy of any respective representation stated in paragraphs 11 and 12 above. Such indemnity shall apply to all losses, damages, liabilities, and reasonable attorney's fees and costs incurred by the party receiving the benefit of this paragraph.
14. **Limitations on Liability.** Except for each party's respective indemnity obligations in section 13, in no event shall either party be liable for any special, incidental or consequential damages, or for interrupted communications, lost data or lost profits, arising out of or in connection with this Agreement.
15. **Miscellaneous Provisions.**
 - a. This Agreement will be governed by California law without giving effect to principles of conflict of laws. Both parties agree to submit to jurisdiction in California, and that any action brought regarding the enforcement or interpretation of this Agreement shall be filed in San Diego County, California. The prevailing party in any action will be entitled to reasonable attorney's fees and costs.
 - b. If any provision of this Agreement is held to be unenforceable for any reason, the remaining provisions shall remain in full force and effect.
 - c. The waiver of any breach of this Agreement will not operate as a waiver of any other or subsequent breach.
 - d. This Agreement, including Appendix A and B, constitutes the entire understanding and agreement between TierraNet and Customer. This Agreement may only be amended in writing acknowledged by both parties.
 - e. The parties to this Agreement are independent contractors, and no agency, partnership, joint venture, or employer-employee relationship is intended or created. Neither party shall have the power to obligate or bind the other.
 - f. Any notices required or permitted hereunder may be given by electronic mail or fax if receipt is confirmed by the recipient, or if the notice is also sent by first class mail. Notice will be deemed given on the date the electronic mail is sent.

Customer agrees to be bound by this Website Hosting Agreement with TierraNet by signing and dating below, and initialing Appendix A and Appendix B. Subscriber also authorizes TierraNet Inc to bill Subscriber as described below.

TierraNet reserves the right to reject this Agreement by notifying Customer by email within 96 hours of receipt of this Agreement. Customer will receive a 100% refund if the Agreement is rejected.

By: _____ By: _____

Title: _____ Title: _____

Date: _____ Date: _____

Initials: _____

Billing information

Domain name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

Phone/Email/Pager (Administrative): _____

Phone/Email/Pager (Technical): _____

Phone/Email/Pager (Technical) #2: _____

Phone/Email/Pager (Billing): _____

Fax: _____

- Charge my credit card (Visa, MasterCard, American Express, or Discover)
Account Number: _____
Expiration Date: _____
CCV Security Number: _____
Name on Credit Card: _____

- Directly bill me monthly.
P.O. Number: _____
(please include a copy of P.O. if applicable)

Remittance address

Please send all purchase orders, payments, and billing inquiries to:

TierraNet Inc.
P.O. BOX 502010
San Diego, CA 92150-2010

Initials: _____

DETAILED DESCRIPTION OF SERVICES

(Dedicated Server)

Appendix A

	<i>Plan A</i>
Non-refundable Setup fee	\$100
Server TierraNet-owned system Dual Xeon Quad Core 2.33Ghz, 4GB RAM 72GB SCSI 15K RAID HDD Linux Operating System (available SSH access) 24/7 site monitoring w/email and paging 100Mbps connection to one of TierraNet's backbone routers Weekly full backup; daily incremental backup	\$349.95/mo
<i>500GB of traffic per month</i> Additional Bandwidth	Included \$9/GB
Additional Package (without Miva Merchant)	\$2/month
Additional Package (with Miva Merchant)	\$30/month

1. Bandwidth is measured by a TierraNet backbone router or by the TierraNet statistics system. TierraNet will make utilization graphs available throughout the time period.
2. Monthly fees and bandwidth are billed monthly after each period, and are due within 30 days. Service is subject to cancellation after invoices become 60 days overdue.
3. Root + telnet access to server with full control of configuration files. In this configuration, TierraNet provides basic configuration assistance in setting up webserver, pop server, smtp server, ftp server, etc. No assistance is provided to install or maintain 3rd-party software. TierraNet's customized control panel system is NOT provided. Customers who have little/no programming/Unix experience should not choose this configuration.

***** Upgrades and other server configurations are available by arrangement at a later date *****

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