

# Pacific Information Exchange, Inc.

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## Web Hosting Service Agreement

This document is an agreement between you (“Customer”) and Pacific Information Exchange, Inc., doing business as pixi.com, aloha.com and hula.net, hereafter referred to as PacInfo Net.

### **1.0 Service Description**

- (a) In consideration of your payment and your commitment to abide by the terms and conditions of this agreement, PacInfo Net agrees to provide Internet services as outlined in the attached Application Form.
- (b) Pricing and Terms for additional services are outside of this agreement and are to be negotiated separately.

### **2.0 Term**

- (a) The term of this agreement shall be month-to-month , quarterly , semi-annual , or annual . At the end of the term, this agreement shall be automatically renewed for the same term at PacInfo Net’s currently stated rate unless otherwise requested by Customer and agreed to by PacInfo Net.
- (b) PacInfo Net reserves the right to modify the terms and conditions of service with notification to customer in writing or e-mail at least 30 days, if at all possible, in advance of the effective date of the change.

### **3.0 Rates**

- (a) Customer agrees to pay for Internet services as outlined in the attached Application Form.
- (b) Customer agrees to pay the nonrecurring charges, first installment of payment option, prorated monthly recurring charge, and taxes upon signing Service Agreement.

### **4.0 Billing/Payment Policy**

- (a) All payments shall be paid in the legal currency of the United States of America. If any payment obligation is not paid in a timely manner, the customer agrees and promises to pay all costs of collections, including reasonable attorney fees, whether or not a lawsuit commences as part of the collection process.
- (b) PacInfo Net will bill customer via e-mail.
- (c) Monthly billing schedule is available for business customers and customers paying via credit card or automatic bank draft.
- (d) Payment via check is only available for customers electing our quarterly, semi-annual, or annual service plans.
- (e) PacInfo Net will bill Customer on the first of every month for the monthly recurring charge (plus tax).
- (f) It is our policy to pro-rate service periods to the 1<sup>st</sup> of the month.
- (g) If any of the following events of default occur, this agreement and any other obligations of the customers to PacInfo Net, shall become due immediately, without demand or notice:
  - 1) The filing of bankruptcy proceedings involving the Customer as debtor.
  - 2) The application of appointment of a receiver for the Customer’s creditors.
  - 3) The making of a general assignment for the benefit of the Customer creditors.
  - 4) The insolvency of the credit, or
  - 5) The misrepresentation by the Customer to PacInfo Net for the purpose of obtaining or extending credit.
- (h) If determined by PacInfo Net that the account and access should be put on hold for any reason, including but not limited to non-payment of account, the Customer agrees to pay a reinstatement fee of \$20.00 to reactivate account.
- (i) Payments are due 10 days after invoice date, any charges outstanding more than 15 days after invoice date will be assessed a late payment fee of 1.5% per month.
- (j) Cancellations will not be eligible for a refund of the Access Fee. Setup fees and other nonrecurring charges are not refundable. Notice of cancellation must be in writing via e-mail or hard copy.

### **5.0 Allowance for Interruptions/Limitation of Liability**

- (a) In no case shall PacInfo Net, its officers, or any of its representatives be responsible for any consequential damages or loss resulting either directly or indirectly from any activity on our system. PacInfo Net also is to be known as a “common carrier” and as such is not responsible for the content, lack of content, accuracy, or inaccuracy of any information gathered from Customer’s use of this system. All information is provided as-is without regard to fitness-of-purpose.
- (b) PacInfo Net’s sole liability for interruption of the services shall be:
  - 1) A credit to Customer in an amount equal to the daily pro rata monthly charge paid by Customer to PacInfo Net for the period during which services are interrupted. No credits shall be given for interruptions of less than twelve (12) hours.

- 2) Claims for reimbursement credit shall be submitted in writing within thirty (30) calendar days of the occurrence. No credit shall be allowed for an amount of less than five dollars (\$5).
- 3) The pro rata credit available to Customer as set forth above is Customer's sole and exclusive remedy for any interruption or disruption of service for whatever and any cause, and PacInfo Net's liability for any reason whatsoever hereunder is limited to the allowance of said pro rata credit. PacInfo Net shall not be liable for any special, incidental, consequential or punitive damages of any kind, including but not limited to loss of business opportunity or loss of profits.

**6.0 Acceptable Use Policy**

- (a) PacInfo Net makes no restriction on usage provided that such usage is legal under the laws and regulations of the State of Hawaii and the United States of America; and does not adversely affect PacInfo Net customers. Customer is responsible for obtaining and adhering to the Acceptable Use Policies of any network accessed through PacInfo Net services.
- (b) PacInfo Net reserves the right without notice to disconnect an account that is the source of spamming, abusive or malicious activities. There will be no refund when an account is terminated for these causes. Moreover, there will be billing rate of \$125 per hour charged to such accounts to cover staff time spent repairing subsequent damage.
- (c) Customers are forbidden from using techniques designed to cause damage to or deny access by legitimate users of computers or network components connected to the Internet. PacInfo Net reserves the right to disconnect a customer site that is the source of such activities without notice.
- (d) The content of any Internet traffic flow initiated by customer, whether flowing to or from a customer site, must not contravene local laws, insofar as they are clear on what is legal or illegal for Internet traffic. Even where local law themselves do not explicitly prohibit activity or Internet content, PacInfo Net does not permit its services to be used for activities which:
  - 1) Exploit minors
  - 2) Illegally distribute or duplicate unauthorized copyrighted or licensed material
  - 3) Harass individuals or racial/ethnic groups
  - 4) Would use PacInfo Net system in a manner that encumbers system resources to the point that usage causes interference with others' normal use of services.
  - 5) Attempt or commit unauthorized intrusion into any part of the network
  - 6) Use services provided by PacInfo Net to harass anyone in any way.
- (e) PacInfo Net reserves the right to terminate connection to the Internet, if the Acceptable Use Policy is violated.

**7.0 Severability**

- (a) If any provision of this agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect.

**8.0 Jurisdiction**

- (a) The validity, construction and performance of this Agreement shall be governed by the laws of the State of Hawaii and the United States of America.

**9.0 Entire Agreement**

- (a) This agreement represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreement or understanding, written or oral. This agreement may be modified only by a verifiable authenticated document, hard copy or electronic, signed by all parties.

By signing this document, Customer agrees to the terms and conditions of this agreement.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Company: \_\_\_\_\_

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