

# BLUE DOLPHIN NETWORKS INC.

## STANDARD TERMS AND CONDITIONS

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This document represents the service level agreement between Blue Dolphin Networks, Inc. (hereinafter called BDN) and the Client with regards to web site hosting, domain registration, and design services. Upon publication online at <http://www.bluedolphinnetworks.com/tos.htm> and 30-days notice via e-mail, BDN may change these terms and conditions, and/or change the prices of the services offered, and/or discontinue or change the services offered. Use after the 30-day notice constitutes acceptance of the new terms and conditions. By accepting these terms and conditions the Client also acknowledges and agrees to act within the bounds of the Acceptable Use Policy.

Our Terms of Service is an important document because it reflects the care for our clients and the consideration we expect our client's to show for one another. In a multi-hosted server environment the actions of one client have the potential to adversely affect others. Therefore we have designed the following guidelines to ensure that our services remain of the utmost quality.

You may consider this document to be the rules and regulations of using our hosting services. Please read them carefully and ensure that you understand and agree to all parts as our services are subject to these terms. Your use of Blue Dolphin Network's hosting services implies your agreement with these terms.

### Provision of services

BDN will provide services on its hosting servers to allow Client's "write access" to their directories and to allow the Internet community access to view their directories in exchange for payment of fees and compliance with the terms and conditions of this document. Technical support is limited to issues related to the publication of the web pages and Internet community access. No support is offered for web page design or troubleshooting unless stipulated under a separate contract.

### End User Agreement

Customers may not sublease, sub host, or give away control of any portion of their web space and/or resources (including, but not limited to, e-mail accounts, space, ftp accounts, etc.), unless otherwise stated in writing.

### Content

All services provided by BDN may be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any United States Federal, State or City law is prohibited. This includes, but is not limited to: copyrighted material, material we judge to be threatening or obscene, or material protected by trade secret and other statute. The subscriber agrees to indemnify and hold harmless BDN from any claims resulting from the use of the service which damages the subscriber or any other party.

*Note:* Pornography and sex-related merchandising are prohibited on any BDN server. This includes sites that may imply sexual content, or links to adult content elsewhere. This is also true for sites that promote any illegal activity or content that may be damaging to BDN servers or any other server on the internet. Links to such materials are also prohibited.

### *Examples of non-acceptable content:*

Pirated software; bulk e-mail products; pornography and adult content; hacking related material; warez and/or copyrighted software, music, or video; Illegal material or material that is against public policy; sites containing or linking to material that may be considered detrimental to the public health, safety, or welfare (such as, but not limited to: anarchists cookbook, bomb making, weapon information, or anything else that may be considered detrimental or illegal). BDN will be the sole arbiter as to what constitutes a violation of this provision, and reserves the right to deactivate and remove any site at any time for this reason without refund!

### **Copyright Violations**

BDN will respond to all reports of infringement that are formatted in accordance with the Digital Millennium Copyright Act and any other applicable copyright laws. We will act in accordance with the DMCA when handling infringement reports.

### **System Resource Usage**

If BDN determines that a Client's account is utilizing an unacceptable amount of system resources, we may temporarily deactivate the account in question. If we deem it necessary, an eviction notice may be sent to the Client of an offending account providing them with ten (10) days in which to locate a new provider. This only occurs in extreme cases. BDN will be the sole arbiter as to what constitutes a violation of this provision. Because of the nature of this provision, each account will be considered and analyzed individually.

### **Backups**

BDN hosting accounts include a nightly backup service but these backups are for internal administrative purposes only, and are in NO WAY GUARANTEED! Clients are responsible for maintaining their own backups. BDN does not provide any sort of compensation for lost or incomplete data in the event that backups do not function properly, even if the malfunction was due to negligence on BDN's part. We will do our best to ensure complete and accurate backups, but assume no responsibility for this duty. Always back your site up to your personal computer! We make no guarantees about the availability of backups.

### **Cron Jobs**

We do allow Cron Jobs to be conducted on our servers. You can setup and manage the cron jobs for your account using your web control panel.

### **IRC (Internet Relay Chat)**

We do not allow IRC or IRC bots to be operated on our servers. Any account found to be in violation of this provision will be immediately suspended and/or deactivated and no refund will be issued.

### **Forgery or Impersonation:**

Client agrees not to use any BDN services to impersonate any individual or organization.

### **Unsolicited Email (SPAM)**

SPAMing, or the sending of unsolicited email, from a BDN server or using a return email address that is maintained on a BDN server is STRICTLY prohibited. Using SPAM to advertise a site hosted on the BDN network also constitutes as a violation of this provision. BDN will be the sole arbiter as to what constitutes a violation of this provision. Sites found to be in violation of our SPAM policies will be immediately deactivated and no refund will be issued.

*Help us STOP SPAM! Please contact us immediately to report a violation of our SPAM policies. Please do not delete the message – we will want to examine it.*

### **Server Abuse**

Any attempts to undermine or cause harm to a BDN server or client of BDN is strictly prohibited. BDN will be the sole arbiter as to what constitutes a violation of this provision. Clients found in violation of this provision will be subject to account deactivation without refund. BDN will turn all available information about abuse incidents, including customer contact data, over to the proper authorities and press charges.

### **Failure to Follow Policies**

Failure to fully comply with these terms is grounds for account suspension and/or deactivation (with or without refund at BDN discretion). Any accounts and/or servers contained within the BDN network must adhere to the above policies.

We reserve the right to remove any account without prior notice. If we deactivate your account for violating policy, you will forfeit your rights to a refund—and none will be given. No refunds for advanced payment. Our normal policy is a warning first, and account deactivation the second offense, but no warning is required.

**Billing**

The Client agrees to pay bills on or before the due date and assumes full responsibility for any consequences of unpaid or late balances.

If invoicing is requested then invoices will be sent via e-mail to the address specified by the account administrator. It is the responsibility of the account administrator to receive and make arrangements for payment. Failure to pay bills on time will result in the loss of connectivity, service reinstatement fees and/or other penalties. When invoices include domain name hosting the failure to pay can result in the loss of domain ownership. There is a service charge for returned checks.

A request to change the method of payment must be made at least 15 working days prior to the due date of the next payment. A request to change the type of hosting plan must be made at least 10 working days prior to the due date of the next payment. Delinquent accounts are those that remain unpaid at the beginning of the next accounting cycle. Accounts that remain delinquent for two weeks or more may be disabled and files deleted. Accounts are automatically deleted after one month of delinquency.

**Disclaimer**

BDN makes no warranties of any kind for its services. BDN specifically disclaims and implied warranties of merchantability of fitness for any particular purpose. BDN, its directors, agents or employees will not be responsible for any losses or damages resulting from delays, non-deliveries, mis-deliveries, service interruptions, or Client's errors or emissions. BDN will not under any circumstances be responsible for consequential damages. The Client is solely responsible for payment and maintenance of DNS record with domain registrar. The Client is solely responsible for content, making backups, and ensuring accuracy and ownership of their domain name.

The validity, construction and performance of this agreement shall be governed by the laws of the State of Hawaii. If any provision of this agreement is held by a court of competent jurisdiction to be contrary to US law, the remaining provisions of this agreement will remain in full force and effect. This agreement shall become affective upon signature.

AGREEMENT TO STANDARD TERMS AND CONDITIONS: I have read the agreement in its entirety, and assert that I am authorized to enter into this agreement on behalf of my company, and agree to all terms and conditions stated herein.

Client Name (print):

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Client Signature:

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Date:

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