

*Making a fortune shouldn't cost one*



# Service Agreement

This Service Agreement for the purpose of providing website design, development and hosting services between Four States Websites and Client, as described herein.

The parties therefore agree to the following conditions:

## Basic Terms and Conditions

### 1. DEFINITIONS

As used herein and throughout this Service Agreement:

- 1.1 Agreement means the entire content of this Service Agreement together with any other Supplements designated herein together with any exhibits, schedules or attachments hereto.
- 1.2 Client Content means all materials, information, photography, writings and other creative content provided by Client for use in the preparation of and/or incorporation in the Deliverables.
- 1.3 Copyrights means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under U.S. Copyright Law.
- 1.4 Deliverables means the services and work product specified in the Proposal to be delivered by Four States Websites to Client, in this form or services entered into as .
- 1.5 Four States Websites Tools means all design tools developed and/or utilized by Four States Websites in performing the Services, including without limitation pre-existing and newly developed software including source code, Website authoring tools, type fonts, and application tools, together with any other software, or other inventions whether or not patentable, and general non-copyrightable concepts such as website design, architecture, layout, navigational and functional elements.
- 1.6 Final Art means all creative content developed or created by Four States Websites, or commissioned by Four States Websites, exclusively for the Project and incorporated into and delivered as part of the Final Deliverables, including and by way of example, not limitation, any and all visual designs, visual elements, graphic design, illustration, photography, animation, sounds, typographic treatments and text, modifications to Client Content, and Four States Website's selection, arrangement and coordination of such elements together with Client Content and/or Third Party Materials.
- 1.7 Final Deliverables means the final versions of Deliverables provided by Four States Websites and accepted by Client.
- 1.8 Preliminary Works means all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by Designer and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art.
- 1.9 Project means the scope and purpose of the Client's identified usage of the work product as described in the Proposal.
- 1.10 Services means all services and the work product to be provided to Client by Four States Websites as described and otherwise further defined in the Proposal.
- 1.11 Third Party Materials means proprietary third party materials which are incorporated into the Final Deliverables, including without limitation stock photography or illustration.
- 1.12 Trademarks means trade names, words, symbols, designs, logos or other devices or designs used in the Final Deliverables to designate the origin or source of the goods or services of Client.

### 2. PROPOSAL

The terms of the Proposal shall be effective for 90 days after presentation to Client. In the event this Service Agreement is not executed by Client within the time identified, the Proposal, together with any related terms and conditions and deliverables, may be subject to amendment, change or substitution.

### 3. FEES AND CHARGES

- 3.1 Fees. In consideration of the Services to be performed by Four States Websites, Client shall pay to Four States Websites fees in the amounts and according to the payment schedule set forth in the Proposal, and all applicable sales, use or value added taxes, even if calculated or assessed subsequent to the payment schedule.
- 3.2 Expenses. Client shall pay Four States Websites expenses incurred in connection with this Service Agreement as follows: (a) incidental and out-of-pocket expenses including but not limited to costs for telephone calls, postage, shipping, overnight courier, service bureaus, typesetting, blueprints, models, presentation materials, photocopies, computer expenses, parking fees and tolls, and taxis at cost plus Four States Websites standard markup of 30%, and, if applicable, a mileage reimbursement at 35 cents Cost Per Mile per mile; and (b) travel expenses including transportation, meals, and lodging, incurred by Four States Websites with Client's prior written approval.
- 3.3 Additional Costs. The Project pricing includes Four States Websites fee only. Any and all outside costs including, but not limited to, equipment rental, photographer's costs and fees, photography and/or artwork licenses, prototype production costs, talent fees, music licenses and online access or hosting fees, will be billed to Client unless specifically otherwise provided for in the Proposal.
- 3.4 Invoices. All invoices are payable within 30 days of receipt. A monthly service charge of 1.5% [or the greatest amount allowed by state law] is payable on all overdue balances. Payments will be credited first to late payment charges and next to the unpaid balance. Client shall be responsible for all collection or legal fees necessitated by lateness or default in payment. Four States Websites reserves the right to withhold delivery and any transfer of ownership of any current work if accounts are not current or overdue invoices are not paid in full. All grants of any license to use or transfer of ownership of any intellectual property rights under this Agreement are conditioned upon receipt of payment in full which shall be inclusive of any and all outstanding Additional Costs, Taxes, Expenses, and Fees, Charges, or the costs of Changes.



## Service Agreement - Con't

### 4. CHANGES

4.1 General Changes. Unless otherwise provided in the Proposal, and except as otherwise provided for herein, Client shall pay additional charges for changes requested by Client which are outside the scope of the Services on a time and materials basis, at Four States Websites standard hourly rate of Four States Websites Hourly Rate per hour. Such charges shall be in addition to all other amounts payable under the Proposal, despite any maximum budget, contract price or final price identified therein. Four States Websites may extend or modify any delivery schedule or deadlines in the Proposal and Deliverables as may be required by such Changes.

4.2 Substantive Changes. If Client requests or instructs Changes that amount to a revision of at least 15% of the time required to produce the Deliverables, and/or the value or scope of the Services, Four States Websites shall be entitled to submit a new and separate Proposal to Client for written approval. Work shall not begin on the revised services until a fully signed revised Proposal and, if required, any additional retainer fees are received by Four States Websites.

4.3 Timing. Four States Websites will prioritize performance of the Services as may be necessary or as identified in the Proposal, and will undertake commercially reasonable efforts to perform the Services within the time(s) identified in the Proposal. Client agrees to review Deliverables within the time identified for such reviews and to promptly either, (i) approve the Deliverables in writing or (ii) provide written comments and/or corrections sufficient to identify the Client's concerns, objections or corrections to Four States Websites. Four States Websites shall be entitled to request written clarification of any concern, objection or correction. Client acknowledges and agrees that Four States Websites ability to meet any and all schedules is entirely dependent upon Client's prompt performance of its obligations to provide materials and written approvals and/or instructions pursuant to the Proposal and that any delays in Client's performance or Changes in the Services or Deliverables requested by Client may delay delivery of the Deliverables. Any such delay caused by Client shall not constitute a breach of any term, condition or Four States Websites obligations under this Agreement.

4.4 Testing and Acceptance. Four States Websites will exercise commercially reasonable efforts to test Deliverables requiring testing and to make all necessary corrections prior to providing Deliverables to Client. Client, within 10 business days of receipt of each Deliverable, shall notify Four States Websites, in writing, of any failure of such Deliverable to comply with the specifications set forth in the Proposal, or of any other objections, corrections, changes or amendments Client wishes made to such Deliverable. Any such written notice shall be sufficient to identify with clarity any objection, correction or change or amendment, and Four States Websites will undertake to make the same in a commercially timely manner. Any and all objections, corrections, changes or amendments shall be subject to the terms and conditions of this Agreement. In the absence of such notice from Client, the Deliverable shall be deemed accepted.

### 5. CLIENT RESPONSIBILITIES

Client acknowledges that it shall be responsible for performing the following in a reasonable and timely manner:

- (a) coordination of any decision-making with parties other than the Four States Websites;
- (b) provision of Client Content in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless otherwise expressly provided in the Proposal; and
- (c) final proofreading and in the event that Client has approved Deliverables but errors, such as, by way of example, not limitation, typographic errors or misspellings, remain in the finished product, Client shall incur the cost of correcting such errors.

### 6. ACCREDITATION/PROMOTIONS

All displays or publications of the Deliverables shall bear accreditation and/or copyright notice in Four States Websites name in the form, size and location as incorporated by Four States Websites in the Deliverables, or as otherwise directed by Four States Websites. Four States Websites retains the right to reproduce, publish and display the Deliverables in Four States Websites portfolios and websites, and in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the Deliverables in connection with such uses. Either party, subject to the other's reasonable approval, may describe its role in relation to the Project and, if applicable, the services provided to the other party on its website and in other promotional materials, and, if not expressly objected to, include a link to the other party's website.

### 7. CONFIDENTIAL INFORMATION

Each party acknowledges that in connection with this Service Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party, including without limitation Preliminary Works ("Confidential Information"). Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the Proposal except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

### 8. RELATIONSHIP OF THE PARTIES

8.1 Independent Contractor. Four States Websites is an independent contractor, not an employee of Client or any company affiliated with Client. Four States Websites shall provide the Services under the general direction of Client, but Four States Websites shall determine, in Four States Websites sole discretion, the manner and means by which the Services are accomplished. This Agreement does not create a partnership or joint venture and neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Four States Websites and the work product or Deliverables prepared by Four States Websites shall not be deemed a work for hire as that term is defined under Copyright Law. All rights, if any, granted to Client are contractual in nature and are wholly defined by the express written agreement of the parties and the various terms and conditions of this Agreement.

8.2 Four States Websites Agents. Four States Websites shall be permitted to engage and/or use third party designers or other service providers as independent contractors in connection with the Services ("Design Agents"). Notwithstanding, Four States Websites shall remain fully responsible for such Design Agents' compliance with the various terms and conditions of this Service Agreement.

8.3 No Solicitation. During the term of this Service Agreement, and for a period of six (6) months after expiration or termination of this Agreement, Client agrees not to solicit, recruit, engage or otherwise employ or retain, on a full-time, part-time, consulting, work-for-hire or any other kind of basis, any employee of Four States Websites, or Design Agent of Four States Websites, whether or not said person has been assigned to perform tasks under this Service Agreement. In the event such employment, consultation or work-for-hire event occurs, Client agrees that Four States Websites shall be entitled to an agency commission to be the greater of, either (a) 25 percent of said person's starting salary with Client, or (b) 25 percent of fees paid to said person if engaged by Client as an independent contractor. In the event of (a) above, payment of the commission will be



## Service Agreement - Con't

due within 30 days of the employment starting date. In the event of (b) above, payment will be due at the end of any month during which the independent contractor performed services for Client. Four States Websites, in the event of nonpayment and in connection with this section, shall be entitled to seek all remedies under law and equity.

8.4 No Exclusivity. The parties expressly acknowledge that this Service Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by Four States Websites, and Four States Websites shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by Four States Websites.

### 9. WARRANTIES AND REPRESENTATIONS

9.1 By Client. Client represents, warrants and covenants to Four States Websites that:

- (a) Client owns all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content,
- (b) to the best of Client's knowledge, the Client Content does not infringe the rights of any third party, and use of the Client Content as well as any Trademarks in connection with the Project does not and will not violate the rights of any third parties,
- (c) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and
- (d) Client shall comply with all laws and regulations as they relate to the Services and Deliverables.

9.2 By Four States Websites:

(a) Four States Websites hereby represents, warrants and covenants to Client that Four States Websites will provide the Services identified in the Service Agreement in a professional and workmanship-like manner and in accordance with all reasonable professional standards for such services.

(b) Four States Websites further represents, warrants and covenants to Client that (i) except for Third Party Materials and Client Content, the Final Deliverables shall be the original work of Four States Websites and/or its independent contractors, (ii) in the event that the Final Deliverables include the work of independent contractors commissioned for the Project by Designer, Four States Websites shall have secure agreements from such contractors granting all necessary rights, title, and interest in and to the Final Deliverables sufficient for Designer to grant the intellectual property rights provided in this Agreement, and (iii) to the best of Four States Websites knowledge, the Final Art provided by Four States Websites and Four States Websites subcontractors does not infringe the rights of any party, and use of same in connection with the Project will not violate the rights of any third parties. In the event Client or third parties modify or otherwise use the Deliverables outside of the scope or for any purpose not identified in the Proposal or this Service Agreement or contrary to the terms and conditions noted herein, all representations and warranties of Four States Websites shall be void.

Except for the express representations and warranties stated in this agreement, Four States Websites makes no warranties whatsoever Four States Websites explicitly disclaims any other warranties of any kind, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or compliance with laws or government rules or regulations applicable to the project.

### 10. INDEMNIFICATION/LIABILITY

10.1 By Client. Client agrees to indemnify, save and hold harmless Four States Websites from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any breach of Client's responsibilities or obligations, representations or warranties under this Service Agreement. Under such circumstances Four States Websites shall promptly notify Client in writing of any claim or suit;

- (a) Client has sole control of the defense and all related settlement negotiations; and
- (b) Four States Websites provides Client with commercially reasonable assistance, information and authority necessary to perform Client's obligations under this section. Client will reimburse the reasonable out-of-pocket expenses incurred by Four States Websites in providing such assistance.

10.2 By Four States Websites. Subject to the terms, conditions, express representations and warranties provided in this Agreement, Four States Websites agrees to indemnify, save and hold harmless Client from any and all damages, liabilities, costs, losses or expenses arising out of any finding of fact which is inconsistent with Four States Website's representations and warranties made herein, except in the event any such claims, damages, liabilities, costs, losses or expenses arise directly as a result of gross negligence or misconduct of Client provided that

- (a) Client promptly notifies Four States Websites in writing of the claim;
- (b) Four States Websites shall have sole control of the defense and all related settlement negotiations; and Client shall provide Four States Websites with the assistance, information and authority necessary to perform Four States Website's obligations under this section. Notwithstanding the foregoing, Four States Websites shall have no obligation to defend or otherwise indemnify Client for any claim or adverse finding of fact arising out of or due to Client Content, any unauthorized content, improper or illegal use, or the failure to update or maintain any Deliverables provided by Four States Websites.

10.3 Limitation of Liability. The services and the work product of Four States Websites are sold "as is." In all circumstances, the maximum liability of designer, its directors, officers, employees, design agents and affiliates ("Four States Websites Parties"), to client for damages for any and all causes whatsoever, and client's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to the net profit of Four States Websites. In no event shall Four States Websites be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by Four States Websites, even if Four States Websites has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

### 11. TERM AND TERMINATION

11.1 This Service Agreement shall commence upon the Effective Date and shall remain effective until the Services are completed and delivered.

11.2 This Service Agreement may be terminated at any time by either party effective immediately upon notice, or the mutual agreement of the parties, or if any party:



## Service Agreement - Con't

(a) becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or

(b) breaches any of its material responsibilities or obligations under this Service Agreement, which breach is not remedied within 30 days from receipt of written notice of such breach.

11.3 In the event of termination, Four States Websites shall be compensated for the Services performed through the date of termination in the amount of (a) any advance payment, (b) a prorated portion of the fees due, or (c) hourly fees for work performed by Four States Websites or Four States Website's agents as of the date of termination, whichever is greater; and Client shall pay all Expenses, fees, out of pockets together with any Additional Costs incurred through and up to, the date of cancellation.

11.4 In the event of termination by Client and upon full payment of compensation as provided herein, Four States Websites grants to Client such right and title as provided for in Schedule A of this Agreement with respect to those Deliverables provided to, and accepted by Client as of the date of termination.

11.5 Upon expiration or termination of this Agreement: (a) each party shall return or, at the disclosing party's request, destroy the Confidential Information of the other party, and (b) other than as provided herein, all rights and obligations of each party under this Agreement, exclusive of the Services, shall survive.

### **12. GENERAL**

12.1 Modification/Waiver. This Service Agreement may be modified by the parties. Any modification of this Agreement must be in writing, except that Four States Website's invoices may include, and Client shall pay, expenses or costs that Client authorizes by electronic mail in cases of extreme time sensitivity. Failure by either party to enforce any right or seek to remedy any breach under this Service Agreement shall not be construed as a waiver of such rights nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

12.2 Notices. All notices to be given hereunder shall be transmitted in writing either by facsimile or electronic mail with return confirmation of receipt or by certified or registered mail, return receipt requested, and shall be sent to the addresses identified below, unless notification of change of address is given in writing. Notice shall be effective upon receipt or in the case of fax or email, upon confirmation of receipt.

12.3 No Assignment. Neither party may assign, whether in writing or orally, or encumber its rights or obligations under this Agreement or permit the same to be transferred, assigned or encumbered by operation of law or otherwise, without the prior written consent of the other party.

12.4 Force Majeure. Four States Websites shall not be deemed in breach of this Agreement if Four States Websites is unable to complete the Services or any portion thereof by reason of fire, earthquake, labor dispute, act of God or public enemy, death, illness or incapacity of Four States Websites or any local, state, federal, national or international law, governmental order or regulation or any other event beyond Designer's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, Four States Websites shall give notice to Client of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of the Services.

12.5 Governing Law and Dispute Resolution. The formation, construction, performance and enforcement of this Service Agreement shall be in accordance with the laws of the United States and the state of Name of State without regard to its conflict of law provisions or the conflict of law provisions of any other jurisdiction. In the event of a dispute arising out of this Service Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation and/or binding arbitration through the American Arbitration Association, or other forum mutually agreed to by the parties. The prevailing party in any dispute resolved by binding arbitration or litigation shall be entitled to recover its attorneys' fees and costs. In all other circumstances, the parties specifically consent to the local, state and federal courts located in the state of Name of State. The parties hereby waive any jurisdictional or venue defenses available to them and further consent to service of process by mail. Client acknowledges that Four States Websites will have no adequate remedy at law in the event Client uses the deliverables in any way not permitted hereunder, and hereby agrees that Four States Websites shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein.

12.6 Severability. Whenever possible, each provision of this Service Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Service Agreement is held invalid or unenforceable, the remainder of this Service Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

12.7 Headings. The numbering and captions of the various sections are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement nor shall such headings otherwise be given any legal effect.

12.8 Integration. This Service Agreement comprises the entire understanding of the parties hereto on the subject matter herein contained, and supersedes and merges all prior and contemporaneous agreements, understandings and discussions between the parties relating to the subject matter of this Service Agreement. In the event of a conflict between the Proposal and any other Service Agreement documents, the terms of the Proposal shall control. This Service Agreement comprises this Basic Terms and Conditions document, the Proposal, Schedule A and Schedule B below.

By their execution, the parties hereto have agreed to all of the terms and conditions of this Agreement effective as of the last date of signature, and each signatory represents that it has the full authority to enter into this Agreement and to bind her/his respective party to all of the terms and conditions herein.

### **Schedule A: Intellectual Property Provisions**

#### **1. RIGHTS TO DELIVERABLES OTHER THAN FINAL ART**

1.1 Client Content. Client Content, including all pre-existing Trademarks, shall remain the sole property of Client or its respective suppliers, and Client or its suppliers shall be the sole owner of all rights in connection therewith. Client hereby grants to Four States Websites a nonexclusive, nontransferable license to use, reproduce, modify, display and publish the Client Content solely in connection with Four States Website's performance of the Services and limited promotional uses of the Deliverables as authorized in this Agreement.

1.2 Third Party Materials. All Third Party Materials are the exclusive property of their respective owners. Four States Websites shall inform Client of all Third Party Materials that may be required to perform the Services or otherwise integrated into the Final Art. Under such circumstances Four States Websites shall inform Client of any need to license, at Client's expense, and unless otherwise provided for by Client, Client shall obtain the license(s) necessary to permit Client's use of the Third Party Materials consistent with the usage rights granted herein. In the event Client fails to properly secure or otherwise arrange for any necessary licenses or instructs the use of Third Party Materials, Client hereby



# Service Agreement - Con't

indemnifies, saves and holds harmless Four States Websites from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of Client's failure to obtain copyright, trademark, publicity, privacy, defamation or other releases or permissions with respect to materials included in the Final Art.

1.3 Preliminary Works. Four States Websites retains all rights in and to all Preliminary Works. Client shall return all Preliminary Works to Four States Websites within 30 days of completion of the Services and all rights in and to any Preliminary Works shall remain the exclusive property of Four States Websites.

1.4 Original Artwork. Four States Websites retains all right and title in and to any original artwork comprising Final Art, including all rights to display or sell such artwork. Client shall return all original artwork to Four States Websites within 30 days of completion of the Services.

1.5 Trademarks. Upon completion of the Services and expressly conditioned upon full payment of all fees, costs and out-of-pocket expenses due, Four States Websites assigns to Client all ownership rights, including any copyrights, in and to any artworks or designs comprising the works created by Four States Websites for use by Client as a Trademark. Four States Websites shall cooperate with Client and shall execute any additional documents reasonably requested by Client to evidence such assignment. Client shall have sole responsibility for ensuring that any proposed trademarks or Final Deliverables intended to be a Trademark are available for use in commerce and federal registration and do not otherwise infringe the rights of any third party. Client hereby indemnifies, saves and holds harmless Four States Websites from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by any third party alleging any infringement arising out of Client's use and/or failure to obtain rights to use or use of the Trademark.

1.6 Four States Websites Tools. All Four States Websites Tools are and shall remain the exclusive property of Four States Websites. Four States Websites hereby grants to Client a nonexclusive, nontransferable (other than the right to sublicense such uses to Client's web hosting or internet service providers), perpetual, worldwide license to use the Four States Websites Tools solely to the extent necessary with the Final Deliverables for the Project. Client may not directly or indirectly, in any form or manner, decompile, reverse engineer, create derivative works or otherwise disassemble or modify any Four States Websites Tools comprising any software or technology of Four States Websites.

## 2. RIGHTS TO FINAL ART

### 2.1 Assignment:

Upon completion of the Services, and expressly subject to payment of Service Plan fees, costs and expenses due, Four States Websites hereby assigns to Client all right, title and interest, including without limitation copyright and other intellectual property rights, in and to the Final Art. Four States Websites agrees to reasonably cooperate with Client and shall execute any additional documents reasonably necessary to evidence such assignment.

Schedule B: Interactive-specific Terms and Conditions

## 1. SUPPORT SERVICES

1.1 Warranty Period. "Support Services" means commercially reasonable technical support and assistance to maintain and update the Deliverables, including correcting any errors or Deficiencies, but shall not include the development of enhancements to the Project or other services outside the scope of the Proposal. During the first Months covered by Warranty months following expiration of this Agreement ("Warranty Period"), if any, Four States Websites shall provide up to Hours covered by Warranty hours of Support Services at no additional cost to Client. Additional time shall be billed at Four States Website's regular hourly rate, then in effect upon the date of the request for additional support.

1.2 Maintenance Period. Upon expiration of the Warranty Period and at Client's option, Four States Websites will provide Support Services for the following Months covered by Maintenance months (the "Maintenance Period") for 6 months. Monthly Maintenance Fee or Hourly Fee and delete the other option below a monthly fee of \$200 Monthly Maintenance Fee OR Four States Website's hourly fees of \$50 Four States Website's Hourly Rate per hour. The parties may extend the Maintenance Period beyond one year upon mutual written agreement.

## 2. ENHANCEMENTS

During the Maintenance Period, Client may request that Four States Websites develop enhancements to the Deliverables, and Four States Websites shall exercise commercially reasonable efforts to prioritize Four States Website's resources to create such enhancements. The parties understand that preexisting obligations to third parties existing on the date of the request for enhancements may delay the immediate execution of any such requested enhancements. Such enhancements shall be provided on a time and materials basis at Four States Website's then in effect price for such services.

## 3. ADDITIONAL WARRANTIES AND REPRESENTATIONS

3.1 Deficiencies. Subject to the representations and warranties of Client in connection with Client Content, Four States Websites represents and warrants that the Final Deliverables will be free from Deficiencies. For the purposes of this Agreement, "Deficiency" shall mean a failure to comply with the specifications set forth in the Proposal in any material respect, but shall not include any problems caused by Client Content, modifications, alterations or changes made to Final Deliverables by Client or any third party after delivery by Four States Websites, or the interaction of Final Deliverables with third party applications such as Web browsers other than those specified in the Proposal. The parties acknowledge that Client's sole remedy and Four States Website's sole liability for a breach of this Section is the obligation of Four States Websites to correct any Deficiency identified within the Warranty Period. In the event that a Deficiency is caused by Third Party Materials provided or specified by Four States Websites, Four States Websites sole obligation shall be to substitute alternative Third Party Materials.

3.2 Four States Websites Tools. Subject to the representations and warranties of the Client in connection with the materials supplied by Client, Four States Websites represents and warrants that, to the best of Four States Website's knowledge, the Four States Website's Tools do not knowingly infringe the rights of any third party, and use of same in connection with the Project will not knowingly violate the rights of any third parties except to the extent that such violations are caused by Client Content, or the modification of, or use of the Deliverables in combination with materials or equipment outside the scope of the applicable specifications, by Client or third parties.

## 4. COMPLIANCE WITH LAWS

Four States Websites shall use commercially reasonable efforts to ensure that all Final Deliverables shall be designed to comply with the known relevant rules and regulations. Client, upon acceptance of the Deliverables, shall be responsible for conformance with all laws relating to the transfer of software and technology.



# Service Agreement - Con't

## HOSTING

The purpose of this Service Agreement section (hereafter referred to as the "Agreement") is to precede a longer-term contract arrangement under which Four States Websites will provide Web Hosting services on behalf of Client.

## TERMS

Subject to the terms and conditions of this Agreement, Company will provide Web Hosting services for Client subject to the following terms:

Length of Service.

Client agrees to an initial twelve (12) month contractual term of service ("Term").

Service Start Date.

The first 90-days payment plus agreed charges, if any, of an agreed Service Plan shall be due in advance of any service provided. Service shall begin upon Company receipt of payment for such first Term of service or upon a mutually agreed upon alternate date.

Renewal by Client.

This Agreement will automatically renew for successive twelve (12) month Terms unless canceled in writing by Client at least 30 days prior to the end of Term renewal date. Renewal prices are subject to change. Renewal of services by Client indicates agreement to any Contract revisions and price changes. Renewal fees for the following term will be automatically invoiced to Client's account.

## COST

Cost will be determined by Client as specified by the following Complete Website Service Plans:

Complete Website Service Plans

**KICK STARTER:** \$20 per month including up to three (3) responsive web pages, monthly website hosting included together with (single) Domain Name renewal and Interactive Links forwarding to external website information.

**SILVER PLAN:** \$30 per month include up to seven (7) responsive web pages, monthly website hosting service included together with (single) Domain Name renewal and Interactive Links forwarding to external website information, Forwarding Email Service and Google Mapping.

**GOLD PLAN:** \$50 per month including up to ten (10) responsive web pages, monthly website hosting service, included together with (single) Domain Name renewal and Interactive Links forwarding to external website information, Forwarding Email Service, Google Mapping and Analytics.

**PLATINUM PLAN:** \$80 per month including up to fifteen (15) responsive web pages, monthly website hosting service, included together with (single) Domain Name renewal and Interactive Links forwarding to external website information, Forwarding Email Service, Google Mapping and Analytics and Custom Videography.

5 GB Storage, 50 GB Bandwidth, PCI Compliant, Scheduled Weekly Backups, On Demand Backups and Technical Support.

## TERMS OF PAYMENT

Terms of payment are C.O.D. unless credit approval has been granted by Four States Websites. If credit approval has been granted, credit terms are net 30 days upon receipt of electronic invoice. We reserve the right to revoke any credit extended if payment is in arrears for more than 30 days.

## PROPRIETARY INFORMATION

Proprietary information exchanged here under shall be treated as such by Client. This information shall include, but not be limited to, the provisions of this Agreement, product and services information and pricing. Client further agrees to not decompose, disassemble, decode or reverse engineer any Company program, code or technology delivered to Client or any portion thereof.

## CENSORSHIP

Four States Websites will exercise no control whatsoever over the content of the information passing through the network, email or web site. However, pornographic, violent or racially divisive content is expressly prohibited.

## WARRANTIES

Four States Websites makes no warranties or representations of any kind, whether expressed or implied for the service it is providing. Four States Websites also disclaims any warranty of merchantability or fitness for any particular purpose and will not be responsible for any damages that may be suffered by Client, including loss of data resulting from delays, non-deliveries or service interruptions by any cause or errors or omissions of Client. Use of any information obtained by way of Four States Websites is at Client's own risk, and Four States Websites specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of an end-to-end connection. Four States Websites does not represent guarantees of speed or availability of end-to-end connections. Four States Websites expressly limits its damages to Client for any non-accessibility time or other down time to the pro-rata monthly charge during the system unavailability. Four States Websites specifically denies any responsibilities for any damages arising as a consequence of such unavailability.

## TRADEMARKS AND COPYRIGHTED MATERIAL

Client warrants that it has the right to use any applicable trademarks or copyrighted material used in connection with this service.

## TERMINATION

Four States Websites may terminate this Agreement at its sole discretion upon the occurrence of one or more of the following events: 1) failure to comply with any



## Service Agreement - Conclusion

provisions of the Service Agreement upon receipt of written notice from Client of said failure, 2) appointment of Receiver or upon the filing of any application by Client seeking relief from creditors, 3) upon mutual agreement in writing of Four States Websites and Client.

### **INDEMNIFICATION**

Client shall indemnify and hold Four States Websites harmless from and against any and all claims, judgments, awards, costs, expenses, damages and liabilities (including reasonable attorney fees) of whatsoever kind and nature that may be asserted, granted or imposed against Company directly or indirectly arising from or in connection with Client's marketing or support services of the product or services or the unauthorized representation of the product and services or any breach of this Service Agreement by Client.

### **GENERAL**

If any provision of this Service Agreement is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement shall be governed by and construed in accordance with the laws of the State. A failure by any party to exercise or delay in exercising a right or power conferred upon it in this Agreement shall not operate as a waiver of any such right or power.

\*Please keep a copy for your own records.