



**.kiwi WHOIS and Privacy Policy**

Version 1.0  
9<sup>th</sup> January 2014

Dot Kiwi Limited

## 1. Objectives

The objectives of this Privacy Policy are:

- 1.1. To disclose to the Registrant, and in doing so obtain the Registrant's consent to the fact that the Personal Information (defined below) provided by the Registrant may be dealt with in the following manner by Dot Kiwi Limited (the "Registry"):
  - 1.1.1. Personal Information shall be collected in the form of a Registrant database, which is used, maintained and corrected from time to time in accordance with this and/or other policies or practices of the Registry;
  - 1.1.2. Personal Information shall be collected by the Registry through the Registrar for the purpose of the storage and maintenance of the Personal Information. The Registry may disclose or transfer the Personal Information to any third party other than the Registry Escrow Agent under the circumstances detailed in the "Use and Disclosure" section of this Privacy Policy;
  - 1.1.3. All personal information about the Registrant which is supplied to the Registry, or an accredited registrar, may be available to third parties by way of a public "Whois" service, consistent with:
    - 1.1.3.1 Privacy principles specified in the Registry policies;
    - 1.1.3.2 The Registry Policies;
    - 1.1.3.3 ICANN policies; and/or,
    - 1.1.3.4 Applicable laws, rules and regulations.
- 1.2. To outline the Registry's procedures for the appropriate collection, holding, use, correction, disclosure and transfer of a Registrant's Personal Information by the Registry.

## 2. Definitions

- 2.1. "AUP" or "Registry AUP" means the Acceptable Use Policy
- 2.2. The "Registry " means Dot Kiwi Limited.
- 2.3. "Domain Name" means a Domain Name applied for by a Registrant, whose registration application has been processed and accepted by the Registry.
- 2.4. "Escrow Agent" means a third party contracted to perform data escrow services for the Registry. The data escrow agreement with the Escrow Agent will ensure the transfer of all relevant DNS data and Registrant information, including Personal Information, to

ICANN and a nominated replacement/back-up registry operator, and will ensure the safety and integrity of the Registry's Top Level Domain ("TLD") database. The Escrow Agent is prohibited from use or disclosure of the Registry's TLD data unless that use or disclosure is deemed essential to ensure the stability and integrity of the Registry's TLD.

- 2.5. "Identifier" means a number assigned by the Registry to an individual to uniquely identify the Registrant for the purposes of the Registry's operations. However, an individual's name is not used as an Identifier.
- 2.6. "Personal Information" means information about an individual person, including a Registrant whose identity can reasonably be ascertained from the information, but does not include indexes or aggregations of Personal Information relating to more than one person, such as logfiles, DNS zonefiles, databases or backups. This information may include the name, address, telephone number, and email address of the Registrant.
- 2.7. The "Primary Purpose" of the collection of this information is the storage and maintenance of Personal Information in the Whois database, which is searchable and publicly available.
- 2.8. "Policy" means the contents of the Registry Policy, including the Whois and Privacy section, and any amendments or updates to the Policy made by the Registry from time to time and posted on the Registry's website.
- 2.9. "Registrant" means the individual who applied for or caused to be applied for a Domain Name and whose registration application has been processed and accepted by the Registry.
- 2.10. "Whois Service" means the service provided by the Registry to the public, as described in Section 3 of this Policy, below.

### **3. .KIWI "Whois" Server Implications**

- 3.1. The Registry will maintain a publicly accessible information service known as the Registry's "Whois" service, which service provides information pertaining to a Domain Name as follows:
  - 3.1.1. Technical information on the DNS servers resolving a Domain Name;
  - 3.1.2. The date the Domain Name was inserted into the Registry's database;
  - 3.1.3. The date of last modification;
  - 3.1.4. The date of expiration;
  - 3.1.5. The current status of the Domain Name;

- 3.1.6. The Registrar's contact details;
  - 3.1.7. The Registrant's name;
  - 3.1.8. The Registrant's physical address and/or alternate address;
  - 3.1.9. The Registrant's email and phone numbers and/or alternate address;
  - 3.1.10. The Registrant's state and/or alternate address;
  - 3.1.11. The Registrant's country and/or alternate address.
  - 3.1.12. Details of nominated administrative, technical and billing contacts.
- 3.2. It is not possible to entirely block access to Registrant contact details; it is, however, possible to choose to have published via the Whois service alternative address details. This is analogous to the common practice in national corporate registers of allowing for a different "registered office" and "principle place of business." The Whois will publish the information the Registrant provides; if the Registrant chooses to use an alternative address, the Registrant must provide that information to the Registrar.

#### **4. Collection**

- 4.1. The Registry collects Personal Information for one or more of its functions and/or activities:
- 4.1.1. To identify and maintain detail of Domain Name licencees and their duly appointed delegates;
  - 4.1.2. To provide access to that data to the public and persons connected with licencees;
  - 4.1.3. To provide services to licencees and maintain its database;
  - 4.1.4. For the provision of the "Whois" Service;
  - 4.1.5. To contact the Registrant, including notifications in accordance with the Registry Policies; and/or,
  - 4.1.6. To provide law enforcement and Internet security organisations with information required to investigate or prevent a possible crime.
- 4.2. The Registry's website does utilize technology that collects user information and tracks usage. The Registry's website may feature links to other websites but the Registry is not responsible for the content and privacy practices of any such websites.

## 5. Use and Disclosure

5.1. The Registry may use or disclose Personal Information about a Registrant for a purpose (the secondary purpose) other than the Primary Purpose of collection where:

5.1.1. The Personal Information consists of the contact details of a person connected to a Registrar, Internet service provider or reseller, or persons connected thereto, such as directors, managers or other points of contact;

5.1.2. The Registrant has consented to the use or disclosure; or

5.1.3. The Registry believes in its sole judgment that the use or disclosure is necessary:

5.1.3.1. To lessen or prevent a serious and imminent threat to an individual's life, health or safety; or

5.1.3.2. To lessen or prevent a serious threat to public health or public safety; or

5.1.3.3. Because the Registry has reason to suspect that unlawful activity or a violation of the AUP has been, is being or may be engaged in, and uses or discloses the Personal Information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons (including parties affected by a violation of the AUP) or authorities; or

5.1.3.4. Because the use or disclosure is required or authorised by or under law, rule or regulation; or

5.1.3.5. Because the Registry believes that the use or disclosure is necessary for one or more of the following, by or on behalf of an enforcement body:

a) The prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;

b) The prevention, detection, investigation or remedying of seriously improper or proscribed conduct; or

c) The preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or

5.1.3.6. As ordered by a dispute resolution provider in connection with a Universal Dispute Resolution Policy (UDRP) or Universal Rapid Suspension (URS) proceeding, as mandated by ICANN.

5.2. Nothing in this Section 5 “Use and Disclosure” requires the Registry to disclose any Personal Information; the Registry is always entitled not to disclose Personal Information in the absence of a legal obligation to disclose it.

5.3. The Registry may also be subject to the requirements of present, and any future, policy dealing with transborder data flows if it transfers Personal Information to a person or entity in a foreign country situated outside of New Zealand.

5.4. The Registry maintains and uses servers in diverse locations internationally, necessitating transfer of data, including the Personal Information, between servers and data networks.

## **6. Data Quality**

6.1. The Registry may—but is not obligated to—take steps to make sure that the Personal Information it collects, uses or discloses is accurate, complete and up-to-date. This may include active email, SMS or phone communication from the Registry to the Registrant that by-passes the Registrar in order to activate a Domain Name.

## **7. Data Security**

7.1. The Registry shall take the steps required by the laws of New Zealand to protect the Personal Information it holds from misuse and loss and from unauthorised access, modification or disclosure to the extent required by law.

## **8. Openness**

8.1. This Policy sets out the Registry’s policies concerning its management of Personal Information. The Registry shall make this document available to anyone who asks for it and on its website.

8.2. Upon receipt of written request by any person, the Registry shall let the person know, the Personal Information the Registry holds, for what purposes, and how it collects, holds, uses and discloses that information.

## **9. Access and Correction**

9.1. If the Registry holds Personal Information about a Registrant, it shall provide the Registrant with access to the information upon receipt of written request by the Registrant, except to the extent that the Registry believes:

9.1.1. In the case of Personal Information, providing access may pose a serious and imminent threat to the life or health of any individual; or

- 9.1.2. Providing access may have an unreasonable impact upon the privacy of other individuals; or
- 9.1.3. The request for access is frivolous or vexatious; or
- 9.1.4. The information relates to existing or anticipated legal proceedings and the information would not be accessible by the process of discovery in those proceedings; or
- 9.1.5. Providing access may be unlawful; or
- 9.1.6. Denying access may be required or authorised by or under law, rule or regulation, including, but not limited to, the order of any Court with appropriate jurisdiction; or
- 9.1.7. Providing access may tend to prejudice an investigation of possible unlawful activity; or
- 9.1.8. Providing access may tend to prejudice:
  - 9.1.8.1. The prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; or
  - 9.1.8.2. The preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders; or
  - 9.1.8.3. An enforcement body or Internet security organisation performing a lawful security function asks the Registry not to provide access to the information on the basis that providing access would be likely to cause damage.
- 9.2. The Registry shall not in any event be under any obligation to disclose DNS zone files, payment logs, email archives or data backups to any party, except as required by law or court order.
- 9.3. However, where providing access would reveal evaluative information generated within the Registry in connection with a commercially sensitive decision-making process, the Registry may give the Registrant an explanation for the commercially sensitive decision rather than direct access to the information.
- 9.4. If the Registry holds Personal Information about a Registrant and the Registrant is able to establish that the information is not accurate, complete and up-to-date, the Registry shall take reasonable steps to correct the information so that it is accurate, complete and up-to-date, as requested by the Registrant, except where the data is contained in an historical record or archive.

## **10. Review of Policy**

The Registry reserves the right to review or revise this policy at any time, including to maintain compliance with ICANN Consensus Policy, and those people who volunteer their personal details to the Registry are deemed to acknowledge and be bound by this policy and any changes made to it.