



.kiwi Acceptable Use Policy

Version 1.0
9th January 2014

Dot Kiwi Limited

The registration and use of a domain name in the .kiwi top-level domain (“.kiwi”) must be for lawful purposes. The creation, transmission, distribution, storage of, or automatic forwarding to or framing of any material in violation of applicable laws, regulations, or this AUP is prohibited. This may include, but is not limited to, the following:

- a. Communication, publication, or distribution of material (including through forwarding or framing) that infringes the intellectual property rights and/or right of publicity of another person or entity. Intellectual property rights include, but are not limited to copyrights, design rights, patents, patent applications, trademarks, rights of personality, and trade secret information. Rights of publicity include, but are not limited to, the right to keep one's image and likeness from being commercially exploited without permission or contractual compensation, the right to be left alone, and the right to be forgotten.
- b. Cyber bullying or other harassment.
- c. Registration or use of a domain name which, in the sole discretion of the Registry violates the Naming Policy.
- d. Registration or use of a domain name which is part of a pattern of registration or use where the Registrant has registered or used domain names which violate the Naming Policy;
- e. Failure of the Registrant to transfer the domain name to a third party if, as evidenced in writing, Registrant acted as an agent of the third party when registering for the domain name.
- f. Use of content or methods which, in the sole discretion of the Registry:
 - a. are capable of disruption of systems in use by other Internet users or service providers (e.g., viruses or malware);
 - b. seek or apparently seek authentication or login details used by operators of other Internet sites (e.g., phishing); or
 - c. may mislead or deceive visitors to the site that the site has an affiliation with the operator of another Internet site or business (e.g., phishing).
- g. Use of the domain name to publish or distribute, either directly or through forwarding or framing, images or materials that are prohibited by or constitute an offense under applicable laws, including the law of the Registrant's country of residence.
- h. Use of the domain name to publish or distribute material that includes, by way of example and without limitation, real or manipulated images depicting the sexual exploitation of children, bestiality, and material containing threats or detailed instructions regarding how to commit a crime.
- i. Use of the domain name to publish or distribute defamatory material or material that constitutes racial vilification or “hate speech.”
- j. Use of the domain name to publish or distribute material that constitutes an illegal threat or encourages conduct that may constitute a criminal act.
- k. Use of the domain name to publish or distribute material that is in contempt an order of a court or other authoritative government actor within the jurisdiction of the country of residence of the Registrant, Registrar, or Registry.

1. Electronic Mail

The Registry expressly prohibits Registrants from engaging in the following activities:

- a. Communicating, transmitting, or sending unsolicited bulk email messages or other electronic communications (“junk mail” or “spam”) of any kind including, but not limited to, unsolicited commercial advertising and informational announcements as prohibited by applicable law.
- b. Communicating, transmitting, or sending any material by email or otherwise that harasses another person or that threatens or encourages bodily harm or destruction of property.
- c. Communicating, transmitting, sending, creating, or forwarding fraudulent offers.
- d. Adding, removing, modifying, or forging any network header information with the effect of misleading or deceiving another person or attempting to impersonate another person by using forged headers or other forged identifying information (i.e., spoofing).

2. Disruption of the Registry Network

Registrant may not use a domain name for the purpose of:

- a. Restricting or inhibiting any person in their use or enjoyment of the Registry’s network or a domain name or any service or product of the Registry.
- b. Actually or purportedly reselling the Registry’s services or products without the prior written consent of the Registry.
- c. Communicating, transmitting, or sending very large or numerous pieces of email or illegitimate service requests (i.e., a DDoS attack).
- d. Providing false or misleading information to the Registry.
- e. Facilitating or aiding the transmission of confidential information, private, personal or stolen data including, but not limited to, credit card information (without the owner’s or cardholder’s express written consent).

3. Network Integrity and Security

- a. Registrants are prohibited from circumventing or attempting to circumvent the security of any host, network, or accounts (i.e., cracking or hacking) on, related to, or accessed through the Registry’s network. This includes, but is not limited to:
 - i. accessing data not intended for the Registrant;
 - ii. logging into a server or account which the Registrant is not expressly authorised to access;
 - iii. using, attempting to use, or attempting to ascertain a username or password without the express written consent of the operator of the service in relation to which the username or password is intended to function;
 - iv. probing the security of other networks; and/or
 - v. executing any form of network monitoring which is likely to intercept data, of any nature, not intended for the Registrant.
- b. Registrants are prohibited from effecting any network security breach or disruption of any Internet communications including, but not limited to:
 - i. accessing data of which the Registrant is not an intended recipient; and/or
 - ii. logging onto a server or account which the Registrant is not expressly authorised to access.

For the purposes of this section, “disruption” includes, but is not limited to:

- 1) port scans, TCP/UDP floods, packet spoofing;
 - 2) forged routing information;
 - 3) deliberate attempts to overload or disrupt a service or host; and/or,
 - 4) using the Registry's network in connection with the use of any program, script, command, or sending messages with the intention or likelihood of interfering with another user's terminal session by any means, locally or by the Internet.
- c. Registrants who compromise or disrupt the Registry's network systems or security may incur criminal or civil liability. The Registry will investigate any such incidents and will notify and cooperate with law enforcement and other appropriate governmental actors if an alleged crime or other alleged wrongdoing in violation of this AUP is suspected to have taken place.

4. Non-Exclusive, Non-Exhaustive

This AUP is intended to provide guidance as to acceptable use of the Registry's network and domain names. However, the AUP is neither exhaustive nor exclusive.

5. Enforcement

The Registry may, in its sole discretion, with the cooperation of the sponsoring Registrar, suspend, transfer, or terminate a Registrant's service, including a domain name registration, for violation of any of the terms and conditions of the AUP on receipt of a complaint if the Registry, in its sole discretion, believes:

- a. a violation of the AUP has or may have occurred; and/or
- b. suspension and/or termination may be in the public interest.

Except in extreme situations, the Registry may work with Registrars to effect the appropriate action.

6. DISCLAIMER AND LIMITATION OF LIABILITY

THE REGISTRANT ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE REGISTRY AND THE REGISTRY RELATED PARTIES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA, OR OTHERWISE RELATING TO THE USE, SUSPENSION, TERMINATION OR THE INABILITY TO USE THE DOMAIN NAME OR IN ANY OTHER WAY RELATED TO THE DOMAIN NAME, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING IN THE CASE OF NEGLIGENCE BY THE REGISTRY AND/OR REGISTRY RELATED PARTIES), OR OTHERWISE. THE REGISTRY'S LIABILITY FOR ANY BREACH OF A CONDITION OR WARRANTY IMPLIED BY ANY OF THE REGISTRY POLICIES, INCLUDING THE NAMING POLICY, ACCEPTABLE USE POLICY, REGISTRANT AGREEMENT, PRIVACY & WHOIS POLICY, COMPLAINT RESOLUTION SERVICE, AND/OR THE REGISTRY-REGISTRAR AGREEMENT SHALL BE LIMITED TO THE MAXIMUM EXTENT POSSIBLE TO ONE OF THE FOLLOWING (AS THE REGISTRY MAY DETERMINE IN ITS SOLE DISCRETION:

- A. SUPPLYING THE DOMAIN NAME AGAIN; OR
- B. PAYING THE REASONABLE COST INCURRED OF HAVING THE SERVICES SUPPLIED AGAIN.

ADDITIONALLY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE REGISTRY AND THE REGISTRY RELATED PARTIES SHALL NOT BE LIABLE FOR ANY LOSSES OR DAMAGES THAT THE REGISTRANT MAY INCUR AS A RESULT OF UNAUTHORIZED USE OF THE DOMAIN ARISING FROM "HACKING," DENIAL OF SERVICE ATTACK, VIRUS, WORM, OR OTHERWISE, OR FOR LACK OF FITNESS FOR A PARTICULAR PURPOSE OF THE DOMAIN NAME OR SERVICES RELATED TO THE DOMAIN NAME.

IN THE EVENT THAT THE REGISTRY OR A REGISTRY RELATED PARTY TAKES ACTION WITH RESPECT TO A REGISTRY DOMAIN NAME PURSUANT TO THE REGISTRY POLICIES, WHICH ACTION IS REVERSED, MODIFIED, OR ACKNOWLEDGED TO HAVE BEEN INCORRECT BY THE REGISTRY AND/OR A REGISTRY RELATED PARTY, BY OR THROUGH THE REGISTRY COMPLAINT RESOLUTION SERVICE, OR BY A COURT, THEN REGISTRANT AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE REGISTRY AND/OR REGISTRY RELATED PARTIES SHALL NOT BE LIABLE FOR ANY DAMAGES THAT THE REGISTRANT MAY SUFFER THEREBY, EVEN IF THE REGISTRY AND/OR REGISTRY RELATED PARTIES HAVE BEEN ADVISED OF THE POTENTIAL FOR SUCH DAMAGES, AND EVEN IF THE REGISTRY AND/OR REGISTRY RELATED PARTIES MAY FORESEE SUCH POSSIBLE DAMAGES. THE REGISTRANT'S SOLE REMEDY UNDER SUCH CIRCUMSTANCES SHALL BE THE RESUPPLY OF THE DOMAIN NAME OR, AT THE SOLE DISCRETION OF THE REGISTRY, A REFUND OF THE REGISTRATION FEE, RENEWAL FEE (IF THE CIRCUMSTANCE OCCURRED DURING A RENEWAL TERM) OR REDEMPTION FEE, WHICH REMEDY THE REGISTRANT AGREES CONSTITUTES THE ONLY POSSIBLE DIRECT DAMAGES FLOWING FROM THIS AGREEMENT.

IN ADDITION, THE REGISTRY AND/OR REGISTRY RELATED PARTIES ARE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOT LIABLE FOR ANY DAMAGES THAT THE REGISTRANT MAY SUFFER BECAUSE OF SERVICE OR SYSTEM FAILURE, INCLUDING DOMAIN NAME SYSTEM FAILURE, ROOT SERVER FAILURE, TELECOMMUNICATION FAILURE, INTERNET PROTOCOL ADDRESS FAILURE, ACCESS DELAYS OR INTERRUPTIONS, DATA NON-DELIVERY OR MIS-DELIVERY, ACTS OF GOD, UNAUTHORISED USE OF PASSWORDS, ERRORS, OMISSIONS OR MIS-STATEMENTS IN ANY INFORMATION OR OTHER SERVICES PROVIDED UNDER THIS AGREEMENT, DELAYS OR INTERRUPTIONS IN DEVELOPMENT OF WEB SITES, RE-DELEGATION OF THE REGISTRY TOP-LEVEL DOMAIN NAME, OR BREACH OF SECURITY, EVEN IF THE REGISTRY AND/OR REGISTRY RELATED PARTIES HAVE BEEN ADVISED OF THE POTENTIAL FOR SUCH DAMAGES, AND EVEN IF THE REGISTRY OR REGISTRY RELATED PARTIES MAY FORESEE SUCH POSSIBLE DAMAGES. THE REGISTRANT'S SOLE REMEDY FOR THE REGISTRY OR REGISTRY RELATED PARTIES' BREACH OF THIS AGREEMENT OR NEGLIGENCE OF ANY TIME SHALL BE, AT THE SOLE DISCRETION OF THE REGISTRY OR THE REGISTRY RELATED PARTIES, THE RESUPPLY OF THE DOMAIN NAME OR A REFUND OF THE REGISTRATION FEE, REDEMPTION FEE OR RENEWAL FEE (IF THE BREACH OCCURS DURING A RENEWAL TERM), WHICH REMEDY THE REGISTRANT AGREES CONSTITUTES THE ONLY POSSIBLE DIRECT DAMAGES FLOWING FROM THIS AGREEMENT. THE REGISTRANT'S SOLE REMEDY FOR AN ACTION NOT FLOWING FROM THIS AGREEMENT (IN TORT OR OTHERWISE) SHALL BE LIMITED TO THE AMOUNT OF MONEY PAID TO THE REGISTRY OR REGISTRY RELATED PARTIES BY THE REGISTRANT.

7. Modification of Network Data

The Registry is committed to an open Internet and to freedom of expression. However, in the course of its duties to comply with ICANN consensus policies, UDRP, URS, or CRS decisions, court or other

governmental orders, or other duly-qualified law enforcement requests, or to protect the integrity and functioning of its networks, the Registry, in its sole discretion, reserves the right to:

- a. remove or alter content, Zone File data and/or other material from its servers that violates the provisions or requirements of this AUP;
- b. re-delegate, redirect or otherwise divert traffic intended for any service;
- c. notify operators of Internet security monitoring services, virus scanning services and/or law enforcement authorities of any breach or apparent breach of this AUP or other Registry Policies; and/or
- d. terminate access to the Registry's network by any person or entity that the Registry determines has violated the provisions or requirements of this AUP.