



DOMAINVAULT

Services Agreement

17 Feb 2014

Domain Vault Limited

Domain Vault Services Agreement

THIS IS A LEGALLY BINDING AGREEMENT. Checking the "I Agree" box during the registration, signup or renewal process means that you agree to all the terms and conditions of this domain name services agreement ("Agreement"). If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "you" or "your" shall refer to such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you must not use any of our Services.

1. Overview of this Services Agreement

1.1 Parties; Services. This Agreement governs the terms and conditions upon which Domain Vault Limited ("Domain Vault", "we", "us") agrees to provide you ("Registered Name Holder" or "you") with the domain name registration service and other services ("Services") as described on our website www.domainvault.co.nz ("Website") and in this Agreement.

1.2 Other Binding Documents. By using our Services, you acknowledge that you have read, understood, and agree to be bound by the terms and conditions of this Agreement, as well as the documents, policies and agreements referred to herein (such as the URS, UDRP and our Payment Terms and Privacy Policy). You acknowledge and agree that if you breach this Agreement (including the documents, policies and agreements referred to herein), we may suspend, cancel or modify your use of the Services.

1.3 Changes. We reserve the right to amend the terms and conditions set out in this Agreement or the operation of the Services by notice to your Domain Vault account. If we increase the fees for our Services, we will give you fourteen (14) days' prior notice of the change. If you do not agree to the amendment of this Agreement or the Services or the increase in fees, you may terminate this Agreement by emailing support@domainvault.co.nz and we will assist you to transfer your domain name to the ICANN accredited domain name registrar of your choice.

2. Domain Name Registration, Administration and Renewal Services

2.1 Domain Vault has applied to become an accredited Registrar of the Internet Corporation for Assigned Names and Numbers ("ICANN"). Domain Vault is currently a Reseller for the top level domains ("TLDs") listed in Section 25. If you choose to register any of these TLDs with Domain Vault, there may be additional contractual requirements that apply to you. You are responsible for reviewing and complying with these additional terms and conditions, as set forth in Section 25 and by the applicable TLD Registry.

2.2 All domain names that we register or renew for you ("Registered Names") shall not be effective unless and until the administrator for the particular TLD ("Registry") updates the central domain name registry database in accordance with the information you have provided to Domain Vault, pursuant to the terms of the relevant Registry-Registrar Agreement entered into between that Registry and Domain Vault and the rules and regulations of the applicable Registry.

3. Registration, Renewal, Recovery and Transfer of Domain Names

3.1 We register domain names on a first come, first served basis and do not guarantee that any domain name applied for by you will be able to be registered. If you are applying for a Sunrise or Landrush, pre-launch domain name registration, we will accept registrations in accordance with the rules published on the respective Registry website.

3.2 You agree that you will not take any action in relation to a particular domain name until we confirm the successful registration of that domain name ("Registered Name").

3.3 You do not gain any proprietary rights in a Registered Name simply by registering the name. Registration and/or renewal of a Registered Name only gives you a personal license ("Domain Name License") to use the Registered Name for the period during which the registration of the domain name remains current ("Registration Period").

3.4 Your continued use of a Registered Name is subject to your timely payment of renewal fees before the end of the Registration Period and your continued compliance with this Agreement and any rules or policies published on our Website. If we do not receive the applicable renewal fees for a Registered Name (as cleared funds) by the end of the Registration Period, we reserve the right to immediately cancel the registration of the Registered Name and remove it from the Registry's root zone file, at which time, the Registered Name will cease to resolve to the nominated nameservers.

3.5 Auto-Renewal Service. We offer an Auto-Renewal Service, to avoid unintentional lapsing of registrations. You can order this Service by selecting the 'Auto-Renewal' feature in your Domain Vault account. If you elect to use this Service, then:

3.5.1 We will automatically renew the registration of your Registered Name for one (1) year periods until you cancel the auto-renewal feature, subject to your continued compliance with the terms of this Agreement and any rules or policies published on our Website.

3.5.2 You authorize us to charge the applicable registration renewal fees to you by charging the credit card information provided. Payment will be required during the month preceding the month in which the current Registration Period for the Registered Name expires. If you do not have valid credit card information attached to your account, Domain Vault reserves the right to cancel the registration of your Registered Name and remove it from the Registry's root zone file upon expiration without further notice to you.

3.5.3 It is your responsibility to ensure payment details remain current for the applicable registration renewal fees where the Auto-Renewal feature has been enabled.

3.6 If You Do Not Renew Your Registration. It is your responsibility to ensure that your registration is renewed. You hereby release and hold Domain Vault harmless against any claim for damage or loss arising from your failure to renew the registration of a Registered Name.

3.6.1 Days 1-30 After Expiration. If you fail to renew a Registered Name by the expiration date, the Registered Name is removed from the Registry's root zone file and held for 30-days, and the website will no longer display any of your content. You may renew the

Registered Name at any time during this 30-day period by paying the domain registration fee. Upon payment, the hold will be removed and the relevant domain name data reinstated to the Registry's root zone file.

3.6.2 Days 31-60 After Expiration. If you fail to renew your Registered Name within the first 30-days after expiration, there is an additional 30-day period in which your Registered Name can still be recovered by Domain Vault and re-registered to you. Domain Vault incurs additional Registry fees and administrative costs to do this, and so Domain Vault will charge you a fee to recover a Registered Name during this 30-day period ("Redemption Fee") in addition to the applicable registration fee. Domain Vault will only recover a Registered Name during this period upon receiving a written notice (either by email or fax) from you requesting Domain Vault to recover the Registered Name and upon payment of the applicable fees.

3.6.3 Days 61+ After Expiration. If you do not renew your Registered Name within the first 60-days after expiration, the Registered Name goes in "pending delete" status and cannot be recovered by Domain Vault. This takes five (5) days, and after that point, the Registered Name is made available for registration by the general public on a first-come, first-served basis.

3.7 Transfers of Domain Name. You can transfer your licensed rights to a Registered Name to a third party transferee ("Transferee") by having the Transferee set up an account with Domain Vault, agree to be bound by this Agreement as the new registrant, and then transferring the Registered Name into the Transferee's account. If you wish to transfer your Registered Name to a different sponsoring registrar, see Section 12 below.

4. Domain Name Dispute Resolution Policy

4.1 By using our Services, you agree to be bound by ICANN's Uniform Rapid Suspension System ("URS") and Uniform Domain Name Dispute Resolution Policy ("UDRP"), as amended from time to time, for resolution of disputes regarding domain names. The URS and UDRP are hereby incorporated into this Agreement by reference.

4.2 In addition to the ICANN dispute resolution mechanisms per 4.1 above, you agree to be bound by those dispute resolution mechanisms established by the applicable TLD registry per Section 25.

4.3 For the adjudication of disputes concerning or arising from use of the Registered Name, you shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts of both your domicile and New Zealand, where Domain Vault is headquartered.

5. Obligations

5.1 ICANN. By using our Services, you agree at all times to comply with all ICANN standards, policies, procedures and practices.

5.2 Registry TLD. By using our Services, you agree at all times to comply with all operational standards, policies, procedures and practices adopted for each Registry TLD.

5.3 Maintaining Your Account Information. To facilitate the timely resolution of any problems that arise in connection with your Registered Name, you agree to provide us with the following information, and update the information to keep it current, at all times during the registration of the Registered Name:

5.3.1 Your full name, postal address, email address, voice telephone number, and fax number (where available);

5.3.2 The name of the authorized person for contact purposes if you are an organization, association, or corporation;

5.3.3 The names and IP addresses of the primary nameserver and secondary nameserver(s) for the Registered Name;

5.3.4 The name, postal address, email address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name; and

5.3.5 The name, postal address, email address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name.

If you provide inaccurate or unreliable information, fail to promptly update information as changes require within seven (7) days, or fail to respond within fifteen (15) calendar days to our inquiries concerning your information, you will have materially breached this Agreement. Material breach is grounds for suspension and/or cancellation of the registration of your Registered Name.

5.4 Licensing Your Registered Name. If you license the use of your Registered Name to a third party licensee ("Licensee"), but do not also transfer your license to the Registered Name in accordance with Section 3.7 or 12, as applicable, you remain the Registered Name Holder of record. As the Registered Name Holder, you remain responsible for payments, maintaining current contact information, and complying with this Agreement in all respects. A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing the Registered Name Holder reasonable evidence of actionable harm.

6. Payments

6.1 To register or renew a Registered Name, you must pay the applicable balance for the registration or renewal of a Registered Name in full and provide any identification or authorization documents requested. We reserve the right to not process a domain name

registration or renewal until full payment has been received and any requested documents have been received. All fees are non-refundable, except where otherwise expressly stated.

6.2 Delinquent Accounts. If you fail to pay any money owed to Domain Vault or if your account is subject to a chargeback (each, a "Debt"), or if any requested identification or authorization documents are not provided, then we shall be entitled in our sole discretion to take any or all of the following actions with or without notice:

6.2.1 Immediately suspend access to your Domain Vault account;

6.2.2 Assume full control of all of the Registered Names in your Domain Vault account;

6.2.3 Transfer some or all of the Registered Names in your account to Domain Vault or its nominee, in partial or total satisfaction of the Debt. You hereby irrevocably appoint Domain Vault as your attorney for the limited purposes of entering into any transaction and executing any document required to give effect to this Section 6.2.

You acknowledge and agree that if Domain Vault exercises its rights under Section 6.2, Domain Vault shall have all rights as the official registrant of the relevant domain name, including the right to sell the domain name to a third party. Domain Vault may in its sole and absolute discretion, re-transfer the relevant domain name to you, subject to the payment of any outstanding registration or renewal fees, as well as the payment to Domain Vault of an administration fee.

6.3 Taxes. Fees quoted by Domain Vault generally do not include applicable taxes and surcharges, if any, such as value-added taxes. Where we have a legal obligation to collect and remit taxes in connection with the Services, we reserve the right to do so.

7. Collection of Personal Information

7.1 You must provide to Domain Vault, the information set out in all of the fields of the applicable account setup, registration, or renewal form ("Personal Information"). You warrant that all Personal Information provided is complete, accurate, reliable and not otherwise misleading. You undertake to ensure that the Personal Information remains correct and current at all times during the Registration Period and to notify us immediately if there has been a change in the Personal Information. Notification may be achieved by updating your personal information through your Domain Vault account, or by email to a customer service representative at support@domainvault.co.nz. Failure to comply with this section shall constitute a material breach of this Agreement.

7.2 You hereby consent to the use and disclosure of your Personal Information in accordance with the Domain Vault Privacy Policy.

7.3 You undertake to provide a copy of this Section 7 and the Domain Vault Privacy Policy to any third-party whose Personal Information is to be supplied to Domain Vault by you and obtain the consent of such third party individuals before disclosing their Personal Information to Domain Vault.

8. Agents and Licensees

8.1 If the Services are used or accessed by your agent, you shall nonetheless be bound as a principal by all terms and conditions of this Agreement, together with the documents, policies and agreements incorporated herein by reference.

8.2 You acknowledge that you remain the responsible contracting party under this Agreement even if you license a third party to use the Registered Name.

9. Disclaimer of Warranties

9.1 Prohibited Domains. The Registry or ICANN may provide that registration of certain domain names is prohibited ("Prohibited Domain"). Domain Vault does not guarantee that any particular domain name you wish to register or renew is not a Prohibited Domain.

9.2 Domain Vault does not guarantee that you will be able to register or renew a particular domain name, even if a preliminary search or inquiry indicates that the domain name is available. This may be due to:

9.2.1 The simultaneous attempted registration of the domain name by another domain name registrar; or

9.2.2 Inaccuracies or errors in the domain name registration or renewal process or related databases, including the various WHOIS databases.

9.3 Domain Vault may in its sole and absolute discretion, accept or reject your application for the registration or renewal of a particular domain name.

9.4 Domain Vault is not responsible or liable in any way for any errors, omissions or any other actions or inactions by the Registry arising out of or in connection with your application for registration or renewal of a particular domain name, or a failure to register or renew a particular domain name.

9.5 TO THE MAXIMUM EXTENT PERMITTED BY LAW, DOMAIN VAULT AND ITS AFFILIATES AND SUBSIDIARIES DISCLAIM ALL WARRANTIES AND GUARANTEES, WHETHER EXPRESS OR IMPLIED, REGARDING THE SERVICES THAT DOMAIN VAULT MAY PERFORM OR MAKE AVAILABLE TO YOU FROM TIME TO TIME, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR USE. OUR WEBSITE, AND THE PRODUCTS AND SERVICES WE MAKE AVAILABLE, ARE PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS, AND ARE NOT GUARANTEED TO BE UNINTERRUPTED OR ERROR-FREE. To the extent that such warranties or guarantees cannot be disclaimed by law, you agree that the liability of Domain Vault and its affiliates and subsidiaries shall be limited to the re-supply of the Services (except to the extent that such limitation is in breach of applicable law).

10. Limitation of Liability

10.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER DOMAIN VAULT (AND ITS AFFILIATES AND SUBSIDIARIES) NOR THE REGISTRY SHALL HAVE ANY

RESPONSIBILITY OR LIABILITY TO YOU OR YOUR AGENT OR NOMINEE FOR ANY AND ALL INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL LOSS OR DAMAGE OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH OUR WEBSITE, PRODUCTS OR SERVICES OR THIS AGREEMENT.

10.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT IN NO EVENT WILL THE LIABILITY OF DOMAIN VAULT AND ITS AFFILIATES AND SUBSIDIARIES UNDER THIS AGREEMENT FOR ANY MATTER ARISING OUT OF OR IN CONNECTION WITH OUR WEBSITE, PRODUCTS OR SERVICES OR THIS AGREEMENT EXCEED THE FEES PAID BY YOU TO DOMAIN VAULT DURING THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO YOUR CLAIM.

11. Indemnity

To the maximum extent permitted by applicable law, you agree to indemnify, keep indemnified, defend and forever hold harmless, Domain Vault, the Registry and the Registry's sub-contractors, and the directors, officers, employees, agents and affiliates of each of them, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable legal fees) arising out of or in connection with:

11.1 Your application to register or renew a particular domain name, or a failure to register or renew that domain name;

11.2 Your registration or use of any Registered Name, whether registered in your name or the name of your agent or nominee;

11.3 Your violation of any third party right, including without limitation any intellectual property or other proprietary rights; or

11.4 Any URS, UDRP, or Registry administered dispute resolution proceeding or other legal or administrative proceeding about any Registered Name, whether initiated by you or by a third party.

The indemnity set out in this Section 11 shall survive the termination or expiration of this Agreement.

12. Change in Registrar

You may change registrars for your Registered Name, but only in accordance with the ICANN approved Policy on Transfer of Registrations between Registrars. If you change registrars, our obligations under this Agreement will be terminated. Termination of this Agreement does not affect any accrued rights or remedies of either party existing as at the date of termination. If you believe your Registered Name was wrongfully transferred to another registrar, you may contact us at support@domainvault.co.nz to resolve the issue.

13. Use of Registered Name

13.1 If you register or renew any Registered Name with us, you warrant and agree that:

13.1.1 You shall not use your Registered Names to mislead or deceive minors into viewing sexually explicit material, whether in violation of New Zealand law or any other applicable law ("Misleading Activity");

13.1.2 You shall not use your Registered Names to provide (or link or redirect internet traffic to any website that provides) content that is in violation of the Acceptable Use Policy of the applicable TLD registry per Section 25, and/or content that is (each an "Illegal Activity"):

(a) Is hateful, defamatory, derogatory or bigoted based on racial, ethnic, gender or political grounds or otherwise causes injury, damage or harm of any kind to any person or entity;

(b) Is threatening or invades another person's privacy or property rights or otherwise breaches any rights of or duty to a third party;

(c) Depicts minors engaged in any activity of a sexual nature or may otherwise harm minors;

(d) Infringes the trademark, copyright, patent, trade secret or other intellectual property rights of a third party;

(e) Violates any applicable local, state, national or international law or regulation;

(f) Promotes, aids or abets illegal activity of any kind or promotes business opportunities or investments which are not permitted under law;

(g) Advertises or offers for sale any goods or services that are unlawful or in breach of any national or international law or regulation;

(h) Advertise or offer for sale any goods or services the advertiser does not have the legal right to sell; or

(i) Attempts to defraud or harm members of the public in any way (for example, "phishing" sites, malware).

13.2 Domain Vault does not condone the use of a Registered Name for or in connection with any Misleading Activity or any Illegal Activity and reserves the right to report such activities to the relevant legal enforcement agencies if it determines in its sole and absolute discretion that a Registered Name is being used in such manner. Your breach of this Section 13 is a material breach of this Agreement.

13.3 Proprietary Rights in Name. You acknowledge and agree that the registration or renewal of a particular domain name through our Services or the subsequent use of the Registered Name does not confer upon you any proprietary rights in the Registered Name, nor does it guarantee immunity from and against any challenge to the registration of the Registered Name by any third party, nor from the cancellation, suspension or transfer of the Registered Name.

14 Suspension, Cancellation, Transfer or Modification of Domain Name Registration

14.1 By Us. We reserve the right to suspend, cancel, transfer or modify your registration of Registered Names and/or suspend or cancel your account with or without notice if:

14.1.1 You breach any obligation, representation or warranty in this Agreement;

14.1.2 We believe that a Registered Name is being used in connection with a Misleading Activity or an Illegal Activity;

14.1.3 We believe it is necessary to avoid any liability, civil or criminal, on the part of Domain Vault or its affiliates, subsidiaries, officers, directors, employees or agents;
or

14.1.4 We believe that a Registered Name is being used contrary to the Domain Vault Anti-Spam Policy.

In addition, your Registered Names are subject to suspension, cancellation, transfer or modification pursuant to the terms of any applicable rules, policies or procedures adopted by ICANN or any domain name registrar (including Domain Vault) or any central domain name registry operator (including the Registry) to the extent that they are not inconsistent with those of or adopted by ICANN, for the purpose(s) of (a) correcting mistakes by us or any other registrar or any central domain name registry operator (including the Registry) in registering, renewing and/or transferring the Registered Names; or (b) resolving disputes concerning the Registered Names.

14.2 Registry Rights. The relevant Registry has the right to deny, cancel or transfer any registration or transaction, or place any domain name on registry lock, hold or similar status that it deems necessary in its discretion:

14.2.1 To protect the integrity and stability of the Registry;

14.2.2 To comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process;

14.2.3 To avoid any liability, civil or criminal, on the part of the Registry, as well as its affiliates, subsidiaries, officers, directors and employees;

15. Domain Parking

Domain Vault offers a domain parking Service free of charge. If you use this Service, Domain Vault will host your domain names ("Parked Domains") on a domain name server owned or controlled by Domain Vault or a related entity. Domain Vault reserves the right to designate content (including, without limitation, advertising) that will be displayed on Parked Domains and to retain the proceeds of such activities. To the maximum extent permitted by law, Domain Vault and its affiliates shall have no responsibility and shall not be liable to you or your agent for any criminal or civil sanctions imposed on you or your agent as a direct or indirect result of any content available on or linked from such Parked Domains, including, without limitation, adult material, whether or not such redirection is caused by the categorization of the Parked Domain by Domain Vault and its affiliates.

16. Survival

Sections 4, 6-11, and 16-25 shall survive the termination or expiration of this Agreement.

17. Severability

If a court of competent jurisdiction finds any provision of this Agreement unlawful or unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.

18. Entire Agreement

This Agreement (together with the documents, policies and agreements incorporated herein by reference) constitutes the entire agreement between you and us regarding the provision of the Services and supersedes all prior agreements and understandings, whether established by custom, practice, policy, or precedent.

19. Governing Law and Venue

For purposes of contract law, this Agreement is deemed to be formed between you and us in Auckland, New Zealand. This Agreement is governed in all respects by and construed in accordance with the laws of New Zealand, excepting conflicts of laws, and you and we agree to submit without objection to the non-exclusive jurisdiction (without prejudice to other potentially applicable jurisdictions) of the courts located in New Zealand.

20. Relationship

Nothing in this Agreement shall be construed as creating the relationship of agency, employment, partnership or joint venture between the parties.

21. Force Majeure

Neither party will be in default or otherwise liable for any delay or failure in its performance under this Agreement where such delay or failure arises by reason of an act of God, any government or governmental body, acts of war, the elements, strikes or labour disputes, power or system failures, failure of the Internet, computer hacking, or other causes beyond the reasonable control of such party.

22. Waiver

Failure by either party to exercise or enforce any right or provision of this Agreement shall not be deemed to be a waiver of such right or provision and does not affect the right to require any provision to be performed at any time thereafter.

23. Notices

All notices required to be sent under this Agreement shall be sent via email: (a) If to Domain Vault, to support@domainvault.co.nz, and (b) If to you, to the primary email address listed on your Domain Vault account. Any notice sent shall be deemed to have been received at the time and date logged

by the sender's email server of confirmation of delivery of the email message to the recipient's email server.

24. Assignment

We reserve the right to assign this Agreement to a third party, such as an acquirer of Domain Vault. You may assign this Agreement, and your rights to a Registered Name, solely in accordance with Section 3.7 or 12, as applicable.

25. Top Level Domains

Top-Level Domain
.kiwi

Registry
Dot Kiwi Limited

Website
<https://dot-kiwi.com>