

.nz Terms and Conditions

This agreement was last updated 25 May 2018.

BACKGROUND

- Umbrellar Limited trading as Webdrive ("Webdrive") is an authorised .nz registrar and offers domain name registration services to the public through its connection with Internet New Zealand ("Internet NZ", "Registry").
- The Registrant has requested Webdrive to provide services to him/her/it and Webdrive has agreed to do so on the terms and conditions set out in this Agreement.

OPERATIVE CLAUSES

1. DEFINITIONS

For the purposes of this Agreement the following words have the following meanings assigned to them:

"Customer", "You" and "Your" means the Registrant.

"DNC" means the office of the Domain Name Commissioner.

"GDPR" means General Data Protection Regulation.

"Privacy Policy" means the privacy policy from time to time adopted and followed by Webdrive and posted on its official website.

"Services" means the provision of domain name registration and registrar services by Webdrive.

"Us", "We" and "Our" means Umbrellar Limited trading as Webdrive ("Webdrive").

2. WEBDRIVE'S OBLIGATIONS

We agree that upon complying fully with your obligations under this Agreement (including without limitation making payment of all fees in full) we will:

- 2.1** Comply with all .nz policies promulgated by any lawful authority from time to time and all statements of roles and responsibilities and accurately represent all of these to you.
- 2.2** Disclose accurately and completely all our terms and conditions associated with your use of our services to register and maintain a domain name sought to be used by you, including price and billing information.
- 2.3** Comply with your lawful directions in a diligent and timely manner regarding your .nz domain name (for example, registration, cancellation, amendment, deletion and associated technical support and billing) PROVIDED HOWEVER our accepting your instruction does not provide any guarantee that the domain name(s) sought to be registered is available or will be able to be secured for you.
- 2.4** Process any new .nz domain name registrations with the registry within one (1) hour from the time we receive all the information required to complete a registration if it is within our advertised business hours and otherwise within one (1) hour.
- 2.5** Notify you of the registration of your domain name(s), including the details of: the domain name, your contact details, our contact details, the registration period, the unique authentication ID for your domain name and your obligations as a registrant.
- 2.6** Arrange for correction of any error in the information in the register about any domain name registered to you when requested.
- 2.7** Provide to you, or to someone we reasonably believe to be acting on your behalf, the unique authentication ID for your domain name when requested and for no charge.
- 2.8** Use your personal information only as authorised by you.
- 2.9** Take all reasonable steps to safeguard and protect all information about you stored in our databases and system(s).
- 2.10** Comply with any order of any authority having jurisdiction regarding any domain name registered to you.
- 2.11** Use our best endeavours to deal with any complaints you may have about the services we provide for you.
- 2.12** Comply with our Privacy Policy.
- 2.13** Accept (in our sole discretion) cancellations of domain name registrations within five days of initial registration and provide a refund of the payment made by you for registration excluding an NZ\$5 administration fee.

3. THE REGISTRANT'S OBLIGATIONS

You agree that you will:

3.1 Comply with the .nz policies promulgated by any lawful authority from time to time and all statements of roles and responsibilities issued by the DNC. You agree that you have read and understood all .nz current policies and statements posted at the official website of the DNC.

3.2 Make sure all information you gave us is accurate and complete, keep us informed of changes to any information you give us and in particular update and maintain using the interface provided at Webdrive's official website, and that you have the authority to enter into this agreement. We will not be liable to you for anything in any way should your contact or other details not be kept accurate or up to date.

3.3 Keep the unique authentication ID for your domain name and any other security information that we give to you confidential, safe and secure.

3.4 Satisfy yourself that your use of a domain name will not infringe anybody's intellectual property rights and protect us, and everybody we are in any business relationship with to provide services to you, from any such claim.

3.5 Ensure that you only use our services for a lawful purpose.

3.6 Ensure that the use of any domain name registered to you does not interfere with other users of the Internet.

3.7 Ensure that any order of any authority having jurisdiction regarding any domain name registered to you is complied with.

3.8 Protect and fully indemnify us, and everybody we have a business relationship with, against any legal action taken against us because of the receipt or use of our services by you or someone you are responsible for, including reliance by us or anybody we have a business relationship with, on information supplied by you.

Duties of Other Persons

3.9 You are responsible for everyone who uses a domain name registered to you to ensure they also meet the above duties.

4. REGISTRATION AND RENEWAL OF A DOMAIN NAME

When a domain name in the .nz domain name space is registered to you, or in your name as directed by you, you agree:

4.1 Operation of the .nz domain name space requires the collection of information, including some personal information, from you. In order to have a domain name registered in your name, this information must be entered into the register (see clause 5 below for more details regarding the register).

When a domain name in the .nz domain name space is registered to you, or in your name as directed by you, you agree:

4.2 By entering into this agreement, you consent to providing us with the following personal information (“personal information”):

- name;
- email;
- address;
- country;
- phone number.

4.3 While you have the right to withdraw your consent to providing us with your personal information, without this personal information we cannot perform our obligations under this agreement (including registering and maintaining a domain name for you) because:

- i) the personal information is necessary in order for your domain name to be recorded on the .nz register;
- ii) we need to be able to contact you in relation to the administration of the domain name; and
- iii) we are required by .nz policies to collect your personal information;

4.4 If you decide to transfer management of your domain name to another registrar, or if your domain name is cancelled, or if this agreement ends for any other reason, we will continue to store your personal information for a period of not less than 6 years for limitation and tax administration purposes.

4.5 You further agree that:

- i) the domain name is registered in your name only because no other person has it according to the records of the register; and
- ii) neither we nor anybody else is representing anything else to anybody regarding that domain name. The entry of a domain name in the Query Service shall not be taken as evidence of anything other than such registration; and
- iii) you protect us and everybody we have a business relationship with to provide services to you, from any claim arising out of the domain name being registered in your name or as you direct.

4.6 The domain name is registered in your name only because no other person has it according to the records of the register; and

4.7 Neither we nor anybody else is representing anything else to anybody regarding the domain name. The entry of a domain name in the "query service" database shall not be taken as evidence of anything other than such registration; and

4.8 That you protect and fully indemnify us and everybody we have a business relationship with to provide services to you, from any claim arising out of the domain name being registered in your name or as you direct.

4.9 The registrant email contact given by you for your domain name(s) will be notified by email more than fourteen (14) days prior to the renewal date for the name(s). It is your responsibility to maintain a correct email contact address. We will

process your renewal only if payment is received in full on or prior to the renewal date. If payment has not been received in full we will not take any action to renew the domain name(s) and shall not be obliged to notify you of this. We will not be responsible for any losses, costs, expenses or damages resulting from the lapsing of the domain name(s) in these circumstances.

5. REGISTER IS THE RECORD

5.1 The register is the authoritative database of .nz domain names and the details shown in the register is treated as the correct record. The register is operated by the registry branch of InternetNZ (“registry”).

5.2 In order to have a domain name, it is necessary that the registry store your personal information on the register.

5.3 When a domain name is no longer registered in your name, the registry will continue to store your personal information (“historical personal information”). Historical personal information may only be disclosed where authorised or required by New Zealand law.

5.4 To the extent GDPR applies, EU registrants have the right to object to the registry storing historical personal information and/or disclosing it as authorised or required by New Zealand law.

5.5 Despite clause 5.4, pursuant to Article 21 of GDPR, the registry maintains that it has compelling legitimate grounds for storing an historical auditable record of all domain names and disclosing historical personal information as authorised or required by New Zealand law. This is because without carrying out these functions, the integrity and operation of the register would be significantly undermined.

6. DNC

6.1 DNC is the entity which regulates the .nz domain name market space.

6.2 DNC provides a domain name registration data query service (“Query Service”) (see section 21 of .nz Operations and Procedures policy for further details). Through the Query Service, the public is able to access the register with respect to a particular domain name from DNCL’s website. Subject to the Individual Registrant Privacy Option (“IRPO”) referred to in clause 6.7 below, in response to a Query, registrants’ personal information will be available (along with the domain name, its commencement and expiry dates and addresses/details of the name servers for it, and our name).

6.3 When a name is cancelled it holds a pending release status. During the pending release period of 90 days from date of cancellation, a registrar may fully re-instate the domain name for the registrant, so that it becomes active again. This means that your personal information remains viewable on the Query Service for that 90 day period. Following the 90 day period when your name is released, your personal information will no longer be disclosed on the Query Service.

6.4 To the extent GDPR applies, EU registrants have the right to object to their personal information being made available through the Query Service. However, pursuant to Article 21 of GDPR, DNC maintains that it has compelling legitimate grounds for disclosing the personal information on the Query Service. This is because without the Query Service, the integrity of the .nz domain name space would be significantly undermined.

6.5 For the avoidance of doubt, by entering into this agreement, you hereby give consent to your personal information being made available on the Query Service.

6.6 To the extent GDPR applies, EU registrants have the right to withdraw their consent under clause 6.5. However, any withdrawal of consent is without prejudice to DNC's position that it has a legitimate interest in disclosing the personal information on the Query Service.

6.7 The IRPO is an optional feature available for individuals who are not using the domain name it is applied to in significant trade. If you are eligible and choose to use IRPO, your telephone number and contact address information will not be disclosed on the Query Service ("Withheld Data"). If you use your domain name for significant trade purposes you will not be eligible for the IRPO (see section 8 of .nz Operations and Procedures policy for further details).

6.8 Despite clause 6.7, Withheld Data may be released in the following circumstances:

- Where applications are made by any person, entity or organisation who have established a legitimate need for the Withheld Data (see sections 22.2-22.22 of .nz Operations and Procedures policy);
- Where disclosure is ordered by a court of competent jurisdiction or is required by any other order with the force of law (see sections 22.23-22.24 of .nz Operations and Procedures policy);
- Where an entity has a Memorandum of Understanding with DNC, such that the entity has automatic access, or alternatively streamlined access, to the Withheld Data (see sections 22.25 to 22.40 of .nz Operations and Procedures policy).

6.9 To the extent that GDPR applies, EU registrants, who are eligible for the IRPO, have the right to object to Withheld Data being disclosed in the circumstances described in clause 6.8. However, pursuant to Article 21 of GDPR, DNC maintains that, based on the Privacy Act 1993 (or any substitute enactment) (and in particular Principle 11) it has compelling legitimate grounds to disclose Withheld Data on these circumstances.

7. PAYMENT OF FEES

7.1 You agree to pay in advance for the services we provide for you at such rate as may from time to time be charged by us. Payment can only be accepted where made by Visa, MasterCard or American Express credit card, direct credit, cheque or cash.

7.2 Current fees for services are set out on our website at www.webdrive.co.nz

7.3 If you transfer a domain name registered to you to another registrant or to be managed by another registrar, all charges owing to us shall become immediately due and payable on the date of that transfer.

7.4 We may alter our fees from time to time. When we alter them we will send you notice of the alteration 30 days before the new fee takes effect.

7.5 Our usual domain name fees are for registration and renewal of domain name licenses and the provision of Domain Name Server (DNS) services. Support is also included to the extent that it is noted on this website on the support page. We may also charge for other products and services provided by us if you chose to add these. We will tell you before any additional charge is incurred via our purchase invoices and any quotes/orders ahead of you agreeing to procure these services.

7.6 Our prices are stated in New Zealand dollars and do not include GST.

7.7 You agree that unless we accept a cancellation under clause 2.13 above, all payments made by you are non-refundable whether in whole or in part once our services have been provided irrespective of what might subsequently happen to your domain name (i.e. suspension, cancellation or transfer of the name to another registrar or registrant).

7.8 In the event of a charge back by a credit card company (or similar action by another payment provider allowed by us) or other non-payment by you in connection with your payment of the registration, renewal or registrar transfer fee, you acknowledge and agree that the domain name shall be cancelled at the Registry. We will reinstate any such registration solely at our discretion and subject to our receipt of the applicable registration, renewal or transfer fee and our reinstatement fee, currently set at NZ\$50.00.

7.9 If we are forced to hand your account over to our debt collection agency for collection you will be liable for these collection costs.

8. SUSPENSION AND REFUSAL TO SUPPLY SERVICES

8.1 If you do not pay our charges for a domain name registered to you we may:

8.1.1 Cancel registration of that domain name; or

8.1.2 Refuse to provide a service you request.

8.2 If a claim is made or threatened against us by any third party, we may immediately cancel or suspend registration or refuse any request for service unless in our sole discretion we are satisfied that the claim is wholly without merit or you provide us with sufficient security (in our discretion) to protect and indemnify us against that claim. Any cancellation, supervision or refusal by us under this clause does not give you any right to claim damages compensation or any losses of any nature from us.

9. CANCELLATION OF A DOMAIN NAME

If we are going to cancel the registration of a domain name registered to you as a result of you not paying our charges relating to that registration or for any breach of this Agreement or any other applicable policies or terms and conditions, we will give you fourteen days notice before we cancel that domain name.

10. EXCLUSION OF LIABILITY

We exclude all liability we may have to you for any claim except where we have acted in bad faith. This exclusion also applies for the benefit of:

10.1 InternetNZ, the registry and any other entity we are in any business relationship with;

10.2 Every officer, employee, contractor, agent of us or any entity in clause 10.1;

10.3 Anyone else we get to perform our duties under any agreement you have with us.

None of the persons specified above is liable or has to pay you for anything else in connection with or resulting from anything any of us does or does not do, or delays in doing, whether or not it is contemplated or authorised by any agreement you have with us.

This exclusion applies whatever you are claiming for and in whatever way liability might arise.

This exclusion does not prevent you getting a court order requiring us to do anything we have agreed to do for you and does not limit any rights you may have (if any) under the Consumer Guarantees Act 1993.

To the extent that you are using our services for a business or business purposes you agree that the Consumer Guarantees Act 1993 does not apply.

11. LIMITATION OF OUR LIABILITY

We have excluded all other liability we or any of the persons specified in clause 10 may have to you. If any of those persons is ever liable to you and, for any reason, cannot rely on the exclusion of liability set out in clause 10 then this clause applies.

Where this clause applies, the maximum combined amount the persons specified above (together) will have to pay you and anyone else who uses the services we provide for you (together) is the amount of the last month's fee paid by you under this Agreement.

12. LAW AND JURISDICTION APPLYING TO THIS AGREEMENT

Unless we otherwise agree in writing, this Agreement contains all the terms of our relationship and continues to apply no matter where you are located at the time any of the services are provided or where you reside. This will be the case until this agreement is cancelled except to the extent clause 16 says otherwise.

To that extent legally permitted:

12.1 All our services are provided under New Zealand law;

12.2 Any claim or dispute arising out of or in connection with this agreement must be instituted within 60 days from the date the relevant service was supplied to you;

12.3 Except as otherwise stated, you may take action against us only in New Zealand court;

12.4 Where you or any registrant for whom you act supplies incorrect information regarding a domain name and we incur cost in any matter concerning that name then we may recover the costs incurred by us from you.

13. CANCELLING THE AGREEMENT

13.1 We may cancel or suspend this agreement by giving you one months notice if you do not meet your duties to us except in the event that we take action under clause 8 or 9.

13.2 We may end the agreement for any other reason by giving you one month's notice.

14. MORE THAN ONE PERSON

You are responsible for everybody who you permit to act for you as a registrant. We will take reasonable care to satisfy our self that you have permitted those persons to act for you.

15. EACH CLAUSE SEPARATELY BINDING

Each clause of the Agreement you have with us is separately binding.

If for any reason we, you, or any of the persons specified in clause 8 cannot rely on any clause, all other clauses of it are binding.

16. RIGHTS AND RESPONSIBILITIES THAT CONTINUE

The cancelling of any Agreement you have with us does not affect any rights and responsibilities, which are intended to continue or come into force afterwards. These include the rights and duties under 3, 6 - 12, 14 - 15, and this clause 16.

17. PRIVACY OPTION

17.1 Registrants who are individuals are able to elect a privacy option (if this option is elected, and the Registrant is eligible, the only contact information displayed in the results returned from a Query (refer Section 22) is the name, email and country. Detailed address and phone information will be withheld (“Withheld Data”) and not be displayed.

17.2 Registrants are able to elect the privacy option at the time of registering the domain name or at any later time. Registrants are able to change their selection at any time through their Registrar.

17.3 To be eligible for the privacy option, Registrants must be

17.3.1 Natural person (“individuals”) and

17.3.2 Not using the domain name to any significant extent in “Trade” as that term is defined and used in the Fair Trading Act 1986.