

## .NYC – Terms and conditions

In addition to your registration agreement, the City of New York by and through the New York City Department of Information Technology and Telecommunications Registry-Registrar Agreement (“**RRA**”) terms and conditions set out here shall apply. In the event of any inconsistency between the terms of your registration agreement and the terms set out here, the RRA terms shall prevail.

1. Registrar's Registration Agreement. Registrar shall require all Registered Name Holders to enter into an electronic or paper registration agreement (the “End User Agreement”) with each Registered Name Holder, and shall maintain such End User Agreement in effect for the life of the relevant registration of a Registered Name within the Registry System. Registrar’s End User Agreement shall, at a minimum and without limitation: Registrar's Registration Agreement. Registrar shall require all Registered Name Holders to enter into an electronic or paper registration agreement (the “End User Agreement”) with each Registered Name Holder, and shall maintain such End User Agreement in effect for the life of the relevant registration of a Registered Name within the Registry System. Registrar’s End User Agreement shall, at a minimum and without limitation:
  - a. Prohibit Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity that is contrary to applicable law;
  - b. Contain a link to and incorporate by reference the Acceptable Use Policy set forth in **Exhibit A**;
  - c. Require the Registered Name Holder to indemnify, defend and hold harmless Registry Operator and its Registry Service Provider, including the directors, officers, employees, affiliates and agents of each of them from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registered Name Holder's domain name registration. The registration agreement shall further require this indemnification obligation survive the termination or expiration of the registration agreement.
2. **Compliance with Terms and Conditions and Operational Requirements.** Registrar shall comply with, and shall include in its End User Agreement with each Registered Name Holder an obligation for such Registered Name Holder to comply with all of the following requirements:
  - a. ICANN Requirements including, without limitation, standards, policies, procedures, and practices for which Registry Operator has monitoring responsibility in accordance with the Registry Agreement or other arrangement with ICANN.
  - b. Operational standards, policies, procedures, and practices for the Registry TLD as set forth in the Registry Agreement and as established from time to time by Registry Operator in a non-arbitrary manner and applicable to all registrars (“Operational Requirements”), including affiliates of Registry Operator, and consistent with ICANN's standards, policies, procedures, and practices and Registry Operator's Registry Agreement with ICANN, as applicable, upon Registry Operator’s notification to Registrar of the establishment of those terms and conditions. Among Registry Operator's operational standards, policies, procedures, and practices are those set forth in

**Exhibit A.** Additional or revised Registry Operator operational standards, policies, procedures, and practices for

the Registry TLD shall be effective upon thirty (30) days notice by Registry

Operator to Registrar. 3.15.3. Registrar agrees to comply with any and all applicable national, state, or local law, regulation, or court order in relation to its provision of Registrar Services.

- c. Registrar shall not represent to anyone that Registrar enjoys access to the Registry Operator's Registry System that is superior to that of any other registrar accredited for the Registry TLD.

## **Exhibit A**

### **Registry Policies**

#### **I. Registration Requirements**

Before the Registry Operator will accept applications for registration from Registrar, all domain name applicants in the .NYC TLD ("Applicants") must: 1. Enter into an electronic or paper registration agreement with the Registrar, in accordance with the ICANN RAA and this Agreement. Such electronic or paper registration agreement shall include, at a minimum, the following certifications:

- a) The data provided in the domain name registration application is true, correct, up to date and complete;
  - b) The domain name registrant has the authority to enter into the registration agreement;
  - c) The domain name registrant shall comply with the .nyc Nexus and Acceptable Use policies;
- and
- d) The domain name will not be used for distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension or deletion of the domain name registration.

#### **II. .nyc Nexus Policy**

The City of New York desires to have only those individuals or entities having a substantive and lawful connection to the City be permitted to register for .NYC domain names ("Nexus Policy").

1. Registrants in .NYC must be either:

- a. a natural person whose primary place of domicile is a valid physical address in the City of New York ("Nexus Category 1")<sup>28</sup> or
- b. an entity or organization that has a physical street address in the City of New York ("Nexus Category 2");

<sup>28</sup>.nyc Registry Registrar Agreement 28

2. The existence of a P.O. Box address in the City of New York shall not qualify for purposes of meeting the Nexus Policy.

3. Registrants must agree in their Agreement with their Registrar and/or Reseller, as applicable, that they are in compliance with all relevant Federal, New York State and New York City laws, including the tax requirements for conducting business via the Internet. Registrants may find more information about compliance with the City tax laws at the City of New York Department of Finance's website (currently at [www.nyc.gov/finance](http://www.nyc.gov/finance)).

4. Registrants must remain in compliance with the applicable Nexus Category for the entire period of such domain name's registration by the registrant;

5. Registrars shall require that all registrants certify that they satisfy the Nexus Policy.

6. Registrants may not license, sub-delegate or otherwise transfer .NYC domain names to third parties that otherwise fail to meet the requirements of this Nexus Policy.

### **III. Nexus Enforcement Rules**

#### **1. Initial Validation.**

All .nyc registrants shall be required to provide a valid New York City physical address as set forth in the .nyc Nexus Policy. The failure of the Registrant to provide a valid New York City physical address in compliance with the .nyc Nexus Policy shall result in the denial of the registration for the applicable domain name.

#### **2. Registry Spot Checks and Enforcement for Continuing Compliance with Nexus Requirements** In addition, the Registry Operator will:

- (i) institute a post-registration random Nexus spot check process as well as
- (ii) investigate specific complaints received from interested third parties.

In the event that the Registry Operator determines that a registrant has not met the Nexus Policy, the Registrant's domain name(s) shall be locked (preventing the domain name from being updated or transferred). An email shall be sent to the Registrant requiring it to submit evidence that it is in fact compliant with the Nexus Policy.

- a. If the determination was made by the Registry Operator as a result of a random spot check, the Registrant shall be provided thirty (30) calendar days to submit evidence of compliance with the Nexus policies. If within that 30-day period the Registrant is able to demonstrate its compliance, the complaint shall be dismissed. If the Registrant is unable to demonstrate compliance, then the Registry Operator shall make an initial .nyc Registry Registrar Agreement 29 determination that the Registrant is in fact not in compliance with the Nexus Policy and shall give the Registrant a period of thirty (30) calendar days to cure the deficiency ("Cure Period"); Failure to remedy the deficiency within the Cure Period shall result in the immediate deletion of the domain name.
- b. If the determination was made by the Registry Operator as a result of a third party complaint, the Registrant shall be given ten (10) calendar days to provide evidence of compliance with the Nexus policies. If within that 10-day period the Registrant is able to demonstrate its compliance, the complaint shall be dismissed. If the Registrant is unable to demonstrate its compliance, then the Registry Operator shall make an initial determination that the Registrant is in fact not in compliance with the Nexus Requirements and shall give the Registrant a period of ten (10) calendar days to cure the deficiency ("Cure Period"); Failure to remedy the deficiency within the Cure Period shall result in the immediate deletion of the domain name. Under this process, the only remedy available is the deletion of the domain name. Domain names will not be transferred to any third-party complainant that avails itself of this process.

#### **3. Third-Party Independent-Dispute Process**

In addition to the Registry spot checks and enforcement actions in response to third-party complaints, a third party may challenge a Registrant's compliance with .nyc Nexus Policy by utilizing the third-party challenge mechanism called the .nyc Nexus Dispute Resolution Policy that provides a legal and policy framework for resolution of any such dispute. A complainant may choose to do this for a variety of reasons, including, but not limited to:

- (i) disagreement with a determination by the Registry Operator that the registrant meets Nexus policies, or
- (ii) a desire to have the name transferred to it if in fact:

- (a) the Registrant does not meet Nexus policies, and
- (b) the complainant is able to demonstrate compliance with Nexus policies.

If a Nexus dispute is initiated pursuant to the .nyc Nexus Dispute Resolution Policy, it may be submitted to an approved Nexus Dispute Resolution Service Provider. The approved Nexus Dispute Resolution Service Provider must follow the .nyc Nexus Dispute Resolution Policy and the document, Rules for Nexus Dispute Policy (collectively referred to as the “NDRP”), but may also add its own supplemental rules so long as such rules do not conflict with the NDRP. The Rules for Nexus Dispute Policy are located at [INSERT LINK].

#### **IV. .nyc Acceptable Use Policy**

1. By registering a name in the .nyc top-level domain (.NYC), the Registrant represents and warrants that it will not use that registration for any illegal purposes, including without limitation, to:

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- a. Distribute malware or engage in malicious hacking, bot-netting, phishing, pharming, fast flux hosting, fraudulent or deceptive practices;
- b. Use, promote, encourage the promotion of, or distribute child abuse images or engage in the exploitation of minors in any way;
- c. Illegally sell or distribute pharmaceuticals;
- d. Infringe the intellectual property rights of any other person or entity including, without limitation, counterfeiting, piracy or trademark or copyright infringement;
- e. Impersonate any person or entity, or submit information on behalf of any other person or entity, without their express prior written consent;
- f. Violate the privacy or publicity rights of any other person or entity;
- g. Promote or engage in any spam or other unsolicited bulk email;
- h. Distribute software viruses or any other computer code, files or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment or computer or network hacking or cracking;
- i. Interfere with the operation of .NYC or services offered by the .NYC Registry Operator; or
- j. Otherwise engage in activity that is contrary to applicable U.S., State or local law or .nyc Policies.

2. By registering a name in .NYC:

a. The Registrant represents and warrants that it has provided current, complete, and accurate information in connection with its Registration, and that you will correct and update this information to ensure that it remains current, complete, and accurate throughout the term of any resulting Registration or Reservation; The Registrant’s obligation to provide current, accurate, and complete information is a material element of this Agreement, and the .NYC Registry Operator reserves the right to immediately deny, cancel, terminate, suspend, lock, or transfer any Registration if it determines, in its sole discretion, that the information is materially inaccurate;

b. The Registrant consents to the collection, use, processing, and/or disclosure of your personal information in the United States and in accordance with the .NYC Privacy Policy posted on the .NYC website at [LINK];

c. The Registrant agrees to submit to proceedings commenced under the Uniform Dispute Resolution Policy (“UDRP”), and the Uniform Rapid Suspension Service (“URS”); You further agree to abide by the final outcome of any of those processes, subject to any appeal rights provided in those processes or the law, and you hereby release the .NYC Registry Operator, its affiliates and service providers from any and all direct or indirect liability associated with such dispute resolution processes..nyc Registry Registrar Agreement 31

3. By registering a name in the .NYC:

a. The Registrant acknowledges and agrees to abide by all .NYC Policies set forth on the .NYC website at [LINK]. The Registrant specifically acknowledges and agrees that the .NYC Policies may be modified by the .NYC Registry Operator, and agree to comply with any such changes in the time period specified for compliance;

b. The Registrant acknowledges and agrees that the .NYC Registry Operator reserves the right to disqualify it or its agents from making or maintaining any Registrations or Reservations in the .NYC if the Registrant is found to have repeatedly engaged in abusive registrations, in the ;NYC Registry Operator's sole discretion

c. *.NYC Administrator reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold or similar status, that it deems necessary, in its discretion if it reasonably concludes that the domain name is being used in a manner that appears to (i) conflict with this Policy, (ii) threaten the stability, integrity or security of the .NYC TLD, the DNS or the global Internet, or any of its registrar partners and/or (iii) put the safety and security of any registrant or user at risk. The process also allows the Registry to take proactive measures to detect and prevent criminal conduct or cybersecurity threats.*

d. *The Registrant acknowledges and agrees that the .NYC Registry Operator reserves the right, in its sole discretion, to take any administrative and operational actions necessary, including the use of computer forensics and information security technological services, among other things, in order to implement the Acceptable Use Policy. In addition, the .NYC Administrator reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold or similar status, that it deems necessary, in its discretion:*

- to enforce .NYC Policies, as amended from time to time;
- to protect the integrity and stability of the .NYC Registry Operator, its operations, and the .NYC;
- to comply with any applicable law, regulation, holding, order, or decision issued by a court, administrative authority, or dispute resolution service provider with jurisdiction over the .NYC Registry Operator or you;
- to establish, assert, or defend the legal rights of the .NYC Registry Operator or a third party, or to avoid any liability, civil or criminal, on the part of the .NYC Registry Operator as well as its affiliates, subsidiaries, owners, officers, directors, representatives, employees, contractors, and stockholders;
- to respond to violations of this policy;
- to correct mistakes made by the .NYC Registry Operator or any Registrar in connection with a Registration or Reservation; or .nyc Registry Registrar Agreement 32
- as otherwise provided herein.

e. The Registrant agrees to indemnify to the maximum extent permitted by law, defend and hold harmless the .NYC Registry Operator, its affiliates and service providers, and each of their respective directors, owners, officers, employees, contractors, and agents, from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registrant's use, operation, Registration of any name and/or website in the ;NYC; The .NYC Registry Operator reserves the right to modify, change, or discontinue any aspect of its services, agreements, or this Acceptable Use Policy.

#### **V. Incorporation of applicable Dispute Resolution Services**

In addition, Registrar agrees to incorporate the following text (or translation of such text into relevant language) into their Registration Agreement:

"The Registrant acknowledges having read and understood and agrees to be bound by the terms and conditions of the following documents, as they may be amended from time to time, which are hereby incorporated and made an integral part of this Agreement:

- (i) The Uniform Domain Name Dispute Resolution Policy, available at <http://www.icann.org/en/help/dndr/udrp/policy>;
- (ii) The Uniform Rapid Suspension Procedure and Rules, available at <http://newgtlds.icann.org/en/announcements-and-media/announcement-05mar13-en>; and
- (iii) The Transfer Dispute Resolution Policy, available at <http://www.icann.org/en/help/dndr/tdrp>."

The UDRP sets forth the terms and conditions in connection with a dispute between a Registrant and any party other than the Registry Operator or Registrar over the registration and use of an Internet domain name registered by Registrant. Registry Operator is not required to ensure that a domain name is being used in compliance with the UDRP.

The URS is one of several new Rights Protection Mechanisms available in the New gTLD Program. It complements the existing UDRP by offering a lower-cost, faster path to relief for rights holders experiencing the most clear-cut cases of infringement. The URS Procedure defines the URS claims process. The Rules will help service providers implement URS in a consistent manner.

The TDRP sets forth the terms under which a dispute relating to Inter-Registrar domain name transfers are handled. Registrars are encouraged to first of all attempt to resolve the problem among the Registrars involved in the dispute. In cases where this is unsuccessful and where a .nyc Registry Registrar Agreement 33

registrar elects to file a dispute, the TDRP procedures apply. Registry Operator is not required to ensure that a domain name is being used in compliance with the TDRP processes.

### **III. Reservation**

Registry Operator reserves the right to deny, cancel, place on registry-lock or hold, or transfer any registration that it deems necessary, in its discretion; (1) to protect the integrity, security and stability of the Internet or Registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement or any other relevant authority or in compliance with any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of Registry Operator and Registry Service Provider and their affiliates, subsidiaries, subcontractors, officers, directors, employees and stockholders; (4) for violations of this Agreement and its Exhibits; (5) to correct mistakes made by Registry Operator or any Registrar in connection with a domain name registration; and/or (6) to ensure compliance with ICANN and/or Registry Operator policies and/or procedures. Registry Operator also reserves the right to lock or place on hold a domain name during resolution of a dispute. Registry Operator will notify Registrar of any cancellations, locks, holds or transfer made by Registry Operator to the Registrar's domain name registrations, via email or other method as may be mutually agreed upon by the Parties, within twenty four (24) hours of any change, unless otherwise required to by law.

Registry Operator reserves the right to take immediate action to remove orphan glue records (as defined at <http://www.icann.org/en/committees/security/sac048.pdf>) when provided with evidence in written form that such records are present in connection with malicious conduct.