

# NameKing Domain Name Registration Agreement

**Last Updated: May 14, 2012**

This Domain Name Registration Agreement ("Agreement") is by and between NameKing.com, Inc. (hereinafter referred to as "NameKing", "we" or "us") and you, your heirs, agents, successors and assigns (hereinafter referred to as "you" or "your").

YOU ACKNOWLEDGE THAT NAMEKING IS AN ICANN-ACCREDITED REGISTRAR BOUND BY AN AGREEMENT WITH ICANN AND THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF ICANN'S UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY LOCATED [HERE](#), AS AMENDED FROM TIME TO TIME, WHICH IS HEREBY INCORPORATED AND MADE A PART OF THIS AGREEMENT BY REFERENCE FOR ALL TLD DOMAIN NAME REGISTRATIONS OR RENEWALS.

## 1. GENERAL

NameKing provides domain name registration services (together with other product offerings and services NameKing may provide from time to time, the "services"). This Agreement sets forth the terms and conditions upon which NameKing will provide you with the services for which you have subscribed. By requesting that NameKing perform the services that you have requested, you are agreeing to be bound by this Agreement. Additionally, by selecting the services you have agreed to establish an account with us for such services. When you use your account or permit someone else to use your account to purchase or otherwise acquire access to services or to modify or cancel your NameKing service(s) (even if we were not notified of such authorization), this Agreement covers any such service or actions. Any acceptance of your application(s) for our services and the performance of our services will occur at the location of our principal place of business in Los Angeles, California. Without limitation, the following are not included in the services: We cannot and do not check to see whether the domain name(s) you select, or the use you make of the domain name(s), or other of the service(s), infringes legal rights of others. It is your responsibility to know whether or not the domain name(s) you select or use infringe any legal rights of others.

## 2. FEES AND PAYMENT

As consideration for the services you have selected, you agree to pay NameKing the applicable service(s) fees for such service(s) as set forth on our website at the time of your selection, unless otherwise contacted. [Click here to view the current Nameking fees.](#) We may also pass through and collect from you any additional fees, surcharges, or other supplemental payment requirement imposed on NameKing by ICANN or any other regulatory agency in relation to your domain name registration. Payment may be made by you by providing a bank wire, a valid credit card, Paypal or check. All fees are due immediately and are non-refundable, including the pre-funding of your account, even if your services are suspended, terminated or transferred prior to the end of the services term. Domain name registrations and services in an unpaid or delinquent status may be manually or automatically deleted at any time, in our sole discretion. NameKing may take any and all remedies available to collect fees owed to it for providing any services including using your credit card/cards on file, funds in your account, or assuming ownership of your domain names and either keeping them for its own account or selling them.

Initial domain name registrations and services and domain name registrations and services whose terms have expired, must be in a paid status in order to be transferred, deleted, or be modified in any way, including modifications to request NameKing to affect the domain name record or to provide domain name services.

You are solely responsible for ensuring that any services you desire to renew are renewed. NameKing shall have no liability to you or to any third party in connection with the renewal or nonrenewal of any services, including, but not limited to, any failure or errors by NameKing or any other party in renewing the

services. Any renewal of your services with us is subject to our then current terms and conditions and payment of all applicable service fees at the time of renewal. In the case of a re-registration, the renewal is subject to the domain name registry's acceptance of your domain name registration. You agree that if you paid by credit card for any services provided by NameKing, NameKing is authorized, but not obligated, to automatically charge your credit card and renew the applicable service(s) on or before their renewal date using the credit card information you have provided to us, unless you have notified us (as provided herein) that you do not wish to participate in our automatic renewal process. You may "opt out" of our automatic renewal process in accordance with the instructions on our Web site and email forms. You are solely responsible for the credit card information you provide to NameKing and must promptly inform NameKing of any changes thereto (e.g., change of expiration date or account number, security code, or billing address).

### **3. SECURITY OF YOUR ACCOUNT**

When you use any of our services through our e-mail, web-based, or wholesale application process, you are responsible for selecting and continuously managing your password and security settings to protect your account and your domain name registration records (including your contact records and host records) from unauthorized changes. You are entirely responsible for maintaining the confidentiality and secrecy of your password and account security settings, as well as your credit card and other information. All consequences of your voluntary disclosure of password and account information as well as all activities that occur in your account are your responsibility.

You agree to notify us immediately of any unauthorized use of your account or any other breach of security. You agree that you will be responsible for all activity that arises from your account, whether initiated by you or others on your behalf and NameKing shall be entitled to rely on any requests which have been initiated from your account. NameKing disclaims any liability for any activity in your account, whether initiated or authorized by you or not. You acknowledge and agree that any and all funds prepaid by you to NameKing are nonrefundable. Funds in your NameKing account can only be used to purchase services from NameKing and will not be credited for other purposes

### **4. ACCURATE INFORMATION**

As further consideration for the service(s), you agree to provide us with certain true, current, complete and accurate information about you as required by our application process as well as to maintain and update this information as needed to keep it true, current, complete and accurate. In furtherance of the foregoing, you hereby agree to notify us within five (5) business days of a change in any information you have provided us, either with respect to your account information or registration information. Failure to provide such new information within the applicable five (5) business day period will constitute a material breach of the terms of this Agreement which will provide us the remedies specified herein, including suspension or termination of your account(s) with us.

We rely on the information you provide us to send you important information and notices regarding your account, legal matters, and our services as well as to provide proper WHOIS information as required by ICANN and the registries with which we have contractual obligations. Our Privacy Policy (which is located [HERE](#)) and incorporated herein by reference sets forth your and our rights and responsibilities with regard to your personal information. You agree that we, in our sole discretion, may modify our Privacy Policy at any time without notice. You agree that, by using our services after modifications to the Privacy Policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modification you may terminate this Agreement after payment of all applicable fees then outstanding. We will not refund any fees paid by you if you terminate your Agreement with us. We will not process the personal data that we collect from you in a way incompatible with the purposes and other limitations described in our Privacy Policy and we will take reasonable precautions to protect your personal data from loss, misuse and unauthorized access or disclosure, alteration or destruction.

You represent and warrant that you have provided notice to, and obtained consent from, any third party individuals whose personal data you supply to us as part of our services with regard to:

- a. the purposes for which such third party's personal data has been collected,
- b. the intended recipients or categories of recipients of the third party's personal data,
- c. which parts of the third party's data are obligatory and which parts, if any, are voluntary; and
- d. how the third party can access and, if necessary, rectify the data held about them.

You further agree to provide such notice and obtain such consent with regard to any third party personal data you supply to us in the future. We are not responsible for any consequences resulting from your failure to provide notice or receive consent from such individuals nor for your providing outdated, incomplete or inaccurate information. Even if you license the use of our domain name registration services to a third party, you remain responsible for complying with all terms and conditions of this Agreement, and you accept liability for harm caused by such licensee's wrongful use of our domain name registration services, unless you promptly disclose the identity of such licensee upon request by any person who provides reasonable evidence of actionable harm.

You acknowledge and agree that domain name registration requires that this contact information, in whole or in part, be shared with the registry operator. As required by ICANN, this information must also be made publicly available by means of WHOIS, and that the registry operator may also be required to make this information publicly available by WHOIS. Both NameKing and our registry partners may be required to archive this information with a third party escrow service. You hereby consent and give permission for all such requirements and disclosures. Further, you represent and warrant that, if you are providing information about a third party, you have notified the third party of the disclosure and the purpose for the disclosure and you have obtained the third party's consent to such disclosure.

Subject to the requirements of our Privacy Policy, in order for us to comply the current rules and policies for the domain name system as required by ICANN, you hereby grant to NameKing the right and authority to disclose to the applicable domain registries and to third parties through an interactive publicly accessible registration database, including the WHOIS database, certain mandatory information that you are required to provide when registering or reserving a domain name as more fully specified in our Privacy Policy.

## **5. MODIFICATIONS TO AGREEMENT**

You agree that we may revise the terms and conditions of this Agreement and/or change the services provided hereunder at any time. Any such revision or change will be binding and effective within ten (10) days after posting of the revised Agreement or change to the service(s) on our website or upon notification to you by posting of a notice on our website, by e-mail or mail. By continuing to use our services after any revision to this Agreement or change in service(s), you agree to abide by and be bound by any such revisions or changes.

You agree to periodically review our Web site, including the current version of this Agreement available on our Web site, to be aware of any such revisions. If you do not agree with any revision to the Agreement, you may terminate this Agreement at any time by providing us with notice by e-mail or mail addressed as follows: NameKing, Inc., c/o Rook Media AG, 1 Meadow Rd, Suite 210, Florida, NY 10921. Notice of your termination will be effective on receipt and processing by us, but is subject to your having paid in full any and all fees or other expenses due and payable by you to us. Any fees paid by you if you terminate the Agreement are nonrefundable, but you will not incur any additional fees unless they are owed to us for any services you ordered that are in unpaid status.

We are not bound by nor should you rely on any representation by (a) any agent, representative or employee of any third party that you may use to apply for our services; or (b) on information posted on our Web site of a general informational nature. No employee, contractor, agent or representative of NameKing is authorized to alter or amend the terms and conditions of this Agreement.

## **6. DOMAIN RENEWAL, DELETION AND TRANSFER OF EXPIRED DOMAIN NAMES**

[Click here](#) to review the Domain Deletion and Auto-Renew Policy

You agree that we may, but are not obligated to, allow you to renew your domain name after its registration term has ended and its expiration date has passed. You agree that after the expiration date of your domain name registration and before it is deleted or renewed, we may direct your domain name to an IP address designated by us, including, without limitation, to an IP address which hosts a parking, under construction, or other temporary page that may include promotions and advertisements for, and links to, NameKing's Web site, NameKing product and service offerings, third-party Web sites, third-party product and service offerings, and/or Internet search engines and/or advertisements, and you agree that we may place our contact information in the WHOIS output for the expired domain name. Should you not renew your domain name prior to the expiration date or during any grace period, such grace period to be granted in our sole discretion, you agree that we may, in our sole discretion, renew and transfer the domain name to our control, or to a third party on your behalf (such a transaction is hereinafter referred to as a "Post Term Renewal and Transfer"), and your failure to renew the domain name in question shall constitute your consent to such a Post Term Renewal and Transfer. In the event we are able to identify such a third party and effectuate such a Post Term Renewal and Transfer, we may notify you via email after the transaction is completed. Additionally, in our discretion, you may be eligible to receive a portion of the Net Proceeds received by us as a result of a Post Term Transfer of your domain name. These Net Proceeds will be added to your account and are to be used for NameKing related services only. For purposes of this paragraph, "Net Proceeds" shall mean the total fees paid to us by another party or our third party vendor as a result of a Post Term Renewal and Transfer, less any registry fees, credit card charge-backs, processing and check fees, and other costs or fees associated with the Post Term Renewal and Transfer of the domain name. You agree that we shall have no obligation to pay you, and you shall have no right to receive any percentage of the Net Proceeds unless, within ninety (90) days after the date of our notification to you, you first provide us with the name, address and related information requested by us (including, but not limited to, a Form W-9, if applicable) in our notification. We cannot guarantee, and we make no representation or promise, that any Post Term Renewal and Transfer will occur with respect to your domain name or that we will pay you any Net Proceeds.

You may transfer your domain name registration to a third party of your choice, subject to the procedures and conditions found at: <https://www.nameking.com/faq>, incorporated herein by reference. You understand that you may not transfer your domain to another Registrar until the 61st day after initial registration or any renewal or transfer of the domain to NameKing, or change of ownership of the domain within the NameKing system.

When requesting to transfer your domain to (or from) NameKing to (or from) another registrar, NameKing must receive authorization by you in advance of such transfer request. This authorization can come in the form of an email from the account holder and/or registrant, or via authorized fax showing proof of ownership of the domain. When transferring a domain name to NameKing, your registration will be extended for one year, provided that in no event shall the total unexpired term of the registration exceed ten (10) years.

You agree to maintain accurate records appropriate to document and prove the initial domain name registration date, regardless of the number of Registrars with which you entered into a contract for registration services.

## **7. DOMAIN NAME DISPUTE POLICY**

If you reserved or registered a domain name through us, you agree to be bound by our current domain name dispute policy that is incorporated herein and made a part of this Agreement by reference. You also agree to submit to proceedings commenced under the Uniform Domain Name Dispute Resolution Policy ("UDRP") and that these may be modified from time to time. The current version of this dispute policy may be at the following page: <https://www.nameking.com/docs/udrp>. Please take the time to familiarize yourself with that policy.

You agree that we, in our sole discretion, may modify our dispute policy. We may post any such revised policy on our Web site at least thirty (30) calendar days before it becomes effective. You agree that, by maintaining the reservation or registration of your domain name after modifications to the dispute policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modification, you may terminate this Agreement, subject to your payment of any outstanding fees or expenses, if any, owed to us. We will not refund any fees paid by you if you terminate your Agreement with us.

## **8. DOMAIN NAME DISPUTES**

You agree that, if your use of our domain name registration services is challenged by a third party, you will be subject to the provisions specified in our dispute policy in effect at the time of the dispute. You agree that in the event a domain name dispute arises with any third party, you will indemnify, defend and hold us harmless pursuant to the terms and conditions set forth below in this Agreement. It is your responsibility to list accurate contact information in association with your account and to communicate with litigants, potential litigants, and governmental authorities. It is not our responsibility to forward court orders or other communications to you.

If we are notified that a complaint has been filed with another registrar or a judicial, governmental or administrative body regarding your use of our domain name registration services, (i) we may, in our sole discretion, take whatever action we deem necessary regarding further modification, assignment of and/or control of the domain name deemed necessary to comply with the actions or requirements of such judicial, governmental or administrative body until such time as the dispute is settled and you shall hold us harmless for any such action taken in good faith and (ii) you agree not to make any changes to your domain name record without our prior approval. You agree that we may disallow you to make changes to such domain name record until we receive formal notice from the relevant judicial or administrative body directing us to do otherwise, or if we receive notification from you and the other party contesting your use of our domain name registration services that the dispute has been settled. Furthermore, you agree that if you are subject to litigation regarding your registration and use of our domain name registration services, we may in our sole discretion deposit control of your domain name with the court by supplying the court a registrar certificate. You agree that we may comply with all court orders, domestic or international, directed against you and/or the domain name registration and may move such domains into our disputed domain account at NameKing. Furthermore, you agree that we may suspend, cancel or transfer your domain name registration services in order to: (1) to correct mistakes made by us or the registry in registering your chosen name or (2) to resolve a dispute under our dispute policy. We will not refund any fees paid by you if we terminate your services.

For the adjudication of disputes concerning or arising from use of any domain name you register with us, you submit, without prejudice to other potentially applicable jurisdictions and without objection on the basis of forum nonconveniens or any other basis, to the jurisdiction of the courts (1) of your domicile, and (2) where we are located in Los Angeles, California.

## **9. PROHIBITED CONDUCT**

As a condition of your use of our services, you agree not to use them for any purpose that is unlawful or prohibited by this Agreement, and you agree to comply with any applicable local, state, federal and international laws, government rules or requirements.

Without limiting the generality of the foregoing, you agree that the following is a non-exclusive list of actions that are not permitted when using the services:

x the uploading, posting or otherwise transmitting of any content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, slanderous, vulgar, obscene, libelous, invasive of another's privacy, hateful, embarrassing or racially, ethnically or otherwise objectionable;

x activities designed to encourage unlawful behavior by others, such as hate crimes, terrorism and child pornography;

x the impersonation of any person or entity, including, but not limited to, an employee of NameKing or any of its affiliates, forum leader, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity;

x the uploading, posting or other transmittal of any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);

x the uploading, posting or other transmittal any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;

x the uploading, posting or other transmittal of any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, as determined by NameKing in its sole discretion;

x the uploading, posting or other transmittal of any content that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment such as "trojan horses" or engaging in activities that result in illegal access to other computers or networks, including those of NameKing;

x "stalking" or otherwise harassing another;

x collecting or storing personal data about other users;  
or

x promoting or providing instructional information about illegal activities, promoting physical harm against any group or individual, or promoting any act of cruelty to animals.

We reserve the right to cancel or terminate your use of the services if you engage in any of the activities described above or your usage of the services results in, or is the subject of, legal action or threatened legal action, against NameKing or any of its affiliates or partners, without consideration for whether such legal action or threatened legal action is eventually determined to be with or without merit.

## **10. BREACH**

You agree that all of the following may be considered by us a material breach of your obligations under this Agreement: (i) your failure to abide by any provision of this Agreement, any NameKing operating rule or policy or the dispute policy, (ii) your failure to pay any amounts due pursuant to this Agreement or any other written or online agreement with us for services that we provide, (iii) your willful provision of inaccurate or unreliable information as part of the application process, (iv) your failure to update your information to keep it current, complete and accurate, or (v) your failure to respond for more than fifteen (15) calendar days to inquiries from us concerning the accuracy of the contact details associated with your domain name registration. You agree that if any of the following events occurs, we may then provide a written notice describing the breach to you. If within ten (10) calendar days of the date of such notice you have not provided evidence deemed satisfactory by us that you have not breached this Agreement or any other agreement or terms of service with us, such NameKing operating rule or policy or the dispute policy, we may delete the registration or reservation of your domain name, assume ownership of your domain names registered with us and either hold them or sell them for our own account and/or terminate any other NameKing service(s) you are using without further notice. We will not refund any fees paid by you if we terminate your Agreement due to your breach.

## **11. REPRESENTATIONS AND WARRANTIES**

You represent, warrant and agree that:

1. the information that you or your agent on your behalf provide to us during the application process to register your domain name or to apply for other NameKing service(s) is, to the best of your knowledge and belief, true, accurate and complete, and that any future changes to this information will be provided to us in a timely manner according to the modification procedures in place at that time;
2. to the best of your knowledge and belief neither the registration of your domain name nor the manner in which you intend to use such domain name will directly or indirectly infringe, or conflict with, the legal rights of a third party, including their intellectual property rights;
3. if you are a legal entity, you have all requisite right, power and authority to execute this Agreement and to perform your obligations hereunder and the person performing activities on the entity's behalf is so authorized to act on behalf of the entity;
4. if you are an individual, you are at least 18 years of age or that you have an agent who is 18 years of age or older and entering into this Agreement on your behalf; and
5. you have selected the necessary security option(s) for your domain name registration record.

You agree that your use of our service(s) is solely at your own risk. You agree that all of our services are provided on an "as is," and "as available" basis and that neither NameKing nor any of its representatives makes any representation or warranty of any kind in connection with this Agreement or the provision of any services to you.

## **12. DISCLAIMER OF WARRANTIES**

NAMEKING EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE SERVICES ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVILABLE" BASIS. WE MAKE NO WARRANTY THAT OUR SERVICE(S) WILL MEET YOUR REQUIREMENTS, OR THAT THE SERVICE(S) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S) OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH OUR DOT COM MAIL SERVICE. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF OUR .COM MAIL SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. WE MAKE NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH ANY OF OUR SERVICES OR ANY TRANSACTIONS ENTERED INTO THROUGH SUCH SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OUR .COM MAIL SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

## **13. INDEMNITY**

You agree to release, indemnify, defend and hold harmless NameKing, its parent, subsidiaries and affiliates and each of our and their respective employees, officers, directors, shareholders, affiliates, contractors, agents, successors and assigns (collectively, the "NameKing Parties") from any and all claims, actions, proceedings or demands and all liabilities, claims, damages, losses, costs and expenses, including reasonable attorneys' fees and expenses, of third parties, relating to or arising under this Agreement, the NameKing services provided hereunder, your domain name registration, or your use of

the NameKing services, including without limitation (i) infringement of or dilution by you, or someone else using our service(s) from your computer, of any intellectual property or other proprietary right of any person or entity, (ii) your failure to perform any of your obligations to us or others relating to the services we provide or (iii) a violation of the terms of this Agreement or of policies and procedures incorporated herein or relating to the service(s) provided. If we are threatened with suit or sued by a third party, we may seek written assurances from you concerning your promise to indemnify us; your failure to provide those assurances may be considered by us to be a material breach of this Agreement providing us any and all remedies provided herein, including without limitation suspension or termination of your account with us and confiscation of your domain names.

You further agree to indemnify, defend and hold harmless the NameKing Parties and their business partners, and any applicable domain name registry, including without limitation VeriSign, Inc., Afiliias Limited, NeuLevel, Inc., NeuStar, Inc., SITA and Public Interest Registry, and their respective subsidiaries and affiliates, and the directors, officers, employees and agents, subcontractors and shareholders of each of them, from and against any and all claims, actions, losses, damages, expenses and costs, including reasonable attorneys' fees and expenses, arising out of or relating to (i) your domain name registration, (ii) any breach by you of this Agreement, including the Dispute Policy, or (iii) any third party claim, action, or demand related to your domain name or the use thereof. This indemnification obligation shall survive the termination or expiration of the registration agreement.

This indemnification obligation is in addition to any other rights or remedies NameKing may have against you at law or in equity.

You agree that NameKing shall have the right to participate in the defense of any such claim through counsel of its own choosing. You agree to notify NameKing of any such claim promptly in writing and to allow NameKing to control the proceedings should it so desire. You agree to cooperate fully with NameKing during such proceedings.

You agree to cooperate fully with NameKing during such proceedings. You agree you will not be entitled to a refund of any fees paid to NameKing if, for any reason, NameKing takes corrective action with respect to your improper or illegal use of its services.

#### **14. EXCLUSIVE REMEDY**

You agree that our entire liability, and your exclusive remedy, in law, in equity, or otherwise, with respect to any NameKing service(s) provided under this Agreement and/or for any breach by NameKing or its employees of this Agreement is limited solely to the amount you paid for such service(s). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANY NAMEKING PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS OR THE COST OF PROCURMENT OF SUBSTITUTE SERVICES) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE USE OF OR INABILITY TO USE ANY OF THE SERVICES PROVIDED BY NAMEKING THE PROGRAM, EVEN IF NAMEKING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO USER.

Without limiting the generality of the foregoing, you agree that we are not responsible for, and we specifically disclaim, any loss or liability resulting from, but not limited to:

x                      loss or liability resulting from access delays or access interruptions;

x                      loss or liability resulting from data non-delivery or data mis-delivery;



x loss or liability resulting from acts of God;

x loss or liability resulting from the unauthorized use or misuse of your Account Number, Password or security authentication option;

x loss or liability resulting from errors, omissions, or misstatements in any and all information or service(s) provided under this Agreement;

x loss or liability relating to the deletion of or failure to deliver or store e-mail messages;

x loss or liability resulting from the disrupted development or interruption of your website;

x loss or liability from inaccessibility of our dot com mail service;

x loss or liability that you may incur in connection with our processing of your application for our services, our processing of any authorized modification to your domain name record or your agents failure to pay any fees, including the initial registration fee or re-registration fee; or

x loss or liability as a result of the application of our dispute policy.

## **15. REVOCATION**

You agree that we may terminate your contractual right to use our service(s) if the information that you are obligated to provide to register your domain name or register for other NameKing service(s), or that you subsequently modify, contains false or misleading information, or conceals or omits any information we would likely consider material to our decision to register your domain name or to continue to provide you domain name registration services.

NameKing expressly reserves the right to deny, cancel or transfer any registration that it deems necessary, in its discretion, to protect the integrity and stability of the registry, to comply with any applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process, or to avoid any liability, civil or criminal, on the part of NameKing, as well as its affiliates, subsidiaries, officers, directors and employees. We also reserve the right to freeze a domain name during the resolution of a dispute, whether an "official" dispute such as a lawsuit or the filing of a UDRP, or an "unofficial" dispute as determined in our sole discretion..

## **16. RIGHT OF REFUSAL**

We, in our sole discretion and without any liability to us, reserve the right to refuse to register or continue to host registration of any domain name for any reason, including your failure to comply with the terms of this Agreement. In the event we refuse to register your domain name or continue to support an existing registration we will not issue a refund for any applicable fees you have paid. We will inform you that NameKing refuses to provide you the service, and, in the case of an existing domain registration, may allow you a period of time to transfer the domain away from NameKing. If you are unwilling or unable to transfer a domain that we have refused, you agree that we may delete the domain in question. You agree that we shall not be liable to you for loss or damages that may result from our refusal to register or our deletion your domain name or refusal to register you for other services.

## **17. LANDING PAGES AND PARKING PAGES**

All domain names registered through NameKing which do not specify a DNS may be pointed to a "Coming Soon," For Sale, Search, or special Idle Web page which informs visitors that the registrant has recently registered their domain name at NameKing. These web pages may be modified at any time by NameKing without prior notice to you and may include such things as, without limitation (i) links to additional products and services offered by NameKing, (ii) advertisements for products and services

offered by third-parties, and (iii) an internet search engine interface. You agree that NameKing has the right to point names as set forth herein without compensation or remuneration to you.

## **18. AGREEMENT TO BE BOUND**

By applying for a NameKing service(s) through our online application process or by applying for and registering a domain name as part of our web or e-mail template application process or by using the service(s) provided by NameKing under this Agreement, you acknowledge that you have read and agree to be bound by all terms and conditions of this Agreement and any pertinent rules or policies that are or may be published by NameKing at any time. These terms will continue to apply to all past use of the service(s) by you, even if you are no longer using the service(s). You acknowledge and agree that we may terminate or block your use of all or part of the service without prior notice for any reason, including, without limitation, if we believe you have engaged in conduct prohibited by these terms. You agree that upon termination or discontinuance for any reason, NameKing may delete all information related to you on the service and may bar your access to and use of the service.

## **19. AGENTS**

You agree that if your agent (e.g., an Internet Service Provider, employee, etc.) purchased our service(s) on your behalf, you are nonetheless bound as a principal by all terms and conditions herein, including the dispute policy. Your continued use of our services shall ratify any unauthorized actions of your agent. By acting on your behalf, your agent certifies that he or she is authorized to purchase our services on your behalf, that he or she is authorized to bind you to the terms and conditions of this Agreement and that he or she has apprised you of the terms and conditions of this Agreement. In addition, you are responsible for any errors made by your agent. We will not refund fees paid by you or your agent on your behalf for any reason, including, but not limited to, if your agent fails to comply with the terms and conditions of this Agreement, incorrectly provides information in the application process changes or otherwise modifies your domain name record incorrectly.

## **20. NOTICES, ANNOUNCEMENTS AND COMPLAINTS**

You authorize us to notify you of information that we deem is of potential interest to you. Notices and announcements sent to the registered name holder may include commercial e-mails and other notices describing changes, upgrades, new products and services or other information pertaining to Internet security or to enhance your identity on the Internet and/or other relevant matters. If you do not wish to receive bulk email solicitation notices or announcements please send us an email at [support@NameKing.com](mailto:support@NameKing.com).

Notices concerning breach will be sent by email to the registered name holder or in the alternative by the postal address you have on file with us. In both cases, delivery shall be deemed to have been made five (5) days after the date sent. Notices from you to NameKing (which shall be deemed to have been made by you to NameKing five (5) days after the date sent) shall be made either by email, sent to the address we provide on our web site, or first class mail to our address at:

NameKing, Inc.  
c/o Rook Media AG  
1 Meadow Rd  
Suite 210  
Florida, NY 10921

(1) Any notice, complaint, or other communication required or permitted to be delivered to NameKing under this Agreement shall be in writing unless otherwise specified and shall be deemed properly delivered, when sent to our contact address specified in the Customer Control Panel or on NameKing's Website by registered mail or courier. Any communication shall be deemed to have been validly and effectively given, on the date of receiving such communication, if such date is a Business Day and such delivery was made prior to 17:30 hours local time, and otherwise on the next Business Day.

(2) Any notice, complaint, or other communication to be delivered to NameKing via email under this agreement shall be deemed to have been properly delivered if sent to its Legal or Abuse Contact mentioned in the Customer Control Panel or on the NameKing's Website. We strive to respond to complaints by return email within two business days.

(3) Any notice or other communication required or permitted to be delivered to the Customer under this

Agreement shall be deemed properly delivered, given and received when delivered to email address or contact address of the Customer in the Customer Control Panel/ Database.

(4) Other than those notices mentioned in this agreement, NameKing is NOT required to communicate with the Customer in any respect about services provided under this agreement. As a convenience to the Customer, we may proactively send notices about aspects with regards to services rendered under this Agreement, however these notices may be discontinued by NameKing at anytime.

## **21. GOVERNING LAW; JURISDICTION AND VENUE**

Except as otherwise set forth in the UDRP or any similar ccTLD policy with respect to any dispute over a domain name registration this Agreement, this Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without giving any effect to any choice of law provisions thereof that would cause the application of the laws of any other jurisdiction, as if the Agreement was a contract wholly entered into and wholly performed within the State of California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms of Service.

You agree that any claim, dispute, action or litigation based hereon, relating to or arising out of this Agreement or our performance of services for you, shall be brought and maintained exclusively in the state or Federal courts located in Los Angeles County, California. You hereby expressly and irrevocably submit to the jurisdiction of the state or Federal courts located in Los Angeles County, California for the purpose of any such litigation as set forth above. You further irrevocably consent to the service of process by personal service within or without the State of California. You expressly and irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such litigation brought in any such court referred to above and any claim that any such litigation has been brought in an inconvenient forum. Notwithstanding the foregoing, for the adjudication of third party disputes (i.e., disputes between you and another party, not us) concerning or arising from use of domain names registered hereunder, you acknowledge and agree that you shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts (a) of the domain name holder's domicile, and (b) where we are located, currently Los Angeles, California.

You agree that any cause of action arising out of or related to the services provided to you by NameKing must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.

## **22. ADDITIONAL REGISTRY REQUIREMENTS**

The following provisions apply to any domain names that you register through NameKing in the relevant registry(ies).

(.INFO) With respect to any registration of a .INFO second level domain name, you agree to the following terms:

x You consent to the use, copying, distribution, publication, modification, and other processing of your personal data by Afilias, the .INFO Registry Operator, and its designees and agents in a manner consistent with the purposes specified pursuant in its contract;

x You agree to submit to proceedings under the UDRP and comply with the requirements set forth by Afilias for domain names registered during the Sunrise Period, including the mandatory Sunrise Dispute Resolution Policy. These policies are subject to modification by Afilias in its discretion;

x You agree to immediately correct and update the registration information for the .INFO registered domain name during registration term for such domain name; failure to correct this information shall constitute a breach of this Agreement; and

x You acknowledge that Afilias, the registry operator for .INFO, will have no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Sunrise Period or the Land Rush Period, including, without limitation: (a) the ability or inability of a registrant to obtain a given domain name during these periods, and (b) the results of any dispute over a Sunrise Registration.

NameKing and Afilias expressly reserve the right to deny, cancel or transfer any registration that either shall deem necessary, in its discretion, to protect the integrity and stability of the .INFO registry, to comply

with any applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process, or to avoid any liability, civil or criminal, on the part of NameKing and/or Afiliias as well as their affiliates, subsidiaries, officers, directors and employees. NameKing and Afiliias also reserve the right to lock a domain name during resolution of a dispute.

## 23. MISCELLANEOUS

**Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT AND ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

**No Guarantee.** You agree that, by registration of your chosen domain name, such registration does not confer immunity from objection to either the registration or use of your domain name.

**No Third Party Beneficiaries.** Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

**Prohibition of Assignment.** You may not assign any of your rights or delegate any of your duties under this Agreement without the prior written consent of NameKing. Any attempt by your creditors to obtain an interest in your rights under this Agreement, whether by attachment, levy, garnishment or otherwise, renders this Agreement voidable at our option.

**Successors and Assigns.** Except as otherwise expressly provided herein, this Agreement shall bind and inure to the benefit of the successors, assigns, heirs, executors and administrators of the parties hereto.

**Intellectual Property.** You agree that NameKing holds all right, title and interest in and to all services, its websites any information and technology used to provide the services, including any application programming interfaces, and all intellectual property rights of NameKing, including other rights related to intangible property. You acknowledge that no title or interest in such intellectual property rights is being transferred to you and you agree to make no claim of interest in any such services.

**Force Majeure.** If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, government regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused.

**Waiver.** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No failure or delay by NameKing in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

**Severability.** The provisions of this Agreement are severable. If a court or an arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be invalid, prohibited or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**Entire Agreement.** Except as may be set forth in an written agreement signed between you and NameKing, this Agreement, together with all of our policies published by us, including our dispute policy, Privacy Policy and domain deletion and auto-renew policy constitute the final, complete, and exclusive agreement between us regarding our provision to you of the services and supersedes all prior and

contemporaneous understandings or agreements of the parties, whether established by custom, practice, policy or precedent.

**Attorneys Fees.** If NameKing prevails in any action, suit, or proceeding arising from or based upon this Agreement, NameKing shall be entitled to recover from you its reasonable attorneys' fees in connection therewith in addition to the costs of such action, suit, or proceeding.

**Headings.** The headings in this Agreement are descriptive and are included for convenience only and shall neither affect the construction or interpretation of any provision in this Agreement nor affect any of the rights or obligations of the parties this Agreement.