

## **DOMAIN NAME REGISTRATION TERMS & CONDITIONS**

### **1. The Uniform Domain Name Dispute Resolution Policy**

1.1 The Uniform Domain Name Dispute Resolution Policy <http://www.icann.org/udrp> (the "Policy") has been adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), is incorporated by reference into this Domain Name Registration Agreement, and sets forth the terms and conditions in connection with a dispute between Customer and any party other than HKNet Company Limited (the "Registrar") over the registration and use of an Internet domain name registered by Customer for Global domain name of gTLD types: Rules for general extensions including but not limited to (.com, .org, .net, .info, .biz, .asia, .mobi) and/or country specific domain name of ccTLD types: Rules for country code extensions. Proceedings under **clause 4** of the Agreement will be conducted according to the ICANN's Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules of Procedure") and the selected administrative-dispute-resolution service provider's supplemental rules.

1.2 In addition, Customer is bound by the following relevant rules ("Rules") pronounced by the appropriate authorities and subject to change without notice when Customer applies for the specific types of domain names:-

- a. HK domain name: Rules for .hk Domains and Sub-Domains <http://www.hkdnr.hk> and the HKDNR Domain Name Dispute Resolution Policy <http://www.hkdnr.hk>; or
- b. Respective country specific extension domain name of ccTLD type and the respective country specific Domain Name Dispute Resolution Policy.

1.3 The Policy, Rules of Procedure and the Rules of the appropriate authorities collectively referred to as "Policies" hereinafter.

### **2. Customer's Representations**

2.1 By applying to register a domain name, or by asking the Registrar to maintain or renew a domain name registration or change registrar ("the Services"), Customer hereby represents and warrants that:

- a. the statements that Customer made in this Agreement are complete and accurate;
- b. to Customer's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;
- c. Customer is not registering the domain name for an unlawful purpose;
- d. Customer will not knowingly use the domain name in violation of any applicable laws or regulations;
- e. Customer meets, and will continue to meet for the period of their domain name registration, the eligibility criteria prescribed by the Policies, regulations, other requirements of the Registry, respective country regulator, Registrar and/or providers of the applicable domain name, for registering that domain name; and
- f. Customer will at all times comply with Policies and regulations and other requirements of the Registry, respective country regulator, Registrar and/or providers of the applicable domain name generally.

2.2 It is Customer's responsibility to determine whether Customer's domain name registration infringes or violates someone else's rights, including, but not limited to, whether any foreign language translations of Customer's domain name, either between roman-alphabet languages, between non-roman alphabet languages, or between roman-alphabet languages and non-roman alphabet languages, infringe or violate someone else's rights.

2.3 Customer acknowledges that it is their obligation to renew domain name registration. Unless authorized by Customer, the Registrar will have no obligation to take the initiative to renew domain name registration for Customer. Non renewal of domain name registration is subject to cancellation. Customer releases and holds Registrar harmless against any claim for damage or loss arising from any failure of Customer's domain name to be renewed by Customer.

### **3. Cancellations, Transfers and Changes**

- 3.1 The Registrar will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:
- a. subject to the provisions of **clause 8**, Registrar's receipt of written or appropriate electronic instructions from Customer or Customer's authorized agent to take such action;
  - b. the Registrar's receipt of an order from a court or arbitrate tribunal, in each case of competent jurisdiction, requiring such action; and/or
  - c. the Registrar's receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which Customer was a party and which was conducted under the Policy or a later version of the Policy adopted by ICANN or other authorities.
- 3.2 The Registrar may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of this Agreement or other legal requirements.

### **4. Mandatory Administrative Proceeding**

4.1 This **clause** sets forth the type of disputes for which Customer is required to submit to a Mandatory Administrative Proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers <http://www.icann.org/udrp/approved-providers.htm> (each, a "Provider"):

- a. Applicable Disputes. The Customer is required to submit to a Mandatory Administrative Proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that:
  - i. Customer's domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
  - ii. Customer has no rights or legitimate interests in respect of the domain name; and/or
  - iii. Customer's domain name has been registered and is being used in bad faith.
- b. The Registrar's Involvement in Administrative Proceedings. The Registrar does not, and will not, participate in the administration or conduct of any proceeding. In addition, Registrar will not be liable as a result of any decisions rendered thereof.

### **5. All Other Disputes and Litigation**

5.1 All other disputes between Customer and any party other than the Registrar regarding Customer's domain name registration that are not brought pursuant to the Mandatory Administrative Proceeding provisions of **clause 4** shall be resolved between Customer and such other party through any court, arbitration or other proceeding that may be available.

### **6. Registrar's Involvement in Disputes**

6.1 The Registrar will not participate in any way in any dispute between Customer and any party other than the Registrar regarding the registration and use of Customer's domain name. The Customer shall not name the Registrar as a party or otherwise include the Registrar in any such proceeding. In the event that Registrar is named as a party in any such proceeding, Registrar reserves the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend itself.

### **7. Maintaining the Status Quo**

7.1 The Registrar will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under the Policy except as provided in **clause 3**.

### **8. Transfers During a Dispute**

8.1 Transfers of a Domain Name to a new holder. The Customer may not transfer Customer's domain name registration to another holder:

- a. during a pending administrative proceeding brought pursuant to **clause 4** or for a period of fifteen (15) business days (as observed in the location of the Registrar's principal place of business) after such proceeding is concluded; or

- b. during a pending court proceeding or arbitration commenced regarding Customer's domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator.
- 8.2 The Registrar reserves the right to cancel any transfer of a domain name registration to another holder that is made in violation of this sub clause.
- 8.3 **Changing Registrar.** The Customer may not transfer Customer's domain name registration to another registrar during a pending administrative proceeding brought pursuant to **clause 4** or for a period of fifteen (15) business days (as observed in the location of the Registrar's principal place of business) after such proceeding is concluded. The Customer may transfer administration of Customer's domain name registration to another registrar during a pending court action or arbitration, provided that the domain name Customer has registered with the Registrar shall continue to be subject to the proceedings commenced against Customer in accordance with the terms of the Policy. In the event that Customer transfers a domain name registration to the Registrar during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.
- 9. Policy Modification**
- 9.1 The Policies may be changed by the appropriate authorities at any time and from time to time. Unless the Policies have already been invoked by the submission of a complaint to a Provider, in which event the version of the Policies in effect at the time they were invoked will apply to Customer until the dispute is over, all such changes will be binding upon Customer with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of the Registrar's change. In the event that Customer objects to a change in any of the Policies, Customer's sole remedy is to cancel Customer's domain name registration with the Registrar, provided that Customer will not be entitled to a refund of any charges Customer paid to the Registrar. The revised Policies will apply to Customer until Customer cancels their domain name registration.
- 10. No Guarantee of Registration or Renewal**
- 10.1 The Customer acknowledges and agrees that the Registrar cannot guarantee that Customer will be able to register or renew a desired domain name, even if an inquiry indicates that domain name is available, since the Registrar cannot know with certainty whether or not the domain name which Customer is seeking to register is simultaneously being sought by a third party, or whether there are any inaccuracies or errors in the domain name registration or renewal process or related databases, including the various WHOIS databases. The Customer further acknowledges and agrees that the Registrar may elect to accept or reject Customer's application for registration or renewal for any reason at its sole discretion, such rejection including, but not limited to, rejection due to a request for registration or renewal of a prohibited domain name. Customer also acknowledges and agrees that the Registrar is not liable or responsible in any way for any errors, omissions or any other actions by any registry administrator arising out of or related to Customer's application for and registration of, renewal of, or failure to register or renew a particular domain name.
- 11. Charges**
- 11.1 As consideration for domain name registration, administration and/or renewal services, Customer agrees to pay and settle any charges to the Company, upon submission of its domain name application, renewal application, or registrar transfer application to the Registrar. All charges are non-refundable, in whole or in part, even if Customer's domain name registration is unsuccessful due to reason beyond the Registrar's control, suspended, cancelled or transferred prior to the end of Customer's then current registration term. The Registrar reserves the right to change charges, surcharges, renewal charges or to institute new charges at any time, for any reason, at its sole discretion.
- 11.2 The Registrar shall issue invoice to Customer after submission of Customer's domain name application, renewal application, or change registrar application to the Registrar. Customer agrees to pay the full invoiced amount by the due date for payment as specified on each invoice without setoff or deduction.
- 11.3 Customer's domain name application, renewal application, or registrar transfer request will not be submitted to the applicable registry unless Registrar receives actual payment of the registration, renewal, or transfer charge.
- 11.4 In the event of any non-payment by Customer in connection with Customer's payment of the registration, renewal, or registrar transfer charge, Customer acknowledges and agrees that the registration shall be transferred to the Registrar as the entity that has paid the registration, renewal, or transfer charge for that registration to the registrar, and that Registrar reserve all rights regarding such domain name including, without limitation, the right to make the domain name available to other parties for purchase. The Registrar will reinstate any such registration solely at the Registrar's discretion, and subject to the Registrar's receipt of the applicable registration, renewal or transfer charge and any outstanding interest, reconnection charge and handling charge.
- 11.5 Interest will be charged on any outstanding amount at 1.5% per month until the invoice has been paid in full by Customer.
- 11.6 The Registrar shall be entitled to employ an external debt collecting agency and/or institution to collect any or all sums due but unpaid by Customer and in so doing, the Registrar may and is hereby authorized to disclose to such agency and/or institution any or all information available in relation to Customer and the Registrar shall not be liable for any default, negligence, act, conduct, misconduct and/or deeds of such agency and/or institution. Customer shall indemnify the Registrar for all losses, damages, expenses incurred by the Registrar in employing such outside debt collecting agency or institution.
- 12. Ownership of Data**
- 12.1 Customer acknowledges and agrees that in completing the Agreement and providing its details to Registrar, Registrar may and will utilize such information to create and compile its domain name database. Customer agrees that Registrar will have complete ownership over its domain name database, whether in part or in whole, and any derivative works created from it. Customer agrees that Registrar may make available to the public such information under a look-up or WHOIS service or to third parties in Registrar's sole discretion.
- 13. Agents and Licenses**
- 13.1 Customer agrees that, if Customer is using the Services for someone else, Customer represents that Customer has the authority to nonetheless bind that person as a principal to all terms and conditions provided herein, including the Dispute Policy. The Customer accepts liability for harm caused by wrongful use of Services.
- 13.2 Customer agrees that if Customer licenses the use of a domain name registered in Customer's name to a third party, Customer nonetheless remains the domain name holder of record, and remains responsible for all obligations under this Agreement, including but not limited to payment obligations, and providing (and updating, as necessary) both Customer's own full contact information, and accurate technical, administrative, billing and zone contact information adequate to facilitate timely resolution of any problems that arise in connection with the domain name and domain name registration. As further required by ICANN, Customer shall accept liability for harm caused by wrongful use of the domain name, unless Customer promptly discloses the identity of the licensee to a party providing Customer with reasonable evidence of actionable harm.
- 14. Limitation of Liability**
- 14.1 Customer agrees that the Registrar will not be liable, under any circumstances, for any (a) suspension, loss, or modification of Customer's domain name registration, (b) use of Customer's domain name registration, (c) interruption of business, (d) access delays or access interruptions to this site or the website(s) accessed by the domain name registered in Customer's name, (e) data non-delivery, corruption, destruction

or other modification, (f) events beyond the Registrar's reasonable control and/or Force Majeure events, (g) the processing of Customer's domain name application or other service application, or (h) application of any relevant dispute policy or any other ICANN (or similar governmental or successor organization) adopted policies. The Registrar, the Registrar's provider, the regulator and the respective Registry will not be liable for any direct, indirect, special, incidental, or consequential damages of any kind (including lost profits) regardless of the form of action whether in contract, tort (including negligence), or otherwise, even if the Registrar has been advised of the possibility of such damages. In no event shall the Registrar's maximum aggregate liability exceed the total amounts paid by Customer for the respective domain name(s) or in Registrar's option, to supply the services again.

## 15. Indemnification

15.1 Customer agrees to defend, indemnify and hold harmless the Registrar, Registrar's provider, the relevant regulator and the relevant Registry including each's respective directors, officers, employees and agents from and against any and all claims for any loss, damages or costs, including reasonable attorneys' charge, resulting from any third parties such as ICANN, Registrar's provider, a Registrant or a registry or regulator's claim, action, or demand related to (a) Customer's use of the Services, including, but not limited to, Customer's application for registration of any domain or renewal of, or failure to register or renew, a particular domain name registered in Customer's name, and (b) Customer's use of any domain name registered in Customer's name including but not limited to the infringement of the legal rights of other party. This indemnification is in addition to any indemnification required under the Policy or any similar policy.

## 16. Representations and Warranties

16.1 Customer represents that, to the best of Customer's knowledge and belief, neither the registration of the domain name Customer has applied for nor the manner in which it is intended to be or is directly or indirectly used infringes the legal rights of a third party. The Customer further represents and warrants that all information provided by Customer in connection with Customer's use of the Services is accurate and current. The Registrar makes no representations or warranties or any kind whatsoever, express or implied, in connection with this Agreement or the Services, including but not limited to warranties or merchantability or fitness for a particular purpose, unless such representations and warranties are not legally excludable. Without any limitation to the foregoing, the Registrar makes no representations or warranties or any kind whatsoever that registration or use of a domain name under this Agreement will immunize Customer either from challenges to Customer's domain name registration, or from suspension, cancellation or transfer of the domain name registered to Customer.

## 17. Miscellaneous

17.1 The Registrar has the right to transfer data to its affiliated companies or any other registrar at any time provided that the service standard will not be deteriorated.

17.2 The Order form, these Terms and Conditions shall together constitute the entire agreement (the "Agreement"). In the event of disputes, the Policies and the relevant Rules by the appropriate authorities shall be referenced and applicable for dispute settlement. Customer agrees that the Agreement and the Policies may not be amended by itself unless agreed to in writing by a duly authorized representative of Registrar or relevant authorities.

17.3 The parties agree that Registrar may assign this Agreement to a third party on prior written notice to Customer.

17.4 The provision of personal data in this Order Form for Company's services is voluntary. Failure to provide the data requested may mean that Company is unable to supply the relevant services. Personal data collected will be used in matters relating to the operations including billing, account maintenance, marketing activities of Company and debt collection. Data may also be disclosed to third parties which will assist in Company's operations.

17.5 If Customer has any queries (including any data access or correction requests) or objections in relation to the use of the personal data in the aforesaid manner, Customer may contact our Customer Service Department, 12/F, Guardian House, 32 Oi Kwan Road, Wan Chai, Hong Kong. For inquiries, please contact Company at Tel: 3793 0388 or by fax 2110 0087. Customer can also email the request to sales@hknet.com.

17.6 If Customer intends to renew the domain name, Customer shall apply for the renewal twelve (12) weeks prior written notice to Company before the expiration of the registered domain name. It is the Customer's responsibility to apply for renewal of service before expiration of the domain name. Customer agrees that Company shall have no liability if the domain name is registered by any third party due to Customer fails to apply for renewal of the domain name twelve (12) weeks before the expiration of the domain name.

17.7 Customer is responsible to settle all charges in connection with the services as detailed in each invoice. Payment shall be due upon presentation of invoice. In case of any disputes in relation to the provision of the services herein, Company reserves the right to make the final decision.

## 18. Governing Law

18.1 Except as otherwise set forth in the Policies with respect to any dispute over Customer's domain name registration, this Agreement, Customer's rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of Hong Kong Special Administrative Region and both parties hereby irrevocably submit to the non-exclusive jurisdiction of the Hong Kong courts.