

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION

MICHAEL MOORE;	)	
RONALD P. GENTRY,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. 7:07-cv-01153-RDP
	)	
INTERNET CORPORATION FOR	)	
ASSIGNED NAMES AND NUMBERS;	)	DECLARATION OF JOHN KANE
ENOM, INC.; and REGISTERFLY.COM,	)	
INC.,	)	
	)	
Defendants.	)	
_____		

John L. Kane declares as follows:

1. I am over the age of 21, am competent to testify in a court of law, and have personal knowledge of the facts stated in this declaration.
2. I am the Vice President of Business Development for defendant eNom. To become an eNom reseller, a registrar must execute a copy of the eNom Reseller Agreement (the "eNom RSA"), pay the funds indicated in the RSA, and eNom must accept the agreement. To continue as an eNom reseller after eNom changes its RSA, the reseller must click on an "I accept and continue" icon associated with the online version of the eNom RSA. eNom's records show that RegisterFly and/or its affiliated companies initially became an eNom reseller in 2000 and that RegisterFly accepted revised Reseller Agreements on at least two occasions. Attached and incorporated in this declaration as Exhibit 1 is a true copy of the eNom RSA that was in effect between eNom and RegisterFly from April 12, 2005, until RegisterFly accepted a revised eNom RSA on February 20, 2006. Attached and incorporated in this declaration as Exhibit 2 is a true copy of the eNom RSA that RegisterFly accepted on February 20, 2006.
3. Since at least 2000, eNom has required its resellers, including RegisterFly, to require their registrant customers to consent to the terms and conditions of eNom's Registration Agreement ("eNom's Terms and Conditions"). A true copy of the eNom's Terms and

Conditions, which has been in effect since November 16, 2005, is attached as Exhibit 3. An identical version of these Terms and Conditions are available at <http://www.enom.com/terms/agreement.asp>. Since November 2005 and throughout 2006, eNom's Terms and Conditions were incorporated in the RegisterFly Registration Agreement explicitly and through a hyperlink in the online version of the RegisterFly Registration Agreement, available at <http://www.registerfly.com/info/terms.php>. For ease of reference, I am attaching as Exhibit 4 a true copy of the RegisterFly Registration Agreement downloaded from <http://www.registerfly.com/info/terms.php>.

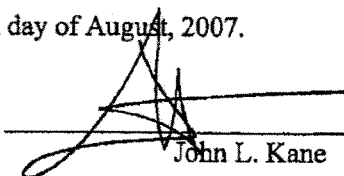
4. In my role as the Vice President of Business Development at eNom, I am required to be familiar with and have access to emails and correspondence sent to eNom customers or potential customers in response to customer inquiries. Attached to this declaration as Exhibits 5 through 10, respectively, are true copies of the following emails that eNom received (or sent) from (or to) Plaintiff Michael Moore:

- (a) January 17, 2006 email from eNom to Mr. Moore;
- (b) January 18, 2006 email from eNom to Mr. Moore;
- (c) February 2, 2006 email from eNom to Mr. Moore;
- (d) March 20, 2006 email from eNom to Mr. Moore;
- (e) March 21, 2006 email from eNom to Mr. Moore;
- (f) March 22, 2006 email from eNom to Mr. Moore.

5. In my role as the Vice President of Business Development at eNom, I am required to be familiar with and have access to eNom's accreditation agreement with ICANN. Attached to this declaration as Exhibit 11 is a true copy of that agreement.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Bellevue, Washington, this 28th day of August, 2007.

  
\_\_\_\_\_  
John L. Kane

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

T. Blake Liveoak  
Collins, Liveoak & Boyles, P.C.  
2021 Morris Avenue, Suite 200  
Birmingham, Alabama 35203

Jeffrey A. LeVee and  
Samantha Eisner  
Jones Day  
555 South Flower Street, 50<sup>th</sup> Floor  
Los Angeles, CA 90071

Will Hill Tankersley, Jr. and  
Christopher Yeilding  
Balch & Bingham LLP  
P. O. Box 306  
Birmingham, Alabama 35201-0306

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

RegisterFly.com, Inc.  
623 Eagle Rock Avenue  
Suite #7  
West Orange, NJ 07052

s/ Dylan C. Black  
\_\_\_\_\_  
Dylan C. Black (ASB-6595-K72D)  
Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2119  
(205) 521-8000; Facsimile: (205) 521-8800  
E-mail: dblack@bradleyarant.com

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2007 Aug-30 PM 03:16  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# EXHIBIT 1

## eNom Reseller Agreement

By signing below and using the eNom® Domain Name Registration and related services (hereinafter the "Services," defined further below), you signify your agreement to the terms and conditions contained in this eNom Reseller Agreement (hereinafter, the "RSA"). This RSA is between you, your organization (if you are entering into this RSA on behalf of an organization), collectively referred to herein as "you" or "your" (and appropriate formatives), the intermediate eNom Reseller(s) and service provider who may be offering these services to you, if any, (the "Primary Service Provider(s)") and the backend service provider eNom, Inc. (the "Backend Service Provider"), including the Backend Service Provider's subsidiaries and all employees, directors, officers, representatives, agents and affiliates thereof. You declare your identity (including organizational affiliation) in the information which you provide to the Backend Service Provider through the interface which you use to configure and/or otherwise order the Services, available at <https://www.enom.com/Login.asp?> (referred to herein as "your Account"). It is a material part of this RSA that you warrant that the contact information you provide in your Account is accurate and that you will keep it up to date.

### 1. This RSA: When accepted and how modified.

- A. You agree that this RSA is an application to become or to continue to be an independent reseller of the Backend Service Provider and that this RSA shall not become effective until i) the Backend Service Provider's receipt of all indicated funds, ii) the Backend Service Provider's receipt of an executed copy of this RSA, if required by the Backend Service Provider and iii) the Backend Service Provider's acceptance of this RSA (which acceptance may be evidenced by the Backend Service Provider's course of conduct in activating your Account).
- B. The terms and conditions of this RSA may be modified from time to time. Modifications made to this RSA will become effective 30 days after the modifications are posted to your Account or immediately upon your acknowledgment of the revised terms. If you no longer agree to the terms and conditions of this RSA, you may stop using the Services and terminate the Services as described below in section 7.

### 2. The Services, Accounts, Sub-Resellers, and Sub-Accounts.

- A. The Services include the following: a) Domain Name registration in the TLDs offered by the Backend Service Provider, including whois service; b) name server services (DNS); c) URL forwarding; d) email forwarding; e) POP & SMTP email; f) web-based email; g) website hosting; h) website and domain name availability monitoring; i) website and domain name traffic monitoring; j) website and domain name traffic monetization; k) pre-fabricated and hosted websites for the purpose of registering domain names and offering these Services ("PDQ"); l) pre- and post-expiration domain name resale services; m) name my map, phone, etc.; n) dynamic (real-time) DNS; o) phone and email support; p) merchant services for processing credit card orders; q) screening to reduce the incidence of successful fraudulent transactions ("fraud screening"); and r) such other services as the Backend Service Provider may make available through your Account and the API (collectively referred to as the "Services"). The Services do not include other services which a Primary Service Provider may provide to you. Primary Service Providers are independent resellers of the Backend Service Provider and may offer their own services under separate agreement.
  - 1) Special Note Regarding Fraud Screening: You agree that the Backend Service Provider may screen all proposed transactions generated by or in your Account, but only in cases when the Backend Service Provider is providing merchant services for services sold by the Backend Service Provider to you and/or your customers. Without limitation, you understand and agree that the Backend Service Provider may reject transactions based on the country of origin of the IP number requesting the transaction. For example, and without limitation and without a requirement that the Backend Service Provider continue to block transactions from the following listed countries, at the time this document was prepared the following countries had blocked IP numbers: Bulgaria, Egypt, Indonesia, Israel, Lithuania, Malaysia, Nigeria, Pakistan, Romania, Russian Federation, Turkey, Ukraine, Vietnam, Yugoslavia, Iran. Specific customers in blocked countries may be allowed to obtain services from the Backend Service Provider, but only at the discretion of the Backend Service Provider and only after satisfying additional requirements as the Backend Service Provider may demand. Without limitation, the Backend Service Provider may also reject transactions in which the "CVV2" and "AVS" numbers do not match. You agree that the Backend Service Provider may apply other criteria to the rejection of transactions and that the Backend Service Provider shall not be required to reveal the reasons why a particular transaction was rejected, though the Backend Service Provider may volunteer such information. You agree and understand that the fraud screening may reduce, but not eliminate charge-backs and that you will remain responsible for charge-backs by your customers and by your Sub-Resellers, as described further below.
- B. Generally, you wish to obtain domain name registration services and related services offered by the Backend Service Provider for yourself and/or for your customers, if any. Primary Service Provider(s) may offer other services (not those of the Backend Service Provider) which are not subject to this RSA. The Backend Service Provider may utilize any of the ICANN-accredited registrars listed at [http://www.enom.com/help/agreement\\_popup.htm](http://www.enom.com/help/agreement_popup.htm) when providing domain name registration services. You may only use your Account and/or the API (defined further below) to select and/or interact with the Services.
- C. You and/or your customers may be the direct consumers of the Services. In addition, your customers may also be parties ("your Sub-Resellers") who wish to resell the Services to further downstream customers. In the latter case, your Sub-Resellers will have "Sub-Account(s)" which, in this RSA, are said to be "below" your Account. Your Sub-Resellers may also have customers, Sub-Resellers, and Sub-Accounts below them. You are the Primary Service Provider to your immediate Sub-Resellers and your Sub-Resellers are the Primary Service Provider to their Sub-Resellers. In other words, accounts with the Backend Service Provider are inverse hierarchical tree structures; your Account may be the apex of a local hierarchy below which may be multiple Sub-Accounts, each of which may also have multiple Sub-Accounts and each of which acts as a Primary Service Provider for the Sub-Accounts below it in the hierarchy.
- D. You have the ability, through your Account, to control the creation, access to, pricing of, and use of your Account and all Sub-Accounts below your Account. You agree to be responsible for and guarantee all payments and other performance

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obligations due to the Backend Service Provider for all Services provided to you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account. When there is an unresolved issue (such as non-payment or dishonoring of payment for Services already rendered or a failure to provide customer support) between the Backend Service Provider and a customer and/or a Sub-Reseller below your Account, the Backend Service Provider will first seek satisfaction from the Primary Service Provider who has the most immediate relationship with the party causing the issue; however, if the Backend Service Provider is not able, after commercially reasonable efforts, to obtain satisfaction from such Primary Service Provider, you agree that the Backend Service Provider may then seek satisfaction from successively higher Primary Service Providers, and ultimately from you, in the hierarchy of accounts between the party causing the issue and the Backend Service Provider. You are responsible in this way and make this guarantee because you have the ability to control the creation, access to, pricing of, and use of your Account and all Sub-Accounts below your Account and because you benefit there from. You agree that the Backend Service Provider may charge you reasonable administrative fees for dealing with complaints, subpoena requests, and related issues caused by you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account.

- E. Certain of the Services are offered only subject to additional terms and conditions of the Backend Service Provider and which are available at <https://www.enom.com/help/hostTerms.asp>. To use these Services, customers must agree to these additional terms and conditions. You agree to indemnify and hold harmless the Backend Service Provider for any intentional or negligent failure by you or a Sub-Reseller below your Account to obtain the consent of any customer to these additional terms and conditions.
- F. If you die or otherwise become unavailable (the Backend Service Provider is unsuccessful in making reasonable attempts to contact you), and if you have customers and/or Sub-Accounts, the Backend Service Provider may assume direct control over such customers and Sub-Accounts. If, under such circumstances, you have a Primary Service Provider, you agree that the Backend Service Provider may elect to allow the Primary Service Provider to assume direct control over such customers and Sub-Accounts.
3. **Points, payments, and commissions.**
- A. You may be required to purchase "Points" to obtain all or certain of the Services. When you purchase Points, your price for the Points will also include certain costs, such as transaction fees, taxes, etc., which will not be reflected in your Point total. For example, in order to refill\* 100 Points in your Account via a credit card,\* you will be charged \$103.00, which includes 3% in transaction fees. Points are non-refundable and are not transferable without the consent of the Backend Service Provider, which may be denied for any reason. In general, if you purchase larger volumes of Points you are entitled to obtain Services for fewer Points. If you have a Primary Service Provider, your pricing for the Services is determined by your Primary Service Provider, otherwise, your pricing for the Services is determined by the number of Points you purchase when you apply to open your Account. The different pricing levels are described in greater detail when you apply to open your Account.
- B. \* **Note:** Initial purchases of Points shall not include the 3% charge for transaction fees. For subsequent credit card transactions (account refills), 3% of the transaction amount will be charged for using the credit card online pre-payment service. The Backend Service Provider does accept checks and/or wire transfers with no additional charges. You will be responsible for all Merchant Services fees, outlined in the Merchant Services Agreement at <http://www.enom.com/resellers/CCagreement.asp>, for any transaction originating from all Sub-Accounts below your Account.
- C. Points and certain of the Services may be purchased using a credit card. You authorize the Backend Service Provider to debit the credit card you present in relation to a particular transaction or the credit card you otherwise provide through your Account. You are hereby informed that charges for the Services will appear as follows: "Domain Name Registration" and/or "I-Net Sftwr Svc & Sale." You agree that you will present only approved transactions to the Backend Service Provider. You agree that, prior to contacting your credit card company in relation to such charges, that you will first contact your Primary Service Provider and thereafter the Backend Service Provider to verify the charges and the manner of billing. You agree to require all Sub-Resellers and all customers in and below your Account (including customers of your Sub-Resellers) to only present approved transaction to the Backend Service Provider and to contact the Primary and Backend Service Providers regarding charges, as described above. You agree that any chargeback by a credit card company or similar action by or through another payment provider relating to payment to the Backend Service Provider, for whatever reason, whether by you, by any Sub-Reseller or customer below your Account of yours i) is a material breach of this RSA, ii) is an act for which you agree to be jointly and severally liable to make the Backend Service Provider whole, iii) is an act with respect to which the Backend Service Provider may charge \$35.00 per incident, in addition to Merchant Services fees and other payment provider service charges which may be charged to the Backend Service Provider, and iv) that the same shall be grounds for suspension and/or termination of this RSA and the Services. Under such circumstances, you agree and acknowledge that the Backend Service Provider may suspend your access to any and all of your Accounts which you may have with the Backend Service Provider and that all right, title, interest in, and use of any domain name registration(s) and/or websites, email, or other data hosted on systems controlled by the Backend Service Provider (the "Collateral") shall be assumed by the Backend Service Provider. The Backend Service Provider will reinstate rights in the Collateral solely in the discretion of the Backend Service Provider, subject to receipt of the fee(s) owed and the then-current reinstatement fee, currently set at US\$200. You agree that the Backend Service Provider may sell, dispose of, or retain the Collateral if the Backend Service Provider determines the same to be a means of obtaining some monetary or other satisfaction or security. Points may also be purchased through check or wire transfer, in which case please contact the Backend Service Provide to arrange such a payment.
- D. The Backend Service Provider may require that you pay for Points or the Services using a particular payment means, such as by wire transfer. The Backend Service Provider may also demand reasonable assurance of payment if you give the Backend Service Provider grounds for insecurity.

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- E. If you are using the Backend Service Provider's merchant services provider (credit card processing company), receipts from your customers will be processed by the merchant services provider(s) selected by the Backend Service Provider and will be subject to merchant service fees (presently set at 3% of each transaction, plus \$0.95) and taxes (including ICANN fees).
- F. Points shall not be refunded to you for cash, regardless of termination of this RSA. You authorize the Backend Service Provider to deduct from your Points any amounts owed by you to the Backend Service Provider, including, without limitation, amounts owed as a result of your indemnification of the Backend Service Provider for third party claims, administrative costs mentioned in section 2.D, above, and reasonable administrative costs which may be charged for inactive accounts.
- G. If you have Sub-Account(s) below your Account, you may earn commissions from sales generated by such Sub-Account(s). Such commissions will amount to the difference between the following: i) the price you charge the Sub-Reseller, less merchant service fees (3% of each transaction, plus \$0.95) and taxes (including ICANN fees); ii) less the fraud screening fee of \$0.10 per transaction which is subject to fraud screening; and iii) the price you are charged for the Services by the Backend Service Provider or the Primary Service Provider, if any. When you have a balance greater than \$25.00 (U.S.) in commissions which have aged more than 90 days (which allows time for chargebacks and reversed transactions), you will be able to have your commissions sent to you via a check deposited in the U.S. mail (another reason to keep your account information current) or via direct deposit, when and if direct deposit becomes available. Commissions will be reported through your Account in your Available Commission Balance. Your Point balance is not part of your Available Commission Balance.
4. **Support.** You shall be responsible for providing customer service, billing, and technical support to your customers, Sub-Resellers below your Account, and customers of your Sub-Resellers. The Backend Service Provider shall provide telephone and email support to you during business hours, which are customarily from 6 AM to 6 PM, Pacific Standard Time, with some exceptions for major holidays. The Backend Service Provider may, but is not obligated to, provide support directly to your customers. If the Backend Service Provider receives communications from registrants or from third-parties regarding Services provided in your Account or an Account below your Account, the Backend Service Provider will, where appropriate, forward such communications to the first immediate Primary Service Provider for further action; however, eNom reserves the right to respond to such communications directly. If the Backend Service Provider determines that you are providing inadequate support to your customers (resulting in, for example, an excessive number of support calls directly from your customers), then the Backend Service Provider may consider this to be a breach of this RSA by you and may terminate this RSA.
5. **Licensed Use of The Technology.** You agree that the Services may only be accessed through the "Technology," which includes the application programming interface (this and the documentation specifying the application programming interface are referred to herein as the "API"), your Account, websites created by the Backend Service Provider which use the API (the "PDQ" websites), updates and upgrades thereto, and through such other means and technologies which the Backend Service Provider makes available through its websites or downloads (collectively, the "Technology").
- A. The Backend Service Provider hereby grants to you a non-exclusive, non-transferable, royalty-free license, exercisable solely during the term of this RSA, to use the Technology solely for the purpose of accessing and using the Services. With the exception of your Account (your use of which may be alienated by you only with permission of the Backend Service Provider), this license right may be sublicensed to Sub-Resellers and customers in your Account and in Sub-Accounts below your Account, but only subject to all license terms and restrictions of this RSA, only during the term of this RSA, and only so long as performance of the Services by the Backend Service Provider has not been suspended.
- B. Except for the rights expressly granted above, this RSA does not transfer from Backend Service Provider to you or your customers any Backend Service Provider technology, and all rights, titles and interests in and to the Technology shall remain solely with Backend Service Provider.
- C. You shall not directly or indirectly, reverse engineering, decompiling, disassembling or otherwise attempt to derive source code or other trade secrets from the Technology.
- D. You shall not branch or otherwise prepare derivatives of the API;
- E. You shall not copy or use the Technology except as specified in this RSA;
- F. You shall not create, apply for, or otherwise procure any patent or copyright interest in the Technology and any derivative ("IP Interest") thereof which IP Interest would block, impede, or make more expensive Backend Service Provider's continued use and enjoyment of the Technology. You agree that if you breach the provisions of this Section, that any IP Interests created thereby shall be assigned to Backend Service Provider as a "work for hire" as this expression is defined in U.S. copyright law.
- G. You shall not use the Technology to communicate with or control a system other than one(s) designated by Backend Service Provider and you may not access the Services using any access mechanism other than the Technology.
- H. You shall not intentionally or negligently abuse the Service infrastructure. "Abuse" in the foregoing sentence shall mean, by way of example and without limitation, any action or conduct which degrades service to other users of the shared Services and Technology.
- I. Backend Service Provider's infringement indemnification of you in relation to the Technology: The Backend Service Provider will defend and indemnify you against a claim that the Technology infringes a copyright, a United States patent, or other intellectual property right, provided that: (a) you notify the Backend Service Provider in writing within 30 days of the claim; (b) the Backend Service Provider has sole control of the defense and all related settlement negotiations; and

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- (c) you provide the Backend Service Provider with the assistance, information and authority necessary to perform the Backend Service Provider's obligations under this Section, inclusive of its subsections. If the Technology is held or believed by the Backend Service Provider to infringe, the Backend Service Provider shall have the option, at its expense, to (a) modify the Technology to be non-infringing; or (b) obtain for you a license to continue using the Technology. If it is not commercially reasonable to perform either of the above options, then the Backend Service Provider may terminate the license with respect to the infringing Technology and refund as cash that portion of the Points purchased by you in the preceding twelve months for the Services which can reasonably be allocated to such Technology, subject to the overall Limitation on the Backend Service Provider's Liability found in this RSA. This section states the Backend Service Provider's entire liability and your exclusive remedy for infringement. The Backend Service Provider shall have no liability for any claim of infringement based on any of the following and for all such claims, you agree to indemnify and defend the Backend Service Provider from and against all damages, costs and expenses, including reasonable attorneys' fees:
- 1) Your use of a superseded or altered release of the Technology if the infringement would have been avoided by the use of a current unaltered release of the Technology; or
  - 2) Combination of the Technology with a non-Backend Service Provider product, program or data; or
  - 3) Adaptation or modification of the Technology by you or by the Backend Service Provider at your direction.
6. **License by you to the Backend Service Provider.** In connection with providing materials to the Backend Service Provider in performance of the Services, you grant the Backend Service Provider a limited license to modify, adapt, incorporate with other material, and otherwise to use the materials provided by you but only to the extent necessary to provide the Services as directed by you. You warrant that the materials provided by you to the Backend Service Provider are your sole property or that you have obtained appropriate license to the material such that the Backend Service Provider's use of the material in providing the Services shall not subject the Backend Service Provider to a claim. In connection therewith, you will defend any claim and indemnify and hold the Backend Service Provider harmless from any cost (including reasonable attorney's fees) from a 3<sup>rd</sup> party claim that the material provided by you to the Backend Service Provider may infringe a copyright, a patent, or other intellectual property right.
7. **Suspension or Termination of the Services.** The Backend Service Provider reserves the right to suspend performance of the Services or to preclude use of or access to the Technology if any of the following occur:
- A. If you fail to pay any amounts owed to the Backend Service Provider;
  - B. If you or your customers' excessive use or abuse of the Services or Technology disrupts service to other users of the Backend Service Provider's shared Services and Technology;
  - C. If you or your customers' use of the Services and Technology results in the Backend Service Provider's IP addresses being reported to spam blocking organizations or other organizations which attempt to police or monitor abuse of the Internet;
  - D. If you or your customers fail to abide by customary industry acceptable use policies and all governing and applicable laws.
8. **Term of this RSA and Termination.** This RSA is effective for a period of one year from the date of creation of your Account by the Backend Service Provider. This RSA will then renewed for an indefinite number of one-year terms. Either party upon at least thirty (30) days' written notice (including notice via email) may terminate this RSA. The Backend Service Provider also retains the right to terminate this RSA immediately if you or your customers fail to comply with any term or condition of this RSA, or if the Backend Service Provider, in its sole discretion, deems such termination necessary to investigate or resolve any complications arising from your use of the Services. In no event will termination result in an acceleration of commission payments under Section 3.G.
9. **Confidentiality.** You agree to keep the monetary terms of this RSA confidential. The Backend Service Provider agrees to keep confidential your confidential business and technology information other than your Account contact information and other information which the Backend Service Provider, in its sole discretion, deems necessary to disclose in order to effectuate transfers, to investigate or implement any policing activity, to respond to lawful discovery requests, or to otherwise achieve the legitimate business purposes of this RSA. The obligations of this section shall not restrict any disclosure by either party pursuant to any applicable law, or by order of any court, government agency, or ICANN and shall not apply to information that is independently developed by the disclosing party or is publicly known.
10. **Warranties and Excluded Warranties.**
- A. **WHAT IS NOT WARRANTIED:** THE BACKEND SERVICE PROVIDER DOES NOT WARRANTY THAT PERFORMANCE OF THE SERVICES OR USE OF THE TECHNOLOGY WILL BE UNINTERRUPTED, ERROR FREE, OR THAT IT WILL NOT BE NECESSARY FOR YOU TO PROVIDE NOTICE OF ERRORS THROUGH THE BACKEND SERVICE PROVIDER'S SUPPORT PROCEDURES.
  - B. **WARRANTIES:** THE BACKEND SERVICE PROVIDER WARRANTIES THAT THE SERVICES AND TECHNOLOGY WILL BE PROVIDED AND MAINTAINED WITH AT LEAST THE SAME DEGREE OF CARE THE BACKEND SERVICE PROVIDER EXERCISES IN PROVIDING SIMILAR SERVICES AND TECHNOLOGY TO THE BACKEND SERVICE PROVIDER'S OTHER SIMILARLY SITUATED CUSTOMERS. YOU AGREE THAT YOUR EXCLUSIVE REMEDIES FOR BREACH OF THIS WARRANTY ARE THE REMEDIES PROVIDED IN THIS RSA OR, IF NO REMEDIES ARE PROVIDED, THAT YOUR EXCLUSIVE REMEDY IS THE RE-PERFORMANCE OF THE SERVICES OR IF THE BACKEND SERVICE PROVIDER IS UNABLE TO PERFORM THE SERVICES AS WARRANTED WITHIN A REASONABLE PERIOD AND IF YOU CAN DEMONSTRATE THROUGH CLEAR AND CONVINCING EVIDENCE A LOSS WHICH IS SOLELY AND DIRECTLY ATTRIBUTABLE TO THE BACKEND SERVICE



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PROVIDER'S BREACH OF THIS WARRANTY, THEN YOUR EXCLUSIVE REMEDY SHALL BE THE TERMINATION OF THIS RSA AND THE CASH REFUND OF ANY POINTS USED BY YOU IN RELATION TO THE SPECIFIC TRANSACTIONS WHICH GAVE RISE TO THE BREACH OF THIS WARRANTY, SUBJECT TO THE OVERALL LIMITATION OF THE BACKEND SERVICE PROVIDER'S LIABILITY FOUND IN THIS RSA. THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

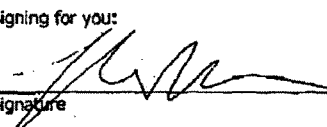
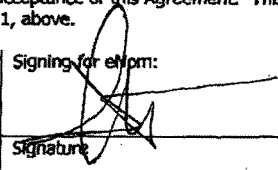
11. **Indemnification.** You, at your own expense, will indemnify, defend and hold harmless the Backend Service Provider (which refers to, as indicated at the beginning of this RSA, its subsidiaries, and all employees, directors, officers, representatives, agents and affiliates thereof), against any claim, suit, action, or other proceeding based on or arising from any claim or alleged claim (i) relating to any product or service of yours; (ii) relating to your use of the Services; or (iii) relating to your domain name registration and related service business, including, but not limited to, your advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service; provided, however, that in any such case: (a) the Backend Service Provider provides you with prompt notice of any such claim, and (b) upon your written request, the Backend Service Provider provides you with all available information and assistance reasonably necessary for you to defend such claim, provided that you reimburse the Backend Service Provider for actual and reasonable costs. You shall not enter into any settlement or compromise of any such indemnifiable claim without the Backend Service Provider's prior written consent, which consent shall not be unreasonably withheld. You shall pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by the Backend Service Provider in connection with or arising from any such indemnifiable claim, suit, action or proceeding.
12. **Limitation of Liability.**
  - A. A material provision of entering into this RSA is that the Backend Service Provider's liability shall be limited as follows: In relation to each component of the Services for which a separate fee is charged, the Backend Service Provider shall be liable in an amount no greater than the fees received by the Backend Service Provider for performing the specific transaction(s) that gave rise to the liability. The Backend Service Provider's aggregate liability for all claims of any sort shall not exceed the aggregate amount received by the Backend Service Provider from you over the term of this RSA. The Backend Service Provider shall not be liable for any unauthorized access to, or any corruption, erasure, theft, destruction, alteration, or inadvertent disclosure of data, information, or content transmitted, received, or stored on its or any 3<sup>rd</sup> party systems. With respect to passwords, account identifiers, and other systems used to control access to your Account, you acknowledge and agree that it is your responsibility to safeguard such passwords, account identifiers, and other systems used to control access to your Account. You agree that as a service to you, the Backend Service Provider may, but is not required to, take reasonable measures to verify the identity of parties who claim to have lost or forgotten passwords and/or account information and to then provide the information to such parties and that the Backend Service Provider shall not be responsible to you losses or claims for any inadvertent disclosure of such passwords which may result thereby. You expressly agree that it is reasonable for the Backend Service Provider to email passwords to designated email account(s), to phone designated phone numbers, or to employ security questions as a means to verify the identity of the party entitled to control your account. You agree that the Backend Service Provider may charge administrative fees if the Backend Service Provider is required to take measures to verify the identity of a party accessing your Account.
  - B. EXCEPT AS EXPRESSLY PROVIDED IN THIS RSA, NEITHER PARTY SHALL BE LIABLE IN ANY WAY TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LICENSES, OR SERVICES OR SIMILAR ECONOMIC LOSS, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR SIMILAR DAMAGES OF ANY NATURE, WHETHER FORESEEABLE OR NOT, UNDER ANY WARRANTY OR OTHER RIGHT HERELINDER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS RSA, OR, EXCEPT AS PROVIDED FOR IN THE SECTION RELATING TO YOUR INDEMNIFICATION OF THE BACKEND SERVICE PROVIDER, FOR ANY CLAIM AGAINST THE OTHER PARTY BY A 3<sup>RD</sup> PARTY, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES.
13. **Independent Contractors.** The parties to this RSA are independent contractors and shall have no right or authority to bind or commit the other party in any way without the other party's express written authorization to do so. Nothing contained in this RSA shall be deemed or construed to create for any purpose an employer/employee, joint venture, partnership, or agency relationship between the parties.
14. **Assignment.** You agree not to assign, transfer, or otherwise dispose of this RSA or any of your rights, benefits, or interests under this RSA without written consent of the Backend Service Provider. The Backend Service Provider may assign this RSA to a party which acquires the assets of the Backend Service Provider which relate to performance of this RSA. The Backend Service Provider may assign all or part of its rights and obligations under this RSA to its parent corporation, to a subsidiary, to its survivor in connection with a corporate reorganization, to any entity acquiring all or substantially all of its property, or to any entity into which it is merged or consolidated. No assignment of this RSA shall operate to discharge the assignor of any duty or obligations hereunder without prior written consent.
15. **Taxes.** Unless specified otherwise, the fees listed in this RSA do not include taxes. If the Backend Service Provider is required to pay ICANN fees or United States or international sales, use, property, value-added, royalty, license or other taxes based on the licenses granted in this RSA or on your use of the Services, then such taxes or fees shall be billed to and paid by you. This section shall not apply to taxes based on the Backend Service Provider's income.
16. **Force Majeure.** Neither party shall be in default or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with terms of this RSA (other than the obligation to make payments, which shall not be affected by this provision) due to any causes beyond its reasonable control, which causes include but are not limited to Acts of God or the public enemy; riots and insurrections; war; fire; strikes and other labor difficulties (whether or not the party is in a

### eNom Reseller Agreement

position to concede to such demands); embargoes; judicial action; lack of or inability to obtain export permits or approvals, necessary labor, materials, energy, components or machinery; acts of civil or military authorities; failure of telecommunications; or other casualty.

- 17. **Governing Law and Venue for Disputes.** This RSA and any disputes regarding its interpretation and enforcement shall be governed by the laws of the United States of America and the State of Washington, as if this RSA was a contract wholly entered into and wholly performed within the State of Washington. Any action to enforce this RSA or any matter relating to your use of the Backend Service Provider's or the Backend Service Provider's subsidiaries' services shall be brought exclusively in the United States District Court for the Western District of Washington, or if there is no jurisdiction in such court, then in a state court in King County, Washington state. You consent to the exclusive personal and subject matter jurisdiction of such courts and agree that exclusive venue therein is proper.

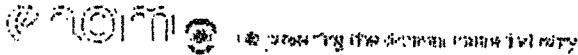
Your authorized representative signs below to acknowledge your acceptance of this Agreement. This RSA is not binding until accepted by the Backend Service Provider as described in Section 1, above.

Signing for you:	Signing for eNom:
	
Signature	Signature
KEVIN MEDINA	JOHN KANE
Print Name	Print Name
UNIFIEDNAMES, INC	eNom, Inc.
Organization you represent, if any, and your title	
04/12/05	4/12/05
Date	Date
973.736.2545 x117	
Phone number	
SEPA-LS 03	
Login ID for your existing eNom account, if any	

# **EXHIBIT 2**

Total Domain Names on the eNom Platform: 9,070,564

[Apply for a reseller account](#) | [log-in](#)



[whois](#) | [help](#)

► [TERMS AND CONDITIONS](#) ► [enom technology partner agreement](#)

Please [Log In](#) to your reseller account to confirm that you have agreed to these terms.

By using the Domain Name Registration and related services (hereinafter the "Services," defined further below), you signify your agreement to the terms and conditions contained in this Reseller Agreement (hereinafter, the "RSA"). This RSA is between you, your organization (if you are entering into this RSA on behalf of an organization), collectively referred to herein as "you" or "your" (and appropriate formatives), eNom, Inc. (the "Primary Service Provider(s)") and the backend service provider eNom, Inc. (the "Backend Service Provider"), including the Backend Service Provider's subsidiaries and all employees, directors, officers, representatives, agents and affiliates thereof. You declare your identity (including organizational affiliation) in the information which you provide to the Backend Service Provider through the interface which you use to configure and/or otherwise order the Services (referred to herein as "your Account"). It is a material part of this RSA that you warrant that the contact information you provide in your Account is accurate and that you will keep it up to date.

**1. This RSA: When accepted and how modified.**

- A. You agree that this RSA is an application to become an independent reseller of the Backend Service Provider and that this RSA shall not become effective until i) the Backend Service Provider's receipt of all indicated funds, ii) the Backend Service Provider's receipt of an executed copy of this RSA, if required by the Backend Service Provider and iii) the Backend Service Provider's acceptance of this RSA (which acceptance may be evidenced by the Backend Service Provider's course of conduct in activating your Account).
- B. The terms and conditions of this RSA may be modified from time to time. Modifications made to this RSA will become effective 30 days after the modifications are posted to your Account or immediately upon your acknowledgment of the revised terms. If you no longer agree to the terms and conditions of this RSA, you may stop using the Services and terminate the Services as described below in section 7.

**2. The Services, Accounts, Sub-Resellers, and Sub-Accounts.**

- A. The Services include the following: a) Domain Name registration in the TLDs offered by the Backend Service Provider, including whois service; b) name server services (DNS); c) URL forwarding; d) email forwarding; e) POP & SMTP email; f) web-based email; g) website hosting; h) website and domain name availability monitoring; i) website and domain name traffic monitoring; j) website and domain name traffic monetization; k) pre-fabricated and hosted websites for the purpose of registering domain names and offering these Services ("PDQ"); l) pre- and post-expiration domain name resale services; m) name my map, phone, etc.; n) dynamic (real-time) DNS; o) phone and email support; p) merchant services for processing credit card orders; and q) such other services as the Backend Service Provider may make available through your Account and the API (collectively referred to as the "Services"). The Services do not include other services which a Primary Service Provider may provide to you. Primary Service Providers are independent resellers of the Backend Service Provider and may offer their own services under separate agreement.
- B. Generally, you wish to obtain domain name registration services and related services offered by the Backend Service Provider for yourself and/or for your customers, if any. Primary Service Provider(s) may offer other services (not those of the Backend Service Provider) which are not subject to this RSA. The Backend Service Provider may utilize any of the ICANN-accredited registrars listed at [http://www.enom.com/help/agreement\\_popup.htm](http://www.enom.com/help/agreement_popup.htm) when providing domain name registration services. You may only use your Account and/or the API (defined further below) to select and/or interact with the Services.
- C. You and/or your customers may be the direct consumers of the Services. In addition, your customers may also be parties ("your Sub-Resellers") who wish to resell the Services to further downstream customers. Your Sub-Resellers will have "Sub-Account(s)" which, in this RSA, are said to be "below" your Account. Your Sub-Resellers may also have customers, Sub-Resellers, and Sub-Accounts below them. You are the Primary Service Provider to your immediate Sub-Resellers and your Sub-Resellers are the Primary Service Provider to their Sub-Resellers. In other words, accounts with the Backend Service Provider are inverse hierarchical tree structures; your Account may be the apex of a local hierarchy below which may be multiple Sub-Accounts, each of which may also have multiple Sub-Accounts and each of which acts as a Primary Service Provider for the Sub-Accounts below it in the hierarchy.

- D. You have the ability, through your Account, to control the creation, access to, pricing of, and use of your Account and all Sub-Accounts below your Account. You agree to be responsible for and guarantee all payments and other performance obligations due to the Backend Service Provider for all Services provided to you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account. When there is an unresolved issue (such as non-payment or dishonoring of payment for Services already rendered or a failure to provide customer support) between the Backend Service provider and a customer and/or a Sub-Reseller below your Account, the Backend Service Provider will first seek satisfaction from the Primary Service Provider who has the most immediate relationship with the party causing the issue; however, if the Backend Service Provider is not able, after commercially reasonable efforts, to obtain satisfaction from such Primary Service Provider, you agree that the Backend Service Provider may then seek satisfaction from successively higher Primary Service Providers, and ultimately from you, in the hierarchy of accounts between the party causing the issue and the Backend Service Provider. You are responsible in this way and make this guarantee because you have the ability to control the creation, access to, pricing of, and use of your Account and all Sub-Accounts below your Account and because you benefit therefrom. You agree that the Backend Service Provider may charge you reasonable administrative fees for dealing with complaints, subpoena requests, and related issues caused by you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account.
- E. Certain of the Services are offered only subject to additional terms and conditions of the Backend Service Provider and which are available at <http://www.enom.com/terms/>. To use these Services, customers must agree to these additional terms and conditions. You agree to indemnify and hold harmless the Backend Service Provider for any intentional or negligent failure by you or a Sub-Reseller below your Account to obtain the consent of any customer to these additional terms and conditions.
- F. If you die or otherwise become unavailable (the Backend Service Provider is unsuccessful in making reasonable attempts to contact you), and if you have customers and/or Sub-Accounts, the Backend Service Provider may assume direct control over such customers and Sub-Accounts. If, under such circumstances, you have a Primary Service Provider, you agree that the Backend Service provider may elect to allow the Primary Service Provider to assume direct control over such customers and Sub-Accounts.

### 3. Points, payments, and commissions.

- A. You may be required to purchase "Points" to obtain all or certain of the Services. When you purchase Points, your price for the Points will also include certain costs, such as online access fees, taxes, etc., which will not be reflected in your Point total. For example, in order to refill\* 100 Points in your Account via a credit card,\* you will be charged \$103.00, which includes 3% convenience fee for online access. Points are non-refundable and are not transferable without the consent of the Backend Service Provider, which may be denied for any reason. In general, if you purchase larger volumes of Points you are entitled to obtain Services for fewer Points. If you have a Primary Service Provider, your pricing for the Services is determined by your Primary Service Provider, otherwise, your pricing for the Services is determined by the number of Points you purchase when you apply to open your Account. The different pricing levels are described in greater detail when you apply to open your Account.
- B. \* Note: Initial purchases of Points shall not include the 3% convenience charge for online access fees. For subsequent credit card transactions (account refills), 3% of the transaction amount will be charged for using the credit card online pre-payment service as an online access convenience fee. The Backend Service Provider does accept checks and/or wire transfers with no additional charges. You will be responsible for all Merchant Services fees, outlined in the Merchant Services Agreement at <http://www.enom.com/resellers/CCagreement.asp>, for any transaction originating from all Sub-Accounts below your Account.
- C. Points and certain of the Services may be purchased using a credit card. You authorize the Backend Service Provider to debit the credit card you present in relation to a particular transaction or the credit card you otherwise provide through your Account. You are hereby informed that charges for the Services will appear as follows: "Domain Name Registration" and/or "I-Net Sftwr Srvc & Sale." You agree that you will present only approved transactions to the Backend Service Provider. You agree that, prior to contacting your credit card company in relation to such charges, that you will first contact your Primary Service Provider and thereafter the Backend Service Provider to verify the charges and the manner of billing. You agree to require all Sub-Resellers and all customers in and below your Account (including customers of your Sub-Resellers) to only present approved transaction to the Backend Service Provider and to contact the Primary and Backend Service Providers regarding charges, as described above. You agree that any chargeback by a credit card company or similar action by or through another payment provider relating to payment to the Backend Service Provider, for whatever reason, whether by you, by any Sub-Reseller or customer below your Account of yours i) is a material breach of this RSA, ii) is an act for which you agree to be jointly and severally liable to make the Backend Service Provider whole, iii) is an act with respect to which the Backend Service Provider will charge \$35.00 per incident, in addition to Merchant Services fees and other payment provider service charges which may be charged to the Backend Service Provider, and iv) that the same shall be grounds for suspension and/or termination of this RSA and the Services. Under such circumstances, you agree and acknowledge that the Backend Service Provider may suspend your access to any and all of your Accounts which you may have with the Backend Service Provider and that all right, title, interest in, and use of any domain name registration(s) and/or websites, email, or other data hosted on systems controlled by the Backend Service Provider (the "Collateral") shall be assumed by the Backend Service Provider. The Backend Service Provider will reinstate rights in the Collateral solely in the discretion of the Backend Service Provider, subject to receipt of the fee(s) owed and the then-current reinstatement fee, currently set at US\$200. You agree that the Backend Service Provider may sell, dispose of, or retain the Collateral if the Backend Service Provider determines the same to be a means of obtaining some monetary or other satisfaction or security. Points may also be purchased through check or wire transfer, in which case please contact the Backend Service Provider to arrange such a payment.

- D. The Backend Service Provider may require that you pay for Points or the Services using a particular payment means, such as by wire transfer. The Backend Service Provider may also demand reasonable assurance of payment if you give the Backend Service Provider grounds for insecurity.
  - E. If you are using the Backend Service Provider's merchant services provider (credit card processing company), receipts from your customers will be processed by the merchant services provider(s) selected by the Backend Service Provider and will be subject to convenience fees (presently set at 3% of each transaction (for online access fees), plus \$0.95) and taxes (including ICANN fees).
  - F. Points shall not be refunded to you for cash, regardless of termination of this RSA. You authorize the Backend Service Provider to deduct from your Points any amounts owed by you to the Backend Service Provider, including, without limitation, amounts owed as a result of your indemnification of the Backend Service Provider for third party claims, administrative costs mentioned in section 2.D, above, and reasonable administrative costs which may be charged for inactive accounts.
  - G. If you have Sub-Account(s) below your Account, you may earn commissions from sales generated by such Sub-Account(s). Such commissions will amount to the difference between the following: i) the price you charge the Sub-Reseller, less merchant service fees (presently set at 3% of each transaction (as an online access convenience fee), plus \$0.95) and taxes (including ICANN fees); and ii) the price you are charged for the Services by the Backend Service Provider or the Primary Service Provider, if any. When you have a balance greater than \$25.00 (U.S.) in commissions which have aged more than 90 days (which allows time for chargebacks and reversed transactions), you will be able to have your commissions sent to you via a check deposited in the U.S. mail (another reason to keep your account information current) or via direct deposit, when and if direct deposit becomes available. Commissions will be reported through your Account in your Available Commission Balance. Your Point balance is not part of your Available Commission Balance.
4. **Support.** You shall be responsible for providing customer service, billing, and technical support to your customers, Sub-Resellers below your Account, and customers of your Sub-Resellers. The Backend Service Provider shall provide telephone and email support to you during business hours, which are customarily from 6 AM to 6 PM, Pacific Standard Time, with some exceptions for major holidays. The Backend Service Provider may, but is not obligated to, provide support directly to your customers. If the Backend Service Provider receives communications from registrants or from third-parties regarding a Services provided in your Account or an Account below your Account, the Backend Service Provider will, where appropriate, forward such communications to the first immediate Primary Service Provider for further action; however, eNom, Inc. reserves the right to respond to such communications directly. If the Backend Service Provider determines that you are providing inadequate support to your customers (resulting in, for example, an excessive number of support calls directly from your customers), then the Backend Service Provider may consider this to be a breach of this RSA by you and may terminate this RSA.
5. **Licensed Use of The Technology.** You agree that the Services may only be accessed through the "Technology," which includes the application programming interface (this and the documentation specifying the application programming interface are referred to herein as the "API"), your Account, websites created by the Backend Service Provider which use the API (the "PDQ" websites), updates and upgrades thereto, and through such other means and technologies which the Backend Service Provider makes available through its websites or downloads (collectively, the "Technology").
- A. The Backend Service Provider hereby grants to you a non-exclusive, non-transferable, royalty-free license, exercisable solely during the term of this RSA, to use the Technology solely for the purpose of accessing and using the Services. With the exception of your Account (your use of which may be alienated by you only with permission of the Backend Service Provider), this license right may be sublicensed to Sub-Resellers and customers in your Account and in Sub-Accounts below your Account, but only subject to all license terms and restrictions of this RSA, only during the term of this RSA, and only so long as performance of the Services by the Backend Service Provider has not been suspended.
  - B. Except for the rights expressly granted above, this RSA does not transfer from Backend Service Provider to you or your customers any Backend Service Provider technology, and all rights, titles and interests in and to the Technology shall remain solely with Backend Service Provider.
  - C. You shall not directly or indirectly, reverse engineering, decompiling, disassembling or otherwise attempt to derive source code or other trade secrets from the Technology.
  - D. You shall not branch or otherwise prepare derivatives of the API;
  - E. You shall not copy or use the Technology except as specified in this RSA;
  - F. You shall not create, apply for, or otherwise procure any patent or copyright interest in the Technology and any derivative ("IP Interest") thereof which IP Interest would block, impede, or make more expensive Backend Service Provider's continued use and enjoyment of the Technology. You agree that if you breach the provisions of this Section, that any IP Interests created thereby shall be assigned to Backend Service Provider as a "work for hire" as this expression is defined in U.S. copyright law.

- G. You shall not use the Technology to communicate with or control a system other than one(s) designated by Backend Service Provider and you may not access the Services using any access mechanism other than the Technology.
- H. You shall not intentionally or negligently abuse the Service Infrastructure. "Abuse" in the foregoing sentence shall mean, by way of example and without limitation, any action or conduct which degrades service to other users of the shared Services and Technology.
- I. Backend Service Provider's Infringement Indemnification of you in relation to the Technology: The Backend Service Provider will defend and indemnify you against a claim that the Technology infringes a copyright, a United States patent, or other intellectual property right, provided that: (a) you notify the Backend Service Provider in writing within 30 days of the claim; (b) the Backend Service Provider has sole control of the defense and all related settlement negotiations; and (c) you provide the Backend Service Provider with the assistance, information and authority necessary to perform the Backend Service Provider's obligations under this Section, inclusive of its subsections. If the Technology is held or believed by the Backend Service Provider to infringe, the Backend Service Provider shall have the option, at its expense, to (a) modify the Technology to be non-infringing; or (b) obtain for you a license to continue using the Technology. If it is not commercially reasonable to perform either of the above options, then the Backend Service Provider may terminate the license with respect to the infringing Technology and refund as cash that portion of the Points purchased by you in the preceding twelve months for the Services which can reasonably be allocated to such Technology, subject to the overall Limitation on the Backend Service Provider's Liability found in this RSA. This section states the Backend Service Provider's entire liability and your exclusive remedy for infringement. The Backend Service Provider shall have no liability for any claim of infringement based on any of the following and for all such claims, you agree to indemnify and defend the Backend Service Provider from and against all damages, costs and expenses, including reasonable attorneys' fees:
- Your use of a superseded or altered release of the Technology if the infringement would have been avoided by the use of a current unaltered release of the Technology; or
  - Combination of the Technology with a non-Backend Service Provider product, program or data; or
  - Adaptation or modification of the Technology by you or by the Backend Service Provider at your direction.
6. License by you to the Backend Service Provider. In connection with providing materials to the Backend Service Provider in performance of the Services, you grant the Backend Service Provider a limited license to modify, adapt, incorporate with other material, and otherwise to use the materials provided by you but only to the extent necessary to provide the Services as directed by you. You warrant that the materials provided by you to the Backend Service Provider are your sole property or that you have obtained appropriate license to the material such that the Backend Service Provider's use of the material in providing the Services shall not subject the Backend Service Provider to a claim. In connection therewith, you will defend any claim and indemnify and hold the Backend Service Provider harmless from any cost (including reasonable attorney's fees) from a 3rd party claim that the material provided by you to the Backend Service Provider may infringe a copyright, a patent, or other intellectual property right.
7. Suspension or Termination of the Services. The Backend Service Provider reserves the right to suspend performance of the Services or to preclude use of or access to the Technology if any of the following occur:
- If you fail to pay any amounts owed to the Backend Service Provider;
- If you or your customers' excessive use or abuse of the Services or Technology disrupts service to other users of the Backend Service Provider's shared Services and Technology;
  - If you or your customers' use of the Services and Technology results in the Backend Service Provider's IP addresses being reported to spam blocking organizations or other organizations which attempt to police or monitor abuse of the Internet;
  - If you or your customers fail to abide by customary industry acceptable use policies and all governing and applicable laws.
8. Term of this RSA and Termination. This RSA is effective for a period of one year from the date of creation of your Account by the Backend Service Provider. This RSA will then be renewed for an indefinite number of one-year terms. Either party upon at least thirty (30) days' written notice (including notice via email) may terminate this RSA. The Backend Service Provider also retains the right to terminate this RSA immediately if you or your customers fail to comply with any term or condition of this RSA, or if the Backend Service Provider, in its sole discretion, deems such termination necessary to investigate or resolve any complications arising from your use of the Services.
9. Confidentiality. You agree to keep the monetary terms of this RSA confidential. The Backend Service Provider agrees to keep confidential your confidential business and technology information other than your Account contact information and other information which the Backend Service Provider, in its sole discretion, deems necessary to disclose in order to effectuate transfers, to investigate or implement any policing activity, to respond to lawful discovery requests, or to otherwise achieve the legitimate business purposes of this RSA. The obligations of this section shall not restrict any disclosure by either party pursuant to any applicable law, or by order of any court, government agency, or ICANN and shall not apply to information that is independently developed by the disclosing party or is publicly known.
10. Warranties and Excluded Warranties.
- WHAT IS NOT WARRANTED: THE BACKEND SERVICE PROVIDER DOES NOT WARRANT THAT PERFORMANCE OF THE SERVICES OR USE OF THE TECHNOLOGY WILL BE UNINTERRUPTED, ERROR FREE, OR THAT IT WILL NOT BE NECESSARY FOR YOU TO PROVIDE NOTICE OF ERRORS THROUGH THE BACKEND SERVICE PROVIDER'S SUPPORT PROCEDURES.

- G. You shall not use the Technology to communicate with or control a system other than one(s) designated by Backend Service Provider and you may not access the Services using any access mechanism other than the Technology.
- H. You shall not intentionally or negligently abuse the Service Infrastructure. "Abuse" in the foregoing sentence shall mean, by way of example and without limitation, any action or conduct which degrades service to other users of the shared Services and Technology.
- I. Backend Service Provider's infringement Indemnification of you in relation to the Technology: The Backend Service Provider will defend and indemnify you against a claim that the Technology infringes a copyright, a United States patent, or other intellectual property right, provided that: (a) you notify the Backend Service Provider in writing within 30 days of the claim; (b) the Backend Service Provider has sole control of the defense and all related settlement negotiations; and (c) you provide the Backend Service Provider with the assistance, information and authority necessary to perform the Backend Service Provider's obligations under this Section, inclusive of its subsections. If the Technology is held or believed by the Backend Service Provider to infringe, the Backend Service Provider shall have the option, at its expense, to (a) modify the Technology to be non-infringing; or (b) obtain for you a license to continue using the Technology. If it is not commercially reasonable to perform either of the above options, then the Backend Service Provider may terminate the license with respect to the infringing Technology and refund as cash that portion of the Points purchased by you in the preceding twelve months for the Services which can reasonably be allocated to such Technology, subject to the overall Limitation on the Backend Service Provider's Liability found in this RSA. This section states the Backend Service Provider's entire liability and your exclusive remedy for infringement. The Backend Service Provider shall have no liability for any claim of infringement based on any of the following and for all such claims, you agree to indemnify and defend the Backend Service Provider from and against all damages, costs and expenses, including reasonable attorneys' fees:
- Your use of a superseded or altered release of the Technology if the infringement would have been avoided by the use of a current unaltered release of the Technology; or
  - Combination of the Technology with a non-Backend Service Provider product, program or data; or
  - Adaptation or modification of the Technology by you or by the Backend Service Provider at your direction.
6. License by you to the Backend Service Provider. In connection with providing materials to the Backend Service Provider in performance of the Services, you grant the Backend Service Provider a limited license to modify, adapt, incorporate with other material, and otherwise to use the materials provided by you but only to the extent necessary to provide the Services as directed by you. You warrant that the materials provided by you to the Backend Service Provider are your sole property or that you have obtained appropriate license to the material such that the Backend Service Provider's use of the material in providing the Services shall not subject the Backend Service Provider to a claim. In connection therewith, you will defend any claim and indemnify and hold the Backend Service Provider harmless from any cost (including reasonable attorney's fees) from a 3rd party claim that the material provided by you to the Backend Service Provider may infringe a copyright, a patent, or other intellectual property right.
7. Suspension or Termination of the Services. The Backend Service Provider reserves the right to suspend performance of the Services or to preclude use of or access to the Technology if any of the following occur:
- If you fail to pay any amounts owed to the Backend Service Provider;
- If you or your customers' excessive use or abuse of the Services or Technology disrupts service to other users of the Backend Service Provider's shared Services and Technology;
  - If you or your customers' use of the Services and Technology results in the Backend Service Provider's IP addresses being reported to spam blocking organizations or other organizations which attempt to police or monitor abuse of the Internet;
  - If you or your customers fail to abide by customary industry acceptable use policies and all governing and applicable laws.
8. Term of this RSA and Termination. This RSA is effective for a period of one year from the date of creation of your Account by the Backend Service Provider. This RSA will then be renewed for an indefinite number of one-year terms. Either party upon at least thirty (30) days' written notice (including notice via email) may terminate this RSA. The Backend Service Provider also retains the right to terminate this RSA immediately if you or your customers fail to comply with any term or condition of this RSA, or if the Backend Service Provider, in its sole discretion, deems such termination necessary to investigate or resolve any complications arising from your use of the Services.
9. Confidentiality. You agree to keep the monetary terms of this RSA confidential. The Backend Service Provider agrees to keep confidential your confidential business and technology information other than your Account contact information and other information which the Backend Service Provider, in its sole discretion, deems necessary to disclose in order to effectuate transfers, to investigate or implement any policing activity, to respond to lawful discovery requests, or to otherwise achieve the legitimate business purposes of this RSA. The obligations of this section shall not restrict any disclosure by either party pursuant to any applicable law, or by order of any court, government agency, or ICANN and shall not apply to information that is independently developed by the disclosing party or is publicly known.
10. Warranties and Excluded Warranties.
- WHAT IS NOT WARRANTED: THE BACKEND SERVICE PROVIDER DOES NOT WARRANT THAT PERFORMANCE OF THE SERVICES OR USE OF THE TECHNOLOGY WILL BE UNINTERRUPTED, ERROR FREE, OR THAT IT WILL NOT BE NECESSARY FOR YOU TO PROVIDE NOTICE OF ERRORS THROUGH THE BACKEND SERVICE PROVIDER'S SUPPORT PROCEDURES.



B. **WARRANTIES:** THE BACKEND SERVICE PROVIDER WARRANTIES THAT THE SERVICES AND TECHNOLOGY WILL BE PROVIDED AND MAINTAINED WITH AT LEAST THE SAME DEGREE OF CARE THE BACKEND SERVICE PROVIDER EXERCISES IN PROVIDING SIMILAR SERVICES AND TECHNOLOGY TO THE BACKEND SERVICE PROVIDER'S OTHER SIMILARLY SITUATED CUSTOMERS. YOU AGREE THAT YOUR EXCLUSIVE REMEDIES FOR BREACH OF THIS WARRANTY ARE THE REMEDIES PROVIDED IN THIS RSA OR, IF NO REMEDIES ARE PROVIDED, THAT YOUR EXCLUSIVE REMEDY IS THE RE-PERFORMANCE OF THE SERVICES OR IF THE BACKEND SERVICE PROVIDER IS UNABLE TO PERFORM THE SERVICES AS WARRANTED WITHIN A REASONABLE PERIOD AND IF YOU CAN DEMONSTRATE THROUGH CLEAR AND CONVINCING EVIDENCE A LOSS WHICH IS SOLELY AND DIRECTLY ATTRIBUTABLE TO THE BACKEND SERVICE PROVIDER'S BREACH OF THIS WARRANTY, THEN YOUR EXCLUSIVE REMEDY SHALL BE THE TERMINATION OF THIS RSA AND THE CASH REFUND OF ANY POINTS USED BY YOU IN RELATION TO THE SPECIFIC TRANSACTIONS WHICH GAVE RISE TO THE BREACH OF THIS WARRANTY, SUBJECT TO THE OVERALL LIMITATION OF THE BACKEND SERVICE PROVIDER'S LIABILITY FOUND IN THIS RSA. THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

11. **Indemnification.** You, at your own expense, will indemnify, defend and hold harmless the Backend Service Provider (which refers to, as indicated at the beginning of this RSA, its subsidiaries, and all employees, directors, officers, representatives, agents and affiliates thereof), against any claim, suit, action, or other proceeding based on or arising from any claim or alleged claim (i) relating to any product or service of yours; (ii) relating to your use of the Services; or (iii) relating to your domain name registration and-related service business, including, but not limited to, your advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service; provided, however, that in any such case: (a) the Backend Service Provider provides you with prompt notice of any such claim, and (b) upon your written request, the Backend Service Provider provides you with all available information and assistance reasonably necessary for you to defend such claim, provided that you reimburse the Backend Service Provider for actual and reasonable costs. You shall not enter into any settlement or compromise of any such indemnifiable claim without the Backend Service Provider's prior written consent, which consent shall not be unreasonably withheld. You shall pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by the Backend Service Provider in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

12. **Limitation of Liability.**

A. A material provision of entering into this RSA is that the Backend Service Provider's liability shall be limited as follows: In relation to each component of the Services for which a separate fee is charged, the Backend Service Provider shall be liable in an amount no greater than the fees received by the Backend Service Provider for performing the specific transaction(s) that gave rise to the liability. The Backend Service Provider's aggregate liability for all claims of any sort shall not exceed the aggregate amount received by the Backend Service Provider from you over the term of this RSA. The Backend Service Provider shall not be liable for any unauthorized access to, or any corruption, erasure, theft, destruction, alteration, or inadvertent disclosure of data, information, or content transmitted, received, or stored on its or any 3rd party systems. With respect to passwords, account identifiers, and other systems used to control access to your ETP account, you acknowledge and agree that it is your responsibility to safeguard such passwords, account identifiers, and other systems used to control access to your ETP account. You agree that as a service to you, the Backend Service Provider may, but is not required to, take reasonable measures to verify the identity of parties who claim to have lost or forgotten passwords and/or account information and to then provide the information to such parties and that the Backend Service Provider shall not be responsible to you for losses or claims for any inadvertent disclosure of such passwords which may result thereby. You expressly agree that it is reasonable for the Backend Service Provider to email passwords to designated email account(s), to phone designated phone numbers, or to employ security questions as a means to verify the identity of the party entitled to control your account.

B. EXCEPT AS EXPRESSLY PROVIDED IN THIS RSA, NEITHER PARTY SHALL BE LIABLE IN ANY WAY TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LICENSES, OR SERVICES OR SIMILAR ECONOMIC LOSS, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR SIMILAR DAMAGES OF ANY NATURE, WHETHER FORESEEABLE OR NOT, UNDER ANY WARRANTY OR OTHER RIGHT HEREUNDER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS RSA, OR, EXCEPT AS PROVIDED FOR IN THE SECTION RELATING TO YOUR INDEMNIFICATION OF THE BACKEND SERVICE PROVIDER, FOR ANY CLAIM AGAINST THE OTHER PARTY BY A 3RD PARTY, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES.

C. **Independent Contractors.** The parties to this RSA are independent contractors and shall have no right or authority to bind or commit the other party in any way without the other party's express written authorization to do so. Nothing contained in this RSA shall be deemed or construed to create for any purpose an employer/employee, joint venture, partnership, or agency relationship between the parties.

D. **Assignment.** You agree not to assign, transfer, or otherwise dispose of this RSA or any of your rights, benefits, or interests under this RSA without written consent of the Backend Service Provider. The Backend Service Provider may assign this RSA to a party which acquires the assets of the Backend Service Provider which relate to performance of this RSA. The Backend Service Provider may assign all or part of its rights and obligations under this RSA to its parent corporation, to a subsidiary, to its survivor in connection with a corporate reorganization, to any entity acquiring all or substantially all of its property, or to any entity into which it is merged or consolidated. No assignment of this RSA shall operate to discharge the assignor of any duty or obligations hereunder without prior written consent.

- E. **Taxes.** Unless specified otherwise, the fees listed in this RSA do not include taxes. If the Backend Service Provider is required to pay ICANN fees or United States or international sales, use, property, value-added, royalty, license or other taxes based on the licenses granted in this RSA or on your use of the Services, then such taxes or fees shall be billed to and paid by you. This section shall not apply to taxes based on the Backend Service Provider's income.
- F. **Force Majeure.** Neither party shall be in default or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with terms of this RSA (other than the obligation to make payments, which shall not be affected by this provision) due to any causes beyond its reasonable control, which causes include but are not limited to Acts of God or the public enemy; riots and insurrections; war; fire; strikes and other labor difficulties (whether or not the party is in a position to concede to such demands); embargoes; judicial action; lack of or inability to obtain export permits or approvals, necessary labor, materials, energy, components or machinery; acts of civil or military authorities; failure of telecommunications; or other casualty.
- G. **Governing Law and Venue for Disputes.** This RSA and any disputes regarding its interpretation and enforcement shall be governed by the laws of the United States of America and the State of Washington, as if this RSA was a contract wholly entered into and wholly performed within the State of Washington. Any action to enforce this RSA or any matter relating to your use of the Backend Service Provider's or the Backend Service Provider's subsidiaries' services shall be brought exclusively in the United States District Court for the Western District of Washington, or if there is no jurisdiction in such court, then in a state court in King County, Washington state. You consent to the exclusive personal and subject matter jurisdiction of such courts and agree that exclusive venue therein is proper.

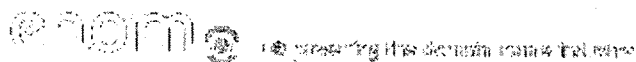
FILED

2007 Aug-30 PM 03:19  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# EXHIBIT 3

Total Domain Names on the eNom Platform: **9,444,057**

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[whois](#) | [Help](#)

» [TERMS AND CONDITIONS](#) » [registration agreement](#)

## eNom Registration Agreement

This Registration Agreement ("Agreement") sets forth the terms and conditions of your use of domain name registration and related services ("Services"). In this Agreement "you" and "your" refer to you and the registrant listed in the WHOIS contact information for the domain name. "We", "us" and "our" refer to the registrars listed at **the bottom of this document**, any one of which will be your registrar for your domain name and all of which share common ownership, common terms and conditions, and a shared Service infrastructure. To determine which registrar your domain name is registered with, perform a WHOIS lookup at **http://www.uwhois.com**. You obtain the Services first through a Primary Service Provider, eNom, Inc., with whom we have a wholesale relationship. Your relationship with your Primary Service Provider may be governed by additional terms, as you and your Primary Service Provider may agree. "We," "us" and "our" does not include your Primary Service Provider, except when specifically mentioned or unless your Primary Service Provider is one of us (i.e. if your Primary Service Provider is also one of the registrars listed at **the bottom of this document**).

**YOU AGREE TO THIS AGREEMENT:** By using the Service(s), you agree to all terms and conditions of this Agreement, the UDRP (defined below) and the rules, policies, or agreements published in association with specific of the Service(s) and/or which may be enforced by ICANN, the registries, and governments.

**PASSAGE OF TIME:** This Agreement will change over time. If, as a result of such a change, you no longer agree with the terms of this Agreement, you agree that your exclusive remedy is to transfer your domain name registration services to another registrar. If you request of us that we cancel your domain name registration services, you agree that we will do so. If you continue to use the Services following a change in Agreement and/or the Services, your continued use of the Services indicates your consent to the changes. Any such revision or change will be binding and effective within 30 days of when the revised Agreement or change to the Service(s) is posted to the website of either the Primary or Backend Service Providers, or 15 days after you view the revised Agreement or 15 days after notification is sent to the e-mail address provided in association with your domain name registration. You agree to review this Agreement periodically to make yourself aware of any such revisions.

**YOUR ACCOUNT:** You must create an account to use the Services. Your account is typically going to be managed and/or provided by your Primary Service Provider. You are responsible for maintaining and updating all login IDs, passwords, and for all access to use of your account by you or any third party.

**SERVICE(S) PROVIDED AT WILL AND TERMINATION OF SERVICE(S):** We and your Primary Service Provider may reject your domain name registration application or elect to discontinue providing Service(s) to you for any reason within 30 days of a Service initiation or a Service renewal. Outside of this period, we and your Primary Service Provider may terminate or suspend the Service(s) at any time for cause, which, without limitation, includes registration of prohibited domain name(s), abuse of the Services, payment irregularities, serious allegations of illegal conduct, or if your use of the Services involves us in a violation of any Internet Service Provider's ("ISP's") acceptable use policies, including the transmission of unsolicited bulk email. You agree that if we terminate or suspend the Services provided to you under this Agreement, that we may then, at our option, make either ourselves or a third party the beneficiary of Services which are substantially similar to those which were previously providing to you and that any reference in this Agreement to termination or suspension of the Services to you includes this option. If we have grounds to terminate or suspend the Service(s) with respect to one domain name or in relation to other Service(s) provided through your account, we may terminate or suspend all Service(s) provided through your account, including Service(s) to other domain names. No fee refund will be made if there is a suspension or termination of Service(s) for cause. At any time and for any reason, we may terminate the Services 30 days after we send notice of termination via mail or email, at our option, to the WHOIS contact information provided in association with your domain name registration. Following notice of termination other than for cause, you must transfer your domain name or register that we may delete your domain name or suspend or modify Services to it. If we terminate Services for a reason other than cause, we will attempt to refund your fees. You further acknowledge and agree that your registration of a domain name is subject to suspension, cancellation or transfer by any ICANN procedure, by any registrar or registry administrator procedures approved by ICANN-adopted policy, to correct mistakes by us, another registrar or the registry administrator in administering the domain name or for the resolution of disputes concerning the domain name.

**OUR SERVICES:** We are accredited registrars with the Internet Corporation for Assigned Names and Numbers ("ICANN") for Top Level Domain Names ("TLDs") (such as .com, .net, .org, .de, co.uk, etc.). ICANN oversees registrations and other aspects of top level TLDs. Domain name registrations are not effective until the registry administrator puts them into effect. For a list of registry administrators and for more information on TLDs, see [HYPERLINK http://www.icann.org/tlds/](http://www.icann.org/tlds/). Domain name registrations are only for limited terms, terms which end on the expiration date. For domain names which are created as a new registration out

available namespace, the term begins on the date the domain name registration is acknowledged by the applicable registry; for domain names registrations which were not returned to the available namespace, the term begins on the date the previous registrant's domain name registration was acknowledged by the applicable registry. You agree that we and your Primary Service Provider are not liable or responsible in any way for any errors, omissions or any other actions by the registry administrator arising out of or related to a request to register, renew, modify the settings for, or transfer of a domain name registration (our limitation of liability is explained further, below). You further agree that domain name registration is a service, that domain name registrations do not exist independently from services provided pursuant to this or a similar registration agreement with a registrar, and that domain name registration services do not create a property interest.

**YOU WARRANT THAT YOUR USE OF OUR SERVICES IS NOT GOING TO SUBJECT US TO ANY CLAIM(S).** You further agree to indemnify, defend and hold harmless us, your Primary Service Provider, and applicable registry administrator(s) (including VeriSign, Inc., Neulevel, Inc., Public Interest Registry, Afilias Limited, and other registry operators listed at <http://www.icann.org/registries/listing.html>) and all such parties' directors, officers, employees, and agents from and against any and all claims, damages, liabilities, costs, and expenses (including any direct, indirect, incidental, special or consequential damages and reasonable legal fees and expenses) arising out of, or related to, the domain name registration services you are obtaining from us.

**NOT INCLUDED IN THE SERVICES:** 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 the legal rights of others. It is your responsibility to know whether or not the domain name(s) you select or use infringes legal rights of others. We might be ordered by a court to cancel, modify, or transfer your domain name; 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. We will comply with court orders unless you contact us to contest the order.

**IF LAWSUIT(S) ARE THREATENED:** If we are sued or threatened with lawsuit in connection with Service(s) provided to you, we turn to you to indemnify us and to hold us harmless from the claims and expenses (including attorney's fees and court costs). In such circumstances, you agree that you will, upon demand, obtain a performance bond with a reputable bonding company or, if you are unable to obtain a performance bond, that you will deposit money with us to pay for our reasonably anticipated expenses in relation to the matter for the coming year. Such deposit will be drawn down as expenses are incurred, with all account notices to the WHOIS contact information provided in association with your domain names and/or account. We shall not be obliged to extend you any credit in relation to such expenses and we may terminate the Services for a failure to make or renew such a deposit. We will return any unused deposit upon the later of one year from deposit or the conclusion of the matter.

**DISPUTE RESOLUTION POLICY:** You agree to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), which is available at <http://www.icann.org/udrp/udrp-rules-24oct99.htm> and <http://www.icann.org/dndr/udrp/policy.htm>. You agree that the UDRP may be changed by ICANN (or ICANN's successor) at any time. You agree that, if the registration or reservation of your domain name is challenged by a third party, you will be subject to the provisions specified in the Dispute Policy in effect at the time your domain name registration is disputed by the third party. You also agree that, in the event a domain name dispute arises with any third party, you will indemnify and hold us harmless pursuant to the terms and conditions of the UDRP. You also understand that it is important for you to regularly monitor email sent to the email address associated with your account and domain name because, among other reasons, if a dispute arises regarding Services provided to you, you may lose your rights to receive the Services if you do not respond expeditiously to an email sent in conjunction therewith.

**FEES:** As consideration for the Service(s), renewal of the Service(s), and, if you select it, automatic renewal of the Service(s), you agree to pay, prior to the effectiveness of the desired Service(s), the applicable Service(s) fees. All fees are non-refundable, in whole or in part, even if your domain name registration is suspended, cancelled or transferred prior to the end of your then current registration term, unless this Agreement specifically provides for a refund. At our option, we may require that you pay fees through a particular payment means (such as by credit card or by wire transfer) or that you change from one payment provider to another.

**CREDIT CARD AND OTHER CHARGES:** If you have an issue with credit card charges, you should contact your Primary Service Provider (if any), first, and us, secondarily, regarding the issue before you contact your credit card company to request a charge back or reversal of the charges. In the event of a charge back by a credit card company (or similar action by another payment provider allowed by us) in connection with your payment of fees for any Service(s), you agree that we and/or your Primary Service Provider may suspend access to any and all accounts you have with us and/or your Primary Service Provider and that all rights and interest in and use of any domain name registration(s) services, website hosting, and/or email services, including all data hosted on our systems and/or on the systems of your Primary Service Provider shall be assumed by us or your Primary Service Provider, as the case may be. We will reinstate your rights to and control over these Services solely at our discretion, and subject to our receipt of the unpaid fee(s) and our then-current reinstatement fee, currently set at \$200(US Dollars). Reinstatement of Services by your Primary Service Provider may be according to the terms, if any, between you and your Primary Service Provider relating to reinstatement. Charges for the Service(s) which use our credit card payment processor will be identified on your credit card statement as "Domain Name Registration." We are not responsible for how charges appear on your credit card statement when a transaction is processed by your Primary Service Provider's or another third party's credit card payment processor.

**EXPIRATION AND RENEWAL OF SERVICE(S):** You acknowledge that it is your responsibility to keep your own records and to

maintain your own reminders regarding when your domain name registration or other Services are set to expire. As a convenience to you, and not as a binding commitment, we and/or your Primary Service Provider may notify you via an email message or via your account when renewal fees are due. Should these fees go unpaid, your Services will expire or be cancelled. Payment must be made by credit card or such other method as we may allow or require from time to time. If you select automatic renewal of the Services we may attempt to renew the Service(s) a reasonable time before expiration, provided your credit card or other billing information is available and up to date. You acknowledge that it is your responsibility to keep your billing information up to date and that we are not required to, but that we may, contact you to update this information in the event that an attempted transaction is not processed successfully. \*please note: for certain TLDs, the automatic renewal option is not available

**ACCOUNT CONTACT INFORMATION AND DOMAIN NAME WHOIS INFORMATION:** As further consideration for the Service(s), you agree to provide certain current, complete and accurate information about you, both with respect to your account information and with respect to the WHOIS information for your domain name(s). You agree to maintain and update this information as needed to keep it current, complete and accurate. With respect to you, the administrative, technical, and billing contacts for your domain name registration(s) and other Service(s), you must submit the following: name, postal address, e-mail address, voice telephone number, and where available, fax number. You agree that the type of information you are required to provide may change and you understand that, if you do not provide the newly required information, your registration or and/or other Service(s) may be suspended or terminated or may not be renewed. Not providing requested information may prevent you from obtaining all Services. You may provide information regarding the name-servers assigned to your domain name(s) and, if we are providing name server services to you, the DNS settings for the domain name. If you do not provide complete name-server information, or if you purchase "Name Only" Services, you agree that we may supply this information (and point your domain name to a website of your choosing) until such time as you elect to supply the name-server information or until such time as you elect to upgrade from "Name Only" Services.

**YOUR OBLIGATIONS AND REPRESENTATIONS RELATING TO THE ACCOUNT AND WHOIS CONTACT INFORMATION:** In the event that, in registering a domain name or obtaining other Service(s), you provide information about or on behalf of a third party, you represent that you have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in this Agreement, and (b) that you have obtained the third party's express consent to the disclosure and use of that party's information as set forth in this Agreement. By registering a domain name or applying for other Service(s) you also represent that the statements in your application are true and you also represent that the domain name is not being registered or the Service being procured for any unlawful purpose. You acknowledge that providing inaccurate information or failing to update information promptly will constitute a material breach of this Agreement and will be sufficient basis for suspension or termination of Services to you. You further agree that your failure to respond for over ten (10) calendar days to inquiries by us concerning the accuracy of your account and WHOIS contact information shall constitute a material breach of this Agreement and will be sufficient basis for suspension or termination of Service(s) to you. As indicated elsewhere in this Agreement, you understand that it is important for us to regularly monitor email sent to the email address associated with your account and WHOIS contact information because among other reasons, if a dispute arises regarding a domain name(s) or other Service(s), you may lose your rights to the domain name(s) or your right to receive the Service(s) if you do not respond appropriately to an email sent in conjunction therewith.

**ACCESSING YOUR ACCOUNT AND AN IMPORTANT LIMITATION OF OUR LIABILITY:** In order to change any of your account or domain name WHOIS information, you must access your account with your Primary Service Provider (if any), or your account directly with us. Please safeguard your account login identifier and password from any unauthorized use. You agree that any person in possession of your account login identifier and password will have the ability and your authorization to modify your account and domain name information. We will take reasonable precautions to protect the information we obtain from you from loss, misuse, unauthorized access or disclosure, alteration or destruction of that information and that such reasonable precautions include procedures for releasing account access information to parties who claim to have lost account access information. You agree that, if we take reasonable precautions in relation thereto, that IN NO EVENT SHALL WE BE LIABLE IF SUCH REASONABLE PRECAUTIONS DO NOT PREVENT THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD AND THAT, EVEN IF WE FAIL TO TAKE REASONABLE PRECAUTIONS, THAT OUR LIABILITY UNDER ANY CIRCUMSTANCES SHALL BE LIMITED BY THE LIMITATION OF LIABILITY PROVISION FOUND BELOW IN THIS AGREEMENT. If you contact us alleging that a third party has unauthorized access to your account or domain names, you agree that we may charge you administrative fees of \$50 (US dollars) per hour for our time spent in relation to the matter, regardless of whether or not we return control over the account and/or domain names to you.

**TRANSFERS:** You agree that transfer of your domain name(s) services shall be governed by ICANN's transfer policy, available at <http://www.icann.org/transfers/>, as this policy may be modified from time to time. You agree that we may place a "Registry Lock" on your domain name services and that this will prevent your domain name services from being transferred without your authorization, though we are not required to do so. By allowing your domain name services to remain locked, you provide your objection to any and all transfer requests until the lock is removed. To transfer your domain name(s) you should first login to your account to lock or unlock your domain name(s) and/or to obtain the EPP "AuthCode" which is required to transfer domain services from an EPP registry (such as .org). Alternatively, you should contact your Primary Service Provider to have your domain name(s) services locked or unlocked or to obtain the EPP "AuthCode." If your Primary Service Provider is unresponsive, you may contact us to have your domain name(s) locked or unlocked or to obtain the EPP "AuthCode" though we may first contact your Primary Service Provider to request that the Primary Service Provider address the request. Only the registrant and the administrative contacts listed in the WHOIS information may approve or deny a transfer request. Without limitation, domain name services may not be transferred within 60 days of initial registration, within 60 days of a transfer, if there is a dispute regarding the identity of the domain name registrant, if you are bankrupt, or if you fail to pay fees when due. We will follow the procedures for both gaining

losing registrars as outlined in ICANN's transfer policies. Transfer requests typically take five business days to be processed. A transfer will not be processed if, during this time, the domain name registration services expire in which event you may need to reinstate the transfer request. You may be required to resubmit a transfer request if there is a communication failure or other problem at either our end or at the registry. AS A CONSEQUENCE, YOU ACKNOWLEDGE THAT YOU ASSUME ALL RISK FOR FAILURE OF A TRANSFER IF THE TRANSFER PROCESS IS INITIATED CLOSE TO THE END OF A REGISTRATION TERM.

**PRIVACY POLICY:** You agree and consent that we will make available the domain name registration information you provide or we otherwise maintain to the following parties: ICANN, the registry administrator(s), and to other third parties as ICANN and applicable laws may require or permit (including through web-based and other on-line WHOIS lookup systems), whether during or after the term of your domain name registration services of the domain name. You hereby irrevocably waive any and all claims causes of action you may have arising from such disclosure or use of such information. Additionally, you acknowledge that ICANN may establish or modify the guidelines, limits and/or requirements that relate to the amount and type of information that we must make available to the public or to private entities, and the manner in which such information is made available. Information regarding ICANN's guidelines and requirements regarding WHOIS can be found at <http://www.icann.org/registrars/wmrp.htm>, <http://www.icann.org/registrars/wdrp.htm>, and elsewhere on the ICANN website at <http://www.icann.org/index.html>. You agree that we may make publicly available, or directly available to third parties, some, or all, of the information you provide, for purposes of inspection (such as through our WHOIS service) or for trademarking and other purposes as required or permitted by applicable laws. One of the ways that we may make some or all of the information you provide available to the public or third parties is by way of bulk WHOIS data access provided to third parties who enter into a bulk WHOIS data access agreement with us. Please [click here](#) if you would like your WHOIS information made available for bulk access. We reserve the right to discontinue providing bulk WHOIS data access to third parties.

**OWNERSHIP OF INFORMATION AND DATA:** You agree and acknowledge that we own all database, compilation, collective and derivative rights, title and interests worldwide in our domain name database, and all information and derivative works generated from the domain name database. You further agree and acknowledge that we own the following information for those registrations for which we are the registrar: (a) the original creation date of the registration, (b) the expiration date of the registration, (c) the name, postal address, e-mail address, voice telephone number, and where available fax number of all contacts for the domain name registration, (d) any remarks concerning the registered domain name that appear or should appear in the WHOIS or similar database, and (e) any other information we generate or obtain in connection with the provision of domain name registration services, other than the domain name being registered, the IP addresses of the primary nameserver and any secondary nameservers for the domain name, and the corresponding names of those nameservers. We do not have any ownership interest in your specific personal registration information outside of our rights in our domain name database.

**AGENTS AND LICENSES:** You agree that, if you are registering a domain name for or on behalf of someone else, you represent that you have the authority to nonetheless bind that person as a principal to all terms and conditions provided herein. You agree that you license the use of the domain name registered to you to a third party, you nonetheless remain the domain name holder of record, and remain responsible for all obligations under this Agreement, including but not limited to payment obligations, and providing (and updating, as necessary) both your 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 registration.

**USE OF FREE SERVICES:** In consideration for providing additional optional Services for which we do not charge an additional fee including, but not limited to, URL forwarding, email forwarding, free parking page, free website hosting, free email services, or other services which we may introduce from time to time but for which there is not a separate fee ("Free Services"), you agree that, if you use such Free Services, we may display advertising in conjunction therewith through the use of pop-up or pop-under browser windows, banner advertisements, audio or video streams, appendices to emails, or other similar advertising means, and that we may aggregate related usage data by means of cookies and other similar means. You agree that from time to time we may provide you with free or low-cost domain name(s) services ("Promotional Name(s)"). If we do so, the services for the Promotional Name(s) will be placed in the same account as your other domain name(s) and you will be listed as the registrant, though we may point the Promotional Name to IP address(es) of our choosing. If you want to assume control over the services provided to the Promotional Name, including the right to transfer or push the Promotional Name service to other registrars or other accounts or the ability to control the DNS settings for the Promotional Name, you must pay the promotional registration fee or renewal fee, if any, and agree to the terms of this Agreement with respect to such Promotional Name(s). If you do not want the Promotional Name services, you may request that you be removed as the registrant of such Promotional Names and we will be listed as the domain name registrar. Alternatively, you may contact us or your Primary Service Provider to request that we delete the Promotional Name from the namespace. For any domain name services, including these Promotional Names, for which you are listed as registrant but for which you do not pay the registration or renewal fee, you agree that we may assign name-servers to the domain name and point the domain name to IP address(es) designated by us until the registration or renewal fee is paid.

**AFTER EXPIRATION OF THE TERM OF A DOMAIN NAME REGISTRATION:** Immediately after the expiration of the term of domain name registration services and before deletion of the domain name in the applicable registry's database, you acknowledge that you may direct the domain name to name-servers and IP address(es) designated by us, including, without limitation, to no IP address(es) which host a parking page or a commercial search engine that may display advertisements, and you acknowledge that we may either leave your WHOIS information intact or that we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired domain name.

Reactivation Period Process. For a period of approximately 30 days after expiration of the term of domain name registration services, you acknowledge that we may provide a procedure by which expired domain name registration services may be renewed. You acknowledge and agree that we may, but are not obligated to, offer this process, called the "reactivation period." You acknowledge that you assume all risks and all consequences if you wait until close to or after the expiration of the original term domain name registration services to attempt to renew the domain name registration services. You acknowledge that we, for a reason and in our sole discretion, may choose not to offer a reactivation period and that we shall not be liable therefore. You acknowledge that reactivation period renewal processes, if any, may involve additional fees which we and your Primary Service Provider may determine. You acknowledge and agree that we may make expired domain name services(s) available to third party that we may auction off the rights to expired domain name services (the auction beginning close to the end or after the end of reactivation period), and/or that expired domain name registration services may be re-registered to any party at any time.

After the reactivation period, you agree that we may either (i) discontinue the domain name registration services at any time thereafter, (ii) that we may pay the registry's registration fee or otherwise provide for the registration services to be continued (iii) if we auctioned the domain name services to a third party, that we may transfer the domain name registration services to third party.

In the case of (i), above, you acknowledge that certain registry administrators may provide procedures by which discontinued domain name registration services may nonetheless be renewed. You acknowledge and agree that we may, but are not obligated to participate in this process, typically called the "Redemption Grace Period" ("RGP"). You acknowledge that we, for any reason and in our sole discretion, may choose not to participate in the RGP process with respect to any or all of your domain name registration services and that we shall not be liable therefore. If available, RGP typically ends between 30 and 42 days after the end of the reactivation period of the domain name services, as the reactivation period applied to you. The typical RGP fee is \$160 plus any registration fees. You agree that we are not obliged to contact you to alert you that the domain name registration services are discontinued.

In the case of (ii), above, you acknowledge that we may then set the name-servers and the DNS settings for the domain name services, that we set the DNS to point to no IP address or to IP address(es) which host parking page(s) or a commercial search engine that may display paid advertisements, and you acknowledge that we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired domain name. You acknowledge that we do not have to pay you any of the proceeds, if any, we may earn as a result. You agree that we are not obliged to contact you to alert you that the domain name registration services are being continued. In this case, the domain name will be designated as being in the extended redemption grace period ("ERGP"), and you will be allowed to assume, during the first 120 days of the extended registration term, complete management of the domain name services, including the right to control the DNS settings, provided that you pay a fee of \$160 (US dollars) plus any registration fees. After the end of the 120-day period, if you do not exercise your rights under this provision, you agree that you have abandoned the domain name services, and relinquish all right and use of the domain name services.

In the case of (iii), above, the third party who won the auction for the domain name services will control the domain name services including control over the WHOIS information and the DNS settings. You may recover the domain name registration services for a period of up to 42 days after the end of the reactivation period, as such reactivation period applied to you. You agree that we are not obliged to contact you to alert you that the domain name registration services are or were auctioned. You acknowledge that we do not have to pay you any of the proceeds, if any, we may earn as a result of such an auction. To exercise your rights to recover auctioned domain name services, you must contact us and provide us with a certified letter addressed to "Expiration Recovery" including documents setting forth your identity and address, which identity and address must be the same as that of the registrant as it was listed in the WHOIS information for the domain name services prior to expiration, a copy of a commonly accepted (in United States) picture ID (such as a drivers license or passport) which supports your identity and address claim, a front and back photocopy of your credit card and you must a statement authorizing payment of the reinstatement fee to such credit card, which fee is \$160 plus any registration fees. In doing so, you must provide us with sufficient time to allow us to receive and evaluate your documents and to contact the auction winner prior to the end of 30 days after the end of the reactivation period of the domain name services.

#### LIMITATION OF LIABILITY:

YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY (1) SUSPENSION OR LOSS OF THE SERVICE(S), INCLUDING, WITHOUT LIMITATION, DOMAIN NAME REGISTRATION SERVICES, (2) USE OF THE SERVICE(S), INCLUDING, WITHOUT LIMITATION DOMAIN NAME REGISTRATION SERVICES, (3) INTERRUPTION OF OUR SERVICES OR INTERRUPTION OF YOUR BUSINESS, (4) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO OUR WEB SITE(S) OR SERVICE(S) OR DELAYS OR ACCESS INTERRUPTIONS YOU EXPERIENCE IN RELATION TO A DOMAIN NAME REGISTERED WITH US; (5) LOSS OR LIABILITY RESULTING FROM ACTS OF FORCE MAJEURE BEYOND OUR CONTROL (6) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (7) THE PROCESSING OF AN APPLICATION FOR A DOMAIN NAME REGISTRATION; (8) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD; OR (9) APPLICATION OF THE DISPUTE POLICY. YOU ALSO AGREE THAT NEITHER WE NOR YOUR PRIMARY SERVICE PROVIDER WILL BE LIABLE FOR AN INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF



FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF WE OR YOUR PRIMARY SERVICE PROVIDER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR OR YOUR PRIMARY SERVICE PROVIDER'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR REGISTRATION OF THE DOMAIN NAME, BUT IN NO EVENT GREATER THAN FOUR HUNDRED DOLLARS (\$400.00 US Dollars). BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATE OUR AND/OR YOUR PRIMARY SERVICE PROVIDER'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

**INDEMNITY:** With respect to ICANN, the registry operators, us, and your Primary Service Provider, as well as the contractors, agents, employees, officers, directors, shareholders, and affiliates of such parties, you agree to release, indemnify, and hold such parties harmless from all liabilities, claims and expenses, including attorney's fees and court costs, for third party claims relating to or arising under this Agreement, the Service(s) provided hereunder, or your use of the Service(s), including, without limitation, infringement by you, or by anyone else using the Service(s) we provide to you, of any intellectual property or other proprietary rights of any person or entity, or from the violation of any of our operating rules or policies relating to the Service(s) provided. When you may be involved in a suit involving a third party and which is related to our Service(s) to you under this Agreement, we may seek written assurances from you in which you promise to indemnify and hold us harmless from the costs and liabilities described in this paragraph. Such written assurances may include, in our sole discretion, the posting of a performance bond(s) or other guarantee reasonably calculated to guarantee payment. Your failure to provide such assurances may be considered by us to be a breach of this Agreement by you and may, in our sole discretion, result in loss of your right to control the disposition of domain name service which you are the registrant and in relation to which we are the registrar of record. This indemnification is in addition to any indemnification required under the UDRP.

**REPRESENTATIONS AND WARRANTIES:** YOU REPRESENT THAT, TO THE BEST OF YOUR KNOWLEDGE AND BELIEF, NEITHER THE REGISTRATION OF A DOMAIN NAME NOR THE MANNER IN WHICH IT IS DIRECTLY OR INDIRECTLY USED NOR THE USE OF IT IN CONNECTION WITH THE SERVICE(S) INFRINGES THE LEGAL RIGHTS OF A THIRD PARTY. YOU FURTHER REPRESENT AND WARRANT THAT ALL INFORMATION PROVIDED BY YOU IN CONNECTION WITH YOUR PROCUREMENT OF THE SERVICE(S) IS ACCURATE. ALL SERVICES PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS. EXCEPT FOR OUR STATEMENT REGARDING OUR ACCREDITATION AS ICANN-APPROVED DOMAIN NAME REGISTRARS, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE(S), INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT REGISTRATION OR USE OF A DOMAIN NAME UNDER THIS AGREEMENT WILL IMMUNIZE YOU EITHER FROM CHALLENGES TO YOUR DOMAIN NAME REGISTRATION, OR FROM SUSPENSION, CANCELLATION, OR TRANSFER OF THE DOMAIN NAME REGISTERED TO YOU. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF OUR E-MAIL FORWARDING OR OTHER EMAIL 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 OUR E-MAIL SERVICE(S) OR ANY TRANSACTION ENTERED INTO THROUGH OUR E-MAIL SERVICE(S). NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM YOU FROM US SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

**GOVERNING LAW AND JURISDICTION FOR DISPUTES:** 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, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of the United States of America and the State of Washington, as if the Agreement were a contract wholly entered into and wholly performed within the State of Washington. You agree that any action brought by you to enforce this Agreement or any matter brought by you and which is against or involves us and which relates to your use of the Services shall be brought exclusively in the United States District Court for the Western District of Washington, or if there is no jurisdiction in such court, then in a state court in King County, Washington state. You consent to the personal and subject matter jurisdiction of any state or Federal court in King County, Washington state in relation to any dispute between you and us under this Agreement. You agree that service of process on you by us in relation to any dispute arising under this Agreement may be served upon you by first class mail to the address listed by you in your account and/or domain name WHOIS information or by electronically transmitting a true copy of the papers to the email address listed by you in your account and/or domain name WHOIS information. 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 Bellevue, W.A.

**NOTICES:** You agree that any notices required to be given under this Agreement by us to you will be deemed to have been given if delivered in accordance with the account and/or domain name WHOIS information you have provided.

**INFANCY:** You attest that you are of legal age to enter into this Agreement.

**GENERAL:** This Agreement and the UDRP, together with all modifications, constitute the complete and exclusive agreement between you and us, and supersede and govern all prior proposals, agreements, or other communications. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The f

of us to require your performance of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by us of a breach of any provision hereof be taken or held to be a waiver of the provision itself. The event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. We will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, our original objectives and intent as reflected in the original provision. This Agreement may not be amended or modified by you except by means of a written document signed by both you and an authorized representative of us.

THE FOLLOWING REGISTRARS ARE REFERENCED IN THIS DOCUMENT:

Afterdark Domains, Incorporated	enom411, Incorporated	eNomGMP Services, Inc.
Arab Internet Names, Incorporated	enom413, Incorporated	eNomMX, Inc.
AsiaDomains, Incorporated	enom415, Incorporated	eNomnz, Inc.
Big House Services, Inc.	enom417, Incorporated	eNomsky
Blisternet, Incorporated	enom419, Incorporated	eNomToo, Inc.
Dagnabit, Incorporated	enom421, Incorporated	eNomV, Inc.
DBMS, Incorporated	enom423, Incorporated	eNomWorld, Inc.
Domain Rouge, Inc.	enom425, Incorporated	eNomX, Inc.
Domaininnovations, Incorporated	enom427, Incorporated	Entertainment Names, Incorporated
Dropoutlet, Incorporated	enom429, Incorporated	Extra Threads Corporation
eNom, Incorporated	enom431, Incorporated	FeNomINAL, Inc.
eNom Corporate, Inc.	enom433, Incorporated	Fushi Tarazu, Incorporated
eNom1, Inc.	enom435, Incorporated	Gunga Galunga, Inc.
eNom2, Inc.	enom437, Incorporated	Indirection Identity Corporation
eNom3, Inc.	enom439, Incorporated	Internet Internal Affairs Corporation
enom371, Incorporated	enom441, Incorporated	Kingdomains, Incorporated
enom373, Incorporated	enom443, Incorporated	Mark Barker Incorporated
enom375, Incorporated	enom445, Incorporated	Mobile Name Services, Incorporated
enom377, Incorporated	enom447, Incorporated	Name Nelly Corporation
enom379, Incorporated	enom449, Incorporated	Name Thread Corporation
enom381, Incorporated	enom451, Incorporated	Nerd Names Corporation
enom383, Incorporated	enom453, Incorporated	Nom Infinitum Corporation
enom385, Incorporated	enom455, Incorporated	PostalDomains, Incorporated
enom387, Incorporated	enom457, Incorporated	Private Domains, Incorporated
enom389, Incorporated	enom459, Incorporated	Retail Domains, Inc.
enom391, Incorporated	enom461, Incorporated	SBSNames, Incorporated
enom393, Incorporated	enom463, Incorporated	Searchnresq, Inc.
enom395, Incorporated	enom465, Incorporated	Sicherregister, Incorporated
enom397, Incorporated	enom467, Incorporated	Sipence, Incorporated
enom399, Incorporated	enom469, Incorporated	Sssasss, Incorporated
enom403, Incorporated	eNom5, Inc.	Traffic Names, Incorporated
enom405, Incorporated	eNomAu, Inc.	TravelDomains, Incorporated
enom407, Incorporated	eNombre Corporation	Vedacore.com, Inc.
enom409, Incorporated	eNomEU, Inc.	Whiteglove Domains, Incorporated
	eNomfor, Inc.	

**ADDITIONAL REGISTRY REQUIREMENTS**

Listed below are additional contractual requirements that you, the registrant, must agree to should you desire to register a domain name in these registries:

<b><u>.AC</u></b>	<b><u>.AG</u></b>	<b><u>.AM</u></b>	<b><u>.AT</u></b>	<b><u>.BE</u></b>
<b><u>.BIZ</u></b>	<b><u>.BZ</u></b>	<b><u>.CA</u></b>	<b><u>.CC</u></b>	<b><u>.CN</u></b>
<b><u>.DE</u></b>	<b><u>.EU</u></b>	<b><u>.FM</u></b>	<b><u>.GS</u></b>	<b><u>.IN</u></b>
<b><u>.INFO</u></b>	<b><u>.IO</u></b>	<b><u>.IT</u></b>	<b><u>.JOBS</u></b>	<b><u>.JP</u></b>
<b><u>.KIDS.US</u></b>	<b><u>.LA</u></b>	<b><u>.MOBI</u></b>	<b><u>.MS</u></b>	<b><u>.MX</u></b>
<b><u>.NAME</u></b>	<b><u>.NL</u></b>	<b><u>.NU</u></b>	<b><u>.NZ</u></b>	<b><u>.PL</u></b>
<b><u>.PRO</u></b>	<b><u>.SC</u></b>	<b><u>.SH</u></b>	<b><u>.TC</u></b>	<b><u>.TM</u></b>
<b><u>.TV</u></b>	<b><u>.TW</u></b>	<b><u>.UK</u></b>	<b><u>.US</u></b>	<b><u>.VG</u></b>
<b><u>.WS</u></b>	<b><u>CentralNIC (.xx.COM, .xx.NET)</u></b>			

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User's Choice Award



**CA** **PNIC** • com • net • *VA* *MA*

**demand MEDIA** Services

FILED

2007 Aug-30 PM 03:20  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# EXHIBIT 4

## REGISTERFLY.COM, INC. REGISTRATION AGREEMENT

This Registration Agreement ("Agreement") sets forth the terms and conditions of your use of Registerfly.com, inc.'s ("Registerfly.com") domain name registration services to register an Internet domain name, your registration of that domain name, as well as other Registerfly.com domain name related services. In this Agreement "you" and "your" refer to each customer and "we", "us" and "our" refer to Registerfly.com. This Agreement explains our obligations to you, and explains your obligations to us for various Registerfly.com services. By selecting our service(s) you have agreed to establish an account with us for such services. When you use your account or permit someone else to use it to purchase or otherwise acquire access to additional Registerfly.com service(s) or to cancel your Registerfly.com service(s) (even if we were not notified of such authorization), this Agreement covers such service or actions. By using the service(s) provided by Registerfly.com under this Agreement, you acknowledge that you have read and agree to be bound by all terms and conditions of this Agreement, the accompanying dispute policy and any pertinent rules or policies that are or may be published by Registerfly.com. Registerfly.com at times may 'resell' the services of other registrars or 3rd party providers, you are bound by their terms and conditions when this situation occurs.

This Agreement will become effective when accepted by Registerfly.com. Registerfly.com may elect to accept or reject your domain name registration application for any reason at its sole discretion, such rejection including, but not limited to, rejection due to a request for registration of a prohibited domain name.

### 1. Our Services:

All domain name registrations we register for TLDs are not effective until we have delivered the domain name registration information you provide us to the registry administrator for the TLDs, as applicable, and the registry administrator puts into effect your domain name registration.

You agree and acknowledge that Registerfly.com is not liable or responsible in any way for any errors, omissions or any other actions by the registry administrator arising out of or related to your application and receipt of, or failure to receive, a domain name registration.

You further agree to indemnify, defend and hold harmless the registry administrator and its directors, officers, employees, and agents from and against any and all claims, damages, liabilities, costs, and expenses (including any direct, indirect, incidental, special or consequential damages and reasonable legal fees and expenses) arising out of, or related to, your domain name registration.

### 2. What We Do Not Do:

We cannot and do not check to see whether the domain name you select, or the use you make of the domain name, infringes legal rights of others. We urge you to investigate to see whether the domain name you select or its use infringes legal rights of others, and in particular we suggest you seek advice of competent counsel. You may wish to consider seeking one or more trademark registrations in connection with your domain name. You should be aware that there is the possibility we might be ordered by a court to cancel, modify, or transfer your domain name. You should also be aware that if we are sued or threatened with lawsuit in connection with your domain name, we may turn to you to hold us harmless and to indemnify us.

### 3. Fees:

As consideration for the domain name registration services and/or other services provided by Registerfly.com to you, you agree to pay Registerfly.com, prior to the effectiveness of the desired domain name registration, the applicable service(s) fees for the initial registration of the domain name and, should you choose to renew the registration, subsequent renewals of the registration. All fees are non-refundable, in whole or in part, even if your domain name registration is suspended, cancelled or transferred prior to the end of your then current registration term. Your requested domain name will not be registered unless we receive actual payment of the registration fee, or reasonable assurance of payment of the registration fee from some other entity (such reasonable assurance as determined by Registerfly.com in its sole discretion). As further consideration for the Registerfly.com service(s), you agree to: (1) provide certain current, complete and accurate information about you as required by the registration process and (2) maintain and update this information as needed to keep it current, complete and accurate. All such information shall be referred to as account information ("Account Information"). In the event of a charge back by a credit card company (or similar action by another payment provider allowed by us) in connection with the payments of the registration fee for your domain name registration, you agree and acknowledge that the domain name registration shall be transferred to Registerfly.com as the paying entity for that registration to the registry. We will reinstate your domain name registration solely at our discretion, and subject to our receipt of the initial registration or renewal fee and our then-current reinstatement fee, currently set at \$250 USD. You will be notified via an email message or via your account information when renewal fees are due. Should these fees go unpaid within the time specified in a second notice or reminder regarding renewal, your registration will be cancelled. Payment must be made by credit card or such other method as we may indicate in the registration application or renewal form. We will renew your name for you provided your credit card or other billing information is available and up to date, unless you instruct us otherwise within the time specified. If your billing information is not accurate and you wish to renew your domain name registration, we will contact you to update this information and charge you accordingly.

#### 4. Domain Name Dispute Policy:

The Dispute Policy can be found at [by clicking here](#). Certain disputes, as specified in the Dispute Policy, are subject to that Policy. You agree that, if the registration or reservation of your domain name is challenged by a third party, you will be subject to the provisions specified in the Dispute Policy in effect at the time your domain name registration is disputed by the third party. You also agree that, in the event a domain name dispute arises with any third party, you will indemnify and hold Registerfly.com harmless pursuant to the terms and conditions contained in the Dispute Policy.

#### 5. Transfer to another Registrar:

You agree that you may not transfer your domain name registration to another domain name registrar during the first sixty (60) days from the effective date of your initial domain name registration with Registerfly.com. You agree to provide authorization to Registerfly.com for the transfer of the domain name to another registrar and agree to pay any and all fees that may be charged by Registerfly.com to effect the transfer. Your request to transfer to another registrar may be denied in situations described in the Dispute Policy, including, but not limited to: a dispute over the identity of the domain name holder; bankruptcy; and default in the payment of any fees.

#### 6. Modifications to Registerfly.com's Registration Agreement and Dispute Policy:

You agree, during the period of this Agreement, that we may: (1) revise the terms and conditions of this Agreement; and (2) change the services provided under this Agreement. Any such revision or change will be binding and effective immediately on posting of the revised Agreement or change to the service(s) on Registerfly.com's web site, or on notification to you by e-mail or United States mail. You agree to review Registerfly.com's web site, including the Agreement, periodically 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 at [Support@registerfly.com](mailto:Support@registerfly.com) or United States mail at the addresses listed on the cover page of this Agreement. Notice of your termination will be effective on receipt and processing by us. You agree that, by continuing to use the Registerfly.com services following notice of any revision to this Agreement or change in service(s), you abide by any such revisions or changes. You further agree that we, in our sole discretion, may modify our Dispute Policy at any time. Your continued use of the domain name registered to you shall constitute your acceptance of this Agreement and the Dispute Policy with the new modifications. You acknowledge that if you do not agree to any of such changes, you may request that your domain name registration be cancelled or transferred to a different domain name registrar. You agree that such cancellation or request for transfer will be your exclusive remedy if you do not wish to abide by any changes to this Agreement or the Dispute Policy.

#### 7. Account Information and Its Use:

**a. Information You Are Required to Submit.** As part of the registration process, you are required to provide certain information and to update this information promptly as needed to keep it current, complete and accurate. The information you are obligated to provide in connection with the domain name you are registering is the following:

- i. The domain name being registered;
- ii. Your (or The domain name holder's) name, postal address, e-mail address, voice telephone number, and where available, fax number; and
- iii. The name, postal address, e-mail address, voice telephone number, and where available, fax number of the billing contact for the domain name; and
- iv. Valid payment information

You agree and acknowledge that when you renew your domain name registration, the type of information you are required to provide may have changed. If you do not wish to provide the new required information, your registration may not be renewed.

All other information which we may request from you at registration is voluntary. However, not providing the requested information may prevent you from obtaining all products and services made available to domain name registrants by us, other than registration of the domain name.

**b. Additional Information Maintained About Your Registration.** In addition to the information you provide, we maintain records relating to your domain name registration. These records may include:

- i. The original creation date of the registration;
- ii. The submission date and time of the registration application to us and by us to the proper registry;
- iii. Communications (electronic or paper form) constituting registration orders, modifications, or terminations and related correspondence between you and us;
- iv. Records of account for your domain name registration, including dates and amounts of all payments and refunds;
- v. The corresponding names of those nameservers;
- vi. The name, postal address, e-mail address, voice telephone number, and where available, fax number of the technical contact for the domain name;

- vii. The name, postal address, e-mail address, voice telephone number, and where available, fax number of the zone contact for the domain name;
- viii. The expiration and renewal date of the registration;
- ix. Information and copies in electronic or paper form regarding all other activity between you and us and third parties relating to your domain name registration and related services.

**c. Your Obligations Relating to the Account Information.** In the event that, in registering the domain name, you are providing information about or on behalf of a third party, you hereby represent that you have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in this Agreement, and (b) that you have obtained that third party's express consent to the disclosure and use of that party's information as set forth in this Agreement. By registering a name or applying for services you also represent that the statements in its application are true and you also represent that the Domain Name is not being registered for any unlawful purpose.

You acknowledge that willfully providing inaccurate information or willfully failing to update information promptly will constitute a material breach of this Agreement and will be sufficient basis for cancellation of your domain name registration. You further agree that your failure to respond for over ten (10) calendar days to inquiries by Registerfly.com concerning the accuracy of contact details associated with your registration shall constitute a material breach of this Agreement and will be sufficient basis for cancellation of your domain name registration.

**d. Privacy Policy: Disclosure and Use of Registration Information.** You agree and acknowledge that Registerfly.com will make available domain name registration information you provide or that we otherwise maintain to the registry administrator(s), and to other third parties and applicable laws may require or permit. You further agree and acknowledge that Registerfly.com may make publicly available, or directly available to third party vendors, some, or all, of the domain name registration information you provide, for purposes of inspection (such as through our "whois" service) or for targeted marketing and other purposes and applicable laws.

You hereby consent to any and all such disclosures and use of, and guidelines, limits and restrictions on disclosure or use of, information provided by you in connection with the registration of a domain name (including any updates to such information), whether during or after the term of your registration of the domain name. You hereby irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of your domain name registration and other information by Registerfly.com.

You may access your domain name registration information in our possession to review, modify or update such information, by accessing your account at our web site (<http://www.Registerfly.com>), or via a similar service. In order to change any of your account information with us, you must use your Account Identifier and Password that you selected when you opened your account with us. Please safeguard your Account Identifier and Password from any unauthorized use. You agree that any person in possession of your Account Identifier and Password will have the ability and your authorization to modify your account information. In no event will we be liable for the unauthorized use or misuse of your Account Identifier or Password. Registerfly.com will take reasonable precautions to protect the information it obtains from you from our loss, misuse, unauthorized access or disclosure, alteration or destruction of that information.

#### **8. Ownership of Information and Data:**

You agree and acknowledge that Registerfly.com owns all database, compilation, collective and similar rights, title and interests worldwide in our domain name database, and all information and derivative works generated from the domain name database. You further agree and acknowledge that we own the following information for those registrations for which we are the registrar: (a) the original creation date of the registration, (b) the expiration date of the registration, (c) the name, postal address, e-mail address, voice telephone number, and where available fax number of all contacts for the domain name registration, (d) any remarks concerning the registered domain name that appear or should appear in the WHOIS or similar database, and (e) any other information we generate or obtain in connection with the provision of domain name registration services, other than the domain name being registered, the IP addresses of the primary nameserver and any secondary nameservers for the domain name, and the corresponding names of those nameservers. Registerfly.com does not have any ownership interest in your specific personal registration information outside of its rights in our domain name database.

#### **9. Agents and Licenses:**

You agree that, if you are registering a domain name for or on behalf of someone else, you represent that you have the authority to nonetheless bind that person as a principal to all terms and conditions provided herein, including the Dispute Policy.

You agree that if you license the use of the domain name registered to you to a third party, you nonetheless remain the domain name holder of record, and remain responsible for all obligations under this Agreement, including but not limited to payment obligations, and providing (and updating, as necessary) both your 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.

#### **10. Announcements:**

We reserve the right to distribute information to you that is pertinent to the quality or operation of our services and those of our service partners. These announcements will be predominately informative in nature and may include notices describing changes, upgrades, new products or other information to add security or to enhance your identity on the Internet

**11. Limitation of Liability:**

**YOU AGREE THAT REGISTERFLY.COM WILL NOT BE LIABLE FOR ANY (1) SUSPENSION OR LOSS OF THE DOMAIN NAME REGISTRATION IN YOUR NAME, (2) USE OF YOUR DOMAIN NAME REGISTRATION, (3) INTERRUPTION OF BUSINESS, (4) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO OUR SITE OR THE WEB SITE(S) OR SERVICES YOU ACCESS BY THE DOMAIN NAME REGISTERED IN YOUR NAME; (5) LOSS OR LIABILITY RESULTING FROM ACTS OF GOD (6) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (7) EVENTS BEYOND REGISTERFLY.COM'S CONTROL; (8) THE PROCESSING OF THIS APPLICATION; (9) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD; OR (10) APPLICATION OF THE DISPUTE POLICY. REGISTERFLY.COM ALSO WILL NOT BE LIABLE FOR ANY 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 REGISTERFLY.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL REGISTERFLY.COM'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR REGISTRATION OF THE DOMAIN NAME, BUT IN NO EVENT GREATER THAN ONE HUNDRED DOLLARS (\$100.00). BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES, OUR LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.**

**12. Indemnity:**

You agree to release, indemnify, and hold all Registry Operators, Registerfly.com, their contractors, agents, employees, officers, directors and affiliates harmless from all liabilities, claims and expenses, including attorney's fees, of third parties relating to or arising under this Agreement, the Registerfly.com services provided hereunder or your use of the Registerfly.com services, including without limitation infringement by you, or someone else using any Registerfly.com service with your computer, of any intellectual property or other proprietary right of any person or entity, or from the violation of any Registerfly.com operating rule or policy relating to the service(s) provided. When Registerfly.com is threatened with suit by a third party, Registerfly.com may seek written assurances from you concerning your promise to indemnify Registerfly.com; your failure to provide those assurances may be considered by us to be a breach of your Agreement and may result in deactivation of your domain name. This indemnification is in addition to any indemnification required under the Dispute Policy.

**13. Representations and Warranties:**

**YOU REPRESENT THAT, TO THE BEST OF YOUR KNOWLEDGE AND BELIEF, NEITHER THE REGISTRATION OF THE DOMAIN NAME NOR THE MANNER IN WHICH IT IS DIRECTLY OR INDIRECTLY USED INFRINGES THE LEGAL RIGHTS OF A THIRD PARTY. YOU FURTHER REPRESENT AND WARRANT THAT ALL INFORMATION PROVIDED BY YOU IN CONNECTION WITH YOUR DOMAIN NAME REGISTRATION IS ACCURATE. WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR ITS DOMAIN NAME REGISTRATION SERVICES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, REGISTERFLY.COM MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT REGISTRATION OR USE OF A DOMAIN NAME UNDER THIS AGREEMENT WILL IMMUNIZE YOU EITHER FROM CHALLENGES TO YOUR DOMAIN NAME REGISTRATION, OR FROM SUSPENSION, CANCELLATION OR TRANSFER OF THE DOMAIN NAME REGISTERED TO YOU. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE REGISTERFLY.COM'S E-MAIL FORWARDING OR OTHER EMAIL 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. REGISTERFLY.COM MAKES NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH THE E-MAIL SERVICE OR ANY TRANSACTIONS ENTERED INTO THROUGH THE E-MAIL SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM REGISTERFLY.COM OR THROUGH THE E-MAIL SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.**

**14. Breach and Revocation:**

Registerfly.com reserves the right to suspend, cancel, transfer or modify your domain name registration or suspend, cancel or modify other services we provide in the event (a) you materially breach this Agreement (including the Dispute Policy) and do not cure such breach within thirty (30) days of notice by Registerfly.com, (b) you use the domain name registered to you to send unsolicited commercial advertisements in contradiction to either applicable laws or customary acceptable usage policies of the Internet, (c) you use your domain name in connection with unlawful activity, or (d) grounds arise for such suspension, cancellation, transfer or other modification as provided for in this Agreement. You further acknowledge and agree that your registration of a domain name is subject to suspension, cancellation or transfer by any registrar (including Registerfly.com) or registry administrator procedures, (1) to correct mistakes by Registerfly.com, another registrar or the registry administrator in administering the name or (2) for the resolution of disputes concerning the domain name.

You also agree that Registerfly.com shall have the right in its sole discretion to suspend, cancel, transfer or otherwise modify a domain name registration upon seven (7) calendar days prior written notice, or at such time as Registerfly.com receives a properly authenticated order from a court of competent jurisdiction, or arbitration award, requiring the suspension, cancellation transfer or modification of the domain name registration.

**15. Right Of Refusal:**

We, in our sole discretion, reserve the right to refuse to register or reserve your chosen domain name or register you for other Registerfly.com service(s), or to delete your domain name within thirty (30) calendar days from receipt of your payment for such services. In the event we do not register or reserve your domain name or register you for other Registerfly.com service(s), or we delete your domain name or other Registerfly.com service(s) within such thirty (30)



calendar day period, we agree to refund your applicable fee(s). You agree that we shall not be liable to you for loss or damages that may result from our refusal to register or reserve, or delete your domain name or register you for other Registerfly.com service(s)

#### 16. Governing Law:

Except as otherwise set forth in the Dispute Policy with respect to disputes, this Agreement, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of the United States of America and the State of New Jersey, as if the Agreement was a contract wholly entered into and wholly performed within the State of New Jersey. Except as otherwise set forth in the Dispute Policy with respect to disputes, any action to enforce this Agreement or any matter relating to your use of the Registerfly.com site shall be brought exclusively in the United States District Court for the State of New Jersey.

#### 17. Notices:

You agree that any notices required to be given under this Agreement by Registerfly.com to you will be deemed to have been given if delivered in accordance with the contact information you have provided.

#### 18. Infancy:

You attest that you are of legal age to enter into this Agreement.

#### 19. General:

This Agreement, Registerfly.com's Disclaimer and the Dispute Policy, together with all modifications, constitute the complete and exclusive agreement between you and Registerfly.com, and supersede and govern all prior proposals, agreements, or other communications. Nothing contained in this Policy shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The failure of Registerfly.com to require your performance of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by Registerfly.com of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Policy shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Policy unenforceable or invalid as a whole. Registerfly.com will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, the original objectives and intent of Registerfly.com as reflected in the original provision. This Agreement, Registerfly.com's Disclaimer and the Dispute Policy may not be amended or modified by you except by means of a written document signed by both you and an authorized representative of Registerfly.com.

#### 20. Additional Registry Requirements

Listed below are additional contractual requirements that you, the registrant, must agree to should you desire to register a domain name in these registries.

- A. **(.NU)** In addition to the terms set forth above, the following terms shall apply to registrants of .tv, .cc, .bz, .nu and .ws domain names. Your registration of a domain name in the .TV, .CC, .BZ, .NU or .WS top-level domain ("New TLD Domain Name"), is subject to policies established or revised from time to time by the registry for such New TLD Domain Name ("New TLD Registry"), in its capacity as the registry for its respective Top Level Domain. Each respective New TLD Registry's current policies ("New TLD Registry Policies") are available for you to review at each New TLD's respective website. You agree to be bound by and comply with the applicable New TLD Registry Policies, including amendments and modifications thereto, with respect to your New TLD Domain Name registration. Such policies shall not alter the terms and conditions of this Agreement. To the extent there is a conflict between the New TLD Registry policies and the terms of this Agreement, the terms of this Service Agreement shall prevail. You agree that the New TLD Registry has the right to enforce the New TLD Registry Policies.
- B. **(.INFO)** Should you seek to register a .INFO second level domain name you, the registrant, must agree to the following terms:
  1. Registrant consents to the use, copying, distribution, publication, modification, and other processing of Registered Domain Name Holder's Personal Data by Afiliis, the .INFO Registry Operator, and its designees and agents in a manner consistent with the purposes specified pursuant in its contract.
  2. Registrant agrees to immediately correct and update the registration information for the Registered Name during registration term for the Registered Name, failure to correct this information shall constitute a breach of this Agreement.
  3. Registrant acknowledges that Afiliis, 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 Registered Name during these periods, and (b) the results of any dispute over a Sunrise Registration.
  4. Registrar and Afiliis, the registry operator for .INFO, expressly reserve 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 Registrar and/or Afiliis as well as their affiliates, subsidiaries, officers, directors and employees. Registrar and Afiliis also reserve the right to freeze a domain name during resolution of a dispute.
- C. **(.BIZ)** Should you seek to register a .BIZ second level domain name you, the registrant, must agree to the following terms:

1. **BIZ RESTRICTIONS.** Registrations in the .biz TLD must be used or intended to be used primarily for bona fide business or commercial purposes. For purposes of the .biz Registration Restrictions ("Restrictions"), "bona fide business or commercial use" shall mean the bona fide use or bona fide intent to use the domain name or any content, software, materials, graphics or other information thereon, to permit Internet users to access one or more host computers through the DNS:
  - I. To exchange goods, services, or property of any kind;
  - II. In the ordinary course of trade or business; or
  - III. To facilitate:
    - a) the exchange of goods, services, information, or property of any kind; or,
    - b) the ordinary course of trade or business. Registering a domain name solely for the purposes of
      - i. selling, trading or leasing the domain name for compensation, or
      - ii. the unsolicited offering to sell, trade or lease the domain name for compensation shall not constitute a "bona fide business or commercial use" of that domain name.
2. **BIZ CERTIFICATION.** As a .biz domain name registrant, you hereby certify to the best of your knowledge that:
 

The registered domain name will be used primarily for bona fide business or commercial purposes and not

  - i. exclusively for personal use; or
  - ii. solely for the purposes of
    - a. selling, trading or leasing the domain name for compensation, or
    - b. the unsolicited offering to sell, trade or lease the domain name for compensation. For more information on the .biz restrictions, which are incorporated herein by reference, please see: <http://www.neulevel.com/countdown/registrationRestrictions.html>
      1. The domain name registrant has the authority to enter into the registration agreement; and
      2. the registered domain name is reasonably related to the registrant's business or intended commercial purpose at the time of registration.
3. **PROVISION OF REGISTRATION DATA.**
  - a) **Provision of Registration Data.** As part of the registration process, you are required to Provide us with certain information and to update this information to keep it current, complete and accurate. This information includes (i) your full name, postal address, e-mail address, voice telephone number, and fax number if available; (ii) the name of an authorized person for contact purposes in the case of a registrant that is an organization, association, or corporation; (iii) the IP addresses of the primary nameserver and any secondary nameserver(s) for the domain name; (iv) the corresponding names of those nameservers; (v) the full name, postal address, e-mail address, voice telephone number, and fax number if available of the technical contact for the domain name; (vi) the full name, postal address, e-mail address, voice telephone number, and fax number if available of the administrative contact for the domain name; (vii) the name, postal address, e-mail address, voice telephone number, and fax number if available of the billing contact for the domain name; and (viii) any remark concerning the registered domain name that should appear in the Whois directory. You agree and understand that the foregoing registration data will be publicly available and accessible on the Whois directory and may be sold in bulk.
  - b) **Inaccurate or Unreliable Data.** You hereby represent and warrant that the data provided in the domain name registration application is true, correct, up to date and complete and that you will continue to keep all the information provided up to date. Your willful provision of inaccurate or unreliable information, your willful failure promptly to update information provided to us, or any failure to respond for over five calendar days to our inquiries addressed to the e-mail address of the administrative, billing or technical contact then appearing in the Whois directory with respect to an domain name concerning the accuracy of contact details associated with any registration(s) or the registration of any domain name(s) registered by or through you or your account, shall constitute a breach of this Agreement. Any information collected by us concerning an identified or identifiable natural person ("Personal Data") will be used in connection with the registration of your domain name(s) and for the purposes of this Agreement.
4. **DOMAIN NAME DISPUTE POLICY.** If you reserved or registered a .biz 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. Please take the time to familiarize yourself with that policy. In addition, you hereby acknowledge that you have read and understood and agree 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.
  - (ii) The Start-up Trademark Opposition Policy ("STOP"), available at <http://www.neulevel.com/countdown/stop.html>; and
  - (iii) The Restrictions Dispute Resolution Criteria and Rules, available at <http://www.neulevel.com/countdown/rdrp.html>.

The STOP sets forth the terms and conditions in connection with a dispute between a registrant of a .biz domain name ("Registrant") with any third party (other than Registry Operator or Registrar) over the registration or use of a .biz domain name registered by Registrant that is subject to the Intellectual Property Claim Service. The Intellectual Property Claim Service a service introduced by Registry Operator to notify a trademark or service mark holder ("Claimant") that a second-level domain name has been registered in which that Claimant claims intellectual property rights. In accordance with the STOP and its associated Rules, those Claimants will have the right to challenge registrations through independent dispute resolution providers. 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.

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.

The RDRP sets forth the terms under which any allegation that a domain name is not used primarily for business or commercial purposes shall be enforced on a case-by-case, fact specific basis by an independent dispute provider. None of the violations of the Restrictions will be enforced directly by or through Registry Operator. Registry Operator will not review, monitor, or otherwise verify that any particular domain name is being used primarily for business or commercial purposes or that a domain name is being used in compliance with the SUDRP or UDRP processes.
5. **DOMAIN NAME DISPUTE POLICY MODIFICATIONS.** You agree that we, in our sole discretion, may modify our dispute policy. We will 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. We will not refund any fees paid by you if you terminate your Agreement with us.

6. **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 and hold us harmless pursuant to the terms and conditions set forth below in this Agreement. If we are notified that a complaint has been filed with a judicial or administrative body regarding your use of our domain name registration services, you agree not to make any changes to your domain name record without our prior approval. We may not allow you to make changes to such domain name record until (i) we are directed to do so by the judicial or administrative body, or (ii) we receive notification by you and the other party contesting your registration and 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 deposit control of your domain name record into the registry of the judicial body by supplying a party with a registrar certificate from us.
7. **RESERVATION OF RIGHTS.** Registerfly.com. and the .biz Registry Operator, NeuLevel, Inc. expressly reserve 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 Registerfly.com. and/or NeuLevel, Inc., as well as their affiliates, subsidiaries, officers, directors and employees. Registerfly.com. and NeuLevel, Inc. also reserve the right to freeze a domain name during resolution of a dispute.

**D. (.NAME) Should you seek to register a .NAME second level domain name you, the registrant, must agree to the following terms:**

1. **DEFENSIVE REGISTRATIONS**  
Defensive Registrations allow owners of nationally registered marks to exclusively pre-register on the .name space and create a protective barrier for their trademarks. A "Defensive Registration" is a registration granted to a third party of a specific string on the second or third level, or of a specific set of strings on the second and third levels, which will not resolve within the domain name system but may prevent the registration of the same string(s) on the same level(s) by other third party applicants.
2. **PHASES OF DEFENSIVE REGISTRATIONS**  
(a) As a Defensive Registration Registrant ("Defensive Registrant"), you hereby certify to the best of your knowledge that for Phase I Defensive Registrations ("Phase I Defensive Registrants"), you own valid and enforceable trademark or service mark registrations having national effect that issued prior to April 16, 2001 for strings that are identical to the textual or word elements, using ASCII characters only, subject to the same character and formatting restrictions as apply to all registrations in the Registry TLD. You understand that trademark or service mark registrations from the supplemental or equivalent Registry of any country, or from individual states or provinces of a nation, will not be accepted. Subject to the same character and formatting restrictions as apply to all registrations in the Registry TLD, if a trademark or service mark registration incorporates design elements, the ASCII character portion of that mark may qualify to be a Phase I Defensive Registration.  
(b) Phase II Defensive Registrants may apply for a Defensive Registration for any string or combination of strings.  
(c) Defensive Registrants, whether Phase I or Phase II shall comply with the following Eligibility Requirements, the summary of which is as follows:  
(i) There are two levels of Defensive Registrations, each of which is subject to payment of a separate fee;  
(ii) Multiple persons or entities may obtain identical or overlapping Defensive Registrations upon payment by each of a separate registration fee;  
(iii) The Defensive Registrant must provide the information requested in Section 3(a) below;  
(iv) A Defensive Registration will not be granted if it conflicts with a then-existing Personal Name Registration or other reserved word or string.
3. **PROVISION OF REGISTRATION DATA**  
(a) As part of the registration process, you are required to provide us with certain information and to update this information to keep it current, complete and accurate. You must provide contact information, including name, email address, postal address and telephone number, for use in disputes relating to the Defensive Registration. You understand and agree that this contact information will be provided as part of the Whois record for the Defensive Registration. You further understand that the foregoing registration data may be transferred outside of the European Community, such as to the United States, and you expressly consent to such export.  
(b) In addition to the information provided in subsection (a) above, Phase I Defensive Registrants must also provide (1) the name, in ASCII characters, of the trademark or service mark being registered; (2) the date the registration issued; (3) the country of registration; and (4) the registration number or other comparable identifier used by the registration authority  
(c) You hereby represent and warrant the data provided in the registration application is true, correct, up-to-date and complete and that you will continue to keep all of the information provided up-to-date. Your wilful provision of inaccurate or unreliable information, your wilful failure promptly to update information provided to us, or any failure to respond for over five (5) calendar days to our inquiries addressed to the email address of the administrative, billing or technical contact then appearing in the publicly available Whois directory with respect to a Defensive Registration(s) concerning the accuracy of contact details associated with any such Defensive Registration(s) registered by or through you or your account shall constitute a breach of this Agreement.
4. **DOMAIN NAME DISPUTE POLICY**  
(a) If you registered a Defensive Registration, you agree that: (i) the Defensive Registration will be subject to challenge pursuant to the Eligibility Requirements Dispute Resolution Policy ("ERDRP"); (ii) if the Defensive Registration is successfully challenged pursuant to the ERDRP, the Defensive Registrant will pay the challenge fees; and (iii) if a challenge is successful, then the Defensive Registration will be subject to the procedures described in Section 2(h) of Appendix L to the agreement of Global Name Registry ("Registry Operator").  
(b) You further agree that if a Phase I Defensive Registration is successfully challenged on the basis that it did not meet the applicable Eligibility Requirements, the Defensive Registrant will thereafter be required to demonstrate, at its expense, that it meets the Eligibility Requirements for Phase I Defensive Registrations for all other Phase I Defensive Registrations that it registered within .name through any Registrar. In the event that the Defensive Registrant is unable to demonstrate the foregoing with respect to any such Phase I Defensive Registration(s), those Defensive Registration(s) will be cancelled.

- (c) The ERDRP applies to, among other things, challenges to Defensive Registrations within .name.
5. **DEFENSIVE REGISTRATION DISPUTE POLICY MODIFICATIONS**  
 You agree that we, in our sole discretion, may modify our dispute policy. We will 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 Defensive Registration 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. We will not refund any fees paid by you if you terminate your Agreement with us.
6. **DEFENSIVE REGISTRATIONS DISPUTES**  
 You agree that, if your Defensive Registration is challenged by a third party, you will be subject to the provisions specified in our Defensive Registration dispute policy in effect at the time of the dispute. You agree that in the event a Defensive Registration dispute arises with any third party, you will indemnify and hold Registerfly.com harmless pursuant to the terms and conditions set forth below in this Agreement. If we are notified that a complaint has been filed with a judicial or administrative body regarding your Defensive Registration, you agree not to make any changes to your Defensive Registration record without our prior approval. We may not allow you to make changes to such Defensive Registration record until (i) we are directed to do so by the judicial or administrative body, or (ii) we receive notification by you and the other party contesting your Defensive Registration and 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 Defensive Registration and use of our domain name registration services, we may deposit control of your Defensive Registration record into the registry of the judicial body by supplying a party with a Registrar certificate from us.
7. **CONSENT**  
 Defensive Registrants may be asked to give their consent to allow individuals to share a part of their space. For example, if you have filed a Defensive Registration on PQR (which blocks out ANYSTRING.PQR.name and PQR.ANYSTRING.name), you may be asked to give consent to John Pqr to register JOHN.PQR.name if he can prove that PQR is his name. In such a circumstance, you will have five (5) days to respond to a request for consent.
8. **.name REGISTRATION RESTRICTIONS**  
 Registrations in the .name TLD must constitute an individual's "Personal Name". For purposes of the .name restrictions (the "Restrictions"), a "Personal Name" is a person's legal name, or a name by which the person is commonly known. A "name by which a person is commonly known" includes, without limitation, a pseudonym used by an author or painter, or a stage name used by a singer or actor.
9. **.name CERTIFICATIONS**  
 As a .name domain name Registrant, you hereby certify to the best of your knowledge that:  
 (a) You have the authority to enter into this Agreement; and  
 (b) The registered domain name or second level domain ("SLD") email address is your Personal Name.
10. **PROVISION OF REGISTRATION DATA**  
 (a) As part of the registration process, you are required to provide us with certain information and to update this information to keep it current, complete and accurate. This information includes the information contained in the Whois directory, including: (i) your full name and postal address, email address, voice telephone number, and fax number, if available; (ii) the IP addresses and names of the primary nameserver and any secondary nameserver(s) for the domain name; (iii) the full name, postal address, email address, voice telephone number, and fax number, if available, of the technical contact for the domain name; (iv) the full name, postal address, email address, voice telephone number, and fax number if available of the administrative contact for the domain name; (v) the name, postal address, email address, voice telephone number, and fax number, if available, of the billing contact for the domain name. You agree and understand that the foregoing registration data will be publicly available and accessible on the Whois directory Registry Policy. You further understand that the foregoing registration data may be transferred outside of the European Community, such as to the United States, and you expressly consent to such export.  
 (b) You hereby represent and warrant the data provided in the registration application is true, correct, up-to-date and complete and that you will continue to keep all of the information provided up-to-date. Your willful provision of inaccurate or unreliable information, your willful failure promptly to update information provided to us, or any failure to respond to our inquiries addressed to the email address of the administrative, billing or technical contact then appearing in the Whois directory with respect to a domain name concerning the accuracy of contact details associated with any registration(s) or the registration of any domain name(s) registered by or through you or your account shall constitute a breach of this Agreement. Any information collected by us concerning an identified or identifiable natural person ("Personal Data") will be used in connection with the registration of your domain name(s) and for the purposes of this Agreement.
11. **DOMAIN NAME DISPUTE POLICY**  
 If you reserved or registered a .name 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. Please take the time to familiarize yourself with that policy. In addition, you hereby acknowledge that you have read and understood and agree 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:  
 (a) the Eligibility Requirements (the "Eligibility Requirements");  
 (b) the Eligibility Requirements Dispute Resolution Policy (the "ERDRP"); and  
 the Uniform Domain Name Dispute Resolution Policy (the "UDRP").  
 The Eligibility Requirements dictate that Personal Name domain names and Personal Name SLD email addresses will be granted on a first-come, first-served basis, except for registrations granted as a result of a dispute resolution proceeding or during the landrush procedures in connection with the opening of the Registry TLD. The following categories of Personal Name Registrations may be registered: (i) the Personal Name of an individual; (ii) the Personal Name of a fictional character, if you have trademark or service mark rights in that character's Personal Name; (iii) in addition to a Personal Name registration, you may add numeric characters to the beginning or the end of your Personal Name so as to differentiate it from other Personal Names.  
 The ERDRP applies to challenges to (i) registered domain names and SLD email address registrations within .name on the grounds that a Registrant does not meet the Eligibility Requirements, and (ii) to Defensive Registrations within .name.  
 The UDRP sets forth the terms and conditions in connection with a dispute between a Registrant and party other than Global Name Registry

("Registry Operator") or Registrar over the registration and use of an Internet domain name registered by a Registrant.

12. DOMAIN NAME DISPUTE POLICY MODIFICATIONS

You agree that we, in our sole discretion, may modify our dispute policy. We will 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 or SLD email address 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. We will not refund any fees paid by you if you terminate your Agreement with us.

13. 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 and hold Registerfly.com harmless pursuant to the terms and conditions set forth below in this Agreement. If we are notified that a complaint has been filed with a judicial or administrative body regarding your use of our domain name registration services, you agree not to make any changes to your domain name record without our prior approval. We may not allow you to make changes to such domain name record until (i) we are directed to do so by the judicial or administrative body, or (ii) we receive notification by you and the other party contesting your registration and 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 deposit control of your domain name record into the Registry of the judicial body by supplying a party with a Registrar certificate from us.

14. EMAIL FORWARDING

(a) The service for which you have registered may, at your option, include Email Forwarding. To the extent you opt to use Email Forwarding, you are obliged to do so in accordance with all applicable legislation and are responsible for all use of Email Forwarding, including the content of messages sent through Email Forwarding.

(b) You undertake to familiarize yourself with the content of and to comply with the generally accepted rules for Internet and email usage. This includes, but is not limited to the Acceptable Use Policy, available at \_\_\_\_\_, as well as the following restrictions. Without prejudice to the foregoing, you undertake not to use Email Forwarding:

(i) to encourage, allow or participate in any form of illegal or unsuitable activity, including but not restricted to the exchange of threatening, obscene or offensive messages, spreading computer viruses, breach of copyright and/or proprietary rights or publishing defamatory material;

(ii) to gain illegal access to systems or networks by unauthorized access to or use of the data in systems or networks, including all attempts at guessing passwords, checking or testing the vulnerability of a system or network or breaching the security or access control without the sufficient approval of the owner of the system or network;

(iii) to interrupt data traffic to other users, servers or networks, including, but not restricted to, mail bombing, flooding, Denial of Service (DoS) attacks, willful attempts to overload another system or other forms of harassment; or

(iv) for spamming, which includes, but is not restricted to, the mass mailing of unsolicited email, junk mail, the use of distribution lists (mailing lists) which include persons who have not specifically given their consent to be placed on such a distribution list.

Users are not permitted to provide false names or in any other way to pose as somebody else when using Email Forwarding.

(c) Registry Operator reserves the right to implement additional anti-spam measures, to block spam or mail from systems with a history of abuse from entering Registry Operator's Email Forwarding. However, due to the nature of such systems, which actively block messages, Registry Operator shall make public any decision to implement such systems a reasonable time in advance, so as to allow you or Registerfly.com. to give feedback on the decision.

(d) You understand and agree that Registry Operator may delete material that does not conform to clause (c) above or that in some other way constitutes a misuse of Email Forwarding. You further understand and agree that Registry Operator is at liberty to block your access to Email Forwarding if you use Email Forwarding in a way that contravenes this Agreement. You will be given prior warning of discontinuation of the Email Forwarding unless it would damage the reputation of Registry Operator or jeopardize the security of Registry Operator or others to do so. Registry Operator reserves the right to immediately discontinue Email Forwarding without notice if the technical stability of Email Forwarding is threatened in any way, or if you are in breach of this Agreement. On discontinuing Email Forwarding, Registry Operator is not obliged to store any contents or to forward unsent email to you or a third party.

(e) You understand and agree that to the extent Registry Operator is required by law to disclose certain information or material in connection with your Email Forwarding, Registry Operator will do so in accordance with such requirement and without notice to you.

15. RESERVATION OF RIGHTS

Registerfly.com. and Registry Operator Operator, expressly reserve the right to deny, cancel or transfer any Defensive 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 Registerfly.com. and/or Registry Operator, as well as their affiliates, subsidiaries, officers, directors and employees. Registerfly.com. and Registry Operator also reserve the right to freeze a Defensive Registration during a resolution of a dispute.

16. LIMITATION OF LIABILITY

You agree that Registry Operator will have no liability of any kind for any loss or liability resulting from (i) the processing of Defensive Registration requests prior to live SRS launch, including, without limitation, your ability or inability to obtain a Registered Name or SLD email address registration using these processes; or (ii) any dispute over any .name domain name, SLD email address, Defensive Registration or NameWatch Registration, including the decision of any dispute resolution proceeding related to any of the foregoing.

17. INDEMNIFICATION

You agree to indemnify, defend and hold harmless Registry Operator, and its directors, officers, employees 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 your registration. This indemnification obligation will survive the termination or expiration of this Agreement.

18. COMPLIANCE WITH TERMS AND CONDITIONS

Registrar shall comply with the following:

- (a) Standards, policies, procedures, and practices for which Registry Operator has monitoring responsibility in accordance with the Registry Agreement; and
- (b) operational standards, policies, procedures, and practices for the Registry TLD established from time to time by Registry Operator in a non-arbitrary manner and applicable to all Registrars, including affiliates of Registry Operator, and consistent with standards, policies, procedures, and practices and Registry Operator's Registry Agreement. Among Registry Operator's operational standards, policies, procedures, and practices are those set forth in Exhibit E of the Registry-Registrar Agreement. 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.

## 20. Whois Protection Service:

For subscribers to the ProtectFLY whois protection service you agree that RegisterFly.com will be the listed Registrant and domain owner as per the information contained within the official whois record. Additional restrictions and stipulations pertaining to the Whois Protection service are as follows:

### Full Ownership rights retained by you:

Although RegisterFly is listed as the registrant, you will retain full domain ownership rights, such as:

- The ability to sell or transfer each domain(internal or external transfer)
- The ability to manage domain name servers to the settings of your choice
- The ability to create/manage/nameservers for your domain
- The ability to have access to all standard(free) and paid services offered via RegisterFly.com that would require changes to your domain settings
- The ability to renew your domain upon expiration

### Information that will be made publicly available for each domain

The following publicly available information will be listed for your domain. In lieu of your information RegisterFly.com contact information will be listed:

- Registrant - name, email, address, phone and fax contacts - RegisterFly will be listed
- Technical - name, email, address, phone and fax contacts - RegisterFly will be listed
- Billing - name, email, address, phone and fax contacts - RegisterFly will be listed
- Administrative - name, email, address, phone and fax contacts - RegisterFly will be listed

### Your obligations relative to information

For each domain that utilizes the ProtectFLY service you agree to provide the following **VERIFIABLE** information

- Registrant - name, email, address, phone and fax contacts
- Technical - name, email, address, phone and fax contacts
- Billing - name, email, address, phone and fax contacts
- Administrative - name, email, address, phone and fax contacts

### Reservation of rights:

Registerfly.com expressly reserves the right to deny acceptance of your subscription, cancel your account or transfer your domain ownership back to you. We also reserve the right to disclose your information when required by law(court orders, subpoenas, official government inquiries). In the event of being named as defendant in any civil, criminal or legal related proceedings, the whois protection service for the affected domain will be terminated and the ownership information will transfer back to you. All verified spam complaints will result in your Protectfly service being terminated, consequently your domain ownership information will revert back to yours. Additional regulations for spam abuse are available via our TOS.

### Notice of termination:

In the event you wish to cancel the Whois Protection service for a given name, you agree to explicitly cancel/suspend via RegisterFly.com website. The official URL to manage, suspend or cancel services is located at <http://www.protectfly.com>. Upon suspension or cancellation the ProtectFLY service will cease for the specific domain, the publicly available whois information will revert back to yours and you will retain full ownership of the domain. Additional notice or proof of cancellation is not required beyond what is available via our online interface.

### Indemnification:

You agree to indemnify, defend and hold harmless RegisterFly.com, its directors, officers, employees 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 your registration. This indemnification obligation will survive the termination or expiration of this Agreement.

**Governing Law:**

Except as otherwise set forth in the Dispute Policy with respect to disputes, this Agreement, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of the United States of America and the State of New Jersey, as if the Agreement was a contract wholly entered into and wholly performed within the State of New Jersey. Except as otherwise set forth in the Dispute Policy with respect to disputes, any action to enforce this Agreement or any matter relating to your use of the Registerfly.com site shall be brought exclusively in the United States District Court for the State of New Jersey.

**Limitation of liability:**

YOU AGREE THAT REGISTERFLY.COM WILL NOT BE LIABLE FOR ANY (1) SUSPENSION OR LOSS OF THE DOMAIN NAME REGISTRATION IN YOUR NAME, (2) USE OF YOUR DOMAIN NAME REGISTRATION, (3) INTERRUPTION OF BUSINESS, (4) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO OUR SITE OR THE WEB SITE(S) OR SERVICES YOU ACCESS BY THE DOMAIN NAME REGISTERED IN YOUR NAME; (5) LOSS OR LIABILITY RESULTING FROM ACTS OF GOD (6) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (7) EVENTS BEYOND REGISTERFLY.COM'S CONTROL; (8) THE PROCESSING OF THIS APPLICATION; (9) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD; OR (10) APPLICATION OF THE DISPUTE POLICY. REGISTERFLY.COM ALSO WILL NOT BE LIABLE FOR ANY 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 REGISTERFLY.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL REGISTERFLY.COM'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR REGISTRATION OF THE DOMAIN NAME, BUT IN NO EVENT GREATER THAN ONE HUNDRED DOLLARS (\$100.00). BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES, OUR LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

FILED

2007 Aug-30 PM 03:21  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# EXHIBIT 5



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**From:** Legal  
**Sent:** Tuesday, January 17, 2006 3:17 PM  
**To:** 'cprog@hiwaay.net'  
**Cc:** Legal  
**Subject:** RE: eNom Legal Issue

RegisterFly is actually an ICANN accredited domain registrar even though they use eNom's backend for domain registration. We do not handle their billing so we do not have the necessary records in order to settle any billing disputes. If you are having trouble getting a response from them I would suggest filing a complaint with ICANN.

Regards,  
eNom, Inc.

-----Original Message-----

**From:** Mike Moore [mailto:cprog@hiwaay.net]  
**Sent:** Monday, January 16, 2006 8:14 AM  
**To:** Legal  
**Subject:** eNom Legal Issue

Hi,

I write you to in regards to a problem we are having with Registerfly.com, you agent. We have registered 109 names with this company, and it is my understand that act as a agent/reseller for you all. Our problems started several months ago with over charges on our credit card, after many months of overcharges and refunds and overcharges, and their complete refusal to communicate, we terminated their ability to place charges on our card.

At this point in time, they have suspended our account, redirected all of doms, to you, most was not up for renewal. So our property has been transferred to you. This causes us great concern. Also at this time, Registerfly.com is demanding \$1000...for something...we do not know what. In any event, we will not be black mailed or extorted. This is simple wire fraud and is a criminal act.

You as the actual reseller, and allowing registerfly to act as your agent, makes you liable. Registerfly does not answer the phone nor do they return emails, they only demand money. I have been doing some investigation, this appears to be a wide spread practice of registerfly.com. I was able to locate hundreds of complaints on the internet about this conduct over the past 6 or so months.

We have several options, one that I favor is filing a suit in US District Court in Birmingham AL, against you all and registerfly.com. There I know I can get injunctive relief, and litigate this matter. This I will do if need and you all can bear the legal expense and any damages. This is a serious matter, reply like it is not your problem, will not do any good. I can promise you, it is very expensive to defend a action in federal court. This is a serious matter, you have a very serious problem...THAT WILL NOT GO AWAY. You may want to look at the RICO statues also, since this is a pattern of conduct. Credit Card fraud and extortion is serious matters! Even when is is done by your agent and you profit from it.

All we want to do is settle any claim and move our doms...as quickly as possible...this will occure one way or another.

You may reach me at:

1-(678)-528-8944  
1-(877)-246-9750 (TOLL FREE)

Michael Moore

FILED

2007 Aug-30 PM 03:21  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# EXHIBIT 6

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**From:** Legal  
**Sent:** Wednesday, January 18, 2006 10:48 AM  
**To:** 'cprog@hiwaay.net'  
**Cc:** Legal  
**Subject:** RE: [SPAM] - att paul; - Bayesian Filter detected spam

This issue needs to be resolved between yourself and RegisterFly. RegisterFly is the organization through whom your domain name was registered and they are the ones who would hold any billing records. eNom is merely the backend database which RegisterFly used to facilitate the registration. eNom cannot involve itself in reseller billing disputes.

Paul Stahura is not affiliated with RegisterFly.

Regards,  
eNom, Inc.

-----Original Message-----

**From:** Mike Moore [mailto:cprog@hiwaay.net]  
**Sent:** Wednesday, January 18, 2006 7:09 AM  
**To:** risk@registerflysupport.com; Paul Stahura; Legal  
**Cc:** Ron; Alex  
**Subject:** [SPAM] - att paul; - Bayesian Filter detected spam

January 18, 2006 9:00 CST

Dear Sir;

As of this date and time we have received no reply from either Registerfly.com or Enom.com on any of the issues or statements in prior emails. We have received no statement of charges from with Registerfly.com or Enom.com for asserted charges.

We have also not received an email for the Paul.Strhura@enom.com refuting that he is in fact the same Paul that I spoke to at Registerfly.com that assert that he was a senior manager at registerfly.com.

Neither Enom.com nor Registerfly.com has denied that the demand of \$1000.00 is not extortion. And Enom.com is holding our property, so that Registerfly.com may perform this extortion.

Michael Moore

**FILED**

2007 Aug-30 PM 03:22  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# **EXHIBIT 7**

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**From:** Legal  
**Sent:** Thursday, February 02, 2006 1:23 PM  
**To:** 'cprog@hiwaay.net'  
**Cc:** Legal  
**Subject:** RE:

This issue needs to be dealt with between yourself and RegisterFly. eNom does not have the records necessary to verify either side of the issue. We cannot involve ourselves in third party billing disputes because of this. It should be pointed out that RegisterFly is an ICANN accredited domain name registrar. If you are having trouble dealing with RegisterFly, you can file a complaint with ICANN.

Regards,  
eNom, Inc.

-----Original Message-----

**From:** Mike Moore [mailto:cprog@hiwaay.net]  
**Sent:** Thursday, February 02, 2006 8:23 AM  
**To:** Legal; icann@icann.org; Paul Stahura; risk@registerflysupport.com; ksmith@ntia.doc.gov  
**Cc:** Ron; Alex  
**Subject:**

National Telecommunications and Information Administration U.S. Department of Commerce  
Kathy Smith, Chief Counsel ksmith@ntia.doc.gov

RegisterFly.com, Inc.  
623 Eagle Rock Avenue, Suite #7  
West Orange, NJ 07052  
risk@registerflysupport.com

eNom, Inc. Attn. Legal  
2002 156th Ave. NE, Suite #300  
Unigard Park, McKinley Building  
Bellevue, WA 98007 USA  
Phone: 425.274.4500  
Email: legal@enom.com  
paul.stahura@enom.com

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601 USA  
icann@icann.org

February 2, 2006 10:00AM CST

To All;

As of the above date and time, I have received no reply from any of the above entities. Our check with the U.S. Postal Authorities indicate that Registerfly.com has not accepted the Registered Letter sent containing the Certified Check for the Funds that was demanded. I will assume that Registerfly.com refusal of the certified letter containing the certified check was because it knew that in accepting the letter it would be committing mail fraud, another criminal act.

I have licensed a number of internet names through Registerfly.com, these names were licensed from the U.S. Federal Government. Registerfly.com has seized these names and Enom.com has possession of these names and refuses to surrender these names after I have demanded their surrender. This was done with our due process and in an effort to extort \$1000.00 from me.

Again, I am demanding that Enom.com and Registerfly.com surrender these internet names.

As of the above date, no party listed above has denied that Registerfly has committed credit card fraud and extortion as to internet names registered with them, nor has any party denied knowledge and approval of these acts. This email will be send viva U. S. mail certified. The purpose of this email and all other email is for use in such court action that may be filed.

Michael Moore

# EXHIBIT 8

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**From:** Legal  
**Sent:** Monday, March 20, 2006 2:45 PM  
**To:** 'mike@igamesys.com'  
**Cc:** Legal  
**Subject:** RE: Registerfly and Enom the Internet -Mafia -

With the exception of 'AtlantisInternetentertainment.com' and 'playerstreets.com', both of which have been transferred to Wild West Domains, these names are all with eNom and currently listed in "redemption" status. What this means is the expiration date on the domains has lapsed and the domain records have been deleted from eNom's active database. Domain names cannot be transferred while in redemption status (no changes can be made at the registry level). In order to gain control over the domains and transfer to another registrar you would need to redeem the domains back into an "active" status.

There is a \$160 (per domain) redemption recovery fee in order to reactivate the domain names. You can go to [www.enom.com](http://www.enom.com) and open an account (if you don't already have one) and we can bill you the redemption fee and place the names into your eNom account. The other alternative is that we can simply delete the domains at the registry level, allowing you the opportunity to register the names as new registrations with the registrar of your choice. The latter would be much less costly, but you also run the risk of losing the domains to others who may pick them up as the registry drops them. Please let us know how you would like to proceed.

Regards,  
eNom, Inc.

-----Original Message-----

**From:** Mike Moore [mailto:mike@igamesys.com]  
**Sent:** Sunday, March 19, 2006 7:51 AM  
**To:** ICANN@ICANN.org; support@registerfly.com; risk@registerflysupport.com; Paul Stahura; Legal; mjenkins@ntia.doc.gov; ssene@ntia.doc.gov; rlayton@ntia.doc.gov; scheung@ntia.doc.gov; tholmes@ntia.doc.gov; tsloan@ntia.doc.gov; sschagrin@ntia.doc.gov; sryan@ntia.doc.gov; jmcConnaughey@ntia.doc.gov; mlewis@ntia.doc.gov; alee@ntia.doc.gov; jgattuso@ntia.doc.gov; estark@ntia.doc.gov; IR@verisign.com; dcpolicy@verisign.com; forum@alac.icann.org; committee@alac.icann.org; cole@ICANN.org; daniel.halloran@ICANN.org; twomey@ICANN.org; john.jeffrey@ICANN.org  
**Cc:** Ron; Alex  
**Subject:** Registerfly and Enom the Internet -Mafia -

Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way  
Suite 330 Marina del Rey, CA 90292  
Phone: 310.823.9358

cole@icann.org  
john.jeffrey@icann.org  
twomey@icann.org  
daniel.halloran@icann.org  
committee@alac.icann.org  
forum@alac.icann.org  
icann@icann.org

Federal Trade Commission  
Michael Donohue - Bureau of Consumer Protection staff attorney  
(202) 326-3563  
mdonohue@ftc.gov

Versign  
VeriSign Worldwide Headquarters  
487 East Middlefield Road  
Mountain View, CA 94043



Phone: 650-961-7500  
dcpolicy@verisign.com  
IR@verisign.com

National Telecommunications and Information Administration U.S. Department of Commerce  
Herbert C. Hoover Building (HCHB) U.S. Department of Commerce / NTIA  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Eric R. Stark, estark@ntia.doc.gov  
Policy Analysts & Specialists  
Joe Gattuso (detailed to the Office of the Assistant Secretary), jgattuso@ntia.doc.gov  
Alfred Lee, alee@ntia.doc.gov Maureen A. Lewis, mlewis@ntia.doc.gov James McConnaughey,  
jmcConnaughey@ntia.doc.gov Sandra Ryan, sryan@ntia.doc.gov Sallianne Schagrin,  
sschagrin@ntia.doc.gov Tim Sloan, tsloan@ntia.doc.gov Tanya Holmes, tholmes@ntia.doc.gov  
Sheree Cheung, scheung@ntia.doc.gov rlayton@ntia.doc.gov ssene@ntia.doc.gov Marilyn  
Jenkins mjenkins@ntia.doc.gov  
Phone: (202) 482-1866  
Fax: (202) 482-1865

eNom, Inc. Attn. Legal  
2002 156th Ave. NE, Suite #300  
Unigard Park, McKinley Building  
Bellevue, WA 98007 USA  
Phone: 425.274.4500  
Email: legal@enom.com  
paul.stahura@enom.com

RegisterFly.com, Inc.  
623 Eagle Rock Avenue, Suite #7  
West Orange, NJ 07052  
risk@registerflysupport.com

Support Ticke at Regiserfly.com

[Home](#) | [Customer Service](#) | [Support Ticket System](#) | [View Support Ticket](#)

Support Center

Please enter your support question below. Please be as specific and detailed as possible.  
You can at any time review the status of your Trouble Ticket.

Ticket Status CLIENT UPDATED  
E-mail Address: mike@igamesys.com  
Your Name: Michael Moore  
Support Category Renewals - Expired Names cannot renew Subject name Date created:  
2006-03-10 Last Update Date 2006-03-19

Your Prior Responses

[2006-03-10] Time Submitted:5:54:43

I have the following names registered at Registerfly.com, when will they be returned to my account so that I may renew them and transfeere them.

AtlantisInternetentertainment.com  
21deal.com  
21frat.com  
21Rage.com  
BlackJackSchoolOnline.com  
CardPlayerParty.com  
CardPlayersParty.com  
cardplayerparadise.com  
cardplayersparadise.com  
CardPlayersSchool.com  
fratcardroom.com  
fratgaming.com  
fratholdem.com  
fratblackjack.com  
gringoblackjack.com  
gringogaming.com  
heartsschoolonline.com  
hipgaming.com  
hipogaming.com  
holdemschoolonline.com  
luckpalmspoker.com  
omahaschoolonline.com  
playerstreets.com  
portfun.com  
Safarigaming.com  
Sevencardschoolonline.com  
Sundanceblackjack.com  
Sundancegaming.com  
Tgifblackjack.com

[2006-03-16] I am enlcosing registerfly.com renew policy below, Does registerfly.com have any lawful reason for refusing to allwo me to renew these domain names?

RegisterFly.com allows a 30 day grace period after a name expires. During this 30 day grace period you can renew your domain. After the 30 day grace period expires your domain will move to the redemption period for 30 days prior to being dropped and made available again for registration. Once the domain is placed in redemption you CANNOT renew it via our interface.

[2006-03-19] I would remiond you that Registerfly froze my account duing this time period and refused to allow me to renew these names, even with funds on deptsot.

Does registerfly denie that registerfly.com refused to allow me to renew these names?

[2006-03-19] I checked the folling names and got the below info, it appears that Registerfly still has posession of my property, if not, who has them?

21deal.com  
21frat.com  
21Rage.com  
BlackJackSchoolOnline.com  
CardPlayerParty.com  
CardPlayersParty.com  
cardplayerparadise.com  
cardplayersparadise.com  
CardPlayersSchool.com  
fratcardroom.com

fratgaming.com  
fratholdem.com  
fratblackjack.com  
gringoblackjack.com  
gringogaming.com  
heartsschoolonline.com  
hipgaming.com  
hipogaming.com  
luckpalmspoker.com  
omahaschoolonline.com  
playerstreets.com  
portfun.com  
Safarigaming.com  
Sevencardschoolonline.com  
Sundanceblackjack.com  
Sundancegaming.com  
Tgifblackjack.com

Registrant Contact:

FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

Administrative Contact:

FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

Technical Contact:

FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

Status: Locked

Responses from Customer Support

[2006-03-18] Hello

AtlantisInternetentertainment.com is already in your account. Rest of names are expired long back and currently under redemption at registry. You need to wait until names release and available for re-registration.

Thank You

Rapid Response Service  
Registerfly. INC  
ICANN Accredited Registrar



**FILED**

2007 Aug-30 PM 03:23  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

# **EXHIBIT 9**

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**From:** Legal [legal@enom.com]  
**Sent:** Tuesday, March 21, 2006 10:30 AM  
**To:** mike@igamesys.com  
**Cc:** Legal  
**Subject:** RE: Registerfly and Enom the Internet -Mafia -

RegisterFly is an eNom reseller partner, thus any domain names registered through their interface are registered using eNom's registry connection and reside in eNom's registry database. Both eNom and RegisterFly are ICANN accredited domain name registrars, however, RegisterFly uses eNom's backend to facilitate their registry connection. As stated in a previous email, as far as the registry is concerned, the domain names are registered with eNom (RegisterFly is the storefront and eNom is the backend). Because of this we have the authority to allow you to renew your domains directly through us if you are unable to facilitate the renewal through RegisterFly.

The domain names that you have listed are all currently listed in the redemption grace period. What this means is that your registration for the names expired and the domains were deleted from eNom's active database. However, the names still reside with eNom at the registry level, thus our ability to redeem the expired registrations. The fee for redemption of an expired domain is \$160, as noted in eNom's registration agreement. If you are unwilling to pay the redemption fee the domain names will not be renewed and will eventually be deleted. It seems that you fail to grasp the concept that your registration of the domain names expired, therefore they no longer belong to you.

Regards,  
eNom, Inc.

-----Original Message-----

**From:** Mike Moore [mailto:mike@igamesys.com]

**Sent:** Monday, March 20, 2006 7:14 PM

**To:** Legal

**Cc:** ICANN@icann.org; support@registerfly.com; risk@registerflysupport.com; Paul Stahura; Legal; mjenkins@ntia.doc.gov; ssene@ntia.doc.gov; rlayton@ntia.doc.gov; scheung@ntia.doc.gov; tholmes@ntia.doc.gov; tsloan@ntia.doc.gov; sschagrin@ntia.doc.gov; sryan@ntia.doc.gov; jmcConnaughey@ntia.doc.gov; mlewis@ntia.doc.gov; alee@ntia.doc.gov; jgattuso@ntia.doc.gov; estark@ntia.doc.gov; IR@verisign.com; dcpolicy@verisign.com; forum@alac.icann.org; committee@alac.icann.org; cole@icann.org; daniel.halloran@icann.org; twomey@icann.org; john.jeffrey@icann.org; Ron; Alex

**Subject:** RE: Registerfly and Enom the Internet -Mafia -

Hi Legal@Emon.com

I am in receipt of your email below and have read it and need clarification on several issues.

1. Enom.com is willing to allow me to renew a number of domain names that I registered at Registerfly.com, the fee for this renewal is \$160.00 (per domain). Registerfly.com is you agent / reseller.
2. The domain names at issues are names that Enom.com's agent / reseller Registerfly.com refused to allow me to renew and Enom.com received notice of Registerfly.com refusal to allow renewal.

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3. Enom.com is a ICANN Accredited Registrar.

4. Registerfly.com is a ICANN Accredited Registrar.

If all of the above in not accurate, please let me know.

As such I am under a duty to limit my damages in any litigation that I may file as to these names. I will open an account at Enom.com, and provide such information to this account to Enom.com. Any charges above \$6.00, that Enom.com or any other entities assert for the surrender/renew/transfer of my property, these domain names, will be view as extortion, and paid under duress. Any such payment will only be made by U.S MAIL after verification by mail of the assert demand, which will be made by U.S. Mail. This will constitute Wire and Mail Fraud.

Surrendering, renewing and/or transferring of any such names will not release Enom.com, Registerfly.com, Versign.com or ICANN from any liability as to the conduct of these entities, including all action as to these names and Enom.com offer and renewal / transferring / surrendering of such domain names. I express reserve all rights to seek such damages as any court may award for any claim that I may assert. This surrendering / transfer / renewal of these domain names, is not a settlement of any claims, release of claims or any release as to any damages or claims that may or could be files. I express reserve the right file any claims against Enom.com as to the demand for funds to release, renew or transfer these domain names to any such account that I may open and provide such information to Enom.com.

I will pay the maximum allowed under ICANN rules for a renewal, \$6.00 (per domain), such offer does wave any claim. Any demand above \$6.00 (per domain)will be view as extortion.

My account at Enom.com, User name: Tophie

Michael Moore  
PO Box 534  
Warrior AL 35180

Copies sent to all of the above viva registered U.S. Mail.

-----Original Message-----

From: Legal [mailto:legal@enom.com]  
Sent: Monday, March 20, 2006 3:45 PM  
To: mike@igamesys.com  
Cc: Legal  
Subject: RE: Registerfly and Enom the Internet -Mafia -

With the exception of 'AtlantisInternetentertainment.com' and 'playerstreets.com', both of which have been transferred to Wild West Domains, these names are all with eNom and currently listed in "redemption" status. What this means is the expiration date on the domains has lapsed and the domain records have been deleted from eNom's active database. Domain names cannot be transferred while in redemption status (no changes can be made at the registry level). In order to gain control over the domains and transfer to another registrar you would need to redeem the domains back into an "active" status.

There is a \$160 (per domain) redemption recovery fee in order to reactivate the domain names. You can go to [www.enom.com](http://www.enom.com) and open an account (if you don't already have one) and we can bill you the redemption fee and place the names into your eNom account. The other alternative is that we can simply delete the domains at the registry level, allowing you the opportunity to register the names as new registrations with the registrar of your choice. The latter would be much less costly, but you also run the risk of losing the domains to others who may pick them up as the registry drops them. Please let us know how you would like to proceed.

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Regards,  
eNom, Inc.

-----Original Message-----

From: Mike Moore [mailto:mike@igamesys.com]

Sent: Sunday, March 19, 2006 7:51 AM

To: ICANN@ICANN.org; support@registerfly.com; risk@registerflysupport.com; Paul Stahura; Legal; mjenkins@ntia.doc.gov; ssene@ntia.doc.gov; rlayton@ntia.doc.gov; scheung@ntia.doc.gov; tholmes@ntia.doc.gov; tsloan@ntia.doc.gov; sschagrin@ntia.doc.gov; sryan@ntia.doc.gov; jmcConnaughey@ntia.doc.gov; mlewis@ntia.doc.gov; alee@ntia.doc.gov; jgattuso@ntia.doc.gov; estark@ntia.doc.gov; IR@verisign.com; dcpolicy@verisign.com; forum@alac.icann.org; committee@alac.icann.org; cole@ICANN.org; daniel.halloran@ICANN.org; twomey@ICANN.org; john.jeffrey@ICANN.org

Cc: Ron; Alex

Subject: Registerfly and Enom the Internet -Mafia -

Internet Corporation for Assigned Names and Numbers

4676 Admiralty Way

Suite 330 Marina del Rey, CA 90292

Phone: 310.823.9358

cole@icann.org

john.jeffrey@icann.org

twomey@icann.org

daniel.halloran@icann.org

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forum@alac.icann.org

icann@icann.org

Federal Trade Commission

Michael Donohue - Bureau of Consumer Protection staff attorney

(202) 326-3563

mdonohue@ftc.gov

Versign

VeriSign Worldwide Headquarters

487 East Middlefield Road

Mountain View, CA 94043

Phone: 650-961-7500

dcpolicy@verisign.com

IR@verisign.com

National Telecommunications and Information Administration U.S.

Department of Commerce Herbert C. Hoover Building (HCHB) U.S. Department of Commerce / NTIA

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Policy Analysts & Specialists

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2002 156th Ave. NE, Suite #300  
Unigard Park, McKinley Building  
Bellevue, WA 98007 USA  
Phone: 425.274.4500  
Email: legal@enom.com  
paul.stahura@enom.com

RegisterFly.com, Inc.  
623 Eagle Rock Avenue, Suite #7  
West Orange, NJ 07052  
risk@registerflysupport.com

Support Ticke at Regiserfly.com

[Home](#) | [Customer Service](#) | [Support Ticket System](#) | [View Support Ticket](#)

Support Center

Please enter your support question below. Please be as specific and detailed as possible. You can at any time review the status of your Trouble Ticket.

Ticket Status CLIENT UPDATED

E-mail Address: mike@igamesys.com

Your Name: Michael Moore

Support Category Renewals - Expired Names cannot renew Subject name Date  
created: 2006-03-10 Last Update Date 2006-03-19

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Your Prior Responses

[2006-03-10] Time Submitted:5:54:43

I have the folowing names registered at Registerfly.com, when will they be returned to my account so that I may renew them and transfere them.

AtlantisInternetentertainment.com  
21deal.com  
21frat.com  
21Rage.com  
BlackJackSchoolOnline.com  
CardPlayerParty.com  
CardPlayersParty.com  
cardplayerparadise.com  
cardplayersparadise.com  
CardPlayersSchool.com  
fratcardroom.com  
fratgaming.com  
fratholdem.com  
fratblackjack.com  
gringoblackjack.com  
gringogaming.com  
heartsschoolonline.com  
hipgaming.com  
hipogaming.com  
holdemschoolonline.com  
luckpalmspoker.com  
omahaschoolonline.com  
playerstreets.com  
portfun.com  
Safarigaming.com  
Sevencardschoolonline.com  
Sundanceblackjack.com  
Sundancegaming.com  
Tgifblackjack.com

[2006-03-16] I am enlcosing registerfly.com renew policy below, Does registerfly.com have any lawful reason for refusing to allwo me to renew these domain names?

RegisterFly.com allows a 30 day grace period after a name expires.

During this 30 day grace period you can renew your domain. After the 30 day grace period expires your domain will move to the redemption period for 30 days prior to being dropped and made available again for registration. Once the domain is placed in redemption you CANNOT renew it via our interface.

[2006-03-19] I would remiond you that Registerfly froze my account duing this time period and refused to allow me to renew these

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names, even with funds on depstot.

Does registerfly deny that registerfly.com refused to allow me to renew these names?

[2006-03-19] I checked the folling names and got the below info, it appears that Registerfly still has posession of my property, if not, who has them?

21deal.com  
21frat.com  
21Rage.com  
BlackJackSchoolOnline.com  
CardPlayerParty.com  
CardPlayersParty.com  
cardplayerparadise.com  
cardplayersparadise.com  
CardPlayersSchool.com  
fratcardroom.com  
fratgaming.com  
fratholdem.com  
fratblackjack.com  
gringoblackjack.com  
gringogaming.com  
heartsschoolonline.com  
hipgaming.com  
hipogaming.com  
luckpalmspoker.com  
omahaschoolonline.com  
playerstreets.com  
portfun.com  
Safarigaming.com  
Sevencardschoolonline.com  
Sundanceblackjack.com  
Sundancegaming.com  
Tgifblackjack.com

Registrant Contact:

FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

Administrative Contact:

FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

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Technical Contact:  
FraudRecovery  
Fraud Recovery (risk@registerflysupport.com)  
+1.9737362545  
Fax: +1.9737361355  
box2418  
livingston, NJ 07039  
US

Status: Locked

Responses from Customer Support  
[2006-03-18] Hello

AtlantisInternetentertainment.com is already in your account. Rest of names are expired long back and currently under redemption at registry.

You need to wait until names release and available for re-registration.

Thank You

Rapid Response Service  
Registerfly. INC  
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