

**FEDERAL DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

PREMIER SHIELD INSURANCE, LLC

Plaintiff,

v.

AFTERNIC SERVICES, LLC

Defendant.

CIV. NO. 4:22-CV-40068

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Premier Shield Insurance, LLC (“Premier”), demands judgment against Defendant, Afternic Services, LLC (“Afternic”), and for its causes of action states as follows:

INTRODUCTION

1. Afternic is a purveyor of Internet domain names. As described by Afternic itself:

Afternic is a domain marketplace, listing more than five million premium domain names available for sale and receiving more than 75 million domain searches each month. The company offers technologies like Fast Transfer that allow a domain buyer to have immediate control of a purchased domain, and building a distribution network that includes more than 100 partners that market its domain listings the world over.

<https://www.cbinsights.com/company/afternic>.

2. According to Afternic’s website, Afternic has “affiliate partners,” such as GoDaddy, NameCheap, and other well-known domain name registrars. Some registrars are “premium partners,” and some are “referral partners.” <https://www.afternic.com/premium-partner-levels>. GoDaddy is a premium partner and, upon information and belief, Afternic is a wholly owned subsidiary of GoDaddy.

3. Premier (the registrant) registered its domain name, PremierShieldInsurance.com (its “Distinctive and Valuable Mark”), with GoDaddy (the registrar) in 2016. Premier used the domain name to direct traffic to its website which was hosted by Bluehost.

4. The domain name was Premier’s business identifier. In this way, Premier’s domain name was critically important to offering its insurance products and services on the Internet. “The importance of having one’s recognized trademark as a domain name stems from the fact that many Internet users, when looking for a company’s Web site, may simply infer the Web site’s address by extrapolating from the company’s recognized trademark.” Sallen v. Corinthians Licenciamentos, LTDA, 273 F.3d 14, 19 (1st Cir. 2001).

5. From its inception until September 24, 2021, Premier built its business using its domain name PremierShieldInsurance.com. Premier’s business identifier was widely known as Premier is licensed to sell insurance products in CT, ME, MA, NH, NM, OH, RI, SC, TX, and VA.

6. On September 24, 2021, without any agreement or authorization whatsoever, Afternic without any notice, confirmation or verification took ownership and/or possession of Premier’s domain name and enabled it to be sold to what appears to be an Indonesian gambling entity (“Infringing Deceptive Domain”). If you go to PremierShieldInsurance.com today, it brings you to an Indonesian gambling website (assuming your computer does not have a filter, filtering out questionable websites).

7. Premier did not allow its domain name PremierShieldInsurance.com to expire nor did it take any action that could have caused its domain name to be listed for sale on Afternic.

8. The disastrous effect of the unauthorized misappropriation, conversion, and sale of Premier's domain name has been exacerbated by Afternic's continued misconduct. Without any evidence, and at all relevant times, Afternic insisted that Premier listed the domain name for sale, and it has refused to take any steps to correct its actions. Despite repeated pleas, Afternic has not provided (because it cannot) any evidence that Premier entered into any agreement or provided any authorization to Afternic for the sale of its domain name. Afternic was not authorized to hack into or otherwise access Premier's account.

PARTIES

9. Premier is a domestic limited liability company organized in Massachusetts since June 16, 2016. Its principal place of business is 482 Southbridge Street, Suite 211, Auburn, MA 01501.

10. Upon information and belief, Afternic is a Delaware LLC, with its headquarters at 225 Wyman Street, Waltham, Massachusetts 02451, and has other offices in Massachusetts.

JURISDICTION AND VENUE

11. This Court has original jurisdiction over this dispute pursuant to 28 U.S.C. § 1331.

12. This Court has supplemental jurisdiction over the state law claims set forth herein pursuant to 28 U.S.C. § 1367(a).

13. The Court has personal jurisdiction over Afternic as it is located, domiciled, does business in, and is otherwise found in Massachusetts.

14. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) because it is where the defendant resides.

FACTS COMMON TO ALL COUNTS

15. Premier is an independent insurance agency. It registered its domain name PremierShieldInsurance.com with GoDaddy in 2016.

16. Premier used the domain name to host its website, which was hosted by Bluehost. Thus, anyone looking for Premier could click on PremierShieldInsurance.com and would be directed to Premier's website wherein it could inquire and purchase certain types of insurance.

17. Since its founding, Premier was focused on being extremely technologically driven — a first for its industry on the independent insurance side. Premier wanted to fundamentally change the way people did business in its marketplace. Its strategy was successful. For example, Premier quickly grew to the number two Progressive Insurance agent in the entire state of Massachusetts and received a Platinum award followed by a Platinum Silver award. In 2021, it was working its way up to a Platinum Blue award, which would have made it the first in the Commonwealth to receive this award and would have made Premier the largest provider of Progressive Insurance outside of Progressive itself.

18. Premier owned several domain names in addition to PremierShieldInsurance.com, all of which were registered with GoDaddy.

19. On or about March 14, 2021, Premier listed one of its domain names for sale through its GoDaddy account: specifically, insurance-educators.com. On or about March 14, 2021, Premier received an "Opt-In Notification" from Afternic stating:

Congratulations on choosing the Afternic Premium Network for the promotion of your domain names. Your domains are registered with an eligible Premium Network registrar. In order to get the domains live on the Premium Network: 1) we need to confirm your domain ownership and 2) you need to accept the Premium Network terms and conditions so that your domains are opted-in to the Premium Network. You will be contacted shortly through email to complete the opt-in process. Click on the link in that email to complete the process for the following domains:

insurance-educators.com for \$833

See Exhibit A, attached hereto.

20. Although Premier did not know who Afternic was at the time, Premier assumed it was somehow affiliated with GoDaddy. **Notably, PremierShieldInsurance.com is not listed.**

21. On or about March 24, 2021, Premier listed for sale through GoDaddy additional domain names that it owned, and on March 24, 2021, Afternic sent an Opt-In Notification stating:

Congratulations on choosing the Afternic Premium Network for the promotion of your domain names. Your domains are registered with an eligible Premium Network registrar. In order to get the domains live on the Premium Network: 1) we need to confirm your domain ownership and 2) you need to accept the Premium Network terms and conditions so that your domains are opted-in to the Premium Network. You will be contacted shortly through email to complete the opt-in process. Click on the link in that email to complete the process for the following domains:

| | |
|----------------------------------|--------|
| femafloodinsuranceagent.com | \$8490 |
| shoplocalsavemoneysleephappy.com | \$500 |
| management-agency.com | \$1037 |
| insurancepolicys.net | \$5000 |
| insurerspolicies.com | \$713 |
| localcitationbuildingservice.com | \$2450 |

See Exhibit B, attached hereto. **Notably, PremierShieldInsurance.com is not listed.**

22. On or around April 1, 2021, Premier listed for sale through GoDaddy:

Healthinsurancewisconis-info.com
Carinsuancequotes.mobi
Lifeinsuanceagentsnear.me
Insuancedatae.net
Lifeinsuancearticles.net
Insurancrater.net
Santafeinsuance.net
Pennsylvaniainsurance.net
Newyorkautoinsurance.net
Bettermlifeinsuancerates.com
Cheaptermlifeinsuancequote.com

See Exhibit C, attached hereto. **Notably, PremierShieldInsurance.com is not listed.**

23. On or around April 2, 2021, Premier received a “Successful listing confirmation” from GoDaddy for:

Healthinsurancewisconsin-info.com
Hatchcheap.com
Tabes.org
Keyalls.com
Bestlifeinsuancerates.com

See Exhibit D, attached hereto. **Notably, PremierShieldInsurance.com is not listed.**

24. On or about May 16, 2021, Premier received an email from GoDaddy entitled “Authorize your participation in Afternic” and thanking Premier for choosing GoDaddy as its Afternic Premium Network registrar. The email required authorization to participate in the Afternic program in relation to the following domains:

localcitationbuildingservice.com
insurspolicies.com
insurancepolicys.net

See Exhibit E, attached hereto. **Notably, again, PremierShieldInsurance.com is not on this list.**

25. From around May 17, 2021, through May 19th, Premier received similar emails requesting it to Opt-in to Afternic for the domain names referenced in the March 24, 2021 (above) email, which were:

femafloodinsuranceagent.com
shoplocalsavemoneysleephappy.com
management-agency.com
insurancepolicys.net
insurerspolicies.com
localcitationbuildingservice.com

26. Not one email from Afternic asked for opt-in permission for PremierShieldInsurance.com. Nor did Premier ever get a confirmation that

PremierShieldInsurance.com was listed. This is unsurprising as Premier never offered its domain name, PremierShieldInsurance.com, for sale.

27. On September 24, 2021, Premier without any warning whatsoever received an email from “ta@afternic.com” informing Premier that its domain name, PremierShieldInsurance.com, was sold via “*Afternic’s Fast Transfer network*” for \$1126 (emphasis added). Upon information and belief, the “ta” stands for transfer assistance. See Exhibit F.

28. This was the first time Premier ever heard of “*Afternic’s Fast Transfer network.*”

29. According to Afternic’s website, to participate in the “*Fast Transfer network,*” a registrant is informed:

If your domain is eligible for the Premium Network, you will automatically receive an email from the domain’s registrar with instructions on how to opt your domain in to the program. By logging in to your registrar account and accepting the terms and conditions of the Fast Transfer program with your registrar, the domain will be successfully activated in the Premium Network.

See <https://www.afternic.com/domain-help>.

30. Premier never accepted the terms and conditions of the Fast Transfer program for PremierShieldInsurance.com.

31. The Fast Transfer program is a separate agreement which a registrant is required to agree to. The “**Fast Transfer Terms of Service for Afternic Sellers**” provides:

By offering one or more domain names that seller owns for sale via Fast Transfer (each, a “Listed Domain”), seller signifies its agreement to the applicable Fast Transfer Terms of Service in addition to our Membership Agreement, available at: http://www.afternic.com/legal#membership_agreement, and incorporated herein by reference.

See Exhibit G.

32. Premier never offered PremierShieldInsurance.com for sale, and thus Premier never signified its agreement to the Fast Transfer Terms of Service or to its Membership Agreement as it related to PremierShieldInsurance.com. Thus, there is no agreement between Afternic and Premier that would limit in any way the claims that Premier has against Afternic or that would otherwise limit this Court's jurisdiction.

33. In addition, under the heading "**Prerequisites to Use Fast Transfer Process,**" in order to participate in a Fast Transfer, a registrant must also provide a "buy now" price and enroll in and accept the terms of Afternic's DLS Premium Promotion service. See Exhibit G. Premier did not provide a "buy now" price nor did it enroll in or accept the terms of Afternic's DLS Premium Promotion. This is additional evidence that Premier did not list PremierShieldInsurance.com for sale.

34. In fact, each time a registrant wants to sell a domain name, or a group of domain names, the registrant must list the domain name(s) and enter into a new and specific agreement to sell that specific domain name(s). Put another way, if a registrant wants to sell Apples.com, it has to list Apples.com and click "I agree" to the terms and conditions to sell Apples.com. The process is repeated if a registrant wants to sell Oranges.com. However, if the registrant owns Pears.com and does not list Pears.com for sale and thus does not click on "I agree," the registrant has not entered into any agreement to sell Pears.com.

35. Another way to look at what transpired is to think of Premier's domain names as cars parked in a garage. If Premier has twenty cars and decides to sell two, it could enter into an agreement with a car dealer, give the keys to the garage to the car dealer and instruct the dealer to sell the two cars specifically described in the parties' agreement (for example, the 1965 blue Mercedes Benz and the 1952 red Ford Mustang). The car dealer goes into the garage, using the

keys provided, takes possession of the 1965 blue Mercedes Benz and the 1952 Ford Mustang in order to sell those particular cars. Once sold, the dealer would transfer title to the cars to the buyer and return the keys. The car dealer's authorization to enter the garage is now over. If the dealer, however, later enters Premier's garage without authorization (perhaps through a back door or a replica of the key), and sells and takes possession of a car that is not part of any agreement (for example, a 1972 yellow Porsche), the dealer cannot be heard to say "we had an agreement," because the terms of any agreement for the Mercedes and the Mustang cannot be imputed to the Porsche. Nor can the dealer be heard to say, "I had authorization to enter your garage," because the authorization was for a limited time and for a limited purpose. The car dealer was not authorized to enter the garage to take possession of the 1972 yellow Porsche.

36. Here and using the above analogy, Afternic, upon information and belief, accessed without any authorization whatsoever Premier's GoDaddy account (its garage), took possession of PremierShieldInsurance.com (the 1972 yellow Porsche) and sold and transferred the domain name to an Indonesian gambling entity. It matters not that Afternic may have had authority to sell some other domain name. Access to Premier's account ended once the authorized listings were completed. Going back into Premier's account, and accessing the account, in order to take possession of the domain name, PremierShieldInsurance.com, was never authorized. Afternic was not authorized to hack into or otherwise access Premier's account.

37. Shocked that its domain name was sold without its agreement or authorization and, frankly, in a panic about the sale of its domain name, which essentially shut down its business, on September 25, 2021, Premier called GoDaddy and spoke with an individual named

“Brock” to explain that PremierShieldInsurance.com was never offered for sale. Brock told Premier that it did offer the domain name for sale.

38. After “Brock” tried to convince Premier that it had listed PremierShieldInsurance.com, Premier scoured its accounts and emails, and found no evidence whatsoever that anyone from Premier ever listed its domain name for sale on either GoDaddy or Afternic.

39. Premier continued to literally beg for answers. At all relevant times, Afternic continued to insist that Premier listed PremierShieldInsurance.com for sale. After being on hold for hours and numerous emails back and forth, Afternic sent an email on September 27, 2021, from the address “ta@afternic.com” claiming that Premier listed PremierShieldInsurance.com for sale on March 24, 2021. This was false and intentionally deceptive. The March 24, 2021, email does not include PremierShieldInsurance.com among the domain names listed for sale, which Afternic knew or should have known.

40. On October 4, 2021, Premier spoke with a Supervisor and Customer Care Representative at GoDaddy. The call lasted two hours. The individual on the phone informed Premier that it (Premier) would have the emails showing its domain being listed on March 24th. Premier informed the representative that no such emails exist.

41. Still desperate for answers, for days and weeks thereafter Premier continued to try to get an honest answer about how its domain name could have been sold without its authorization or agreement. For example, on or about October 21, 2021, Premier emailed Oceo@Godaddy.com and it received an email back stating that the domain was listed on March 14, 2021. See Exhibit H. Of course, this was different information than previously provided, as at all relevant times Afternic maintained that the domain name was listed on March 24th. In

response, Premier again demanded proof that it listed its domain name. Premier also provided emails from March 14, 2021, to further show that it never listed PremierShieldInsurance.com.

42. Premier has repeatedly requested that Afternic provide evidence that Premier listed PremierShieldInsurance.com for sale through Afternic's Fast Transfer program. It has received none.

43. Prior to its domain name being sold by Afternic, Premier was held in high regard by every carrier it did business with thanks to its "New Face of Insurance" attitude and business acumen in the industry. Premier was nominated for a Future Agent of the Year award by Safeco Insurance (National Award) due to its strengths in its technological adaption into an aging industry and creation of the new model for other agents and agencies to follow for years to come. Much like other frontier-striving businesses and pioneers, Premier not only created the frontier, but Premier was the best at it and was often copied for what it created. And, at the time the Event occurred, Premier was getting ready to move its SEO strategy into nine other states that it is licensed to do business in.

44. Years' worth of effort and success was destroyed on the SEO side of Premier's business. The Event destroyed Premier's digital brand on Google's Search platform and tarnished all SEO credibility Premier had built. In addition, due to Afternic's actions, Premier lost its ability to (1) fully utilize the strength of its SEO and Premier website to increase revenues across multiple streams outside of just insurance sales; (2) market and sell leads to other small businesses; (3) piggyback its SEO strength to gain commercial clients via SEO consulting and insurance sales; and (4) function and plan as a business under regular operating conditions.

45. The sale of its domain name harmed Premier not only from a SEO standpoint, but from a carrier relationship standpoint. Premier has lost years' worth of carrier relationships, and

credibility in the industry from customers and potential customers on the commercial, consulting, and personal buying side.

46. Premier is not the only company or individual to suffer an unauthorized transfer of its domain name. Others too have complained. See <https://www.trustpilot.com/users/57e2699a0000ff000a4662c6> (November 15, 2021, (“GoDaddy seems to auctioned off a domain without my permission. This review is based on the experience with GoDaddy Auctions and their domain selling partner Afternic. A long time ago I listed a domain for sale at the GoDaddy Auctions site. The domain name was xxx.com. (the domain name is hidden). I set the minimum bid to \$2000 and the auction type as offer/counteroffer. Yesterday I got a e-mail from Afternic telling me that "Congratulations! Your domain, xxx.com, has sold via Afternic's Fast Transfer network for \$50.00." Afternic?, fast transfer??. \$50?? . What is this? I checked my GoDaddy auction site and the domain xxx.com was still listed there, with 85 days to go. I also checked my regular GoDaddy account, where I did not find the domain in the domain overview. I then go to Afternic.com. I have never visited this domain before. Afternic seems to be an auction partner with GoDaddy. The login looks like GoDaddys, so I try a password reset with my GoDaddy e-mail account. When I finally manage to login to the Afternic site I see that there are multiple domains for sale by me (these are all listed at GoDaddy Auctions), all with a Buy Now price of \$50. At GoDaddy Auctions they are all listed from \$1000 and up. The account at Afternic stated that I have been a member since September 4, 2021. It seems like the account is autogenerated and these domains has been added for sale without my knowledge. Now the domain name seems to be lost, forever. That is also my 20 years customer relationship with GoDaddy.”) ; <https://www.trustpilot.com/reviews/627c11a5f03a9893e98acba2> (May 11, 2022, “Afternic is trying to sell our domains without asking us if we want to sell them.

Very dubious organization”); <https://lawstreetmedia.com/news/tech/godaddy-sued-for-unauthorized-domain-name-transfer-following-data-breach> (describing federal lawsuit wherein domain was stolen); <https://www.trustpilot.com/review/afternic.com> (June 4, 2022, “Afternic stole my domain, but did not return it after handing it over to them. No one will trade through afternic”); <https://www.trustpilot.com/review/afternic.com> (November 4, 2021. “SCAM BE WARNED...Said my domain was somehow ‘SOLD’ by them although I have no account and have never authorised the sale to anyone or heard of ‘Afternic.’ I repeatedly asked for bonafides - NONE FORTHCOMING. They need to be shut down IMMEDIATELY.”).

47. Furthermore, to the extent that Afternic will claim that the transfer must have been because GoDaddy was hacked in September of 2021 (and came forward only in November of 2021), then Afternic was dishonest in not informing Premier that the sale of its domain name was a result of this hack. GoDaddy reported the following to the SEC:

November 22, 2021

GoDaddy Announces Security Incident Affecting Managed WordPress Service
On November 17, 2021, we discovered unauthorized third-party access to our Managed WordPress hosting environment. Here is the background on what happened and the steps we took, and are taking, in response:

We identified suspicious activity in our Managed WordPress hosting environment and immediately began an investigation with the help of an IT forensics firm and contacted law enforcement. Using a compromised password, an unauthorized third party accessed the provisioning system in our legacy code base for Managed WordPress.

Upon identifying this incident, we immediately blocked the unauthorized third party from our system. Our investigation is ongoing, but we have determined that, beginning on September 6, 2021, the unauthorized third party used the vulnerability to gain access to the following customer information:

- Up to 1.2 million active and inactive Managed WordPress customers had their email address and customer number exposed. The exposure of email addresses presents risk of phishing attacks.

- The original WordPress Admin password that was set at the time of provisioning was exposed. If those credentials were still in use, we reset those passwords.
- For active customers, sFTP and database usernames and passwords were exposed. We reset both passwords.
- For a subset of active customers, the SSL private key was exposed. We are in the process of issuing and installing new certificates for those customers.

Our investigation is ongoing and we are contacting all impacted customers directly with specific details. Customers can also contact us via our help center (<https://www.godaddy.com/help>) which includes phone numbers based on country.

We are sincerely sorry for this incident and the concern it causes for our customers. We, GoDaddy leadership and employees, take our responsibility to protect our customers' data very seriously and never want to let them down. We will learn from this incident and are already taking steps to strengthen our provisioning system with additional layers of protection.

Demetrius Comes
Chief Information Security Officer

See Exhibit I (emphasis added).

48. Premier was never contacted or informed that its account was affected by the above incident.

49. Premier filed a complaint with GoDaddy and provided GoDaddy the information GoDaddy requested so that GoDaddy could undertake an investigation. GoDaddy has refused to provide Premier with any results of its purported investigation despite promising to do so.

50. Both GoDaddy and Afternic have refused to assist Premier in obtaining the return of its domain name, which they could have done. Upon information and belief, on-line gambling is illegal in Indonesia. Under such circumstances, GoDaddy has the ability and the right to:

Without limiting any of the rights set forth elsewhere in this Agreement, **GoDaddy expressly reserves the right to deny, cancel, terminate, suspend, or limit future access to this Site or any Services (including but not limited to the right to cancel or transfer any domain name registration) to any User (i) whose Account or Services were previously terminated or suspended, whether due to breach of this or any other Agreement or any GoDaddy policy, or (ii) who**

otherwise engages or has engaged in inappropriate or unlawful activity while utilizing the Site or Services (as determined by GoDaddy in its sole and absolute discretion).

<https://www.godaddy.com/legal/agreements/universal-terms-of-service-agreement>.

51. Premier filed a Complaint with the FBI.

52. Premier has sought to buy back its domain name.

53. Premier has filed a Complaint with ICANN.

54. Currently, the identity of the purported “new owner” of the Infringing Deceptive Domain is being kept secret by Domains By Proxy, LLC, another GoDaddy entity.

<https://lookup.icann.org/en/lookup>

55. Afternic has failed to take steps to investigate and respond appropriately to any reports of abuse as required by the ICANN Registrar Accreditation Agreement (“RAA”).

56. Despite having filed a complaint with GoDaddy and despite Premier having sent demand letters to both GoDaddy and Afternic, demanding the return of its domain name, Afternic has sought and continues to seek to bully Premier into accepting the funds for the unauthorized sale of its domain name. See Exhibit J.

COUNT I
(Violation of 18 U.S.C. § 1030 (“CFAA”))

57. Plaintiff realleges and incorporates by reference all of the preceding paragraphs.

58. Afternic was not granted access to Premier’s account. Premier’s account was off-limits to Afternic. As described in detail above, Afternic essentially hacked into or otherwise accessed Premier’s account without any authorization. As described above in detail, a listing requires a specific and new authorization. Authority to sell one domain name, is not authority to

break into an account and list and then sell a different domain name. Each entry into the account requires a new and specific authorization.

59. Title 18, §1030 is entitled “Fraud and related activity in connection with computers,” commonly known as the Computer Fraud and Abuse Act (“CFAA”).

60. A private cause of action is provided for under CFAA at § 1030(c).

61. Afternic intentionally accessed a computer without authorization and thereby obtained information from a protected computer that involved interstate or foreign communications.

62. Afternic knowingly caused the transmission of a program, information, code, or command, and as a result of such conduct intentionally caused damage without authorization, to a protected computer.

63. Afternic intentionally accessed a protected computer without authorization, and as a result of such conduct, recklessly caused damage.

64. A web-based account satisfies the definition of a computer. The CFAA defines a computer as a high-speed data processing device and includes “any data storage facility or communications facility directly related to or operating in conjunction with” “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions.” *Id.* at § 1030(e)(1). In order for a website to access the Internet, it must access the host server. Accounts, such as Premier’s GoDaddy account, are stored and hosted on a “data storage facility or communications facility directly related to or operating in conjunction with” a computer as defined in the CFAA. § 1030(e)(1).

65. When Afternic hacked into or otherwise accessed and altered Premier's GoDaddy account in order to list and sell PremierShieldInsurance.com through its Fast Transfer program, Afternic accessed a computer as defined in CFAA.

66. As a result of Afternic's action, Premier suffered an impairment to the integrity and availability of its data, its program, its system, and its information.

67. As a result of Afternic's actions in violation of CFAA, Premier suffered damage including destruction, corruption, or deletion of electronic files, and diminution in the completeness or usability of the data on its computer system.

68. As a result of Afternic's actions in violation of CFAA, Premier has suffered significant losses and damages in excess of \$5,000 which occurred within a one-year period.

69. Premier has suffered losses and damages from lost revenue, costs incurred and other consequential damages which it incurred because of Afternic's actions and interruption of services including without limitation:

- a. SEO Losses and Damages: PremierShieldInsurance.com received 100% of its new website visits from non-paid Organic Search Engine Optimized website traffic. They achieved this traffic through extensive work building out content on their website, 484 unique pages of content, in a way that appealed to the search engine algorithms through search engine optimization to position their site at the top of the search results pages. Further, based on the keywords that they ranked for, it is clear that the traffic that they received was highly targeted traffic specific to the insurance industry. The data also shows that, if Premier wanted to recreate the same level of website traffic through paid advertising, it would cost them upwards of \$162,000 per month (at a minimum) to buy a similar level of traffic

that they were previously receiving through non-paid search engine results. The URL is essentially a piece of land in an up-and-coming neighborhood and the website is a house that you build on top of the land that you're continuously improving in a neighborhood that is also continuously improving. Losing the URL is similar to having to move your house out of the up-and-coming neighborhood and having to start over in an unknown neighborhood and work to build up the value again. Yes, you still have the house (website), but it is now being built in the middle of nowhere and you have to take the time and effort to build the visibility up again. In determining the cost to recreate the previous website's SEO value, it is important to understand that a URL, when used properly for SEO purposes, gains value over time. As new, search friendly content is added to the URL the site continues to rank for new keyword categories and gains additional visibility across the web. The longer the URL has been active, the more likely it will be to hold search ranking. Premier no longer has access to the content that was on their prior URL. However, even if it did have access to the content, Premier would still need to recreate that content in a way that would be unique from the previous website's content, in the eyes of the search engine. It is widely accepted in the SEO industry that Google will penalize you for using duplicate content and that only new and unique content will give you the best opportunity to rank in search results pages. Google may see the content on the new URL as duplicate content in the eyes of their algorithm. And, while there are methods to let Google know that you want to remove duplicate content from the former URL, the methods involve adding canonical tags (code)

to the pages on the URL. Without access to the URL, there is no way to add the canonical tags needed to inform Google that the previous URL and its content should be considered duplicate content. Reference link:

<https://developers.google.com/search/docs/advanced/guidelines/duplicate-content>

In addition, there is no guarantee that a new URL with the same website will ever get to the same level of traffic as the previous URL. A conservative estimate for insurance industry Search Optimized copy writing costs (with a bulk discount price and factoring in that they might have a starting copy to work from) to rewrite 484 pages of content would be: \$350 per page or \$169,400. Website development costs to move 484 copies back into the existing website would be: \$100 per page or \$48,400. Costs to update the search engine optimization backend settings and code, including meta descriptions, title tags and URLs, and send Google to recrawl and index all 484 pages: \$120 per page or \$58,080. Total cost to recreate the site to give the best opportunity to regain the previous URL's search engine rankings on a new URL: \$275,880. To recreate and relaunch a 484-page website on a new URL, as outlined above, it would involve the following steps and timeline: 1. A 15-page site would be put in place on a new URL. The site would include the website pages necessary to maintain a flow of business into each of the primary categories of the business while the remaining 469 pages are being written, search optimized and created. 2. At this point, a paid ad campaign could be put in place to drive traffic into the website while the remainder of the site copy is written and relaunched. 3. To write copy for the remaining 469 pages and recreate the site to where it was before the URL was lost it would take: 3

hours to write each new page of insurance copy and 1 hour to add the page to the site and search optimize the new page, 4 hours total per new website page. With 484 pages to add, it would take 1,936 hours of work to recreate the previous content and website on the new URL. It would likely take at least one year and two months (14 months) to recreate the previous website. Even after the site is recreated, it takes a minimum of six months (conservative estimate) for all of the new website copy to rank and get indexed in Google's search results pages and start to drive in traffic (again no guarantees that they'd reach the same position as it had previously). At a minimum, it would take Premier 18 months to get back to its previous traffic. Using the \$162,000 monthly click value that the previous URL's SEO traffic had in September 2021, a conservative cost to purchase similar traffic through keyword advertising while the new website is gaining search presence, would be: **\$2,916,000**.

- b. **Loss Revenue and Business Interruption Losses And Damages:** As a result of Afternic's actions, Premier lost revenues and profits that it would have earned in the amount of no less than **\$610,000**. The impact of Afternic's actions continue to be felt by Premier.

COUNT II
(Cybersquatting Under 15 U.S.C. § 1125(d) | 105)

70. Plaintiff realleges and incorporates by reference all of the preceding paragraphs.
71. In 1999, Congress passed the Anticybersquatting Consumer Protection Act ("ACPA" or "Act"), 15 U.S.C.A. § 1125(d), to protect consumers and American businesses, to promote the growth of online commerce, and to provide clarity in the law for trademark owners.
72. 15 U.S.C. 1125(d) provides:

(d) Cyberpiracy prevention

(1)(A) A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person—

(i) has a bad faith intent to profit from that mark, including a personal name which is protected as a mark under this section; and

(ii) registers, traffics in, or uses a domain name that—

(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

(II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or

(III) is a trademark, word, or name protected by reason of section 706 of Title 18 or section 220506 of Title 36.

73. 15 U.S.C. 1125 (d)(E) provides:

As used in this paragraph, the term “traffics in” refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

74. Accordingly, Congress enacted the ACPA to include not only individuals and companies who register domain names, but rather, to apply equally to three classes of persons/entities: (1) registrants of the Deceptive Domains; (2) anyone who “uses” the domain name which is defined as the registrant or the “authorized licensee” of the registrants of the Deceptive Domains; and (3) anyone who “traffics in” Deceptive Domains, which refers to anyone involved in any transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration, whether or not the person is the registrant of the Deceptive Domain.

75. Congress drafted the ACPA to prevent the use, licensing, pledging, trafficking in, or any other exchange of consideration for the use of the Deceptive Domain Names. Afternic's conduct in monetizing the Infringing Deceptive Domain is the very conduct which Congress declared to be illegal.

76. Afternic receives a twenty percent commission on every domain name it lists and transfers for sale and in this way, it uses domain names and monetizes those domain names it lists and transfers.

77. By taking possession of a domain name, Afternic intentionally enabled the Indonesian gambling entity to infringe on Premier's mark.

78. Afternic had bad faith intent to profit which is evidenced by the following allegations in addition to the above, incorporated by reference, allegations.¹

¹ The Statute provides nine factors that may be considered by the court when determining bad faith intent to profit which are not exclusive to other factors a court may consider. Those factors are:

1. Whether the defendant has a "trademark or other intellectual property rights" in the domain name;
2. Whether the domain name refers to the legal name of the defendant;
3. Whether the defendant ever used the domain name "in connection with the bona fide offering of any goods or services";
4. Whether the defendant has a "bona fide noncommercial or fair use of the mark in a site accessible under the domain name";
5. Whether the defendant has an "intent to divert consumers" from the mark owner's website to his own, either for commercial gain "or with the intent to tarnish or disparage the mark," when that diversion could cause harm to the mark owner's goodwill;
6. Whether the defendant offers to transfer or sell the domain name for financial gain when he has not used or had an intent to use the domain name in connection with "the bona fide offering of any goods or services";
7. Whether the defendant provides "material and misleading false contact information when applying for the registration of the domain name" or the defendant "intentional[ly] fail[s] to maintain accurate contact information";
8. Whether the defendant acquired multiple domain names that the defendant knows are identical or confusingly similar to distinctive marks; and
9. Whether the mark is distinctive or famous.

79. Afternic acted as the authorized licensee of the registrant and used the Infringing Deceptive Domain in violation of the ACPA.

80. Afternic violated its own policies by selling Premier's domain name to an Indonesian gambling site because gambling, upon information and belief, is illegal in Indonesia.

81. Afternic had no property rights to Premier's domain name. Afternic intended to, and did, divert consumers from Premier's website in a way that did harm the goodwill of Premier's domain name and did cause confusion.

82. Afternic has refused to disclose the name or owner of the Indonesian gambling site.

83. PremierShieldInsurance.com was a distinctive, famous, venerable, valuable mark at the time Afternic trafficked in, or acted as the authorized licensee of a registrant and used the Infringing Deceptive Domain.

84. The Infringing Deceptive Domain is identical to the Distinctive and Valuable Mark.

85. Afternic does not have any intellectual property rights or any other rights in the Distinctive and Valuable Mark.

86. The Infringing Deceptive Domain consists of the legal name of PremierShieldInsurance, or a name that is otherwise commonly used to identify Premier Shield Insurance.

87. Afternic has never made any prior use of the Infringing Deceptive Domain in connection with the bona fide offering of any goods or services.

15 U.S.C. § 1125(d)(1)(B)(i)

88. Afternic trafficked in and/or used the Infringing Deceptive Domain to divert consumers from Plaintiff's websites to a website accessible from the Infringing Deceptive Domain.

89. Afternic thereby created a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Infringing Deceptive Domain website.

90. Afternic offered to transfer, sell, or otherwise assign the Infringing Deceptive Domain for financial gain without having used, or having the intent to use, the Infringing Deceptive Domain in the bona fide offering of any goods or services.

91. Afternic has used, trafficked in, and/or acted as the registrant's authorized licensee in the Infringing Deceptive Domain which it knew was identical or confusingly similar to the protected and Distinctive and Valuable Mark, which was distinctive at the time of the registration and continues to be distinctive.

92. Afternic's trafficking in, and/or use, as the authorized licensee of the registrant, of the Infringing Deceptive Domain constitutes cybersquatting in violation of 15 U.S.C. § 1125(d). Afternic's acts as alleged herein constitute the use of and trafficking in the Infringing Deceptive Domain, in violation of the ACPA with bad faith intent to profit from Premier's Distinctive and Valuable Mark.

93. Afternic's acts as alleged herein constitute cyberpiracy, cybersquatting, and/or typo squatting, in violation of the ACPA.

94. Afternic was not acting as a registrar and thus there is no statutory safe harbor available to it. Further, the statute was not intended to shield registrars from liability for actions outside their core function as registrars.

95. By reason of Afternic's acts alleged herein, a remedy at law is not adequate to compensate Premier for the injuries inflicted by Afternic. Accordingly, Premier is entitled to preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

96. By reason of Afternic's acts alleged herein, Premier is entitled to recover Afternic's profits, actual damages, and the costs of the action, or, on Premier's election, statutory damages under 15 U.S.C. § 1117, in an amount up to One Hundred Thousand Dollars (\$100,000) per Deceptive Domain name infringement.

97. Further, this is an exceptional case making Premier eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

COUNT III
(Conversion)

98. Plaintiff realleges and incorporates by reference all of the preceding paragraphs.

99. Afternic intentionally or wrongfully exercised acts of ownership, control or dominion over property to which it had no right of possession.

100. Conversion of so-called "intangible property" has been recognized in the Superior Court of Massachusetts but has not yet been decided either by the SJC or the First Circuit. In addition, the intangible property at issue resided with a tangible item, including without limitation, Premier's computer storage device, on which its ideas and expressions were stored. Thus, the tort of conversion in this case applies to the property's tangible incarnations.

101. Despite demand, Afternic has refused to return Premier's domain name.

102. Plaintiff has been injured as a result of Defendant's conversion.

COUNT IV
(Chapter 93A)

103. Plaintiff realleges and incorporates by reference all of the preceding paragraphs.

104. By virtue of the foregoing, Afternic knowingly and intentionally engaged, and continues to engage, in unfair and deceptive acts and practices in violation of Mass. Gen. Laws Chapter 93A, Section 11, including, but not limited to, the following:

- Afternic without any agreement or authorization did convert and misappropriate Premier's domain name and sold the domain name for its own profit.
- After demand was made for the return of Premier's domain name, Afternic did nothing, and instead continues to threaten Premier if Premier does not accept the funds for the unauthorized sale of its domain name.
- Afternic promised it would investigate, but it did not and if it did investigate refused to inform Premier of the results of any investigation which is a violation of ICANN.
- Upon demand for information as to how and why this occurred, Afternic falsely claimed Premier listed its domain name for sale.
- Afternic in the course of its business supplied false information in an attempt to convince Premier that it listed its domain name for sale. When asked for proof, Afternic was silent.
- When pressed for answers, Afternic, despite having a duty to be honest, engaged in a pattern of silence and of false and misleading statements in an effort to hide the truth from Premier.

105. The described conduct constitutes unfair methods of competition and/or unfair and deceptive acts or practices in violation of Chapter 93A and falls well within the factors articulated in PMP Assocs., Inc. v. Globe Newspaper Co., 366 Mass. 593 (1975): (1) whether the conduct is within 'at least the penumbra of some common-law, statutory, or other established

concept of unfairness; (2) whether it is immoral, unethical, oppressive, or unscrupulous; and (3) whether it causes substantial injury to consumers' or other businesses."

106. Afternic's conduct took place in a commercial setting and occurred primarily and substantially within the Commonwealth of Massachusetts, where both Afternic and Premier are located.

107. The conversion and misappropriation occurred in Massachusetts.

108. The false statements and false promises were made in and/or received in Massachusetts.

109. Premier suffered substantial injury in Massachusetts.

JURY DEMAND

The Plaintiff requests a trial by jury on all claims.

WHEREFORE, Plaintiff seeks judgment against Defendant as follows:

1. All damages to which Plaintiff is entitled in an amount not less than \$3,801,880.00.
2. Injunctive and/or other equitable relief;
3. Attorney fees, costs, and interest;
4. Treble Damages in the amount of not less than \$11,405,640.00; and
5. Such other and further relief as the court may deem just and proper.

Respectfully submitted by the Plaintiff,
PREMIER SHIELD INSURANCE, LLC,
By its attorneys,

/s/ Alexis Smith Hamdan

Alexis Smith Hamdan, Esq.

BBO # 557783

alexis@tflawllc.com

Gilbert J. Schipani, Esq.

BBO # 675566
gil@tflawllc.com
Tempus Fugit Law LLC
185 Devonshire Street, Suite 201
Boston, MA 02110

DATED: September 2, 2022

EXHIBIT A

10/27/21, 2:30 PM

Gmail - Opt-In to the Afternic Premium Network with Your Registrar



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Opt-in to the Afternic Premium Network with Your Registrar

1 message

Afternic DLS <Service@afternic.com>
To: premiershieldinsurance@gmail.com

Sun, Mar 14, 2021 at 6:53 PM



Opt-in Notification

Dear Brian Plain,

Congratulations on choosing the Afternic Premium Network for the promotion of your domain names. Your domains are registered with an eligible Premium Network registrar.

In order to get the domains live on the Premium Network: 1) we need to **confirm your domain ownership** and 2) you need to **accept the Premium Network terms and conditions** so that your domains are opted-in to the Premium Network. You will be contacted shortly through email to complete the opt-in process. Click on the link in that email to complete the process for the following domains:

insurance-educators.com for \$833

For questions or assistance, please contact our customer service department at **1-866-351-9586 (U.S.)** or **+1 781-839-7990 (Worldwide)**.

Sincerely,

The Afternic Team
www.Afternic.com
P: **866.351.9586** or **781.839.7990**

FOLLOW US ON:



[Facebook](#)



[Twitter](#)



[LinkedIn](#)

Afternic • 1 Main St. • Cambridge • MA • 02142 • United States
866-351-9586 (US) 781-839-7990 (worldwide)

Unsubscribe Instructions

You are receiving this email because you are a valued Afternic member. If you would like to be removed from this list, please [click here](#).

EXHIBIT B



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Opt-in to the Afternic Premium Network with Your Registrar

2 messages

Afternic DLS <Service@afternic.com>
To: premiershieldinsurance@gmail.com

Wed, Mar 24, 2021 at 6:10 PM



Opt-in Notification

Dear Brian Plain,

Congratulations on choosing the Afternic Premium Network for the promotion of your domain names. Your domains are registered with an eligible Premium Network registrar.

In order to get the domains live on the Premium Network: **1) we need to confirm your domain ownership** and **2) you need to accept the Premium Network terms and conditions** so that your domains are opted-in to the Premium Network. You will be contacted shortly through email to complete the opt-in process. Click on the link in that email to complete the process for the following domains:

- [femafloodinsuranceagent.com](#) for \$8490
- [shoplocalsavemoneysleephappy.com](#) for \$500
- [management-agency.com](#) for \$1037
- [insurancepolicys.net](#) for \$5000
- [insurerspolicies.com](#) for \$713
- [localcitationbuildingservice.com](#) for \$2450

For questions or assistance, please contact our customer service department at **1-866-351-9586** (U.S.) or **+1 781-839-7990** (Worldwide).

Sincerely,

The Afternic Team
www.Afternic.com
P: **866.351.9586** or **781.839.7990**

FOLLOW US ON:  [Facebook](#)  [Twitter](#)  [LinkedIn](#)

Afternic • 1 Main St. • Cambridge • MA • 02142 • United States
866-351-9586 (US) 781-839-7990 (worldwide)

Unsubscribe Instructions

You are receiving this email because you are a valued Afternic member. If you would like to be removed

EXHIBIT C



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Successful Listing Confirmation

1 message

GoDaddy <auctions@godaddy.com>
To: premiershieldinsurance@gmail.com

Thu, Apr 1, 2021 at 7:46 PM

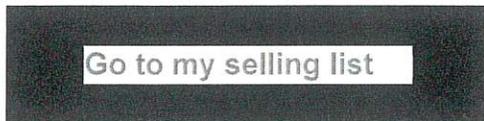


24/7 Support: +1 (480) 505-8855
Brian Plain — Customer Number:130961828

Successful listing confirmation

Congratulations, you successfully submitted healthinsurancewisconsin-info.com, carinsurancequotes.mobi, lifeinsuranceagentsnear.me, insurancedata.net, lifeinsurancearticles.net, insurancerater.net, santafeinsurance.net, pennsylvaniacarinsurance.net, newyorkautoinsurance.net, besttermifeinsurancerates.com, cheaptermlifeinsurancequote.com for listing at GoDaddy Auctions.

We wish you great success with your listing! Please note that it may take up to 72 hours for a listing to become active. To verify that your listing has become active, please log in to your account and go to your selling list after 72 hours.



Check your listing often. For offer/counter offer listing, offers are valid for 7 days. If an offer is made and you don't respond within 7 days, the offer is no longer binding. For auctions, offers are binding for the duration of the listing.

REMINDER: If your domain sells, do not authorize the transfer process until

you are notified by the GoDaddy Auctions Team.

If you have any questions, contact Customer Support:

- [Online Support](#)
- Email: auctions@godaddy.com
- 24/7 Support by Phone: +1 (480) 505-8855



Copyright © 1999-2021 GoDaddy Auctions. All rights reserved.

4627347059

EXHIBIT D



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Successful Listing Confirmation

2 messages

GoDaddy <auctions@godaddy.com>
To: premiershieldinsurance@gmail.com

Fri, Apr 2, 2021 at 5:09 PM

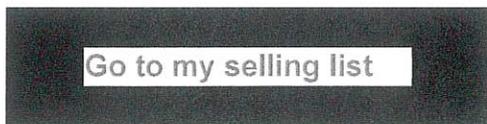


24/7 Support: +1 (480) 505-8855
Brian Plain — Customer Number:130961828

Successful listing confirmation

Congratulations, you successfully submitted healthinsurancewisconsin-info.com, hatcheap.com, tabes.org, keywalls.com, bestterm-life-insurance-rates.com for listing at GoDaddy Auctions.

We wish you great success with your listing! Please note that it may take up to 72 hours for a listing to become active. To verify that your listing has become active, please log in to your account and go to your selling list after 72 hours.



Check your listing often. For offer/counter offer listing, offers are valid for 7 days. If an offer is made and you don't respond within 7 days, the offer is no longer binding. For auctions, offers are binding for the duration of the listing.

REMINDER: If your domain sells, do not authorize the transfer process until you are notified by the GoDaddy Auctions Team.

If you have any questions, contact Customer Support:

- [Online Support](#)
- Email: auctions@godaddy.com
- 24/7 Support by Phone: +1 (480) 505-8855



Copyright © 1999-2021 GoDaddy Auctions. All rights reserved.

4629521554

GoDaddy <auctions@godaddy.com>
To: premiershieldinsurance@gmail.com

Fri, Apr 2, 2021 at 5:12 PM

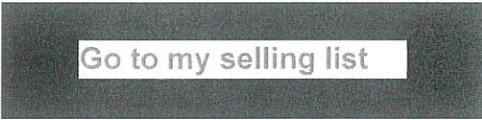


24/7 Support: +1 (480) 505-8855
Brian Plain — Customer Number: 130961828

Successful listing confirmation

Congratulations, you successfully submitted cardascend.com for listing at GoDaddy Auctions.

We wish you great success with your listing! Please note that it may take up to 72 hours for a listing to become active. To verify that your listing has become active, please log in to your account and go to your selling list after 72 hours.



Check your listing often. For offer/counter offer listing, offers are valid for 7 days. If an offer is made and you don't respond within 7 days, the offer is no longer binding. For auctions, offers are binding for the duration of the listing.

REMINDER: If your domain sells, do not authorize the transfer process until you are notified by the GoDaddy Auctions Team.

If you have any questions, contact Customer Support:

- [Online Support](#)
- Email: auctions@godaddy.com
- 24/7 Support by Phone: +1 (480) 505-8855



Copyright © 1999-2021 GoDaddy Auctions. All rights reserved.

4629522863

EXHIBIT E

10/27/21, 2:20 PM

Gmail - Action required: Authorize your domain listings.



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Action required: Authorize your domain listings.

1 message

GoDaddy <donotreply@godaddy.com>

Sun, May 16, 2021 at 12:03 PM

To: premiershieldinsurance@gmail.com



24/7 Support: +1 (480) 505-8877

Brian Plain — Customer Number: 130961828

Authorize your participation in Afternic.

Thanks for choosing GoDaddy as your Afternic Premium Network registrar.

Before your domain name(s) can be listed for sale on GoDaddy and other Afternic resellers, you must authorize your participation in the Afternic program.

[Authorize Now](#)

The following domain names have been requested for sale through the Afternic Premium Network:

localcitationbuildingservice.com

insurerspolicies.com

insurancepollcys.net

Please keep in mind that if these domain names become ineligible in the future, they'll be removed from the program. If you're listing multiple domains, you should sign in to your GoDaddy account to complete the listing approval process. To reference the listing terms at any time [click here](#).

10/27/21, 2:20 PM

Gmail - Action required: Authorize your domain listings.

Please do not reply to this email. Emails sent to this address will not be answered.

Copyright © 1999-2021 GoDaddy Operating Company, LLC. 14455 N. Hayden Rd, Ste. 219, Scottsdale, AZ
85260 USA. All rights reserved.

4735045707

EXHIBIT F

10/27/21, 2:27 PM

Gmail - Congrats, premiershieldinsurance.com has sold via Fast Transfer!



Premier Shield Insurance <premiershieldinsurance@gmail.com>

Congrats, premiershieldinsurance.com has sold via Fast Transfer!

1 message

Afternic Transaction Assurance <ta@afternic.com>

Fri, Sep 24, 2021 at 12:33 PM

To: "premiershieldinsurance@gmail.com" <premiershieldinsurance@gmail.com>

Congratulations! Your domain, **premiershieldinsurance.com**, has sold via Afternic's Fast Transfer network for **\$1,126.00**.

What's next?

There is no action needed from you at this time and we will send you an email within **7-10 days** regarding your payment. We ask that you please check your Afternic account settings to make sure that your default payee information is current and ready to receive funds.

Thank you,
Afternic Transaction Assurance Team

Need further assistance?

Log into your Afternic account at anytime to manage your settings, check on the status of your transactions or contact us.

EXHIBIT G



Jump to:

- [Afternic Membership Agreement](#)
- [Afternic.com Terms Of Use](#)
- [Afternic Domain Name Registration Agreement](#)
- [Uniform Domain Name Dispute Resolution Policy](#)
- [Afternic Privacy Policy](#)
- [Afternic Pricing & Fees](#)
- [Download/Delete Your User Data](#)

Membership Agreement

Revised June 3, 2021

ACCEPTANCE OF TERMS THROUGH USE

By using this site or by clicking "I agree" to this Agreement, you ("Member" or "You") signify your agreement to these terms and conditions. If you do not agree to this Agreement as well as any additional rules and policies posted on Afternic.com ("Afternic"), please do not use this site and do not click "I agree". Please check this Agreement periodically for changes as Afternic, a division GoDaddy.com, LLC, a Delaware limited liability company (collectively, the "Company" or "Afternic"), reserves the right to revise this Agreement and your continued use of this site following the posting of any changes to the Agreement as well as any additional rules and policies posted on Afternic.com constitutes your acceptance of such changes. The Company reserves the right to terminate a Member's use of this site at any time, after, before or during a transaction, without notice, and may do so at any time, for any reason. This Agreement applies to licensors and advertisers as well. For information on our buying, selling, and affiliate policies and agreements, see the information provided through the site.

YOU MUST BE AT LEAST 18 TO AGREE TO THIS AGREEMENT AND USE THIS SITE

This Agreement must be completed, understood and agreed to by a person at least 18 years old. If a parent or guardian wishes to permit a person under 18, and under his or her supervision, to use this site, he or she should email the Company with his or her explicit permission and acceptance of full legal responsibility for the minor to do so. If you are not yet 18, do not have the capacity to enter into contracts, or are accessing this site from any country where material on this site is prohibited or illegal, please leave now as you do not have permission to access this site.

LICENSE TO USE THIS SITE

Upon your agreement to this Agreement, the Company hereby grants you a non-exclusive, non-transferable limited license to use this site in strict accordance with the terms and conditions in this Agreement and as permitted via instructions on this site. Your listing of, bidding of and/or agreement to purchase any domain name on this site means that you agree to pay such fees to finalize the sale. You agree not to make any false or fraudulent statements in your use of or to gain access to this site. You warrant that all statements you make, bids and sales you make or attempt to make, are done in good faith and that you have no knowledge of any information which would affect the validity of the sale or bid. You agree to pay for any and all purchases and bids made using your name and credit card through this site and/or you agree to sell any and all domain names as per your listings and the instructions on this site. If you refuse or fail to do so, you are fully liable for such amounts and hereby authorize Company to pursue you for collection of such amount including your full liability for all costs, interest, and attorney's fees for such collection.

As a buyer of a domain name you agree that all fees and charges payable to Company under this Agreement are exclusive of applicable foreign, US, state, local sales or use, value added taxes or other similar transaction taxes ("Taxes") and duties. Furthermore, as a buyer of a domain name you agree that any such Taxes are you, the buyer's responsibility and that you will remit such Taxes to the appropriate taxing jurisdiction.

For any sale of a domain name registration occurs between you and another member after being introduced through this site less than six months prior to the sale, you agree to pay a sales fee to Company, as posted on AFTERNIC.COM. Such introductions include any communication facilitated by the site's listings, offers and messages to members. The sales fee will be paid by the seller, and guaranteed by the buyer. The fee must be received by Company from seller within 30 days of the sale. If Company does not receive such payment within 30 days of the sale, the buyer member agrees pay Company the brokerage fee within 30 days of receiving notice from Company that the seller did not pay the fee within the first 30 days.

YOU ACKNOWLEDGE AND AGREE THAT ALL DOMAIN NAMES, DOMAIN NAME LISTINGS, BIDS, OFFERS AND COUNTER-OFFERS, OF ANY AND ALL KINDS, ON THIS SITE ARE OWNED, POSTED AND TRANSFERRED BY MEMBERS; ARE NOT PROPERTY OF COMPANY AND COMPANY DOES NOT MONITOR, REVIEW, ENDORSE, SPONSOR, WARRANTY OR GUARANTEE SUCH LISTINGS IN ANY WAY WHATSOEVER FOR GOOD TITLE, TRADEMARK, OR ANY LEGAL VALIDITY OR CAPACITY. DOMAIN NAMES ARE SUBJECT TO TRADEMARK AND OTHER LAWS AND PRIOR TO YOUR PURCHASE OF ANY NAME, YOU SHOULD HIRE AN ATTORNEY TO PROPERLY PERFORM LEGAL DUE DILIGENCE ON THE NAME TO REVIEW THE LEGALITY OF YOUR INTENDED USE OF THE NAME.

ANY AND ALL USE OF THIS SITE, SALES AND BIDS ON DOMAIN NAMES, AND OTHER SERVICES TO MEMBERS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THE COMPANY, ADVERTISERS AND/OR ITS LICENSORS, HEREBY DISCLAIM ALL WARRANTIES WITH REGARD TO THIS SITE, THE INFORMATION CONTAINED ON OR RECEIVED THROUGH USE OF THIS SITE, LISTINGS OF DOMAIN NAMES FOR SALE ON THIS SITE, THE BIDS MADE THROUGH THIS SITE, AND ALL SERVICES OR PRODUCTS RECEIVED THROUGH THIS SITE, INCLUDING ALL EXPRESS, STATUTORY, AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

The Company cannot and does not control whether or not third-party buyer(s) will complete a transaction. Additional risks arise out of dealings with foreign nationals, underage persons or people acting under false pretense or making deceitful representations, all of which are borne solely by the buyer or seller, as appropriate. The Company does not confirm that users who access its website are who they claim to be. The Company encourages You to exercise reasonable, safe business practices as You would in any other commercial activity. The Company will be permitted to take ownership or possession of the seller's domain name prior to it being transferred to the buyer.

LICENSE RESTRICTIONS

USE

Except as may be explicitly permitted through this site, you agree not to save, download, cut and paste, sell, license, rent, lease, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works from materials, code or content on or from this site. Systematic retrieval of data or other content from this site to create or compile, directly or indirectly, a collection, compilation, database or directory of any kind without written permission from the Company is prohibited. In addition, use of the listings, content or materials for any purpose not expressly permitted in this Agreement is prohibited.

SECURITY

You agree that if you are issued a Member name and Password by the Company, you shall use your best efforts to prevent access to this site through your Member name and Password by anyone other than yourself, including but not limited to, keeping such information strictly confidential, notifying the Company immediately if you discover loss or access to such information by another party not under your control and supervision, and by using a Member name and Password not easily guessed by a third party. You are responsible for all activity performed by anyone who uses your password to access your account.

You agree that you shall not try to reverse engineer, reverse assemble, reverse compile, decompile, disassemble, translate or otherwise alter any executable code, contents or materials on or received via this site. You understand that such actions are likely to subject you to serious civil and criminal legal penalties and that the Company shall pursue such penalties to the full extent of the law to protect its rights and the rights of its other licensors.

U.S. EXPORT LAWS

This site and the services found at this site are subject to the export laws, restrictions, regulations and administrative acts of the United States Department of Commerce, Department of Treasury Office of Foreign Assets Control ("OFAC"), State Department, and other United States authorities (collectively, "U.S. Export Laws"). Users shall not use the services found at this site to collect, store or transmit any technical

Case 4:22-cv-40068-RGS Document 8 Filed 09/02/22 Page 48 of 80

or re-exported (i) into (or to a national or resident of) any country with which the United States has embargoed trade; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List, or any other denied parties lists under U.S. Export Laws. By using this site and the services found at this site, you agree to the foregoing and represent and warrant that you are not a national or resident of, located in, or under the control of, any restricted country; and you are not on any denied parties list; and you agree to comply with all U.S. Export Laws (including "anti-boycott", "deemed export" and "deemed re-export" regulations). If you access this site or the services found at this site from other countries or jurisdictions, you do so on your own initiative and you are responsible for compliance with the local laws of that jurisdiction, if and to the extent those local laws are applicable and do not conflict with U.S. Export Laws. If such laws conflict with U.S. Export Laws, you shall not access this site or the services found at this site. The obligations under this section shall survive any termination or expiration of this Agreement or your use of this site or the services found at this site.

COMPLIANCE WITH LOCAL LAWS

Afternic makes no representation or warranty that the content available on this site or the services found at this site are appropriate in every country or jurisdiction, and access to this site or the services found at this site from countries or jurisdictions where its content is illegal is prohibited. Users who choose to access this site or the services found at this site are responsible for compliance with all local laws, rules and regulations.

GOVERNMENT USE

If you are a branch or agency of the U.S. Government, the following provision applies. This site, code, contents, services and accompanying documentation are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are provided to the Government (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 (JUN 1995) and 227.7202-3 (JUN 1995). Unpublished rights reserved under the copyright laws of the United States.

INTELLECTUAL PROPERTY OWNERSHIP

Other than content and property posted by Members, all other content, database information, data and services available on, and collected as a whole through, this site are property of the Company and its advertisers and licensors and are protected by copyrights, moral rights, trademarks, service marks, patents, trade secrets, and other proprietary rights and laws, in the U.S. and internationally. All rights not expressly granted herein are fully reserved by the Company, its advertisers and licensors. The Company's, licensors' or other third party materials, services or products referenced on this site are common law or registered trademarks or service marks of such parties.

MEMBER'S LICENSE GRANT TO SITE

Except with regard to personal information, all information which you post on this site or communicate to the Company through this site (collectively "Submissions") shall forever be the property of the Company. You agree to the Site Submission Rules listed below and part of this Agreement. The Company shall not treat any submission as confidential and shall not incur any liability as a result of any similarities that may appear in future Company services or products. Without limitation, the Company shall have exclusive ownership of all present and future existing rights to any Submission of every kind and nature everywhere. You acknowledge that you are fully responsible for the message, including its legality, reliability, appropriateness, originality and copyright. You hereby represent and warrant that your Submission does not infringe or violate the rights of any third party.

MEMBER'S WARRANTIES AND OBLIGATIONS TO OTHER MEMBERS AND COMPANY

As a condition of using our site, you warrant and represent each of the following to other Members and to Company about your listings: (a) your domain name registration is in good standing; (b) you are not in breach of any obligation to the registrar or registry with regard to the domain name (both referred to as the "registrar"); (c) all registration fees have been paid in full; (d) the registration has not been pledged to any third party, has not been mortgaged, is not the subject of any security interest granted to any third party, has not been licensed and has not otherwise been the subject of any express permissions to use or to link; (e) you are an authorized contact on the registration and have sole and exclusive authority to authorize transfer of the registration free of any claim of any kind and to execute such documents as will be recognized by the registrar to effect a transfer of the domain name or that you have express permission by such contact to act as an agent for such contact; (f) the registration and domain are free from any notice or claim asserted or threatened by any third party claiming infringement of any trade name, trademark, service mark, copyright, or license of any person or organization; (g) the registration is not the subject of any suspension or dispute procedure by any registrar or of any arbitration or other dispute resolution procedure; (h) you hold no trademark, trade name, or other proprietary commercial interest in the domain name, will assign all such rights to any Member purchasing the name upon request without charge and will hereafter make no objection to Member's registration or use of the domain name; (i) to the best of your knowledge, neither the domain name nor the registration infringe any third party's copyright, patent, trademark, or other proprietary rights; (j) the registration does not violate any law, statute, ordinance or regulation; (k) the domain name is not defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (l) the domain name does not include: (1) registered trademark(s) or company name(s) (including misspellings or other marks or names confusingly similar thereto); (2) words alluding to the ingestion of illegal substances; (3) vulgar or obscene language; (4) language

explicit or of a pornographic nature; (m) the domain name is not identical to other items you have up for auction but are priced lower than your auction item's reserve or minimum bid amount; (n) you will not manipulate the auction process by bidding on your own listings, posting duplicate listings or making any bid or offer which is not binding and in good faith; (o) you will not take any actions that may undermine the integrity of the feedback system; (p) you will not take any actions that may undermine the integrity of this site's domain name traffic statistics; and (q) you will not submit any false statements to or through this site. You agree to advise Company, and any other member with whom you are engaged in a transaction, immediately in the event that you become aware of any claim of infringement or any trademark, trade name, service mark, copyright or other right described in this paragraph.

The Company may take any measure that it in its own discretion it deems necessary to maintain the integrity and security of its membership, listings, and transactions. This includes but is not limited to, editing and removing listings, canceling transactions at any time, and remedying agreement breaches in one transaction with proceeds or assets from another transaction.

You agree that sales and purchases you make through the site are binding agreements between you and the other party immediately when: (a) an offer is submitted that is at least the listing's buy now price; (b) an offer expires that is at least the listing's reserve price; (c) the buy now price is reduced to the amount of a current offer; OR (d) both parties have completed any step of a transaction. Your membership information and other information related to a sale on Afternic may be disclosed to another member who is a party to a binding agreement if requested to enforce the agreement.

When you purchase a domain on the site, you shall: (a) send full payment to be received by the seller within ten (10) business days; (b) only use payment instruments and mechanisms as required by Afternic; (c) perform any necessary steps to receive the registrant transfer from the seller promptly; AND (d) notify the seller promptly after registrant transfer is completed.

When you sell a domain on the site, you will transfer the domain to Afternic within ten (10) business days of receiving notification by Company that the buyer's payment is approved.

Either party to a transaction may cancel the transaction if the other party of a transaction delays the transaction more than ten (10) business days provided that the canceling party gives five (5) business days notice and the cancellation does not become effective if the cause of the delay is resolved within five (5) business days. This cancellation notice cannot be given unless there is a ten (10) day delay by the other party.

Seller agrees to accept the return of a domain name sold through a third-party reseller platform if the transaction is cancelled for fraud or other reasons and refund all amounts paid by Afternic for the domain sale.

Afternic reserves the right to hold funds beyond normal distribution periods for transactions it deems suspicious or for account(s) conducting high transaction volumes to ensure integrity of the funds. If Afternic closes your account(s), Afternic will provide notice and pay you all of the unrestricted funds in your account(s) due to you.

LIMITED WARRANTY FOR SOLD DOMAINS Notwithstanding anything to the contrary on this site, a Listed Domain with a Completed Sale through any GoDaddy-owned check-out process will be guaranteed for payment by Afternic if the Buyer does not perform and if the Buyer is not an associated party of the Seller. In the event of a breach by the Buyer of its responsibilities related to payment under a Buy Now transaction, the Seller agrees to immediately transfer all of Seller's right to the respective Listed Domain to Afternic and Afternic agrees to pay Seller the final sales price less any agreed upon commission.

For the purposes of this limited warranty, a "Completed Sale" means an accepted Buy Now transaction for a Listed Domain through a GoDaddy-owned site, combined with receipt of payment by Afternic and transfer of the Listed Domain to Afternic's control.

TERMS FOR SELLING YOUR DOMAIN NAME(S) ON AFTERNIC

FEES

In addition to any other fees which may be payable by seller, seller is responsible for applicable taxes, costs, hardware, software, services and all other costs and expenses you incur for the participation in the activity conducted over our website.

VERIFICATION

Company is not an escrow agent. As a result, Company has no control over the accuracy, quality or legality of advertised third-party domain names, the truth or the accuracy of the listings, the right and the ability of the listed seller to transfer the domain name or the ability of a buyer to consummate a transaction. Company cannot and does not control whether or not third-party seller(s) or buyer(s) will complete a transaction. Additional risks arise out of dealings with foreign nationals, underage persons or people acting under false pretense or making deceitful representations, all of which are borne solely by the buyer or seller, as appropriate. Company does not confirm that users who access its website are who they claim to be. Company encourages You to exercise reasonable, safe business practices as You would in any other commercial activity.

You understand that certain reseller distribution partners may, upon approval by the Company and at Company's sole discretion, add a markup to the sale price of your domain name and that the reseller distribution partner may keep this markup in its entirety, and that you will receive no payment for the portion of the sales price that is marked up.

You may not place any bids or offers to purchase the domain name that you have listed for sale, either under your own name, an alias, or any entity in which you maintain a controlling interest.

Without limitation of any other remedy, Company reserves the right to suspend, terminate and remove your listing at any time and without prior notice if it reasonably believes that you have engaged in any fraudulent activity in connection with your posting or if Company is of the opinion that you have breached any of your representations under this Agreement, or violated any of the terms of this Agreement or of any of Company policy.

TERMS OF SERVICE FOR PARKING DOMAIN NAMES ON AFTERNIC

By parking one or more domain names with Afternic (each a "Parked Domain Name"), You signify Your electronic acceptance of the Terms Of Service For Parking Domain Names On Afternic (the "Parking Terms of Service") as well as the Afternic Membership Agreement. Please review the following Parking Terms of Service carefully.

To the extent that the Parking Terms of Service conflict with the Afternic Membership Agreement, the conflicting terms here shall supersede the Afternic Membership Agreement but only with respect to Parked Domain Names and only to the extent of such conflict.

BY PARKING DOMAIN NAMES WITH AFTERNIC, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREED TO BE BOUND BY THE TERMS AND CONDITIONS OF THE PARKING TERMS OF SERVICE. BY CONTINUING TO PARK DOMAIN NAMES WITH AFTERNIC FOLLOWING A CHANGE TO THE PARKING TERMS OF SERVICE, YOU ARE ACCEPTING AND AGREEING TO THE CHANGE.

PROHIBITED DOMAIN NAMES. You will not enroll a domain name for parking with Afternic if You do not have the right to do so or if such enrollment would violate any laws or intellectual property rights of another, including without limitation trademark or service mark rights (each a "Prohibited Domain Name"). Afternic retains the right to unilaterally and without notice cancel the enrollment of any such Prohibited Domain Name and, in Afternic's sole discretion, seek legal recourse against You and any other parties for such enrollment. You will indemnify Afternic against any claims or suits arising from a breach of this section. Additional examples of Prohibited Domain Names that may prompt Afternic to cancel enrollment include:

1. trademarks, service marks, company names, and names of specific natural persons (including misspellings), such as McDonalds.com, macdnalds.com, xerox.com, micaljordan.com;
2. words which would evoke a question of legality, such as automatic weapons or military-style assault weapons, cracked or pirated software (especially words like appz, warez, cracks, crackz, hacks, hackz), falsely obtained passwords (especially words like passwordz), prostitution services and questionable substances or words alluding to ingestion of questionable substances;
3. defamatory, libelous or threatening language, such as racial or religious epithets or language related to doing physical harm to people or their property;
4. vulgar or obscene language, such as f-ckyu.com;
5. any language that might advocate or glorify torture, rape or any other illegal or harmful act; and
6. any language that is sexually explicit, including but not limited to language related to prostitution, child pornography, underage sex, bestiality, necrophilia, incest or pedophilia.
7. any language that promotes or encourages terrorism

LICENSE. You hereby grant Afternic a revocable license to display, at Afternic's option, content on Your Parked Domain Name(s) during its enrollment under the Parking Terms of Service. Under this license, Afternic may, in its sole discretion for any reason or for no reason at all, temporarily or permanently stop or modify the content displayed on any Parked Domain Name(s), and You agree that Afternic and its directors, officers, employees, contractors, representatives, agents and affiliates are not liable for loss or damages resulting from such stoppage or modification.

DOMAIN NAME SERVERS. You agree to change the domain name servers of Your Parked Domain(s) to the domain name servers and IP addresses specified by Afternic and/or redirect each Parked Domain Name to the Internet URL specified by Afternic.

ADMINISTRATIVE SERVICES. Afternic will provide You with access to a web-based interface that You may use to manage Your Parked Domain Name(s), view reports of traffic to Your Parked Domain Name(s), view reports of Your payments from Afternic, and enroll additional domain names for parking with Afternic.

Name(s) minus any expenses from Your Parked Domain Name(s) fifteen (15) days after Afternic has received payment from its advertisers for the preceding month. Afternic typically allows its advertisers thirty (30) calendar days to pay an invoice, and in some cases advertisers may take more time to pay moneys due to Afternic. If the amount due to You under the Parking Terms of Service is less than one hundred United States dollars (USD 100.00), Afternic will defer payment to You until either: (a) You or Afternic terminate enrollment of Your Parked Domain Name(s); and/or (b) the amount due to You under the Parking Terms of Service is at least USD 100.00.

It is Your sole responsibility to withhold any and all local, state, federal, and foreign taxes on payments that You receive pursuant to the Parking Terms of Service, and You agree to indemnify Afternic and any third-party beneficiary to the Parking Terms of Service for any claim or assessment of taxes and any costs or damages relating thereto. Afternic is entitled to offset any refunds You are obligated to provide under the Parking Terms of Service against any payments that would otherwise be due to You. Fraudulent, questionable, or low-quality traffic will not be counted when determining Your payments due under the Parking Terms of Service. This determination is and will be made by Afternic in its sole discretion.

PROHIBITED ACTS. You will not authorize or engage in, or engage or enable a third party, on Your behalf, to do any of the following: (1) queries or clicks on results on any Parked Domain Name(s) generated by misleading or incentivized means, including, but not limited to: queries or clicks required in order to obtain some benefit or to perform another function, such as leaving a webpage or closing a window; (2) You, Your employees, contractors or agents clicking on results on any Parked Domain Name(s) except in the course of normal individual use; (3) offering a user any pecuniary or other in kind inducement to search or click on results on any Parked Domain Name(s); (4) use of any Parked Domain Name(s) for the delivery of unsolicited commercial e-mail messages or any other illegal or dubious purpose or activity; or (5) any kind of traffic manipulation, including but not limited to inflation, deflation, or other adjustment of the traffic or bidded clicks received by any Parked Domain Name(s).

Any search, impression, click or conversion generated in violation of this section shall not be counted for purposes of calculating any compensation owed to You, and may result in the termination of your Afternic Membership Agreement, the forfeiture of payments due to You, and/or the cancellation of the enrollment of particular Parked Domain Name(s).

SUBLICENSING AND ASSIGNMENT. You have no right to transfer, sell, lease, syndicate, sublicense or assign of any of Your rights under the Parking Terms of Service, including Your right to use the links or results provided by Afternic on Your Parked Domain Name(s) and any attempt to do so shall be null and void. Except as otherwise expressly provided herein, the provisions of the Parking Terms of Service shall inure to the benefit of and be binding upon, the successors and assigns of the Parties. Afternic may assign its rights and duties under the Parking Terms of Service to any party at any time without notice to You. You may not assign Your rights and duties under the Parking Terms of Service to any party at any time without Afternic's written prior consent.

IMPLEMENTATION. You agree that the appearance of links and results provided to Your Parked Domain Name(s) under the Parking Terms of Service will be decided by Afternic in its sole discretion, which shall be subject to change and modification by Afternic at any time.

AUDIT RIGHTS. You acknowledge that Afternic and its advertisers may employ various measures, including technological measures, on a random, scheduled, or continuous basis to identify fraudulent traffic and verify any and all traffic and bidded click figures for Parked Domain Name(s), and that Afternic and its advertisers will in their sole discretion determine what portion of Your traffic is genuine and utilize this determination to compute Your payments due under the Parking Terms of Service.

SETTLEMENT OF ACCOUNTS. Afternic will pay You the balance due to You as of the date of Your or Afternic's termination of the Parking Terms of Service within thirty (30) days of termination of the Parking Terms of Service.

REPRESENTATIONS AND WARRANTIES. Each Party represents and warrants that: (1) they each have all requisite power and authority to legally execute, deliver and perform their obligations under the Parking Terms of Service, including ownership and/or control of the Parked Domain Name(s) referenced herein; (2) the Parking Terms of Service has been duly and validly executed and delivered and constitutes a legal, valid and binding obligation, enforceable against each Party by the other Party in accordance with the Parking Terms of Service; and (3) the execution, delivery, and performance of the Parking Terms of Service by You and the transactions contemplated hereby will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate any provision of law, rule, or regulation; any order, judgment, or decree; any provision of corporate by-laws or other documents; or any agreement or other instrument.

You represent and warrant that each of Your Parked Domain Name(s) is duly registered; and either that You are the exclusive and official registrant for each Parked Domain or that You are expressly and exclusively authorized by the official registrant of each Parked Domain through a valid and enforceable written agreement to authorize Afternic to provide the services contemplated under the Parking Terms of Service as of the date and during the term such domain name remains a Parked Domain Name. You further represent and warrant that You will use the information and services provided by Afternic in a manner that complies with any and all applicable laws.

Terms of Service, and are entitled to enforce any or all of its provisions against You for any reason or no reason at all with or without notice, including terminating the display of links and results on any or all of Your Parked Domain Name(s). In that event, Afternic may attempt to provide You with comparable services, but Afternic reserves the right to terminate Your participation in the Parking Terms of Service without penalty to Afternic. This Agreement does not provide and shall not be construed to provide third parties (i.e. non-parties to the Parking Terms of Service) with any remedy, claim, or cause of action or privilege against Afternic.

PROHIBITION OF REVERSE ENGINEERING. You shall not and shall not allow any third party to modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code in any way related to the services provided under the Parking Terms of Service or any other technology, content, data, routines, algorithms, methods, ideas design, user interface techniques, software, materials, and documentation of Afternic and its advertisers.

CONFIDENTIALITY. You shall keep confidential all data, information and materials including, without limitation, computer software, data, information, databases, protocols, reference implementations, documentation, functional and interface specifications, customer information, pricing information, marketing information and other information related to the subject matter of the Parking Terms of Service, whether written, transmitted, or oral, including but not limited to URLs, parameters, data reported, gross revenue figures, net revenue figures, amounts paid to You by Afternic, the terms of the Parking Terms of Service, and the look, feel and functionality of the service. You may not make any statements in any medium concerning the content displayed on Your Parked Domain Name(s), including statements concerning its source or origin.

PUBLICITY. You acknowledge and agree that Afternic shall have the right to make public and share with third parties certain information in connection with the offer, sale or purchase of domain names on the website, including but not limited to (a) the name of the domain name offered, sold or purchased, (b) the offer, sale or purchase price of the domain name offered, sold or purchased, and (c) information relating to the timing of the offer, sale or purchase. Furthermore, You shall not create, publish, distribute, or permit any communication that makes reference to Afternic or any third-party beneficiary to the Parking Terms of Service in connection with this Agreement, or uses any of Afternic's trademarks or service marks without receiving prior written consent from a duly-authorized representative of Afternic. You give Afternic the right to disclose Your identity in Afternic's marketing and promotion materials, both electronic and printed.

LIMITATION OF LIABILITY. IN NO EVENT WILL AFTERNIC OR ANY THIRD PARTY BENEFICIARY TO THE PARKING TERMS OF SERVICE BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, ANCILLARY, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH THE PARKING TERMS OF SERVICE, EVEN IF AFTERNIC OR SAID THIRD PARTY BENEFICIARIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AFTERNIC FURTHER DISCLAIMS ANY AND ALL LOSS OR LIABILITY RESULTING FROM, BUT NOT LIMITED TO LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF AUTHENTICATION INFORMATION; FORCE MAJEURE; SERVICE DELAYS OR INTERRUPTIONS; NON-DELIVERY OR MISDELIVERY OF DATA; ERRORS, OMISSIONS, OR MISSTATEMENTS IN ANY AND ALL INFORMATION PROVIDED UNDER THE PARKING TERMS OF SERVICE; AND INFRINGEMENT. ANY LIABILITY OF AFTERNIC TO YOU RELATING TO THE PERFORMANCE OR ENFORCEMENT OF ANY PROVISION OF THE PARKING TERMS OF SERVICE IS LIMITED TO THE GROSS REVENUE RECEIVED AND RECOGNIZED BY AFTERNIC WITH RESPECT TO YOUR PARKED DOMAIN NAME(S) IN THE ONE (1) MONTH PRECEDING YOUR CLAIM AGAINST AFTERNIC. YOU AGREE THAT YOU AND AFTERNIC HAVE RELIED ON THIS PROVISION IN ALLOCATING RISK AND THAT, IN ITS ABSENCE, THE ECONOMIC TERMS OF THE PARKING TERMS OF SERVICE WOULD BE SUBSTANTIALLY DIFFERENT. THIS SECTION IS SEVERABLE AND SURVIVES ANY TERMINATION OR EXPIRATION OF THE PARKING TERMS OF SERVICE. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR DAMAGES OF ANY SORT RESULTING FROM TERMINATING THE PARKING TERMS OF SERVICE IN ACCORDANCE WITH ITS PROVISIONS, UNLESS SPECIFIED OTHERWISE.

DISCLAIMER OF WARRANTIES. ALL PRODUCTS, SERVICES, INFORMATION, AND DATA PROVIDED TO YOU UNDER THE PARKING TERMS OF SERVICE ARE PROVIDED "AS IS" AND "WHERE IS" AND WITHOUT ANY WARRANTY OF ANY KIND. AFTERNIC EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND THE QUALITY AND AVAILABILITY OF TECHNICAL SUPPORT. AFTERNIC ASSUMES NO RESPONSIBILITY AND SHALL NOT BE LIABLE FOR ANY DAMAGES TO, OR VIRUSES THAT MAY AFFECT, YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY IN CONNECTION WITH ACCESS TO OR USE OF SERVICES UNDER THE PARKING TERMS OF SERVICE. WITHOUT LIMITING THE FOREGOING, AFTERNIC DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT ANY INFORMATION OR DATA AVAILABLE ON OR THROUGH YOUR PARKED DOMAIN NAME(S) WILL BE FREE OF INFECTION BY VIRUSES, WORMS, TROJAN HORSES OR SIMILAR SOFTWARE; THAT ANY INFORMATION OR DATA AVAILABLE ON OR THROUGH YOUR PARKED DOMAIN NAME(S) WILL BE FREE OF ADULT-ORIENTED MATERIAL OR MATERIAL WHICH SOME INDIVIDUALS MAY DEEM OBJECTIONABLE; THAT THE FUNCTIONS OR SERVICES PROVIDED BY AFTERNIC WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE, OR THAT ANY DEFECTS THEREWITH WILL BE CORRECTED; THAT THE SERVICES PROVIDED BY AFTERNIC WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; THAT THE SERVICES PROVIDED BY AFTERNIC UNDER THE PARKING TERMS OF SERVICE WILL OPERATE IN COMBINATION WITH ANY SPECIFIC

INDEMNIFICATION. You at Your own expense will indemnify, defend and hold harmless Afternic and any third-party beneficiaries to the Parking Terms of Service and their employees, directors, officers, representatives, agents and affiliates against any claim, suit, action, or other proceeding brought against Afternic or any third-party beneficiary to the Parking Terms of Service by You or another based on or arising from any claim or alleged claim arising out of the operation of Your Parked Domain Name(s); any claim or alleged claim arising from the Parking Terms of Service; a third party claim that Your Parked Domain(s) infringe any copyright, trade secret or trademark of a third party; or Your use of the services provided under the Parking Terms of Service in any manner inconsistent with or in breach of the Parking Terms of Service. You will not enter into a settlement or compromise of any such claim without Afternic's prior written consent, which shall not be unreasonably withheld. Your obligation under this section extends to any and all costs, damages, and expenses, including, but not limited to, actual attorneys' fees and costs awarded against or otherwise incurred by Afternic in connection with or arising from any claim, suit, action or proceeding.

WAIVER. No Party shall be deemed to have waived any claim arising out of the Parking Terms of Service, or any power, right, privilege or remedy under the Parking Terms of Service through failure to act, delay in action, or otherwise, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given. No waiver of any provision of the Parking Terms of Service shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed and delivered.

ENTIRE AGREEMENT; MERGER; SEVERABILITY. The Parking Terms of Service, incorporating any other applicable Afternic policies and any modifications that may be made hereto, constitutes the entire agreement between the Parties concerning parking domain names and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth in the Parking Terms of Service. There are no representations, warranties, conditions or other agreements, express or implied, statutory or otherwise, between the Parties in connection with parking domain names, except as specifically set forth in the Parking Terms of Service. If any provision of the Parking Terms of Service shall be held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of the Parking Terms of Service shall not in any way be affected or impaired thereby.

ARBITRATION. The Parties shall attempt to resolve any disputes concerning the Parking Terms of Service through the services of a mutually-acceptable arbitrator prior to filing suit. Notwithstanding the foregoing, Afternic retains its right to seek injunctive relief for breaches that would irreparably injure Afternic.

SURVIVAL. The Third Party Beneficiary; Prohibition of Reverse Engineering; Publicity; Limitation of Liability; Disclaimer of Warranties, Indemnification; Waiver; Entire Agreement, Merger & Severability; Arbitration; Breach; and No Agency Created provisions shall survive the termination of the Parking Terms of Service or the cancelled enrollment of a Parked Domain Name hereunder.

BREACH. In addition to any other remedy at law or equity for a breach of any provision of the Parking Terms of Service, Afternic retains the right to terminate the Parking Terms of Service with You in response to any breach without prior notification or warning, along with forfeiture of any moneys due You.

NO AGENCY CREATED. You and Afternic are independent contractors, and nothing in the Parking Terms of Service creates or will create any partnership, joint venture, agency, franchise, and sales representative or employment relationship between the Parties. You have no authority to make or accept any offers or representations on behalf of Afternic.

TERMS OF SERVICE OF THE AFTERNIC.COM AFFILIATE PROGRAM

The terms and conditions of the Afternic.com Affiliate Program (the "Affiliate Program") are by and between Afternic, a division of GoDaddy.com, LLC, a Delaware limited liability company ("Afternic.com"), and you, your heirs, agents, successors and assigns ("You" and "Your(s)"), each side a "Party" and together, "the Parties," and are made effective as of the date of your agreement to the Afternic Membership Agreement. The following sets forth the terms and conditions of Your enrollment in the Affiliate Program and explains Afternic.com's obligations to You and Your obligations to Afternic.com concerning said Affiliate Program.

To the extent that the Affiliate Program Terms of Service conflict with the Afternic Membership Agreement, the conflicting terms here shall supersede the Afternic Membership Agreement but only with respect to the Affiliate Program and only to the extent of such conflict.

Case 4:22-cv-40068-RGS Document 8 Filed 09/02/22 Page 54 of 86

TIME OF REGISTRATION AND/OR EXECUTING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREED TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT (AS AMENDED FROM TIME TO TIME BY AFTERNIC.COM IN THEIR SOLE AND ABSOLUTE DISCRETION). IF YOU DO NOT WISH TO BE BOUND BY THIS AGREEMENT, DO NOT INDICATE YOUR ACCEPTANCE AND DO NOT USE THE AFTERNIC.COM'S SERVICES. BY PARTICIPATING IN THIS PROGRAM WITH AFTERNIC.COM FOLLOWING A CHANGE TO THIS AGREEMENT, YOU ARE ACCEPTING AND AGREEING TO THE CHANGE.

- 1. COMPLIANCE WITH CAN-SPAM ACT OF 2003 AND APPLICABLE STATE ELECTRONIC COMMUNICATION LAWS.** You will not send unsolicited commercial electronic communications, or otherwise violate the CAN-SPAM Act of 2003 ("the Act"), as amended from time to time, with respect to your enrollment in the Affiliate Program. Further, You hereby agree to, at all times, remain in full compliance with the Act and any further applicable Federal or State laws with regards to commercial electronic communication. Further, You will indemnify, defend, and hold harmless Afternic.com from any and all third party claims resulting or arising from Your acts or omissions that are in violation of the Act or any Federal or State law regarding the regulation of commercial electronic communications.
- 2. TRACKING.** The assets, products, and tools ("the Product") provided to You by Afternic.com as part of your enrollment in the Affiliate program provide Afternic.com with the information necessary to ensure domain sales generated by your enrollment are properly attributed to You. As such, to ensure proper payment calculations you must use the Product as instructed by Afternic.com. You hereby agree not to modify, disable, corrupt, or in any way alter the Product provided to You in relation to the Affiliate Program.
- 3. PAYMENTS.** You will be paid monthly your percentage of Afternic.com's recognized and received gross revenue generated from any domain name sale validly attributed to your enrollment in the Affiliate Program through the tracking data obtained through the Product. Such payment, minus any expenses, will be made fifteen (15) days after Afternic.com has received payment for such any such sale(s) during the preceding month. If the amount due to You under the Affiliate Program is less than one hundred United States dollars (US\$100), Afternic.com will defer payment to You either until the Affiliate Program is terminated or until the amount due to You under the Affiliate Program is at least US\$100.

It is Your sole responsibility to withhold any and all local, state, federal, and foreign taxes on payments that You receive pursuant to the Affiliate Program, and You agree to indemnify Afternic.com and any third-party beneficiary to the Affiliate Program for any claim or assessment of taxes and any costs or damages relating thereto. Afternic.com is entitled to offset any refunds You are obligated to provide under the Affiliate Program against any payments that would otherwise be due to You. Fraudulent, questionable, or low-quality traffic will not be counted when determining Your payments due under the Affiliate Program. This determination is and will be made by Afternic.com in its sole discretion.

- 4. INTELLECTUAL PROPERTY.** Subject to the terms of the Affiliate Program, each Party continues to own its respective items of intellectual property, including its patents, trademarks, trade names, domain names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property. Without limiting the generality of the foregoing, no commercial use rights or any licenses under any patent, patent application, copyright, trademark, know-how, trade secret, or any other intellectual proprietary rights are granted by Afternic.com to You, or by any disclosure of any confidential information to You under the Affiliate Program. You agree that You will not create or attempt to create a copy, derivative work, substitute service or substitute product using the services provided under the Affiliate Program or any information related thereto. You shall be solely responsible for any materials that appear alongside the Product. You hereby agree to adhere to all applicable laws and regulations in conducting your business, including, but not limited to all privacy laws both state and federal. You will not commit any act or omission that dilutes, tarnishes, or otherwise harms Afternic.com's intellectual property or business reputation in relation to the Affiliate Program. Any act or omission Afternic.com deems to be in violation of this obligation will result in your immediate termination from the Affiliate Program. Afternic.com reserves and any all claims, rights, and or remedies in connection with such act or omission.
- 5. SUBLICENSING AND ASSIGNMENT.** You have no right to transfer, sell, lease, syndicate, sublicense or assign of any of Your rights under the Affiliate Program, including Your right to use ads, codes or other content provided by Afternic.com and any attempt to do so shall be null and void. Except as otherwise expressly provided herein, the provisions of the Affiliate Program shall inure to the benefit of and be binding upon, the successors and assigns of the Parties. Afternic.com may assign its rights and duties under the Affiliate Program to any party at any time without notice to You. You may not assign Your rights and duties under the Affiliate Program to any party at any time without Afternic.com's written prior consent.
- 6. IMPLEMENTATION.** You agree that your enrollment in the Affiliate program will be decided by Afternic.com in its sole discretion, which shall be subject to change and modification by Afternic.com at any time.
- 7. TERM.** This Agreement will become effective upon Your acceptance of the terms and conditions set forth herein, as acknowledged by Your: (i) submission of registration information; and/or (ii) Afternic.com's acceptance of your enrollment in the Affiliate Program, which shall be at Afternic.com's sole discretion. Afternic.com The Agreement shall continue in effect until otherwise terminated pursuant to the terms hereof (the "Term"). Notwithstanding the foregoing, You acknowledge that Afternic.com may change the Product at any time.
- 8. TERMINATION.** Either Party may terminate the Affiliate Program at any time for any reason, effective immediately upon notice of such

10. **REPRESENTATIONS AND WARRANTIES.** Each Party represents and warrants that: (1) they each have all requisite power and authority to legally execute, deliver and perform their obligations under the Affiliate Program; (2) the Affiliate Program has been duly and validly executed and delivered and constitutes a legal, valid and binding obligation, enforceable against each Party by the other Party in accordance with its terms; and (3) the execution, delivery, and performance of the Affiliate Program by You and the transactions contemplated hereby will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate any provision of law, rule, or regulation; any order, judgment, or decree; any provision of corporate by-laws or other documents; or any agreement or other instrument. You further represent and warrant that You will use the information and services provided by Afternic.com in a manner that complies with any and all applicable laws.
11. **PROHIBITION OF REVERSE ENGINEERING.** You shall not and shall not allow any third party to modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code in any way related to the services provided under the Affiliate Program or any other technology, content, data, routines, algorithms, methods, ideas design, user interface techniques, software, materials, and documentation of Afternic.com and its advertisers.
12. **CONFIDENTIALITY.** You shall keep confidential all data, information and materials including, without limitation, computer software, data, information, databases, protocols, reference implementations, documentation, functional and interface specifications, customer information, pricing information, marketing information and other information related to the subject matter of the Affiliate Program, whether written, transmitted, or oral, including but not limited to URLs, parameters, data reported, gross revenue figures, net revenue figures, amounts paid to You by Afternic.com, the terms of the Affiliate Program, and the look, feel and functionality of the service.
13. **PUBLICITY.** You acknowledge and agree that Afternic shall have the right to make public and share with third parties certain information in connection with the sale or purchase of domain names on the website, including but not limited to (a) the name of the domain name sold or purchased, (b) the sale or purchase price of the domain name sold or purchased, and (c) information relating to the timing of the sale or purchase. Furthermore, You shall not create, publish, distribute, or permit any communication that makes reference to Afternic.com or any third-party beneficiary to the Affiliate Program in connection with the Affiliate Program, or uses any of Afternic.com's trademarks or service marks without receiving prior written consent from a duly-authorized representative of Afternic.com. You give Afternic.com the right to disclose Your identity in Afternic.com's marketing and promotion materials, both electronic and printed.
14. **LIMITATION OF LIABILITY.** IN NO EVENT WILL AFTERNIC.COM OR ANY THIRD PARTY BENEFICIARY TO THIS AGREEMENT BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, ANCILLARY, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF AFTERNIC.COM OR SAID THIRD PARTY BENEFICIARIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AFTERNIC.COM FURTHER DISCLAIMS ANY AND ALL LOSS OR LIABILITY RESULTING FROM, BUT NOT LIMITED TO LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF AUTHENTICATION INFORMATION; FORCE MAJEURE; SERVICE DELAYS OR INTERRUPTIONS; NON-DELIVERY OR MISDELIVERY OF DATA; ERRORS, OMISSIONS, OR MISSTATEMENTS IN ANY AND ALL INFORMATION PROVIDED UNDER THIS AGREEMENT; AND INFRINGEMENT. ANY LIABILITY OF AFTERNIC.COM TO YOU RELATING TO THE PERFORMANCE OR ENFORCEMENT OF ANY PROVISION OF THIS AGREEMENT IS LIMITED TO THE GROSS REVENUE RECEIVED AND RECOGNIZED BY AFTERNIC.COM WITH RESPECT TO YOUR ENROLLMENT IN THE AFFILIATE PROGRAM IN THE ONE (1) MONTH PRECEDING YOUR CLAIM AGAINST AFTERNIC.COM. YOU AGREE THAT YOU AND AFTERNIC.COM HAVE RELIED ON THIS PROVISION IN ALLOCATING RISK AND THAT, IN ITS ABSENCE, THE ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT. THIS SECTION IS SEVERABLE AND SURVIVES ANY TERMINATION OR EXPIRATION OF THE AGREEMENT. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR DAMAGES OF ANY SORT RESULTING FROM TERMINATING THIS AGREEMENT IN ACCORDANCE WITH ITS PROVISIONS, UNLESS SPECIFIED OTHERWISE.
15. **DISCLAIMER OF WARRANTIES.** ALL PRODUCTS, SERVICES, INFORMATION, AND DATA PROVIDED TO YOU UNDER THIS AGREEMENT ARE PROVIDED "AS IS" AND "WHERE IS" AND WITHOUT ANY WARRANTY OF ANY KIND. AFTERNIC.COM EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND THE QUALITY AND AVAILABILITY OF TECHNICAL SUPPORT. AFTERNIC.COM ASSUMES NO RESPONSIBILITY AND SHALL NOT BE LIABLE FOR ANY DAMAGES TO, OR VIRUSES THAT MAY AFFECT, YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY IN CONNECTION WITH ACCESS TO OR USE OF SERVICES UNDER THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, AFTERNIC.COM DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT ANY INFORMATION OR DATA AVAILABLE THROUGH THE AFFILIATE PROGRAM WILL BE FREE OF INFECTION BY VIRUSES, WORMS, TROJAN HORSES OR SIMILAR SOFTWARE; THAT ANY INFORMATION OR DATA AVAILABLE ON OR THROUGH THE AFFILIATE PROGRAM WILL BE FREE OF ADULT-ORIENTED MATERIAL OR MATERIAL WHICH SOME INDIVIDUALS MAY DEEM OBJECTIONABLE; THAT THE FUNCTIONS OR SERVICES PROVIDED BY AFTERNIC.COM WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE, OR THAT ANY DEFECTS THEREWITH WILL BE CORRECTED; THAT THE SERVICES PROVIDED BY AFTERNIC.COM WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; THAT THE SERVICES PROVIDED BY AFTERNIC.COM UNDER THIS AGREEMENT WILL OPERATE IN COMBINATION WITH ANY SPECIFIC HARDWARE, SOFTWARE, SYSTEM OR DATA; OR THAT YOU WILL RECEIVE NOTIFICATIONS,

16. **INDEMNIFICATION.** You at Your own expense will indemnify, defend and hold harmless Afternic.com and any third-party beneficiaries to the Affiliate Program and their employees, directors, officers, representatives, agents and affiliates against any claim, suit, action, or other proceeding brought against Afternic.com or any third-party beneficiary to the Affiliate Program by You or another based on or arising from any claim or alleged claim arising out of your enrollment in the Affiliate Program; any claim or alleged claim arising from the Affiliate Program; a third party claim that any act or omission by You in connection to the Affiliate program infringes any copyright, trade secret or trademark of a third party; or Your use of the services provided under the Affiliate Program in any manner inconsistent with or in breach of the Affiliate Program. You will not enter into a settlement or compromise of any such claim without Afternic.com's prior written consent, which shall not be unreasonably withheld. Your obligation under this section extends to any and all costs, damages, and expenses, including, but not limited to, actual attorneys' fees and costs awarded against or otherwise incurred by Afternic.com in connection with or arising from any claim, suit, action or proceeding.
17. **WAIVER.** No Party shall be deemed to have waived any claim arising out of the Affiliate Program, or any power, right, privilege or remedy under the Affiliate Program through failure to act, delay in action, or otherwise, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given. No waiver of any provision of the Affiliate Program shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed and delivered.
18. **CHOICE OF LAW; FORUM.** This Agreement shall be interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to Massachusetts' laws on the choice of law. The Parties agree that any action relating to the Affiliate Program is subject to the exclusive jurisdiction of the federal and state courts of the Commonwealth of Massachusetts, and further agree to proper venue in those courts. The prevailing Party in any such action shall be entitled to recover its reasonable attorneys' fees, costs and disbursements incurred in connection therewith.
19. **NOTICE.** Any notice or other communication required or permitted to be delivered to Afternic.com under the Affiliate Program shall be in writing and deemed properly delivered by certified mail, return receipt requested, to GoDaddy.com, LLC., 14455 N Hayden Rd #219, Scottsdale, AZ 85260, attn: Afternic.com. Any notice or other communication required or permitted to be delivered to You by Afternic.com under the Affiliate Program shall be deemed properly delivered by e-mail to the contact address that You have provided to Afternic.com.
20. **ENTIRE AGREEMENT; MERGER; SEVERABILITY.** This Agreement, incorporating any other applicable Afternic.com policies and any modifications that may be made hereto, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. There are no representations, warranties, conditions or other agreements, express or implied, statutory or otherwise, between the Parties in connection with the subject matter of the Affiliate Program, except as specifically set forth herein. If any provision of the Affiliate Program shall be held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of the Affiliate Program shall not in any way be affected or impaired thereby.
21. **AMENDMENTS.** The Parties shall attempt to resolve any disputes concerning the Affiliate Program through the services of a mutually-acceptable arbitrator prior to filing suit.
22. **ARBITRATION.** The Parties shall attempt to resolve any disputes concerning the Affiliate Program through the services of a mutually-acceptable arbitrator prior to filing suit. Notwithstanding the foregoing, Afternic.com retains its right to seek injunctive relief for breaches that would irreparably injure Afternic.com.
23. **SURVIVAL.** The following provisions shall survive the termination of the Affiliate Program or the cancelled enrollment in the Affiliate Program hereunder: Sections 1, 4, 11,14-16, 11-22, and 24-25.
24. **BREACH.** In addition to any other remedy at law or equity for a breach of any provision of the Affiliate Program, Afternic.com retains the right to terminate the Affiliate Program with You in response to any breach without prior notification or warning, along with forfeiture of any moneys due You.
25. **NO AGENCY CREATED.** You and Afternic.com are independent contractors, and nothing in the Affiliate Program creates or will create any partnership, joint venture, agency, franchise, and sales representative or employment relationship between the Parties. You have no authority to make or accept any offers or representations on behalf of Afternic.com.

GOVALUE TERMS OF SERVICE FOR AFTERNIC SELLERS.

The GoValue service is an estimated value based on an algorithm utilizing data GoDaddy has available to it to help estimate the predicted sale price of domains. However, GoDaddy does not make any guarantee or other promises to any results that may be obtained from your purchase or sale of any domain, and this is not intended as a solicitations or offer to buy any domain. It is your responsibility to independently assess and

FAST TRANSFER TERMS OF SERVICE FOR AFTERNIC SELLERS

By offering one or more domain names that seller owns for sale via Fast Transfer (each, a "Listed Domain"), seller signifies its agreement to the applicable Fast Transfer Terms of Service in addition to our Membership Agreement, available at: http://www.afternic.com/legal#membership_agreement, and incorporated herein by reference.

Please review these terms carefully. Some Fast Transfers are e-commerce only, without sales assistance or guidance, and these terms contain important rights and responsibilities for Afternic sellers who use Fast Transfer. To the extent that these terms of service conflict with our Membership Agreement, the conflicting terms here shall supersede the Membership Agreement but only with respect to Fast Transfers and only to the extent of such conflict.

A. Prerequisites to Use Fast Transfer Process

1. **Seller must be an Afternic member.** The terms of the Afternic Membership Agreement apply to all Fast Transfer transactions. To become a member, and participate in Fast Transfer, seller must join Afternic. The new user registration page is available at: <http://www.afternic.com/domain-account>.
2. **Seller must enroll in the Afternic DLS Premium Promotion service.** For information on enrolling, go to the **DLS Premium Promotion** page. Specific terms related to Fast Transfer may be found at that internet address. Seller must enroll and accept the terms before seller can sell a Listed Domain via Fast Transfer.
3. **Seller must register each Listed Domain with one of our Fast Transfer partners or, seller may transfer the Listed Domain to one of our Fast Transfer partners now.** It must be registered with an Fast Transfer partner before seller is permitted to list a domain under the Fast Transfer process. A list of Fast Transfer partners is available at: **DLS Premium Promotion** page.
4. **Seller must provide Afternic a Buy Now Price.** Fast Transfer is primarily an e-commerce transaction, and may not involve the assistance of a salesperson. Seller must provide Afternic pricing information in advance. If seller does not supply a Buy Now Price and a Minimum Offer, the posting will either fail, or seller will experience a delay in having a Listed Domain posted for sale. Seller's name may be listed only after seller has provided Afternic a Buy Now Price and Afternic has taken reasonable steps to ensure the validity of the Listed Name.
5. **Seller must provide Afternic prompt notice.** Until seller notifies Afternic that a seller has sold the Listed Name(s) outside the scope of the Fast Transfer partners and/or process, Afternic and its Fast Transfer partners shall retain the right to sell the seller's Listed Name(s) until seller confirms that Afternic is in receipt of seller's notification.

B. Additional Fast Transfer Terms and Conditions for Sellers

1. WHEN YOU ACTIVATE FAST TRANSFER, YOU AGREE TO ALLOW US TO CANCEL YOUR DOMAIN OWNERSHIP PROTECTION SERVICE UPON FULFILLMENT OF THE PURCHASE OF YOUR DOMAIN. THE DOMAIN OWNERSHIP PROTECTION SERVICE WILL CONTINUE TO APPLY TO YOU DOMAIN NAME WHILE LISTED FOR SALE AND WILL ONLY BE CANCELED UPON THE FULFILLMENT OF THE SALE. BY ACTIVATING FAST TRANSFER YOU AGREE TO ALLOW THE TRANSFER OF YOUR DOMAIN NAME RESULTING FROM THE SALE OF SAID DOMAIN NAME ON ANY OF GODADDY'S PLATFORMS, INCLUDING PREMIUM LISTINGS, REGARDLESS OF WHEN YOU PURCHASED THE FAST TRANSFER SERVICE.
2. Seller acknowledges and agrees that Afternic has the right to verify any proposed Listed Domain sale transaction or the underlying registration of such Listed Domain. Verification may delay the posting of a Listed Domain. Afternic, as a regular practice, will verify all proposed Listed Domains with a listing price of \$10,000 USD or more. By posting a Listed Domain with a Sale Price equal to or exceeding \$10,000 USD, seller agrees that a reasonable verification delay may occur.
3. Afternic reserves the right to withhold from posting a Listed Domain for any reason.
4. Seller specifically authorizes and directs Afternic to sell a Listed Domain for the Buy Now Price at any time.
5. Seller makes the following representations and warranties to Afternic:
 - a. Seller represents and warrants that it is in fact the legal registrant and owner of each of its Listed Names, each free and clear of any encumbrances, liens of any nature, including third party intellectual property claims or registration fees due the Transferring Registrar (other than those created by the applicable registration agreement) ("Liens");
 - b. Seller hereby authorizes and legally empowers Afternic to offer each Listed Name for sale via Fast Transfer, and upon completion of the sale, seller shall pass good and marketable title to buyer free and clear of any Liens;
 - c. each Sold Domain shall be immediately transferable from the Transferring Registrar, without restriction; and
 - d. Seller has no actual knowledge that any Listed Domain is the subject of an intellectual property claim of any third party.

Seller acknowledges that Afternic is relying upon these representations in offering the Listed Domain for sale via Fast Transfer.

- clicking the 'confirmation' button on the Afternic, Buy Domains or Reseller/Partner site.
7. Seller may change the Buy Now Price at any time; provided however, seller understands and agrees that by changing the Buy Now Price, the Listed Domain(s) is subject to a new valuation by Afternic. In addition, due to the nature of e-commerce and the internet, Afternic is unable to guarantee that any change to the Buy Now Price shall be published on Afternic and its reseller sites before an offer is received. Seller is obligated to complete a transaction with a confirmed buyer for the posted price even if seller tried to increase the Buy Now Price prior to the time of the purchase.
 8. Seller understands and agrees that the Listed Domain may, at Afternic's discretion, be made available to Afternic's Fast Transfer reseller partners. Afternic does not warrant or guarantee that a specific Listed Domain will be displayed or offered for sale by a particular Reseller Partner.
 9. Seller shall pay Afternic the applicable commission according to the fee schedule available at <http://www.afternic.com/domain-help#1>. Sales are not final until seven (7) days after the transaction has been completed.
 10. Seller specifically authorizes and directs Afternic to act as its Designated Agent when a Listed Domain sells. As Designated Agent, Afternic will facilitate the transfer and change of domain name contact information for the Sold Domain. As such, Seller grants Afternic the power to explicitly consent to the material change of registrant contact information in order to facilitate immediate transfer of the Sold Domain.
 11. Buyer specifically authorizes and directs Afternic to act as its Designated Agent. As Designated Agent, Afternic will facilitate the transfer and change of domain name contact information for the Purchased Domain. As such, Buyer grants Afternic the power to explicitly consent to the material change of registrant contact information to facilitate immediate transfer of the Purchased Domain.

C. Afternic Payment Terms; Fraud Notices

1. Afternic will remit payment of the purchase price for a Sold Domain to the seller after the expiration of seven (7) days of the purchase of the Sold Domain, net of the twenty applicable commission according to the fee schedule available at <http://www.afternic.com/domain-help#1>, except where Afternic has received a Fraud Notice from its reseller partner.
2. In the case where a Fraud Notice has been issued and there is no possibility of a dispute resolution procedure, within seven (7) days, Afternic or its Reseller Partners shall cancel the sale transaction and make reasonable commercial efforts to return the Listed Domain back to the Transferring Registrar and under seller's control.
3. In the event that a credit card company notifies Afternic or one of our Fast Transfer partners of a chargeback, upon prompt notification and return of the sold name in question to Afternic, Afternic or one of our Fast Transfer partner shall have the right to request a refund of the sale price minus the commission already received, or, in the alternative, a refund of the actual amount remitted to Afternic for the sold name, provided, however, that such request is made within one-hundred eighty (180) days from the date of purchase of the relevant name(s). In such cases, our Fast Transfer partners shall return the listed name(s) to Afternic. Our Fast Transfer partners may neither seek a refund nor return the sold name(s) to Afternic one-hundred eighty (180) days after the date of purchase.
4. Seller acknowledges that it understands and agrees that seller's sole remedy, and Afternic's sole liability, in the event that the sale transaction is cancelled, or a Fraud Notice is received, is a return of the Sold Domain to seller's control. Afternic provides no warranty of any kind to seller. Seller acknowledges and agrees that in the event of a cancelled sale, Afternic's sole obligation, and seller's sole remedy, is limited to the return of the Sold Domain to seller's control unless Afternic is barred from taking such action due to legal or registry requirements.

TERMS FOR BIDDING ON EXPIRING DOMAIN NAMES IN THE AFTERNIC AUCTION

Afternic Expiring Domain Name Auctions have two phases: the preorder period and the live auction period. During the preorder period, before a name is in live auction, you can place a preorder on a domain name. This preorder ensures that: 1) the name will go to auction unless it is withdrawn, and 2) you will be included in the auction once it goes live. A PreOrder is a bid placed on an expiring domain before its live auction begins. At least one member must preorder the domain in order for it to go to auction. Once the domain auction begins, your preorder bid is legally binding. You can only delete your preorder before the start of the live auction.

For reasons beyond our control a domain name listed during the preorder period may become unavailable. Afternic is not an escrow agent. Therefore, Afternic cannot guarantee that a preordered domain name will become available in an auction and has no liability if a domain name for which you have submitted a preorder is withdrawn and is not available at auction. If a name is withdrawn from the Afternic Expiring Domain Names Auction, your preorder will be cancelled. Your credit card is not charged until you actually win and pay for a domain, so you will not incur any fees if a domain name for which you have submitted a preorder is withdrawn by Afternic.

If one or more Afternic customers have preordered a particular domain, Afternic will conduct an auction for the domain, and the domain will subsequently be awarded to the highest bidder in such auction. If you are the winning bidder when the auction ends, you are obligated to pay the amount of your winning bid.

If two or more customers preorder a domain for an identical amount, then the customer who submitted his or her preorder first will be the current highest bidder for such domain when the auction begins. If there are no subsequent bids on such domain name in the auction, then the domain will be awarded to the customer who placed his or her preorder first.

Once you confirm your preorder or your bid, if you bid on a name through our "bid now" feature, you have made a legally binding bid on the domain name, and if there are no other bidders or higher bidders you have agreed to purchase the domain.

The start time and end time that is set for an auction is an estimate. Actual start and end times may vary somewhat. An auction for a domain name will be extended by five additional minutes if in the final five minutes before the announced end time a new bid is received for the particular domain name being auctioned.

While Afternic will use reasonable commercial efforts to provide information to you via email regarding your preorder and bids for a domain name, Afternic cannot guarantee that all such emails will be delivered to you and we caution you not to rely solely on email for the status of a domain name. Information that we will endeavor to send you via email will also be posted to your 'My Afternic' account.

Afternic may in our sole discretion require the winning bidder to tender payment to us in a manner of our choosing, including but not limited to credit card or wire transfer. Payments and fees collected by Afternic for the purchase of an auctioned domain name are non-refundable, in whole or in part. In the event of a charge reversal or chargeback by a credit card company or other payment provider, or if we determine in our sole discretion that we are unable or unlikely to collect payment, any associated domain registration will immediately terminate and/or the domain name registration will be transferred to Afternic as the paying entity for the registration. Afternic may, in our sole discretion, award the reclaimed domain name to the next highest bidder in the relevant auction and charge such bidder their highest bid amount, or make the domain name subject to a new auction among bidders determined by Afternic, or otherwise dispose of the name.

THIRD PARTY SITES

You may be transferred to online merchants or other third party sites through links or frames from this site. You are cautioned to read such sites' Terms and Conditions and/or Privacy Policies before using such sites in order to be aware of the terms and conditions of your use of such sites. These sites may contain information or material that is illegal, unreasonable or that some people may find inappropriate or offensive. These other sites are not under the control of the Company, are not monitored or reviewed by the Company, and the Company is not aware of the contents of such sites. You acknowledge that the Company is not responsible for the accuracy, copyright compliance, legality, decency, or any other aspect of the contents or any transmissions received through such sites. The inclusion of such a link or frame does not imply endorsement of this site by the Company, its advertisers or licensors, any association with its operators and is provided solely for your convenience. You agree that the Company and its licensors have no liability whatsoever from such third party sites and your usage of them.

COMPANY'S DISCLAIMER OF WARRANTIES

THE COMPANY, ITS ADVERTISERS AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THIS SITE, THE SUITABILITY OF THE INFORMATION CONTAINED ON OR RECEIVED THROUGH USE OF THIS SITE, OR ANY SERVICES OR PRODUCTS RECEIVED THROUGH THIS SITE. ANY AND ALL USE OF THIS SITE, SALES AND BIDS ON DOMAIN NAMES, AND OTHER SERVICES TO MEMBERS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THE COMPANY, ADVERTISERS AND/OR ITS LICENSORS, HEREBY DISCLAIM ALL WARRANTIES WITH REGARD TO THIS SITE, THE INFORMATION CONTAINED ON OR RECEIVED THROUGH USE OF THIS SITE, LISTINGS OF DOMAIN NAMES FOR SALE ON THIS SITE, THE BIDS MADE THROUGH THIS SITE, AND ALL SERVICES OR PRODUCTS RECEIVED THROUGH THIS SITE, INCLUDING ALL EXPRESS, STATUTORY, AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. THE COMPANY, ADVERTISERS AND/OR ITS LICENSORS DO NOT WARRANT THAT THE CONTENTS OR ANY INFORMATION RECEIVED THROUGH THIS SITE ARE ACCURATE, RELIABLE OR CORRECT; THAT THIS SITE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE CONTENTS OR ANY INFORMATION RECEIVED THROUGH THIS SITE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOUR USE OF THIS SITE IS SOLELY AT YOUR RISK. MEMBER AGREES THAT IT HAS RELIED ON NO WARRANTIES, REPRESENTATIONS OR STATEMENTS OTHER THAN IN THIS AGREEMENT. BECAUSE SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES, THESE EXCLUSIONS MAY NOT APPLY TO YOU BUT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW OF YOUR JURISDICTION.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL THE COMPANY, ADVERTISERS AND/OR ITS LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM, OR ARISE OUT OF THE USE OF, OR INABILITY

NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF THE COMPANY, ADVERTISERS AND/OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, THE COMPANY, ADVERTISERS AND/OR ITS RESPECTIVE LICENSORS' LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW OF YOUR JURISDICTION.

INDEMNIFICATION

You agree to defend, indemnify, and hold harmless the Company, its advertisers, licensors, subsidiaries and other affiliated companies, and their employees, contractors, officers, agents and directors from all liabilities, claims, and expenses, including attorney's fees, that arise from your use of this site, or any services, information or products from this site, or any violation of this Agreement. The Company reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you shall cooperate with the Company in asserting any available defenses.

LEGAL COMPLIANCE

Company may suspend or terminate this Agreement or Member's use, and disclose the Member's identity and contact information, immediately upon receipt of any notice which alleges that Member has used this site for any purpose, including (a) alleged violations of any local, state, federal or law of other nations, including but not limited to the posting of information that may violate third party rights, that may defame a third party, that may be obscene or pornographic, that may harass or assault others, that may violate hacking or other criminal regulations, etc. of its agents, officers, directors, contractors or employees; (b) to enforce this Agreement; (c) respond to any allegation of illegal activity; (d) defend itself from any allegation of illegal activity; or (e) to protect the rights, property or personal safety of Company or any Member. Member agrees not to bring any action or claim against Company for any action under this Agreement or this section.

CHOICE OF LAW AND FORUM

This site (excluding third party linked sites) is controlled by the Company from its offices within the Commonwealth of Massachusetts, U.S. of America. It can be accessed from all 50 states as well as from other countries around the world to the extent permitted by this site. As each of these places has laws that may differ from Massachusetts by accessing this site, both you and the Company agree that the statutes and laws of the Commonwealth of Massachusetts shall apply to any actions or claims arising out of or in relation to this Agreement or your use of this site, without regard to conflicts of laws principles thereof. You and the Company also agree and hereby submit to the filing of any claim only in the exclusive personal jurisdiction and venue of Middlesex County, Massachusetts and any legal proceedings shall be conducted in English. The Company makes no representation that materials on this site are appropriate or available for use in other locations, and accessing them from territories where their contents are illegal is prohibited. This Agreement shall not be governed by the United Nations Convention on Contracts for the Sale of Goods.

MISCELLANEOUS

This Agreement incorporates by reference the Site Submission Rules if this site allows posting and posts such Rules. This Agreement constitutes the entire agreement between the parties related to the subject matter thereof, supersedes any prior or contemporaneous (oral, written or electronic) agreement between the parties and shall not be changed except by written agreement signed by an officer of Company. If any provision of this Agreement is prohibited by law or held to be unenforceable, the remaining provisions hereof shall not be affected, and this Agreement as much as possible under applicable law shall continue in full force and effect as if such unenforceable provision had never constituted a part hereof and the unenforceable provision shall be automatically amended so as to best accomplish the objectives of such unenforceable provision within the limits of applicable law. Member shall not assign or transfer this Agreement and any such transfer shall be void.

INFORMATION FOR CALIFORNIA RESIDENTS: Under California Civil Code Section 1789.3, California residents entitled to the following specific consumer rights information: the Company address is: Afternic, Inc., 1 Main Street, Cambridge, MA 02142 and the phone is 781-839-2800. Pricing Information: Current rates for using the Services may be obtained by going to our pricing schedule on the site. Company reserves the right to change fees, surcharges, renewal fees or to institute new fees at any time. Complaints: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1020 N. Street, #501, Sacramento, CA 95814, or by telephone at 1-916-445-1254.

SITE SUBMISSION RULES ("SITE SUBMISSION RULES")

By using features of this site that allow you to post or otherwise transmit information to or through this site, or which may be seen by other Members, you agree that you will not upload, post, or otherwise distribute or facilitate distribution of any content -- including text, communications, video, software, images, sounds, data, or other information -- that

sexually explicit or graphic, or otherwise in violation of this site's rules or policies;

- victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
- infringes any patent, trade mark, service mark, trade secret, copyright, moral right, right of publicity, privacy or other proprietary right of any party;
- constitutes unauthorized or unsolicited advertising, junk or bulk e-mail (also known as "spamming"), chain letters, any other form of unauthorized solicitation, or any form of lottery or gambling;
- contains software viruses or any other computer code, files, or programs that are designed or intended to disrupt, damage, or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party; or
- impersonates any person or entity, including any employee or representative of this site, its licensors or advertisers.

You also agree that you shall not harvest or collect information about the Members of this site or use such information for the purpose of transmitting or facilitating transmission of unsolicited bulk electronic e-mail or communications for any other commercial purpose of your own or a third party.

You further agree that you shall not solicit or collect information, or attempt to induce any physical contact with, anyone under 18 years old without appropriate prior verifiable express parental consent.

This site generally does not pre-screen, monitor, or edit the content posted by Members of this site. However, this site and its agents have the right, at their sole discretion, to remove any content that, in this site's sole judgment, does not comply with the Site Submission Rules or is otherwise harmful, objectionable, or inaccurate, or for any other reason. This site is not liable for any failure, delay, damages or results, in removing such content.

You agree that your use of this site may be suspended or terminated immediately upon receipt of any notice which alleges that you have used this site in violation of these Rules and/or for any purpose that violates any local, state, federal or law of other nations, including but not limited to the posting of information that may violate third party rights, that may defame a third party, that may be obscene or pornographic, that may harass or assault others, that may violate hacking or other criminal regulations, etc. of its agents, officers, directors, contractors or employees. In such event, you agree that the owner of this site may disclose your identity and contact information, if requested by a government or law enforcement body or as a result of a subpoena or other legal action, and the owner of this site shall not be liable for damages or results thereof, and you agree not to bring any action or claim against the owner of this site for such disclosure.

This site reserves the right to revise these Site Submission Rules at its discretion, so check back from time to time to be sure you are complying with the current version.

[Back to top](#)

Afternic.com Terms Of Use

Updated August 30, 2010

Welcome to Afternic! By using the Afternic.com site, you are agreeing to be legally bound by the terms, conditions, and notices contained or referenced herein (the "Terms of Use"). Please read these Terms of Use carefully before using this website. If you do not agree to all of the Terms of Use, you may not use this site.

Afternic reserves the right to change, modify, or otherwise alter these Terms of Use at any time. Please review these Terms of Use periodically for changes, as your ongoing use of this site after the posting of any changes to the Terms of Use signifies your acceptance of those changes.

Intellectual Property

All data, designs, text, images, photographs, illustrations, artwork, graphic content, or other copyrightable subject matter, in addition to the selection and arrangement thereof, as well as all trademarks, service marks, and trade names appearing on the Afternic.com site (the

Case 4:22-cv-40068-RGS Document 8 Filed 09/02/22 Page 62 of 80

construed as granting either directly, by implication, estoppel, or otherwise, any license or right to use any trademark, service mark, or trade name displayed on the site without prior written permission of Afternic or its subsidiaries and affiliated companies unless expressly stated otherwise. Afternic vehemently enforces its intellectual property rights.

Afternic grants you a personal, non-exclusive, non-assignable and non-transferable license to use and display, for lawful, noncommercial, personal use only, one copy of any of the Intellectual Property, provided that you maintain all copyright and other notices contained in such Intellectual Property. Notwithstanding the foregoing, you agree that under no circumstances you will use data obtained from Afternic.com, nor will you allow, enable, or otherwise support any third party's use of data obtained from Afternic.com, to: (i) collect or harvest listings appearing on the Afternic.com site for the purpose of sending solicitations to Afternic members; or (ii) enable high-volume, automated, electronic processes that apply to Afternic.com (or its systems), or any Internet domain name registrar or registry for the registration of second-level domains. You further agree not to sell, license, rent, reproduce, modify, create derivative works from, display, perform, publish, distribute, disseminate, compile, repackage, broadcast, circulation, or other dissemination of any Intellectual Property to any third party without the express prior written consent of Afternic. Use of any Intellectual Property beyond the scope of this limited license is permitted only with Afternic's express written permission.

You may not frame or use framing techniques to enclose the Afternic.com site, or any trademark, logo, or other proprietary information of Afternic, our subsidiaries, or affiliates without our express written consent.

Afternic's trademarks and trade dress may not be used: (i) in connection with any product or service that is not Afternic's; (ii) in a manner that is likely to cause confusion among consumers; or (iii) in any manner that disparages or discredits Afternic. While you are granted a limited, revocable, and nonexclusive right to create a hyperlink to the home page of Afternic.com, you may not do so if the link portrays Afternic, its subsidiaries or affiliates, or their products or services, in a false, misleading, derogatory, or otherwise offensive matter. You may not use any Afternic.com logo or other proprietary graphic or trademark as part of any link without express written permission.

Representations and Warranties

YOU USE THE AFTERNIC.COM SITE AT YOUR OWN RISK.

THE INFORMATION AVAILABLE AT THE AFTERNIC.COM SITE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE TRADE OR PRACTICE. Some jurisdictions do not allow the exclusion of implied warranties, so the above disclaimer may not apply to you.

Afternic makes no warranties or representations about the accuracy or completeness of the site content. Information on the Afternic.com site may contain technical inaccuracies or typographical errors. Information may be changed or updated without notice. Afternic may also make improvements and/or changes to the products and/or the programs described in the information at any time without notice.

NEITHER AFTERNIC NOR ITS AFFILIATES SHALL BE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES ARISING OUT OF ACCESS TO, OR USE OF, THIS SITE OR ANY CONTENT ON THIS SITE, REGARDLESS OF THE ACCURACY OR COMPLETENESS OF ANY SUCH CONTENT AFTERNIC ASSUMES NO LIABILITY FOR THE USE OR INTERPRETATION OF INFORMATION CONTAINED HEREIN. DECISIONS BASED ON DATA OR INFORMATION ARE THE RESPONSIBILITY OF THE INDIVIDUAL.

When you access a non-Afternic.com web site, please understand that it is independent from Afternic and that we have no control over its content.

Correspondence with Afternic

If you have any questions about this site, please contact Afternic.

Any comments or materials sent to Afternic, including feedback data, such as questions, comments, suggestions, or the like, regarding the content of any such documents (collectively "Feedback") shall be deemed to be non-confidential and non-proprietary. Afternic shall have no obligation of any kind with respect to such Feedback and shall be free to reproduce, use, disclose, exhibit, display, transform, create derivative works and distribute the Feedback to others without limitation and without compensation to you. Further, Afternic shall be free to use any ideas, concepts, know-how or techniques contained in such Feedback for any purpose whatsoever, including but not limited to, developing, manufacturing and marketing products incorporating such Feedback.

Applicable Law and Severability

relation to these Terms of Use, without regard to conflicts of laws principles thereof. You and the Company also agree and hereby submit to the filing of any claim only in the exclusive personal jurisdiction and venue of Middlesex County, Massachusetts and any legal proceedings shall be conducted in English. Afternic makes no representation that materials on this site are appropriate or available for use in other locations, and accessing them from territories where their contents are illegal is prohibited. These Terms of Use shall not be governed by the United Nations Convention on Contracts for the Sale of Goods.

Any failure by Afternic to enforce any of its rights under applicable laws shall not constitute a waiver of such right. The provisions of these Terms of Use are intended to be severable. If for any reason any provision of these Terms of Use shall be held invalid or unenforceable in whole or in part, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

Privacy

If you have questions about what personally identifiable information Afternic collects about you, please review our Privacy Policy to learn about our privacy practices.

[Back to top](#)

Afternic Domain Name Registration Agreement

Updated on January 31, 2006

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 the registrar for your domain name and all of which share common ownership, common terms and conditions, and a shared Services 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, Afternic, 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 (define 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 or request of us that we cancel your domain name registration services. If you continue to use the Services following a change in this 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 and 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

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 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 when 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 risk 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 an 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 the 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/>. 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 of the 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 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 may turn to you to indemnify us and to hold us harmless from the claims and expenses (including attorney's fees and court costs). Under 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 sent 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 names 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.

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 to 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 Service(s) 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 the 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 Service(s), 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.

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 Service(s). 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 our 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 Services 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 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 you 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 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

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 "Registrar 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 express 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 in 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 and 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 that 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 and 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 may or 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/wmwp.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 targeted marketing 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 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. 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 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

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 registrant. 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: After expiration of the term of a domain name registration services and before deletion of the domain name in the applicable registry's database, you acknowledge that we may direct the domain name to name-servers and IP address(es) designated by us, including, without limitation, to no IP address or to 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.

After expiration of the term of domain name registration services, you acknowledge that certain registry administrators may provide procedures or grace periods during which expired domain name registrations may be renewed. You acknowledge that you assume all risks and all consequences if you wait until close to or after the end of a domain name registration term to attempt to renew the registration. You acknowledge that we, for any reason and in our sole discretion, may choose not to participate in a post-expiration renewal of a domain name and that we shall not be liable therefore. You acknowledge that post-expiration renewal or redemption processes, if any, involve additional fees which we and your Primary Service Provider may determine. You acknowledge and agree that expired domain name(s) may be made available to be registered or re-registered to any party at any time.

You agree that after expiration of the term of a domain name registration we may, for a period of 30 days, either i) remove the domain name from the zone of the top-level-domain (meaning that the domain name will no longer resolve), or ii) direct the domain name to name-servers and IP address(es) of website(s) designated by us, including, without limitation, to IP address(es) which host a parking page or a commercial search engine. You agree that either are functionally equivalent to ICANN's or a registry's redemption grace period, which would normally occur after deletion. If we exercise our rights under this provision, and if you do not transfer the domain name services to another registrar nor contact us to pay for and renew the domain name prior to the end of the 30 days, you agree that you have abandoned the domain name.

After this 30 day period, you agree that we may either (i) delete the domain name at any time thereafter or (ii) that we may pay the registry's registration free or otherwise allow it to continue to be registered with the WHOIS information previously provided by you and pointing to the name-server(s) and IP address(es) designated by us, and that we will not remove it from the TLD zone. In the latter event, 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 then extant registration term, complete management of the domain name services, including the right to control the DNS information, provided that you pay a fee of \$160 (US dollars). 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 rights and use of the domain name services, and that you are no longer the registrant of the domain name, and that we may list ourselves or another party as the registrant of the domain name in the WHOIS information. If we exercise our rights under this provision and you do not wish to be listed as the registrant and you wish to forego your option under this provision to pay to renew the domain name registration services for the then-current registration term, you may notify us before the end of the 120-day period and request that we remove your information from the WHOIS record for the domain name, in which case we, or a third party we designate, will be listed as the registrant, and in which case you relinquish all rights and control over the domain name services, and in which case we may i) continue to point the domain name to IP address(es) designated by us, or ii) we may delete the domain name from the applicable registry's database.

we may (i) delete the domain name at any time thereafter or (ii) we may put the domain name up for auction pursuant to the terms of our Pre-Release Names auction service, or (iii) pay the registry fee or otherwise allow it to continue to be registered with the WHOIS information previously provided by you and pointing to the name-server(s) and IP address(es) designated by us, and that we will not remove it from the TLD zone. In the latter event, the name will be designated as being in the extended redemption grace period ("ERGP"), and you will be allowed to assume, during the first 90 days of the then extant registration term, complete management of the domain name services, including the right to control the DNS information, provided that you pay a fee of \$200 (US dollars). After the end of the 90-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 rights and use of the domain name services, and that you are no longer the registrant of the domain name, and that we may list ourselves or another party as the registrant of the domain name in the WHOIS information. If we exercise our rights under this provision and you do not wish to be listed as the registrant and you wish to forego your option under this provision to pay to renew the domain name registration services for the then-current registration term, you may notify us before the end of the 90-day period and request that we remove your information from the WHOIS record for the domain name, in which case we, or a third party we designate, will be listed as the registrant, and in which case you relinquish all rights and control over the domain name services, and in which case we may i) continue to point the domain name to IP address(es) designated by us, or ii) we may delete the domain name from the applicable registry's database.

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 OR EVENTS 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. WE 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 WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR 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 STATES, OUR 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 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 right of any person or entity, or from the violation of any of our operating rules or policies relating to the Service(s) provided. When we 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 guarantees 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 services for 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 OTHER OF 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 SERVICE(S) ARE PROVIDED TO YOU "AS IS." 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

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 TRANSACTIONS ENTERED INTO THROUGH OUR E-MAIL SERVICE(S). NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY 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 was 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 failure 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. In 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:

Afternic, Inc.

[Back to top](#)

Uniform Domain Name Dispute Resolution Policy

(As Approved by ICANN on October 24, 1999
and implemented by Afternic, Inc., on October 1, 2005)

1. Purpose. This Uniform Domain Name Dispute Resolution Policy (the "Policy") has been adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), is incorporated by reference into your Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you and any party other than us (the registrar) over the registration and use of an Internet domain name

2. Your Representations. By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent an <http://www.icann.org/udrp/udrp-rules-24oct99.htm>, and the selected warrant to us that (a) the statements that you made in your Registration Agreement are complete and accurate; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else's rights.

3. Cancellations, Transfers, and Changes. We will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:

- a. subject to the provisions of Paragraph 8, our receipt of written or appropriate electronic instructions from you or your authorized agent to take such action;
- b. our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction, requiring such action; and/or
- c. our receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy or a later version of this Policy adopted by ICANN. (See Paragraph 4(i) and (k) below.) We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your Registration Agreement or other legal requirements.

4. Mandatory Administrative Proceeding.

This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at <http://www.icann.org/udrp/approved-providers.htm> (each, a "Provider").

- a. **Applicable Disputes.** You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that
 - (i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
 - (ii) you have no rights or legitimate interests in respect of the domain name; and
 - (iii) your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present.

b. Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

complaint, you should refer to Paragraph 5 of the Rules of Procedure in determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

d. Selection of Provider. The complainant shall select the Provider from among those approved by ICANN by submitting the complaint to that Provider. The selected Provider will administer the proceeding, except in cases of consolidation as described in Paragraph 4(f).

e. Initiation of Proceeding and Process and Appointment of Administrative Panel. The Rules of Procedure state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute (the "Administrative Panel").

f. Consolidation. In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by ICANN.

g. Fees. All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the complainant, except in cases where you elect to expand the Administrative Panel from one to three panelists as provided in Paragraph 5(b)(iv) of the Rules of Procedure, in which case all fees will be split evenly by you and the complainant.

h. Our Involvement in Administrative Proceedings. We do not, and will not, participate in the administration or conduct of any proceeding before an Administrative Panel. In addition, we will not be liable as a result of any decisions rendered by the Administrative Panel.

i. Remedies. The remedies available to a complainant pursuant to any proceeding before an Administrative Panel shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the complainant.

j. Notification and Publication. The Provider shall notify us of any decision made by an Administrative Panel with respect to a domain name you have registered with us. All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.

k. Availability of Court Proceedings. The mandatory administrative proceeding requirements set forth in Paragraph 4 shall not prevent either you or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If an Administrative Panel decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by the applicable Provider of the Administrative Panel's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the complainant in a jurisdiction to which the complainant has submitted under Paragraph 3(b)(xiii) of the Rules of Procedure. (In general, that jurisdiction is either the location of our principal office or of your address as shown in our Whois database. See Paragraphs 1 and 3(b)(xiii) of the Rules of Procedure for details.) If we receive such documentation within the ten (10) business day period, we will not implement the Administrative Panel's decision, and we will take no further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

5. All Other Disputes and Litigation. All other disputes between you and any party other than us regarding your domain name registration that are not brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

6. Our Involvement in Disputes. We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include us in any such proceeding. In the event that we

7. **Maintaining the Status Quo.** We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8. Transfers During a Dispute.

a. **Transfers of a Domain Name to a New Holder.** You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

b. **Changing Registrars.** You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

9. Policy Modifications.

We reserve the right to modify this Policy at any time with the permission of ICANN. We will post our revised Policy at www.afternic.com/udrp.php at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to a Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of our change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your domain name registration.

[Back to top](#)

Afternic Privacy Policy

Updated December 12, 2019

Afternic, a division of GoDaddy.com LLC, cares about your privacy. For this reason, we collect and use personal information only as needed to deliver our products, services, websites and mobile applications, and to communicate with you about the same, or as you have requested (collectively, our "Services"). Your personal information includes information such as:

- Name
- Address
- Telephone number
- Date of birth
- Email address
- Billing and payment information
- Candidate information (for job applicants)
- Other data collected that could directly or indirectly identify you.

If at any time you have questions about our practices or any of your rights described below, you may reach our Data Protection Officer (“DPO”) and our dedicated team that supports this office by contacting us at privacy@afternic.com. This inbox is actively monitored and managed so that we can deliver an experience that you can confidently trust.

What information we collect, how we collect it, and why Much of what you likely consider personal information is collected directly from you when you:

- i. create an account or purchase any of our Services (ex: billing information, including name, address, credit card number, government identification);
- ii. request assistance from our award-winning customer support team (ex: phone number);
- iii. complete contact forms or request newsletters or other information from us (ex: email); or
- iv. participate in contests and surveys, apply for a job, or otherwise participate in activities we promote that might require information about you.

However, we also collect additional information when delivering our Services to you to ensure necessary and optimal performance. These methods of collection may not be as obvious to you, so we thought we’d highlight and explain a bit more about what these might be (as they vary from time to time):

Cookies and similar technologies on our websites and our mobile applications allow us to track your browsing behavior, links clicked, items purchased, your device type, and to collect various data, including analytics, about how you use and interact with our Services. These technologies automatically collect data when you use and interact with our Services, including metadata, log files, cookie/device IDs, page load time, server response time, and approximate location information to measure website performance and improve our systems, including optimizing DNS resolution, network routing and server configurations. Specifically, interactions with the features, content and links (including those of third-parties, such as social media plugins) contained within the Services, Internet Protocol (IP) address, browser type and settings, the date and time the Services were used, information about browser configuration and plugins, language preferences and cookie data, information about devices accessing the Services, including type of device, what operating system is used, device settings, application IDs, unique device identifiers and error data is collected. All this allows us to provide you with more relevant product offerings, a better experience on our sites and mobile applications, and to collect, analyze and improve the performance of our Services. We may also collect your location (IP address) so that we can personalize our Services. For additional information, and to learn how to manage the technologies we utilize, please visit our [Cookie Policy](#). If you wish to opt out of interest-based advertising click [here](#) [or if located in the European Union click [here](#)]. Please note you will continue to receive generic ads.

Supplemented Data may be received about you from other sources, including publicly available databases or third parties from whom we have purchased data, in which case we may combine this data with information we already have about you so that we can update, expand and analyze the accuracy of our records, assess the qualifications of a candidate for employment, identify new customers, and provide products and services that may be of interest to you. If you provide us personal information about others, or if others give us your information, we will only use that information for the specific reason for which it was provided to us.

How we utilize information. We strongly believe in both minimizing the data we collect and limiting its use and purpose to only that (1) for which we have been given permission, (2) as necessary to deliver the Services you purchase or interact with, or (3) as we might be required or permitted for legal compliance or other lawful purposes:

Delivering, improving, updating and enhancing our Services. We collect various information relating to your purchase, use and/or interactions with our Services. We utilize this information to:

- Improve and optimize the operation and performance of our Services (again, including our websites and mobile applications)
- Diagnose problems with and identify any security risks, errors, or needed enhancements to the Services
- Detect and prevent fraud and abuse of our Services and systems
- Collecting aggregate statistics about use of the Services
- Understand and analyze how you use our Services and what products and services are most relevant to you.

Much of the data collected is aggregated or statistical data about how individuals use our Services, and is not linked to any personal information.

Case 4:22-cv-40008-RCS Document 8 Filed 09/02/22 Page 74 of 86
parties with which we have partnered to allow you to integrate their services into our own Services, and with trusted third party service providers as necessary for them to perform services on our behalf, such as:

- Processing credit card payments
- Serving advertisements
- Conducting contests or surveys
- Performing analysis of our Services and customers demographics
- Communicating with you, such as by way email or survey delivery
- Customer relationship management
- Recruiting support and related services.

We only share your personal information as necessary for any third party to provide the services as requested or as needed on our behalf. These third parties (and any subcontractors they may be permitted to use) are subject to strict data processing terms and conditions and are prohibited from utilizing, sharing or retaining your personal information for any purpose other than as they have been specifically contracted for (or without your consent).

We may also share your information with third parties for the purpose of facilitating / allowing a merger, acquisition or sale of all or substantially all of our assets, in which case the acquiring company may continue to utilize your data in the manner for which it was provided and intended.

Communicating with you. We may contact you directly or through a third party service provider regarding products or services you have signed up or purchased from us, such as necessary to deliver transactional or service related communications. We may also contact you with offers for additional services we think you'll find valuable if you give us consent, or where allowed based upon legitimate interests. You don't need to provide consent as a condition to purchase our goods or services. These contacts may include:

- Email
- Text (SMS) messages
- Telephone calls
- Messenger applications (e.g. WhatsApp, etc.)
- Automated phone calls or text messages.

You may also update your subscription preferences with respect to receiving communications from us and/or our partners by signing into your account and visiting "Account Settings" page.

If we collect information from you in connection with a co-branded offer, it will be clear at the point of collection who is collecting the information and whose privacy policy applies. In addition, it will describe any choice options you have in regards to the use and/or sharing of your personal information with a co-branded partner, as well as how to exercise those options. We are not responsible for the privacy practices or the content of third-party sites. Please read the privacy policy of any website you visit.

If you make use of a service that allows you to import contacts (ex. using email marketing services to send emails on your behalf), we will only use the contacts and any other personal information for the requested service. If you believe that anyone has provided us with your personal information and you would like to request that it be removed from our database, please contact us at privacy@afternic.com.

Transfer of personal information abroad. If you utilize our Services from a country other than the country where our servers are located, your personal information may be transferred across international borders, which will only be done when necessary for the performance of our contract with you, when we have your consent to do so, or when the appropriate standard contractual clauses are in place. Also, when you call us or initiate a chat, we may provide you with support from one of our global locations outside your country of origin.

Compliance with legal, regulatory and law enforcement requests. We cooperate with government and law enforcement officials and private parties to enforce and comply with the law. We will disclose any information about you to government or law enforcement officials or private parties as we, in our sole discretion, believe necessary or appropriate to respond to claims and legal process (such as subpoena requests), to protect our property and rights or the property and rights of a third party, to protect the safety of the public or any person, or to prevent or stop activity we consider to be illegal or unethical.

To the extent we are legally permitted to do so, we will take reasonable steps to notify you in the event that we are required to provide your personal information to third parties as part of legal process. We will also share your information to the extent necessary to comply with any ICANN, registry or ccTLD rules, regulations and policies when you register a domain name with us. For reasons critical to maintaining the security, stability and resiliency of the Internet, this includes the transfer of domain name registration information to the underlying domain registry operator and escrow provider, and publication of that information as required by ICANN in the public WHOIS database or with other

We retain personal information only for as long as necessary to provide the Services you have requested and thereafter for a variety of legitimate legal or business purposes. These might include retention periods:

- mandated by law, contract or similar obligations applicable to our business operations;
- for preserving, resolving, defending or enforcing our legal/contractual rights; or
- needed to maintain adequate and accurate business and financial records.

If you have any questions about the security or retention of your personal information, you can contact us at privacy@afternic.com.

How you can access, update or delete your data. To easily access, view, update, delete or port your personal information, or to update your subscription preferences, please sign into your Account and visit "Account Settings."

If you make a request to delete your personal information and that data is necessary for the products or services you have purchased, the request will be honored only to the extent it is no longer necessary for any Services purchased or required for our legitimate business purposes or legal or contractual record keeping requirements. If you are unable for any reason to access your Account Settings, you may also contact us by one of the methods described in the "Contact Us" section below.

The E.U.-U.S. and Swiss-U.S. Privacy Shield Frameworks.  **TRUSTe**
Verified Privacy
Powered by TrustArc

Our parent company, GoDaddy Operating Company, LLC (and our related entities, including GoDaddy.com, LLC, Blue Razor Domains, LLC, Starfield Technologies, LLC, Domains by Proxy, LLC and Media Temple, Inc.) participates in and has certified its compliance with the EU-U.S. and Swiss-U.S. Privacy Shield Framework. GoDaddy Operating Company, LLC is committed to subjecting all personal information received from the EU or Switzerland, in reliance on the Privacy Shield Framework, to the Framework's applicable Principles. To learn more about the Privacy Shield Framework, visit the U.S. Department of Commerce's Privacy Shield List. Afternic is responsible for the processing of personal information it receives, under each Privacy Shield Framework, and subsequently transfers to a third party acting as an agent on its behalf. Afternic complies with the Privacy Shield Principles for all onward transfers of personal information from the EU and Switzerland, including the onward transfer liability provisions.

With respect to personal information received or transferred pursuant to each Privacy Shield Framework, Afternic is subject to the regulatory enforcement powers of the U.S. Federal Trade Commission. In certain situations, Afternic may be required to disclose personal information in response to lawful requests by public authorities, including to meet national security or law enforcement requirements.

If you have an unresolved privacy or data use concern that we have not addressed satisfactorily, please contact our U.S.-based third party dispute resolution provider (free of charge) at <https://feedback-form.truste.com/watchdog/request>. Under certain conditions, more fully described on the Privacy Shield website, you may invoke binding arbitration when other dispute resolution procedures have been exhausted.

In compliance with the Privacy Shield Principles, Afternic commits to resolve complaints about our collection or use of your personal information. EU and Swiss individuals with inquiries or complaints regarding our Privacy Shield policy should first contact us in any manner provided in the "CONTACT US" section below in this Privacy Policy.

Afternic has further committed to cooperate with the panel established by the EU data protection authorities (DPAs) and the Swiss Federal Data Protection and Information Commissioner (FDPIC) with regard to unresolved Privacy Shield complaints concerning human resources data transferred from the EU and Switzerland in the context of the employment relationship.

'Do Not Track' notifications. Some browsers allow you to automatically notify websites you visit not to track you using a "Do Not Track" signal. There is no consensus among industry participants as to what "Do Not Track" means in this context. Like many websites and online services, we currently do not alter our practices when we receive a "Do Not Track" signal from a visitor's browser. To find out more about "Do Not Track," you may wish to visit www.allaboutdnt.com.

Age restrictions. Our Services are available for purchase only for those over the age of 18. Our Services are not targeted to, intended to be consumed by or designed to entice individuals under the age of 18. If you know of or have reason to believe anyone under the age of 18 has provided us with any personal information, please contact us.

Non-Discrimination. We will not discriminate against you for exercising any of your privacy rights. Unless permitted under applicable laws, we will not:

- Deny you goods or services.

- Provide you a different level or quality of goods or services.
- Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.

Changes to this policy. We reserve the right to modify this Privacy Policy at any time. If we decide to change our Privacy Policy, we will post those changes to this Privacy Policy and any other places we deem appropriate, so that you are aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it. If we make material changes to this Privacy Policy, we will notify you here, by email, or by means of a notice on our home page, at least thirty (30) days prior to the implementation of the changes.

Data Protection Authority. If you are a resident of the European Economic Area (EEA) and believe we maintain your personal information subject to the General Data Protection Regulation (GDPR), you may direct questions or complaints to your local supervisory authority or our lead supervisory authority, the UK's Information Commissioner's Office, as noted below:

www.ico.org.uk Information Commissioner's Office Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, United Kingdom Phone: 0303 123 1113

Contact us. If you have any privacy-related questions, concerns or complaints about our Privacy Policy, our practices or our Services, you may contact our Office of the DPO by email at privacy@afternic.com. In the alternative, you may contact us by either of the following means:

- By Mail: Attn: Office of the Data Protection Officer, 14455 North Hayden Road, Suite 219, Scottsdale, AZ 85260 USA, or for customers established in the EEA, Attn: Legal, Office of the DPO, 5th Floor, The Shipping Building, Old Vinyl Factory, 252-254 Blyth Road, Hayes, UB3 1HA.
- By Phone: (480) 505-8877

We will respond to all requests, inquiries or concerns within thirty (30) days.

[Back to top](#)

Afternic Pricing & Fees

Services

| Service | Fee |
|------------------|--|
| Afternic Agent | \$69 for first, \$49 for each additional |
| Domain Appraisal | \$25 for first, \$20 for each additional |

Transaction Fees

Domain Sales

Sale price \$0 to \$5000, commission is 20% (\$15 minimum)

Sale price \$5,001 to \$25,000, commission is \$1,000 +15% of amount over \$5k

Sale price \$25,001 and over, commission is \$4,000 +10% of amount over \$25k

Payment

| | |
|---------------------------------|------|
| By wire transfer - U.S. bank | Free |
| By wire transfer - no U.S. bank | Free |

Domain Sale Disbursement

| | |
|-----------------------------|--------|
| By Paypal | \$0.10 |
| By ACH - U.S. | \$0.90 |
| By eCheck - not U.S. | \$5 |
| By Check - U.S. | \$25 |
| By Wire | \$15 |
| By Wire - not U.S., non-USD | \$20 |
| By Wire - not U.S., USD | \$26 |

Parking Disbursement

| | |
|-----------------------------|--------|
| By Paypal | \$0.10 |
| By ACH - U.S. | \$0.90 |
| By eCheck - not U.S. | \$5 |
| By Check - U.S. | \$25 |
| By Wire - U.S. | \$15 |
| By Wire - not U.S., non-USD | \$20 |
| By Wire - not U.S., USD | \$26 |

[Back to top](#)

EXHIBIT H

10/27/21, 2:28 PM

Gmail - PremierShieldInsurance.com - OCEO-21353



Premier Shield Insurance <premiershieldinsurance@gmail.com>

PremierShieldInsurance.com - OCEO-21353

2 messages

Jenn Hawkes <oceo-help@services.godaddy.com>
Reply-To: oceo@care-godaddy.atlassian.net
To: premiershieldinsurance@gmail.com

Thu, Oct 21, 2021 at 4:38 PM



Dear Brian,

Thank you for your email. We regret to hear of your situation and empathize with you.

In reviewing your account, it appears the domain PremierShieldInsurance.com was listed for sale from your account on March 14, 2021 along with multiple other domains using the List for Sale option. Notices were sent to the email on file with Afternic on March 14, 2021 and again when the domain sold on September 24, 2021. To receive the payments for domains you have sold, you would need to activate your payee account with Afternic by following this article's related steps: <https://www.godaddy.com/help/sell-my-domain-with-godaddys-list-for-sale-27401>.

That said, I did want to provide you with some options in order to move forward. You may be able to reach out to the registrant of the domain directly in an attempt to negotiate or may consider domain backorders, however, neither of these options is a guarantee to acquire the domain. Otherwise, if you believe you have a claim to the domain's registration, your legal counsel may want to review the Universal Domain Name Dispute Resolution Policy (UDRP) for steps in which to potentially move forward: <https://www.godaddy.com/legal/agreements/domain-name-dispute-resolution-policy>.

I understand this likely isn't the response you were hoping for, but I hope it

10/27/21, 2:28 PM

Gmail - PremierShieldInsurance.com - OCEO-21353

helps clarify the situation.

Thanks for your patience, and thanks for being a GoDaddy customer.

Best regards,

Jenn H.

Office of the CEO | GoDaddy

By using GoDaddy's services in any way, including accessing godaddy.com or discussing your account with GoDaddy employees, you agree to our Terms of Service and other policies.

This email is shared with premiershieldinsurance@gmail.com.

Premier Shield Insurance <premiershieldinsurance@gmail.com>
To: oceo@care-godaddy.atlassian.net

Thu, Oct 21, 2021 at 4:46 PM

Hello Jenn,

Not only did we not ever get an email saying our domain was listed for sale, we never listed it for sale. We have an email from 3/24/21 with other domains of ours being listed for sale but not PremierShieldInsurance.com. Unless you can provide proof that this email went out to our email on file with Afternic, we are under the impression that this was completely an error on godaddy or Afternic's end.

I have the email from 3/24/21 and can send it in to show that PremierShieldInsurance.com was never included for sale on that date. Furthermore, the only email we got on premiershieldinsurance.com was on the sale of our website which, we never knew, based on no other prior information, was listed for sale.

So I believe you to further look into this as we plan on filing a lawsuit in the US court system if this isn't resolved and the domain immediately returned to us as this appears to be a fraudulent sale on Godaddy's part. We will not ever accept payment for a domain we never authorized nor were notified was to be listed for sale.

Sent from my iPhone

On Oct 21, 2021, at 4:38 PM, Jenn Hawkes <oceo-help@services.godaddy.com> wrote:

[Quoted text hidden]

EXHIBIT I

November 22, 2021

GoDaddy Announces Security Incident Affecting Managed WordPress Service

On November 17, 2021, we discovered unauthorized third-party access to our Managed WordPress hosting environment. Here is the background on what happened and the steps we took, and are taking, in response:

We identified suspicious activity in our Managed WordPress hosting environment and immediately began an investigation with the help of an IT forensics firm and contacted law enforcement. Using a compromised password, an unauthorized third party accessed the provisioning system in our legacy code base for Managed WordPress.

Upon identifying this incident, we immediately blocked the unauthorized third party from our system. Our investigation is ongoing, but we have determined that, beginning on September 6, 2021, the unauthorized third party used the vulnerability to gain access to the following customer information:

- Up to 1.2 million active and inactive Managed WordPress customers had their email address and customer number exposed. The exposure of email addresses presents risk of phishing attacks.
- The original WordPress Admin password that was set at the time of provisioning was exposed. If those credentials were still in use, we reset those passwords.
- For active customers, sFTP and database usernames and passwords were exposed. We reset both passwords.
- For a subset of active customers, the SSL private key was exposed. We are in the process of issuing and installing new certificates for those customers.

Our investigation is ongoing and we are contacting all impacted customers directly with specific details. Customers can also contact us via our help center (<https://www.godaddy.com/help>) which includes phone numbers based on country.

We are sincerely sorry for this incident and the concern it causes for our customers. We, GoDaddy leadership and employees, take our responsibility to protect our customers' data very seriously and never want to let them down. We will learn from this incident and are already taking steps to strengthen our provisioning system with additional layers of protection.

Demetrius Comes

Chief Information Security Officer

Forward-Looking Statements

This blog post contains forward-looking statements regarding GoDaddy Inc. ("we," "GoDaddy," or the "Company") which are subject to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, including our efforts to investigate and remediate the security incident and our attempts to identify and notify affected customers and implement additional security measures. Our forward-looking statements are based on information known to us at the time of this blog post and are subject to a number of known and unknown risks, uncertainties and assumptions that may cause our actual future results, performance, or achievements to differ materially from any future results expressed or implied in this blog post. Factors that contribute to the uncertain nature of our forward-looking statements include, among others, our ongoing investigation of the incident; our vulnerability to additional security incidents; adverse legal, reputational and financial effects on the Company resulting from the incident or

additional security incidents, including regulatory inquiries; and potential operational disruptions as a result of the incident. Because some of these risks and uncertainties cannot be predicted or quantified and some are beyond our control, you should not rely on our forward-looking statements as predictions of future events. Additional risks and uncertainties that could affect GoDaddy's business and financial results are included in the filings we make with the Securities and Exchange Commission ("SEC") from time to time, including those described in "Risk Factors" in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2021 as well as those described in "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the year ended December 31, 2020 and in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2021, which are available on GoDaddy's website at <https://investors.godaddy.net> and on the SEC's website at www.sec.gov. Additional information will also be set forth in other filings that GoDaddy makes with the SEC from time to time. All forward-looking statements in this blog post are based on information available to GoDaddy as of the date hereof. GoDaddy does not assume any obligation to update the forward-looking statements provided to reflect events that occur or circumstances that exist after the date on which they were made.

EXHIBIT J



Premier Shield Insurance <premiershieldinsurance@gmail.com>

We still need to pay you for premiershieldinsurance.com... [ref:_00DG0i0kS._5003j1tdoCJ:ref]

1 message

Afternic Transaction Assurance <ta@afternic.com>
To: "premiershieldinsurance@gmail.com" <premiershieldinsurance@gmail.com>

Wed, Jun 22, 2022 at 4:01 AM

Hello Brian,
This is our final attempt to contact you before we send your funds to unclaimed property. We have been trying to reach you over the past few months trying to pay you out for your sale of premiershieldinsurance.com but haven't had any luck.

Unfortunately, we are unable to disburse your funds until you have created a new payment method and set it as your default. Please follow the below steps to get this set up right away:

1. Log into your Afternic account
2. On the left-side control panel, hover over Account and select Account Details
3. Scroll down until you see Domain Sale Payments from Afternic and click the Edit button to the right
4. A list of all your Payees will open, if any have been created
5. To add a new Payee, click the blue button to Add a new payment method
6. This will open the payee template for you to enter your tax information and setup your disbursement information- **be certain to check the box next to your nickname to set as default in the first step of the payee creation**

Add new payment method

This is how you can receive payment after selling your domain including broker, referral

Basic Information

Payee Nickname: _____

This box must be checked

MAKE THIS MY DEFAULT PAYMENT

Save Changes Cancel

We ask that you please complete this setup as soon as possible so we can get you paid out!

6/23/22, 11:57 AM

Case 4:22-cv-0068-RGS Document 8 Filed 09/02/22 Page 86 of 86
[mailto:info@shieldinsurance.com?ref=002300k_5003] [to:CJ:ref]

Thank you
Afternic Transaction Assurance
A GoDaddy Company