



# Title Registry of Ownership for Assigned Names and Numbers<sup>SM</sup>

## Terms of Service

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1.

### DEFINITIONS.

- a. **“Agreement”** means the most current version of this terms of service agreement between us and you.
- b. **“Expired Domain Name”** means a domain name for which the term of registrar registration services has expired and the domain is lost to the owner/licensed owner.
- c. **“F.A.Q.”** means our answers to frequently asked questions.
- d. **“ISPs”** means Internet service providers.
- e. **“Licensed Materials”** means our intellectual property, including but not limited to, our logos, trade names, service marks, trademarks, tradedress.

- f. **“Registrant”** means the organization or person with ownership of (or a license from the registrar owner to use) a domain name because they are listed as the domain's registrant in the current registrar's or applicable registry's publicly accessible WHOIS information.
- g. **“Services”** means each and every services we offer.
- h. **“System”** means all of our software and hardware.
- i. **“TROANN.com”** means our site at <http://troann.com>, which provides you with access to our Services.
- j. **“Title Holder”** means the organization or person listed as the domain ownership title holder of a domain recorded with us.
- k. **“We,” “us,” and “our”** means I.P. Marshal, LLC, a Louisiana limited liability company d.b.a. TROANN.
- l. **“WHOIS Masking”** means our title owner identity masking service explained below.
- m. **“You,” “your,” and “yourself”** means any organization or person that purchases or otherwise seeks to use our Services, as well as their agents, assigns, and successors.

2.

**GENERAL PROVISIONS.**

- a. Please direct any questions not answered by reading this Agreement to us at [support@troann.com](mailto:support@troann.com).
- b. Before you may use any of our Services, you must:
  - i. read and agree to comply with this Agreement and
  - ii. understand and accept that this Agreement:
    - 1. takes effect upon your earliest purchase of our Services
    - 2. contains all terms and conditions of your relationship with us and your use of our Services;
    - 3. may only be amended or modified by us, unless we enter into another written contract with you;
    - 4. may be amended or modified by us at any time, all such changes shall take full effect as soon as they are posted on TROANN.com and your continued use of our Services will be irrefutable proof of your consent to the terms and conditions of the most current Agreement;
    - 5. is the entire and only agreement between you and us; and
    - 6. shall only terminate under the conditions provided for herein.
- c. This Agreement shall in no way create an agency, employee-employer, franchisor-franchisee, joint enterprise, joint venture, or partnership relationship between you and us.
- d. Our failure to require your performance of any provision of this Agreement shall not affect our right to require subsequent performance at any time of the same provision.
- e. Should we determine, in our sole discretion, that you have violated any provisions of this Agreement or applicable laws, we may, with subsequent notice to you:
  - i. immediately cancel your domain recordation;
  - ii. use your personal information to collect all pending and applicable fees and other amounts due;
  - iii. cooperate with law enforcement and any other appropriate authorities and organizations;
  - iv. charge you for all administrative costs in connection with any violation by you of any provision of this Agreement; and
  - v. bring legal action to enjoin violations and/or to collect all damages caused by your violations of this Agreement.
- f. Unless otherwise provided herein, you agree that:

- i. all notices from us to you shall be sent to your current email address on file with us and will be deemed immediately delivered even if such email address is no longer valid and
- ii. all notices from you to us shall be:
  1. sent to [david@troann.com](mailto:david@troann.com) and deemed immediately delivered or
  2. in writing and delivered by courier or registered mail to TROANN, 3912 Constance Street, New Orleans, Louisiana 70115, and shall only be deemed delivered once they arrive at our office.
- iii. any email messages we receive that appear to be from the email address we have on file for you shall be deemed to have been sent by you or your duly authorized agent full authority to act on your behalf.

3.

**PRIVACY.**

- a. Protecting your privacy is very important to us; so we do not sell your personal information and will only use it for obvious, legitimate business purposes.
- b. You agree that we may use your personal information to enforce this Agreement, and If you are not enrolled in our WHOIS masking service, we may also produce your personal information to law enforcement, competent administrative bodies, and U.S. courts.
- c. Our Domain Title Recordation Agreement requires you to provide us with your name, address, phone and email address. We also assign you a TROANN customer number. We use this information to contact you when necessary and to confirm your identity when you contact us.
- d. TROANN.com allows you to purchase our Services online. PayPal processes your payments, and we do not receive your financial information.
- e. We may offer you opportunities to communicate with third parties. Please remember that any information that is disclosed in these areas becomes public information, and you should exercise caution when deciding to disclose any personal information.
- f. We follow established security procedures to keep your personal information safe from unauthorized third parties.
- g. You alone are responsible for confirming the accuracy of your personal information, which we use to contact you. In order to update your contact information, please use our [Domain Title Holder Contact Information Update Agreement™](#) for more information.

4.

**FEES.** Our fees may change at any time, with the exception that the fee to record an ownership transfer of a domain name may not exceed the fee we charged to record the same domain name.

5.

**REFUNDS/NO CHARGEBACKS.**

- a. All fees for services not already performed are refundable if we receive a written request for a refund within thirty (30) calendar days after payment was made to us. All sales older than thirty (30) calendar days or for which services have been performed are final.
- b. You shall not chargeback any fees paid to TROANN, unless you have requested a refund pursuant to the terms in this section and waited fourteen (14) calendar days without receiving the refund or if you have been the victim of identity theft and provide us with a valid police report. Your failure to comply with this section may result in immediate termination of your use of our Services and your obligation to pay liquidated damages to us of \$100.00 for each charge back you make.

6.

**DOMAIN TITLE RECORDATION.**

- a. You agree that by paying a recordation fee and submitting the Domain Title Recordation Agreement™ and any Domain Title Holder Contact Information Update Agreements™ you are consenting to all terms and conditions of this Agreement and your failure to remove your recorded domains from our public registry shall be conclusive proof of your continuing consent to each and every amended or modified version of this Agreement.
- b. The fee to remove a recorded domain from our public registry shall not exceed the recordation fee originally paid by you for the corresponding domain.

7.

**DOMAIN TITLE TRANSFERS.**

- a. You agree that you may only transfer, sell, assign, or otherwise change the ownership of recorded domains by fully executing and filing a Domain Title Recordation Agreement™ along with all supporting documentation and applicable fees and all other attempts to transfer ownership of a recorded domain are void and will result in your obligation to pay liquidated damages to us of \$500.00 per domain per occurrence.
- b. The fee to record a domain ownership title transfer shall not exceed the recordation fee prominently shown on TROANN.com.
- c. We shall comply with all valid administrative rulings and court orders regarding domain ownership once all applicable fees have been paid.

8.

**WHOIS MASKING.**

- a. You agree that by paying the enrollment fee for our WHOIS identity masking service, you authorize us to retain the law firm of **D.W. Nance, LLC** for the limited purpose to act as your agent to receive all WHOIS related messages and notices directed to you, the title owner of participating domain names. You will not be billed by **D.W. Nance, LLC** and this law firm will have no other responsibilities with regards to you, unless you and **D.W. Nance, LLC** agree otherwise in writing.
- b. You are solely responsible for:
  1. paying all applicable fees to us before you identify any of your domains as enrolled in WHOIS Masking;
  2. ensuring that none of your domains appears to be enrolled in WHOIS Masking unless we have already received all applicable fees and, because of the possibility of fraudulent use of our service by non-paying parties, your failure to comply with this provision may result in your obligation to pay liquidated damages to us of \$100.00 per domain for each day that you fail to comply with this provision and we may recover these damages by holding and parking your domains, and any other legal means available;
  3. confirming that only your recorded domains enrolled in WHOIS Masking identify the law firm **D.W. Nance, LLC** as the WHOIS Registrant and all other WHOIS contacts along with the TROANN email address we assign to each enrolled domain.

D.W. Nance, LLC  
c/o David W. Nance  
3912 Constance Street  
New Orleans, LA 70115  
504.450.3938

9.

**PRE-PAY DOMAIN RECOVERY PLAN.**

- a. Plan participation is restricted to domains recorded with TROANN.
- b. Conditioned upon timely payment of each applicable annual participation fee, your domains will be protected by TROANN's commitment to spend up to \$2,000 in attorney fees for [D.W. Nance, LLC](#) to recover control of participating domains stolen or hijacked twenty-four (24) hours or more after our receipt of the plan participation fee. You remain responsible for paying any additional expenses including but not limited to civil court costs and administrative fees.
- c. Failure to pay the next year's annual participation fee before the current participation term expires results in immediate termination of all plan benefits, which can not be revived.
- d. Once plan benefits have terminated, late payment of the participation fee merely commences coverage for a new term commencing twenty-four (24) hours after our receipt of the late participation fee.

10.

**CERTIFIED SERVICE PROVIDER.**

- a. We provide you with a list of ISPs including webdesigners and webmasters. These ISPs have obligated themselves to help you avoid domain ownership/control disputes and other common contract disputes by respecting your TROANN domain title and by utilizing the TROANN ISP Engagement Agreement™. This engagement agreement allows you and the ISPs to:
  1. confirm in advance ownership of relevant domains and work by ISPs;
  2. memorialize all anticipated work deadlines and the corresponding fees due;
  3. have the option of using TROANN to hold any payments in escrow while work is being performed and until you have approved all work submitted; and
  4. utilize TROANN affiliated mediation services to quickly resolve any disputes that do arise so everyone can get back to work and avoid unnecessary litigation costs and delays.
- b. We make no warranties or representations regarding the services or work of the ISP; we merely provide this opportunity for you (and the ISPs) to protect yourself from the risks of using unknown and unproven services providers.

11.

**NO THIRD-PARTY BENEFICIARIES.** There shall be no third-party beneficiaries to this Agreement. All assignments are void unless consented to by us in writing.

12.

**LIMITATION OF LIABILITY.**

- a. You agree that we will not be liable for any loss that may occur due to:
  - i. any act or omission by you or your agent, whether authorized or unauthorized;
  - ii. any loss of recordation of any domain;
  - iii. access delays or access interruptions to our Services;
  - iv. the failure to deliver or erroneous delivery of information;
  - v. events outside our control;
  - vi. the processing of any domain title recordation;
  - vii. the processing of any update to the title of a domain;
  - viii. your failure to pay us any applicable fees;
  - ix. the actions, orders and judgments of administrative, judicial and other governmental bodies.
- b. We shall not be liable to you or anyone else for delays in or failures to perform our obligations under this Agreement that directly or indirectly result from events or causes beyond our reasonable

control including, but not limited to: hardware or software failures, other equipment failures, electrical power failures, labor disputes, strikes, riots, hurricanes, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or administrative bodies, or the non-performance of third parties.

- c. We shall not be liable for any direct, indirect, consequential, incidental, special or exemplary damages of any kind, including but not limited to lost: domains, profits, goodwill, use, data or other intangibles whether in contract, tort or negligence even if you we are aware of the possibility or probability of such damages.
- d. Our maximum possible liability to you shall not exceed the sum of amounts you have paid to us regarding the relevant domains.

13.

**INDEMNITY.** You agree to defend, indemnify and hold us and our the members, officers, employees, affiliates and agents harmless from and against any and all liabilities, losses, damages or costs, including all attorney fees, collection fees and court costs, related to any demand or litigation in any way related to:

- a. Your use of our Services;
- b. Any domain name recorded or sold by you;
- c. Any domain name dispute;
- d. Your breach of this Agreement;
- e. The cancellation of a domain title pursuant to this Agreement; or
- f. Infringement of any third-party rights arising from the recordation of a domain ownership title.

14.

**REPRESENTATIONS AND WARRANTIES.**

- a. You represent and warrant that:
  - i. all information you provide to us is accurate and you will update your information within ten (10) calendar days after it becomes inaccurate;
  - ii. you will not directly or indirectly infringe the legal rights of third parties or our Licensed Materials; and
  - iii. none of your agreements with us are entered into in bad faith and none of the information or documents you provide to us contain fraudulent or otherwise inaccurate information.
- b. We make no representations or warranties of any kind in connection with this Agreement.
- c. With regard to TROANN.com and our Services
  - i. We expressly disclaim all warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
  - ii. We do not warrant that our Services will meet your requirements be uninterrupted or error free.
  - iii. We do not make any warranties or representations regarding use, correctness, accuracy, or reliability.
- d. You agree that:
  - i. you use TROANN.com and our Services at your own risk;
  - ii. you use our Services on an "as-is" and "as-available" basis and at your own risk and discretion and risk;
  - iii. you alone are responsible for any damage to your hardware and software or loss of data in any way related to your use of TROANN.com or our Services;
  - iv. neither we nor our members, officers, employees or agents shall have any liability to you; and

- v. no advice or information, whether oral or written, obtained by you from us shall create any warranty not expressly stated in this Agreement.

15.

**BREACH, REVOCATION AND CANCELLATION.**

- a. Unless otherwise provided herein, any breach of this Agreement by you must be remedied within five (5) calendar days after we send email notice of the breach to you.
- b. Such notice shall be deemed delivered when sent to the e-mail address then on record with us or for your administrative contact in the WHOIS directory.
- c. If you fail to cure the breach within such period, we will have no further obligation to you and may terminate this Agreement, cancel your domain ownership title, remove your domain from our records and TROANN.com, and/or seek any other remedy available at law or in equity including but not limited to obtaining an injunction or specific performance.
- d. Except as otherwise specified in this Agreement, notice of our actions pursuant to this Agreement will usually be provided to you within fifteen (15) calendar days following the taking of such action.
- e. In the event that you breach any provision of this Agreement, you agree that we may terminate your use of our Services and System.
- f. In the event such a breach occurs by you, we may post on TROANN.com that you have violated our terms and conditions of service.
- g. In the event we determine that you have or continue to violate this Agreement:
  - i. We reserve the right to prosecute civil and/or criminal actions against you for any abusive behavior you engage in regarding your use of our Services and System; and
  - ii. You will also be subject to legal, administrative, and technical fees in a reasonable amount for damages incurred by us for any violations of this Agreement.

16.

**SEVERABILITY.** In the event that one or more provisions of this Agreement is deemed unenforceable or invalid, the unaffected provisions of this Agreement shall continue in effect, and the unenforceable or invalid provisions shall be amended or replaced by us with a provision that is valid and enforceable and which achieves, to the greatest extent possible, the objectives and intent of the original provisions.

17.

**GOVERNING LAW.** This Agreement shall be governed by the federal laws of the United States and the laws of the State of Louisiana, without regard to any conflict of laws provisions.

18.

**EXCLUSIVE VENUE.**

- a. Any actions relating to or arising out of this Agreement or any use of our Services that include us as a party shall be brought exclusively in the federal and state courts for Orleans Parish, Louisiana, U.S.A., and you consent to the exercise of personal jurisdiction over you by these courts in all such actions.
- b. You agree that you shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts of your domicile and Orleans Parish, Louisiana, U.S.A.

19.

**DISPUTE RELATED FEES AND COSTS.** If we reasonably decide to retain an attorney or collection agency to enforce this Agreement, the prevailing party will be entitled to an award of all reasonable fees and costs, regardless of whether a judgment is rendered or suit is ever filed.

**Start Recording Now!**

Last modified 16-Jul-2007

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