

## GandiMail Contract

Version 2020.1

This contract, hereinafter referred to as the "Agreement", is concluded between Gandi US, Inc., a Delaware corporation located on C/O Industrious, 345 California suite 700, San Francisco CA 94104 (hereinafter referred to as "Gandi", "We", "Our" or "Us") and, on the other hand, the Organization, wishing to activate the GandiMail Service associated with a domain name, acting in its own name as Owner Contact or in the name and on behalf of the Owner Contact (hereinafter referred to as the "Client", "You", or "Your").

### **Preamble**

Gandi offers to any customer who owns a valid domain name at Gandi to benefit from a mailbox service (hereinafter the "GandiMail Service" or "Service").

The GandiMail Service is an optional service that is incidental to each registered and active domain name at Gandi.

The provisions of the Agreement, which You accept upon activation of the GandiMail Service, specify the terms of use of said Service.

This version of the Agreement replaces the versions You have previously accepted.

### **Article 1. Purpose**

The rights and obligations of the Parties relating to GandiMail Service shall be governed by the provisions of this Agreement, the Domain Name Registration Agreement and the provisions of the General Terms and Conditions of Services.

The Agreement completes the General Terms and Conditions of Services and the Domain Name Registration Agreement. In the event of contradiction between this Agreement and the General Terms and Conditions of Service and the Domain Name Registration Agreement, the provisions of the Agreement shall prevail.

The terms used in this Agreement, beginning with a capital letter, have the meaning given to them in the General Terms and Conditions of Services and in the Domain Name Registration Agreement, unless specifically defined in this Agreement.

In the event of any conflict between this Agreement and the General Terms and Conditions of Service and the Domain Name Registration Agreement, the provisions of the Agreement shall prevail.

### **Article 2. Description of the Service**

The GandiMail Service consists of Included Mailboxes and Subscribed Mailboxes.

- "Included Mailboxes" means the two (2) mailboxes offered for any domain name registered and active at Gandi.

- "Subscribed Mailboxes" means the optional paid mailboxes that can be activated on demand.

The Standard offer: the Quota allocated for each mailbox is 3 GB.

The Premium offer: the Quota allocated for each mailbox is 50 GB.

The features and technical limitations of the GandiMail Service are accessible and detailed on Our Website <https://docs.gandi.net/en/gandimail/> so that you can read them before activating the GandiMail Service.

The technical limitations include, but are not limited to, Quota, attachment size and the number of e-mails that can be sent or received simultaneously that must not exceed reasonable usage, including sending newsletters. Any use or sending of e-mails beyond the technical limitations of the Service and any circumvention or attempt to circumvent these limitations is prohibited in particular to preserve the stability of the system, which You acknowledge to have accepted.

### **Article 3. Activation of the GandiMail Service - right of withdrawal**

The activation of the GandiMail Service corresponds to the creation of a mailbox associated with a valid domain name at Gandi. For Subscribed Mailboxes, it supposes the validation of the complete preliminary payment, according to the chosen method of payment applicable to the Service (hereinafter the "Activation").

The Client defined as a consumer within the meaning of the applicable law expressly accepts that the right of withdrawal shall not apply if the GandiMail Service is activated before the expiry of the withdrawal period.

### **Article 4. Creation and configuration of Mailboxes**

4.1. Your User Account allows You, independently, under Your full responsibility:

- to activate, modify and terminate the GandiMail Service attached to Your domain name;
- to create, delete, modify and / or purge all or part of the mailboxes;
- to grant mailbox configuration rights to any person whose User Account is attached to the Organization that owns the domain name;
- to modify the password(s) associated with all or part of the mailboxes created (including the passwords of GandiMail Users as defined below);
- to perform technical configuration of all or part of the mailboxes.

**The Mailboxes addresses necessarily correspond to the domain name they are associated with. They will necessarily respect the following format: "xxx@example.com".**

The choice of each address and Alias and their use is carried out under Your full and entire responsibility, in accordance with the General Terms and Conditions of Services, this Agreement, the rights of third parties, public order and good morals.

## **4.2. Technical configuration of Mailboxes**

Once Your mailbox has been created, it is your responsibility to perform any personal configuration or technical setup of the GandiMail Service in accordance with the characteristics and limitations of the Service.

A documentation is at your disposal to help you configuring Your mailboxes in full autonomy: <https://docs.gandi.net/en/gandimail/>. In case of difficulty, You can contact Our support team by filling in the form provided for this purpose on Our Website, at <https://help.gandi.net/en/contact>.

## **4.3. Access to the Service by GandiMail User**

When creating a mailbox, an identifier and a password must be entered (defined together as a "GandiMail User"). The GandiMail User, associated with one or more mailboxes, is used to authenticate the user of the mailbox to which it corresponds.

You may grant rights to use Your GandiMail Service to any person of your and create mailboxes for that purpose.

GandiMail Users shall respect the obligations of the Agreement and the technical limitations, under Your full and entire responsibility.

GandiMail Users do not have access to Your User Account.

You shall choose for each creation of a GandiMail User a password offering a sufficient level of security (consisting of at least 8 characters, numbers and symbols) and ensure the confidentiality of each password, strictly personal to each GandiMail User.

You communicate to each GandiMail User their username and password, respectively, so that they can use the Mailbox that you wish to make available to them.

It is specified that any use of Your access codes or GandiMail passwords by a GandiMail User that You have created, will be deemed made by You or with Your agreement until effective denunciation to Gandi.

Since Your mailbox is the accessory of Your domain name, if You have assigned rights to third parties on Your domain name, designated representatives may activate or deactivate the GandiMail Service on Your domain name, autonomously create, use and manage the mailboxes and related options, through their respective Access Codes, on Your behalf, under Your full and entire responsibility.

You guarantee the respect by your agents of Your contractual obligations in application of Our Contracts.

## **Article 5. Gandi's commitments**

### **5.1. Gandi undertakes to:**

- Allow You to use the GandiMail Service via Gandi Webmail access;
- Allow You to use the GandiMail Service via a messaging software chosen by the GandiMail User (for example, Outlook, Thunderbird...);
- Implement the necessary means to ensure the security of Our services by providing anti-virus and anti-spam integrated by default in the GandiMail Service (not downloadable or modifiable);
- Not to broadcast advertising, either for Gandi or for the benefit of a third party, on Gandi's Webmail interface;
- Allow You to monitor the Quota of disk space used so that You are able, if necessary, to avoid any unavailability of Your mailbox and to comply with the technical limitations of the GandiMail Service.

**5.2.** Gandi undertakes to use all means to best ensure the maintenance of the quality of its services in accordance with the respective technical characteristics and limitations of each option of the GandiMail Service.

In particular, Gandi undertakes to intervene promptly in the event of a technical incident to restore the Service and, as far as possible, within four (4) hours following Gandi's knowledge of the incident.

## **Article 6. Your specific obligations under the GandiMail Service**

### **6.1. Respect of technical limitations**

You agree to choose a Service corresponding to Your needs or those of Your GandiMail Users, to respect and enforce the specifications and technical limitations of Our Service. In addition to the notifications sent to You to alert you as to the use of Your mailbox allocated Quota, You agree to monitor Your mailbox used Quota from Your User Account and to take any measures to avoid a service breakdown related to exceeding these technical limitations, by freeing up space on Your mailboxes.

### **6.2. Consistent and lawful use**

You undertake to ensure that any direct or indirect use of Your mailboxes pursues strictly lawful purposes and complies with all legal and regulatory provisions and all the provisions of Our Contracts.

You agree to promptly intervene as soon as You are informed of any illegal or prejudicial use of Your mailbox and to facilitate the identification of any person who has contributed to such use and the settlement of any dispute related to the use of Your mailbox.

### **6.3. Security and backup obligation**

You acknowledge and agree that it is your responsibility to take all appropriate measures to ensure the security of the mailboxes associated with Your domain name and the personal data and passwords of Your GandiMail Users and/or any third party to whom you have granted. rights to your domain name.

In case of notification sent by Our services You agree to promptly change the password(s) of Your mailboxes and to confirm Us Your actions by email as soon as possible.

It is your responsibility to take any useful action in case of loss or theft of password reported by GandiMail Users, according to the terms You have agreed with them, without Gandi intervening in any way in this process.

You must regularly back up the Content of Your mailboxes on a carrier of Your choice, Gandi not providing this service as part of the GandiMail Service. It is Your responsibility to backup Your mailboxes prior to the termination of the Agreement, being here specified that in the event of termination of the Agreement all contents of Your mailboxes are totally and permanently destroyed, without restoration possible.

#### **6.4. Obligation vis-à-vis GandiMail Users**

You agree to

- inform any GandiMail User and/or any third party to whom You have granted rights to Your domain name, about any specifications and technical limitations specific to the GandiMail Service, and to ensure that they comply with them at all times;
- take all necessary steps to ensure that their use of Your Mailbox is in accordance with Your commitments under Our Contracts and the laws and regulations in force.

Any use of the GandiMail Service by GandiMail Users is deemed made with Your agreement, under Your full responsibility.

#### **Article 7. Liability**

**7.1.** You are responsible for any direct or indirect use made of Your Mailbox by You or by any third party to whom You have granted a right of use and in particular:

- any consequences and any dispute relating to the choice and the use of Your mailbox, in particular the choice of the mailboxes address (names, Aliases, Redirections);
- any electronic communication via Your mailbox, and any Content transiting and/or stored on any of the mailboxes associated with Your domain name;
- any consequence related to the non-compliant use with Your mailbox technical characteristics and limitations.

#### **7.2. Exclusions and limitation of Gandi's liability**

In addition to the exclusions and limitations of liability set out in the General Terms and Conditions of Services, as part of the GandMail Service, Gandi cannot be held liable for any material or immaterial damage, direct or indirect (such as loss of data, operating loss, loss of profit) resulting from:

- negligence, theft or the communication to a third party of your Access Codes or passwords associated with the mailboxes;
- difficulties in accessing your mailboxes either directly or via the Gandi Webmail, and/or delays in downloading, sending and receiving e-mails and/or attachments, due to network saturation, and/or because of the technical characteristics and limitations of the Internet or Your access to the Internet;
- the suspension of all or part of the mailboxes, or any deterioration of the mailboxes contents caused by You or a GandiMail User or Contact Domain or any third party to whom You would have granted rights on Your domain name;
- the interruption, in whole or in part, of the Service in the event of absolute necessity (i) to carry out technical intervention, in particular in the event of malfunction, risks of breach of the security of the Service, (ii) to improve the Service functioning, or (iii) to carry out any maintenance, assistance or support operation;
- the interruption of the Service, in the event that the cause of the interruption of the Service is external to Us, in particular when the Service is the subject of an external attack likely to disrupt the proper functioning of Gandi's systems or infrastructures or in the event of an express request from a competent authority or an authorized third party within the meaning of the texts in force;
- misappropriation, total or partial destruction of the transmitted or stored Content, especially since these Content circulate via the Internet, and especially if this destruction is the result of fault, carelessness and/or any negligence that is attributable directly or indirectly to You or to any of Your GandiMail Users;
- any contamination, by virus or other computer nuisance whatever the technology used, of Your Content and/or software, or a direct or indirect intrusion of third parties on Your Mailboxes (attack, piracy, etc.), despite Our best efforts to ensure the safety of Our services;
- receiving unsolicited or unwanted emails from your inboxes, despite Gandi's efforts in this regard, and/or any automatic ranking performed as a result of the antispam software and/or the temporary rejection of any email due to an inscription on "gray list" (or "greylist") or any other antispam technique;
- the non-receipt and/or the partial and/or late receipt, by the recipient, of an email sent from one of your mailboxes in violation of the restrictions and technical limitations of the GandiMail Service;
- any blocking of the sending of emails resulting from security filters set up and available on Our Website;
- a breach of Your obligation to regularly save the Content of each mailbox on a medium of Your choice;
- the deactivation or deletion of the GandiMail Service resulting from (i) the Expiration or deletion of the domain name with which the Service is associated, for any reason whatsoever, or (ii) the non-renewal of the mailbox;
- the immediate suspension or termination of the GandiMail Service without notice, including all or part of the mailboxes associated with Your domain name and/or Your User Account and, consequently, of any option or service associated with Your User Account (i) pursuant to the rules to which We are subject as a Domain Registrar and as a host, or (iii) at the request of a competent authority (and in particular pursuant to a judicial or extrajudicial decision);
- Your failure to take the necessary measures to anticipate the modification or termination, temporary or permanent, of the provision of the GandiMail Service, within the time period notified to You by Gandi in accordance with Article 15 hereof.

**In the event that Gandi's liability is proven, You will not be able to claim compensation from Gandi exceeding the amounts already paid to Gandi for the Service actually unavailable for the period in question.**

#### **Article 8. Guarantee**

You guarantee that You, and if applicable, any GandiMail User and/or any third party to whom You have granted rights to Your domain name, have, during the term of the Contract, all the rights, authorizations, licenses, or any other element necessary for the choice of any e-mail address or Aliases, the creation of any e-mail boxes, the use of any Content, file and/or element of any kind transmitted, issued, transferred and/or stored via Your e-mail box, and more generally for the use made of Your e-mail box.

You agree to

- guarantee Gandi against any claim or legal action based on (i) the use of the GandiMail Service activated on Your domain name, including if the use or Content in dispute is the work of GandiMail Domain Contacts and/or Users and/or any third party to whom You have granted rights on Your domain name, (ii) Your total or partial termination of the GandiMail Service.
- pay You the legal costs and attorney's fees incurred by Gandi in connection with such an action, as well as the amount of the settlement payments and/or damages to which Gandi may be liable.

The provisions of this article shall survive the expiration or termination of the Agreement.

#### **Article 9. Rates - Payment - Invoicing**

As the Gandi Mail Service is ancillary to a domain name, the cost of Subscribed Mailboxes is calculated until the Expiration date of your domain name, according to the rates in effect at the time of Your order.

In the event of a downward modification of the Service (i.e., to replace an option whose price is lower than the one initially subscribed), during the term of the Contract, the corresponding amounts, calculated pro rata temporis, to the nearest day, will be deducted from the amounts due to Gandi, and reimbursed to the Owner Contact's prepaid account.

#### **Article 10. Duration - Renewal**

##### **10.1. Duration**

This Agreement comes into force as of the Activation of the GandiMail Service and is concluded for the entire duration of the validity of the domain name of which the GandiMail Service is an accessory.

Except in the event of early termination of the Service by You or by Gandi, the term of the GandiMail Service is fixed according to the circumstances:

- at the end of the late renewal period of the domain name with which the Service is associated,
- on the date of early deletion of the domain name for any reason whatsoever,
- on the date of the outgoing transfer of Your domain name.

The change of ownership of the domain name to which the GandiMail Service is attached does not automatically terminate the Service. It will be Your responsibility, if necessary and prior to the transfer, to empty Your mailbox of any Content and data to which You do not wish to give access to the new owner of the domain name, and to save this data on a medium of Your choice.

##### **10.2. Service Renewal**

The renewal of the GandiMail Service requires that the domain name to which the GandiMail Service is attached is valid at Gandi. It is Your responsibility to take all appropriate measures to avoid a disruption of the service, in particular by renewing Your domain name and Your mailboxes under the required conditions and deadlines and, in any event, to carry out regular backups.

Mailboxes associated with a domain name will be automatically renewed and paid mailboxes will be invoiced inseparably when the domain name is renewed. If You decide not to renew Your Paid Mailboxes when renewing said domain name, You must first delete Your Paid Mailboxes, it being specified that their contents and data will also be destroyed without the possibility of restoring them.

#### **Article 11. Suspension of the Service**

**11.1.** Any use of the GandiMail Service, which does not comply with the applicable technical limitations and specifications, which disrupts or could interfere with Our systems or the operation of the Service, will be grounds for suspending the GandiMail Service.

**11.2.** As soon as You exceed the technical limitation of Your Mailbox, the reception of the e-mails will be suspended until regularization, by the suppression of stored messages or the migration towards a Subscribed Mailbox.

During the period of suspension of the Service, the mailboxes will be unreachable and persons who attempt to send you e-mails will receive an automatic error message (according to the standard email protocol), without any further attempt to send the email.

The messages stored in the Mailboxes until this suspension are not deleted, but no new message can be validly sent to you on the mailboxes associated with your domain name.

**11.3.** As the GandiMail Service is an accessory to a domain name, the Expiration of the domain name with which the Service is associated will automatically result in the suspension of said Service. Only the mailboxes attached to the Service will be available for consultation.

By express agreement, and in all the cases mentioned above:

- Gandi cannot be held liable for the suspension of Your Mailboxes;
- You will not be entitled to any compensation or refund as a result of the suspension of Your Mailboxes, nor will anyone to whom you have granted rights of use;

It is Your responsibility to expressly inform any GandiMail User of this fact and to assume any consequences and liability towards them, without Gandi being able to be concerned about it.

It is hereby specified that notwithstanding the suspension of the Service, the aforementioned cases may also result in the termination of the Agreement in accordance with the terms and conditions agreed in Articles 13.1 and 13.2 hereof.

## **Article 12. Your right to early termination**

At any time during the validity period of Your domain name at Gandi, and before its Expiration, You may terminate the GandiMail Service, in whole or in part (deletion of one or more mailboxes for example) without deleting the domain name to which it is attached.

In the event of early termination of a Subscribed Mailbox, the corresponding amounts, calculated pro rata temporis, to the nearest day, will be deducted from the amounts due to Gandi, and refunded to the Owner Contact's prepaid account.

## **Article 13. Termination by Gandi**

**13.1.** In case of contractual breach of your obligations, Gandi may put you in default to remedy. In the event that You have not fully remedied the breach within the time limit set in the notice, Gandi may automatically deactivate the Service or terminate this Agreement and the associated Services without further notice and without You being entitled to claim any compensation or refund, regardless of the period of the Agreement when this termination occurs.

**13.2.** In addition to the material breaches defined in Our Contracts that may result in the termination of a Service, the following shall be considered as serious breaches of this Agreement:

- the use of the GandiMail Service (including the distribution, transmission, sending or storage of any message and/or attachments, in any format whatsoever) to engage in or participate, directly or indirectly, in a deviant, abusive, illegal or harmful practice;
- the presence or accessibility of manifestly illegal Content on Your mailbox, including by one of Your GandiMail Users and/or any third party to whom You have granted rights;
- any violation of the technical conditions and limitations of the GandiMail Service.

In accordance with Our Contracts, We remind You that:

- any material breach of Your obligations is likely to lead to the deactivation or even deletion of the GandiMail Service, and consequently of the mailboxes associated with it, as well as that of Your User Account for the associated services, without formality and without notice;
- Gandi cannot be held responsible for the direct or indirect consequences related to the deactivation or deletion of the GandiMail Service.

**You acknowledge and agree that Gandi cannot be held liable as a result of any interventions made under this Article 13, and that You will not be entitled to any compensation or refund, regardless of the period to which Gandi terminates the Agreement.**

## **Article 14 Consequence of the termination of the Agreement**

**14.1.** The end of the GandiMail Service automatically and automatically results in the termination of the reception and sending of messages from all mailboxes.

**14.2.** In the event that the termination of the GandiMail Service results from the Expiration of the domain name to which the Service is attached, You have a period of seven (7) calendar days from the Expiration of the domain name to recover the Content from your mailboxes.

In the event that the termination of the GandiMail Service results from Your decision to terminate the Service, You have a period of seven (7) calendar days from the termination of the Service to recover the Content from your mailboxes.

At the end of the above-mentioned deadlines, Gandi will proceed to the final destruction of the mailboxes and their Contents, without any possibility of recovery.

It is hereby specified that in the event of termination of the Contract for breach of Your contractual obligations, Gandi will immediately proceed to the permanent destruction of the mailboxes and their Content, without the possibility of recovery.

## **Article 15 Changes, termination of the Gandi Mail Service**

In accordance with Our General Conditions of Services, You acknowledge and agree that We reserve the right to change, modify or discontinue providing at any time, temporarily or permanently, all or part of the Gandi Mail Service.

You will be informed, if necessary, by means of an email notification or a warning on Our Website as soon as possible, except in the case of an emergency jeopardizing the stability and / or the security of Our systems and / or Our services, thus not allowing to respect time.

## **Article 16. Applicable law - Jurisdiction clause**

**16.1.** The Agreement is governed and construed in accordance with the substantive laws of the State of California, United States of America without regard to conflicts of law principles.

**16.2.** Before any legal action, the parties shall in good faith seek to settle amicably any dispute regarding the validity, the interpretation the execution or the non-performance, the suspension, the cancellation or the termination of the Agreement. The Parties shall carry out all investigations that may enable them to find a solution to their disagreement.

**16.3.** In the absence of amicable resolution, any dispute arising out of this Agreement shall be brought before the federal and state courts in the State of California.

- End of the GandiMail Agreement -