

Nominet UK: Standard Terms and Conditions: Registrars

Introduction

This introduction section does not form part of the contract below, but is designed to help users.

These terms are the successors to the tag-holder's agreement and reflect the changing role of registrars (including their name).

There are various parts to this contract.

- *These terms and conditions set out the central legal obligations.*
- *The Definition And Interpretation Terms set out some standard wording used here and in other contracts.*
- *The Payment And Credit Terms which will be of particular use to your accounts staff.*
- *The Good Practice Terms which will be of particular use to your customer service and marketing teams as they set out some rules on how .uk domains should be sold (and not mis-sold).*

The System Instructions and Acceptable Use Policy are not part of the contract, but set policies that you must comply with. They will be of particular interest to your technical staff as they set limits on the use of the system and give instructions on how to use it.

TERMS AND CONDITIONS

1. Interpretation

1.1. In this Contract words written with capital letters and some other words such as “us”, “we” and “you” have special meanings; most of these are set out in “The Definition And Interpretation Terms” (which uses words uncapitalised in bold, but the meaning is the same as when used with capitals here), which are standard terms that we use in several of our contracts and which are available on our website.

1.2. The other terms which have special meanings are given below:

Chief Executive our chief executive officer, or (in their absence) another senior member of staff they select as their deputy for the purpose;

Contract (i) these terms and conditions (ii) The Definition And Interpretation Terms (see clause 1.1) (iii) The Payment And Credit Terms and (iv) the Good Practice Terms;

Good Practice Terms are the terms which bring in the requirements and obligations helpful to the process of raising industry standards which are available from our website;

System Instructions our instructions for Registrars on the proper use of our Systems, the way they work, the type, format, quality, layout and structure of data that they accept or should have and related things such as the use of any issued identifiers (for example, tags) and access controls, which we publish on our website from time to time;

Systems our automated registry systems for Registrars, such as ‘the automaton’ (but not including any service or system for which we require users to enter into a separate contract);

Transaction any communication between you and us (or the Registrant and us) entered into with the intention of (i) providing information to us (ii) obtaining some sort of response from us or (iii) entering into a contract (either for you or Your Registrant) with us;

Registrant the person who is recorded on the Register as being the one that the registration is ‘for’, and for these purposes also means applicants who have not yet entered into a contract with us but want to do so.

Your Registrant means the Registrant that you are an agent for (which can be you).

2. Recognition and promises as to authority to act

- 2.1. On the terms of this Contract, we recognise you as being a Registrar and therefore able to act as an agent for Your Registrants (which can include you). This Contract contains some limits on what you can do for Your Registrant.
- 2.2. When the Registrant you act for is you the extra provisions of Schedule 1 apply.
- 2.3. We may require Your Registrant to Transact with us only via you, or to attempt to deal with you first, or to receive notices via you. Despite that, we remain allowed to deal directly with Your Registrant (for example, transfers) and we may set out situations where you have no power to act for Your Registrant or where the power you have is limited.
- 2.4. In relation to Your Registrant we will recognise you as having authority to act for that Registrant if:
 - 2.4.1. (for an existing registration) the Register records you as being the appointed Registrar;
 - 2.4.2. the Transaction you are requesting is one which Registrars are allowed to request for their Registrants (see clause 2.3);and we have not been told by you or the Registrant that you cannot act for them (we may set up procedures which set out how and when we need to be told).
- 2.5. In relation to clause 2.4.1 note that if you have more than one identifier with our Systems (for example, more than one 'tag'), our System Instructions may require that you use a specific identifier for a specific task (for example, if domain name 'a' is linked to tag 'X' you may be required to use tag 'X' to make any alterations, even if you also have tag 'Y').
- 2.6. We may allow some Registrars who enter into further contracts with us or who provide other undertakings or security to act in a greater range of Transactions than is permitted to Registrars generally, but if we do this, we will do so on a neutral and open basis, so that any Registrar who meets the criteria and enters into the extra obligations can have these benefits.
- 2.7. You promise us that in respect of every Transaction request you make:
 - 2.7.1. you have the authority of the Registrant to make that request and (if applicable) enough authority from the registrant to fully commit them to all the terms of the contract or obligations connected with that request;
 - 2.7.2. the request for the Transaction is not prohibited by clause 3.2; and
 - 2.7.3. you have complied with the Good Practice Terms in relation to the transaction.
- 2.8. If you break any of the promises in clause 2.7 and we or our staff (including contractors or agents) or directors later suffer loss caused in whole or in part upon our reliance on those promises, you will pay us back for those losses, including any damage to our reputation, and the reasonable costs of any investigation, litigation or settlement. If you are only partly responsible, you would only have to pay your fair share.

3. Submitting Transactions

- 3.1. You must comply with the System Instructions and Acceptable Use Policy in force at any particular time (they will change over time as our systems develop and you must regularly check which are the most recent versions and comply with them).
- 3.2. You should not request a Transaction if you know, or have reason to believe that any of the following apply or probably apply:
 - 3.2.1. some or all of the information provided by or through you to us is false, deceptive, misleading, inaccurate or incomplete;
 - 3.2.2. some of all of the Registrant identity information does not meet the requirements of the System Instructions;
 - 3.2.3. the Registrant you identify to us in the Transaction has not instructed or requested you to act on its behalf or does not exist;

- 3.2.4. the System Instructions prohibit making that Transaction on behalf of the Registrant;
 - 3.2.5. you no longer have authority to Transact with us on behalf of the Registrant; or
 - 3.2.6. the service requested is one for which we require Registrants to enter into terms and conditions with us (e.g. the registration or renewal of a domain name) and you have not received positive confirmation that they are aware of, and accept in full, the current terms and conditions we offer for that service or Transaction at the date of the request for it.
- 3.3. Unless clauses 2.3 (limits on your authority) or 3.2 (transactions you must not request) apply or the System Instructions require otherwise: you must request the relevant Transaction (as set out in the System Instructions) promptly if:
- 3.3.1. the Good Practice Terms require it;
 - 3.3.2. you are informed by or on behalf of Your Registrant of a change in their name or contact information, whether or not they request you to update the Register;
 - 3.3.3. you are aware that there is duplicate information on the Register in relation to Your Registrant that can be amalgamated or improved; or
 - 3.3.4. we inform you that the Transaction is required (for example, we tell you that the registrant information you provided is formatted wrongly and ask for it to be corrected).

4. Recording information and data protection

- 4.1. You will not do anything which could put us in breach of the laws on data protection (in particular the Data Protection Act 1998) and the protection of personal information, or allow us to be put in this position because of your inaction.
- 4.2. We will hold records of your identity, and any Contacts relevant to the service being provided. You will ensure that every Contact consents to us holding the information and using it as needed (or reasonably helpful) in carrying out this Contract. It is your duty to keep us Notified of your Contacts and your current name and contact details at all times.
- 4.3. If you are issued with or have an identifier that is supposed to be secret for use with us or our systems you must keep it secret and safe because we shall be allowed to assume that any action done or requested using that identifier or a product of it was done or requested by you or by someone authorised to act for you and we shall have, and be entitled to enforce, procedures as part of the System Instructions for dealing with lost, revoked or compromised identifiers.

5. 'Resellers' and dealing with Your Registrant indirectly

- 5.1. You are not prohibited from dealing with Your Registrant indirectly (for example, through 'resellers') but:
 - 5.1.1. you may not transfer, subcontract or delegate any of your rights or obligations under this Contract;
 - 5.1.2. as between you and us, you are responsible for Your Registrant and the information, service, marketing and advice they are given, whether or not you actually deal with them directly (in other words, 'the buck stops with you'); and
 - 5.1.3. we are not required to deal with, or give any special status to, any of your resellers.
- 5.2. It is your responsibility to ensure that information given to your resellers which is relevant to the Register entry filters back to you and that the Register is updated accordingly. Any obligation in this Contract stated to happen when you become aware of a change in Your Registrant's information or situation applies to a situation where your reseller has become aware of this information.
- 5.3. On request you will confirm to us whether a person or organisation is your reseller and provide us with full contact details for them.

6. Payment

- 6.1. We do not currently charge for entering into this Contract.

- 6.2. We do charge for some of the services we provide to Registrants and Registrars (e.g. the registration of a domain name). We will charge for the provision of services in line with our Fees Policy. The current fees are stated on our fees schedule on our website.
- 6.3. We will specify from time to time cases in which you can undertake to pay fees on behalf of Your Registrants and these fees will be payable by you (out of your credit account, if applicable) even if Your Registrant does not pay you.
- 6.4. The Payment And Credit Terms are incorporated in this Contract as if set out in full (they are available on our website).

7. Acceptable Use and Enforcement

- 7.1. We may require you to confirm to us (and provide reasonable evidence) how, and whether, you comply with the requirements of this Contract (including the Good Practice Terms) and the requirements of our use policies (including the System Instructions and Acceptable Use Policy) within a reasonable timescale set by us.
- 7.2. We aim to provide our services in a neutral and impartial way, and we have obligations to protect the information on the Register. Accordingly we will have, and update from time to time, an Acceptable Use Policy which may include rules on restricting your access to our Systems if you do not comply with it. The Acceptable Use Policy will be written and enforced in line with our acceptable use principles, which are available on our website.
- 7.3. The Acceptable Use Policy may require that you declare in advance of any investigation any connections you have with another Registrar or party that has a contract with us and you must do this.

8. Starting and ending the Contract

- 8.1. This Contract begins on the date that either: (a) we Notify you that we have accepted your application; or (b) if you are an existing registrar, after we provide you with a copy of these terms and conditions, and continues indefinitely unless terminated, or suspended, in accordance with the Contract.
- 8.2. Either party may terminate the Contract by Notifying the other party not less than 30 days in advance.
- 8.3. If you do not comply with this contract we may put it into a Special Status. In doing so, and in deciding which form of Special Status to put the contract into, we will act reasonably and consider (in addition to any relevant fact):
 - 8.3.1. the reason for taking the action and whether the Special Status is relevant to it;
 - 8.3.2. steps you have taken to resolve the problem and stop it happening again;
 - 8.3.3. your past conduct;
 - 8.3.4. the urgency of the problem; and
 - 8.3.5. the Acceptable Use Policy.
- 8.4. (Without affecting the operation of clause 8.3) either party may terminate or suspend this Contract by Notifying the other if the other:
 - 8.4.1. breaks any term of the Contract and (if it is possible to put right) does not put it right, and explain in writing the steps that have been taken to put it right, within 14 days after the other Notifying them that they should do so;
 - 8.4.2. has been Notified of three or more breaches before under 8.4.1 (whether or not they were put right) and is then Notified of a further breaking of the terms (whether or not it can be put right); or
 - 8.4.3. stops (or threatens to stop) trading, or dies or enters any process (such as administration or liquidation) which may lead to that party not existing any more (except for the purpose of a genuine scheme of solvent amalgamation or reconstruction) or being bankrupt or insolvent.
- 8.5. If a party dies (for individuals) or otherwise stops existing (for businesses, companies and so on) the duty to Notify under clause 8.3 shall not apply.

- 8.6. Any termination, suspension or ending of the contract will not affect
- 8.6.1. any rights of action that either party has built up,
 - 8.6.2. the coming into force or continuation in force of any provision of this Contract which is expressly, or by implication, intended to come into or continue in force on or after the contract ends (including, in particular, clauses 1, 2.8, 8.6, 8.7, 8.8, 8.9, 9 or 11, The Definition And Interpretation Terms or the Credit And Payment Terms); or
 - 8.6.3. the application to or validity of any wording or term which is used both in this contract and another one (for example, The Definition And Interpretation Terms are used in several of our contracts and will not be invalid just because this one ends).
- 8.7. If we suspend or end this contract under clauses 8.3 or 8.4 then you can appeal that decision to our Chief Executive by Notifying the Chief Executive in writing of your complaint. Within 3 working days of receiving the complaint the Chief Executive will confirm receipt and will Notify you of their decision within 10 working days of issuing confirmation of receipt of the complaint.
- 8.8. While the Chief Executive is considering the complaint made under clause 8.7 and for a reasonable period of time after Notifying you of their decision (which period of time the Chief Executive may in their absolute discretion decide) the Chief Executive may order that you and we continue as if this contract was not suspended or ended. The Chief Executive may impose particular restrictions on the Transactions you may request during this period.
- 8.9. No action taken by us or the Chief Executive under clause 8.8 will affect our legal rights, act as a block to any right or claim or act as an admission of anything, but while the contract continues to operate in accordance with clause 8.8, both sides are bound by the contract for that period (even if the decision is that the contract is ended and should be ended).

9. Exclusions of Liability

- 9.1. Nothing in this Contract shall be taken to attempt to exclude or limit liability for death or personal injury caused by negligence, or for fraudulent misrepresentation.
- 9.2. Subject to clause 9.1;
- 9.2.1. all representations, and all warranties, whether express or implied by statute, law or otherwise, relating to the operation of our Systems and the data in them are excluded to the maximum extent permissible by law; and
 - 9.2.2. we will not have any liability whatsoever to you or any End User to whom you relay results as a result of any failure or inaccuracy, delay or error in the operation of our Systems or the information from them.
- 9.3. Subject to clause 9.1, we will not be liable (on any legal basis, including the principles of law called 'tort') for any loss to you arising out of this Contract or your use of our Systems which could be described as;
- 9.3.1. loss of revenue;
 - 9.3.2. loss of profits;
 - 9.3.3. loss of goodwill;
 - 9.3.4. loss of data;
 - 9.3.5. indirect losses; or
 - 9.3.6. consequential loss suffered by you.

10. Intellectual Property and Relationship of the Parties

- 10.1. Nothing in this Contract, or the actions we or you take because of it creates any sort of partnership, joint venture or other association between us. Neither party shall have any authority to bind the other in any way.

- 10.2. The Register and Whois, and the data contained within them, belong to us and we can change them at any time.
- 10.3. As a confirmatory assignment you assign to us any Intellectual Property Rights you have in the Register.
- 10.4. You must not use any of our Intellectual Property Rights or information they protect without our written permission. We do provide various materials which may help you in marketing or explaining the .uk system, and information about those services is on our website.

11. General

- 11.1. If you or we cannot do what we must do under this contract for reasons totally out of our control (like wars, terrorism, natural disasters or major accidents) then the person involved is excused from having to do anything that it is unable to do until the cause is fixed (even if they should have had procedures in place to minimise disruption and did not).
- 11.2. We may make reasonable changes to the terms of the Contract from time to time after after consultation with our members. We will Notify you of any such changes at least 30 days before they are due to take effect.
- 11.3. This Contract is the entire contract between you and us in relation to the topics that it covers and replaces all earlier agreements, arrangements and understandings between you and us. However, nothing in this Contract changes or ends any contract in relation to the Whois1, Prss, DAC or other service provided by us to you.
- 11.4. Nothing in this Contract is intended to grant rights to anyone other than you and us whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise. This does not stop third parties (for example, registrants) from asking us to enforce this contract, but it means that they cannot do it themselves.
- 11.5. The contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts, save in matters of enforcement of the judgment of an English Court, where the parties submit to the non-exclusive jurisdiction of the English Court.
- 11.6. If any clause of this Contract is held to be invalid or unenforceable in whole or in part, the invalid or unenforceable wording shall be treated as if it did not exist.
- 11.7. If different parts of this contract appear to say different things then the part of this contract named first in this list has priority over all the parts below it and so on: (i) these terms and conditions, (ii) the Payment And Credit Terms, (iii) The Definition And Interpretation Terms and (iv) the Good Practice Terms.

Schedule 1 – Acting for yourself

1. When acting for yourself you are subject to both the contract for the service involved and this Contract. Where there is a conflict between the provisions, the contract for the specific service will apply.
2. You agree that if we have reason to believe that you have broken our Acceptable Use Policy and through this have gained some advantage in making a registration, we may suspend or cancel that registration.