

Proposed amended terms and conditions

For consultation 4 May 2004 – 4 August 2004

WARNING: by registering a domain name ending in .uk, (with some very limited exceptions) you enter into a contract of registration with us (Nominet UK) on the following terms, which includes terms limiting our liability and relating to our use of your personal information. This contract is just for the domain name and separate to any arrangement you may have with any other organisation for providing internet services. For an explanation of the meaning of the endings of .uk names, see the rules on our website www.nominet.org.uk

We are a not-for-profit company limited by guarantee, generally performing these services on a cost recovery basis, and we cannot investigate what rights you have to register or use the domain name. Therefore we think it is reasonable for us to limit our liability in certain respects so that we may continue to offer our services in the interest of the whole internet community.

This contract includes the **DRS policy**, the **DRS procedure** and the **rules**. You can get copies of these from our website or from us. Other policies referred to do not form part of this contract and may change at any time.

Definitions

1. Some words marked in **bold** will have specific meanings in this contract, i.e.:

agent – someone who may act on **your** behalf to deal with **us**, which will be shown in the **WHOIS**. Only certain people qualify, and they are known as ‘tag-holders’. See **our** website for a list.

cancel – cancelling this contract and/or **your domain name** are the same thing. The contract ends. The **domain name** will be deleted, will no longer work as part of a website or email, and will be released for re-registration under **our rules**.

consumer – **you** are a consumer if **you** are an individual human not registering, using or planning to use the **domain name** as part of a business, trade or profession.

domain name – an internet domain name ending in **.uk** and under one of the second level domains (such as **.co.uk**, **.me.uk** or **.org.uk**) operated by **us**.

DRS policy, DRS procedure – the policy & procedure of **our** Dispute Resolution Service.

EEA – the European Economic Area, which includes most European countries.

name servers – computers that provide specific routing information in the domain name system.

notify means serving notice to **you, your agent**, or **us** (as appropriate), see clause 30.

personal data – any information about an identifiable living individual e.g. **your** name, address or telephone number.

PRSS – a service provided under strict contract to some people based in the **EEA** who deal with trade marks on a professional basis (e.g. lawyers) which allows them to search **WHOIS** data differently, but not to use it for marketing purposes.

register – **our** record of domain names and details about **you, your agent** (if **you** have one) and other information **we** need.

registry – the single organisation which holds all records for domain names with the same ending (**we** run **.uk**) and operates the **name servers** for that domain.

rules – **our** rules which detail which domain names can be registered and which cannot.

special status – various special states **your domain name** may be in, such as suspension and/or ‘detagged’. See **our** website for details. This will normally mean that **you** will remain listed as the registrant of the **domain name** but that the **domain name** itself will not work, and may mean that other actions with the **domain name** are blocked.

we, us, our – Nominet UK (Company number 3203859). See clause 29.

WHOIS – a system which provides public information about **domain names**. See **our** website for details and to use the **WHOIS**.

you, your – the person who is entering into this contract with **us** and who will be the registrant of the **domain name**.

What we will do

2. **We** are the **registry** for the **.uk** domain and **we** will carry out the general duties that **we** believe (after wide consultation) a modern, neutral and not-for-profit **.uk registry** should.

This includes (amongst other things):

- 2.1. processing **your** application to register or renew a **domain name** in the light of our **rules**, and **your** right (see clause 16) to renew;
- 2.2. maintaining overall ownership control and responsibility for the **register**;
- 2.3. if **we** are listed as **your agent** or if it would be inappropriate for **you** to ask **your agent** to act (see clause 4) **we** will make changes to the **register** at **your** request and/or provide information about the **.uk** domain name system;
- 2.4. if the **domain name** is not in a **special status**, loading details about the **domain name** into **our name servers**; and
- 2.5. **we** will have published procedures for renewal of the **domain name** which give **you** the opportunity to renew it before it is removed from the **register** and for transfer or surrender of the **domain name** or recording a change of agent.

What you must do

3. **You** have various obligations set out generally in this contract. In addition, **you** must:
- 3.1. give and keep us **notified** of **your** details (see clause 6.2) including telephone, fax and email but particularly **your** name (which must be good for contact and identification and not deceptive) and a full and correct address at which **you** can be contacted by post without delay. This duty includes responding quickly and correctly to any request from **us** for confirmation or correction of the information on the **register**;
 - 3.2. **notify us** at once about any court proceedings which involve the **domain name**;
 - 3.3. **notify us** of details of **name servers** for the **domain name** which **you** are allowed to use and which respond promptly and correctly about the **domain name** at all reasonable times; and
 - 3.4. **you** must make the promises at clause 6 and agree (if not a **consumer**) to pay if they are not true.

Agents, representatives and security

4. For the security of **your domain name** **we** have procedures to try to ensure that **our** instructions come from **you** or someone allowed to act on **your** behalf. Specifically:
- 4.1. **we** do not have to take any action, or make any change to the **register**, until **we** are satisfied that **we** have received a valid request from the right person;
 - 4.2. **you** will help **us** with **our** security checks, provide any identification or documentary evidence **we** reasonably ask for, and allow **us** to keep copies of those documents for **our** files;
 - 4.3. if **you** are issued with or have an identifier (e.g. a password, personal information or code) 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 for dealing with lost, revoked or compromised identifiers;
 - 4.4. **your agent** acts on **your** behalf in registering and maintaining the registration of the **domain name**, so that, unless the matter relates to something covered by clause 4.6

below, any communication to or from **your agent** is taken as being to or from **you**. **You** should always approach **your agent** in the first instance with any request or query about **your domain name** or changes to it, as **we** will only act where **we** are satisfied that **your agent** cannot or will not; **you** should be aware that **your agent** may be entitled to discounts on **our** fees so it may be cheaper for **you** to go through them;

- 4.5. **we** may also specify other types of authorised representative (e.g. **your** lawyer) whose instructions **we** will accept in certain cases; and
- 4.6. **we** will publish on **our** website from time to time certain activities which **your agent** is not permitted to do on **your** behalf and/or where **we** do wish to deal with **you** directly.

Fees and payment

5. **We** are a not-for-profit organisation and accordingly **our** fees (see **our** website) reflect the cost of the work **we** do. In order to make sure that each registrant pays their fair share of the costs of running the central **registry** function:
 - 5.1. **we** may make a charge for any of the services provided by **us** under this contract, provided that **we** do not make any fee retrospective, and (where only **we** can provide the service), **we** believe the fee to be set at a not-for-profit cost-recovery level only;
 - 5.2. **we** do not have to start any process including any change to the **register** until **we** (not just **your agent**) have received (within any time limit) any fee for that action and any other fees outstanding in respect of that **domain name** – it is **your** duty to ensure that **we** are paid and that sufficient information accompanies the payment to ensure that **we** know which **domain name** it relates to;
 - 5.3. **we** may cancel the **domain name** without further notice if any debt relating to the **domain name** remains unpaid beyond the deadline set by **us**; and
 - 5.4. unless Clauses 19 or 28 apply, or **we** have made an error, **we** will not provide credit notes or refunds.

Your promises

6. By entering into this contract **you** promise that:
 - 6.1. **you** (or **your agent**) have the permission of any person whose **personal data** is to be held on **the register** in line with clause 8;
 - 6.2. any identity and contact information **you** (either **yourself** or via **your agent**) send **us** at any stage are, and continue to be, sufficient that **we** can at any time, from the information on the **register** alone, establish with certainty and without delay;
 - 6.2.1. the identity of the legal entity with whom **we** have this contract (i.e. **you**); and
 - 6.2.2. accurate and complete contact information for **you**;
 - 6.3. **you** will submit the information specified at clause 6.2 via **your agent**, if possible, and in any event as soon as possible and **you** will keep them up to date; and
 - 6.4. by registering or using the **domain name**, in any way, **you** will not knowingly infringe the intellectual property rights (for example, trade marks) of anyone else, that **you** are entitled to register the **domain name**, and that **you** have not registered the **domain name** in breach of the legal duty known as 'trust'.
 - 6.5. **Our** right to rely upon these promises will continue to be available after the **domain name** has been registered and will not be affected by the cancellation or transfer of the **domain name**.
 - 6.6. Unless **you** are a **consumer**, **you** must pay **us** (including the current or past members of **our** Board of Directors) any and all reasonable costs, claims and expenses (whether direct or indirect) arising out of any claim that **you** have breached any of the promises in this clause 6.

Nature of domain names and the register

7. A domain name is not an item of property and has no 'owner'; it is an entry on **our register** database reflected by **our nameservers** which **we** provide as part of this contract. As a result:
 - 7.1. **we** will not be bound by, or record on the **register**, any mortgage-related obligations even if **notified**;
 - 7.2. **we** have all copyright and database right in the **register**; and
 - 7.3. **you** should not rely on the registration or continued registration of the **domain name** until **we** confirm that any application **you** make in respect of it has completed and **you** confirm that **your** full and correct name are recorded in the **register** for the **domain name**.

Personal data

8. The **register** is a publicly viewable register (not a directory) for the purposes of data protection law. **We** will make **your personal data** available in the following ways, but not release it for any other purpose to any other person:
 - 8.1. **we** will include it on the **register**;
 - 8.2. **we** will include it on the **WHOIS** and **PRSS**. For these purposes **we** will publish **your** name and (unless **you** are a **consumer** and exercise **your** right to opt-out) **your** address but not **your** telephone or fax number or email address;
 - 8.3. **we** may give **your personal data** to people with a legitimate reason for requesting the information (based on the exemptions in the Data Protection Act 1998 or similar laws that replace or follow it) including government and/or law enforcement agencies, upon their written request;
 - 8.4. **we** may give **your personal data** to **your** current and/or proposed **agent**; or
 - 8.5. in line with the **DRS policy** and **DRS procedure**.
9. **You** may write to us to ask for a copy of the **personal data we** hold about **you**, and/or **you** can look at the **WHOIS**, and/or **you** can ask **your agent**. Please note that if at any point **we** discover that **you** are not a **consumer**, **we** may automatically cancel **your** opt-out from clause 8.2 without **notifying you**.
10. **Personal data** posted on the **WHOIS** database is accessible outside the **EEA**. By registering a domain name **you** agree to **your personal data** being transferred out of the **EEA** and to **our** use of **your personal data** as explained in this clause

Domain name dispute resolution service

11. **You** agree to be bound by:
 - 11.1. the **DRS policy** and **DRS procedure**; and
 - 11.2. if a dispute arises, the version(s) of the **DRS policy** and **DRS procedure** (available on **our** website) which apply at the time that proceedings under the Dispute Resolution Service start until the dispute is over.
12. **We** (including in this case **our** directors, officers, staff of all types and any expert):
 - 12.1. shall not be liable to **you** or anyone else for anything done or not done in connection with any proceedings under the Dispute Resolution Service unless the act or omission is shown to have been in bad faith; and
 - 12.2. shall not be required or obliged to reveal information or materials which **we** gained as a result of the informal mediation stage of the Dispute Resolution Service unless ordered by a court with relevant jurisdiction.

Cancellation/alteration of the domain name

13. **We** may **cancel** or put the **domain name** into a **special status** by **notifying you** if:

- 13.1. **you** are in breach of the terms of this contract (including the **rules**, **DRS policy** and **DRS procedure**) and (in the case of a matter which it is possible to put right) **you** do not put it right within 30 days of **us notifying you**;
 - 13.2. **we** receive independent proof that **you** have provided very inaccurate, unreliable or false contact details or registrant name, or failed to keep **your** contact details up to date, or **you** have failed to give such details at all;
 - 13.3. **you** are in breach of any part of **your** promises at clause 6; or
 - 13.4. the **domain name** is being used or operated in a way that is likely to endanger the operation of the **domain name** system or **our** systems and Internet connections.
14. **We** may (but do not have to) transfer, cancel, alter or amend the **domain name** or put it in a **special status** or prevent its renewal in the following cases:
- 14.1. on **your** instructions (including the absence of instructions to renew, see clause 16), or by someone apparently acting for **you** (see clause 4);
 - 14.2. if **we** reasonably believe that **you** have provided a partly or wholly fictitious, deceptive or false postal address and/or contact details and/or registrant name;
 - 14.3. if **we** reasonably believe that the changes are desirable to update the **register** or to correct any error or inaccuracy relating to the **domain name** registration (including any error in making the **domain name** available for registration or an error in a previous cancellation of the **domain name**);
 - 14.4. (subject to clause 15) if at any time **we** discover or are informed that **you** have died, completed a liquidation, striking-off, dissolution, removal from register or disbandment process or otherwise ceased to exist, even if (where possible) **you** are later restored by an official or court order or decision;
 - 14.5. if **you** withdraw **your** permission to having **your personal data** displayed on the **WHOIS** or **PRSS** (excluding cases where a **consumer** is using the opt-out);
 - 14.6. in order to implement the instructions of an Expert under **our** Dispute Resolution Service or the decision of a case officer in a challenge to the **domain name** based on this contract (including **our rules**); or
 - 14.7. if **we** receive a perfected court order of a court which **we** believe is binding on **us** or **you** or if **we** think that failure to comply with the order would be a contempt of court by **us** or **you**.
15. **We** will not use the power at clause 14.4 to cancel the **domain name** if within a reasonable time of our request, **we** are given proof of the identity of a legal entity who has been validly vested with this contract (for individuals, this will usually be your executor or administrator) and that legal entity confirms to **us** within a reasonable time that it wishes to be the registrant and agrees to **our** terms and conditions in full (which will enable it to keep the **domain name** or transfer it).

Duration, renewal & transfer

16. Unless ended earlier under this contract, **we** will enter **your domain name** on the **register** for two years. If **we** receive **your** renewal request and fee in the standard format by the deadline(s) **we** set, and subject to the terms of this contract generally, **you** will have the right to enter into a new contract with **us** on the same standard terms as **we** are then offering generally to new registrants. The specific procedure which applies to renewals is set out on **our** website, or **you** can ask **your agent**.
17. **We** may transfer **our** rights and obligations under this contract to any third party.
18. If **you** wish to transfer **your domain name** to a third party, **you** must, in addition to any general requirements in this contract:
- 18.1. use **our** current specified transfer process; and
 - 18.2. ensure that the new registrant accepts the remaining part of this contract and its terms in full;

if **you** do not transfer **your domain name** in this way no valid transfer of this contract and **domain name** will occur and no document or agreement attempting or claiming to make a transfer of the **domain name** and/or this contract shall have any effect.

19. If **you** are a **consumer**, **you** may have a right to cancel this contract under the Consumer Protection (Distance Selling) Regulations 2000 or similar laws amending or replacing it. The right must be claimed within seven working days of the start of the services (which include security check work). If this occurs **we** will cancel this **domain name** contract and provide **you** or **your agent** (depending on who paid **us**) a full refund within 30 days. If **we** pay **your agent**, **you** may still have to obtain a refund from them.

Exclusions and limitations of liability

20. Please note the explanation at the top of this contract about liability. However, nothing in these terms limits or excludes **our** liability for death or personal injury caused by **our** negligence or for fraudulent misrepresentation.
21. By registering the **domain name** **we** are not acknowledging that **you** have any rights in the name comprised in the **domain name**, and **we** are not authorising **you** to use the **domain name** as part of a business.
22. **We** will not be liable to **you** whether under contract law, the legal rules about duties to third parties known as the law of 'tort' (including negligence) or otherwise for:
- 22.1. any loss of profit, revenue or other type of economic loss (whether direct or indirect);
 - 22.2. loss of business or contracts;
 - 22.3. loss of expected savings or goodwill; or
 - 22.4. any losses which a court holds to be consequential, or indirect losses; arising out of or in connection with the contract, including but not limited to:
 - 22.4.1. any error or omission in entries to the **register**; and
 - 22.4.2. loss of registration and/or use (for whatever reason and whether temporary or otherwise) of the **domain name**
23. All contract terms of any sort which may be implied by law into any contract with **you** are excluded to the fullest extent allowed.
24. **Our** total liability to **you** whether under these terms or otherwise (including liability for negligence) shall be no more than £5,000.
25. If **you** are a **consumer**, clauses 22, 23 and 24 do not apply to **you**. **Your** statutory rights are not affected - for information contact **your** local authority Trading Standards Department or Citizens' Advice Bureau.

General

26. If a court judges that any of these terms is not valid or cannot be enforced the other terms shall continue to be valid and enforceable.
27. Although **we** contract on standard terms this contract does not form part of a network of mutually enforceable contracts or grant rights to any third party, by statute or otherwise.
28. The internet is constantly changing and developing. As a result of this, **we** reserve the right to make reasonable changes to the terms of this contract (including the **DRS policy**, **DRS procedure** and **rules**) at any time during the term of the contract. **We** will only do so when **we** have good reason. Unless **we** are acting because of a legal requirement or a court order, the change will only be made after **we** have consulted openly. **We** will publish a notice in advance (ideally, 30 days in advance) on **our** web site and provide a link from the main page. The changes will become binding and effective upon the date specified in the notice. **You** should visit **our** website regularly in order find out about any changes. If **you** do not agree with any (proposed) change to the terms **you** may **notify us** that **you** want to end the contract in at least thirty (30) days time. In this case, **we** will give **you** a proportionate refund of the registration for the remaining period.

29. **Our** address is Nominet UK, Sandford Gate, Sandy Lane West, Oxford, OX4 6LB, England, telephone +44(0)1865 332211, fax +44(0)1865 332299, email: nominet@nominet.org.uk. **Our** offices are open from 9am to 5.30pm (UK local time) Monday to Friday, except for public holidays.
30. Except as set out in clause 4.4 (duty to use **your** agent where possible), or in the **DRS policy** and **DRS procedure**, any notice to be given under the contract will be;
 - 30.1. deemed served if hand delivered, or sent by pre-paid post, fax or email to the other party at any postal or email address or fax number on the **register** entry for **your domain name** or (if to **us**, at the any of the addresses above); and
 - 30.2. deemed effective on the date of delivery, or in default on the date of sending or posting.
31. This contract is a legally binding document. **You** should read it carefully and make sure that it contains everything **you** want and nothing **you** are not prepared to agree to. These terms, together with the **rules**, **DRS policy** and **DRS procedure**, are the entire contract between **you** and **us** for the **domain name**, and replace all prior contracts, understandings and representations about this **domain name** whether spoken or written.
32. This contract is made under the law and jurisdiction of England, unless **you** are a **consumer** in Scotland, Wales or Northern Ireland, in which case **we** submit to your local law and jurisdiction. For enforcement, the local law and jurisdiction may be used.