

## General Terms and Conditions for the Trustee Service

The domain holder – hereinafter registrant -

and

PTS GmbH  
Neunkircherstraße 43  
66299 Friedrichsthal

- hereinafter Trustee -

hereby agree to the following

### TRUST AGREEMENT

for the administrative contact of a .de domain name

#### **I. Contractual object**

Registrant wants to register a domain name in one of the the abovementioned TLDs in his name or already owns such a domain but his residence or place of business is outside the European Union or the countrys Iceland, Liechtenstein, Norway or Switzerland . All domains under the .it top level domains must be registered with the registry operator Registro .it , Istituto di Informatica e Telematica del CNR , CNR - Area della Ricerca , Via Giuseppe Moruzzi, 1, I-56124 Pisa, Italy. In accordane with the Procurement Rules for these TLDs, domain owners not established the European Union or other countries named above must appoint an admin-contact based in the European Union.

This trust agreement can only be concluded with domain owners who would like to or have already register their domain name with one of Trustee´s partner registrars.

The following general terms and conditions determine the rights and obligations of both the administrative contact / trustee and the registrant.

#### **II. Obligations and rights**

##### **1. Registrant´s obligations**

- a) The registrant guarantees that he is authorized to register and use the domain name and that the registration and intended use of the domain name violate neither the rights of any third parties (including any trademark rights, rights to a name or copyrights) nor any applicable laws or moral and ethical standards. For the purposes of this agreement pornographic contents or right-wing extremist ideas are especially assumed to be in violation of such standards.
- b) The registrant shall ensure that the domain name will not be used for illegal activities (including spamming or phishing).
- c) The registrant undertakes to comply with Registro .it´s Domain Terms and Conditions and Guidelines ([www.nic.it](http://www.nic.it)).
- d) The registrant undertakes to inform the Trustee in writing or by e-mail on all changes which concern the registration or management of the domain name. In particular this includes the change of the domain owner or service provider as well as legal threats or introduction of legal actions by third parties.

The trust agreement is considered as cancelled upon owner changes of the domain name. Should Trustee be registered as an administrative contact for the new owner, a new trust agreement with

Trustee must be concluded first.

e) The registrant is obliged to immediately respond to all inquiries of Trustee in writing or by e-mail, with receipt due at the Trustee no later than 48 hours after the inquiry. This time period can be further reduced if a third party sets a shorter time limit or an other important reason requires a quicker treatment.

f) The registrant guarantees to keep his contact data up-to-date with the partner registrar. In addition, the registrant hereby expressly authorises the partner registrar to make his data available to Trustee.

g) The registrant shall ensure that Trustee shall no longer be registered as admin-c for the domain name upon termination of this agreement. In the event that Trustee is still registered as admin-c upon termination of the agreement, Trustee may require registrant to delete the domain name within the response period (Item 1. e). In the event that registrant fails to delete the domain, Trustee may independently request the deletion of the domain name with the partner registrar.

## **2. Trustee's obligations**

a) Trustee undertakes to fulfill all duties as an administrative contact in trust. He will comply with registrant's instructions provided these instructions do not offend against applicable law or the contractual arrangements.

b) Trustee undertakes to inform the registrant immediately about issue and matters which concern the registration and use of the domain name. He will make no decisions without having contacted the registrant, unless a previous hearing is not possible for actual or juridical reasons. If the Trustee is required to make a decision without awaiting a response from registrant, this decision will be made with reasonably exercised discretion and in accordance with the best of his knowledge and good faith.

## **3. Rights of the Trustee**

a) Trustee is not obliged to check for violations of applicable law by the domain name or its contents. This particularly includes the violation of third party rights as well as the violation of legal provisions.

Should the Trustee recognize such violations, he is entitled without previous announcement or consultation with registrant to immediately delete the domain name or to immediately terminate his appointment as a trustee for the domain.

b) If registrant cannot be contacted by means of the contact information provided by him or if he does not reply to an inquiry of Trustee within the time allotted, Trustee is authorized to make all necessary decisions and to initiate steps to release in particular the domain name in cases of assertions of third party rights.

## **4. Procedure for complaints regarding third party rights**

In case Trustee is held liable by a third party to release or delete the domain name, registrant has to declare in writing within the response time allotted in Item. 1. e) whether he agrees to the release or whether he wants to defend the domain.

a) Should registrant agree to the release, Trustee will declare the deletion of the domain with the registry and inform the complainant. The agreement between registrant and Trustee shall be automatically terminated without requiring a separate termination.

b) If registrant provides no response within the allotted time, the trustee is authorized return the domain name to the management of the responsible registry and to relinquish his position as administrative contact for the domain name.

c) If registrant informs Trustee that he wants to defend the domain, he shall within two days provide to the Trustee a collateral (cash payment in EUR, bank guarantee of a large German or Austrian bank or savings association (Sparkasse)) of an amount to be determined by the Trustee by reasonable discretion that will secure Trustee's claim for indemnification on the grounds of court fees and costs of legal defense potentially borne by him.

The Registrant shall further - within the time period designated in Item. 1. e) - name a lawyer to represent him extrajudicial and judicially with regard to the third party within the appropriate jurisdiction. If registrant does not follow these obligations, the trustee is authorized to proceed as specified in Item 4 b).

### **III. Liability**

#### **1. Registrant's liability**

The registrant shall indemnify the trustee from all costs, damages and other disadvantages arising from third parties asserting claims related to the domain. This claim exists regardless of negligence or fault and also includes the adequate costs of a legal consultation for the Trustee. The compensation will apply to both valid and invalid claims, as well as for judicial and non-judicial claims.

#### **2. Trustee's liability**

a) Trustee shall only be liable for damages in cases of intent or gross negligence on the part of Trustee or his vicarious agents. For violations of an essential contract duty (cardinal's duty) in a manner endangering the purpose of the agreement the liability is limited to the typical damage foreseeable by the Trustee at the time of conclusion of the agreement, unless the violation was not caused with intent or gross negligence.

b) This restriction of liability does not apply for injuries of life, body and/or health. Liability for indirect damages, in particular for lost profits, is limited to cases of violations of an essential contractual duty (cardinal's duty) with intent or with gross negligence in a manner endangering the contractual purpose by Trustee or his vicarious agents.

### **IV. Duration, termination and compensation**

#### **1. Term**

a) This agreement shall be concluded for an indefinite period. The agreement automatically ends with the discharge of Trustee or the deletion of the domain name.

b) The trust agreement is inseparably linked to the registration of the domain name with the respective partner registrar of Trustee.

c) The continued use of the Trustee Data after the cancelation of the trustee service will be charged with the applicable fees.

Furthermore the trustee gets indemnified by the signing party against any claim arising from the use of its Data after the cancelation.

#### **2. Termination**

a) The registrant and Trustee denounce their right of regular termination of contract. This does not affect their ability to terminate the agreement for an important cause or any other causes for terminating the agreement as contained in this agreement.

b) The Trustee is authorized to transfer all rights and obligations under this agreement to another trustee and to register that trustee as the new administrative contact, provided this will not create legal disadvantages for registrant. The consent of registrant is not necessary for such transfers.

#### **3. Compensation**

a) The compensation shall be paid to the partner registrar of registrant. The compensation has to be made in advance for each 1 year term of the agreement. Additional payments of registrant directly to trustee are not required.

b) If the domain name is deleted prematurely or transferred, registrant has no right to proportionate refunds.

## **V. Final regulations**

### **1. Contract changes, assignment**

- a) All contractual changes and modifications require the written form. This also applies to the renunciation of the written form requirement. Additional terms have not been agreed upon.
- b) The cession of the rights of the registrant is excluded.

### **2. Court of jurisdiction, choice of law**

- a) Court of jurisdiction for all disputes from this agreement is Friedrichsthal if registrant is a businessman, a body corporate organised under public law, public law special property or if he is a consumer and is without address of service in Germany, who has moved to another country than Germany during the term of this agreement or if he has no legal domicile in Germany at the time of the initiation of legal action.
- b) This agreement shall exclusively be governed by the laws of the Federal Republic of Germany. U.N. purchase law shall not apply.

### **3. Severability Clause**

Should any provision in this agreement be entirely or partially invalid or later lose its legal validity, such invalidity shall not affect the validity of any other provision. Any provision determined to be unenforceable or invalid shall be replaced by provisions which are valid and enforceable and closest to the original objectives and intents of the original provisions in an economic and legal sense that would have been agreed upon by the parties, had they known of the invalidity at the time of the agreement.