

General Terms and Conditions for Domain Names

These General Terms and Conditions for Domain Names (hereafter „Domain Name GTC“) shall apply to all domain name services offered by Hostpoint AG („Hostpoint“). By using our domain name services you accept the following Domain Name GTC completely without any alteration.

1. SCOPE OF APPLICATION AND CONCLUSION OF CONTRACT

- 1.1 These Domain Name GTC cover the use of domain name services which Hostpoint provides to its customers (hereafter „Customer“).
- 1.2 The Domain Name GTC automatically incorporate the provisions of the General Terms and Conditions of Hostpoint (hereafter „Web hosting GTC“).
- 1.3 The Customer shall select the domain name services to be provided by Hostpoint from the range of services available at the time of use and shall send Hostpoint his binding order. By sending the order the Customer accepts these Domain Name GTC in addition to the Web hosting GTC, the regulations and/or conditions of the respective registrar of a TLD (GTC of the registrar) as well as any partners which provide specific services (GTC of the partner). Hostpoint may ask the customer to reconfirm its consent by activating a check box. The customer acknowledges that the GTC of the registrar and/or the GTC of the partner may be changed and that Hostpoint has no control over this. The customer is obliged to keep informed of any changes to the GTC of the registrar and to observe the applicable GTC of the registrar and/or GTC of the partner at all times.

2. SERVICES AND RIGHTS OF HOSTPOINT

2.1 General

Within the scope of the service ordered by the Customer, Hostpoint shall manage the latter's domain name(s) and, after the Customer makes an application, shall arrange for the registration of domain names in the name of the Customer, the transfer of existing domain names of the Customer for the purpose of administration by Hostpoint or the transmission to a third party of a domain name already registered with the Customer and managed by Hostpoint („change of owner“).

2.2 Applications for registration

Hostpoint shall treat the applications for registration in accordance with the principle of equal treatment. Registration of a domain name for which several valid applications are received shall be performed in Hostpoint's sphere of influence on a first come, first served basis in respect of the sequence of orders received. The Customer acknowledges that domain names are assigned to him by the registrar not by way of ownership but only for the purpose of use.

2.3 Transmission of domain names

- 2.3.1 Hostpoint shall arrange for the transmission of a domain name upon the written application of the Customer. In the event that corresponding notarial declarations must be provided for the transmission, the Customer undertakes to procure these at his own cost.
- 2.3.2 Hostpoint shall moreover transmit a domain name even without written application by the Customer in exchange for presentation of an enforceable decision of a court or a contract concluded between the Customer and the third party in which Hostpoint is directly instructed to transmit the domain name to the third party. The third party must provide a certificate that the judicial decision is enforceable.
- 2.3.3 Hostpoint shall be authorised to temporarily block the transmission of a domain name if Hostpoint is given binding instructions to do so by a court or an authority. This is subject to any further measures which are ordered by courts and authorities. Hostpoint may moreover block a domain name if it can be proved that a third party has instituted judicial or arbitral proceedings against the current holder for the deletion/revocation or transmission of the domain name.

2.4 No duty to verify authority of the Customer

Hostpoint is not obligated to verify the authority of the Customer to register, transfer or transmit the domain name. An application to register, transfer or transmit a domain name constitutes a binding representation to Hostpoint by the Customer making the application that the registration, transfer or transmission of the domain name stated in the application can be legally performed and the Customer is authorised to register, transfer or transmit the domain name.

2.5 Right of Hostpoint to refuse to provide domain name services

- 2.5.1 The Customer shall be deemed in relation to Hostpoint to be the holder of the domain name and the Customer shall be exclusively responsible for the use thereof. The Customer shall be fully liable to Hostpoint in accordance with Cl. 8.2 for any third party claims associated with illegal registrations, transfers or transmissions of domain names. If there is a concrete indication or justified suspicion that the Customer is not authorised to register, transmit or transfer a domain name, Hostpoint reserves the right to refuse to provide the corresponding service.
- 2.5.2 If Hostpoint finds there has been a misuse of its domain name services or unauthorised use of data and information by the Customer, Hostpoint shall be authorised, until the legal status quo is restored, to interrupt its services without any further prior notice.
- 2.5.3 The customer acknowledges and accepts that some registrars and/or partners reserve the right, under certain circumstances (e.g. violation of applicable laws regulations or conditions, or for technical reasons) to order the rejection, change, deletion, to refuse resp. suspend the services or to transfer of a registration or to temporarily reset or lock domain names.

2.6 Domain name parking

Hostpoint shall be authorised but not obligated to link domain names reserved by the Customer with a domain name server belonging to Hostpoint or a third party specified by Hostpoint, unless the Customer explicitly wishes the domain name to be temporarily deactivated. Hostpoint or the authorised third party shall be authorised in their own discretion to activate their own advertising or another party's advertising on the website that is accessible via the reserved domain name.

2.7 Additional provisions in respect of Domain Guard

- 2.7.1 As a supplemental service, Hostpoint offers its domain name customers the „Domain Guard“ service. Domain Guard supports customers by helping them to protect their domain names against accidental or unauthorised changes. This may pertain in particular to the following types of changes: Change of the proprietor of the domain or the technical contact, termination of domain services or changes to name server or to DNSSEC. Domain Guard's current range of services and its mode of operation are described on the service range page in the Control Panel.
 - 2.7.2 The customer acknowledges and accepts that it is its sole responsibility to obtain consent in a timely manner from the number of registered individuals parties required at the relevant time with respect of the changes protected by Domain Guard, including, in particular, the termination of domain name services (see Cl. 10.3) resp. of the Domain Guard services or the transfer of domain names (see Cl. 3.2.1).
 - 2.7.3 Applications by corporate customers (including companies, associations and foundations) for appointment or dismissal of trusted individuals must be signed by two members of management, the management board or the board of directors. Private individuals or sole proprietorships may be represented by a single individual. Hostpoint may ask the representative to produce an authorization signed by the customer or other suitable evidence of power of representation (in the case of sole proprietorships, an extract from the Commercial Register).
- #### 2.8 Additional provisions concerning Domain Privacy and Domain Full Privacy
- 2.8.1 As a supplemental service Hostpoint offers its domain name customers through partners the „Domain Privacy“ und „Domain Full Privacy“ services. Domain Privacy and Domain Full Privacy support customers in protecting the personal data usually published in the course of a domain registration (see Cl. 9.1) against misuse.

In the case of Domain Privacy and Domain Full Privacy the Whois entry shall disclose the partner's proxy details wholly or partially instead of the customer's data. Domain Privacy's and Domain Full Privacy's current range of services and mode of operation are described on the range of services page, in the GTC of the registrar and the GTC of the partner.

2.8.2 The customer is responsible for compliance with the preconditions for Domain Privacy and Domain Full Privacy described on the range of services page as well as in the GTC of the registrar and the GTC of the partner. The customer undertakes in particular to use the Domain concerned only for lawful and not for objectionable purposes with due regard for the present GTC domain names (including Web hosting GTC), the GTC of the registrar and GTC of the partner.

2.9 Use of data

2.9.1 The customer grants Hostpoint and the respective registrar and irrevocable, non-exclusive, non-transferable and cost-free license to use the data provided to the respective registration system so far as this is necessary to perform registry services.

3. RIGHTS AND OBLIGATIONS OF THE CUSTOMER

3.1 General

3.1.1 The Customer is authorised to make the intended use of the domain name service and undertakes to comply with these Domain Name GTC (including the Web hosting GTC), the GTC of the registrar, the GTC of the partner as well as any instructions of Hostpoint.

3.1.2 If the Customer arranges for the domain name and his website to be hosted by Hostpoint on the servers of Hostpoint, he must comply with the provisions of the Web hosting GTC and the provisions of the contract documents received in addition to complying with these Domain Name GTC.

3.2 Duty to provide truthful information

3.2.1 When ordering and using the services, the Customer is obligated to provide truthful and comprehensible information to Hostpoint. Hostpoint may ask the customer at any time and without the need to state grounds for the inquiry to subsequently provide documents, information or (e.g. in cases of disputed transfer agreements or unilateral transfer declarations or in the event of changes made by third parties) confirmations by which Hostpoint is able to verify the correctness of the details. Hostpoint is authorised to defer or to refuse registration or the transfer of domain names if the customer fails to submit suitable documents, information and/or confirmations within the period set by Hostpoint for this purpose. Where the customer uses the Domain Guard service, Cl. 2.7.2 shall additionally apply in respect of transfer and/or deferral thereof.

3.2.2 The Customer shall also be responsible for ensuring that the customer data entered in accordance with the order (billing and administrative contact and technical contact) is current, complete and correct throughout the entire period of the registration. Hostpoint is not obligated to comply with any data that is notified other than the data notified through the order; nor is it obligated to make its own inquiries in relation to the correction of said data.

3.2.3 If the customer data (billing and administrative contact and technical contact) prove to be incomplete, incorrect or not current, and the Customer fails to correct this at the request of Hostpoint within 10 calendar days, or if the identity of the Customer cannot be determined or if notices by Hostpoint to the billing contact cannot be delivered, Hostpoint shall be authorised to revoke the relevant domain name of said Customer and terminate the contract. If the Customer uses the Domain Privacy or Domain Full Privacy service, the GTC of the registrar and the GTC of the partner shall additionally apply.

3.3 Responsibility for identification parameters

Passwords and other identification parameters which Hostpoint notifies to the Customer are specifically for the Customer's personal use and must be treated as confidential. The Customer bears full and sole responsibility for the use of the passwords and identification parameters.

3.4 Country domain names and generic TLDs

In the case of registration of country domain names and generic TLDs (.com, .net, .org, etc.) the Customer shall comply with the standards applicable thereto in each case. This concerns, in particular, ICANN's Uniform Domain Name Dispute Resolution Policy (UDRP).

3.5 Final acceptance and notice of defect

The Customer is obligated to accept notices and processes implemented by Hostpoint under these Domain Name GTC (hereafter „Work Result“) immediately after they have been provided or notification has been given and to check them for defects. Acceptance shall be deemed to have occurred automatically if the Customer makes productive use of the Work Result and unless the Customer indicates to Hostpoint any defects within one (1) business day of sending the notice or providing the Work Result with a comprehensible description in writing (by registered letter, fax with confirmation of transmission or email with subsequent acknowledgment of receipt by Hostpoint).

4. INVOICING AND PAYMENT TERMS

4.1 The payment obligation shall commence upon conclusion of the contract.

4.2 Hostpoint generally invoices the Customer for the selected contractual term in advance. The invoice is payable by the due date stated on the invoice.

5. DEFAULT BY THE CUSTOMER

5.1 If the Customer has not yet paid for the domain name services, Hostpoint shall be authorised to refuse to provide the corresponding service or to suspend it until the invoice is settled.

5.2 In addition, Hostpoint is authorised in the case of default by the Customer to charge 8% late interest and as of the 2nd reminder it is entitled to charge dunning fees in the amount to cover costs. Hostpoint is also authorised to terminate the service without notice pursuant to Cl. 9.4.

6. WARRANTY

6.1 Hostpoint shall provide the domain services carefully and professionally within the scope of its operational resources and the foreseeable requirements, unless Hostpoint is prevented from doing so due to circumstances for which it is not responsible.

6.2 The Customer shall give written notification of defects in Work Results provided by Hostpoint. The notification shall be in accordance with the specifications in Cl. 3.5 (notice of defect) and shall be made within the due time. Hostpoint shall remedy such defects within a reasonable period of at least 30 days, unless in the discretion of Hostpoint a longer period is necessary in an exceptional case. The warranty shall forfeit if the notice of defect is not made within the due time.

7. LIABILITY OF HOSTPOINT

7.1 Hostpoint shall be fully liable to the Customer for direct proven loss or damage caused by wilful intent or gross negligence by Hostpoint.

7.2 Liability for medium or ordinary negligence shall be limited to the amount of CHF 100,000.00 per calendar year.

7.3 Liability shall be expressly excluded for slight negligence and indirect loss or damage or consequential damage. Consequential loss or damage includes, in addition to the loss or damage referred to in Cl. 7.3 of the Web hosting GTC, lost profits, harm to reputation and data loss due to incorrect or delayed registrations, transfers and transmissions of domain names.

7.4 Nor shall Hostpoint have any kind of liability for loss or damage attributable to circumstances for which Hostpoint is not responsible, such as the Customer's clerical errors, illegal registration, transfer or transmission of the domain name by the Customer (for example, no authorisation for the Customer to transfer or transmit the domain name, type of registered domain name which infringes trademark law etc.) or transmission errors and

delays due to interruptions in communication networks.

- 7.5 The above exclusions and limitations of the liability of Hostpoint shall not apply in the case of death, physical injury and impairment to health and in the case of mandatory statutory regulations.

8. LIABILITY OF THE CUSTOMER

- 8.1 The Customer shall be fully liable to Hostpoint for loss or damage caused by wilful intent or gross negligence. The Customer's liability for slight negligence is expressly excluded.
- 8.2 Notwithstanding the limitations on liability provided in Cl. 8.1 of the GTC, the Customer shall indemnify Hostpoint or the registrar and/or the partner and their respective bodies and auxiliaries in full in respect of all third party claims resulting from a breach of his contractual duties. The loss or damage to be compensated also includes the costs of a proper legal defence of Hostpoint or the respective registrar and/or the partner. The Customer undertakes to assist Hostpoint and the third party used by it in any proceedings.

9. CONTRACTUAL TERM AND TERMINATION

- 9.1 These Domain Name GTC shall apply throughout the entire period during which domain name services are used by the Customer.
- 9.2 The contract between Hostpoint and the Customer for domain name services shall come into effect, including these Domain Name GTC and the Web hosting GTC, upon acceptance of the Customer's order (see Cl. 1.3) by Hostpoint. Acceptance by Hostpoint shall be made by delivery of the contractual documents to the email address stated by the Customer for contract-related messages, but by no later than when domain name services are provided for the Customer and shall apply for the term selected in the Customer's order.
- 9.3 The contract may be terminated by either party with a notice of 30 days as at the end of the agreed contractual term. The termination notice shall be submitted in writing by registered letter, fax with confirmation of transmission or online by using the Hostpoint ID on the Control Panel. Where the customer uses the Domain Guard service, it shall initially terminate the Domain Guard service on the Control Panel with the consent of all trusted individuals (Cl. 2.7.2). If the Customer uses the Domain Privacy or Domain Full Privacy service, it must first of all terminate the corresponding service. Hostpoint shall also be entitled to serve the termination notice by email to the email address stated by the Customer for contract-related messages. If it is not terminated within the due time the contract shall be automatically renewed in each case for the agreed contractual term.
- 9.4 If the Customer breaches contractual provisions (including these Domain Name GTC) or misuses services for illegal purposes, Hostpoint is authorised to terminate the contract without notice. If the Customer uses the Domain Privacy or Domain Full Privacy service, Hostpoint may terminate the Contract with the Customer regarding domain name services additionally with immediate effect if Hostpoint at its own discretion suspects a breach of legal specifications, the GTC domain names or the GTC Hosting, the GTC of the registrar or the GTC of the partner. In such cases, the Customer shall owe Hostpoint the payments due up until ordinary termination of the contract as well as compensation for all additional costs incurred in connection with dissolving the contract without notice.
- 9.5 Hostpoint may also terminate the contract with the Customer with immediate effect if proceedings have been initiated against the Customer for bankruptcy or insolvency or if it otherwise becomes clear that the Customer can no longer meet his payment obligations, and if the Customer does not prior to the expiry of the contractual term advance the costs for the next contractual term or provide a corresponding security.
- 9.6 If the contract is dissolved during the contractual term, the Customer is not entitled to be reimbursed pro rata for the payment already made.
- 9.7 Once the termination of the domain name services comes into effect, the domain name shall be approved for reregistration or the Customer may, if all services are paid for, transfer the domain

name to another registrar. The Customer (holder of the domain name) shall be exclusively responsible for transferring the domain name to another registrar.

- 9.8 Upon termination of the Domain Privacy's or Domain Full Privacy's service, the partner shall enter the Customer's lodged data for the Domain concerned in the Whois in accordance with the GTC of the registrar and the GTC of the partner (e.g. name, postal address, e-mail address, fax number, telephone number, etc., see Cl. 9.1).

10. AMENDMENTS TO THE CONTRACTUAL CONDITIONS

- 10.1 Hostpoint expressly reserves the right to amend the contractual terms, including these Domain Name GTC, at any time. Amendments shall be made accessible on the Hostpoint website and shall come into effect when they are activated.
- 10.2 Any price increases or restrictions in services that adversely affect the Customer during the contractual term shall be notified by Hostpoint to the Customer in writing by email. If the Customer does not accept the amendments, he has the option of informing Hostpoint of this in writing within 30 days of receipt of the message by registered letter, fax with confirmation of transmission or by using the Hostpoint ID on the Control Panel and terminating the contract as at the end of the month. If there is no written message within this period the changes shall be deemed to be approved by the Customer.
- 10.3 If the Customer arranges for his domain name and his website to be hosted by Hostpoint on the servers of Hostpoint, contract-related messages such as the disclosure of price adjustments (see Cl. 11.2) shall be made by email to the owner email address defined by the Customer in the Control Panel (see Cl. 13.1 Web hosting GTC).

11. ADDITIONAL PROVISIONS

- 11.1 The parties waive their right to offset mutual claims against each other.
- 11.2 Rights and duties under these Domain Name GTC can only be transferred to third parties with the written consent of the other party. This provision does not apply to the transfer of the contract from Hostpoint to a legal successor or associated company.
- 11.3 These Domain Name GTC and any disputes arising under or in connection with the contractual relationship between Hostpoint and the Customer shall be subject exclusively to **Swiss law**, excluding its conflict of laws rules and the provisions of the UN Convention of Contracts for the International Sale of Goods (CISG).
- 11.4 The ordinary courts at the **registered office of Hostpoint** shall have exclusive jurisdiction. Hostpoint also has the option of taking legal action against the Customer at the latter's domicile.

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