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## DENIC Domain Terms and Conditions

### Please note:

The English translation of the DENIC Domain Terms and Conditions is provided for the convenience of our non-German-speaking customers. Regardless of this, only the original German-language version is legally binding.

The following Terms and Conditions shall apply to the Domain Contract between DENIC (in full: DENIC Domain-Verwaltungs- und Betriebsgesellschaft eG) of Frankfurt am Main and the Domain Holder.

### § 1 Domain registration and administration

(1) The (future) Domain Holder can submit their domain application to DENIC either through a DENIC member or directly to DENIC. DENIC accepts the application through the successful completion of registration. The Domain Contract, however, is terminated immediately in cases in which the Domain Holder, having applied for registration of a domain through a DENIC member, subsequently fails within a period of four weeks to create the necessary technical conditions for connecting up the domain, including transmitting the corresponding technical data to DENIC (condition leading to termination).

(2) In cases in which the application for registration of a domain is made through a DENIC member, it is that same member who will assume administration of the domain on behalf of the Domain Holder afterwards. Any communications which the Domain Holder, the Administrative Contact, the Technical Contact or the Zone Administrator sends to DENIC on the basis of these Terms and Conditions, including a possible notification of termination of the contract, must also always be transmitted through this same DENIC member. DENIC may also choose to send any communications destined for the above-named persons through the same DENIC member.

(3) In cases in which the application for registration of a domain is submitted directly to DENIC or in which the DENIC member previously in charge of administering the domain ceases to administer it, it is DENIC itself that will administer the domain directly after that (direct administration by DENICdirect).

(4) It is possible for the Domain Holder to transfer administration of the domain from DENIC to a DENIC member or vice versa and also from one DENIC member to another (known as a "provider change"). To make such a transfer, the Domain Holder must submit an appropriate request to DENIC through the DENIC member who is to administer the domain after the transfer (or, in the case of a future direct administration, directly to DENIC). If the Domain Holder has previously deposited a password with the DENIC member who has been administering the domain up until then (or with DENIC in cases of direct administration through DENIC) or it they have received a password in response to a request to the DENIC member who has been administering the domain up until then (or with DENIC in cases of direct administration through DENIC), they must now enter this password. In cases in which the domain is to be transferred to direct administration by DENIC, it is also possible, when submitting the corresponding request, to ask DENIC to issue a password directly. This password is valid for 30 days from the point in time at which it is deposited or issued and can only be used once; in cases in which the Domain Holder has deposited the password through the DENIC member administering the domain to date, the password also loses its validity in the event of that DENIC member ceasing to administer the domain (§ 3, second alternative). In cases in which the Domain Holder has not deposited or received a password in the manner just described, it is their duty, instead of entering it, to inform the DENIC member who has been administering the domain up until then (or DENIC if the domain has been administered directly by it) of the intended transfer before the provider-change request is submitted.

### § 2 Duties of DENIC

(1) DENIC adds the domain and its technical data to the name servers for the Top Level Domain .de (connectivity). This will not be done, however, if the technical data is not suitable for connecting up or if the underlying technical configuration would lead to an excessive load on the name servers. In this latter case, DENIC has the

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right to make modifications to the technical data in order to ensure connectivity. If the domain is not connected up, DENIC is also permitted to make the corresponding modifications to the data concerning the Technical Contact and the Zone Administrator.

(2) At no time is there any obligation whatsoever on DENIC to verify whether the registration of the domain on behalf of the Domain Holder or its use by the Domain Holder infringes the rights of others.

(3) DENIC has the right to place a Dispute entry on the domain if a third party presents a credible case suggesting that they have a right to the domain or that their rights are being infringed by the domain, and if such third party declares that they are taking steps to enforce their resultant claims against the Domain Holder. The Dispute entry takes effect for one year, but DENIC will extend it, provided the party in whose name it has been entered requests such an extension and submits evidence that the dispute has still not been resolved. A domain that has had a Dispute entry placed on can continue to be used by its Domain Holder, but it is not possible to transfer it to anyone else.

### **§ 3 Duties of the Domain Holder**

(1) In submitting the application for registration of a domain, the Domain Holder gives an explicit assurance that all the data about them in the application is correct and that they are entitled to register and/or use the domain and, in particular, that the registration and intended use of the domain does not infringe anybody else's rights nor break any general law. If the Domain Holder is not domiciled in Germany, they must appoint an Administrative Contact domiciled in Germany; this Administrative Contact is also the Domain Holder's authorized representative for receiving the service of official or court documents for the purposes of § 184 of the German Code of Civil Procedure and § 132 of the German Code of Criminal Procedure.

(2) It is the Domain Holder's duty to ensure all the necessary technical conditions for domain's stable connectivity over time.

(3) Immediately after registration, the Domain Holder must check the data published in DENIC's whois search at <http://www.denic.de/de/whois/index.jsp> and must inform DENIC at once of any necessary corrections to it. This duty also extends to informing DENIC of modifications required to this data at any time after that. In supplying and modifying this data, the Domain Holder must always comply with DENIC's Domain Guidelines.

### **§ 4 Fees**

(1) It is the Domain Holder's duty to pay all domain charges in accordance with DENIC's current price list and conditions of payment, which are available for consultation at <http://www.denic.de/de/preisliste.html>. DENIC has the right to change this price list provided it gives two months' notice of its new charges. All bank charges incurred by payments to DENIC are to be borne by the Domain Holder.

(2) For as long as the domain is administered by a DENIC member, the Domain Holder's duty to pay the domain charges as laid down in paragraph 1 is suspended. If the DENIC member ceases to administer the domain (§ 1 (3) second alternative), the Domain Holder's duty to pay is reactivated, and they must pay all domain charges due after that directly to DENIC.

(3) DENIC is allowed to use e-mail to send its invoices to the Domain Holder or the Administrative Contact.

### **§ 5 Liability**

(1) DENIC is only liable for any harm caused by it or by any of its vicarious agents through gross negligence or with malice aforethought as well as for any breach of substantial contractual duties for which it is to blame. In the event of a breach of substantial contractual duties through ordinary negligence, DENIC's liability is limited to the harm typically predictable, as a rule, however, to a sum not exceeding the domain charge for one year. These limitations do not, however, apply if any harm is caused to life and limb.

(2) The members of the DENIC cooperative are not DENIC's vicarious agents.

(3) The Domain Holder is liable to make good any harm that DENIC may suffer on account of any inaccuracy in the data required by these Terms and Conditions or by its Domain Guidelines.

(4) The Domain Holder agrees not to hold DENIC liable in any way for claims filed by

third parties and has the duty to compensate DENIC for any harm and costs that it may suffer through third parties taking action against it on the grounds that the registration of the domain on behalf of the Domain Holder and/or its use by the Domain Holder infringe their rights. In the same way, the Domain Holder also has the duty to compensate DENIC or DENIC employees for any harm and costs they may incur through criminal prosecutions on account of the registration and/or the use of the domain.

#### **§ 6 Transfer of the domain**

(1) The domain is transferable, unless it is subject to a Dispute entry (§ 2(3)) or if it is the same as the name of a Top Level Domain or if it is comprised or one of the combinations of letters used on German motor-vehicle registration plates to indicate the registration district, or any identical combination of letters with the sole exception that ä is replaced by, ö by oe and ü by ue.

(2) DENIC registers the domain in the name of the future Domain Holder once the Domain Holder to date has terminated their contract, unless, for legal reasons, termination is superfluous and provided that the future Domain Holder also submits an application to register the domain, presenting documents that clearly identify them. Along with the submission of the domain application, the future Domain Holder can, in addition, transfer the administration of the domain to a DENIC member of their choice or to DENIC. This is, however, subject to the provision laid down in § 1 (4) that the future Domain Holder submits the necessary documents to identify themselves as such beyond doubt when submitting the request for the domain to be transferred and when depositing or requesting a password or when informing the DENIC member who has been administering the domain to date (or when informing DENIC if it has been administering the domain directly up until then).

(3) A domain transfer takes effect upon successful completion of the registration in the name of the new Domain Holder.

#### **§ 7 Termination**

(1) The Domain Contract is concluded for an indefinite period. It is possible for the Domain Holder to terminate it at any time without prior notice.

(2) DENIC is only permitted to terminate the contract on substantial grounds. These grounds include, in particular, any case in which:

- a) the domain itself includes a manifestly illegal statement; or
- b) the Domain Holder has entered into a written, unconditional commitment subject to criminal sanction not to use the domain, or the Domain Holder has issued a corresponding final declaration in proceedings for an interim injunction, or a corresponding final and absolute judgment on the substance of the case has been handed down against the Domain Holder; or
- c) in a final and absolute judgement on the substance of the case, it has been determined that the registration of the domain for the Domain Holder infringed the rights of others, or that the Domain Holder has issued a corresponding final declaration in proceedings for an interim injunction; or
- d) the registration of the domain for the Domain Holder manifestly infringes the rights of others or is otherwise illegal, regardless of the specific use made of it; or
- e) the Domain Holder has persistently breached substantial contractual duties and has remained in breach of them despite receiving a formal warning accompanied by a deadline for compliance; or
- f) the data supplied to DENIC regarding the Domain Holder or the Administrative Contact is incorrect; or
- g) it is impossible to establish the identity of the Domain Holder and/or the Administrative Contact from the data supplied; or
- h) the Domain Holder not being domiciled in Germany, the formal service of a document on the Administrative Contact instigated by a third party has failed at two consecutive attempts; or
- i) the Domain Holder, having abandoned their domicile in Germany and having received a formal warning accompanied by a deadline for compliance, fails to appoint an Administrative Contract domiciled in Germany; or
- j) in the case of direct administration (§ 1 (3)), the Domain Holder fails to pay the domain charges despite receiving a formal warning accompanied by a deadline for compliance; or
- k) following the reactivation of the duty to pay charges to DENIC (§ 4 (2) second sentence), the Domain Holder, having received a demand for payment accompanied by a threat of termination, fails within a month either to transfer the domain to another DENIC member for administration or to pay the domain charge to DENIC.

(3) Notwithstanding any further-reaching legal rights it may have, DENIC has the right, when it gives notice of termination of the domain, to remove the domain and its technical data from the name servers for the Top Level Domain .de and to make the corresponding modifications to the data for the Technical Contact and the Zone Administrator.

(4) DENIC will not refund any domain charges already paid to it.

#### **§ 8 Advice on data protection**

The names and addresses of the Domain Holder as well as the Administrative and Technical Contacts and the Zone Administrator and also the telephone and telefax numbers and e-mail addresses of the Technical Contact and the Zone Administrator are published by DENIC in its whois search at <http://www.denic.de/de/whois/index.jsp>. No other telephone numbers, telefax numbers and/or e-mail addresses are published unless this is the express wish of the Domain Holder.

#### **§ 9 Applicable Law and Place of Jurisdiction**

The Domain Contract is governed by German law. For all legal persons as well as for all natural persons having their domicile or habitual residence outside of Germany, the courts with exclusive jurisdiction are those of Frankfurt am Main. DENIC, however, also has the right to take legal action against the Domain Holder before the courts having general jurisdiction for them.