

# **General Terms and Conditions Trustee Agreement for the Registration of Domain Names under the TLD .EU**

## **Preamble**

The Customer as a Beneficiary desires to register a domain name under the top-level-domain .EU with the EURid vzw, Park Station, Woluwelaan 150, 1831 Diegem, Belgium using the services of Proxy Services Ltd., "Elyon" Triq il-Baltiku, St. Julian's, STJ 1881, Malta as a Trustee.

Whereas the Customer resides outside the European Union and consequently may not register a domain name under the Top-Level-Domain .EU as a result of the registration rules of EURid, the Customer authorizes the Trustee to register the desired domain name at 1API GmbH and to administer the domain name during the duration of this contract

Having said this, the Customer/Beneficiary and Trustee conclude an Agreement having the conditions below:

## **1. Duties of the Customer**

The Customer guarantees that neither the domain applied for nor the contents to be placed on a corresponding website violate any third-party rights (e.g., trademark, name-use rights and copyrights), statutory bans of an European Union member state or generally-accepted moral precepts; in particular the Customer will not place any pornographic content, offers for gambling or contents that support or glorify terrorism on the website reachable under the domain name.

The Customer shall post an Imprint (Acknowledgement Notice) on the website which meets the requirements of the European Commission's Directive 98/34/EC, OJ L 204 of 21.6.1998, p. 37, in the version of the Directive 98/48/EC, OJ L 217 of 5.8.1998, p. 18.

The Customer must promptly inform the Trustee per post or facsimile and email about all matters relevant to the registration of the domain, in particular any change of the Beneficiary or initiation or threat of legal proceedings.

The Trustee Agreement shall not have the right to assign the rights and obligations arising from this contract to a third party without written consent of the Trustee.

The Customer shall immediately provide the trustee detailed answers to the inquires regarding the domain registration by post or facsimile and email, at latest however within 24 hours of receipt. A shorter deadline governs, if it is established in a legally effective manner through actions of a third party (claimant, court etc).

The Customer shall continuously update its contact data directly with the ISP which in return ultimately processes the changes through the .EU accredited registrar 1API GmbH and explicitly allows 1API GmbH to provide the Trustee with this contact data.

If the Customer cannot be reached through the contact data provided or does not answer an inquiry of the Trustee within the set deadline, the Trustee may take necessary steps, in particular cancel the domain if an actual or claimed legal violation is present.

## **2. Duties of the Trustee**

The Trustee must fulfill its duties as registrant of the domain name as a fiduciary of the Customer. The Trustee will carry out the Customer's instruction relevant hereto provided that the instructions do not run contrary to the law of a European Union member state or the parties' contractual agreements.

The Trustee will promptly inform the Customer about all issues relating to domain registration and, insofar as possible, take no action without previously conferring with the customer.

The Trustee will, if action can or must be taken without previously conferring with the customer, exercise reasonable judgment in doing so.

### **3. Third party disputes.**

If the Trustee is subject to a legal or administrative action to release or cancel the domain, the customer must state in writing within the deadline provided in subsection 1 c, whether it approves of the release or wants to defend the domain.

If the customer approves the release, the Trustee will apply for cancellation of the domain with the EURid and inform the third party/claimant. The contractual relationship between the Trustee and Customer will end with this application without any further termination being necessary.

The Trustee may cancel the domain, if the Customer does not provide any written statement in this regard.

If the Customer informs the Trustee that it wants to defend the domain, then the customer has 2 days to leave a security deposit (cash/cash-equivalent in EURO), the amount of which to be determined according to the Trustee's reasonable discretion based on the Court Fees Act and the regulations regarding attorney's fees of the European Union's member states, where that security deposit guarantees the Trustee's indemnification claims pursuant to Section 6 for potential procedural costs that the Trustee party might need to carry.

Moreover, within 2 days the Customer must appoint legal counsel to represent the Customer against third parties both in and out of court.

If the customer does not satisfy the duties of this subsection, the Trustee may proceed pursuant to subsection 3 b).

### **4. Violations of Law**

If the Trustee determines that the domain name itself or the contents of the website reachable under the domain name violate valid law of a European Union member state, in particular its criminal provisions, the Trustee may cancel the domain without warning. The Trustee Agreement is immediately terminated upon cancellation of the domain name.

## **5. Consideration**

The customer will pay 1API GmbH the registration fee and the trustee fee contained therein each year in advance for one complete contractual year. The current price list shown on the website is the basis for the fee due.

If a domain is cancelled or transferred prematurely the Customer does not have a claim for partial reimbursement

## **6. Term**

The term of the Agreement is unlimited, yet it terminates if the domain provider ceases to be the 1API GmbH.

Accordingly irrespective of the continued existence of a contract with 1API GmbH, the Trustee Agreement ends when the Customer transfers the domain from 1API GmbH to another provider or applies for the cancellation of the domain.

The Trustee and the Customer abstain from exercising any right of termination by laws litigated before a civil tribunal.

The right to terminate for cause remains unaffected as do the other facts and reasons for termination mentioned in this Agreement.

If 1API GmbH exercises its right to terminate the contractual relation with the Trustee the Trustee shall have the right to terminate this agreement within one month.

## **7. Trustee`s Liability**

The Trustee is liable only for breaching a material contractual obligation in a manner damaging to the purpose the Agreement; moreover, and the damage must be caused by gross negligence or fault.

## **8. Liability of the Customer**

The Customer indemnifies the Trustee from all costs, damages and detriments incurred due to a third party claims and suits – whether justified or not, made in or out

of court - against the Trustee on the basis of the domain registration and the contents of the website posted under the domain name.

## **9. Miscellaneous**

Venue for all disputes resulting from this Agreement is Malta.

The law of the Republic of Malta under exclusion of the provisions on standardized UN-Commercial law on the Sale of Goods exclusively governs this Agreement and any claims resulting from it.