

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

## **Preamble**

The Customer as a Beneficiary desires to register a domain name under the top-level-domain .BAYERN. The registration of the domain name will be provided by 1API GmbH.

The Customer resides outside of the Federal Republic of Germany. In accordance with Paragraph 3b of the .BAYERN Registration Policy the Customer has to appoint an Administrative Contact domiciled in the Federal Republic of Germany. This Administrative Contact shall also be the customer's authorized representative for receiving the service of official or court documents.

The Trustee is willing to take on this task in accordance with the subsequent conditions for the Customer.

The trust agreement will only become effective upon the direct payment of the trust fee to the registrar by the customer.

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 or Nazism 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 will inform the Trustee immediately and in writing by mail or fax and email on all events relevant to the registration of the domain name, in particular any change of the Beneficiary or initiation of legal proceedings or if the customer is threatened with legal action or if legal action is taken against the Customer.

If the customer changes the registrant of the domain name may not facilitate the service of the Trustee. In that case the Trustee Agreement ends automatically without any further announcement to the customer.

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 agrees to reply in detail to all inquiries of the Trustee with respect to the domain registration by mail or fax and email immediately, at the latest within 24 hours. This time period will be further limited if a third party (claimant, court, etc.) effectively sets a shorter time limit.

The Customer is responsible for keeping his contact data up-to-date with the registrar at all times and authorizes the registrar to make contact data available to the Trustee.

If the Customer cannot be contacted via the contact information provided by him or if he does not reply to an inquiry of the Trustee within the time limit granted to him, the Trustee will be entitled to take all necessary decisions, in particular to delete the domain name or stopping it from resolving because of actual or alleged violations of the law or to place the domain under the administration of the registry.

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 take any decisions that can or have to be taken without conferring with the Customer at reasonable discretion.

## **2. Third party disputes.**

In case the Trustee is called upon by a third party to release or delete the domain the Customer shall declare within the time limit set in Section 1 in writing if he agrees to release or delete the domain name or if he wants to defend the domain.

Should the customer agree to the release the Trustee will declare the deletion of the domain name to the registrar and will inform the third party/claimant. The agreement between the Trustee and the Customer shall be terminated by this declaration. A notice of termination is not required.

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

In case the Customer informs the Trustee that he wants to defend the domain, it shall within two days to grant collateral security deposit (cash/cash-equivalent in EURO), in the amount determined by the Trustee's at reasonable discretion and abutted on the Court Fees Act of the Federal Republic of Germany and the regulations regarding attorney's fees of the European Union's member states, that in accordance with section 9 will secure the Trustee's indemnification on the grounds of court fees possibly born by him.

In addition, the Customer shall name within 48 hours a lawyer who will represent the customer to third parties in and out of court.

## **3. Deletion of a Domain Name by Trustee**

If the Customer does not comply with the obligations set out in section 1 and 2 of this agreement, the Trustee will be entitled to delete the domain name. In this case the customer must not restore the domain name with the Trustee as the Admin-C.

#### **4. Duties of the Trustee**

The Trustee must fulfill all tasks assigned to him as the administrative contact of the domain name in trust of the Customer's interest. He will comply with the customer's respective instructions as long as they are not in contravention of the law of a European Union member state, the .BAYERN Registration Policies or any of the contractual agreements of the two parties.

#### **5. Violations of Law or of the Registration policies for .BAYERN**

If the Trustee determines that the domain name itself or the content of the website reachable under the domain name violate valid law of a European Union member state, in particular its criminal provisions, or does not comply with the Registration Policies for .BAYERN the Trustee may delete the domain without warning. The Trustee Agreement is immediately terminated upon cancellation of the domain name. In this case the customer must not restore the domain name with the Trustee as the Admin-C.

#### **6. Payment**

The customer will pay the trust fee to the registrar per domain name for one contract year in advance. The amount payable is determined by the current price list published in the Customer's account.

In case of premature deletion or transfer of a domain name the customer will not be entitled to partial refund.

#### **7. Term**

This Agreement shall be concluded for an indefinite but ends if the domain name is transferred to another registrar or on deletion of the domain name.

The Trustee and the Customer denounce their right of termination of this contract.

This will not affect a termination of the contract for cause or any causes for discharging or terminating the contract stated in this agreement.

The Trustee is allowed to transfer all rights and obligations of this contract to another Trustee of his choice and to change the Admin-C.

### **8. Trustee`s Liability**

The Trustee shall only be liable if the damages arise from intention or gross negligence.

### **9. 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 content of the website posted under the domain name. For this claim of damages the customer is liable without intention or negligence.

### **10. Miscellaneous**

Venue for all disputes resulting from this agreement is Germany.

The law of the federal republic of Germany 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 .