

# Terms and conditions for domain name registrations under the “.be” domain operated by DNS.be

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## 1. Definitions

- “DNS.be” means the Belgian non-profit organization DNS Belgium vzw, Belgische vereniging voor Internetdomeinregistratie, domiciled in 3001 Leuven, Ubicenter, Philipssite 5, box 13, and with enterprise number BE046618640, and is the official registration body of the “.be” domain;
- “the registrar” means the company that enters into a non-exclusive registrar agreement with DNS.be and obtains from DNS.be the right to apply for the registration and renewal of domain names under the “.be” domain on behalf of its clients but for its own account;
- “the registrant” means the person, organisation or company having obtained or having applied for the registration of a particular name in the “.be” domain;
- “the consumer” means each private person or legal entity who is, exclusively for a non professional objective, registrant.

## 2. Acceptable domain names

DNS.be will not accept the following domain names for registration:

- Names that are already registered (“first come, first served” - principle), names in quarantine, names that are put “out-of-support” or on hold. Names that consist of characters other than “a-z”, “A-Z”, “0-9” and “-”, or that start or end with “-” (as recommended in RFC 1035, published on the web site of DNS.be).
- Names of less than two (2) or more than sixty-three (63) characters.
- Names with “-” on the third and the fourth position.

Names will be registered for the person whose application is completed first, notwithstanding earlier applications for those names that are not yet complete. An application is complete when it is received by the DNS.be computer system (not when it was sent), and when it contains all the data required by DNS.be.

The refusal to register a domain name does not create any rights (priority rights or other) for the applicant. The applicant may file a new application, in competition with anybody else, if that name later becomes available to the public.

## 3. Right of use

- After the registrar completes the registration process and pays the registration fees, the registrant is granted the exclusive right to use the domain name applied for.
- The right of use is valid for one year and is renewable as far as the registration fee has been settled.
- A domain name is put on hold if DNS.be is notified that legal proceedings, whether within or outside the scope of a court of law, are in progress over that name. A domain name that is on hold cannot be transferred or deleted, nor can the details of the registrant be modified. The registrant can, however, still use his domain name.
- DNS.be may terminate the registration if the registrant breaches any of the terms and conditions of the domain name registration. In case of a breach of the terms and conditions, DNS.be can send a reminder by e-mail to both the registrar and the registrant informing them that the registration will be terminated if the breach is not remedied within 14 days.
- After termination of the registration for reasons outside the scope of item d) of this article, the concerned domain name shall be placed in quarantine for forty (40) days. During this period the registrar can restore the domain name to its original status at the request of the registrant provided that a reactivation fee is paid. At the end of this period the concerned domain name will be available again for registration provided that it has not been reactivated.
- A domain name is labelled “out-of-support” in case the agreement between the registrar and DNS.be has been terminated and DNS.be has asked the registrant to find a new registrar.

## 4. Fees and payment

- The registrant is aware that the registrar is acting on his behalf and must pay the initial registration fee and the renewal fee according to the agreement between the registrar and DNS.be.

- The registrar has access to the computer system of DNS.be in order to verify the status and expiration date of the domain names that he manages. The registrar is responsible for the timely information of the registrant that the registration of his domain names is due to be renewed.
- DNS.be is not responsible for the registrar’s non-payment of registration or renewal fees, which may result in the non-registration or cancellation of a domain name (even if the registrant has paid the registrar).

## 5. Obligation to have a working e-mail address

The registrant must have a working e-mail address, which is inserted in the DNS.be data base. DNS.be and the registrant must use this e-mail address for official communication. If the e-mail address is no longer up to date, the registrant must contact his registrar to adapt the e-mail address. The registrar is obliged to adapt the e-mail address of the registrant at his request. If the e-mail address is not kept up-to-date, the registrant is in breach of these terms and conditions and DNS.be may terminate the registration as provided in article 3 above.

## 6. Agreement between registrant and registrar

- The registration and renewal process with DNS.be can only be conducted by the registrant through an authorised registrar, who is acting on behalf of the registrant but for its own account. DNS.be must make available on its web site a list of the authorised registrars, and an example of the agreement between DNS.be and the registrar. DNS.be is not a party to the agreement between the registrant and his registrar and has no obligation or responsibility due to that agreement.
- If a registrar is no longer an authorised registrar because the agreement with DNS.be is terminated, DNS.be must send an e-mail to the registrants informing them that their domain name is put “out-of-support” and asking them to appoint another registrar within one month. If the registrant does not appoint another registrar within one month, the right of use will be terminated at the end of its term with no possibility of renewal. The domain name will remain “out-of-support” until the later of three months after DNS.be has sent the notice-mail to the registrant, or two months after the registration was terminated. While the domain name is “out-of-support” the registrant may appoint another registrar who may send a request, including its reasons, to DNS.be to become the new registrar of the registrant and restore the registration if terminated.
- If a registrant wishes to move the domain name to a new registrar, the new transfer procedure, as mentioned below, applies. The registrant contacts the registrar to whom he wishes to transfer the domain name and asks him to apply for a transfer code to DNS.be. DNS.be sends the transfer code to the e-mail address of the registrant, as mentioned in the DNS.be database. The registrant delivers this code to his new registrar who will initiate the transfer by using this code. The internal application of DNS.be checks if the given transfer code matches with the domain name for which the transfer was initiated. If this match checks out, the transfer will be executed. The transfer code will be valid for 7 calendar days.
- When a registrant wants to transfer a domain name to a third party, the latter must ask his registrar to start the procedure described in item c) of this article with the transfer code that this third party received from the registrar. The successful execution of the procedures described in items c) and d) of this article means that a new registration period is started for the concerned domain names and implies payment of the original registration fee as specified in article 4 a). No reimbursement of fees paid for the initial registration period shall be made.

## 7. Privacy policy

- The registrant authorises DNS.be to process personal and other data required to operate the “.be” domain name system. DNS.be shall only use these data within the framework of the management of the .be domain name zone and related services. DNS.be may only transfer these data to third parties if ordered to do so by the public authorities (local or national, judicial or administrative), upon demand of the dispute resolution entity mentioned in article 10 or as provided in paragraph (c) of this article. The registrant has the right to access his personal data and the right to adapt his personal data, when they are incorrect.

- b) The registrant must keep DNS.be immediately informed of any change in name, address, e-mail address, telephone and fax numbers, through his registrar. An omission or delay in informing DNS.be of such changes may result in the termination of the registration.
- c) The registrant authorises DNS.be to make the following personal data accessible on its web site (through the so called WHOIS-search facility) – along with some other technical data - to guarantee the transparency of the domain name system towards the public:
  - name, address and telephone and fax number of registrant;
  - date of registration and status of the domain name;
  - e-mail address of registrant;
  - language chosen for the dispute resolution set out in article 10.

The registrant also authorises DNS.be to transfer these data to third parties within the scope of domain name information or monitoring services.

In exception to the two previous paragraphs, the name, address, telephone and fax number of the registrant will not be accessible on the website (through WHOIS search facility) nor be transferred to third parties if the registrant is a private person.

In contravention to the previous, third parties that want to know the personal data of a registrant, who is a private person and that have legitimate reasons for such a disclosure (e.g. the start up of a legal procedure), can send a motivated request to DNS.be. DNS.be will evaluate the invoked legitimacy for the disclosure and take a decision whether or not to communicate the requested data.

### **8. Representations and warranties**

- a) The registrant represents and warrants that:
  - 1° all statements (by this is explicitly, understood to mean the contact data of the registrant) made during the registration process and the term of the registration are complete and accurate;
  - 2° registering the domain name will not infringe or otherwise violate the rights of a third party;
  - 3° the domain name is not registered for an unlawful purpose;
  - 4° the domain name is not used in violation of any applicable laws or regulations, such as a name that helps to discriminate on the basis of race, language, sex, religion or political view;
  - 5° the domain name is not contrary to public order or morality (e.g. obscene or offensive names);
  - 6° the domain name is not registered with contact data that have as goal to shield the identity of the real owner.
- b) DNS.be is not liable for any damage, including direct or indirect damage, consequential damage and loss of profits, resulting from a contract or tort (including negligence due to or related to the registration or the use of a domain name or to the use of the software or the web site of DNS.be, even if DNS.be has been informed of the possibility of such damage, e.g. regarding to:
  1. registration or renewal (or the default of registration or renewal) of a domain name in favour of a registrant or a third party due to an error concerning their identity;
  2. termination of DNS.be's authority to register domain names in the ".be" domain;
  3. rights that third parties claim to domain names;
  4. technical problems or faults;
  5. acts or omissions of the registrars regarding the application, registration or renewal of domain names which may result in the non-registration or cancellation of a domain name.

Point 4, however, does not apply when the registrant is a consumer.

DNS.be will use its best efforts to provide its services according to the "best practices" standards adopted and approved in national or international context.

The registrant must indemnify DNS.be against any claim (and the resulting costs, including attorneys' fees) originating from the use or registration of a domain name that infringes the rights of a third party.

Disputes between DNS.be and the registrant must be brought before the courts of Brussels who will have exclusive jurisdiction, and must be governed and interpreted in accordance with the laws of Belgium, unless the consumer has the legal right to bring the dispute before another court or to have it governed in accordance to other law.

### **9. Change of terms and conditions**

- a) The rules of the domain name registration procedure are dynamic and subject to change.
- b) If DNS.be decides to change its rules, it will make the new rules available to the public by posting them on its web site at least thirty (30) days before the new rules take effect. Each registration procedure will be handled according to the rules in effect on the date the application is complete.
- c) As a deviation of the previous rule, DNS.be can modify the technical registration rules of article 2 without the application of the mentioned minimum delay of thirty (30) days. Such modifications will take effect from the moment of their announcement on the website of DNS.be. DNS.be can only make use of this specific procedure as far as those modifications seem justified within the national or international technical context and as far as they are intended to prevent registrations of speculative nature.
- d) DNS.be will not personally inform registrants, whose domain names have been rejected in the past, that new rules apply, even if the rejected names would be allowed under the new rules.

### **10. Dispute resolution policy**

- a) Dispute resolution. The registrant must submit the type of disputes set out below to alternative dispute resolution proceedings and accepts in this regard the competence of an accredited Dispute Resolution Entity. The registrant accepts that those proceedings must be conducted before one of the accredited Dispute Resolution Entities listed at the web site of DNS.be. The procedure will be conducted in the language chosen by the registrant during his application. Every dispute will be governed by the dispute resolution policy applicable when the complaint is filed.
- b) Applicable disputes.
  1. Within the scope of the alternative dispute resolution proceedings the third party ("complainant") has to assert and to prove, in compliance with the rules of procedure, that :
    - (i) the registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights; and
    - (ii) the registrant has no rights or legitimate interests in the domain name; and
    - (iii) the registrant's domain name has been registered or is being used in bad faith.
  2. The evidence of such in bad faith registration or use of a domain name can inter alia be demonstrated by the following circumstances:
    - circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs directly related to the acquisition of the domain name; or
    - the domain name was registered in order to prevent the owner of a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or a name of a geographical entity to use the domain name and that the registrant has engaged in a pattern of such conduct; or
    - the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
    - the domain name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location.
    - the registrant has registered one or more personal names without the existence of a demonstrable link between the registrant and the registered domain names.

3. If a complaint is filed, the registrant can demonstrate his rights or legitimate interests to the domain name by the following circumstances:

- prior to any notice of the dispute, the registrant used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or
- the registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if he has no trademark; or
- the registrant is making a legitimate and non-commercial or fair use of the domain name, without intent to misleadingly divert consumers for commercial gain or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.

- c) Rules of procedure. The rules of procedure of the Dispute Resolution Entity state how to initiate and conduct the proceedings, which delays apply and how the Third-party Decider that will decide the dispute, will be appointed.

The rules of procedure also determine the fees that the complainant must pay.

The Dispute Resolution Entity publishes the rules of procedure on its web site.

- d) Non-intervention of DNS.be. DNS.be does not, and will not, participate in the administration or conduct of any proceedings before a Third-party Decider. Neither DNS.be, nor the Dispute Resolution Entity or the Third-party Decider will be liable for their or one and others fault during the dispute resolution process, except for intentional fault.
- e) Remedies. The remedies available to a complainant under any proceedings before the Third-party Decider are limited to requiring the cancellation of the domain name registration or the transfer of the domain name to the complainant.
- f) Notification and publication. The Dispute Resolution Entity is obliged to publish all decisions on its web site during a reasonable term. DNS.be must also be informed of these decisions. If the registrant is involved in other legal procedures concerning his/her domain name, he/she must inform DNS.be of the final decision(s). DNS.be has the right to publish the decisions referred to in the present article. If the registrant or complainant is a private person, DNS.be will omit the address of the person involved.
- g) Competent courts. The submission to the alternative dispute resolution proceedings does not prevent either the registrant or the complainant from submitting the dispute to a competent, independent court before, during or after those proceedings. If a Third-party Decider decides that the domain name registration should be cancelled or transferred, DNS.be will implement that decision 15 days after being informed of the Third-party Decider's decision by the Dispute Resolution Entity, except if the registrant has started the appeal procedure of the dispute resolution proceedings in due time. This period for appeal is a prescriptive date. If the appeal procedure was started in time, DNS.be will not take further action (whilst leaving the domain name on hold) until the appeal procedure has ended or has been cancelled.
- h) Other disputes. All other disputes between the registrant and any party other than DNS.be over the domain name registration that can not be brought under the alternative dispute resolution proceedings must be resolved through court proceedings, arbitration or other available proceedings.
- i) Defences. DNS.be will not participate in any dispute between the registrant and any party other than DNS.be over the registration and use of the domain name, neither in the alternative dispute resolution proceedings, nor in any other proceedings. The registrant must not name DNS.be as a party or otherwise include it in any such proceedings. If DNS.be is named as a party in any such proceedings, it reserves the right to raise any and all defences deemed appropriate, and to take any other action necessary to defend itself.
- j) Domain name on hold. As soon as a request for alternative dispute resolution is properly filed with the Dispute Resolution Entity and the appropriate fee is paid, the Dispute Resolution Entity must inform DNS.be of the identity of the complainant and the domain name involved. DNS.be will put the domain name involved immediately "on hold", as stipulated in article 3 of these terms and conditions. The domain name remains on hold until the end of the proceedings set out in paragraph (g).
- k) Costs of dispute resolution. The dispute resolution fee is payable by the complainant. However, if the Third-party Decider concludes that the domain name registration needs to be cancelled or transferred, DNS.be shall repay the total of these costs to the complainant and reclaim the thus repaid costs from the registrant.

Upon DNS.be's first request, the registrant shall reimburse the repaid amounts. The registrant will have no recourse against DNS.be, the Dispute Resolution Entity, the Third-party Decider or the complainant for the thus suffered financial loss. The potential financial loss for the registrant is the risk that the latter took for the speculative registration of domain names on which third parties have rights.

The repayment provision specified in the previous paragraph does not apply to the appeal procedure of the dispute resolution proceedings. The costs of the appeal procedure are payable by the party that instituted this procedure.

The costs mentioned in this article only refer to the administrative costs of the dispute resolution proceedings as stipulated in article 10 and do not include any costs or fees for legal advice of the parties.

## 11. Severability clause

If one or more clauses of these terms and conditions are found to be invalid, unenforceable or illegal, the other clauses of the terms and conditions will nevertheless remain in full force. DNS.be and the registrant also agree to replace the invalid, unenforceable or illegal clause with a valid, enforceable and legal clause preserving the economic aims and maintaining the spirit of the clause so replaced.