Domain name registration contract

Valid from 1 September 2007 (Version 1.0)

1   Definitions

Changes	Changes made directly by the holder in his user account, which are processed immediately unless confirmations by other contacts persons or trusted third parties are necessary.
Subscription period	The period, generally of 12 months, starting from the day of registration or any subsequent period of 12 months during which the domain name is registered for the holder.
Transfer	Change in the administration of the domain name by SWITCH to a partner and vice versa or from one partner to another.
Transfer code	A code which the holder requires for the transfer of his domain name, in order to transfer the domain name from SWITCH to a partner, from a partner to another partner or back to SWITCH.
Trusted third party	A natural person who is designated by the holder of a SWITCHguard domain name to accept changes in accordance with the principle of joint decision-making. The provisions for contact persons apply *mutatis mutandis*.
User account	The area on the SWITCH website where contact persons and trusted third parties access available services in connection with the administration of domain names.
User ID	User ID assigned to a contact person by SWITCH in connection with their user account.

Unless otherwise set forth herein, the definitions according to the SWITCH General Terms and Conditions apply.

2   Conclusion and constituent parts of the domain name registration contract

2.1   *Subject of and contracting parties to this domain name registration contract*

This contract contains the terms and conditions between SWITCH - Teleinformatikdienste für Lehre und Forschung, Werdstrasse 2, Postfach, 8021 Zurich (hereinafter referred to as SWITCH) and the holder for the registration and administration of a domain under the ".ch" or ".li" domain. The domain name *per se* does not constitute any right in rem, but merely a claim to performance under this contract.

The holder of a domain name may be a natural person or legal entity or general or a limited partnership.

2.2   *Conclusion of the contract*

In submitting a request for registration of a domain name or for transfer of a domain name from one partner to SWITCH or for the opening of a user account with SWITCH, the applicant recognises the terms and conditions of this domain name registration contract and the other constituent parts of the contract according to para. 2.3. However, the contract on the registration and administration of the domain name for which registration or transfer has been requested is only valid and binding on confirmation by SWITCH to the holder, stating that registration or transfer of the requested domain name has taken place for the holder.

2.3 Constituent parts of the domain name registration contract and statutory boundary conditions

The following terms and conditions apply as constituent parts of the domain name registration contract:

a)   the SWITCH General Terms and Conditions (GTC) for the registration and administration of domain names under the domain ".ch" and ".li" in their current version, including annexes thereto.

b)   the respective current SWITCH fees for domain names,

c)   the Acceptable Use Policy for the use of the Whois service in their respective current version.

d)   the Rules of Procedure for the dispute resolution service in their current version.

Furthermore, the following legal provisions of Swiss law apply in particular to domain names under the ".ch" domain:

a)   the Law on Telecommunications of 30 April 1997 (LTC, SR 784.10),

b)   the Decree on Addressing Resources in the Telecommunications Sector of 6 October 1997 (DART, SR 784.104),

c)   the OFCOM Technical and Administrative Regulations on the assignment and administration of second-level domain names below the ".ch" domain (TAR, SR 784.101.113/2.13),

d)   the Data Protection Law of 19 June 1992 (DSG, SR 235.1) with the corresponding decree of 14 June 1993 (VDSG, SR 235.11).

Furthermore, the following legal provisions of the law of the principality of Liechtenstein apply in particular to domain names below the ".li" domain:

a)   the Communications Law of 17 March 2006 (ComL, LGBl 2006 Nr. 91),

b)   the Decree on identification methods and frequencies in the electronic communication sector (DIF, LGBl 2007 Nr. 118),

c)   the Data Protection Law of 14 March 2002 (DSG, LGBl 2002 Nr. 55).

No GTC other than those of SWITCH apply. Other GTC, e.g. those of the applicant and/or holder, will not become part of the agreement, unless these have been expressly accepted in writing by SWITCH.

2.4 Right of withdrawal of the applicant/holder

The applicant can delete his application for registration of a domain name or for transfer from SWITCH to a partner through an entry to that effect in the user account, without cost implications, as long as the request is still displayed as pending. From the conclusion of the contract with SWITCH according to para. 2.2, the holder, if he has registered the domain name for private use and not for commercial use or other commercial purposes, has 14 days within which to relinquish the domain name via the user account or interface without cost implications, i.e. to delete it and thereby withdraw from the contract.

3 User account for the registration and administration of domain names

3.1 Opening a user account

All contact persons and trusted third parties designated in relation to a domain name require a user account which can be opened via the SWITCH website. With the user account,

domain names can be registered and administered and corresponding requests may be made. The details concerning the contact persons/trusted third parties in the user account must be correct and accurate at all times. On creation of a user account, the contact person/trusted third party receives a User ID. SWITCH may consolidate multiple user accounts of one contact person/trusted third party.

3.2   Passwords

After opening a user account, SWITCH sends a temporary password via the means of communication specified by the contact person/trusted third party for confidential messages. The contact person/trusted third party must immediately replace the temporary password by a new password chosen by himself. The password should not be a trivial password, must include a minimum number of characters specified by SWITCH and ideally should consist of a combination of figures, letters and special characters. The contact person/trusted third party is responsible for diligent custody of the password. The contact person/trusted third party is responsible and liable for any misuse of the password. The contact person and in particular the holder have no liability claims or other claims against SWITCH if, owing to negligent keeping or management of the password or because of its disclosure to third parties, unauthorised changes are made and processed by SWITCH, particularly if the domain name is transferred to another holder, deleted or revoked or if name server assignments are deleted or changed.

3.3   Use of the account

The contact person and trusted third party may view and change their contact details according to the SWITCH data entry form on their own at any time via the user account. Via the user account, requests may also be made in respect of the amendment of contact details in the user accounts of other contact persons/trusted third parties. Such requests are subject to confirmation by the owner of the user account. If this confirmation does not take place, the request lapse. Generally, the request will be processed by SWITCH within 10 working days of confirmation by the owner of the user account. The owner of the user account will be informed of the receipt of such requests. The name of the natural person or legal entity corresponding to the User ID cannot be changed.

In addition to the processing of contact details, the user account is also used to carry out or make other changes and requests concerning the administration of domain names. The relevant details are given in the GTC and this contract, particularly paras. 5.1 and 5.2 below.

4   Communication

4.1   Communication by SWITCH to the contact persons

SWITCH is free to choose the means of communication. The password and transfer code are sent via the means of communication chosen by the contact person for confidential information (fax or e-mail) unless this means of communication is not (or is no longer) functioning.

4.2   Communication from the contact persons to SWITCH

Requests and changes may be made exclusively via the user account on the SWITCH website. SWITCH is not obliged to consider requests or changes which are not made via the user account.

For contact persons who have a large number of domain names to administer, SWITCH may provide an electronic interface as an alternative to the website.

5 Request authorisations according to domain name type

5.1 SWITCHbasic domain names

In the case of a SWITCHbasic domain name, only the holder may effect changes directly relating to the administration of his domain name, e.g. transfer of the domain name or relinquishment. Other contact persons or third parties may, subject to explicit exceptions in this contract and the SWITCH GTC, only make requests, not effect direct changes relating to a domain name. These requests by third parties require the confirmation of the holder in his user account within 10 days of receipt of the information concerning the request. The holder will be informed of the receipt of such requests in the user account. These requests lapse in the absence of the holder's agreement within this deadline.

The holder of a domain name is entitled and obliged in particular to designate the necessary contacts (billing contact and technical contact) and name server or replace these designations by others.

The billing contact and the technical contact may request that their data be removed, i.e. replaced by the holder contact, without the holder's agreement if they demonstrate in writing that their contract with the holder has ended or if they deliver a non-liability declaration to SWITCH.

5.2 SWITCHguard domain names

In the case of a SWITCHguard domain name, carrying out administrative actions in connection with a domain name always requires the domain name holder's consent, subject to the exceptions provided for in this contract and in the GTC. In addition, however, in each case the consent of the trusted third parties is necessary in accordance with the following provisions. In the case of registration by the applicant, the SWITCHguard domain name requires the assignment of at least one and at most five trusted third parties. A user account must be opened beforehand for each trusted third party.

The holder, trusted third party, contact person and third parties may make requests regarding the administration of the domain name but cannot effect changes themselves.

A request must always be confirmed by the holder and by the majority or one half of the trusted third parties in their respective user account within 10 days of receipt of the information concerning the request. The request lapses in the absence of the above-mentioned confirmations within the specified deadline.

The holder may make any changes without the agreement of the majority of trusted third parties by signing a non-liability declaration with a publicly notarised signature of the authorised signatory according to the commercial register and by presenting a copy of a current extract from the commercial register.

Optionally, the holder may provide an IP address range for each trusted third party. If a trusted third party wishes to confirm a request, SWITCH then verifies the sender's IP address. If this does not coincide with the address range specified by the holder, the confirmation function is denied.

Otherwise, paragraphs 2 and 3 of section 5.1 apply in connection with SWITCHguard domain names.

6 Change of domain name type

The holder may change the type of his domain name at any time, as long as the fees incurred by the holder for the previous type have been paid and in the case of changes from SWITCHguard to SWITCHbasic an application for a domain name type change as defined in para. 5.2 has been accepted. If the holder has already paid fees for the previous type in advance for the period after the type change has been made, the period for which the advance payment is valid (normally the remaining term of the subscription period) is credited to the new domain name type.

7 Transfer of domain names

The holder may transfer his domain name from SWITCH to a partner at any time as long as the fees incurred are paid.

From February, 2, 2008, the holder must apply for a temporary transfer code on the SWITCH website in order to do this. The transfer code will be sent by SWITCH to the holder via the means of communication selected by the holder for confidential messages. The holder must treat the transfer code as diligently as passwords in accordance with para. 3.2 above. The holder communicates the transfer code to the partner so that the latter can then transfer the domain name from SWITCH to himself and thereby obtain the sole entitlement to administer the domain name in the relationship with SWITCH. A valid transfer request will generally be completed by SWITCH within 14 days.

The holder's contract with SWITCH ends with the transfer. The holder loses the functionalities of the respective domain name type; in particular, he can no longer administer his domain name by means of his user account with SWITCH.

The holder remains fully liable for payment of any outstanding bills or for fees incurred up to the termination point.

If, for the domain name, the holder has already paid fees in advance for the period after the transfer has been made, (from 1.1.2008) the period for which the advance payment is valid (normally the remaining term of the subscription period) is credited to the partner.

If a holder transfers the domain name from a partner to SWITCH, he receives a SWITCHbasic domain name. If, for the domain name, the holder has already paid fees in advance for the period after the transfer has been made, the period for which the advance payment is valid (normally the remaining term of the subscription period for the registration carried out by the partner) is credited to the holder.

8 Fees, billing and terms of payment

8.1 Fees

The respective valid fees in Swiss francs are shown on the SWITCH website. For holders domiciled in Switzerland, the fees are inclusive of any value-added taxes and for holders domiciled abroad they are exclusive of value-added tax.

SWITCH may make the assignment, transfer or extension of the subscription period dependent on receipt of payment of the fees.

SWITCH can combine different subscription periods for multiple domain names of the same holder into a uniform subscription start and thereby shorten annual subscription periods.

Among other things, the fees cover the costs of an unlimited number of requests and changes during the subscription period. SWITCH reserves the right to charge costs for certain updates or additional services. The fees are payable in full for each commenced subscription period in which the domain name is registered.

There is no *pro rata* reimbursement of fees to the previous holder for domain names which are transferred, deleted or revoked before expiry of the current subscription period. Nor is there any *pro rata* adjustment of fees in the event of changes in price. Particular legal requirements are excepted.

If, for the domain name, the previous holder has already paid fees in advance for the period after the transfer has been made, the period for which the advance payment is valid (normally the remaining term of the subscription period) is credited to the new holder, i.e. the new holder is liable to SWITCH for the fees for the transferred domain name only after the creditable period has expired.

If a deleted domain name falls within the transition period, in the case of a new registration for the previous holder the fees payable are as for a new registration.

8.2 Billing on registration (1st subscription period)

Once the entries have been made for a domain name in the database, the Whois service and where applicable in the zone file, a bill for the registration fee for the first subscription period is sent to the billing contact entered in the SWITCH database, unless payment in advance has been required.

8.3 Billing for the 2nd subscription period and subsequent years

SWITCH issues a bill to the billing contact for the next subscription period generally 30 days before the end of the current subscription period. Generally fourteen days before billing, SWITCH sends an advance notification to the holder and the billing contact respectively, listing the domain names for which fees are payable and the subscription period. If no bill has been received 20 days before the end of the subscription period, the holder and/or the billing contact should make enquiries to SWITCH about the billing.

8.4 Obligation to pay

The holder of the domain name is obliged to pay SWITCH the fees in full. Nomination of a third part as billing contact represents an agreement on the billing address and does not represent a transfer of the payment obligation of the fees payable to SWITCH to the billing contact which discharges the holder.

If the holder relinquishes his domain name up to 30 days at the latest before the start of the new subscription period (the "period of notice"), he will no longer owe the fees for the following subscription period.

8.5 Part payment

In the event of part-payment of fees for a domain name, the payment obligation is not fulfilled; paras. 8.9 and 8.10 apply.

In the event of payment of a bill relating to multiple domain names, SWITCH has the right to decide for which of the domain names in question payment is deemed to have been made.

If multiple invoices of the same holder are outstanding, a payment, if it is not clearly assigned to a specific invoice, will generally be credited by SWITCH to the oldest respective invoice.

Any instructions from the holder or billing contact with wording other than that in the two preceding paragraphs cannot be considered in the framework of the automatic processes performed by SWITCH and are therefore not relevant for SWITCH, subject to para. 8.8.

8.6 Payment period

The fees must be paid in full without deduction within 30 days from the date of invoice. SWITCH has the right to offset the sums invoiced by it against any prepayments made and securities.

8.7 Currency and forms of payment

Valid payment is only possible in Swiss francs (CHF). Payment may be made by credit card or, for payments inside Switzerland, using a payment slip. Other forms of payment (e.g. cheques) are not permissible. An exception is made for payment from abroad, which can be made by bank transfer, provided that the payer accepts all expenses. If this is not the case, SWITCH is entitled to deduct charges incurred by SWITCH beforehand from payments and in such cases the fees incurred will only have been paid in part.

8.8 Credit card payment in particular

The fees can be settled by credit card both before receipt of a bill and after billing. On request, an online receipt identifying the payment is available immediately after making payment. The billing contact will receive confirmation of payment. As a variation from para. 8.5 above, with a credit card payment partial payment with an instruction to book it to a corresponding domain name is possible via the website. By making the credit card payment, the owner of the credit card authorises SWITCH to request the fees from the specified credit card company. If the credit card organisation refuses to credit SWITCH, the payment is deemed not to have been made. If in the interim a transfer of the domain name has occurred, the new holder must subsequently pay the fees for the subscription period already credited to him. In the event of misuse, the domain name will be revoked by SWITCH.

8.9 Default and reminder

If no payment or only incomplete payment is received by the end of the ordinary payment period, the holder will automatically be in default. In this case, the holder incurs statutory interest on late payment. SWITCH will then send at least one payment reminder. The holder incurs cost-covering reminder charges, debt enforcement costs and, if applicable, collection costs, including court and lawyers' costs. Payment reminders and any warnings concerning impending revocation are sent to the holder and the billing contact listed in the database at the time in question.

8.10 Consequences of default

If payment of the fees due (including any interest on late payment, reminder charges, debt enforcement costs, collection and other costs) is not made in due time, in full, and in accordance with the terms of payment, this will lead to revocation of the domain name.

9 Term of the contract

This domain name registration contract is concluded for an indeterminate period. It ends with the transfer of the domain name to another holder, the transfer of the domain name to a partner or the deletion of the domain name due to relinquishment or revocation.

The holder remains fully liable for any fees outstanding at the time of termination of the contract and up to the termination point.

10 Concluding provisions

10.1 Enactment of contract amendments

SWITCH is entitled at any time to amend this domain name registration contract as well as its constituent parts.

If the holder does not agree on the new or amended provisions, he has the option of relinquishing his domain name up to the last day before the new provisions come into force; otherwise the amended provisions will become valid for the holder. The holder's payment obligation in respect of any fees relating to the commenced subscription period concerned will not be affected by this.

10.2 Notification and coming into force of contract amendments

The contract amendment takes place by publication on the SWITCH website at least 30 days before it comes into force. Publication is agreed to be sufficient notification. The contract amendments come into force on a date published on the SWITCH website, with any necessary transitional provisions. The constituent parts of the contract are permanently available on the Switch website at www.switch.ch.

10.3 Transfer of contractual rights and obligations

SWITCH has the right to transfer the contract with the holder, and the resulting rights and obligations, without the latter's consent to OFCOM or a third party which will take on the tasks and obligations of this contract.

10.4 Severability

If individual provisions of this contract including the GTC or other constituent parts of the contract should be wholly or partly invalid, this shall not affect the validity of the other provisions or parts of such provisions. The invalid provision will be replaced by a provision which comes as close as legally possible to the intention of the invalid provision.

10.5 Applicable law and jurisdiction

This agreement between SWITCH and the holder of the domain name, and in particular the registration and administration of domain names, is governed by and construed in accordance with Swiss law, to the exclusion of the provisions on the conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods. The exclusive jurisdiction is Zurich.