

ANNEX 3: General terms and conditions of the contract between the domain name registrar and registrant as part of registering, renewing, and administering domain names under the .LU domain	
Version: 1.0 Last Updated: June 2006	<i>Contract No. (for internal use only; do not complete)</i>

1. Definitions

- a) In Luxembourg, administration of the national, top-level .LU domain is controlled by the Réseau Téléinformatique de l'Education Nationale et de la Recherche (RESTENA Foundation) as a public service. The RESTENA Foundation (hereinafter referred to as "DNS-LU") assumes authority over the top-level .LU domain, which the Internet Assigned Numbers Authority (IANA) assigned to it in March 1992. In this capacity, DNS-LU performs the administrative registration of .LU domain names and provides technical operations for the department.
- b) DNS-LU is located at 6, rue Coudenhove-Kalergi L-1359 Luxembourg, registered with the Luxembourg Business and Company Registry under number G1 and with the Customs and Excise Tax Administration under intercommunity VAT number LU1840367.
- c) These general terms and conditions are an integral part of the contract between the registrar and the registrant as part of assigning and administering a .LU domain name. In the event of discrepancies, these general terms and conditions prevail over any other document belonging to this contract.
- d) The registrar is the legal entity or individual that entered into a non-exclusive, registration contract with DNS-LU and received from DNS-LU the right to solicit registration and renewal of domain names in the .LU domain by acting in its customers' names, but on the registrar's own behalf.
- e) The registrant shall hereinafter be referred to as the "customer." This is the legal entity or individual that entered into a contract with the registrar in order to solicit registration and renewal of a domain name in the .LU domain.
- f) The Domain Name Charter contains the guiding principles the RESTENA Foundation applied when registering domain names. The version of the Domain Name Charter attached to these general terms and conditions is the result of collaboration between the RESTENA Foundation DNS-LU and private and public players representing the national Internet community, as part of a working group formed by the Government on March 16, 2001.

2. Principle of "first come, first served" and acceptable domain names

- a) The registrar registers domain names with the DNS-LU on a "first come, first served" basis, in accordance with the conditions defined herein. In this regard, the date and time when the registration software receives a complete and technically valid, electronic request to register a domain name, in accordance with the technical manual, shall be the sole criteria considered.

- b) A request is fulfilled if it is accepted by the DNS-LU registration system and if it includes the data DNS-LU requests.
- c) Pursuant to the provisions of the Domain Name Charter, a domain name that can be accepted for registration must meet the following criteria: Each domain name must have no few than 3 and no more than 63 alphanumeric characters in its name (a...z, 0...9). The only special character accepted is the hyphen (-), except when found as the first or last character. The DNS system makes no distinction between lowercase and upper case characters; any upper case character is automatically converted to lower case.

3. Rejected Domain Names

The customer takes cognizance of the fact that the domain names described below may not be registered and that the registrar and DNS-LU may refuse a request concerning such domain names. In principle, DNS-LU does not conduct any *a priori* audits as to the admissibility of a domain name. Only domain names that fall into one of these categories are excluded:

a) Domain names excluded under the Domain Name Charter:

- (1) domain names matching the name of a town or village in Luxembourg, as listed in the Official Directory 1995-Vol 2 – Geopolitical overview and localities within the Grand-Duchy, unless the local authority in question is the party making the request;
- (2) domain names identical to a domain name that was already registered or that was previously the subject of a legitimate and valid registration request;
- (3) domain names that are obviously contrary to law and order or decent morals.

b) Domain Names Excluded by DNS-LU:

- (1) domain names found on the list of domain names that are temporarily blocked;
- (2) domain names with "-" as the third or fourth character.

DNS-LU will notify the registrar of any rejected registration request for a domain name referred to in Article 3. The applicant for such a name expressly acknowledges that the contract signed with the registrar in order to register such a domain name is retroactively terminated. The refusal to register a domain name shall not give rise to any (priority or other) rights for the applicant. The applicant may make a new request, in competition with others, if such a name becomes available to the public at a later date.

4. Assignment, Administration, and Deletion of a Domain Name

- a) After finishing the registration procedure and after the registrar pays the registration fees, DNS-LU assigns the domain name, the subject of the request, to the applicant.
- b) The subscription period for any domain name starts on the date the domain name is registered and ends the following year, on the same day of the same month in which the domain name was registered. Unless provided otherwise herein, the subscription period shall be automatically renewed, under the same terms, for successive one-year terms that end the following year, on the same day of the same month in which the domain renewal, transfer, or reactivation occurred.
- c) The registrant has the option of relinquishing their domain at any time, and thereby terminating this agreement, by submitting a cancellation request to their registrar in accordance with the stipulations set forth in the contract they signed with their registrar. Said termination shall only take effect if the DNS-LU systems receive a cancellation request from the registrar prior to the end of the registration period. If DNS-LU does not receive said request from the registrar, DNS-LU shall demand payment of the applicable renewal fees for the registration renewal period, in accordance with the stipulations cited in the contract between DNS-LU and the registrar.
- d) DNS-LU is in no way obligated to notify the registrant of the upcoming expiration date of the registration period.
- e) DNS-LU may, at any time, delete a domain name under the following circumstances:
 - (1) the registrar requests that the registration be deleted;
 - (2) in the event of non-renewal of a domain name or failure to appoint a new registrar pursuant to Article 7.b) of these general terms and conditions.
 - (3) the registrant does not abide by or no longer abides by the Domain Name Charter or these general terms and conditions for registration and renewal of the domain name. If the case of a breach of these terms and conditions, DNS-LU may send a warning via e-mail to the registrar and to the registrant informing them that the domain name shall be deleted if the warning is not obeyed within 15 days;
 - (4) if use of the domain name is shown to be irregular or illegal for any reason whatsoever. Deletion may take place notably following a legal ruling;
 - (5) the registrar furnished false information to DNS-LU, or the registrar did not furnish updated data about their information to DNS-LU within a period of 30 days;
 - (6) the domain name registrant no longer exists and the potential purchaser of the name did not report the change of domain name registrants to DNS-LU within a deadline of 30 days.

- f) After a domain name is deleted, the domain shall be placed "in redemption" for a period of 30 days. During this period, if the registrar so requests from DNS-LU and in exchange for a reactivation fee (including the registration fees for starting a new subscription period), the registrar has the option to restore the domain name to its original status. At the end of this period, if no reactivation has taken place, the domain name in question is once again made available for registration.
- g) A domain name placed "in redemption" is never transferable and may not be transferred, with the exception of appointing a new registrar as stipulated under Article 7, second paragraph.
- h) As an exception to Article 4.f), deletion takes effect and is finalized immediately, without previously placing the domain name in redemption for 30 days, when the deletion occurred under the circumstances listed in Article 4.e) points (3), (4), and (5).
- i) No refund of paid registration or renewal fees shall be made for the subscription period during which this contract is terminated or this domain name is deleted in accordance with this article.

5. Fees and Payment

- a) The registrant is informed of the fact that the registrar, acting in their name, must pay DNS-LU the initial registration fees, as well as renewal fees, in accordance with the contract between the registrar and DNS-LU.
- b) The registrar has access to the DNS-LU computer system in order to check on the status and expiration date of the domain names the registrant manages. The registrar is responsible for notifying the registrant in a timely manner about the latter's domain names that are up for renewal.
- c) DNS-LU cannot be held responsible for a failure to pay on the part of the registrar (regardless of the fact that the registrant may have paid the registrar), which may cause registration not to occur or cause the deletion of a domain name.

6. Registrant's Obligations

- a) **Obligation to have an e-mail address:** The registrant must have a working e-mail address that is entered into the DNS-LU database. They declare that this e-mail address is in working order and undertake to keep it as such. The e-mail address will be used for official communications between DNS-LU and the registrant.
- b) **Updating incorrect data:**
The registrant should make sure that their contact information, particularly their e-mail address, is kept current and correct, in the records of both (i) the registrar with whom they signed a contract; and (ii) DNS-LU (via the registrar).

If the e-mail address is not kept up-to-date, the registrant is in breach of these terms and conditions, and the registrar and DNS-LU have the right to delete the domain name, as stipulated in Article 4 e) (5).

7. Contract between the Registrant and the Registrar

- a) The applicant carries out the DNS-LU registration and renewal procedure via the authorized registrar by acting in the registrant's name, but on the applicant's own behalf. DNS-LU shall publish a list of authorized registrars on its Web site www.dns.lu, as well as the model contract between DNS-LU and the registrar. DNS-LU plays no part in the contract between the registrant and their registrar and assumes no obligations or liability as a result of such a contract.
- b) If the registrar is no longer authorized because their contract with DNS-LU has ended, DNS-LU shall send an e-mail to registrants informing them that they must select a different registrar within a 30-day period. If the registrant has not appointed a new registrar within this period, their domain names shall be deleted from the database. Within a 30-day period following receipt of the notice from DNS-LU about termination of the registrar's contract, the customer must notify DNS-LU of their decision to transfer the domain to another registrar, to relinquish the domain name, or to no longer avail themselves of a registrar's services. In the latter instance, a new contract must be signed with DNS-LU.
- c) If a registrant cancels the contract with their registrar, they must appoint a new registrar at the same time. The latter must inform DNS-LU of the proposed change in registrars. The change in registrars shall take effect if the registrant confirms this electronically or by fax with a 15-day period. If the registrant does not reply within a 15-day period, the change shall not take effect, and the previous registration status shall be upheld. Moreover, the registrar cannot oppose the domain transfer for any reason whatsoever, and especially not because the customer has yet to pay all their invoices.
- d) When a registrant wishes to relinquish a domain name in favour of a third party, the latter's registrar must initiate the operation. If the change of registrants is not subsequently confirmed within a 15-day period, during which any transaction related to this name shall in principle be suspended, the transfer shall be nullified and the previous registration status shall be restored.

DNS-LU believes that the above procedure to change registrants should not be adhered to under the following circumstances:

- (1) changing the company's name;
- (2) changing its legal status.

The registrant must then send written confirmation that the name change is justified by one of the two scenarios listed above, without prejudice to DNS-LU's authority to make its own assessment as to the merits of this proof.

- e) The successful outcome of the procedures in points c) and d) of this Article result in the opening of a new subscription period for the domain names in question, as well as invoicing for the registration fees listed in Article 5.a). No refund of paid registration or renewal fees shall be made for the initial subscription period during which the procedure described in points c) or d) occurred.

8. Data Protection and Handling of Personal Information

- a) The registrant permits the registrar to handle their personal information in order to execute this contract, as well as proper operation of the .LU domain name system. This personal information is intended to be communicated to DNS-LU, which shall use it for the sole purpose of operating the .LU domain name system. The registrar shall not communicate personal information to parties other than DNS-LU, subject to the exceptions set forth in this Article and legal and statutory exceptions. The registrant's personal information may be kept for a maximum period of 10 years.
- b) The registrant has the right to access their personal information and the right to have any inaccurate personal information about them corrected.
- c) The registrar acts as an agent when collecting and transferring data to DNS-LU and is responsible for personal information about registrants requesting registration or renewal. To this end, the registrar must abide by Luxembourg laws and current, applicable laws regarding data protection in the Member State where the registrar is established. The registrant shall immediately inform DNS-LU, via the registrar, of any change to the company name, address, e-mail address, telephone number, or fax number. Any omission or delay in notifying the registrar of such changes may result in the registrant's domain names being deleted pursuant to the provisions of Article 6 b).
- d) In order to ensure the transparency of the domain name system, the registrant agrees that the following personal information, along with a certain amount of technical data, are intended for communication to the general public on the site www.dns.lu:
- the registrant's name and address;
 - the registrant's e-mail address.
- e) If the registrant is an individual, they may, at any time and without giving a reason, inform DNS-LU, via their registrar, that their personal information may not be disclosed to the public using the WHOIS service. The registrant agrees that third parties may have legitimate reasons for requesting disclosure of personal information about individuals who do not appear in the WHOIS database, but that is personal information that DNS-LU processes for internal use in accordance with Article 8.a) hereof.

The third party is obligated to present an individual request for disclosure of this information in the form of a written request to be sent by regular mail to DNS-LU and:

- to explain and justify the legitimate reasons behind their request;
 - to take cognizance of and agree to a disclaimer whereby the third party undertakes not to use the information provided for those other than purposes justified by the aforementioned legitimate reasons.
 - to communicate their complete name and address (e-mail address, telephone and fax numbers). Third parties presenting a request for access to information shall only have limited access to the requested information if they meet all of the stated requirements or if a legal authority in Luxembourg orders DNS-LU to grant such access.
- f) DNS-LU reserves the right to institute the appropriate legal proceedings against any third party that breaches this Article.

9. Warranties, Representations, and Sole Liability

- a) The registrant warrants and represents:
- that their request complies with Luxembourg laws;
 - that they take cognizance of and agrees to the Domain Name Charter and that their request for registration abides by the provisions of the Charter;
 - that they take cognizance of and agrees to these general terms and conditions;
 - that any declarations made during the registration and renewal procedure are complete and accurate;
 - that neither the registration of a domain name nor the way this domain name is used, either directly or indirectly, infringes on the rights of a third party.
- b) DNS-LU accepts no liability for the use of a domain name in the registry of .LU domain names. More specifically, DNS-LU accepts no responsibility for any conflict of trade names, whether registered or otherwise, or with any other right to use a name. Thus DNS-LU is exempt from any liability to verify the right to use a domain name. The registrant is definitively responsible for any damages and/or legal expenses resulting from the abusive or illegal use of a domain name. The registrant indemnifies the registrar and holds it harmless in this regard. The registrant indemnifies the registrar against any claim (and resulting costs and expenses, including lawyers' fees) following the irregular or illegal registration or use of a domain name.

- c) DNS-LU cannot be held liable, notably due to a loss of use, for the allocation of the registrar or the customer's businesses, for business interruption, or for any other harm resulting from or related to the registration or use of a domain name, or the use of the DNS-LU registration software or the DNS-LU Web site www.dns.lu, even if DNS-LU was informed of the possibility of such harm, especially:
- Registration or renewal (or failure to register or renew) for a registrant or a third party due to an error in their identity;
 - The loss of DNS-LU's authority to register .LU domain names;
 - A third party's rights to a domain name;
 - Failures or technical problems;
 - Actions or negligence by registrars regarding the request, registration, or renewal of domain names that have the effect of not registering or nullifying the domain name.
- d) As part of the various disputes set forth in this Article, DNS-LU shall only intervene in order to nullify the domain name or transfer the domain name to the third-party complainant, as applicable.

10. Revisions to these general terms and conditions for registration and renewal

- a) The procedural rules for registering and renewing a domain name are liable to be revised or amended.
- b) If DNS-LU should decide to modify these registration and renewal procedures, it shall make the new rules available to the public by publishing them on its Web site www.dns.lu at least 30 (thirty) days before they go into effect and by so notifying its registrars. Any registration procedure shall be treated in accordance with the rules in effect on the date the registration procedure was completed.
- c) As an exception to point b), DNS-LU may revise the technical rules for registration without having to apply this minimum period of 30 (thirty) days. Such changes shall take effect as soon as they are announced on the DNS-LU Web site www.dns.lu. DNS-LU may only use this procedure as long as the changes seem warranted due to major technical reasons.
- d) DNS-LU shall not notify registrants in the event of modifications to the terms and conditions for registration and renewal. Each registrar is obligated to notify their own clients on an individual basis about the impact such changes may have on the registration and renewal of their clients' domain names.
- e) DNS-LU shall not notify registrants whose domain names were previously rejected, of the new rules, even if the rejected domains are now admissible under the new rules.

11. Disputes

- a) When a domain name was registered on behalf of a registrant, the third party who subsequently wishes to be assigned that very domain name must demonstrate its right to be assigned the domain and is responsible for taking its own actions against the registrant.
- b) The registrant acknowledges and accepts that DNS-LU shall never arbitrate conflicts resulting from the registration and use of a .LU domain name. The disputing parties must either secure a court ruling or settle the dispute through an extrajudicial agreement. Thus DNS-LU shall play no role whatsoever in a dispute between a registrant and a third party during the course of a dispute proceeding between a registrant and a third party. Intervention by DNS-LU is limited to executing enforceable court rulings or extrajudicial agreements reached in the dispute between a registrant and a third party, with DNS-LU being bound to ensure, on its own initiative, the definitive nature of a ruling or the existence of contradictory rulings handed down in the various countries involved. The ruling or extrajudicial agreement, respectively, must be sent in writing, by registered mail, to DNS-LU within the following ten business days.

12. Applicable Law and Competent Court

- a) These general terms and conditions for registering and renewing domain names are governed by the laws of Luxembourg.
- b) The courts of the district of Luxembourg and in Luxembourg have sole competence.

13. Commun Clause

The potential nullification of any of the clauses found in these terms shall not affect the validity of other provisions. The French version of the present terms is the original version and shall be referred to in the event of differences between the original and a version translated into another language