



Terms and Conditions / OpenTLD Domain Name Reselling / Version 1.1

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1. Introduction.

In this Reselling Agreement ("Agreement"), "you" and "your" refer to each reseller ("Reseller") and "we", "us" and "our" refer to OpenTLD B.V. , a company organized under the laws of the Netherlands and registered with the Amsterdam Chamber of Commerce registration number 54730619. This Agreement explains our obligations to you, and your obligations to us in relation to your use of our services. By selecting our service(s) you have agreed to establish an account with us for such services.

By agreeing with this Reseller Agreement you confirm that the you have read and understood every clause of this Agreement and that you have independently evaluated the desirability of the service and is not relying on any representation agreement, guarantee or statement other than as set forth in this agreement.

Any acceptance of your application(s) for our services and the performance of our services will occur at our office in Amsterdam, Netherlands, the location of our principal place of business.

2. Fees, payment and term of service.

As consideration for the services you have selected, you agree to pay us the applicable service(s) fees set forth on our Web site at <http://www.opentld.com> at the time of your selection. All fees are prepaid, meaning you need to 'fund' your account. This can be done using credit card or PayPal. Domain names or services registered under your account will charge your pre-paid balance and it is your responsibility to maintain funds under your account. Without any balance in your account, no domain name registrations or service purchases can be done. All prices and fees are subject to change without notice. As your account is pre-funded, any domain name registration will be activated immediately. You agree that you will pay for any charge backs or bank processing fees charged to us as the result of any action you take or may have taken with respect to your use of our services. You understand and agree that if you are not current in any payments to us for these charges or for any other reasons, you will be denied registration and other services rights until such balances are cleared, and that you risk having any Domain Name registrations or other services cancelled.

Unless otherwise specified by you during registration, each domain name registration is for a one-year initial term and renewable in perpetuity thereafter for successive one-year terms, but for no more than 9 years consecutively. Any renewal of your services with us is subject to our then current terms and conditions and payment of all applicable service fees at the time of renewal and in the case of domain name re-registration, our acceptance of your domain name registration.

You agree that you may not transfer your domain name registration to an alternate domain name registrar during the first sixty (60) days from the effective date of your initial domain name registration with us.

3. Technical limitations and requirements.

You may register any domain name that contains as few as one and as many as 63 characters (not including the extension). Names may not begin or end with a dash, and upper case and lower case are treated as upper case only. Besides the - (dash) character, only alphanumeric characters a-z, 0-9 are accepted. Domain names may not contain spaces or any other non-alphanumeric characters (such as punctuation) or any non-ASCII characters.

Any person or organization located anywhere in the world may register any number of Domain Names as long as the information provided by the customer is accurate, valid and verifiable. Your domain name will only work if you have your own name server support.

Domain Name Registrations happen through OpenTLD's Reseller API that is available at <https://api.opentld.com/reseller>. Documentation for the Reseller API is to be found at <http://www.opentld.com/>. Integrating with OpenTLD's Reseller API can be done using plugins for services like WHMCS or cPANEL or opensource implementations of the Reseller API's may be used. OpenTLD is not responsible for an error in the client side implementation of the API, You agree that you are responsible for any API calls sent to the OpenTLD API.

4. Reseller obligations.

Using our Reseller API brings the following obligations:

- a. You are responsible for providing customer service, billing support, and technical support to your Sub-Resellers and customers.
- b. You must ensure that the Registrant of each domain name agrees to be bound by the terms and conditions laid out by the Registrar of the Domain Name. You must familiarize yourself with these terms. You acknowledge that the Registrar has various rights and powers as mentioned in the Registrar's terms and conditions. We are not liable for any action taken by Registrar pursuant to the Registrar's terms and conditions. You acknowledge and agree that you shall indemnify us of, and shall be responsible for any liability resulting from Registrants' noncompliance with such terms and conditions.
- c. You will not make any changes to any information associated with the domain name without explicit authorization from the Registrant of that domain name.
- d. You must comply with all applicable terms and conditions, standards, policies, procedures, and practices set by ICANN, the Registrar and the Registry Operator.
- e. You acknowledge that in the event of any dispute and/or discrepancy concerning any data element of a domain name, Sub-Reseller or customer in the OpenTLD database, the data element in the OpenTLD database records shall prevail.
- f. You acknowledge that all information sent via the API, including authentication information is accessible to us.
- g. You agree to provide, maintain and update, current, complete and accurate information for all the data elements about the Reseller in the OpenTLD database.
- h. During the term of this Agreement and for three years thereafter, you shall maintain the following records relating to its dealings with OpenTLD and its customers:
 - a. In electronic, paper or microfilm form, all written communications with respect to OpenTLD Products.
 - b. In electronic form, records of the accounts of all, current / past orders with you, including dates and amounts of all payments, discount, credits and refunds.
 - c. You will make these records available for inspection by us upon reasonable notice not exceeding 14 days.

5. Modifications to agreement.

Except as otherwise provided in this Agreement, you agree that we, at our sole discretion, during the term of this Agreement, may: (1) revise the terms and conditions of this Agreement; and/or (2) change part of the services provided under this Agreement at any time. Any such revision or change will be binding and effective immediately upon posting of the revised Agreement or change to the service(s) on our Web sites, or upon notification to you by e-mail or regular mail. You agree to periodically review our Web sites, including the current version of this Agreement available on our Web sites, to be aware of any such revisions. If you do not agree with any revision to the Agreement, you may terminate this Agreement at any time by providing us with notice by e-mail or mail addressed as follows, Attention: OpenTLD B.V., P.O. Box 11774, 1001 GT Amsterdam, Netherlands. Notice of your termination will be effective on receipt and processing by us. Any fees paid by you if you terminate your Agreement with us are nonrefundable, but you will not incur any additional fees. By continuing to use our services after any revision to this Agreement or change in service(s), you agree to abide by and be bound by any such revisions or changes. We are not bound by nor should you rely on any representation by (i) any agent, representative or employee of any third party that you may use to apply for our services; or in (ii) information posted on our Web site of a general informational nature. No employee, contractor, agent or representative is authorized to alter or amend the terms and conditions of this Agreement.

6. Modifications to your account.

In order to change any of your account information with us, you must use the Account Name (your email address) and the Password that you received when you opened your account with us through our online application process. Please safeguard your Account Name and Password or security authentication option from any unauthorized use. In no event will we be liable for the unauthorized use or misuse of your Account Name or Password.

7. Termination of this agreement

Either party may terminate this Agreement at any time with immediate effect if the other party is adjudged insolvent or bankrupt, or if proceedings are instituted by or against a party seeking relief, reorganization or arrangement or compromise or settlement under any laws relating to insolvency, or seeking any assignment for the benefit of creditors, or seeking the appointment of a receiver, liquidator or trustee of a party's property or assets or the liquidation, dissolution or winding up of a party's business.

We may terminate this Agreement by notifying you in writing, as of the date specified in such notice of termination under the following circumstances:

- a. In the event that you materially breaches any term of this Agreement.
- b. There was a material misrepresentation and/or material inaccuracy, and/or materially misleading statement in your Application to us and/or any material accompanying the application.
- c. By giving a 30 (Thirty) days advance notice of termination delivered.

We may terminate this Agreement with immediate effect if:

- a. You are convicted of a felony or other serious offense related to financial activities, or is judged by a court to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that we reasonably deem as the substantive equivalent of any of these; or

- b. You are disciplined by the government of your domicile for conduct involving dishonesty or misuse of funds of others.
- c. Any officer or director of the Reseller is convicted of a felony or of a misdemeanor related to financial activities, or is judged by a court to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that we deem as the substantive equivalent of any of these;

Reseller may terminate this Agreement by notifying us in writing, as of the date of receipt of such notice, in the event that you do not agree with any revision to the Agreement made as per Section 5.

Effect of Termination of this Agreement

- a. We will suspend your access to the OpenTLD API and your access to the web interface will be read-only.
- b. Upon expiration or termination of this Agreement, we may complete the processing of all orders requested to be processed, in the order that they were requested to be processed, by you prior to the date of such expiration or termination, provided that your balance with us is sufficient to carry out these orders. If we are unable to fulfill these orders then the charges levied to you for these orders will be reversed.
- c. We may transfer all orders falling under the purview of the specific Reseller to another Reseller or OpenTLD.

Neither party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms, unless specified otherwise. The Reseller however shall be liable for any damage arising from any breach by it of this Agreement.

8. Trademark policy

We will accept any name for registration and activation, with the following proviso: You agree at the time of registration that, to the best of your knowledge, the name(s) you are registering does not violate trademark law or other applicable law in your own jurisdiction or in the jurisdiction of OpenTLD B.V..

9. Domain name disputes

If a dispute arises between you or your customer and any other party with respect to trademarks or other issues related to intellectual property and your registration or use of a domain name, you agree to be bound by the Uniform Dispute Resolution Policy (UDRP) as set by Trustee Authorities and the applicable registries.

Special policies and rules have been set by the Trustee Authorities and the Registries for settling disputes regarding domain name selection, registration, and use. These policies and rules may vary depending on the TLD.

When registering a domain name, you and your customer acknowledge being aware of these rules and you accept to comply with them. These policies and rules do not hinder the application of common law regulations of appropriate judicial or arbitral jurisdictions that shall remain applicable. These policies and rules have been implemented to allow the rapid and efficient resolution of disputes regarding domain names, providing an appropriate solution considering the particular nature of the dispute.

Consequently, you accept that any dispute relative to the choice, ownership or use of the domain name shall be under the jurisdiction of an arbitration panel or a commission accredited by the Trustee Authority. You expressly agree that OpenTLD, or the Trustee Authorities, or the Registries shall act on your domain name in accordance with decisions made in the proceedings under the UDRP.

10. Acceptable use.

Use of a domain name for any unlawful purpose is not permitted and could cause revocation of your domain name without notice. We are not bound to maintain a name registration in active status if any part of your registration agreement or these terms and conditions of use are violated. "Unlawful Use" will be determined based on the laws of the jurisdictions of OpenTLD B.V..

The sending of unsolicited bulk E-mail ("spam") constitutes theft of service. You and your customer must agree not to use your domain name(s) for this purpose. Such abuse includes spamming, flooding, or otherwise abusing free search engine services. You understand and agree that we reserve the right to revoke without refund any domain name which, in our sole judgment, has been used for any unlawful purposes, including but not limited to child pornography, child entrapment or abuse, advocacy of hatred, bigotry or violence towards persons or groups on the basis of their religion, race, ethnicity, sexual orientation or other immutable characteristics, theft of E-mail service, or as a source of unsolicited bulk E-mail or as an address to use for replying to unsolicited bulk E-mail, or in violation of our policies with respect to spamming or otherwise abusing free search engine services (see above).

By registering a domain name you are acknowledging that you understand and agree to be bound by this policy.

11. Registrar and ICANN Identification

You are prohibited from displaying the ICANN or ICANN-Accredited Registrar logo, or from otherwise representing yourself as accredited by ICANN unless you have written permission from ICANN to do so.

You agree to identify OpenTLD as the sponsoring registrar for domains you resell.

You agree to ensure that the full identity and contact information of all registrants will be reported to OpenTLD, regardless of any possible use of privacy or proxy registration services. No such services will be offered by you, unless you receive explicit authorization by OpenTLD to do so. You may however offer the privacy services offered by OpenTLD in conjunction with the domain name registration services you offer to registrants, should they wish their registration information to remain private.

In the event that ICANN gives notice to OpenTLD that OpenTLD shall provide a link to a page identifying available registrant rights and responsibilities, you too shall, upon reasonable notice from OpenTLD, place such a link on any pages you may operate for domain name registration or renewal. This link shall be displayed at least as clearly as any links to policies or required notifications that you display on any pages you may operate for domain name registration or renewal.

If you are found to be in breach of any of the provisions mentioned in this section, and upon reasonable notification do not resolve this breach, OpenTLD has the right to terminate this Agreement, as mentioned in Section 7 of this Agreement.

12. Notices and announcements.

You authorize us to notify you as our customer of information that we deem is or may be of potential interest or importance to you. Notices and announcements may include technical changes to the system, price or policy changes, planned outages for online customer management systems, commercial e-mails and other notices describing changes, upgrades, new products and services or other information pertaining to Internet security or to enhance your identity on the Internet and/or other relevant matters. If you do not wish to receive bulk e-mail solicitation notices or promotional announcements you may modify your customer profile to prevent such activities at <http://www.opentld.com>.

13. Limitation of liability.

You agree that our entire liability, and your exclusive remedy, with respect to any of our service(s) provided under this Agreement and/or for any breach of this Agreement is solely limited to the amount you have paid for such service(s). OpenTLD B.V. and its contractors shall not be liable for any direct, indirect, incidental, special or consequential damages resulting from the use or inability to use any of our services or for the cost of procurement of substitute services. Because some states do not allow the exclusion or limitation of liability for consequential or incidental damages, in such states, our liability shall be limited to the fullest extent permitted by law. We hereby expressly disclaim any and all loss or liability resulting from, but not limited to: (1) loss or liability resulting from access delays or access interruptions; (2) loss or liability resulting from data non-delivery or data mis-delivery; (3) loss or liability resulting from acts of God; (4) loss or liability resulting from the unauthorized use or misuse of your Account Name or Password; (5) loss or liability resulting from errors, omissions, or misstatements in any and all information or service(s) provided under this Agreement; (6) loss or liability relating to the deletion of or failure to store e-mail messages; (7) loss or liability resulting from the development or interruption of your Web site; (8) loss or liability that you may incur in connection with our processing of your application for our services, our processing of any authorized modification to your domain name record or your agents failure to pay any fees, including the initial registration fee or re-registration fee; or (9) loss or liability as a result of the application of our dispute policy.

14. Indemnity.

You agree to release, indemnify, and hold us, in our capacities as the registry and a registrar, and our contractors, agents, employees, officers, directors, shareholders, affiliates and assigns harmless from any and all liabilities, claims, damages, costs and expenses, including reasonable attorneys' fees and expenses, of third parties relating to or arising under this Agreement, the services we provided hereunder or your use of our services, including without limitation infringement or dilution by you, or someone else using our service(s) from your computer, of any intellectual property or other proprietary right of any person or entity, or a violation of any of our operating rules or policies relating to the service(s) provided. When we are threatened with suit or sued by a third party, we may seek written assurances from you concerning your promise to indemnify us; your failure to provide those assurances may be considered by us to be a material breach of this Agreement.

15. Breach.

You agree that your failure to abide by any provision of this Agreement, any of our operating rules or policies, the dispute policy, or your willful provision of inaccurate or unreliable information as part of the application process, or your failure to update your information to keep it current, complete or

accurate, or your failure to respond for over fifteen (15) calendar days to inquiries from us concerning the accuracy of the contact details associated with your domain name registration may be considered by us to be a material breach of this Agreement and that we may provide a written notice, describing the breach, to you. If within seven (7) calendar days of the date of such notice, you fail to provide evidence, which is reasonably satisfactory to us, that you have not breached your obligations under the Agreement, then we may delete the registration or reservation of your domain name and/or terminate the other service(s) we provide to you without further notice. We will not refund any fees paid by you if we terminate your Agreement due to your breach. Any such breach by you shall not be deemed to be excused simply because we did not act earlier in response to that, or any other breach, by you.

16. No guaranty.

You agree that, by registration of your chosen domain name, such registration does not confer immunity from objection to either the registration or use of your domain name.

17. Representations and warranties.

You agree and warrant that: (i) the information of the registrants that you provide to us during the application process to register the domain name or to apply for other service(s) is, to the best of your knowledge and belief, accurate and complete, and that any future changes to this information will be provided to us in a timely manner according to the modification procedures in place at that time, (ii) to the best of your and your customer's knowledge and belief neither the registration of the domain name nor the manner in which you intend to use such domain name will directly or indirectly infringe the legal rights of a third party, (iii) you have all requisite power and authority to execute this Agreement and to perform your obligations hereunder, (iv) you have selected the necessary security option(s) for your domain name registration record, and (v) you are of legal age to enter into this Agreement. You agree that your use of our service(s) is solely at your own risk. You agree that all of our services are provided on an "as is," and "as available" basis.

18. Disclaimer of warranties.

WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT OUR SERVICE(S) WILL MEET YOUR

REQUIREMENTS, OR THAT THE SERVICE(S) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S). WE MAKE NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED

THROUGH ANY OF OUR SERVICES OR ANY TRANSACTIONS ENTERED INTO THROUGH SUCH SERVICES. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

OPENTLD DEPENDS UPON A COMPUTER SYSTEM THAT IS RESPONSIVE TO THE DEMANDS OF THE DOMAIN NAME REGISTRATION PROCESS AND THAT PROVIDES TIMELY INFORMATION TO OUR CUSTOMER SUPPORT TEAM. OCCASIONALLY, OPENTLD'S COMPUTER SYSTEM MAY BE SUBJECTED TO HIGH VOLUMES OF INCOMING DOMAIN NAME

REGISTRATION REQUESTS AND/OR ELECTRONIC MAIL MESSAGES WHICH MAY RESULT IN SIGNIFICANT REDUCTION OF OPENTLD'S SYSTEM PROCESSING AND RESPONSE TIME. REGARDLESS OF THE REASON, IN THOSE INSTANCES, WHEN THERE IS SYSTEM PERFORMANCE REDUCTION AS A RESULT OF AN EXTREMELY HIGH VOLUME OF INCOMING ELECTRONIC MESSAGES, OPENTLD RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO SCREEN OR BLOCK ELECTRONIC MESSAGES ORIGINATING FROM THE IDENTIFIED SOURCES OF THE HIGH VOLUME TRAFFIC. OPENTLD SHALL SELECTIVELY RESTORE SERVICE AFTER SYSTEM PERFORMANCE RETURNS TO NORMAL LIMITS, PROVIDED THAT SUCH RESTORATION DOES NOT RESULT IN AN ADVERSE IMPACT ON THE SYSTEM. OPENTLD FURTHER RESERVES THE RIGHT TO PERMANENTLY SCREEN OR BLOCK REPEATED SOURCES OF HIGH VOLUMES OF ELECTRONIC TRAFFIC.

19. Revocation.

You agree that we may terminate your contractual right to use our service(s) if the information of the registrant that you are obligated to provide to register the domain name or register for other OpenTLD service(s), or that you or your customer subsequently modify, contains false or misleading information, or conceals or omits any information we would likely consider material to our decision to register the domain name or to continue to provide you domain name registration services. Furthermore, you agree that we may suspend, cancel or transfer your domain name registration services in order to: (i) correct mistakes made by us or the registry in registering your chosen domain name, or (ii) to resolve a dispute under our dispute policy. We will not refund any fees paid by you if we terminate your services.

You agree that we may, at our sole discretion, revoke, suspend, transfer or otherwise modify your or your customer's domain name registration upon seven (7) calendar days prior notice, or at such time as we receive a properly authenticated order from a court of competent jurisdiction, or arbitration award requiring the revocation, suspension, transfer or modification of the domain name registration. Notwithstanding any other provisions in these terms and conditions, in the case of nonpayment, charge back or other direct violation of these terms and conditions, you agree that we may, at our sole discretion, revoke, suspend, transfer or otherwise modify your domain name registration without notice.

20. Right of refusal.

We, in our sole discretion, reserve the right to refuse to register your customer's domain name or register you for our other service(s), or to delete your customer's domain name within the first thirty (30) calendar days from receipt of your payment for such services. In the event we do not register your customer's domain name or register you for our other service(s), or we delete the domain name or our other service(s) within such thirty (30) calendar day period, we agree to refund any applicable fee(s) you have paid. You agree that we shall not be liable to you for loss or damages that may result from our refusal to register, the deletion of your customer's domain name or our refusal to register you for our other service(s).

21. Severability.

You agree that the terms of this Agreement are severable. If any term or provision is declared invalid or unenforceable, that term or provision will be construed consistent with applicable law as nearly as

possible to reflect the original intentions of the parties, and the remaining terms and provisions will remain in full force and effect.

22. Entirety.

You agree that this Agreement, the rules and policies published by us, the dispute policy and the privacy statement are the complete and exclusive agreement between you and us regarding our services. This Agreement, our rules and policies, the dispute policy and the privacy statement supersede all prior agreements and understandings, whether established by custom, practice, policy or precedent.

23. Transfer and assignment.

You may transfer your customer's domain name registrations to a third party of your choice, subject to the fees, procedures and conditions found at: <http://www.opentld.com>, which are incorporated herein by reference and made a part hereof. Your rights under this Agreement are not assignable and any attempt by your creditors to obtain an interest in your rights under this Agreement, whether by attachment, levy, garnishment or otherwise, shall render this Agreement voidable at our option.

You may also transfer your services, including registration and renewal services, to any other Certified Registrar of ours 60 days or more after you have registered a domain name. Procedures and limitations for transferring to another Registrar are available at <http://www.opentld.com>

24. Governing law.

You agree that this Agreement and any disputes hereunder shall be governed in all respects by and construed in accordance with the Netherlands (Dutch) law excluding its conflict of laws rules. Except for disputes concerning or arising from your use of a domain name registered with us, you and we each submit to exclusive subject matter jurisdiction, personal jurisdiction and venue of the Netherlands. Only for disputes concerning or arising from your use of a domain name registered with us, you agree to submit to subject matter jurisdiction, personal jurisdiction and venue of the Netherlands Court and the courts of your domicile.

25. Agreement to be bound.

By applying for our service(s) through our online application process or by using the service(s) provided by us under this Agreement, you acknowledge that you have read and agree to be bound by all terms and conditions of this Agreement and any pertinent rules or policies that are or may be published by us.