

# NETIM - GENERAL TERMS AND CONDITIONS FOR MANAGEMENT OF DOMAIN NAMES

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NETIM SARL  
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59000 LILLE, FRANCE  
Registered under number 451 394 720 RCS LILLE  
Represented by Bruno Vincent

Hereafter referred to as "NETIM"

Undertakes to fulfil a provision of service under the conditions stipulated below:

## CLAUSE 1: DEFINITIONS

The following terms, whether used in singular or plural in these General Terms and Conditions for registration, renewal, transfer and management of Domain Names, hereafter referred to as "CG-ND", shall have the following definition:

- "Customer": any individual, private corporation or public corporation benefiting from the NETIM company's services for Domain Name registration, transfer and management.

- "Domain Name": Internet address, whatever its generic extension (gTLD – generic Top Level Domain: ".com", ".net", ".biz" etc.) or national extension (ccTLD - country code Top Level Domain: ".fr", ".be" etc.), generally registered by the NETIM company with different Registrars and Registries or the Customer's Domain Name managed by the NETIM company.

- « Trustee Authority »: Entity that defines and regulates the conditions of assignment and use of domain names, applying to each particular Extension.

- "Registry": registration unit for domain names with national extensions (ccTLD), such as the AFNIC (French association for cooperative internet naming) in France for the ".fr" extension.

- "Registrar": domain name registration unit certified to register domain names by a duly authorised entity, such as the ICANN for example.

- "Identification Elements": username ("login") and password ("password") sent by NETIM, enabling access to the Services via the Interface .

- "Purchase Order": an order form which can be accessed on line on the Interface.

- "Interface": the Customer's private secure control panel which can be accessed online on the NETIM company's Website (<https://netim.com/manager/>)

- "Whois Database": a search engine provided to NETIM by one or more Registries which can be accessed by the Customer on the NETIM company's website and which is used to determine, by means of a search request, different information concerning a Domain Name, particularly its availability. This can be used to produce a Whois Extract.

- "Whois Extract": identification sheet for a Domain Name figuring information provided upon its declaration by its owner.

- "Naming Charter": any administrative regulation made by a Registry and applicable to Domain Name registration.

- "DNS": (Domain Name System) a database used to ensure the conformability between a domain name and an IP address.

-"Redirection": automatic redirection service used to redirect a Domain Name to an Internet address or URL (Uniform Resource Locator) determined by the Customer and/or to redirect an electronic mail address associated to a Domain Name towards a different electronic mail address.

-"Extension": extension of the Domain Name of generic type (gTLD - generic Top Level Domain: ".com", ".net", ".biz" etc.) or of national type (ccTLD - country code Top Level Domain: ".fr", ".be" etc.)

## **CLAUSE 2: PURPOSE**

2.1 These CG-ND define the terms and conditions under which NETIM allows the Customer to register, renew, transfer and manage one or several Domain Names. All registrations, transfers and renewals of Domain Names and more generally all operations relative to the Domain Name(s) imply the Customer's full acceptance without reservation of these CG-ND.

2.2 These CG-ND can, where applicable, be complemented by Special Terms and Conditions CP-ND.

2.3 These CG-ND can also, where applicable, be applicable simultaneously to the General Terms and Conditions for Hosting CG-HM, each of which shall then be associated to the different services in question.

2.4 Acceptance and/or confirmation by the Customer of a Purchase Order produced by NETIM implies full acceptance of these CG-ND.

## **CLAUSE 3: DURATION**

3.1 These CG-ND are entered into for a minimum period of one (1) year (unless a longer duration is selected by the Customer upon creation of the Domain Name(s)) starting from the Customer's payment of the price for the different services in question.

3.2 NETIM's service is renewed by tacit renewal for an identical duration, provided that the price is paid by the Customer beforehand within the given time-limit, but it shall be subject to the currently applicable CG-ND, updated at the time of renewal.

## **CLAUSE 4: PRICE**

4.1 Unless special clauses apply, all prices are expressed in euros and exclude VAT. The Customer undertakes to pay costs due to NETIM for creation, renewal, transfer or management, in compliance with the currently applicable rate at the time of its request, and to do so upon reception of the invoice from NETIM.

4.2 Signing an agreement under these CG-ND does not imply the maintenance by NETIM of a rate under the current conditions to the profit of the Customer. The rates can be changed at any point in time without former notice for future services.

4.3 In the event of failure of the Domain Name's registration or transfer due to a fault on the part of the Customer (particularly in the case of failure to comply with required procedures or time-limits, failure to provide documents, etc.), NETIM may retain management fees equivalent to any expenses incurred.

## **CLAUSE 5: AVAILABILITY**

5.1 The Customer is responsible for carrying out all checks concerning the availability of the Domain Name that he wishes to register, as well as ensuring, under the conditions stipulated in clause 7 herein, that said Domain Name does not breach the rights of third-parties.

5.2 Information concerning the availability of a Domain Name in the Whois database is provided strictly for the purpose of reference only and does not represent a registration offer until confirmation of the registration is issued by NETIM. The update of the Whois Database following the registration of a Domain Name is indeed subject to a response-time of varying length, depending on the Registrars and/or Registries.

5.3 Domain Name registration shall not be carried out until payment of the price in full has been cleared and received by NETIM. The Customer therefore assumes full responsibility for the registration by third-parties of its chosen Domain Name between the order being placed for said Domain Name and the clearance and reception of the corresponding payment by NETIM.

5.4 NETIM undertakes to proceed with, strictly subject to the availability of the ordered Domain Name(s), and as quickly as possible, the registration of the Domain Name with Registrars or Registries provided that:

- i) correct payment of the full price has been received by NETIM
- ii) the Customer has complied with the applicable Naming Charter and, where applicable, has provided, within the given time-limit, all documents duly completed and/or all information required for the registration or transfer of the Domain name.

5.5 If the Domain Name chosen by the Customer is registered by a third-party before effective payment of the price has been cleared by NETIM, NETIM shall credit the Customer's account with a credit note for the same sum that can be used with NETIM.

5.6 In compliance with clause L.120-20-2, 1° of the French Consumer Code, the Customer renounces the benefit of the terms of clause L.121-20 of the Consumer code particularly due to the fact that

- i) the registration, transfer, renewal, management or retrieval of its Domain name intervenes, except for specific cases, within seven (7) days
- ii) under all circumstances, the Domain Name represents a fully personalised service, it is chosen by the Customer and registered by NETIM with a Registrar or a Registry and NETIM is not able to proceed with a cancellation.

## **CLAUSE 6: ACCESS TO SERVICES & INTERFACE**

6.1 Any order placed by the Customer with NETIM is formalised by the production of a Purchase Order summarising the characteristics of the service to be provided by NETIM and any additional options chosen by the Customer. This Purchase Order is available at all times in the Interface. The acceptance / validation of the Purchase Order by the Customer represents full acceptance by the Customer without reservation or restriction of these CG-ND.

6.2 NETIM shall send the Customer an acknowledgement of receipt for the Customer's order and shall process it as quickly as possible as soon as the Purchase Order has been validated and the sum corresponding to the price due by the Customer has been cleared. NETIM shall then send the Customer the Identification Elements to enable it to access the Interface.

6.3 When ordering the service, the Customer must provide different information such as its full contact details, for which it guarantees the correctness, sincerity and reliability at all times. During the creation, transfer or renewal of the Domain Name, the Customer must provide various elements of information concerning contacts (owner, administrative, technical), as well as its full contact details, for which the Customer guarantees the correctness, sincerity and reliability at all times.

6.4 To do so, the Customer provides an email address. The Customer is informed that these electronic mail addresses represent **the sole means of communication** between NETIM and the Customer, particularly for informing the Customer of a request for payment for the renewal of its Domain Name.

6.5 It is therefore the Customer's responsibility to notify NETIM, at any point in time and as quickly as possible, as to any changes in its contact details, particularly for the email address, and to do so **exclusively** by means of the Interface. NETIM cannot therefore be held responsible for a lack of conscientiousness on the part of the Customer with regards the change of its contact details.

6.6 Access to the Interface and to the service is only possible and authorised with the Identification Elements provided by NETIM. The Customer undertakes to keep the Identification Elements strictly confidential and undertakes not to disclose them to third-parties in any form whatsoever and not to use them other than for strictly personal use. The Interface is accessed under the sole responsibility of the Customer. Access to the Interface with the Identification Elements entrusted to the Customer is henceforth considered to have been carried out within the rights of the Customer and under its sole responsibility.

6.7 In the event of loss, theft or any fraudulent act with regards the Identification Elements, it is the Customer's responsibility to inform NETIM as quickly as possible and to justify its identity using all appropriate means. Upon reception of this duly justified notification, NETIM shall proceed with the modification of Identification Elements. NETIM shall process the Customer's request as quickly as possible and shall send the Customer the new Identification Elements in return by electronic mail. The Customer remains responsible for the use of the service by third-parties until NETIM has modified Identification Elements.

6.8 The Customer is informed that information concerning its Domain Name figuring in the Interface can be different to the information included in the Whois Extract. It is subsequently the Customer's responsibility to carry out, using its Interface if said Domain Name is registered or transferred with the NETIM Registrar, the modifications of contact details in the Whois Database, NETIM undertaking no responsibility on this account.

## **CLAUSE 7: CUSTOMER COLLABORATION**

7.1 The Customer undertakes to collaborate actively with NETIM. The Customer undertakes particularly to provide NETIM, within the required time-limits, with all documents, information in its possession that is necessary for carrying out the services subject to this agreement. On account of its obligation to collaborate, the Customer undertakes particularly to consult its Interface regularly or more generally to consulting all information which it receives by electronic mail and to take stock of information concerning its Domain Name regularly.

## **CLAUSE 8: DECLARATIONS**

8.1 The Customer takes full responsibility for its chosen Domain Name. It declares that it shall register and use the Domain Name in compliance with currently applicable legislation and for strictly lawful purposes only.

8.2 By requesting the registration of a Domain Name, the maintaining of a Domain Name, the renewal or transfer of a Domain Name, the Customer hereby confirms and guarantees that:

- i) All information provided for the registration of Domain Names is complete and correct
- ii) To the Customer's knowledge, the registration of the Domain Name shall not in any way breach the rights of any third-party;
- iii) The Customer is not registering the Domain Name for unlawful purposes;
- iv) The Customer shall not knowingly use the Domain Name in breach of currently applicable regulations.

8.3 The Customer declares that it has carried out, prior to the request for registration, renewal or transfer of its Domain Name, search operations for antecedences, notably in terms of brand-names, company names, business names, logos, intellectual work, particularly its name, publicity right etc. and has made sure that its Domain Name does not breach the rights of third-parties.

8.4 Subsequently, the Customer guarantees NETIM against any amicable, legal or arbitral claims directly or indirectly related to the registration of Domain Names and shall compensate NETIM for any damages and interests incurred to NETIM due to this, as well as any expenses incurred for defending NETIM in court, including any lawyer fees and expertise fees.

## **CLAUSE 9: OWNERSHIP OF DOMAIN NAME**

9.1 The Domain Name registered by the Customer belongs to the individual or corporate entity for whom the ownership is declared with the NETIM.

9.2 If the Customer intends to provide a third-party with an operating license for the registered Domain Name, it still remains its owner and is responsible in this quality with regards NETIM. In the same manner, the Customer remains under all circumstances responsible for the provision and update of correct information concerning the Domain Name's contacts, in order to facilitate the quick resolution of any problem arising with relation to the Domain Name in question. Any Domain Name owner providing a license of use for a Domain

Name must take responsibility for damages incurred to NETIM and/or third-parties due to the unlawful use of said Domain Name.

## **CLAUSE 10: RENEWAL OF DOMAIN NAME**

10.1 For all domain names registered with NETIM, the Customer is informed that the billing contact for the Domain Name shall be NETIM, without the Customer being able to change this quality, unless it transfers the Domain Name to another service provider. NETIM assumes, in the quality of billing contact, the mandate for renewing the Customer's Domain Name in the name of and on behalf of the Customer, provided that the Customer has already paid the price corresponding to the cost of renewal within the required time.

10.2 Under all circumstances, NETIM undertakes to notifying, exclusively by electronic mail and/or in the Interface, the Customer at least thirty (30) days prior to the expiry of the Domain Name at the electronic mail address provided by the Customer. This notification shall be followed up fifteen (15) days, seven (7) days then three (3) days before the effective date of expiry of the Domain Name.

10.3 NETIM shall proceed with the renewal of the Domain Name after the price of the renewal of the Domain Name has been cleared and credited to its account.

10.4 If renewal and/or payment by the Customer has not been carried out within the required time-limits, NETIM cannot be held responsible for the non-renewal of the Domain Name, nor for its registration by a third-party.

## **CLAUSE 11: TRANSFER OF DOMAIN NAME**

11.1 The transfer of ownership is carried out following the specific regulations for the Extension of the Domain Name and more generally under the following conditions:

- i) The transfer of ownership of a Domain Name is subject to the acceptance of said transfer by the original owner of said Domain Name. NETIM cannot be held responsible for the impossibility of transferring the property of said Domain Name or any ensuing delays.
- ii) Despite the intervention of NETIM for carrying out the change of owner, NETIM is not responsible for obtaining approval from the original owner for the ownership transfer request.

11.2 The transfer of Registrar to the benefit of NETIM or of the one usually used by NETIM is carried out following the transfer regulations specific to each Extension, laid out in the Special Terms and Conditions Annexed to the CG-ND herein, and more generally under the following conditions:

- i) The Customer is the owner of the Domain Name
- ii) The fees for the Domain Name have been paid in a valid manner to the original Registrar
- iii) The Domain Name expires within a period of time at the time of the transfer request; this period of time is defined by the original Registrar. Despite the intervention of NETIM for carrying out the change of Registrar, NETIM is not responsible for obtaining approval from the Registrar for the Registrar transfer request.

11.3 The transfer of the Domain Name from NETIM to the benefit of a different service provider or Registrar is carried out freely and without incurring fees for the Customer provided that the Customer has paid all sums due to NETIM in full.

11.4 Unless special clauses apply herein, the transfer services are invoiced by NETIM at the currently applicable rate at the time of their subscription. All sums paid to NETIM for these services are irrevocably forfeited, including circumstances where the procedures employed are not successful due to a fault on the part of the Customer.

11.5 The Customer is informed that the transfer of Registrar for a Domain Name is subject to the acceptance of said transfer by the owner of said Domain Name. NETIM cannot be held responsible for the impossibility of transferring said Domain Name or any ensuing delays.

11.6 For all transfer requests, the procedures to be followed by the Customer must be fulfilled before the Domain Name's expiry date.

## **CLAUSE 12: RESTORE OF DOMAIN NAME**

12.1 The Customer is informed that in the case of its failure to renew or pay for a Domain Name prior to its expiry date, said Domain Name is subject to cancellation / deletion by NETIM.

12.2 Nevertheless, the Customer may carry out, with NETIM, a procedure for restore the Domain Name in compliance with the regulations specific to each Extension, stipulated in the special terms and conditions Annexed to these CG-ND. This procedure is carried out at the Customer's risk, provided that:

- i) said Domain Name is registered with NETIM or NETIM's registrar
- ii) the restore period granted by the Registry for the Extension has not expired.
- iii) the Customer pays the price for the restore service beforehand, including any expenses incurred, at least seven (7) days before the end of the period granted by the Registry for the Extension

12.3 NETIM shall do everything in its power to restore the expired Domain Name. The restore procedure is carried out with no guarantee of result, nor lead-time for carrying out said retrieval.

12.4 In the event of failure to restore the Domain Name, the costs of the restore and renewal procedure remain irrevocably forfeited and definitively acquired by NETIM.

## **CLAUSE 13: MANAGEMENT OF DNS AND REDIRECTION**

13.1 NETIM ensures the assignment and management of the DNS for Domain Names. This service is, where applicable, independent from that of the registration and renewal of the Domain Name.

13.2 By default, the names of primary and secondary servers, as well as their respective IPs, are assigned on NETIM's servers.

13.3 This information can be changed at any point in time by the Customer in its Interface provided that the Domain Name is registered with NETIM or with NETIM's registrar.

13.4 NETIM reserves the right, particularly for requirements in terms of continuity of service, to modify, after notice has been given, the DNS assigned to the Customer's Domain Names.

## **CLAUSE 14: ELECTRONIC MAIL & REDIRECTION service**

14.1 NETIM provides various different electronic mail services such as a Redirection service for email addresses. For this, the Customer undertakes to provide NETIM, using the Interface , with the original email address and the redirection address. NETIM cannot be held responsible for information provided by the Customer that is incomplete, erroneous, inconsistent, not updated etc.

## **CLAUSE 15: NETIM ASSISTANCE**

15.1 For all services subject to this agreement, the Customer disposes of a ticket-based online help service via its Interface and via electronic mail.

15.2 NETIM provides technical support concerning the service by replying as quickly as possible to the Customer's questions and comments, without commitment on the part of NETIM to provide a solution or a response time to the Customer.

## **CLAUSE 16: LIABILITY**

16.1 NETIM hereby assumes an obligation to exercise due care. NETIM cannot be held responsible for the payment of indirect and consequential damages to which the Customer is subject due to, directly or indirectly, the execution or the improper execution of this Agreement, particularly such as loss of turnover, Customer's profits, computer data, moral prejudice etc.

16.2 As an essential and determining condition of these CG-ND, if NETIM was to be found responsible, the Customer may not claim, as compensation and damages and interests or payment of any kind, whatever the grounds, more than the sum of payments made by the Customer in the context of Services in the year of the intervening or damaging event.

16.3 In the case where the registration or transfer of a Domain Name were to fail due to the Customer's fault (particularly due to its failure to respect time-limits for payments, failure to respect time-limits for provision of documents necessary for the registration of a Domain Name subject to a Naming Charter, the incomplete or erroneous nature of said documents, etc.), the price paid by the Customer shall be irrevocably forfeited and definitively acquired by NETIM.

## **CLAUSE 17: NON PAYMENT – SUSPENSION - TERMINATION**

17.1 In the event of failure on the part of the Customer to respect any of its obligations, NETIM reserves the right to suspend, after giving a reasonable notice period, the Domain Name, and to do so until the Customer respects its obligations perfectly.

17.2 In the event of non payment, including by cancellation or renunciation of an online payment, by the Customer for a creation, a renewal or a transfer of a Domain Name, NETIM reserves the right to suspend the Domain Name until the price has been paid in full, and this for a period of thirty (30) days, then at the end of this period, to delete the Domain Name in question without further notice.

17.3 In the event of late payment, NETIM shall be entitled to request the payment of interests at the legal rate or, as it sees fit, to apply a surcharge for late payment equal to 1.5 times the legal rate of interest per month of lateness starting from the scheduled due date for payment of sums on the basis of this clause.

17.4 If the formal notice sent to the Customer has no effect, NETIM may transfer at any point in time its debt to a factoring company in which case the payment is due to the benefit of the account mentioned on the invoice produced by the factoring company in question. In this case, NETIM shall invoice the Customer for the flat fee of 15 EUR corresponding to the administrative expenses incurred by the collection procedure.

17.5 Declaration by the Customer of false or dubious information, failure on the part of the Customer to update information provided to NETIM, or failure on the part of the Customer to reply for over fifteen (15) calendar days to requests from NETIM concerning the correctness of information that it has provided, including information concerning the different contacts associated to the registration of the Customer's Domain Name, may lead to the suspension of the Domain Name without formal proceedings.

17.6 Unless special clauses apply, in the event of failure by one of the parties to this Agreement to execute its obligations and if this party fails to rectify them, the other party has the right to terminate this Agreement, by registered post with acknowledgement of receipt, one (1) month after formal notice has been given without reply.

17.7 In the event of use of the service in breach of the terms of clauses 17.2 and 17.3 herein, the Customer shall be considered to be in serious non-fulfillment of its contractual obligations which authorises NETIM, at its convenience, to:

- i) suspend the service until the Customer respects its obligations in full
- ii) order the Customer to comply with its obligations following a formal warning
- iii) terminate this Agreement without formal proceedings, and to do so without prejudicing any direct and/or indirect damages and interests to which NETIM is eligible.

17.8 Suspension, termination or deletion of the service under the conditions determined in this clause shall not entail compensation of any kind to the benefit of the Customer.

17.9 The amount credited onto Customer's account can be refunded minus a fee of 30 EUR for administrative costs and bank incurred by NETIM for the payment.

## **CLAUSE 18 CORRESPONDENCE - PROOF**

18.1 Unless special clauses apply in the CG-ND herein, all correspondence exchanged between the parties is made by electronic mail using the Interface .

18.2 In application of clauses 1316 and following the Civil code and, where applicable, of clause L.110-3 of the Code of commerce, the parties declare that all information delivered via the Interface and the NETIM Website are valid between the parties, provided that no contradictory certified and signed written documents are produced to counter this computerised information.

Elements such as the time of reception or sending, as well as the quality of data received shall be valid by priority as figuring on the NETIM computer systems, or as authenticated by NETIM's computerised procedures, unless the Customer produces written proof to the contrary.

The scope of application of the proof of information delivered by the NETIM computer systems is that assigned to original documents in the sense of a written paper document, signed by hand.

## **CLAUSE 19: PERSONAL DATA**

19.1 In compliance with the French law n°78-17 "loi informatique et liberté" of 6th January 1978, the Customer has the right to access, modify, correct and oppose their personal data by sending an electronic mail to the following address: "support@netim.com".

19.2 Some of this information (in particular such as the name, address, electronic mail address, telephone and fax number, Domain Name, DNS and IP addresses for domain name servers) shall be made available to the public by NETIM in compliance with the regulations applied by the ICANN and the Registries for the purpose of inclusion in the Whois Database and the Whois Extract for the Customer's Domain Name.

19.3 The Customer authorises the use of its personal data in the context of this Agreement. The Customer declares that it has notified and obtained authorisation from individuals whose name and contact details it has provided in the context of this agreement, notably for the registration, transfer and management of the Domain Name.

## **CLAUSE 20: CONTRACTUAL AMENDMENTS**

20.1 If one or several clauses of this Agreement are deemed to be invalid or declared as such in application of a law, a regulation or following a court order from a competent jurisdiction, the other stipulations shall retain their force and their effect.

20.2 The fact that either of the parties has not demanded, temporarily or permanently, the application of a clause herein, does not waiver the rights held by this party. No correspondence, documents, electronic mail etc. can contradict the terms of these CG-ND unless it is subject to an amendment duly signed by the representatives of both parties.

20.3 In the case where the law is changed and as a result new obligations apply, these shall be integrated directly into these CG-ND without requiring prior notice to be given to either party, each party being legally responsible for its own acts. On these grounds, neither one of the parties may be held responsible.

20.4 If the CG-ND on line on the website were to be amended, only those accepted by the Customer will be applicable. Nevertheless, any renewal of the agreement shall be carried out in compliance with the currently applicable updated general terms and conditions, unless a specific agreement has been duly specified between the parties.

## **CLAUSE 21: INTERPRETATION OF THE AGREEMENT**

21.1 The clauses of these CG-ND express the agreement made between the parties in full. They take precedence over any proposal, commercial offer, correspondence exchanged before or after the signing of the present agreement, as well as over any clause figuring in documents exchanged between the parties and relative to the subject of these CG-ND.

## **CLAUSE 22: RELATIONSHIP WITH THIRD-PARTIES**

22.1 The Customer explicitly authorises NETIM to subcontract all or part of the services that are subject to the present agreement. Unless former written agreement from NETIM or special agreement, the Customer is not authorised to transfer rights and obligations of these CG-ND in part or in full, particularly to allow third-parties to benefit from all or part of the service.

22.2 The Customer explicitly authorises NETIM to cite the Customer and/or its Domain Names, including the Website associated to it, as a business or publicity reference.

## **CLAUSE 23: APPLICABLE LAW – JURISDICTION**

23.1 These CG-ND are subject to French law.

23.2 In the event of problems in the application of these CG-ND, the parties agree to submit to a mutual agreement procedure before undertaking legal action.

23.3 IN THE EVENT OF A DISPUTE WITH RELATION TO THESE CG-ND, TO THEIR INTERPRETATION AND TO THEIR CONSEQUENCES OR TO DEEDS COMPLEMENTING OR AMENDING THEM, EXPLICIT AND EXCLUSIVE JURISDICTION IS ASSIGNED TO THE LILLE COURTS OF JUSTICE, IN FRANCE, NOTWITHSTANDING PLURALITY OF DEFENDERS, GUARANTEE CLAIMS, SUMMARY PROCEEDINGS AND EXPERTISE.