

General Terms and Conditions

nic.at GmbH (hereinafter referred to as nic.at)

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Note: For the sake of readability, gender-neutral language is not used in this document. All references to persons are intended to apply equally to both genders.

These General Terms and Conditions apply to any and all services provided by nic.at for its contract partners (hereinafter referred to as "domain holders") even if no explicit reference is made to those services. The current version of the General Terms and Conditions applicable to domain holders is available at www.nic.at/terms. The original German-language version of the General Terms and Conditions shall be the legally valid version; versions in other languages are for information purposes only.

These General Terms and Conditions are subject to change by nic.at at any time; such changes will also apply to previously existing contractual relationships. The current version is available on the nic.at website (or will be sent at the domain holder's request). Changes in these General Terms and Conditions shall be permissible if the change is considered reasonable with regard to the consumer, in particular where such changes are minor and are objectively justified. The consumer shall have the right to object to changes in the General Terms and Conditions in writing within one month after receiving notification of the change; otherwise, the modified General Terms and Conditions are considered accepted. nic.at will inform the consumer of his right to object, separately and before the start of the period for objections, as well as the legal consequences of refraining from such an objection.

nic.at can be reached by e-mail at service@nic.at or by conventional mail at Jakob-Haringer-Straße 8/V, A-5020 Salzburg, Austria. Further information can be found on nic.at's website (www.nic.at).

1. Conditions for registration

1.1. Obtaining a domain under the ".at" top-level domain

In order to obtain a unique domain name on the internet (delegation), it is necessary to register the relevant domain (through an entry in the domain database). The technical rules documented in the currently valid version of the registration regulations (www.nic.at/registrationguidelines) shall apply exclusively to the registration of domains by nic.at under the top-level domain ".at" and the second-level domains ".co.at" and ".or.at".

1.2. Electronic transmission of declarations of intent

With regard to the service requested by the applicant (delegation of a domain), both parties to the contract recognize and consent to the transmission of declarations of intent by e-mail as a customary and necessary practice. The parties are aware of the risks associated with such transmissions.

1.3. Domain holder

The domain holder is the authorized party (natural person or legal entity) who bears all rights and obligations vis-à-vis nic.at with regard to the relevant domain. On the electronic

application form, the domain holder shall be specified using his ~~full and correct~~ name, a postal address valid for the service of official documents, ~~and~~ a valid e-mail address ~~and telephone number~~. P.O. box addresses do not meet these requirements. By filing the application, the applicant declares that he is of full legal age and capable of entering into binding contracts.

The domain ~~holder shall keep his data and e-mail address up to date at all times. owner must provide their data correctly and completely and notify nic.at of any changes immediately. nic.at is legally obligated to collect the correct and complete domain registration data (owner data and other domain-related data) in a database and to regularly check it for accuracy and completeness. The domain owner is obligated to actively cooperate with nic.at at all times in accordance with nic.at's requirements and to provide the necessary documentation upon request.~~

Notifications from nic.at, especially invoices and other information as well as information relevant to contracts, shall be deemed to have been delivered as soon as they have been sent to the contact address (postal address, e-mail address ~~or telephone number~~) last specified by the domain holder.

If these conditions are not met, or if even one precondition ceases to be met at a later point in time, nic.at may deny or revoke the delegation of the domain.

1.4. Technical requirements

The technical requirements are defined by the currently applicable registration regulations.

1.5. Data processing

nic.at processes data in accordance with its data protection declaration (www.nic.at/privacypolicy).

If the domain holder is an organisation with legal personality, and is designated as such in the course of the registration process, nic.at may publish the domain holder's name and all of the domain holder's contact details, for example in nic.at's ~~WHOIS~~^{public} database. In addition, the domain holder declares that it has obtained any required declarations of consent from contact persons.

The domain holder will present such declarations to nic.at on request, and indemnify and hold harmless nic.at in this regard.

1.6. General requirements and conditions

All delegations by nic.at will be carried out in good faith with regard to the lawfulness of the claim. The applicant declares that he will comply with the relevant legal regulations and, in particular, not infringe upon other parties' rights to trademarks or signs and rights under competition law (rights to names, trademark rights, unfair competition, etc.). nic.at will not carry out any checks concerning the domains requested but reserves the right to deny applications in cases of blatant infringement of rights or in cases of misuse of nic.at's services. The applicant / domain holder undertakes to indemnify nic.at in cases where claims are asserted by third parties whose rights are violated if such violations can be attributed to the domain delegation requested by the applicant / domain holder.

The applicant shall not be entitled to the delegation of a particular domain. With the exception of the reasons for refusal specified in the General Terms and Conditions, the

applicant is entitled only to the delegation of a unique domain name.

No additional rights may be inferred from the delegation of the domain by nic.at, nor can any protection in favor of third parties be derived from the contractual relationship with nic.at.

2. Domain disputes; blocking of changes in domain holders – wait status

In the case of disagreements between parties concerning a domain, the parties involved are to reach a settlement independently. nic.at does not act as an arbitrator in such cases. In order to allow differences between the domain holder and third parties to be resolved out of court, nic.at offers to set the status of the relevant domain to “wait”. While the domain is set to “wait” status, the domain holder can use or cancel the domain without restrictions, but the domain holder is not allowed to transfer the domain to third parties who are not parties to the dispute. Upon the joint request by both parties to the dispute, it is possible to lift the “wait” status on a domain at any time.

2.1. Wait Status 1, no lawsuit pending

The prerequisites for activating Wait Status 1 are the third party’s provision of evidence as a basis for the claim as well as his request to activate the “wait” status in writing ~~or by telefax~~. As soon as the evidence of the claim has been examined, the domain status can be set to “wait” status for one month.

2.2. Wait Status 1, prolongation

At the request of either party to a dispute, Wait Status 1 can be prolonged for a period of one additional month. After the expiration or cancellation of Wait Status 1, this status cannot be set again in the same dispute.

2.3. Wait Status 2, lawsuit pending

In cases where a lawsuit regarding the domain is already pending before a court of law or an arbitration court and evidence thereof has been supplied to nic.at by any of the parties to the dispute, the transfer of the domain to third parties other than those involved in the dispute shall, upon the request of any party to the dispute, be blocked for an indefinite period of time, but at least for as long as the lawsuit is pending. For the duration of the wait status, the domain holder may continue to use the domain unless he is prohibited from doing so by means of an enforceable court decision (e.g. legally effective injunctions).

3. Administrative process

3.1 Domain registration

3.1.1. Application for domain registration

Applications for the registration of a domain can be submitted only by electronic means using the online forms provided by nic.at (e.g. at www.nic.at).

An application is not considered filed until nic.at has received it without any errors in form or content. nic.at cannot be held liable by third parties regarding the delegation of a domain made on the basis of an application containing errors.

3.1.2. Registration by authorized agents

Applications for domain registration or for the modification of entries can be submitted directly by the applicant or by an agent authorized by the applicant (e.g. a registrar; see

Section 3.9). In requesting the delegation of a domain or the modification of entries on behalf of another party, the authorized agent declares that he has the proper authorization to do so; otherwise the agent shall completely indemnify and hold nic.at harmless (reimbursement for any resulting disadvantages), including third-party claims which are asserted against nic.at due to any unauthorized entries.

3.2. Domain delegation

3.2.1. Delegation

In cases where a valid application is submitted and not rejected by nic.at, nic.at will delegate the domain and issue an invoice for the registration fee. nic.at expressly reserves the right not to carry out the delegation until receipt of the registration fee and/or after successful verification of the domain owner's data for correctness and completeness. The contractual relationship is established upon delegation of the domain. The day and month of the domain delegation will be defined as the (annually recurring) cutoff date on which each new service period begins. Registration on the nic.at domain name servers will render the delegation active.

Upon delegation of the domain, the applicant shall review the accuracy of the specified data without delay, at the latest within one month. Corrections which are received late will be treated as modification requests and processed according to the relevant terms.

The domain holder is to ensure that all specified name servers are constantly available.

3.2.2. Information for consumers

According to the provisions of the Austrian Act on Off-Premises and Distance Contracts (*Fern- und Auswärtsgeschäftegesetz*), the consumer has the right to rescind a contract for the provision of services concluded through distance sales within 14 days of concluding the contract without specifying reasons for doing so. In this context, the consumer acknowledges that the contract regarding delegation between the consumer and nic.at is fulfilled with the immediate delegation of the domain name selected in the consumer's specifications, and that the consumer shall not have a right of rescission with regard to delegation. Therefore, the delegation fee charged in the domain name ordering process is to be paid in any case.

The right of rescission therefore only applies to the contract for domain registration. In order to effect rescission within the specified period, it is sufficient if the consumer sends a notification exercising his/her right of rescission before the end of the 14-day period. Notifications of rescission are not subject to any specific formal requirements. In order for the consumer to exercise his/her right of rescission, s/he must notify nic.at of the rescission by sending an unequivocal declaration in writing (e.g. by conventional mail, ~~fax~~ or e-mail). A sample rescission form is available at www.nic.at/rescission.

3.3. Billing

As a rule, invoices will be delivered to the invoice recipient indicated to nic.at. Should the invoice recipient fail to settle the invoice, it will be delivered to the domain holder in question. In any case, the domain holder shall be liable for payment of the domain fee. The domain holder consents to

the issuance and submission of invoices in electronic form in accordance with the relevant provisions of Austrian law.

In all cases, interest on late payments will be based on the original due date, even if the invoice cannot be delivered to the invoice recipient or if he fails to pay and the invoice is redirected to the domain holder.

The invoice amount is to be settled free of any additional costs for nic.at.

3.4. Prices and due date

nic.at's current retail prices are published at www.nic.at/price. Payment of the registration fee is due no later than 14 days after the date of the invoice. The subsequent annual fees will be due no later than the cutoff date defined for the domain in question. These provisions apply unless explicitly agreed otherwise.

In cases where an invoice is not settled in full as of the relevant due date, nic.at shall have the right to revoke the registration of the domain and to re-delegate the domain. In addition to claiming its usual fee, nic.at is entitled to claim any reminder fees, credit transfer charges or interest (in the amount defined by law) actually incurred and necessary in order to enforce its claims in an expedient manner. Regardless of any payment purpose specified, all incoming payments will first be credited to additional charges/fees and interest, then to the earliest outstanding claim related to the domain. The annual fee will only be deemed paid in a legally effective manner once all arrears have been settled. Offsetting nic.at's claims against unpaid claims on nic.at and withholding payments due to alleged defects not recognized as such by nic.at shall not be permitted, except in the case of consumer transactions as defined in the Austrian Consumer Protection Act (KSchG).

3.5. Notification regarding changes

nic.at is to be notified of any and all changes related to domain applications in their entirety and without delay. Such notifications are to be submitted by electronic means using the electronic forms (www.nic.at/online-application) provided by nic.at. In the case of modifications, nic.at may request a confirmation from the domain holder in writing ~~or by telefax~~. The domain holder shall be liable for the accuracy of all data submitted.

3.6. Change of domain holder

In order to transfer a domain name to a new domain holder, both the previous and future domain holders must issue matching declarations of intent, and the relevant electronic application form (www.nic.at/online-application) must be filled out in its entirety. nic.at may request a confirmation from the previous or future domain holder in writing ~~or by telefax~~. Such confirmations are to be drawn up using the forms provided by nic.at. In cases where a transfer of rights to a domain is to be carried out on the basis of a court injunction, a judicial ruling which is legally effective and enforceable in Austria must be submitted in addition to the electronic application. The domain is to be taken over by the new holder with all rights and obligations pertaining thereto, especially outstanding claims on the previous domain holder.

3.7. Contract period and cancellation of a domain

The contract is deemed concluded upon acceptance by nic.at in by way of domain delegation (Art. 864 Austrian Civil Code

[ABGB]). The contract shall be concluded for an indefinite period of time.

Domain delegations can be canceled at any time; however, such cancellations must be submitted at least one day before the beginning of the next service period by means of a message from the domain holder to nic.at. nic.at may request a confirmation from the domain holder in writing or by telefax.

The cancellation will become effective immediately or, if explicitly specified by the domain holder in the cancellation notice, upon expiration of the current service period. Any outstanding claims not yet due on the date of cancellation shall remain valid.

In cases where the cancellation takes effect before the expiration of the current service period, the domain holder shall not have the right to reimbursement for the remaining part of the service period. However, if the delegation of a domain is a consumer transaction as defined in the Austrian Consumer Protection Act (KSchG), from the second year of service onward nic.at will reimburse the domain holder half of the already paid annual fee in the case of a cancellation within the first six months of the current service period.

3.8. Revocation of the delegation

The delegation of a domain can be revoked by nic.at for important reasons, in particular under the following circumstances:

- in the case of persisting technical problems with the domain (e.g. name servers not operational) despite requests to remedy the problems;
- in the case of non-payment of outstanding fees (including those for past service periods, even if the fee for the current service period has been paid) or other outstanding claims;
- ~~in the case of insufficient data on the domain holder (see Section 1.3.);~~
- ~~due to incorrect or incomplete information regarding the domain owner or due to a breach of the obligation to update or cooperate in verifying the data (see Section 1.3.); this may also be a provisional revocation until the grounds for revocation have been clarified.~~
- in the case of a legally effective ruling by a court of law or a court of arbitration which is enforceable in Austria, and in the case of an instruction from a competent authority.

Any outstanding claims on the part of nic.at which were due on the date of the revocation shall remain valid.

3.9. Registrar

The domain holder may use a registrar for the purpose of registering and administering a domain. The registrar acts as the domain holder's agent vis-à-vis nic.at. The current list of all registrars is available at www.nic.at/registrars.

In cases where a domain holder uses a registrar, the registrar must be named as the invoice recipient from nic.at's perspective. The registrar's actions and declarations with regard to the domain will be attributed to the domain holder. Messages from nic.at to the domain holder may be delivered to the registrar.

Where a domain previously administered by a registrar is changed over to independent administration by the domain holder himself, the retail price (available at www.nic.at/price) will be charged.

4. Liability and miscellaneous provisions

4.1. Limitation of liability

nic.at shall not be held liable for damage resulting from negligent actions on the part of nic.at (with the exception of personal damage). nic.at's liability for grossly negligent actions or willful conduct is limited to ten times the amount of the annual fee in each case; liability for loss of profit, loss of savings, etc. is excluded in any case. These limitations of liability do not apply to consumers as defined in the Austrian Consumer Protection Act (KSchG).

In the course of service provision, the services offered by nic.at may be disrupted due to inevitable events beyond the scope of nic.at's responsibility and due to necessary maintenance work.

4.2. Choice of law and jurisdiction

The contractual relationship between nic.at and the domain holder shall be governed by Austrian law with explicit

exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the principles regarding conflicts of law under international private law.

Any and all disputes arising from this agreement will be subject to the jurisdiction of the Vienna Commercial Court, or the Vienna District Commercial Court for district court proceedings. Where the contractual relationship is based on a consumer transaction as defined in the Austrian Consumer Protection Act (KSchG), any suits against the consumer are to be filed with the court with general jurisdiction over the consumer. In the case of legal action against nic.at, the consumer may also file suit at nic.at's place of establishment (Salzburg, Austria).

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