

## COMMERCIAL CONDITIONS AND TERMS FOR REGISTRARS

Effective from January 1, 2009.

### 1. INTRODUCTORY PROVISIONS

- 1.1 This document defines Commercial Conditions and Terms for Registrars of:
  - 1.1.1 Third-level Domain Names under ccTLD .go.tz;
  - 1.1.2 Third-level Domain Names under ccTLD .co.tz;
  - 1.1.3 Third-level Domain Names under ccTLD .ac.tz;
  - 1.1.4 Third-level Domain Names under ccTLD .ne.tz;
  - 1.1.5 Third-level Domain Names under ccTLD .or.tz;
  - 1.1.6 Third-level Domain Names under ccTLD .mil.tz;
  - 1.1.7 Third-level Domain Names under ccTLD .sc.tz;
  
- 1.2 The following terms used in these Commercial Conditions and Terms shall have the following meaning:
  - 1.2.1 Price list and fee - a price-list and fees for services provided by tzNIC.
  - 1.2.2 Central Registry - a database of Domain Names, their holders and other person maintained by tzNIC. The Central Registry is the source for Domain Name registration in the tz zone maintained by the primary name server. The Central Registry is accessed by Registrars.
  - 1.2.3 tzNIC – Tanzania Network Information Centre.
  - 1.2.4 Domain Name - a third-level domain under .tz ccTLD.
  - 1.2.5 Registrar - a person with which tzNIC has made an agreement under these Commercial conditions and Terms. The Registrar is authorized to access the Central Registry and submit requests for changes in records maintained in the Central Registry. Only one Registrar may be entered at a given time for every Domain Name.
  - 1.2.6 Customer - a person that is the end user of the services provided by tzNIC.
  - 1.2.7 Rules - documents published by tzNIC that contain descriptions of the procedure for registering Domain Names and related records, Rules of Domain Name use, rules of keeping Central Registry, Rules for Dispute Resolution, Rules of Technical Communication, Communication protocol description, etc.
  
- 1.3 Based on the agreement made between the Registrar and tzNIC, the Registrar is authorized to use the services provided by means of the Central Registry (in particular Domain Name registration, Domain name registration renewal, Domain

Name record administration, etc) and DNS services (in particular the maintenance of records on delegated Domain Names in the primary name server), and for the services provided by tzNIC the Registrar shall pay the price specified in the Price-list.

#### 1.4 REGISTRAR

Only legal entities complying with the following conditions may become a Registrar:

- Legally registered and incorporated as a company in The United Republic of Tanzania, and
- Having a registered office (permanent address) and central administration or principal of in The United Republic of Tanzania.

1.5 The aspiring Registrar's assets should not be subject to any bankruptcy proceedings

1.6 The Registrar's information system must communicate with the Central registry using the communication protocol required according to the technical specifications stated in the rules.

1.7 The Registrar must provide to tzNIC a contact telephone number staffed on a 7x24x365 basis, which will be used to solve technical and operation issues.

1.8 The registrar must attach Certificate of Incorporation, Business License and any other relevant document and submit to tzNIC.

## **2. AGREEMENT BETWEEN tzNIC AND REGISTRAR**

2.1 These Commercial Conditions and Terms form an integral part of the agreement made between tzNIC and the Registrar. By executing the agreement the Registrar accepts these Commercial conditions and Terms, the rules as well as other documents stated in these Commercial Conditions and Terms or published by tzNIC in connection with these Commercial conditions and Terms, Domain Names, their registrations and related matters, and agrees to observe them. The agreement stipulates to which Domain Names (see Article 1.1) the agreement pertains.

2.2 The agreement is made for a term of 3 years. If none of the parties notifies the other contracting party at least 1 month before the term expires, for which the agreement is made, that it does not wish to continue the contractual relationship, the agreement will automatically, without further ado, change into agreement made for an unlimited period of time. A notification informing that one contracting party the other contracting party and the agreement will be terminated upon expiration of the term for which it has been made.

## **3. COMMERCIAL TERMS AND CONDITIONS**

3.1 The Registrar shall pay tzNIC an annual fee according to the valid Price-list for every

commenced calendar year.

3.1.1 In the first year of the agreement term, the annual fee will be due 10 days from the effective date of the agreement and equal to 1/12 of the annual fee for every even commenced month remaining until the end of the given calendar year.

3.1.2 The annual fee in the subsequent years will be due by the 10<sup>th</sup> day of January of the given calendar year.

3.2 The Registrar shall annually make a deposit with tzNIC, which will be used to pay for fees for the services rendered by tzNIC according to the price-list. The registrar may at any time increase the deposit made in excess of the minimum amount defined in the price-list.

3.2.1 The deposit in the first year of the agreement term shall be made within 10 days of the effective date of the agreement at an amount equal to 1/12 of the deposit defined in the price-list for every commenced month remaining until the end of the given calendar year. If the price-list gives an option to make the deposit in installments paid throughout the calendar preceding deposit portion for every commenced month remaining until the due date of the nearest following deposit portion; the remaining portions of the deposit shall then be paid at amounts defined in the price-list.

3.2.2 The deposit in the subsequent years must be made by the 10<sup>th</sup> day of January of the given calendar year. If the price-list gives an option to make the deposit in installments throughout the calendar year, the deposit shall be made by the relevant deadline amount specified in the price-list for the given deadline.

3.3 The Registrar's requests for services to be rendered by tzNIC shall be paid for by means of the deposit. If the unused amount of the deposit is not sufficient to pay the price of a service delivered to the Registrar, then service delivery request will be rejected or services will not be rendered.

3.3.1 If, during the calendar year, the registrar uses up a portion of the deposit that is lower than the deposit amount according to Article 4.2.1 in the first year or according to Article 4.2.2 in the subsequent years, the registrar shall pay tzNIC liquidated damages equal to the difference between such a deposit and the amount used up.

3.3.2 The unused deposit will automatically be set off against such liquidated damages.

3.3.3 If, during the calendar year, the Registrar uses up an amount of the deposit to pay for the services provided by tzNIC and this amount is higher than the deposit made according to Article 4.2.1 in the first year or according to Article 4.2.2 in the subsequent years, the Registrar needs not pay the remaining portions of the deposit that are due in the given calendar year.

- 3.4 Accounts for the deposit and the services rendered will be rendered on a monthly basis retroactively. tzNIC will upon the Registrar's request communicate the current balance of the unused deposit. tzNIC may use the unused deposit to settle its receivables from the registrar. The remaining portion of the unused deposit shall be returned to the Registrar within 30 days of the end of the agreement.
- 3.5 If the Registrar falls in default with paying the annual fee, deposit or any portion thereof, tzNIC may suspend its communication with the Registrar until full payment (Article 8.3 shall in such a case be applied analogously) or suspend accepting new Domain Name registrations, Domain Name registration renewals and/or requests for Domain Name transfer under the Registrar's management (Article 8.5 shall in such a case be applied analogously); however, the maximum period of suspension defined in Article 8.5 will not apply in this case). If the default with payment last more than 1 month, tzNIC may terminate the agreement.
- 3.6 The decisive moment for settling any payment to tzNIC is when the amount has been credited to tzNIC's account.

#### **4. RELATIONSHIPS BETWEEN REGISTRAR AND CUSTOMERS**

- 4.1 The contractual relationships between the Registrar and its Customers will be governed by the agreement between the Registrar and the particular Customer. The agreement between tzNIC and the Registrar does not give rise to any rights on the part of Customers toward tzNIC or the Registrar. tzNIC cannot be held liable for the content of any agreements between the Registrar and the Customer. tzNIC does not decide on any rights or rightful interests arising from contractual relationships between the Registrar and the Customer. tzNIC does not judge on the quality, correctness or compliance of the Registrar's standard Commercial Conditions and Terms or the Registrar's standard agreements with Customers. The execution of an agreement between tzNIC and the Registrar or the depositing of new versions of standard Commercial Conditions and Terms or standard agreements with Customers does not represent their approval by tzNIC.
- 4.2 An agreement between the Registrar and the Customer must meet the following minimum parameters; the Registrar is not authorized by and provision of its agreement with the Customer or by any other document to change the meaning of these parameters or to cancel or limit them.
- 4.2.1 The Customer may at any time terminate its agreement with the Registrar if the Registrar has grossly breached the agreement.
- 4.2.2 The agreement between the registrar and the customer must define conditions, under which the customer may change the registrar.
- 4.2.3 The agreement between the Registrar and the Customer must contain a provision, by means of which the customer will grant its consent to tzNIC to access the customer's data.

4.2.4 The contractual relationship between the Registrar and the Customer shall comply with the Rules of Registration in force.

4.3 The Registrar may fulfill its obligations also by means of sub-registrars. In such a case, the contractual relationships with the Customer may be governed by an agreement between the customer and the sub-registrar. The Registrar shall ensure that its sub-registrars fulfill the obligations arising from these Commercial Conditions and Terms for the Registrar. The Registrar is liable for all activities performed by its sub-registrar as if they were performed by the Registrar itself. The Registrar shall upon request present tzNIC with a complete list of all its sub-registrars as of a given date, which will make it possible to identify the sub-registrars.

4.4 The Registrar shall communicate to the Customer, within 2 working days of receiving a due request from the Customer and verifying the Customer's identification details in compliance with the conditions set by the given Registrar, the information kept on the Customer in the Central Registry, provided that the information pertains to a record on a specific contact or name-server set, for which the Customer is registered, or a record on a specific Domain Name, the holder of which is the Customer.

## **5. DOMAIN NAME REGISTRATION**

5.1 When registering Domain Names, the Registrar shall proceed in compliance with the Rules in force.

5.2 The Registrar shall ensure that the Domain Name holder accepts the Rules as well as other related documents in a manner defined therein.

## **6. PERSONAL DATA PROTECTION**

6.1 tzNIC acts as administrator of personal data of the persons kept in the Central Registry. The Registrar is the processor of such personal data. The purpose, means and scope of the processed personal data is defined in these Commercial conditions and Terms, the Rules of Registration and in other related documents.

6.2 The Registrar shall process personal data of the persons kept in the Central Registry in compliance with the legislation and other Rules governing personal data processing.

6.3 If the person kept in the Central Registry is an individual, the personal data required for identification includes the person's name and surname, date of birth, place of residence and number of the document that was used to check the person's identity. The agreement between the Registrar and the Customer may also specify other personal data that is required for agreement execution and fulfillment.

6.4 The Registrar may not disclose personal data of the persons kept in the Central Registry to any third party. If the data kept in the Central Registry on a particular

person is marked as not to be made accessible by means of the public information services provided (WHOIS etc), the Registrar may not make such data accessible by means of the public information services provided by itself, not even in case the Registrar has access to such data based on its communication with the Central Registry; the Registrar is however obligated to make such data accessible to the person to which the data pertains.

6.5 The Registrar shall acquire consents of the persons, whose personal data is entered in the Central Registry, with the disclosure of such data and with the publishing of the same in particular by means of the Internet. tzNIC may publish personal data of the persons kept in the Central Registry.

6.6 The Registrar is responsible for ensuring that all information and data provided to the Registrar by its Customer are handed over to tzNIC complete and accurate, shall make reasonable effort to verify such information and is obligated to make the Customer aware of the consequences of stating untrue details. The Registrar shall upon request by tzNIC present within 14 days of receiving such a request documents that can be used to verify whether the given data is complete and accurate.

6.7 The Registrar shall archive all agreements made with the Customer as well as source documents confirming that the Customer data is complete, true and accurate, including documents evidencing that the holder has accepted the Rules of Registration and the Rules of Dispute Resolution. The Registrar shall archive the documents evidencing that the information submitted by the Customer is complete, true and accurate, based on which entries or changes thereof have been made in the Central Registry. The Registrar shall archive all such data for at least 5 years from the end of its contractual relationship with the Customer. Upon request by tzNIC, the Registrar shall at any time during the period specified in this paragraph present tzNIC, within 14 days of receiving such a request, copies of these source documents, either in an electronic or written form depending on their original form. The obligations stipulated in this paragraph are not affected by the termination of the contractual relationship between tzNIC and the Registrar.

## **7. TECHNICAL RULES OF REGISTRAR'S ACTIVITIES**

7.1 Technical parameters of communication between tzNIC and the Registrar are defined in the Rules or, if relevant, in other documents regulating the operation of the Central Registry.

7.2 The Registrar is responsible for ensuring a correct configuration of the technical means used by the Registrar for communication with tzNIC as well as for its connection to the Central Registry up to the level of external routers of tzNIC.

7.3 The Registrar is obligated to adopt such measures so that public information services (WHOIS etc.), which the Registrar itself provides and which can be used to access data in the Central Registry, cannot be used to acquire data from the Central

Registry in a bulk manner and/or by automated means.

7.4 TzNIC may for technical reasons for the necessary period of time interrupt and/or limit its communication with the Registrar if the technical communication from the Registrar is or has been performed in violation of these Commercial Conditions and Terms or the Rules. tzNIC cannot in such a case be held liable for any damage caused by the interruption or limitation of communication.

7.5 TzNIC may suspend accepting new Domain Name registrations, Domain Name registration renewals and/or requests for Domain Name transfer under the Registrar's administration if the Registrar generates requests in its communication with tzNIC that are non-compliant with the Rules. tzNIC shall notify the Registrar of such a suspension. The suspension may take maximum 1 week. If more than one suspension occurs during 1 month, tzNIC may terminate its agreement with the Registrar. tzNIC cannot be held liable for any damage caused by the suspension according to this paragraph.

## **8. CHANGES IN DOCUMENTS**

8.1 tzNIC may at any time change these Commercial conditions and Terms, price-list, Rules as well as other documents referred to in these Commercial Conditions and Terms or published by tzNIC in connection with these Commercial conditions and Terms, Domain Names, their registrations and related facts, as well as the scope or structure of the services provided.

8.2 tzNIC shall announce any changes made according to Art. 9.1 at least 1 month before the effective date of such a change by publishing the change at <http://www.tznic.or.tz>

8.3 The Registrar may on the basis of the announced change of the Commercial conditions and Terms, Pricelist or technical specifications of the communication protocol according to Art. 9.2 terminate its agreement made with tzNIC according to these Commercial Conditions and Terms at least 7 days before the change takes effect, otherwise the termination will be null and void. The agreement will in the case of such a termination end as of the effective date of the change. If the Registrar does not terminate the agreement within the given period of time, it will be deemed that the Registrar accepted the change as of the effective date thereof.

## **9. COMMUNICATION OF CONTRACTING PARTIES**

9.1 Any notices that relate to the performance of the agreement or pertain to the agreement as such, or which are to be made on the basis of the agreement, must be made in writing (in a paper or electronic form) and delivered to the other Contracting Party in person, by registered letter or in any other form of registered post communication to the latest address communicated by the receiving Contracting Party; if there is no such address, then to the address stated in the agreement, or electronically using a verified electronic signature.

9.2 The notice according to Art. 10.1 will be considered delivered if the recipient refuses

to accept it or fails to collect it at the address communicated by the Contracting Party or, if there is no such address, at the address stated in the agreement, within 15 days. In such a case, the notice will be deemed delivered on the date of refusal to accept it or on the date when the letter was deposited with the delivering post office.

9.3 All communication shall be conducted in the Swahili or English language.

## **10. GOVERNING LAW AND DISPUTE RESOLUTION**

10.1 The contractual relationship between tzNIC and the Registrar will be governed by the legislation in force in the United Republic of Tanzania.

10.2 The language of the agreement between the Registrar and tzNIC, all contractual documents and documents referred to in the agreement, is the Tanzanian official language. If the agreement or any of the aforementioned documents is made in multiple language versions, the English language version shall prevail. Translations into other languages will be informative only.

10.3 The Contracting Parties undertake to make their best effort to eliminate and settle their mutual disputes arising from their contractual relationship made according to these Commercial Conditions and Terms or in connection with their contractual relationship and resolve such disputes preferably by means of their representatives authorized to negotiate.

10.4 If tzNIC and the Registrar cannot resolve their dispute amicably, either of the Parties may present the dispute for resolution to the Court of Law. The award shall be final and binding upon both Contracting Parties.

## **11. FINAL PROVISIONS**

11.1 The agreement between tzNIC and the Registrar may only be changed in writing by means of numbered amendments to the agreement; this does not affect the right to make changes according to article 9.

11.2 The agreement between tzNIC and the Registrar takes effect on the date of its execution by the Contracting Parties. If the agreement is not signed by the Contracting Parties on the same day, the agreement will take force and effect on the date when the agreement is signed by the latter Contracting Party.

11.3 These Commercial Conditions and Terms have been published by tzNIC with effect from January 1, 2009.