



## **OpenSRS Contract Fax Cover Sheet for .uk Reseller Agreement**

Please use this as your cover page when you fax in your OpenSRS contract. Before faxing the contract to OpenSRS, please be sure that you have:

- ❑ Signed up to be an OpenSRS Reseller at:  
<https://horizon.opensrs.net/~vpop/subscribe/>
- ❑ Completely reviewed the contract, providing all necessary information, namely:
  - Date and company information on Page 2
  - Address and contact information on Page 15
  - Signature and date on Page 15

Please provide the information below:

Company

Name: \_\_\_\_\_

Web site URL:http://\_\_\_\_\_

OpenSRS Username:\* \_\_\_\_\_

*\*obtained after you've signed up online*

Please **fax only pages 2 and 15** of the .uk OpenSRS contract to: +1 416-531-2516

Thanks,

Team OpenSRS

## REGISTRATION SERVICE PROVIDER AGREEMENT

This Reselling Agreement (the "Agreement") is dated as of \_\_\_\_\_ ("Effective Date") by and between:

TUCOWS INC.

("TUCOWS")

and

(\*)

(the "RSP").

(TUCOWS and the RSP may be referred to individually as a "Party" and collectively as the "Parties.")

Whereas NOMINET UK ("NOMINET UK") has been granted the exclusive right to administer the registry for .uk domains; and

WHEREAS, TUCOWS has been granted the right to act as a NOMINET UK accredited registrar to provide Internet domain name registration services for domain names within the .co.uk and .org.uk domains; and

WHEREAS, the RSP desires the ability to register, transfer and renew .co.uk and .org.uk domain name registrations on behalf of its clients in the NOMINET UK Registry.

NOW, THEREFORE, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, TUCOWS and the RSP, intending to be legally bound, hereby agree as follows:

### 1. DEFINITIONS

- (a) "Affiliate" refers to any entity mirroring TUCOWS content on a server controlled by the entity, registered with TUCOWS, and in accordance with an Affiliate Agreement entered into between TUCOWS and the entity.
- (b) "Communications" refers to date and time, and the content of all registration data (including updates), which shall include written communications constituting

registration applications, confirmations, modifications, or terminations and related correspondence with Customers, including registration contracts of all Customers with TUCOWS and/or NOMINET UK and Customer accounts including dates and amounts of all payments and refunds.

- (c) “Country code” refers to top level domains based on the two-letter International Country Code Standard (ISO 3166) for states and other political entities, that are authorized by those states and political entities as issuers of country code top level domain names (ccTLDs).
- (d) “Confidential Information” means any and all information disclosed by a party including technical information, software, financial data, business and marketing plans. Confidential Information shall not include information which (i) is publicly available at the time of its disclosure or becomes publicly available though no fault of the receiving party; (ii) is lawfully obtained by the receiving party from a third party without restriction; or (iii) is known by the receiving party prior to the date of disclosure as demonstrated by the receiving party’s records kept in the ordinary course of business.
- (e) “Customer” means an organization or individual applying to register, transfer or renew a .uk domain name via the agency of the RSP and/or TUCOWS.
- (f) “DNS” means Internet domain name system.
- (g) “OpenSRS” means the multiple-registrar shared registration system developed by TUCOWS for the facilitation of the registration of Internet domain names for TLDs for which TUCOWS acts as the registrar.
- (h) “Tag Holder” means TUCOWS as defined in the Agreement for the Use of a NOMINET UK Tag executed between NOMINET UK and Tucows appointing Tucows as a party authorized by NOMINET UK to facilitate the registration of domain names.
- (i) “TLD” means the top-level domain of the DNS.
- (j) “Registrar” means a Tag Holder.
- (k) “Registry” means a party administering the registration and maintenance of registered domain names.

## **2. OBLIGATIONS OF THE PARTIES**

- 2.1. Throughout the term of this Agreement, TUCOWS shall operate OpenSRS and provide the RSP with access to OPENSRS, enabling the RSP to transmit domain name registration information for TLDs and country code Domain Names (and such additional TLDs, if any, with respect to which TUCOWS may act as Registrar or Registry during the term of this Agreement) to OpenSRS according to technical

specifications provided by TUCOWS. TUCOWS shall maintain a module within OPENSRS as an interface with the NOMINET UK system.

- 2.2. TUCOWS shall provide to the RSP, at the election of the RSP, reference client software (the "Software"), and a set of technical specifications making up the Application Program Interface (the "API"), either of which will enable the RSP to develop its system to facilitate the registration of .co.uk and .org.uk third-level domains using OPENSRS .
- 2.3. The RSP shall be responsible for providing Customer service, billing and technical support and Customer interface to accept Customer orders. The RSP shall amend the registered details in the Registry promptly upon receiving requests to do so from the Customer. In particular, if the Customer requests an amendment to the domain name details, the RSP will not delay such a change pending the resolution of other contractual matters between the Customer and the RSP.
- 2.4. As part of its registration of all country code and top-level registrations of domain names during the term of this Agreement, the RSP shall submit all data elements as specified in the interface to OPENSRS using the appropriate TUCOWS protocols. The RSP acknowledges and agrees that the RSP shall have no right, title or interest in and to the data elements consisting of the domain name registered, the IP addresses of nameservers, and the identity of the registering registrar for propagation of and the provision of authorized access to the TLD zone files.
- 2.5. The RSP agrees that it shall cause each Customer to agree to be bound by the terms and conditions set forth by TUCOWS and NOMINET UK in Appendices A and B respectively, or such other registration agreements as TUCOWS and/or NOMINET UK may post on their web sites from time to time. In particular, the RSP will make sure that the Customer is aware (a) of the terms dealing with the use and disclosure of personal data; and (b) that if NOMINET UK does not receive the correctly completed reply form (sent with the registration certificate recording the pending registration of the domain name), NOMINET UK will be entitled to give written notice canceling the registration. The RSP may require registrants using its services to agree to additional terms and conditions, provided that such terms and conditions do not conflict in any manner with the provisions of the then current TUCOWS registration agreement. If a registration certificate is sent to the Customer care of the RSP, the RSP will forward the certificate and the attached reply form to the Customer without delay.
- 2.6. The RSP shall develop and employ in its domain name registration business all necessary technology and restrictions to ensure that its connection to OpenSRS, and all transmissions between the RSP, Customers or prospective Customers and OpenSRS that are initiated for the purpose of creating, deleting or modifying data within the TUCOWS data base or the NOMINET UK data base are secure. Each such transmission shall be authenticated and encrypted using such protocol as may be prescribed by TUCOWS. The Reseller shall authenticate every connection with

- OpenSRS using its password, which it shall disclose only to its employees on a need to know basis. The RSP shall notify TUCOWS within four hours of learning that its key has been compromised in any way.
- 2.7. The RSP shall utilize in its domain name registration business domain name lookup capability as mandated by TUCOWS from time to time to determine if a requested domain name is available or currently unavailable for registration.
  - 2.8. The RSP shall assist, when requested by TUCOWS, in the facilitation of transfers of domain name registrations from another registrar to TUCOWS and vice versa. The RSP shall not interfere in any manner with any such transfers.
  - 2.9. The RSP acknowledges that in the event of any dispute concerning the time of the entry of a domain name registration into the NOMINET UK database, the time shown in the NOMINET UK records shall prevail.
  - 2.10. The RSP shall comply with all other terms or conditions established by TUCOWS or NOMINET UK from time to time to ensure sound operation of OpenSRS. Further, the RSP shall comply with all other terms or conditions established by NOMINET UK from time to time.
  - 2.11. The RSP shall employ all necessary employees, contractors, or agents with sufficient technical training and experience to respond to all technical problems concerning the use of OpenSRS, the Software, and the API in conjunction with the RSP's systems. The RSP agrees that in the event of significant degradation of OpenSRS, or at any time deemed necessary by TUCOWS, TUCOWS may, in its sole discretion, temporarily suspend access to OpenSRS.
  - 2.12. The RSP shall comply with all policies of TUCOWS and/or NOMINET UK that may be established from time to time regarding the use of OpenSRS to facilitate the registration of country code domain names or related matters. The RSP shall comply with the policies of NOMINET UK that will be applicable to all NOMINET UK registrars and that will prohibit the registration of certain domain names in the .uk country code that are not allowed by NOMINET UK to be registered in the NOMINET UK Registry. The RSP will promptly inform TUCOWS if it has cause to believe that a particular domain name registration breaches NOMINET UK's rules or the registration terms and conditions.
  - 2.13. The RSP will not do anything or omit to do anything which could put NOMINET UK in breach of the UK Data Protection Act 1984 or in breach of any UK or European Union legislation amending or replacing it.
  - 2.14. At Tucows' request, the RSP shall forward copies of all Communications with the Customer to Tucows. In the event of any dispute regarding a domain name registration, the RSP shall give all reasonable assistance to TUCOWS, NOMINET UK and/or any court or independent expert considering the dispute.

### **3. LICENSE**

- 3.1. License Grant. Subject to the terms and conditions of this Agreement, TUCOWS hereby grants the RSP and the RSP accepts a non-exclusive, worldwide limited license to use the Software and a non-exclusive, non-transferable, worldwide limited license to use the API. The Software and/or the API will enable the RSP to use OpenSRS to facilitate the registration of domain names by TUCOWS on behalf of Customers.
- 3.2. Limitations on Use. The use of OpenSRS software shall be governed by the GNU General Public License which should be accessed and reviewed on <http://resellers.tucows.com/opensrs/contracts2>.
- 3.3. TUCOWS may from time to time make modifications to the Software and the API licensed hereunder that will enhance functionality or otherwise improve OpenSRS.

### **4. SUPPORT SERVICES**

- 4.1. During the term of this Agreement, TUCOWS shall (i) maintain a web site containing technical information related to OpenSRS and (ii) maintain and make postings to an SRS technical e-mail list.

### **5. FEES**

- 5.1. The RSP shall pay to TUCOWS the non-refundable amounts set forth in Appendix C hereto with respect to each domain name registration, transfer or renewal (collectively, the "Registration Fees") processed by the RSP. TUCOWS reserves the right to adjust the Registration Fees upon notice to the RSP.
- 5.2. If a Customer transfers its domain name to the RSP's account from a competing registrar, the RSP shall pay TUCOWS the applicable transfer Fee(s).
- 5.3. Notwithstanding any obligation of the Customer to pay Registration Fees, the RSP accepts joint and several liability for the payment of same.

### **6. PAYMENT**

- 6.1. Prior to registering any domain names through OpenSRS, RSP shall forward a sum agreed by the parties to Tucows on account. As domain names are registered by RSP through OpenSRS, RSP's account balance shall be reduced. TUCOWS shall maintain a record of RSP's account balance which shall be accessible by RSP. If RSP's account balance is fully depleted at any time, RSP shall not be permitted to register any further domain names through OpenSRS until such time as RSP's account balance is restored.
- 6.2. TUCOWS reserves the right to require minimum order levels and to modify those minimums from time to time. Tucows' minimum requirement shall be available on

the OpenSRS web site ([www.opensrs.org](http://www.opensrs.org)).

6.3. Payment may be submitted by RSP to TUCOWS in the following manners:

(a) via wire transfer to:

HSBC Bank USA, New York, N.Y.  
SWIFT: MRMDUS33  
Pay to HSBC Canada – A/C 000-050881  
For account: 362 –003 –068 –070

Beneficiary: Tucows.com Co. RSP agrees that all wire transfer charges will be the responsibility of the remitter.

(b) Via cheque made payable to TUCOWS.com Co. and delivered to:

TUCOWS Inc.  
96 Mowat Avenue  
Toronto, Ontario M6K 3M1  
CANADA

(c) Via credit card by submitting a signed copy of the form made available for such purpose on the Open SRS website ([www.opensrs.org](http://www.opensrs.org)).

## **7. DUTIES OF GOOD FAITH**

7.1 The RSP will act in good faith towards its Customers, TUCOWS and NOMINET UK.

7.2 The RSP will not process applications in respect of nonexistent Customers or where the named Customer has not requested that a domain name be registered to it. Should the RSP become aware that a Customer is no longer entitled to a domain name under NOMINET UK's rules, the RSP will notify TUCOWS of same immediately.

## **8. CONFIDENTIALITY**

8.1. Use of Confidential Information. The Parties' use and disclosure of Confidential Information disclosed hereunder are subject to the following terms and conditions:

(a) With respect to the Confidential Information, the RSP agrees that:

(i) The RSP shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of, all Confidential Information received from TUCOWS, including implementing reasonable physical security measures and operating procedures; and

- (ii) The RSP shall make no disclosures whatsoever of any Confidential Information to others, provided however, that if the RSP is a corporation, partnership, or similar entity, disclosure is permitted to the RSP's officers and employees who have a demonstrable need to know such Confidential Information, provided the RSP shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality thereof.
- (b) The obligations set forth in this Section 8 shall be continuing, provided, however, that this Section 8 imposes no obligation upon the RSP with respect to information that:
  - (i) is disclosed with TUCOWS' prior written approval; or
  - (ii) is or has entered the public domain in its integrated and aggregated form through no fault of the receiving party; or
  - (iii) is known by the receiving party prior to the time of disclosure in its integrated and aggregated form; or
  - (iv) is independently developed by the receiving party without use of the Confidential Information; or (v) is made generally available by TUCOWS without restriction on disclosure.
- (c) In the event of any termination of this Agreement, all Confidential Information in the RSP's possession shall be immediately returned to TUCOWS; the RSP shall provide full voluntary disclosure to TUCOWS of any and all unauthorized disclosures and/or unauthorized uses of any Confidential Information; and the obligations of this Section 8.1 shall survive such termination and remain in full force and effect.
- (d) The RSP agrees that TUCOWS shall be entitled to seek all available legal and equitable remedies for the breach by the RSP of this Section 8.

## **9. TERM OF AGREEMENT**

- 9.1. The duties and obligations of the Parties under this Agreement shall commence as of the Effective Date. The term shall continue until the earlier to occur of the following: (i) the Agreement is terminated as provided herein, (ii) TUCOWS ceases to operate as a Registrar or (iii) NOMINET UK ceases to operate as the Registry for the .uk country code. In the event that at any time during the term, the Agreement between TUCOWS and NOMINET UK is amended or revised, the RSP shall execute an amendment to or revision of this Agreement so as to ensure that the parties hereto are in compliance with any obligations imposed by NOMINET UK.
- 9.2. Registration Following Termination. Upon expiration or termination of this Agreement, TUCOWS will, to the best of its ability, complete the registration of all

domain names processed by the RSP prior to the date of such expiration or termination, provided that the RSP's account with Tucows is in good standing.

- 9.3. Termination For Cause. In the event that either Party (or, in the case of RSP, an agent of RSP) materially breaches any term of this Agreement, including any of its representations, warranties, covenants and agreements hereunder, and such breach is not cured within ten (10) calendar days after written notice thereof is given by the other Party, then the non-breaching Party may, by giving written notice thereof to the other Party, terminate this Agreement as of the date specified in such notice of termination. Further, in addition to the foregoing rights of termination, in the event that TUCOWS, in its reasonable discretion, determines that RSP has breached any provision of this Agreement, is in violation of any OpenSRS policy or regulation as amended from time to time, or is engaging in conduct that breaches or may put TUCOWS in breach of any ICANN or Registry regulation or third party agreement with respect to the registration of domain names, TUCOWS shall have the right to suspend RSP's access to OpenSRS pending the cure of such breach to the reasonable satisfaction of TUCOWS. Failure of RSP to remedy its practices to the satisfaction of TUCOWS within a reasonable period of time shall entitle TUCOWS to immediate termination of this Agreement.
- 9.4. Termination by the RSP. The RSP may terminate this Agreement at any time by giving TUCOWS thirty (30) days notice of termination.
- 9.5. Bankruptcy.
  - (a) In the event that TUCOWS has reason to believe that RSP has filed for bankruptcy or otherwise ceased operations, TUCOWS shall suspend RSP's account and shall provide RSP with a letter requiring confirmation of its status. If RSP fails to contact TUCOWS within 15 calendar days following issue of the letter, TUCOWS shall terminate RSP's account and redirect its Customers to other resellers.
  - (b) Either Party may terminate this Agreement 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 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.

## **10. INDEMNIFICATION**

- 10.1. The RSP, at its own expense, will indemnify, defend and hold harmless TUCOWS and its employees, directors, officers, representatives, agents and affiliates, against any claim, suit, action, or other proceeding brought against TUCOWS based on or arising from any claim or alleged claim (i) relating to any product or service of the RSP; (ii) relating to any agreement, including TUCOWS' dispute policy, with any

Customer of the RSP; or (iii) relating to the RSP's domain name registration business, including, but not limited to, the RSP's advertising, domain name application process, systems and other processes, fees charged, billing practices and Customer service; provided, however, that in any such case: (a) TUCOWS provides the RSP with prompt notice of any such claim, and (b) upon the RSP's written request, TUCOWS will provide to the RSP all available information and assistance reasonably necessary for the RSP to defend such claim, provided that the RSP reimburses TUCOWS for its actual and reasonable costs. The RSP will not enter into any settlement or compromise of any such indemnifiable claim without TUCOWS' prior written consent, which consent shall not be unreasonably withheld. The RSP will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by TUCOWS in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

- 10.2. The RSP, at its own expense, will indemnify, defend and hold harmless NOMINET UK and its employees, directors, officers, representatives, agents and affiliates which shall include but not be limited to NOMINET UK's Council of Management, against any claim, suit, action, or other proceeding brought against NOMINET UK or any affiliate of NOMINET UK based on or arising from any claim or alleged claim (i) relating to any product or service of the RSP; (ii) relating to any agreement, including TUCOWS' and/or NOMINET UK's dispute policies, with any Customer of the RSP; or (iii) relating to the RSP's domain name registration business, including, but not limited to, the RSP's advertising, domain name application process, systems and other processes, fees charged, billing practices and Customer service. The RSP will not enter into any settlement or compromise of any such indemnifiable claim without NOMINET UK's prior written consent. The RSP will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by NOMINET UK in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

## **11. REPRESENTATIONS AND WARRANTIES**

- 11.1. The RSP hereby represents and warrants to TUCOWS as follows:

- (a) This Agreement has been duly and validly executed and delivered and constitutes a legal, valid, and binding obligation, enforceable against the RSP in accordance with its terms;
- (b) The execution, delivery, and performance of this Agreement and the consummation by the RSP of the transactions contemplated hereby will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate (i) any provision of law, rule, or regulation, (ii) any order, judgment, or decree, (iii) any provision of corporate by-laws or constating documents, or (iv) any agreement or other instrument;
- (c) No consent, approval, or authorization of, or exemption by, or filing with, any

governmental authority or any third party is required to be obtained or made in connection with the execution, delivery, and performance of this Agreement or the taking of any other action contemplated hereby;

- (d) There is no pending or, to the best of the RSP's knowledge, threatened claim, action, or proceeding against the RSP, or any affiliate of the RSP, with respect to the execution, delivery, or consummation of this Agreement, or with respect to RSP's trademarks, and, to the best of the RSP's knowledge, there is no basis for any such claim, action, or proceeding.
- (e) That it has the authority from the Customer to form a contract between the Customer and NOMINET UK incorporating NOMINET UK's Registration Terms and Conditions.
- (f) That it has authority from the Customer to maintain, transfer and/or renew the registration throughout the initial registration period of two years from the date of the application for registration.

11.2. TUCOWS hereby represents and warrants to the RSP as follows:

- (a) This Agreement has been duly and validly executed and delivered and constitutes a legal, valid, and binding obligation, enforceable against TUCOWS in accordance with its terms;
- (b) The execution, delivery, and performance of this Agreement and the consummation by TUCOWS of the transactions contemplated hereby will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate (i) any provision of law, rule, or regulation, (ii) any order, judgment, or decree, (iii) any provision of corporate by-laws or constating documents, or (iv) any agreement or other instrument;
- (c) No consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made in connection with the execution, delivery, and performance of this Agreement or the taking of any other action contemplated hereby; and
- (d) There is no pending or, to the best of TUCOWS knowledge, threatened claim, action, or proceeding against TUCOWS, or any affiliate of TUCOWS, with respect to the execution, delivery, or consummation of this Agreement, or with respect to TUCOWS' trademarks, and, to the best of TUCOWS' knowledge, there is no basis for any such claim, action, or proceeding.

## 12. MISCELLANEOUS

12.1. Any reference in this Agreement to gender shall include all genders, and words importing the singular number only shall include the plural and vice versa.

- 12.2. All references in this Agreement to dollars are expressed in US currency. All amounts payable to TUCOWS pursuant to this Agreement shall be remitted in US dollars.
- 12.3. There are no representations, warranties, conditions or other agreements, express or implied, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth herein.
- 12.4. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing.
- 12.5. The Parties shall attempt to resolve any disputes between them prior to resorting to litigation. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the provincial courts located in Toronto, Ontario, Canada.
- 12.6. This Agreement shall inure to the benefit of and be binding upon TUCOWS and the RSP as well as all respective successors and permitted assigns.
- 12.7. Survival. In the event of termination of this Agreement for any reason, Sections 2.5, 2.10, 3.2, 5.1, 8, 10, 11, 12.4, 12.5, 12.6, 12.15, 12.16, 12.17, and 12.18 shall survive. Neither Party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms but each Party shall be liable for any damage arising from any breach by it of this Agreement.
- 12.8. This Agreement does not provide and shall not be construed to provide third parties (i.e., non-parties to this Agreement), including any Customer, with any remedy, claim, cause of action or privilege. Nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership or a joint venture between the Parties. The RSP is an agent of Tucows for the purpose of reselling domain names in accordance with the terms of this Agreement. The RSP is not an agent of Tucows for any other purpose.
- 12.9. Force Majeure. Neither Party shall be responsible for any failure to perform any obligation or provide service hereunder because of any Act of God, strike, work stoppage, governmental acts or directives, war, riot or civil commotion, equipment or facilities shortages which are being experienced by providers of telecommunications services generally, or other similar force beyond such Party's reasonable control.
- 12.10. Further Assurances. Each Party hereto shall execute and/or cause to be delivered to each other Party hereto such instruments and other documents, and shall take such other actions, as such other Party may reasonably request for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

- 12.11. Attorneys' Fees. If any legal action or other legal proceeding (including arbitration) relating to the performance under this Agreement or the enforcement of any provision of this Agreement is brought against any Party hereto, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs and disbursements (in addition to any other relief to which the prevailing Party may be entitled).
- 12.12. Assignment/Sublicense. Except as otherwise expressly provided herein, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and assigns of the Parties; provided, however, that any such successor or assign be permitted pursuant to the articles, bylaws or policies of TUCOWS. The RSP shall not assign, sublicense or transfer its rights or obligations under this Agreement to any third person without the prior written consent of TUCOWS.
- 12.13. Delays or Omissions; Waivers. No failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise or waiver of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. No Party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.
- 12.14. Limitation of Liability. IN NO EVENT WILL TUCOWS BE LIABLE TO THE RSP FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EVEN IF TUCOWS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 12.15. Construction. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement.
- 12.16. Intellectual Property. Subject to the provisions of this Agreement, each Party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property. Any improvements to existing intellectual property will continue to be owned by the Party already holding such intellectual property.
- 12.17. The Software is provided "as-is" and without any warranty of any kind. TUCOWS EXPRESSLY DISCLAIMS ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED

WARRANTIES AND CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. TUCOWS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET THE RSP'S REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED. FURTHERMORE, TUCOWS NEITHER WARRANTS NOR MAKES ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE SOFTWARE OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SHOULD THE SOFTWARE PROVE DEFECTIVE, THE RSP ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

- 12.18. Entire Agreement; Severability. This Agreement, which includes Appendices A, B and C, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to effect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.
- 12.19. The division of this Agreement into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be used in the construction or interpretation of this Agreement.
- 12.20. This agreement may be executed in counterparts.

**13. NOTICE**

13.1. Notices. Any notice or other communication required or permitted to be delivered to any Party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service, by telecopier during business hours, or by electronic mail) to the address, telecopier number, or e-mail address set forth beneath the name of such Party below:

if to TUCOWS:

TUCOWS Inc.  
96 Mowat Avenue  
Toronto, Ontario M6K 3M1  
CANADA  
Attention: Legal Affairs  
Fax: +1 416 531-2516  
e-mail: lhutz@tucows.com

if to the RSP :

Any telecopier or electronic mail communication shall be deemed to have been validly and effectively given on the date of such communication, if such date is a business day and such delivery was made prior to 4:00 p.m. (Toronto time) and otherwise on the next business day. Any communication sent via regular mail shall be deemed to have been validly and effectively given 5 business days after the date of mailing.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth in the first paragraph hereof.

**TUCOWS INC.**

**[THE RSP]**

By:

By:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## APPENDIX A

### Registration Agreement

In order that a party may hold a valid .co uk or .org uk domain name registration, Tucows Inc. requires that all registrants adhere to certain terms and conditions. As an organization or individual applying to register, transfer or renew an .uk domain name via the agency of **[insert RSP name]** and/or Tucows Inc., you accordingly agree as follows:

- 1. AGREEMENT.** In this Registration Agreement ("Agreement"), "Tucows", "we", "us" and "our" refer to Tucows Inc., and "Services" refers to the domain name registration, transfer or renewal services provided by us as offered through \_\_\_\_\_, the Registration Service Provider ("RSP"). NOMINET UK shall refer to the entity granted the exclusive right to administer the registry for .uk domain name registrations.
- 2. SELECTION OF A DOMAIN NAME.** You represent that, to the best of the your knowledge and belief, neither the registration of the domain name nor the manner in which it is directly or indirectly used infringes the legal rights of a third party and that the domain name is not being registered for any unlawful purpose.
- 3. FEES.** As consideration for the Services you have selected, you agree to pay to us, or your respective RSP who remits payment to us on your behalf, the applicable fees. All fees payable hereunder are non-refundable. As further consideration for the Services, you agree to: (1) provide certain current, complete and accurate information about you as required by the registration process, and (2) maintain and update this information as needed to keep it current, complete and accurate. All such information shall be referred to as account information ("Account Information"). You, by completing and submitting this Agreement, represent that the statements in your application are true.
- 4. TERM.** You agree that the Registration Agreement will remain in full force during the length of the term of your Domain Name Registration. Should you choose to renew or otherwise lengthen the term of your Domain Name Registration, then the term of this Registration Agreement will be extended accordingly. This Agreement will remain in full force during the length of the term of your Domain Name Registration as selected, recorded, and paid for upon registration of the Domain Name. Should you choose to renew or otherwise lengthen the term of your Domain Name Registration, then the term of this Registration Agreement will be extended accordingly. Should you transfer your domain name or should the domain name otherwise be transferred due to another Registrar, the terms and conditions of this contract shall cease and shall be replaced by the contractual terms in force for the purpose of registering domain names then in force between SLD holders and the new Registrar.

5. **MODIFICATIONS TO AGREEMENT.** You agree, during the period of this Agreement, that we may: (1) revise the terms and conditions of this Agreement; and (2) change the services provided under this Agreement. Any such revision or change will be binding and effective immediately on posting of the revised Agreement or change to the service(s) on our web site, or on notification to you by e-mail or regular mail as per the Notices section of this Agreement. You agree to review our web site, including the Agreement, periodically 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 regular mail as per the Notices section of this Agreement. Notice of your termination will be effective on receipt and processing by us. You agree that, by continuing to use the Services following notice of any revision to this Agreement or change in service(s), you shall abide by any such revisions or changes. You further agree to abide by the NOMINET UK dispute resolution policy (“Dispute Policy”) as amended from time to time. You agree that, by maintaining the reservation or registration of your domain name after modifications to the Dispute Policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modifications, you may request that your domain name be deleted from the domain name database.
  
6. **MODIFICATIONS TO YOUR ACCOUNT.** In order to change any of your account information with us, you must use your Account Identifier and Password that you selected when you opened your account with us. Please safeguard your Account Identifier and Password from any unauthorized use. In no event will we be liable for the unauthorized use or misuse of your Account Identifier or Password.
  
7. **DOMAIN NAME DISPUTE POLICY.** If you reserved or registered a domain name through us, or transferred a domain name to us from another registrar, you agree to be bound by the Dispute Policy which is incorporated herein and made a part of this Agreement by reference. The current version of the Dispute Policy may be found at <http://www.nic.uk/ref/drs.html>. Please take the time to familiarize yourself with this policy.
  
8. **DOMAIN NAME DISPUTES.** You agree that, if the registration or reservation of your domain name is challenged by a third party, you will be subject to the provisions specified in the Dispute Policy in effect at the time of the dispute. You agree that in the event a domain name dispute arises with any third party, you will indemnify and hold us harmless pursuant to the terms and conditions contained in the Dispute Policy.
  
9. **NOMINET UK POLICY.** You agree that your registration of the domain name shall be subject to suspension, cancellation, or transfer pursuant to any NOMINET UK-adopted policy, term or condition, or pursuant to any registrar or registry procedure not inconsistent with an NOMINET UK-adopted policy, (1) to correct mistakes by a registrar or the registry in registering the name, or (2) for the resolution of disputes concerning the domain name. The current NOMINET UK terms and conditions can be found at

<http://www.nominet.org.uk/ref/terms.html>.

When you submit a request for a domain name registration with Tucows and/or RSP, you will be entering into two contracts – one contract with Tucows and/or RSP and one contract with NOMINET UK. NOMINET UK is the UK registry for .uk domain names.

Tucows and RSP will act as agents on your behalf by submitting your application to NOMINET for you, however, you will still be entering into a direct contract between you and NOMINET UK. This is a separate contract from this agreement; it is attached hereto and may also be found at <http://resellers.tucows.com/opensrs/uk/ukterms>.

Tucows and RSP must also make you aware that by accepting NOMINET's terms and conditions you are consenting to NOMINET using your personal data for a variety of reasons. In particular, your name and address may be published as part of NOMINET's WHOIS look-up service.

10. **AGENCY.** Should you intend to license use of a domain name to a third party, you shall nonetheless be the domain name registrant of record and are therefore responsible for providing your own full contact information and for providing and updating accurate technical and administrative contact information adequate to facilitate timely resolution of any problems that arise in connection with the domain name. You shall accept liability for harm caused by wrongful use of the domain name. You also represent that you have provided notice of the terms and conditions in this Agreement to the third party and that the third party agrees to the terms of Disclosure and Use of Registration Information (sections 18 and 19 of this Agreement).
11. **ANNOUNCEMENTS.** We and the RSP reserve the right to distribute information to you that is pertinent to the quality or operation of our services and those of our service partners. These announcements will be predominately informative in nature and may include notices describing changes, upgrades, new products or other information to add security or to enhance your identity on the Internet.
12. **LIMITATION OF LIABILITY.** You agree that our entire liability, and your exclusive remedy, with respect to any Services(s) provided under this Agreement and any breach of this Agreement is solely limited to the amount you paid for such Service(s). We and our contractors shall not be liable for any direct, indirect, incidental, special or consequential damages resulting from the use or inability to use any of the Services or for the cost of procurement of substitute services. Because some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, in such jurisdictions, our liability is limited to the extent permitted by law. We 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 identifier or password; (5) loss or liability

resulting from errors, omissions, or misstatements in any and all information or services(s) provided under this Agreement; (6) loss or liability resulting from the interruption of your Service. You agree that we will not be liable for any loss of registration and use of your domain name, or for interruption of business, or any indirect, special, incidental, or consequential damages of any kind (including lost profits) regardless of the form of action whether in contract, tort (including negligence), or otherwise, even if we have been advised of the possibility of such damages.

13. **INDEMNITY.** You agree to release, indemnify, and hold us, our contractors, agents, employees, officers, directors and affiliates harmless from all liabilities, claims and expenses, including attorney's fees, from claims by third parties relating to or arising under this Agreement, the Services provided hereunder or your use of the Services, including without limitation infringement by you, or someone else using the Service with your computer, of any intellectual property or other proprietary right of any person or entity, or from the violation of any of our operating rules or policy relating to the service(s) provided. You also agree to release, indemnify and hold us harmless pursuant to the terms and conditions contained in the Dispute Policy. When we are threatened with suit 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 breach of your Agreement and may result in deactivation of your domain name.
14. **TRANSFER OF OWNERSHIP.** Any transfer of ownership in and to a domain name registration shall be affected in accordance with NOMINET UK policies and procedures.
15. **BREACH.** You agree that failure to abide by any provision of this Agreement, any operating rule or policy or the Dispute Policy, may be considered by us to be a material breach and that we may provide a written notice, describing the breach, to you. If within thirty (30) 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. 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 or reservation of your chosen domain name, such registration or reservation does not confer immunity from objection to either the registration, reservation, or use of the domain name.
17. **DISCLAIMER OF WARRANTIES.** You agree that your use of our Services is solely at your own risk. You agree that such Service(s) is provided on an "as is", "as available" basis. 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 the Services 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) or as to the accuracy or reliability of any information obtained through the Service or that defects in the Service will be corrected. You understand and agree that any material and/or data downloaded or otherwise obtained through the use of Service is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system or loss of data that results from the download of such material and/or data. We make no warranty regarding any goods or services purchased or obtained through the Service or any transactions entered into through the Service. No advice or information, whether oral or written, obtained by you from us or through the Service shall create any warranty not expressly made herein.

18. **INFORMATION.** As part of the registration process, you are required to provide us certain information and to update us promptly as such information changes such that our records are current, complete and accurate. You are obliged to provide us the following information: (i) your name and postal address (or, if different, that of the domain name holder); (ii) the domain name being registered; (iii) the name, postal address, e-mail address, and voice and fax (if available) telephone numbers of the administrative contact for the domain name; and (iv) the name, postal address, e-mail address, and voice and fax (if available) telephone numbers of the billing contact for the domain name. Any voluntary information we request is collected such that we can continue to improve the products and services offered to you through your RSP.
  
19. **DISCLOSURE AND USE OF REGISTRATION INFORMATION.** You agree and acknowledge that we will make domain name registration information you provide available to NOMINET UK, to the registry administrators, and to other third parties as NOMINET UK and applicable laws may require or permit. You further agree and acknowledge that we may make publicly available, or directly available to third party vendors, some, or all, of the domain name registration information you provide, for purposes of inspection (such as through our WHOIS service) or other purposes as required or permitted by NOMINET UK and the applicable laws. You hereby consent to any and all such disclosures and use of, and guidelines, limits and restrictions on disclosure or use of, information provided by you in connection with the registration of a domain name (including any updates to such information), whether during or after the term of your registration of the domain name. You hereby irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of your domain name registration information by us. You may access your domain name registration information in our possession to review, modify or update such information, by accessing our domain manager service, or similar service, made available by us through your RSP. We will not process data about any identified or identifiable natural person that we obtain from you in a way incompatible with the purposes and other limitations which we describe in this Agreement. We will take reasonable precautions to protect the information we obtain from you from our loss, misuse, unauthorized accessor disclosure, alteration or destruction of that information.
  
20. **REVOCATION.** Your wilful provision of inaccurate or unreliable information, your wilful failure promptly to update information provided to us, or any failure to respond to

inquiries by us addressed to the email address of the registrant, the administrative, billing or technical contact appearing in the “Whois” directory with respect to a domain name concerning the accuracy of contact details associated with the registration shall constitute a material breach of this Agreement and be a basis for cancellation of the domain name registration. Any information collected by us concerning an identified or identifiable natural person (“Personal Data”) will be used in connection with the registration of your domain name(s) and for the purposes of this Agreement and as required or permitted by the NOMINET UK Agreement or a NOMINET UK/Registry Operator policy.

21. **RIGHT OF REFUSAL.** We, in our sole discretion, reserve the right to refuse to register or reserve your chosen domain name or register you for other Services within thirty (30) calendar days from receipt of your payment for such services. In the event we do not register or reserve your domain name or register you for other Services, or we delete your domain name or other Services within such thirty (30) calendar day period, we agree to refund your applicable fee(s). You agree that we shall not be liable to you for loss or damages that may result from our refusal to register, reserve, or delete your domain name or register you for other Services.
22. **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.
23. **NON-AGENCY.** Nothing contained in this Agreement or the Dispute Policy shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.
24. **NON-WAIVER.** Our failure to require performance by you of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by us of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
25. **NOTICES.** Any notice, direction or other communication given under this Agreement shall be in writing and given by sending it via e-mail or via regular mail. In the case of e-mail, valid notice shall only have been deemed to have been given when an electronic confirmation of delivery has been obtained by the sender. In the case of e-mail notification to us or to the RSP to [lhutz@tu cows.com](mailto:lhutz@tu cows.com) or **[Insert E-mail Address for RSP]** or, in the case of notice to you, at the e-mail address provided by you in your WHOIS record. Any e-mail communication shall be deemed to have been validly and effectively given on the date of such communication, if such date is a business day and such delivery was made prior to 4:00 p.m. EST, otherwise it will be deemed to have been delivered on the next business day. In the case of regular mail notice, valid notice shall be deemed to have been validly and effectively given five (5) business days after the date of

mailing and, in the case of notification to us or to the RSP shall be sent to:

TUCOWS Inc.  
Registrant Affairs Office  
96 Mowat Avenue  
Toronto, Ontario M6K 3M1  
CANADA

OR -

[Insert RSP address]

and in the case of notification to you shall be to the address specified in the “Administrative Contact” in your WHOIS record.

26. **ENTIRETY.** You agree that this Agreement, the rules and policies published by us and the Dispute Policy are the complete and exclusive agreement between you and us regarding our Services. This Agreement and the Dispute Policy supersede all prior agreements and understandings, whether established by custom, practice, policy or precedent.
27. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN WITHOUT REFERENCE TO RULES GOVERNING CHOICE OF LAWS. ANY ACTION RELATING TO THIS AGREEMENT MUST BE BROUGHT IN ONTARIO AND YOU IRREVOCABLY CONSENT TO THE JURISDICTION OF SUCH COURTS.
28. **INFANCY.** You attest that you are of legal age to enter into this Agreement.
29. **INCONSISTENCIES WITH NOMINET UK.** In the event that this Agreement may be inconsistent with any term, condition, policy or procedure of NOMINET UK, the term, condition, policy or procedure of NOMINET UK shall prevail.
30. **ACCEPTANCE OF AGREEMENT.** YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF THE SERVICE AND ARE NOT RELYING ON ANY REPRESENTATION AGREEMENT., GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

## APPENDIX B

### Terms and Conditions of the NOMINET UK Registry

**WARNING: by registering a domain name within the .uk Top Level Domain (a "Domain Name"), you enter into a contract of registration with Nominet UK ("We", "Our" or "Us") on the following terms and conditions. This is a separate contract to any arrangement you may have with any third party for the provision of Internet services.**

Nominet is the Registry for all Internet Domain Names ending in .uk and provides a public service for the .uk namespace on behalf of the Internet community. You can find out more information about Nominet from our web site at <http://www.nominet.org.uk>. Nominet is a not-for-profit company limited by guarantee which is performing services on a cost recovery basis. This is why we consider it reasonable to limit our liability in certain respects so that we may continue to offer our services in the interests of the whole Internet community.

This Contract includes our current Rules For The .uk Domain And Sub-Domains ("Rules") and the Policy and Procedure for our Domain Name Dispute Resolution Service ("Policy" and "Procedure" as appropriate). Copies of the Policy, Procedure and Rules are at <http://www.nominet.org.uk/drs.html> or can be obtained from us.

You may have registered a Domain Name through a third party (usually, but not always, your internet service provider). In these terms and conditions, the term "Agent" means such a third party.

#### 1. What we will do

- 1.1. We will process your application to register a Domain Name and consider whether or not to accept it in accordance with the criteria laid down in the Rules;
- 1.2. If your application is accepted, we will inform you or your Agent. If your application is rejected, we will inform you or your Agent as soon as reasonably practicable and return to you or your Agent (as appropriate) any payments received;
- 1.3. Unless the current Rules of the relevant sub-domain state to the contrary, we will register Domain Names on a first come, first served basis. Until we accept your application, there is no guarantee that the Domain Name you applied for will be entered in the Register as such. We therefore recommend that you do not take any action in respect of a Domain Name until you have received confirmation from us that your application has been accepted.
- 1.4. After your application has been accepted, we will enter the Domain Name and other relevant details (namely the data described in clause 6 below, together with details of your Agent, if any) in the Domain Name register database for the requested second level of the .uk top level domain (the "Register").

- 1.5. We will use the information in the Register entry for the Domain Name to enable the resolution of requests for the Domain Name, by pointing to the authoritative name servers listed in the Register Entry for the Domain Name. For further information about the technical requirements for registering a Domain Name, please contact your Agent.
- 1.6. After your application has been accepted and we have received your registration fee, we will issue you with a registration certificate and a reply form.
- 1.7. Subject to clause 8 below, we will transfer your Domain Name and update the Register accordingly on receipt of correctly completed transfer documentation from you and any relevant transfer fee applicable at the time of transfer. We will not transfer a Domain Name whilst it is the subject of legal proceedings or proceedings under our Dispute Resolution Service.
- 1.8. Please note that subject to clauses 8.5 and 8.6 we will not refund any fees after your Domain Name and details have been entered in the Register.
- 1.9. Subject to clauses 8.7 and 8.8 below, we will only make changes to the details contained on the Register (other than the registrant field), if we receive instructions and approval from you or your Agent.
- 1.10. Subject to clauses 8.7 and 8.8, we shall only alter the details contained in the "registrant" field of the Register if we receive authorization directly from you.

## **2. What you must do**

- 2.1. You must ensure that we receive the registration or renewal fee within one month after the issue of our invoice. For the avoidance of doubt, if you use an Agent it will be your responsibility to ensure that the Agent has paid the registration or renewal fee to us within one month of the issue of our invoice.
- 2.2. You must sign and return to us the reply form which we will send to you after registration or renewal as appropriate.
- 2.3. You must inform us promptly of any change in your registered details, and those of your Agent if applicable. It will be your responsibility to maintain and update any details you submit to us and to ensure that your details are up to date, and accurate. In particular, it is your responsibility directly or by your Agent to ensure that we have your full and correct postal address.
- 2.4. You must promptly inform us of any court proceedings brought in respect of the Domain Name.
- 2.5. Any name server listed in the Register entry for the Domain Name must respond authoritatively to requests for the Domain Name at all reasonable times.

### **3. Renewal of your Domain Name Registration**

- 3.1. The registration period is two years from the date of entry into the Register of your Domain Name registration. Provided you pay us your renewal fee and subject to clause 8 below, you will have the right to renew the Domain Name registration by entering into a new Contract with us for further periods of two years.
- 3.2. Subject to clause 3.3 below, when the Domain Name registration falls due for renewal, we will contact your Agent (at the Agent's address appearing in the Register) to request payment of the relevant renewal fee.
- 3.3. If no Agent is listed on the Register entry for the Domain Name, or if the Register entry for the Domain Name indicates that you wish to be invoiced direct, we will request payment of the relevant renewal fee direct from you at the registrant address appearing in the Register.
- 3.4. If we fail to receive the renewal fee within thirty (30) days of our making a request for the renewal fee, we will suspend your registration for at least 6 weeks and if we do not receive payment within the suspension period we will cancel your registration without further notice to you. During any period of suspension, we will not point to any name servers listed in the Register entry for the Domain Name, and you will be unable to use or transfer the Domain Name.

### **4. Exclusions and Limitations of Liability**

- 4.1. Nominet does not carry out any investigation as to whether you are entitled to register or have any rights in the Domain Name. By registering the Domain Name we are not acknowledging that you have any rights in the name comprised in the Domain Name, and we are not authorizing you to use the Domain Name in the course of trade.
- 4.2. Nothing in these terms and conditions limits or excludes our liability for death or personal injury caused by our negligence or for fraudulent misrepresentation.
- 4.3. We shall not be liable to you whether in contract, tort (including negligence) or otherwise for:
  - 4.3.1. any loss of profit, revenue or other type of economic loss (whether direct or indirect);
  - 4.3.2. loss of business or contracts;
  - 4.3.3. loss of anticipated savings or goodwill; or
  - 4.3.4. any losses which a court holds to be consequential, or indirect losses; arising out of or in connection with the Contract, including but not limited to:
  - 4.3.5. any error or omission in entries to the Register; and
  - 4.3.6. loss of registration and/or use (for whatever reason and whether temporary or otherwise) of the Domain Name.

- 4.4. All conditions and warranties which may be implied by law into any Contract with you are excluded to the fullest extent permissible by law.
- 4.5. Our aggregate liability to you whether under these terms and conditions or otherwise (including liability for negligence) shall not exceed £5,000.
- 4.6. If you are a consumer (ie you are not registering or intending to use the Domain Name in the course of a business, trade or profession) (a "Consumer"), the provisions of clauses 4.3 4.4 and 4.5 above will not apply to you.
- 4.7. Nothing in these terms and conditions will reduce your statutory rights relating to faulty or misdescribed goods. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens Advice Bureau.

## 5. Warranties

By entering into this agreement you consent to and warrant the following:

- 5.1 That you (or your Agent) have obtained the consent of any individual whose personal data is to be held on the Register in accordance with clause 6;
- 5.2 That the details and information submitted by you to us are true and correct, and that any future additions or alterations to your details and information will be true and correct, and that you will submit them in a timely manner. Unless you are a Consumer, you shall pay us (including the current or past members of Nominet UK's Council of Management) any and all reasonable costs, claims and expenses (whether direct or indirect) arising out of any claim resulting from your breach of this warranty; and
- 5.3 That by registering or using the Domain Name (in whatever manner) you will not knowingly infringe the intellectual property rights of a third party, that you are entitled to register the Domain Name, and that you have not registered the Domain Name in breach of trust. Our right to rely upon this warranty will continue to be available after completion of the registration process and will not be affected by any surrender, cancellation or transfer of the Domain Name. Unless you are a Consumer, you shall pay us (including the current or past members of Nominet UK's Council of Management) any and all reasonable costs, claims and expenses (whether direct or indirect) arising out of any claim that your registration or use of the Domain Name directly or indirectly infringes the intellectual property rights of a third party.

## 6. Personal Data

6.1 The Register is a public register for the purposes of data protection legislation. The Register will include your name and postal address, telephone and fax number and email address together with any other relevant details. This information (if it refers to individuals) is 'personal data' for the purposes of data protection legislation.

Personal data submitted by you will be:

- a. Posted onto the Register;
- b. Posted onto the WHOIS database by us. The WHOIS database is provided on our web site at <http://www.nominet.org.uk>. Other Agents which provide an online Domain Name registration service may point to our WHOIS database. We will publish your name and address but will not publish your telephone or fax number or email address as part of the WHOIS database; and
- c. Used as part of the Public Register Subscription Service ("PRSS"), under which we provide a compressed form of the Register to subscribers. We provide the PRSS only to trusted third parties, based within the European Economic Area, under strict contractual terms which prohibit the use of PRSS data for the purposes of direct marketing. The PRSS enables subscribers to perform WHOIS queries and reverse look-ups. We will publish your name and address but not your telephone or fax number or email address as part of the PRSS;
- d. We may provide your personal data to governmental or law enforcement agencies at their written request in connection with the conducting of any investigation of criminal activities; and
- e. We will provide your personal data to third parties only if required to do so by a court order.

You may write to us to request a copy of the personal data held by us about you. We may charge a reasonable fee for the provision of such data. As required by the Data Protection Act 1998, we will adopt appropriate security procedures in relation to the storage and disclosure of information provided by you in order to prevent unauthorised access. Our security procedures mean that we may occasionally request proof of your identity before we are able to disclose personal information to you. Other than the uses identified above, we will not disclose your personal information to others.

You should be aware that personal data posted on the WHOIS database may be accessible to countries outside the European Economic Area. By registering a Domain Name you consent to your personal data being transferred out of the European Economic Area and to our use of your personal data for the purposes specified above.

## **7. Domain Name Dispute Resolution Service**

- 7.1. You will be bound by the Policy and Procedure of our Dispute Resolution Service which are incorporated into these terms and conditions and made a part of the Contract by reference. The current version of the Policy and Procedure can be found at our web site: <http://www.nominet.org.uk/drs.html>
- 7.2. If a dispute arises, you agree to be bound by the Policy and Procedure which are current at the time that proceedings under the Dispute Resolution Service are commenced until the dispute is over.
- 7.3. Neither we nor our directors, officers, employees or servants nor any expert shall be liable to a party for anything done or omitted in connection with any proceedings under the Dispute Resolution Service unless the act or omission is shown to have been in bad faith.

## **8. Termination/Cancellation, Suspension and Amendment of the Register**

- 8.1. You or your Agent may surrender registration of the Domain Name by notice in writing to us at any time prior to our receiving payment.
- 8.2. After we have received payment for a Domain Name, only you (and not your Agent) may surrender the Domain Name.
- 8.3. After payment has been received but prior to the issue of a registration certificate you may surrender the registration by writing to us on headed notepaper which corresponds to the registrant address field of the Register entry for the Domain Name.
- 8.4. If a registration certificate has been issued, you may surrender the Domain Name by correctly completing the surrender of registration form (on the reverse of the registration certificate).
- 8.5. If you are a Consumer, then you may cancel the Contract by giving notice to us by any of the means set out in clause 10.4 below at any time up to and including 7 working days following the day on which the Contract is concluded, i.e. the date on which we give notice to you or your Agent that we have accepted your application to register a Domain Name. If you register or use the Domain Name in the course of a business, trade or profession, you will not have this right to cancel the Contract.
- 8.6. If you cancel the Contract in accordance with clause 8.5 then we will provide you or your Agent (as appropriate) with a full refund of our registration fee within 30 days from the day on which we receive notice of your cancellation. If we refund your Agent, you may have to seek direct from your Agent any further component of the fees which you have paid.
- 8.7. We may cancel or suspend the registration of a Domain Name by providing you with notice in writing in the event of the following:

- 8.7.1. if we do not receive your registration or renewal fees in accordance with clause 2.1 above;
  - 8.7.2. if you are in breach of the terms of this Contract (including the Rules) and in the case of a breach which is capable of remedy you fail to remedy this within 30 days of receiving written notice from us to do so;
  - 8.7.3. if we receive independent verification that you have provided grossly inaccurate, unreliable or false registrant contact details, or failed to keep such contact details up to date;
  - 8.7.4. if you are in breach of the warranties contained in clauses 5.1 and 5.3 of the Contract; or
  - 8.7.5. if the Domain Name is being administered in a way likely to endanger the operation of the Domain Name System.
- 8.8. We may transfer, suspend, cancel or amend the Domain Name registration in the following circumstances:
- 8.8.1. upon receiving written instructions from you to take such action together with any relevant fee;
  - 8.8.2. upon receiving a copy of a perfected order of a court of competent jurisdiction requiring such action, or where the retention of a Domain Name by you would be inconsistent with the terms of a perfected court order received by us or any other legal requirements;
  - 8.8.3. if such changes are necessary in order to correct an error relating to the Domain Name registration; or
  - 8.8.4. following a Decision requiring such action or an agreement reached between the parties and approved by us relating to proceedings under the Dispute Resolution Service.
- 8.9. If a name server listed for the Domain Name registration does not respond authoritatively to requests for the Domain Name, we may remove the name server from the Register entry for the Domain Name.

## **9. Change of Agent**

- 9.1. If you wish to change your Agent, you should first approach your current Agent to arrange this. If your approach is unsuccessful, we may at your request record a change of Agent directly onto the Register entry for your Domain Name registration. On receipt of your request, we will approach your Agent (unless exceptional circumstances apply). We will only comply with your request if:
  - 9.2. we are satisfied that you have first approached your Agent, and that the approach has been unsuccessful; and
  - 9.3. we are not informed by your Agent that there is an express term in your contract with your Agent which can prevent us from recording such a change.

## 10. General

- 10.1. If any clause of these terms and conditions is held to be unenforceable in whole or in part the other terms and the rest of the provisions shall continue to be valid and enforceable.
- 10.2. We may transfer our rights and obligations under the Contract to any third party. You may transfer the Contract, only on the transfer of the Domain Name, in accordance with clauses 1.7 and subject to clause 8 above.
- 10.3. The internet is an emerging and evolving medium and the regulatory and administrative framework under which we operate is constantly developing. For these reasons we reserve the right to make reasonable modifications to the terms and conditions of this Contract (including the Policy, Procedure and Rules) at any time during the term. We will only do so when we have good reason. No change will have the effect of requiring an increase in fees from you in advance of the next renewal of the Domain Name. Except where we are acting in pursuance of a statutory requirement or a court order, changes will be implemented across the board in all of our Domain Name contracts following a process of open public consultation. Each such change will be published in advance (where practicable, 30 days in advance) on our web site: <http://www.nominet.org.uk/> and will become binding and effective upon the date specified therein. You should review our web site regularly in order to be aware of all such changes. If you do not agree with any change or proposed change to these terms and conditions you are entitled to terminate the Contract by providing us with thirty (30) days notice in writing, in which case you will receive a pro-rata refund of your registration fee in respect of any unexpired portion of the term.
- 10.4. If you wish to contact us our postal address is Nominet UK, Sandford Gate, Sandy Lane West, Oxford, OX4 6LB, England and our telephone number is +44(0) 1865 332211. Our offices are open from 9.00a.m. to 5.30pm (UK local time) Monday to Friday, except for public holidays. Except as set out in the Policy and Procedure any notice to be given under the Contract shall only be deemed to be served if delivered by hand or sent by pre-paid post, by fax or e-mail, to the party to whom it is given at its last known postal or e-mail address or fax number. Except as otherwise set out in the Policy and Procedure the notice will be effective: if delivered, on delivery; if sent by fax or email, on the date of sending; and if by post, on the date of posting. For the avoidance of doubt, any notice sent to you will be deemed served if sent to the address appearing in your Registrant's address field.
- 10.5. This contract is a binding document. Consumers should read it carefully and ensure that it contains everything you want and nothing you are not prepared to agree to. These terms and conditions, together with the Rules Policy and Procedure, constitute the entire agreement between you and us for the registration of the Domain Name, and supersedes all prior agreements, understandings and representations whether oral or written.

10.6. These terms and conditions shall be governed by the relevant United Kingdom law, and by agreeing to be bound by them you agree to submit to the exclusive jurisdiction of the relevant courts of the United Kingdom.

## APPENDIX C

### Registration Fee Schedule

Each Two Year registration – \$13 USD