

Trustee Agreement for Local Presence Services under .BR
between Customer

(

)

and “Trustee”

Toweb
Av. Hugo Musso, 330
Praia da Costa
Vila Velha - ES
CEP 29.101-784

1. Preamble

The customer wishes to enter into a domain registration agreement with a Registry requiring a local representative for non residents. Depending on the rules of the respective Registry, this can be the Admin-C and/or the Trustee Domain Owner. Admin-C and/or Trustee Domain Owner will assume this role for the customer either through its own staff or external contractors. With these terms and conditions, the rights and obligations of both the customer as well as the Admin-C and/or Trustee Domain Owner. The Admin-C and/or Trustee Domain Owner is herein after referred to as Trustee.

2. Obligations of Trustee

- a. Trustee undertakes to administer the domain name as a trustee. Trustee will forward all correspondence relating to the domain to the customer. Specifically it will not dispose of the domain and will follow the customer's instructions unless professional legal review shows them to be illegal or in conflict with the contractual agreements.
- b. Trustee will only make decisions without prior consultation with the customer if specific need for speed makes it impossible to wait for the customer's instruction or the customer fails to respond within the period in art. 3 (d).

3. Obligations of the customer

- a. The customer will ensure that the domain name and the content and services offered through the domain name do not infringe the rights of third parties or general statute.
- b. The customer undertakes to keep its contact data up to date at all times and to notify any changes in these to Trustee without delay.
- c. The customer further undertakes to forward all information relating to the domain to Trustee if this is relevant to the registration agreement.
- d. The customer will process and reply to all correspondence forwarded by Trustee without delay, and at least within 48 hours, unless a third party has set a shorter period or there is other specific need for speed. Specifically it will comply with any notice set. In cases of specific need for speed, inaccessibility, or if a response within the period set by Trustee is not possible, the customer authorises Trustee to make any necessary decisions and take the relevant measures. This specifically covers withdrawing from the position of Trustee or deleting/releasing the domain because of actual or alleged violation of the law, stopping it from resolving or putting it under the administration of the accordant Registry (transit state).
- e. Correspondence is predominantly forwarded by e-mail. Information sent by Trustee to the customer is deemed to have been delivered.

4. No monitoring obligation

Trustee does not check if the registration of the domain or the content or services offered through the domain name infringe prevailing law or third party rights. However, in the event that Trustee determines that the domain name or content or services offered through this infringes prevailing law or third party rights, Trustee is entitled to make accordant complaints, which need to be responded to by the customer within the time limit set forth in art. 3 d) of these General Terms and Conditions . Should the customer fail to reply within this time limit, Trustee is entitled to have the domain name deleted and/or to terminate the Trustee agreement, resign from the position of Trustee, or put the domain name under the administration of the Registry (Transit status). In urgent cases, Trustee is entitled to have the domain name deleted and/or to terminate the Trustee agreement, resign from the position of Trustee, or put the domain name under the administration of the Registry (transit state) without prior notification or warning. This applies specifically to violations of criminal law.

5. Procedures for disputes with third parties

- a. If Trustee is deemed in his capacity as authorised to receive service or action is directly taken by a third party because of alleged violations of law, Trustee will notify the customer.
- b. The customer must then state within the period set in art. 3 (d) whether he wishes to defend against the third party claims. If the customer wishes to

defend against the claims, he must engage appropriate legal representation at his own cost.

- c. Within a further two days the customer must notify Trustee whether an attorney is representing the customer judicially and extrajudicially and, if so, which attorney. Trustee must also be provided with all documents in connection with the dispute without cost and on first demand.
- d. If the customer fails to comply with the above provisions or does not respond in accordance with the present agreement to Trustee's request for the customer's position, Trustee is entitled to stop the domain from resolving, place it under the administration of the Registry (transit state), withdraw from the position of Trustee with respect to the Registry or, as a last resort, to delete/release the domain name.

6. Remuneration

No further payments are to be paid to Trustee beyond the remuneration owed under the domain registration agreement.

7. Term of agreement, termination

- a. The agreement is concluded for an indefinite period but ends if the domain name is transferred to another registrar or on deletion of the domain name. The customer has to make sure, that the Trustee is replaced by a new admin-c / trustee domain owner as soon as the domain name has been transferred to another registrar/provider. The trustee has the right to refuse any transfer as long as he is not replaced by a new admin-c / trustee domain owner.
- b. The parties have no contractual right of termination. The parties authorise the registrar to appoint another admin-c/trustee domain owner at any time. The customer agrees in advance to such a transfer of the agreement. Trustee is also entitled to appoint another admin-c/trustee domain owner and have them registered with the Registry, provided that no legal disadvantages to the client result. The customer agrees in advance to such a change in the agreement.
- c. This is without prejudice to the right to termination for important cause or the termination rights mentioned in this agreement.

8. Liability

- a. Trustee is only liable if an essential contractual obligation (substantive requirement) is infringed, or in the event of intent or gross negligence.

- b. In case of mild negligence, liability is limited to the value of the typically predictable damages at the time of conclusion of the agreement.
- c. This is without prejudice to liability for warranted characteristics, personal injury or other binding statutory provision.

9. Indemnity

The customer is obliged to indemnify Trustee without regard to fault from any disadvantages including the costs of appropriate legal action in connection with Trustee's role as administrative contact / trustee domain owner with respect to third party claims. This covers justified and unjustified claims and extrajudicial claims. If for damages arise against third parties Trustee shall assign these in exchange for compensation for the disadvantages suffered.

10. Other provisions

- a. Venue and place of performance is the city of Vila Velha, state of Espirito Santo, Brazil, if the customer is a merchant, a legal person under public law, an entity of the Federal Special Funds, or has no venue in Brazil.
- b. Modifications to the present agreements must be in writing. This also applies to amendment to the requirement of written form. No ancillary agreements are made.
- c. The invalidity of individual provisions of the present agreement or its incompleteness does not affect the validity of the other provisions. An invalid provision is replaced by another which is effective and most closely approximates the economic effect of the original provision. The same applies if individual points are not covered.
- d. The terms and conditions for registration of domain name under the ". BR" as detailed under the link " <http://registro.br/contrato/contrato.html> " that is properly registered in the 2° Official of Registration of Titles and Documents and Civil of Legal entity of the Capital of São Paulo SP Brazil, under the n° 3.394.195 are considered to be an integral part of this Agreement.