

## MODEL .CL REGISTRAR AGREEMENT

Santiago, Chile, \_\_\_\_\_, 2016. This Agreement has been made and entered into by and between UNIVERSIDAD DE CHILE, on behalf of its NIC Chile project, hereinafter also NIC Chile Registry, RUT 60.910.000-1, herein represented by Mr. Patricio Aceituno Gutiérrez, RUT 5.574.690-7, Dean of the School of Physical and Mathematical Sciences, both domiciled at Miraflores Nº 222, Floor 14, and < Name of Representative > on behalf of < Name of Registrar >, Registration No. \_\_\_\_\_, all domiciled at < \_\_\_\_\_ >, hereinafter < \_\_\_\_\_ >.

WHEREAS,

- 1.- NIC Chile (Network Information Center Chile), the .CL Domain Name Registry, is managed by the Department of Computer Sciences of Universidad de Chile by delegation of the Internet Assigned Numbers Authority (IANA) in accordance with the principles set forth in RFC 1591: Domain Name System Structure and Delegation. Said delegation was formally recognized on 24 June 2006 by means of a framework agreement signed between the Internet Corporation for Assigned Names and Numbers (ICANN) and NIC Chile, whereby the responsibilities of both parties in the preservation of Internet stability, security and interoperability were established;
- 2.- The Regulations for the Operation of the .CL Domain Name Registry and its Dispute Resolution Policy were approved through Resolution N° 01127 dated 28 May 2014;
- 3.- Under the Regulations for the Operation of the .CL Domain Name Registry, NIC Chile may authorize the existence of registrars authorized to manage domain name registration operations on behalf of their clients in accordance with the conditions set forth herein, including domain name registration, modification, deletion, change of holder, transfer from one registrar to another, or such other operations as NIC Chile Registry may authorize;
- 4.- < Name of Registrar >, the Registrar, meets the conditions set forth in the CL Registrar Accreditation Policy.

The parties hereby agree as follows.

### ONE: PURPOSE OF THE AGREEMENT

1.1. This agreement establishes the terms and conditions under which [ Name of Registrar ], hereinafter and indistinctly “the Registrar” shall act as an intermediary for the marketing of .CL domain names, with those operations including sales, modification, deletion, changes of ownership, transfers between registrars and other value-added operations of their own choosing, according the conditions set out in this instrument.

1.2. For the purpose of this Agreement, the parties understand that the terms listed below have the following meaning:

**“DNS”** means the Internet domain name system.

**“EPP”** means the extensible provisioning protocol, which is the protocol used for communications between the Registry and the Registrar.

**“NIC Chile Registry”** means the .CL Registry and Administrator.

**“NIC Chile Registrar”** means the Registrar operated by NIC Chile.

**“Billable operation”** means any operation involving payment of a fee, including, but not limited to, domain name registration, renewal, redemption, and transfer from one registrar to another.

**“Registrar”** means any entity accredited by NIC Chile Registry for the purpose of performing an intermediary role in all .CL domain name operations.

**“Registrant”** means the domain name holder.

**“System”** means the set of tools available for the Registrar to manage domain names.

**“Transfer”** means to move the administration of a domain name from its current Registrar to another.

## **TWO: TERM OF THE AGREEMENT**

2.1. This Agreement shall be valid for three (3) years, subject to the grounds for early termination set forth herein. This Agreement and any future amendments thereto agreed by the parties shall be valid for three (3) years and shall take effect once the University Resolution authorizing them has been duly processed, a circumstance that shall be notified by NIC Chile Registry.

2.2. Unless one or both parties specify otherwise at least sixty (60) days prior to the date of termination, this Agreement shall be tacitly renewed for subsequent three-year periods.

## **THREE: DOCUMENTS THAT MAKE UP THIS AGREEMENT**

3.1. The Regulations for the Operation of the .CL Domain Name Registry and all policies, procedures, and annexes established for the provision of the service that is the subject of this document shall be considered to be an integral part of the Agreement, especially:

**Annex I:** .CL Registrar Accreditation Policy

**Annex II:** General Terms and Conditions for the Registration of .CL Domain Names

## **FOUR: OBLIGATIONS OF NIC CHILE REGISTRY**

Under this agreement, NIC Chile Registry expressly agrees as follows:

4.1. To maintain the Registration System operational and ensure the Registrar uninterrupted access to perform the operations governed by this Agreement, subject to the provisions of Section Ten hereof and any temporary scheduled or emergency interruptions due to server maintenance or similar requirements, which shall be duly notified each time that they occur.

- 4.2. To maintain the domain name registrations managed by the Registrar for the period of validity that has been paid.
- 4.3. To provide the technical tools and specifications needed for the Registrar to interact with the .CL System
- 4.4. To notify the Registrar well in advance of implementing any changes to the EPP or any other changes that might potentially affect their interaction with the Registration System, except in emergency situations.
- 4.5. To provide administrative, legal and technical support services to the Registrar.
- 4.6. To safeguard the domain name's registration data and publish such data solely for purposes related to the administration of the .CL domain name registry and the operation of the DNS. NIC Chile Registry shall store domain name information in a database which under no circumstance shall be handed over, sold, assigned or transferred to any person or organization. Notwithstanding the above, NIC Chile Registry may provide such information if formally requested by a judicial or administrative authority legally authorized to present such requests, or to third parties for academic research or development purposes, prior signing of the corresponding confidentiality agreement.
- 4.7. To maintain an updated list of accredited Registrars, available through its website.
- 4.8. To provide a platform for domain name administration and management (Extranet) to be accessed exclusively by accredited Registrars.

## **FIVE: REGISTRAR'S OBLIGATIONS**

Under this Agreement, the Registrar expressly agrees as follows:

- 5.1. The Registrar shall perform an intermediary role in .CL domain name registration, modification, deletion, renewal, redemption, transfer, and other operations that NIC Chile may provide. The Registrar shall exercise its role as intermediary on its own account and at its own risk, and in no case may claim or use any brand, sign, logo, or slogan property of NIC Chile Registry, except to show that it is an accredited .CL Registrar.
- 5.2. The Registrar shall be solely responsible to third parties in case of failure to perform its functions; NIC Chile Registry shall not be liable for any resulting direct or indirect damages.
- 5.3. International Registrars shall notify NIC Chile Registry in case of loss of accreditation as an ICANN Registrar, whatever the cause. In this case, the Registrar shall submit a report detailing the circumstances under which the loss of ICANN accreditation occurred so that NIC Chile Registry may assess and classify such circumstances for the purpose of the provisions of Section 11.4.
- 5.4. The Registrar shall provide NIC Chile Registry with complete, accurate, truthful and updated contact details for each domain name, in accordance with the Registry's requirements. Any misrepresentation in such data shall be considered grounds for deleting the registration, to which

end the Registrar agrees to implement a domain name verification and deletion mechanism to be applied in the event that contact details are not complete, accurate, and truthful.

5.5. The Registrar shall develop and use in its domain name registration business every technology and restriction needed to guarantee that its connection to the Registration System is secure. Any information exchanged between the Registrar's system and NIC Chile Registry's domain name registration system shall be protected so as to prevent any willful, negligent, or malicious disclosure. The Registrar agrees to implement the necessary measures to prevent access to NIC Chile Registry's system, particularly for uses relating to: (1) the transmission via email, telephone, or any other means of unsolicited commercial advertising (spam) or requests to organizations other than its customers; or (2) high-volume, automated electronic processes that submit queries or data to NIC Chile Registry's systems. In addition, NIC Chile Registry may require further security measures to guarantee that the registration system is secure. The Registrar shall report in a timely manner any security incident it detects which may affect the integrity of NIC Chile Registry's registration system.

5.6. Registrars may logon to NIC Chile Registry's registration system via EPP or through the domain name administration and management platform (Extranet) or such other means as may be made available. The Registrar agrees that, in the event of significant system failure or other emergency, NIC Chile Registry may, at its sole option and discretion, temporarily suspend or restrict access to the Registration System.

5.7. The Registrar agrees to implement domain name transfers in accordance with the corresponding procedure at .CL. Once the operation is completed, the receiving Registrar shall be charged the corresponding amount and the domain name's expiration date shall be extended for a period of one year. In no case may a domain name be registered for more than ten (10) years.

5.8. The Registrar shall act in accordance with the conditions and procedures set forth in this Agreement and the applicable provisions set forth in the policies and procedures established for this purpose by NIC Chile Registry, without prejudice to the procedure referred to in the Amendments section. The .CL Registrar Accreditation Policy and all policies and procedures established for the performance of the functions relating to NIC Chile Registry shall be considered to be a part of this Agreement.

## **SIX: COMMUNICATIONS**

Except where a different procedure is expressly established, communications between the parties shall be through electronic means.

## **SEVEN: PAYMENT OF FEES AND OTHER RELATED DUTIES**

7.1. The Registrar agrees to pay NIC Chile Registry the fees for the billable operations as specified by NIC Chile, which may be modified provided that the Registrar is notified thirty (30) days in advance.

7.2. The Registrar shall pay NIC Chile Registry for all billable operations using a post-payment system, as operations shall be billed after their execution.

7.3. An invoice shall be issued monthly or once a total of 200 collectible operations have been completed, whichever happens first. The Registrar shall have thirty (30) days to complete payment. Should the Registrar fail to pay, NIC Chile Registry shall send a first warning notifying the Registrar of the situation and requesting the corresponding payments.

7.4. Should the Registrar fail to settle the invoice within thirty (30) calendar days, it shall receive a second warning.

7.5. Should the Registrar fail to pay the outstanding balance within thirty (30) calendar days of the second warning, NIC Chile Registry may suspend the Registrar's billable operations.

7.6. Should implementation of the measure above fail to achieve favorable results, and should the circumstances that led to the suspension continue thirty (30) days as from the date on which such measure was notified, the Registrar's accreditation shall be canceled, without prejudice to the actions that may apply for the purpose of collecting the amounts due.

## **EIGHT: CONFIDENTIALITY**

8.1 Within the framework of this Agreement, NIC Chile Registry shall provide the Registrar with information that may be non-public, confidential or proprietary in nature, along with analyses, compilations, studies, and other documents prepared by NIC Chile Registry containing or reflecting such information or reviews thereof. As used herein, "information" comprises all technical data including, among others, those relating to research, products, services, processes, or methodologies developed by or for the party revealing the data, designs, accounting, marketing, and/or any other information pertaining to the customers of the party revealing the information on its own or on its behalf, regardless of the medium on which such information is supported.

8.2. For the purpose of this Agreement, any information provided to the Registrar by NIC Chile Registry and/or by any of its employees, directors, consultants, agents, or other third parties on its behalf, and which, in NIC Chile Registry's opinion, qualifies as such shall be considered confidential.

8.3. In consideration of the disclosures referred to in the section above, the Registrar agrees to maintain the confidentiality of "Confidential Information" except as provided below. Likewise, the Registrar agrees to use such information solely for the purposes under this agreement and not communicate and/or disclose such information, in whole or in part, by any means, to any person or entity, regardless of its nature, without the prior written consent of NIC Chile Registry. The Registrar shall take all necessary measures to maintain confidentiality, including the implementation of physical security mechanisms and operating procedures.

8.4. Restrictions on the disclosure of Confidential Information shall not apply in the following cases: a) the information is currently in the hands of the Registrar and it can be reliably proven that it was not received from NIC Chile Registry; b) the information is currently in the public domain or reaches the public domain so that its communication or disclosure does not constitute

a breach of this Agreement; or c) the information's disclosure is required under law, order, decree, regulation, or ruling issued by an authority having the legal authority to make such requests.

8.5. The Registrar may disclose Confidential Information to its employees, officers, directors, or partners as reasonably required, each of whom shall be required to treat this information as confidential in the same manner and with the same responsibilities set forth herein. The Registrar may disclose Confidential Information to its consultants to the extent necessary for the purposes set forth herein, prior written authorization by NIC Chile Registry and provided that such consultants or subcontractors sign an agreement undertaking the same confidentiality obligations set forth herein.

8.6. Upon termination of this contract, the Registrar shall destroy all copies of information classified as "Confidential Information" in its possession. Notwithstanding the above, the confidentiality obligations arising under this Agreement shall be maintained for five years as from the date on which this Agreement is no longer in effect.

#### **NINE: INDEMNITIES AND LIMITATION OF LIABILITY**

9.1. The Registrar performs an intermediary role in .CL domain name registration and, as such, shall be solely responsible for compliance with the obligations under this Agreement.

9.2. NIC Chile Registry shall not be liable in any way for any non-fulfillment of the Registrar's obligations. Likewise, NIC Chile Registry shall not be liable for the use of any domain name or for any dispute or claim against the Registrar or the registrant.

9.3. Neither party shall be liable to the other for any loss or damage, whether direct, indirect, consequential or special, and/or for any damages to third parties arising from non-fulfillment of the other party's obligations.

9.4. The Registrar agrees to release NIC Chile Registry from any and all liability for damages from any civil, commercial, or other disputes arising, directly or indirectly, as a result of the services provided by the Registrar under the present Agreement. Consequently, the Registrar agrees to hold NIC Chile Registry harmless in case of any claim, investigation, audit, complaint, lawsuit, or dispute initiated by any third party or competent authority against NIC Chile Registry, including payment of any expenses, fees, fines, damages, attorney and other professional fees, or any other charges that may apply under the provisions contained herein.

9.5. Neither Party to this Agreement shall be liable to the other Party for any loss or damage resulting from any force majeure event, including, but not limited to, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, fire, explosion, flood, earthquake, tidal wave, volcanic activity, weather of exceptional severity, subsidence, telecommunication service shortages or other similar force majeure events beyond the parties' reasonable control, or acts or omissions of persons for whom neither Party is responsible.

## **TEN: DISPUTE RESOLUTION**

10.1. Any difficulty or dispute arising between the contracting parties regarding the application, interpretation, duration, validity or enforceability of this Agreement or otherwise shall be referred to arbitration under the Rules of Arbitration Procedure of the Center for Arbitration and Mediation of the Santiago Chamber of Commerce (Cámara de Comercio de Santiago A.G., <http://www.camsantiago.cl/>) in force at the time of the request.

10.2. The Parties confer special, irrevocable power to the Santiago Chamber of Commerce, so that, at the written request of either Party, it shall appoint an arbitrator from among the members of the arbitration body of the Center for Arbitration and Mediation of the Santiago Chamber of Commerce.

10.3. The arbitrator's decisions shall be final and binding. The parties expressly renounce the right to appeal said decisions. The arbitrator is especially authorized to resolve all matters relating to its competence and/or jurisdiction.

10.4. Unless otherwise expressly agreed, the arbitration shall be conducted in Spanish.

## **ELEVEN: TERMINATION OF THE AGREEMENT**

11.1. This Agreement shall terminate in case of non-renewal, in accordance with the provisions of Section 2.2 of this document.

11.2. NIC Chile Registry may terminate this Agreement in the event that the Registrar fails to fulfill any of the obligations hereunder, should such failure not be corrected within thirty (30) days of receiving written notice thereof.

11.3. The Registrar may unilaterally terminate this Agreement at any time, for which it shall provide sixty (60) days' notice prior to the effective date of termination.

11.4. This agreement may be terminated in the event that an International Registrar loses its ICANN accreditation. Notwithstanding the foregoing, the Registrar may maintain its .CL accreditation, subject to assessment and classification of the circumstances under which the loss of ICANN accreditation occurred and the express authorization to continue operating which NIC Chile Registry may grant.

11.5. Regardless of this Agreement's termination circumstances, NIC Chile Registrar shall temporarily take over the administration of the domain names managed by the Registrar, without prejudice to each Registrant's right to transfer their domains to the Registrar of their choice at a later date.

**TWELVE: AMENDMENTS.**

12.1. The parties acknowledge and agree that the Regulations for the Operation of the .CL Domain Name Registry, the Dispute Resolution Policy, the general terms and conditions for obtaining a .CL domain name, and other policies and procedure that apply under this Agreement may be amended, a circumstance NIC Chile Registry shall notify to the Registrar via email at least thirty (30) days prior to their entry into force.

12.2. Should the Registrar fail to accept the amendments to any of the aforementioned documents, the Registrar may terminate the present Agreement in accordance with Section 11.3, notwithstanding its obligation to pay any outstanding balance. Should the period of time specified in the preceding paragraph expire without the Registrar having notified termination of the Agreement, the parties agree that the amendment shall be deemed to have been accepted and shall be binding to both Parties, without NIC Chile Registry having the obligation to provide any further publication or notice thereof.

**THIRTEEN: ENTIRE AGREEMENT**

13.1 This document contains the entire agreement between the Parties with respect to the matters covered herein, and replaces and supersedes any prior agreement, arrangement, negotiation, or oral or written proposal between the Parties with respect to such matters.

**FOURTEEN: LEGAL REPRESENTATIVE**

14.1 The authority of Mr. \_\_\_\_\_ to act on behalf of UNIVERSIDAD DE CHILE is duly noted in his appointment as Dean of the School of Physical and Mathematical Sciences, pursuant to Decree No. \_\_\_\_\_ and to Decree No. \_\_\_\_\_ entitling it to enter into this agreement.

[Authority of Registrar]