General Terms and Conditions for RCODEZERO DNS Services

provided by ipcom GmbH
(hereinafter referred to as ipcom) – Terms 2020 / Version 2.0, October 15, 2020

These General Terms and Conditions apply to all services covered in this document and provided by ipcom for its contract partners, even in cases where these terms are not specifically mentioned. The current version of the General Terms and Conditions applicable to contractual relationships with ipcom can be retrieved from www.rcodezero.at/terms.

All services offered by ipcom under these General Terms and Conditions are intended exclusively for business undertakings as defined in Austrian consumer protection legislation. ipcom will therefore not enter into contracts with consumers pursuant to the Austrian Consumer Protection Act (KSchG). In concluding the agreement, the User explicitly declares that the services will be used exclusively for the purposes of his/her business undertaking.

These General Terms and Conditions are subject to change by ipcom at any time; such changes will also apply to previously existing contractual relationships. The current version of these General Terms and Conditions can be retrieved from the ipcom web site and will be sent to the e-mail address indicated by the User 14 days before each new version comes into effect.

ipcom can be reached by e-mail at rcodezero@ipcom.at or by conventional mail at the address Karlsplatz 1/2/9, A-1010 Vienna, Austria. Further information can be found on ipcom's website (www.ipcom.at).

1   Definitions, Description of Services and Subject Matter

1.1   Definitions

- User: The contracting party to which ipcom provides services on the basis of these General Terms and Conditions.
- Anycast name server: Anycast name servers make it possible to connect a single IP address to the internet via multiple locations worldwide.
- Primary name server: An authoritative name server responsible for a particular zone. Resource records for the zone in question are configured on this name server.
- Secondary name server: An authoritative name server responsible for a particular zone. The secondary name server obtains resource records for the respective zone from the primary name server.
- Name service: This refers to the primary or secondary name service. It is necessary to select either the primary or secondary name service for a particular zone.
- DNSSEC (Domain Name System Security Extension) refers to a security extension for the Domain Name System (DNS). DNSSEC uses cryptographic signatures to verify the authenticity and integrity of DNS responses.

1.2 Description of Services

ipcom operates multiple instances of name servers and provides the name service. Besides anycast name servers, ipcom reserves the right to also use unicast name servers to provide these services. TLD zone hosting is not possible under this agreement.

1.3 Subject Matter

a) ipcom and the User hereby agree that ipcom will provide the name service for zones to be named by the User for the duration of this agreement.

b) In addition, the User may have some or all of the notified zones signed by ipcom using DNSSEC. If the User chooses to use this optional ipcom service, Section 4. of these General Terms and Conditions will apply in addition to the general provisions stipulated in these General Terms and Conditions.

c) ipcom offers the User various services which differ in terms of their scope of services and pricing. These services are described in the product description (see www.rcodezero.at/anycast-dns), which forms an integral part of this agreement. ipcom is entitled to make appropriate amendments to this product description at any time. Such amendments will take effect upon delivery of the notification to the User (including delivery by e-mail); the period preceding entry into effect shall generally be 14 days unless there is an important reason to implement such changes immediately.

d) The use of all services under the agreement, in particular the selection of a particular product, takes place by means of the User administration tool in the User account that ipcom provides to the User (for further details, see Section 5. of these General Terms and Conditions). The User must configure and administer the services specified in Sections 1.3.a) and b) of these General Terms and Conditions independently and at its own discretion, using either the User administration tool in the User account or the interface provided.

e) The User can, at any time, use this User account to switch (i.e. upgrade) from the product currently selected to a product with a broader scope of services; downgrades are not possible using the User account.

f) ipcom will also provide the User with statistics on his/her zones.

2 General

a) ipcom shall be responsible for the execution, operation, security and monitoring of the service offered, and will intervene as quickly as possible when irregularities arise. The User hereby acknowledges and agrees that ipcom is entitled to make use of third parties without obtaining the User's consent, in order for ipcom to fulfil its obligations under this agreement.

b) The current list of name server locations operated by ipcom can be found on the website (see www.rcodezero.at).

c) The provisions governing the availability of all services provided by ipcom under this agreement as well as the terms regarding disruptions of those services are agreed upon by the contracting parties in Section 6. of these General Terms and Conditions (Service Level Agreement).

d) ipcom shall have the right to deny the User the name service partly or entirely, but only as long as necessary if the stability of the service is or could be endangered by the User's zones. Should the problem be limited to a certain zone, ipcom will partly or entirely deny service for that zone only. The User will be notified of any such actions immediately by e-mail.

e) The contracting parties mutually undertake to use any and all information, especially data, exchanged or conveyed by the other party under this agreement only for the agreed purpose,

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not to disclose such information to third parties, and not to allow third parties to use such information. Moreover, each party undertakes to take all measures necessary in order to prevent such information and data from becoming known to third parties and from being used by third parties.

3   Duties of the User

a) With regard to use of the services provided by ipcom, the User is responsible for the zones which it sets up or names. In particular, this refers to configurations performed by the User and the data contained in the zones. The User hereby confirms that it has the required authorization in respect of all of the data in question.

b) The User must have at its disposal the technical and other capabilities necessary in order to use the services. The User is responsible for providing its customers with any support that becomes necessary due to the provision of the services.

c) In the event of attacks on the User which endanger or could endanger the stability of the services offered by ipcom, the User is obliged to take all reasonable action within its power in order to eliminate or at least mitigate the effects of the attack on ipcom.

d) In addition, in the case of errors or problems not covered by Section 3.c) of these General Terms and Conditions, the User is obliged to respond within four hours of being informed of such errors or problems by ipcom, in order to ensure that any and all negative effects on the services offered by ipcom are eliminated or at least mitigated. If the User fails to respond (or fails to respond in an appropriate manner), ipcom is entitled to temporarily deny the name service either partly or in full.

e) The User is obliged to settle any unpaid amounts invoiced by ipcom for the services in accordance with Section 5.3. of these General Terms and Conditions promptly and without deductions.

f) The User undertakes to keep all access codes and data made available by ipcom confidential and to take all reasonable data backup measures.

4   Provision of a DNSSEC Signing Service

a) In accordance with Section 1.3. b) of these General Terms and Conditions ipcom will offer the User a DNSSEC signing service for the zones administered by ipcom. This service will be made available free of charge by ipcom.

b) In order to make use of this service, the User must inform ipcom of the zone(s) to be signed using either the User administration tool in the User account or the interface provided. The User may activate or deactivate the DNSSEC signing service free of charge at any time for some or all of the specified zones.

c) When the DNSSEC signing service is activated, ipcom will handle the necessary administration of keys (generation, deletion and secure storage of keys) and the signing of the zone.

d) The User is responsible for publishing, changing and removing the public key in the parent zone. ipcom will provide the User with all necessary information in this regard.

e) The User hereby expressly acknowledges that in order to effect the termination of the signing service, the User must first remove the corresponding public key published in the parent zone, and only then may ipcom be notified of the deactivation of the signing service for the zone in question.

5   Administrative Process

5.1   Creation of an User Account

Before using ipcom's services pursuant to the agreement, clients are required to set up a User account at https://my.rcodezero.at.

The User has to submit all of the information required in the web-based form completely and accurately. The User must notify ipcom without delay of any changes in the data which the User is required to provide (in particular due to the expiry of the credit card specified by the User) by means of the User administration tool in the User account. Messages from ipcom, in particular information and contract related messages, will be considered to have been delivered when sent to the most recent (e-mail) address indicated by the User. All data provided and exchanged in the contracting parties' business relationship will be processed by ipcom for the purposes of administration and billing.

In cases of suspected misuse of ipcom's services, ipcom reserves the right to refuse the setup of an User account or to block an User account.

5.2   Use of Services

In order to use the services provided by ipcom, besides setting up a User account (see Section 5.1. above), the User must specify the product and services it intends to use in the User administration tool. In addition, the User shall be required to provide all information necessary for the provision of the services.

5.3   Prices and Billing

a)   The current prices of each product and ipcom's various services can be found at www.rcodezero.at/anycast-dns.

b)   After the trial period (see Section 5.3.g) ipcom will invoice these fees to the User on a monthly basis (in the first month: on a pro rata basis), and the fees are to be paid to ipcom within 14 days of submission of the invoice, which will take place after each month in which the service is used. ipcom will subsequently charge the amount outstanding to the User's credit card. Objections to the amounts charged to the User's credit card are to be submitted in writing (by e-mail or conventional mail) within 10 days, otherwise the debit shall be considered accepted. Invoices may be presented in printed or electronic form via the User account.

c)   By entering his/her credit card information, the User authorizes ipcom to charge the invoiced amounts to his/her credit card. Moreover, the User is obliged to ensure that sufficient credit is available and that ipcom is able to charge those amounts successfully. The User is also obliged to provide ipcom with new credit card data at least 4 weeks prior to the expiration of the credit card. The User shall be obliged to reimburse ipcom without delay for any and all necessary costs (reminder charges actually incurred and necessary for the assertion of legal rights, funds transfer charges and default interest at the legally defined rate) arising from the failure of debit attempts (e.g. due to insufficient credit or the expiration of the credit card). Moreover, ipcom shall have the right to discontinue all of the User's services temporarily or, in the case of repeated violations, to effect extraordinary termination of this agreement in accordance with Section 9.a) of these General Terms and Conditions.

d)   The offsetting of ipcom's claims against unpaid receivables from ipcom and the withholding of payments due to alleged defects not recognized as such by ipcom shall not be permitted. In the case of price increases which ipcom announces to the User by e-mail at least 14 days before they take effect, the User shall have the right to terminate the contract with immediate effect at any time up to and including the last day before the price increase takes effect.

e) In cases where the User makes use of special support or advisory services, in particular those resulting from the User's lack of technical capabilities, ipcom shall have the right to charge the User for the additional expense of technical staff as described in the product description (see http://www.rcodezero.at/anycast-dns). Before providing such services, ipcom will inform the User explicitly that costs will be incurred.

f) In cases where the User upgrades his/her services in accordance with the provisions of Section 1.3.e) of these General Terms and Conditions, ipcom will charge the User for the services on a pro rata basis.

g) For the first 30 days after the initial creation of the User account, the name services will be made available to the User free of charge for testing purposes. During this trial period, ipcom shall have the right to block access to the service in question at any time in the case of misuse and the like; at the same time, the provisions of Section 6. of these General Terms and Conditions shall not be applicable during that period. In addition, both contracting parties shall have the right to terminate this agreement with immediate effect and without advance notice at any time during the 30-day trial period. Once the trial period has ended the contractual relationship (unless terminated) between ipcom and the User will automatically become a conventional paid contractual relationship without the need for a specific declaration to this effect.

6 Service Level Agreement (SLA)

6.1 Availability and Maintenance Windows

a) ipcom makes significant technical efforts to achieve maximum availability of the name server locations offered by ipcom.

b) In the case of maintenance activities, which may be carried out by ipcom at any time, the availability of the name services in question may be reduced. Technically necessary maintenance activities which ipcom announces to the User in advance shall not lead to a reduction in the fee to be paid as long as at least five locations remain available. Scheduled maintenance activities will be announced at least one week in advance, while unscheduled maintenance activities (e.g., security-critical software updates) will be announced at least four hours in advance unless some imminent danger makes it necessary to act without delay. The provisions of this paragraph do not apply to maintenance activities, which can be performed without a noticeable reduction in availability.

6.2 Failure to Attain Availability Levels

If the availability of the name server locations offered by ipcom falls below 50%, the contracting parties agree as follows:

a) For each failure to attain the defined level of availability, the User will receive compensation for reduced availability amounting to 10% of the monthly fee to be paid by the User. If the service remains unavailable for more than one hour, each additional hour will be counted as an additional failure.
In all cases, any compensation due for a given month will be limited to the monthly fee to be paid for using the service.

b) Any claims pursuant to Section 6.2.a) of these General Terms and Conditions must be asserted by the User in writing within ten days of presentation of the invoice.

c) ipcom will inform the User as quickly as possible after becoming aware of such a failure, and within four hours during business hours, using the emergency e-mail address provided by the User.

6.3 Special Agreement in case for DoS and DDoS Attacks

In case of reduced availability or the complete unavailability of the name service provided by ipcom due to targeted attacks on the User, or on ipcom based on the User's zones, or due to a third party's deliberate misuse of the service provided under this agreement, the contracting parties agree that Section 6.2. of these General Terms and Conditions will not apply. ipcom will, of course, attempt to maintain the name service to the fullest possible extent.

6.4 Miscellaneous

a) ipcom's technical support staff can be reached for specialist inquiries by e-mail at rcodezero@ipcom.at.

b) In cases where all of the name server locations provided by ipcom fail, ipcom will inform the User as quickly as possible after becoming aware of the failure by sending a message to the emergency e-mail address provided by the User.

c) In the case of failures – especially total failures – ipcom is obliged to make particular efforts to remedy the situation as quickly as possible.

7   Liability

a) Regardless of the underlying legal reasons, the contracting parties will not be held liable for minor negligence or for indirect damage, consequential damage (including lost profits), costs of replacement, or property damage, even in cases where the contracting parties were informed about the possibility of such damage.

b) In all other cases, the contracting parties' liability for damage in a given year will be limited to twice the fees paid to ipcom by the User over the 12 months prior to the time at which the damage was incurred; ipcom will not be held liable for the recovery of any data destroyed.

c) ipcom assumes no liability for the data received from the User on the basis of this agreement or for the use of such data. The contracting parties expressly acknowledge that ipcom is not obliged to review the content of data provided by the User or subsequently changed by the User. The User expressly agrees to fully indemnify and hold harmless ipcom against any third-party claims arising from this data.

d) ipcom bears no liability for default in performance, or non-performance, in case of unforeseen circumstances or for reasons which ipcom and third parties commissioned by it cannot reasonably be expected to influence. In addition, any damage claims arising from force majeure pursuant to Section 11.b) of these General Terms and Conditions are excluded.

e) The contracting parties will be liable for personal injury in accordance with the statutory provisions, without prejudice to the provisions above.

8   Duration and Ordinary Termination of the Agreement

a) The agreement will be concluded upon the User's creation of an User account and will remain valid for an indefinite period of time.

b) The User may terminate the agreement at any time without giving notice by means of the User administration tool in the User account.

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c) ipcom is entitled to terminate the agreement at the end of a given month subject to three months' notice. ipcom will inform the User of termination of the agreement by e-mail to the most recent address provided by the User in the User account.

9   Extraordinary Termination of the Agreement

This agreement can be terminated by either party with immediate effect for significant reasons without giving notice. In addition to the reasons explicitly mentioned in these General Terms and Conditions, significant reasons which justify extraordinary termination include the following in particular:

a) Failure to meet financial obligations, especially in the case of repeated failure to make payment in accordance with Section 5.3.c) of these General Terms and Conditions;

b) Price increases on the part of ipcom in accordance with the provisions of Section 5.3 d) of these General Terms and Conditions;

c) Changes in the General Terms and Conditions or in the services on the part of ipcom, in particular due to changes in the product description according to the provisions of Section 1.3. c) of these General Terms and Conditions where such changes bring about a substantial deterioration of the services for the User or render the services useless to the User;

d) Willfully intentional or grossly negligent behavior on the part of an employee of one of the contracting parties that results in damage affecting the other party;

e) Repeated attacks on the User, ipcom or the name servers due to the User's zones which endanger or could endanger the stability of the services provided;

f) Availability of less than 50% of the name server locations offered by ipcom for a period of 72 hours or more;

g) Repeated violations of material provisions of this agreement by the other contracting party.

If this agreement is dissolved, ipcom will have the right to destroy all data transmitted by the User. In addition, in the case of extraordinary termination, any outstanding fees will be charged on a pro rata basis, with the last day of service taken as the cut-off date for the calculation.

10 Applicable Law, Jurisdiction

This agreement is subject to Austrian law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods and the conflict of laws rules of international private law.

The place of jurisdiction for any and all disputes arising from this agreement with Users incorporated in Austria is Vienna Commercial Court or the Vienna District Commercial Court for district court proceedings. In the case of Users incorporated in other countries, ipcom has the right to file suit with the competent court in Vienna or with any other competent local court. However, suits against ipcom may only be filed with the competent court in Vienna.

11 Miscellaneous Provisions

a) If one or more of the provisions in these General Terms and Conditions is ineffective, invalid or overturned, the validity of the remaining provisions will not be affected. The invalid, ineffective or overturned clause will be replaced by a clause that comes closest to the economic intentions of the contracting parties.

b) In the case of a disruption of services due to force majeure, the contracting parties will be relieved of their obligations under these General Terms and Conditions for the duration of the

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disruption. If the provision of services is prevented entirely and on a continuing basis in cases of force majeure, the contracting parties have the right to effect extraordinary termination of these General Terms and Conditions. If a case of force majeure arises, ipcom will inform the User accordingly.

c) Any and all services of ipcom will be provided solely on the terms stipulated in these General Terms and Conditions. The contracting parties expressly agree that the User's General Terms and Conditions of business cannot be made applicable to this agreement.

d) Ancillary agreements, supplements and changes to this agreement require the consent of both contracting parties in order to take effect and can only be made in writing; this also applies to agreements to deviate from the written form requirement.

e) Any failure on the part of ipcom to exercise a right or to exercise a right immediately will not be considered a waiver of that right.

Version: October 15, 2020

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