

GENERAL PROVISIONS

The purpose of this document is to regulate the registration of second-level one- and two-character domain names under the .lu top-level domain (hereafter called short domain names) during the first phase (hereafter called Sunrise) by DNS-LU. These Conditions for participation, together with the documents Domain Name Charter and Terms and Conditions for registration and management of .lu domain names, published by the DNS-LU registry and modified from time to time, form an integral part of the contract between the applicant and DNS-LU. The documents "Registration rules" and "Criteria for verifying requests invoking a trademark" can be viewed in parallel with these conditions of participation on www.dns.lu/en/1-2lu.

These Conditions for Participation are a supplement to the current version of Terms and conditions for registration and management of .lu domain names issued by DNS-LU. Should specific provisions on the same subject in these Conditions for Participation differ from DNS-LU's Terms and Conditions, these Conditions for Participation shall, as Lex specialis, take precedence over the Terms and Conditions.

During the Sunrise, short domains will be exclusively assigned to trademark and/or company owners. Consequently present Conditions for Participations do not apply to individual consumers who will be able to register short domains in subsequent phases.

By submitting a request for registration of a one- and two-character domain name under .lu, the applicant accepts the general provisions laid down in this document and any subsequent modification to this document by DNS-LU.

ADMISSIBLE CHARACTERS

One- and two-character domain names may consist of one and two numeric and/or alphabetic characters under the .lu, that use the following ASCII and IDN alphanumeric characters:

a, à, â, ä, æ, b, c, ç, d, e, è, é, ê, ë, f, g, h, i, î, ï, j, k, l, m, n, o, ô, ö, œ, p, q, r, s, t, u, ù, û, ü, v, w, x, y, z, 0, 1, 2, 3, 4, 5, 6, 7, 8, 9

with the exception of hyphens - or any combination of those characters. For reasons of simplification, one- and two-character domain names are also referred to as "domain name", "name" or "domain" below.

DOMAIN NAMES UNAVAILABLE FOR REGISTRATION

Domain names registered on the basis of previous registration policies are excluded from registration under present provisions.

For technical reasons and to avoid confusion amongst the Internet Community, following domain names are restricted and are excluded from registration: lu.lu, and ns.lu.

ELIGIBLE PARTIES

Following categories of entities shall be eligible to apply during Sunrise:

1. Owners of registered word marks or figurative marks with letters that may be registered in Luxembourg. Such trademarks shall include:
 - a. marks that have been entered in the Benelux Office for Intellectual Property;
 - b. marks that have been registered with the European Union Intellectual Property Office (European Union trademarks);
 - c. international trademarks that have been registered in another country and whose protection has been explicitly expanded to Benelux countries or the European Union under the Madrid agreements on the international registration of trademarks and the Protocol relating to this Arrangement.

Owners of purely figurative marks are not eligible to apply. Owners of semi-figurative marks (i.e., marks combining word and figurative marks) will be eligible.

The trademark must have been registered as of July 31st, 2020, and its protection must still be valid. A mere application for a trademark does not render a party eligible to apply. It must not be subject to actions for annulment or invalidation on the allocation date.

2. Company/trade names as registered in the Luxembourg official national business register (RCSL/LBR).

Parties are considered eligible to apply in cases where the desired short domain name is identical to the verbal mark, the verbal/letter component of a figurative mark with letters, or a company name. In cases where the mark or company name contains special characters (e.g. %, &, etc.) which are not allowed in domain names, those characters will not simply be disregarded when assessing whether a mark or company name is identical to a domain name. For example, the owner of the trademark/company name "A&B" shall not be eligible to apply for the domain "ab.lu".

For marks or company names which consist in more than one or two characters (e.g. the owner of the trademark "On S.A." applies for the short domain "on.lu"), the following shall apply: The desired combination of characters must be able to stand on its own in the mark –and must also be distinctive in character (e.g. "ON" in "ON S.A.", but not "ON" in "Onsa").

An exception is made for marks that are formed as follows: "xy.lu". Where all other requirements are fulfilled, these marks or names can be requested in an application for the domain "xy.lu" because the ".lu" component is not distinctive in character.

Such rights must have been obtained prior to the date DNS-LU officially published the opening of registration of one and two letter domain names, i.e. July 31st, 2020.

EVALUATION CRITERIA

The decision as to whether a party is eligible to a short domain name allocation shall be made by DNS-LU alone to the exclusion in particular of all questions relating to the validity of a trademark right invoked in support of an application. In particular, the question of whether a desired combination of characters is distinctive and can stand on its own will be answered by DNS-LU alone on a case-by-case basis. To carry out this task DNS-LU will be assisted by a Trademark attorney. The decisions made by DNS-LU are final and not subject to subsequent review by a court. Detailed evaluation criteria, based on commonly agreed principles, have been defined for present phase and are available on www.dns.lu/en/1-2lu.

ABOUT APPLICANTS - RIGHTS AND OBLIGATIONS

Applications can be submitted from August 31st to October 2nd 2020 for:

- a. Trademarks by trademark owners ("right holder"), representatives designated by the trademark owner (for example: a lawyer, or bodies authorized and empowered to represent trademark owners) duly authorized to make a request in the name and on behalf of the trademark holder.
- b. Names of companies registered with the Luxembourg Business Registry (LBR)/RCSL by representatives of companies duly authorized to act in the name and on behalf of the entity requesting registration.

These persons and entities are also referred to as "applicant" below.

Any registration of short domains will be carried out only in favor of the party represented; however, the representative shall be liable for the payment of transaction fee, the one-off costs of registration including the fee for the first year of registration, if applicable. It is not allowed to submit multiple offers for a single domain name.

The supporting documents, as listed in the document called "Registration rules" are accepted in French, German, Luxembourgish, Dutch or English. Documents drawn up in another language must be accompanied by a certified translation.

By submitting a domain name assignment request, the applicant declares:

- a. if he represents a right holder, (i) be authorized by the right holder to submit this request and thus be empowered to bind this holder as a requester on the declarations listed below as well as on the obligations described in these participation conditions and (ii) be responsible for the consequences of any action undertaken and exceeding the powers conferred on it by the right holder (iii) accept that DNS-LU may request the production of this power of attorney. DNS-LU reserves the right to refuse processing of this request until the power of attorney is obtained;
- b. having read and approved the documents Conditions for participating in the Sunrise phase of the registration of one- and two-character domain names under .lu and Criteria for verifying requests invoking a trademark, documents available under www.dns.lu/en/1-2lu;
- c. that the information in this request is complete and accurate and that the request is not made in an abusive manner;
- d. accepting that DNS-LU reserves the right to reject the processing of any incomplete, incorrect or non-transmitted request within the time allowed;

- e. committing to the payment of 750.- Euro (including 17% VAT) as administration fees by transferring the respective amount to the IBAN account LU50 0030 1033 0741 1000 - BGLLULL with BGL BNP Paribas Bank, 50, avenue JF Kennedy, L- 2951 Luxembourg for the benefit of Restena Foundation 2, avenue de l'Université L-4365 Esch-sur-Alzette.

SUNRISE PHASE PROCEDURE

In the course of the sunrise phase, applications can only be submitted via the form provided by DNS-LU (downloadable at www.dns.lu/en/1-2lu) during the period from August 31st to October 2nd, 2020. The order of arrival is irrelevant.

With the submission of a formal application, the applicant enters into a service agreement with DNS-LU for the review of the applicant's request.

The applicant is informed and accepts that the examination of his file is carried out subject to the collection of administration fees as defined in the article Administration Fees.

By submitting an application, the applicant also joins a registration form with all administrative and technical data (nameservers) for the registration of the requested domain under DNS-LU's General Terms and Conditions at which the domain will be registered by DNS-LU, if awarded under the Sunrise process. The applicant shall be bound by his offer from the time of application until the notification of DNS-LU's decision on the application (acceptance or reject). In the case of an auction pursuant to article Private Sale the applicant shall be bound until the private sale procedure is completed.

The contract for the registration of the domain shall arise upon the approval of the application, in the case of a private sale, upon acceptance of the applicant's bid as the highest bid or, in the case of offers of equal amount, or in the absence of a private sale, by a random draw. The determination of the best offer, as well as the result of a possible random draw, will be done under the supervision of a sworn bailiff.

ADMINISTRATION FEES

Each application will be subject to a non-refundable transaction fee amounting to €750,00 (including 17% VAT) for the review by DNS-LU. Such fee is non-refundable, regardless of the result of the review procedure. The transaction fee must be paid by wire transfer. An invoice will be issued upon submission of the application at the attention of the applicant. Reviewing of any application is subject to the payment of said transaction fee. If these fees have not been collected at the latest on the date of the end of the examination period as defined below, the file will be declared invalid.

REVIEW OF APPLICATIONS & REASONS FOR REFUSAL

DNS-LU will accept submission of applications from August 31st to October 2nd 2020, whereas last date for examination is October 16th 2020. DNS-LU will reject any applications where the applicant has not fulfilled all conditions for an application request to be accepted, such as applications with formal defects (e.g. missing or uncomplete supporting documents, failure to disclose the applicant's capacity as a representative). Applications for which the transaction fee is not paid, or not received on due date, are per default rejected.

PRIVATE SALE

In cases where multiple admissible applications are received for the same short domain name and DNS-LU determines that several or all of the applicants are, in principle, eligible to apply for that name, a private sale will be held under the supervision of a sworn bailiff in the period from October 19th to October 30th 2020. The applicants concerned will be notified of this circumstance.

All applicants must declare their interest in participating in a possible auctioning while filing the application form, and if they do so, must submit their bids with the application. The bidder who submits the highest bid shall then become holder of the short domain name, subject to fulfillment of all other eligibility conditions. The bidder's offer shall be binding until the tender procedure is completed or until the short domain is allocated and cannot be altered before the end of the Sunrise.

In the case of bids of equal amount for a name, respectively no applicant has shown interest in a private sale, a random drawing will determine the future holder.

INFORMATION

Where an application is deemed admissible to apply for a short domain name, and where only one trademark owner has applied for a short domain name, the future domain holder will be informed of the application approval.

All applicants deemed eligible for registration of a name through a private sale, respectively a random drawing, will also be informed of the outcome of their application (approval or rejection of registration).

REGISTRATION OF DOMAINS

Domain names will be registered on the date that DNS-LU informs the applicant of the outcome of their request.

From the time of registration onward, the contractual relationship between the domain holder and DNS-LU shall be governed solely by DNS-LU's Terms and Conditions for "classic" registration and management of .lu domain names (www.dns.lu/en/lu-domains/classic-registration/).

Domain name holders may at any moment migrate their domain, free of charge, to DNS-LU's online platform or transfer their domain to a different .lu registrar.

REGISTRATION COSTS, INVOICING, RENEWAL, TRANSFER OF MANAGEMENT

In case a single application for a certain domain name is approved, no additional registration or other domain fees are due for the first year with DNS-LU as default registrar for a "classic registration". This clause applies also in case a short domain is allocated within the framework of a random drawing process with several eligible right holders, none of whom has expressed interest in a private sale.

Standard conditions and fees are applicable for direct registrations with DNS-LU from first renewal date on.

In the case of multiple eligible right holders, having previously confirmed their interest in an auctioning, the highest bidder must pay the corresponding amount of the highest bid. A proper invoice will be sent to the applicant on the date he is informed of the allocation. This amount, which is to be paid within fifteen days after notification of the invoice, and in particular following a reminder after seven days of non-payment, includes the annual domain registration and maintenance fees for the first year with DNS-LU for a "classic registration" as determined within the framework of the private sale of the domain name, respectively, for equal offers, as part of a subsequent random drawing process.

In cases where the domain fee is not paid on a timely basis as described above, and in particular following a reminder after seven days of non-payment DNS-LU reserves the right to register the domain on behalf of a third party as described in the following section.

When subsequently transferring the domain name registered to another accredited .lu registrar during first year after allocation, any additional costs are to be borne by the registrant and no reimbursement is granted by DNS-LU for the period to run before the anniversary date.

All offers and invoices amounts are inclusive of applicable Luxembourg VAT of 17%.

FURTHER ACTION

Should the highest bidder in the private sale fail to pay the fee as described under article Registration costs, the second-highest bidder (and, where applicable, other bidders) will be given the opportunity to request the domain name at the price offered by that bidder. In case no eligible party shows interest in an auctioning the domain name, last one shall be allocated to one of the eligible parties within a random drawing process, and in all other cases, the domain name in question will be made available for registration in the public auction phase or, if that phase has already been completed, in the general opening registration process of one and two character domain names.

SUBSEQUENT IDENTIFICATION OF INADMISSIBLE APPLICATIONS

If an application is determined to be inadmissible after the approval of an application according to the rules set forth above, the registration of the domain in favor of the applicant may be revoked by DNS-LU in the following cases:

- intentional violations of the conditions of eligibility and not detected and / or hidden during the submission;

- the information relating to the right holder was found to be incorrect after the allocation of the domain name;
- representative of the applicant not authorized by the latter;
- incomplete and / or incorrect translations of certificates or other documents supporting the request.

The claimant and third parties have no right of claim and / or legal remedy in such a case. In the event that the inadmissibility of a request results from a violation of these conditions of participation or of applicable law, the initial applicant assumes responsibility for any damage vis-à-vis DNS-LU. The plaintiff also accepts that all damages and / or procedural costs, as well as all expenses related to a claim by a third party (including attorneys' fees and costs) possibly due as a result of abusive or illicit registration a domain name will be charged to the applicant, who will keep DNS-LU leaving and unharmed in this regard.

PROCESSING OF PERSONAL DATA

Within the framework of a participation in the first phase of registration of one and two-character domains under the .lu domain ("Sunrise"), DNS-LU processes personal data as data controller. The processing is subjected to Luxembourg national data protection and the General Data Protection Regulation (GDPR) (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016. The conditions described below specify how DNS-LU collects, uses, transmits and discloses applicant's data ("processing").

Furthermore the document "Privacy Notice" (see www.dns.lu/en/lu-domains/privacy) explains how DNS-LU processes personal data in the event of the allocation of a requested domain name in the context of the Sunrise phase.

- Data controller

The data controller of the top-level domain .lu is:

Fondation Restena
 2, avenue de l'Université
 L - 4365 Esch-sur-Alzette
 Luxembourg
 Tel. +352 42 44 09 1
 Fax +352 42 34 73
 E-mail domreg@dns.lu

In its capacity as data controller DNS-LU is committed to respect the rules of personal data protection.

- The Purpose and legal basis for data processing

. Performance of an agreement

DNS-LU is processing personal data submitted in the context of an application of participation in the first phase of registration of one and two character domain names under the domain .lu ("Sunrise") for the examination and execution of the application with a view to the allocation of such domain names, and to ensure the due and proper performance of the underlying contractual provisions. Performance of such an agreement may only be performed while considering and processing data of parties involved.

Purpose of the processing pursuant to point (b) of the Article 6(1) of the General Data Protection Regulation.

. Legal obligations

DNS-LU can process personal data of an applicant if it is necessary to comply with legal obligations and/or within the framework of legal proceedings to which DNS-LU might be subject to, e.g., if DNS-LU receives a notification to disclose or transmit personal data to jurisdictional or governmental authorities.

Purpose of the processing pursuant to point (c) of the Article 6(1) of the General Data Protection Regulation.

. Legitimate interests

DNS-LU can process personal data where it is strictly necessary for the purpose of safeguarding the legitimate interests pursued by DNS-LU or by a third party for preventing fraud, cyber-attacks, network & information security reasons and for ensuring data integrity with the execution of an application to participate in the Sunrise phase, provided that applicant's interests or fundamental rights and freedoms are not overriding, taking into consideration the reasonable expectations based on your relationship with the data controller.

Purpose of the processing pursuant to point (f) of the Article 6(1) of the General Data Protection Regulation.

- *Categories of recipients of personal data*

Within the performance of its agreement, the applicant participating in the first phase of registration of one and two character domain names under the .lu domain ("Sunrise") authorizes DNS-LU to transmit personal data to employees or third party service provider in order to provide services and for the purposes indicated above. Third party partners who work on behalf of DNS-LU and who assist DNS-LU in the execution of certain tasks, may thus be authorized by DNS-LU to access some of the personal data. Their access is strictly limited to the data they need to perform the tasks DNS-LU has entrusted to them

Employees, and third-party service providers which have access to personal data are required by DNS-LU to ensure compliance with all applicable data protection provisions. Any person authorized by DNS-LU to access personal data as defined in this privacy section will be made aware of the data protection implications.

DNS-LU only works with third party providers from countries recognized by the European Commission as offering an adequate level of protection or with partners bound by regular provisions approved by the European Commission. DNS-LU has specifically the right to disclose personal data to Office Freylinger, patent & trademark attorneys assisting DNS-LU in the examination of the files submitted by the applicant.

The applicant has the right to request from DNS-LU information:

- about recipients of personal data, unless such information cannot be disclosed pursuant to legal provisions of the Grand Duchy of Luxembourg.
- on whether personal data are transferred to a third country or to an international organization. In this context, the applicant is entitled to be informed of the appropriate safeguards regarding the transfer pursuant to Article 46 of the GDPR.

- *Data security, access to personal data and rectification*

DNS-LU protects personal data with appropriate physical, electronic and process-related security measures, such as firewalls, personal passwords, encoding and authentication technologies.

Applicants can access their data and rectify them with DNS-LU at DNS-LU's offices, or by sending a request to our postal address:

Fondation Restena
2, avenue de l'Université
L - 4365 Esch-sur-Alzette
Luxembourg

- *Data update, right to object and restriction of processing*

The applicant is responsible for providing valid, actual and complete data at the moment of concluding the agreement, as well as during the entire period of the performance of the agreement. In case of any changes, it is your right and under your responsibility to update your data without undue delay by informing DNS-LU.

If DNS-LU discovers that data are false, obsolete or incomplete, DNS-LU reserves the right to cancel the request to participate in the Sunrise phase in accordance with the general conditions in force.

If an applicant objects to the processing of personal data, DNS-LU will terminate the agreement, as collecting personal data and its processing are necessary for the conclusion and performance of present agreement.

- *Identification of authorized persons*

In the interest of privacy and data protection, DNS-LU will ensure the identity of any person requesting the communication of private data before responding to such a request and reserves the right to request a copy of an identity document.

DNS-LU may refuse the request if it can not any identify the requestor with certainty or if it considers the request excessive or unfounded. The requestor will be informed of the reasons for the refusal within one month from the receipt of the request. DNS-LU may also require the payment of reasonable fees in the case of unfounded or excessive requests, in particular because of their repetitive nature.

- *Erasure of personal data and data storage limitations*

Within 30 (thirty) days after the expiry or termination of the domain name management agreement, DNS-LU shall destroy or remove from the computer systems and files all personal data in the possession or under the control of DNS-LU as of the date of expiry or termination, subject to:

Personal data that DNS-LU is required to keep after the termination or expiry of the agreement for participation in the Sunrise Phase, for instance in case of allocation of the domain name.

In case of limitation the data can no longer be the subject of any processing.

- *Complaint procedure*

The applicant has the right to file a complaint with the national supervisory authority (National Commission for Data Protection – CNPD www.cnpd.lu) regarding a possible breach of personal data protection.

- *Change of policy*

DNS-LU reserves the right to modify this privacy policy. DNS-LU shall notify the public of the new provisions at least 30 days before entry into force thereof, particularly through publication on its website dns.lu.

APPLICABLE LAW AND COMPETENT JURISDICTION

These conditions of participation are governed by the laws of the Grand Duchy of Luxembourg. Any dispute relating to these conditions of participation will be subject to the exclusive jurisdiction of the courts of the city of Luxembourg.

The potential nullification of any of the clauses found in this contract shall not affect the validity of other provisions. The French version of this contract is the original version and shall be referred to in the event of differences between the original and a version translated into another language.