



Dot TK Partner Agreement

DOT TK PARTNER AGREEMENT

Between

BV Dot TK, a company organized according to the laws of the Netherlands, with offices in Amsterdam
and registered under chamber of commerce registration number 34184945

and

Name company	
Contact	
Address 1	
Address 2	
City	
State	
Zipcode	
Country	
Phone	
Fax	
Email address	
Company organized according to the laws of:	
Preferred email address for Account: (your "Login")	

By using the Domain Name Registration and related services (hereinafter the "Services," defined further below), you signify your agreement to the terms and conditions contained in this Reseller Agreement (hereinafter, the "RSA"). This RSA is between you, your organization (if you are entering into this RSA on behalf of an organization), collectively referred to herein as "you" or "your" (and appropriate formatives),

[name company]

(the "Primary Service Provider(s)") and the backend service provider BV Dot TK (the "Backend Service Provider"), including the Backend Service Provider's subsidiaries and all employees, directors, officers, representatives, agents and affiliates thereof. You declare your identity (including organizational affiliation) in the information which you provide to the Backend Service Provider through the interface which you use to configure and/or otherwise order the Services (referred to herein as "your Account"). It is a material part of this RSA that you warrant that the contact information you provide in your Account is accurate and that you will keep it up to date.

1. This RSA: When accepted and how modified.

- a. You agree that this RSA is an application to become an independent reseller of the Backend Service Provider and that this RSA shall not become effective until i) the Backend Service Provider's receipt of an executed copy of this RSA, if required by the Backend Service Provider and ii) the Backend Service Provider's acceptance of this RSA (which acceptance may be evidenced by the Backend Service Provider's course of conduct in activating your Account).
- b. The terms and conditions of this RSA may be modified from time to time. Modifications made to this RSA will become effective 30 days after the modifications are posted to your Account or immediately upon your acknowledgment of the revised terms. If you no longer agree to the terms and conditions of this RSA, you may stop using the Services and terminate the Services as described below in section 7.

2. The Services, Accounts, Sub-Resellers, and Sub-Accounts.

- a. The Services include the following: a) Domain Name registration in the .TK Registry offered by the Backend Service Provider, including whois service; b) name server services (DNS); c) URL forwarding; d) email forwarding; e) website and domain name availability monitoring; f) website and domain name traffic monitoring; and g) such other services as the Backend Service Provider may make available through your Account (collectively referred to as the "Services"). The Services do not include other services which a Primary Service Provider may provide to you. Primary Service Providers are independent resellers of the Backend Service Provider and may offer their own services under separate agreement.
- b. Generally, you wish to obtain domain name registration services and related services offered by the Backend Service Provider for yourself and/or for your customers, if any. Primary Service Provider(s) may offer other services (not those of the Backend Service Provider) which are not subject to this RSA. You may only use your Account (defined further below) to select and/or interact with the Services.
- c. You and/or your customers may be the direct consumers of the Services. In addition, your customers may also be parties ("your Sub-Resellers") who wish to resell the Services to further downstream customers. Your Sub-Resellers will have "Sub-Account(s)" which, in this RSA, are said to be "below" your Account. Your Sub-Resellers may also have customers, Sub-Resellers, and Sub-Accounts below them. You are the Primary Service Provider to your immediate Sub-Resellers and your Sub-Resellers are the Primary Service Provider to their Sub-Resellers. In other words, accounts with the Backend Service Provider are inverse hierarchical tree structures; your Account may be the apex of a local hierarchy below which may be multiple Sub-Accounts, each of which may also have multiple Sub-Accounts and each of which acts as a Primary Service Provider for the Sub-Accounts below it in the hierarchy.
- d. You agree to be responsible for and guarantee all payments and other performance obligations due to the Backend Service Provider for all Services provided to you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account. When there is an unresolved issue (such as non-payment or dishonoring of payment for Services already rendered or a failure to provide customer support) between the Backend Service provider and a customer and/or a Sub-Reseller below your Account, the Backend Service Provider will first seek satisfaction from the Primary Service Provider who has the most immediate relationship with the party causing the issue; however, if the Backend Service Provider is not able, after commercially reasonable efforts, to obtain satisfaction from such Primary Service Provider, you agree that the Backend Service Provider may then seek satisfaction from successively higher Primary Service Providers, and ultimately from you, in the hierarchy of accounts between the party causing the issue and the Backend Service Provider. You are responsible in this way. You agree that the Backend Service Provider may charge you reasonable

administrative fees for dealing with complaints, subpoena requests, and related issues caused by you, your customers, your Sub-Resellers and all Sub-Resellers and customers below your Account.

- e. Certain of the Services are offered only subject to additional terms and conditions of the Backend Service Provider and which are available at <http://www.dot.tk/en/pageFoo.html>. To use these Services, customers must agree to these additional terms and conditions. You agree to indemnify and hold harmless the Backend Service Provider for any intentional or negligent failure by you or a Sub-Reseller below your Account to obtain the consent of any customer to these additional terms and conditions.
- f. If you die or otherwise become unavailable (the Backend Service Provider is unsuccessful in making reasonable attempts to contact you), and if you have customers and/or Sub-Accounts, the Backend Service Provider may assume direct control over such customers and Sub-Accounts. If, under such circumstances, you have a Primary Service Provider, you agree that the Backend Service provider may elect to allow the Primary Service Provider to assume direct control over such customers and Sub-Accounts.

3. Payments, and commissions.

- a. Amount of Backend Service Provider Operator Fees. Primary Service Provider agrees to pay Backend Service Provider the fees for initial and renewal domain name registrations and other services provided by Backend Service Provider to Primary Service Provider (collectively, "Fees") minus a partner discount, according to the number of domain names under management. Please refer to section 3d for the discount table. Backend Service Provider reserves the right to revise the Fees prospectively upon thirty days notice to Primary Service Provider.
- b. Payment of Backend Service Provider Operator Fees. Backend Service Provider will invoice Primary Service Provider monthly in arrears for the Fees incurred by Primary Service Provider in the month. All Fees are due immediately upon receipt of Backend Service Provider Operator's invoice.
- c. Non-Payment of Fees. Primary Service Provider's timely payment of Fees is a material condition of Primary Service Provider's obligations under this RSA. In the event that Primary Service Provider fails to pay its Fees within five days of the date when due, Primary Service Provider may do any or all of the following: (i) stop accepting new initial or renewal domain name registrations from Backend Service Provider; (ii) delete the domain names associated with invoices not paid in full from the Dot TK database; (iii) give written notice of termination of this RSA.
- d. Domain name registration fees. The registration fee charged for domains may be determined by Primary Service Provider, however may not exceed the retail prices offered by Backend Service Provider via its own Website (www.dot.tk), which are currently as low as 8.33 YTL per year for "Standard Domains" and up to 3125.00 YTL per year for "Special Domains". Registrants may register Standard Domains and/or Special Domains for a minimum of two (2) years and a maximum of nine (9) years. Registrants receive multi-year discounts for any registrations, which exceed two (2) years. The discount is calculated during the registration process according to the length of their license, which may be 3, 4, 5 or 9 years in length. Primary Service Provider's Discount applies to the registrant's final discounted registration fee. The number of domains under management is determined on a monthly basis at the end of each calendar month. Once a Primary Service Provider has achieved the required volume to obtain a greater discount, the Primary Service Provider remains at that discount rate until they either; (a): achieve the next breakpoint in volume registrations, thereby increasing their discount rate or (b): loses volume (which can occur in situations such as losses due to termination/non-renewal of domains), in which case they will move back to the appropriate lower discount level based on their current volume. Backend Service Provider will invoice Primary Service Provider for the applicable Primary Service Provider Fees on approximately the 1st of each month for the previous month's domain registrations.

Domains under management	Discount to Primary Service Provider
1-249	25%
250-999	35%
1,000-2,499	45%
2,500+	52%

4. Support.

You shall be responsible for providing customer service, billing, and technical support to your customers, Sub-Resellers below your Account, and customers of your Sub-Resellers.

The Backend Service Provider shall provide telephone and email support to you during business hours, which are customarily from 9 AM to 5 PM, GMT, with some exceptions for major holidays. The Backend Service Provider may, but is not obligated to, provide support directly to your customers. If the Backend Service Provider receives communications from registrants or from third-parties regarding a Services provided in your Account or an Account below your Account, the Backend Service Provider will, were appropriate, forward such communications to the first immediate Primary Service Provider for further action; however,

[name company]

reserves the right to respond to such communications directly. If the Backend Service Provider determines that you are providing inadequate support to your customers (resulting in, for example, an excessive number of support calls directly from your customers), then the Backend Service Provider may consider this to be a breach of this RSA by you and may terminate this RSA.

5. Licensed Use of The Technology.

You agree that the Services may only be accessed through the "Technology," which includes your Account in My Dot TK and upgrades thereto, and through such other means and technologies which the Backend Service Provider makes available through its websites or downloads (collectively, the "Technology").

- a. The Backend Service Provider hereby grants to you a non-exclusive, non-transferable, royalty-free license, exercisable solely during the term of this RSA, to use the Technology solely for the purpose of accessing and using the Services.
- b. Except for the rights expressly granted above, this RSA does not transfer from Backend Service Provider to you or your customers any Backend Service Provider technology, and all rights, titles and interests in and to the Technology shall remain solely with Backend Service Provider.
- c. You shall not directly or indirectly, reverse engineering, decompiling, disassembling or otherwise attempt to derive source code or other trade secrets from the Technology.
- d. You shall not copy or use the Technology except as specified in this RSA;
- e. You shall not create, apply for, or otherwise procure any patent or copyright interest in the Technology and any derivative ("IP Interest") thereof which IP Interest would block, impede, or make more expensive Backend Service Provider's continued use and enjoyment of the Technology.

- f. You shall not use the Technology to communicate with or control a system other than one(s) designated by Backend Service Provider and you may not access the Services using any access mechanism other than the Technology.
- g. You shall not intentionally or negligently abuse the Service infrastructure. "Abuse" in the foregoing sentence shall mean, by way of example and without limitation, any action or conduct which degrades service to other users of the shared Services and Technology.
- h. Backend Service Provider's infringement indemnification of you in relation to the Technology: The Backend Service Provider will defend and indemnify you against a claim that the Technology infringes a copyright, a Benelux Merkenbureau patent, or other intellectual property right, provided that: (a) you notify the Backend Service Provider in writing within 30 days of the claim; (b) the Backend Service Provider has sole control of the defense and all related settlement negotiations; and (c) you provide the Backend Service Provider with the assistance, information and authority necessary to perform the Backend Service Provider's obligations under this Section, inclusive of its subsections. If the Technology is held or believed by the Backend Service Provider to infringe, the Backend Service Provider shall have the option, at its expense, to (a) modify the Technology to be non-infringing; or (b) obtain for you a license to continue using the Technology. If it is not commercially reasonable to perform either of the above options, then the Backend Service Provider may terminate the license without providing any refund. This section states the Backend Service Provider's entire liability and your exclusive remedy for infringement. The Backend Service Provider shall have no liability for any claim of infringement based on any of the following and for all such claims, you agree to indemnify and defend the Backend Service Provider from and against all damages, costs and expenses, including reasonable attorneys' fees:
 - 1. Your use of a superseded or altered release of the Technology if the infringement would have been avoided by the use of a current unaltered release of the Technology; or
 - 2. Combination of the Technology with a non-Backend Service Provider product, program or data; or
 - 3. Adaptation or modification of the Technology by you or by the Backend Service Provider at your direction.

6. License by you to the Backend Service Provider.

In connection with providing materials to the Backend Service Provider in performance of the Services, you grant the Backend Service Provider a limited license to modify, adapt, incorporate with other material, and otherwise to use the materials provided by you but only to the extent necessary to provide the Services as directed by you. You warrant that the materials provided by you to the Backend Service Provider are your sole property or that you have obtained appropriate license to the material such that the Backend Service Provider's use of the material in providing the Services shall not subject the Backend Service Provider to a claim. In connection therewith, you will defend any claim and indemnify and hold the Backend Service Provider harmless from any cost (including reasonable attorney's fees) from a 3rd party claim that the material provided by you to the Backend Service Provider may infringe a copyright, a patent, or other intellectual property right.

7. Suspension or Termination of the Services.

The Backend Service Provider reserves the right to suspend performance of the Services or to preclude use of or access to the Technology if any of the following occur:

- a. If you fail to pay any amounts owed to the Backend Service Provider;
- b. If you or your customers' excessive use or abuse of the Services or Technology disrupts service to other users of the Backend Service Provider's shared Services and Technology;
- c. If you or your customers' use of the Services and Technology results in the Backend Service Provider's IP addresses being reported to spam blocking organizations or other organizations which attempt to police or monitor abuse of the Internet;
- d. If you or your customers fail to abide by customary industry acceptable use policies and all governing and applicable laws.

8. Term of this RSA and Termination.

This RSA is effective for a period of one year from the date of creation of your Account by the Backend Service Provider. This RSA will then renewed for an indefinite number of one-year terms. Either party upon at least thirty (30) days' written notice (including notice via email) may terminate this RSA. The Backend Service Provider also retains the right to terminate this RSA immediately if you or your customers fail to comply with any term or condition of this RSA, or if the Backend Service Provider, in its sole discretion, deems such termination necessary to investigate or resolve any complications arising from your use of the Services.

9. Confidentiality.

You agree to keep the monetary terms of this RSA confidential. The Backend Service Provider agrees to keep confidential your confidential business and technology information other than your Account contact information and other information which the Backend Service Provider, in its sole discretion, deems necessary to disclose in order to effectuate transfers, to investigate or implement any policing activity, to respond to lawful discovery requests, or to otherwise achieve the legitimate business purposes of this RSA. The obligations of this section shall not restrict any disclosure by either party pursuant to any applicable law, or by order of any court or government agency and shall not apply to information that is independently developed by the disclosing party or is publicly known.

10. Warranties and Excluded Warranties.

- a. **WHAT IS NOT WARRANTIED: THE BACKEND SERVICE PROVIDER DOES NOT WARRANTY THAT PERFORMANCE OF THE SERVICES OR USE OF THE TECHNOLOGY WILL BE UNINTERRUPTED, ERROR FREE, OR THAT IT WILL NOT BE NECESSARY FOR YOU TO PROVIDE NOTICE OF ERRORS THROUGH THE BACKEND SERVICE PROVIDER'S SUPPORT PROCEDURES.**
- b. **WARRANTIES: THE BACKEND SERVICE PROVIDER WARRANTIES THAT THE SERVICES AND TECHNOLOGY WILL BE PROVIDED AND MAINTAINED WITH AT LEAST THE SAME DEGREE OF CARE THE BACKEND SERVICE PROVIDER EXERCISES IN PROVIDING SIMILAR SERVICES AND TECHNOLOGY TO THE BACKEND SERVICE PROVIDER'S OTHER SIMILARLY SITUATED CUSTOMERS. YOU AGREE THAT YOUR EXCLUSIVE REMEDIES FOR BREACH OF THIS WARRANTY ARE THE REMEDIES PROVIDED IN THIS RSA OR, IF NO REMEDIES ARE PROVIDED, THAT YOUR EXCLUSIVE REMEDY IS THE RE-PERFORMANCE OF THE SERVICES OR IF THE BACKEND SERVICE PROVIDER IS UNABLE TO PERFORM THE SERVICES AS WARRANTED WITHIN A REASONABLE PERIOD AND IF YOU CAN DEMONSTRATE THROUGH CLEAR AND CONVINCING EVIDENCE A LOSS WHICH IS SOLELY AND DIRECTLY ATTRIBUTABLE TO THE BACKEND SERVICE PROVIDER'S BREACH OF THIS WARRANTY,**

THEN YOUR EXCLUSIVE REMEDY SHALL BE THE TERMINATION OF THIS RSA AND THE CASH REFUND OF ANY POINTS USED BY YOU IN RELATION TO THE SPECIFIC TRANSACTIONS WHICH GAVE RISE TO THE BREACH OF THIS WARRANTY, SUBJECT TO THE OVERALL LIMITATION OF THE BACKEND SERVICE PROVIDER'S LIABILITY FOUND IN THIS RSA. THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

11. Indemnification.

You, at your own expense, will indemnify, defend and hold harmless the Backend Service Provider (which refers to, as indicated at the beginning of this RSA, its subsidiaries, and all employees, directors, officers, representatives, agents and affiliates thereof), against any claim, suit, action, or other proceeding based on or arising from any claim or alleged claim (i) relating to any product or service of yours; (ii) relating to your use of the Services; or (iii) relating to your domain name registration and related service business, including, but not limited to, your advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service; provided, however, that in any such case: (a) the Backend Service Provider provides you with prompt notice of any such claim, and (b) upon your written request, the Backend Service Provider provides you with all available information and assistance reasonably necessary for you to defend such claim, provided that you reimburse the Backend Service Provider for actual and reasonable costs. You shall not enter into any settlement or compromise of any such indemnifiable claim without the Backend Service Provider's prior written consent, which consent shall not be unreasonably withheld. You shall pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by the Backend Service Provider in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

12. Limitation of Liability.

- a. A material provision of entering into this RSA is that the Backend Service Provider's liability shall be limited as follows: In relation to each component of the Services for which a separate fee is charged, the Backend Service Provider shall be liable in an amount no greater than the fees received by the Backend Service Provider for performing the specific transaction(s) that gave rise to the liability. The Backend Service Provider's aggregate liability for all claims of any sort shall not exceed the aggregate amount received by the Backend Service Provider from you over the term of this RSA. The Backend Service Provider shall not be liable for any unauthorized access to, or any corruption, erasure, theft, destruction, alteration, or inadvertent disclosure of data, information, or content transmitted, received, or stored on its or any 3rd party systems. With respect to passwords, account identifiers, and other systems used to control access to your Account, you acknowledge and agree that it is your responsibility to safeguard such passwords, account identifiers, and other systems used to control access to your Account. You agree that as a service to you, the Backend Service Provider may, but is not required to, take reasonable measures to verify the identity of parties who claim to have lost or forgotten passwords and/or account information and to then provide the information to such parties and that the Backend Service Provider shall not be responsible to you for losses or claims for any inadvertent disclosure of such passwords which may result thereby. You expressly agree that it is reasonable for the Backend Service Provider to email passwords to designated email account(s), to phone designated phone numbers, or to employ security questions as a means to verify the identity of the party entitled to control your account.

- b. EXCEPT AS EXPRESSLY PROVIDED IN THIS RSA, NEITHER PARTY SHALL BE LIABLE IN ANY WAY TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LICENSES, OR SERVICES OR SIMILAR ECONOMIC LOSS, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR SIMILAR DAMAGES OF ANY NATURE, WHETHER FORESEEABLE OR NOT, UNDER ANY WARRANTY OR OTHER RIGHT HEREUNDER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS RSA, OR, EXCEPT AS PROVIDED FOR IN THE SECTION RELATING TO YOUR INDEMNIFICATION OF THE BACKEND SERVICE PROVIDER, FOR ANY CLAIM AGAINST THE OTHER PARTY BY A 3RD PARTY, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES.
- c. Independent Contractors. The parties to this RSA are independent contractors and shall have no right or authority to bind or commit the other party in any way without the other party's express written authorization to do so. Nothing contained in this RSA shall be deemed or construed to create for any purpose an employer/employee, joint venture, partnership, or agency relationship between the parties.
- d. Assignment. You agree not to assign, transfer, or otherwise dispose of this RSA or any of your rights, benefits, or interests under this RSA without written consent of the Backend Service Provider. The Backend Service Provider may assign this RSA to a party which acquires the assets of the Backend Service Provider which relate to performance of this RSA. The Backend Service Provider may assign all or part of its rights and obligations under this RSA to its parent corporation, to a subsidiary, to its survivor in connection with a corporate reorganization, to any entity acquiring all or substantially all of its property, or to any entity into which it is merged or consolidated. No assignment of this RSA shall operate to discharge the assignor of any duty or obligations hereunder without prior written consent.
- e. Taxes. Unless specified otherwise, the fees listed in this RSA do not include taxes. If the Backend Service Provider is required to pay EU-VAT or international sales, use, property, value-added, royalty, license or other taxes based on the licenses granted in this RSA or on your use of the Services, then such taxes or fees shall be billed to and paid by you. This section shall not apply to taxes based on the Backend Service Provider's income.
- f. Force Majeure. Neither party shall be in default or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with terms of this RSA (other than the obligation to make payments, which shall not be affected by this provision) due to any causes beyond its reasonable control, which causes include but are not limited to Acts of God or the public enemy; riots and insurrections; war; fire; strikes and other labor difficulties (whether or not the party is in a position to concede to such demands); embargoes; judicial action; lack of or inability to obtain export permits or approvals, necessary labor, materials, energy, components or machinery; acts of civil or military authorities; failure of telecommunications; or other casualty.
- g. Governing Law and Venue for Disputes. This RSA and any disputes regarding its interpretation and enforcement shall be governed by the laws of the Netherlands, as if this RSA was a contract wholly entered into and wholly performed within the Netherlands. Any action to enforce this RSA or any matter relating to your use of the Backend Service Provider's or the Backend Service Provider's subsidiaries' services shall be brought exclusively in the Netherlands Court in Amsterdam, or if there is no jurisdiction in such court, then in any other Court in the Netherlands. You consent to the exclusive personal and subject matter jurisdiction of such courts and agree that exclusive venue therein is proper.

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

BV Dot TK	Partner
By	By
Name	Name
Title	Title