

## ***.ROCHER Domain Name Terms and Conditions***

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## **.ROCHER TLD Domain Name Terms and Conditions**

This .ROCHER TLD Domain Name Terms and Conditions (.ROCHER TLD T&Cs) sets out the terms and conditions governing the registration and use of domain names in the .ROCHER Top Level Domain.

The .ROCHER TLD T&Cs may be updated periodically, without prior notice. The current version can be found at *nic.rocher/policies*, and continued registration or use of a .ROCHER domain name after any update constitutes acceptance of the current version. The only remedy in case of any disagreement with the current terms of the .ROCHER TLD T&Cs is to cancel your domain name registration.

The .ROCHER TLD T&Cs are to be read in conjunction with the .ROCHER TLD Registration Policy. No other agreements or representations supplement or alter the terms of the .ROCHER TLD T&Cs, except as expressly incorporated herein.

Any undefined capitalised term in the .ROCHER TLD T&Cs shall have the meaning set out in the ICANN Registry Agreement applicable to the .ROCHER Top Level Domain, available at <https://www.icann.org/resources/agreement/rocher-2014-12-18-en>.

### **General/Definitions**

**Abuse Point of Contact** means the .ROCHER Top Level Domain's abuse response team, which can be contacted at *abuse\_rocher@valideus.com*.

**Ferrero (or "we" or "us")** means Ferrero Trading Lux S.A.

**.ROCHER** means the .ROCHER Top Level Domain.

**.ROCHER TLD Registration Policy** means the .ROCHER TLD Domain Name Registration Policy which sets out the eligibility criteria for domain names in the .ROCHER Top Level Domain.

**.ROCHER TLD T&Cs** the .ROCHER TLD Domain Name Terms and Conditions which sets out the terms and conditions governing the registration and use of domain names in the .ROCHER Top Level Domain.

**ICANN** means the Internet Corporation for Assigned Names and Numbers.

**Identical Match** means that the domain name consists of the complete and identical textual elements of a Trademark Clearinghouse-validated trade mark. In this regard, marks which would be identical to Trademark Clearinghouse-validated trademarks but for the following amendments qualify as Identical Matches: (a) spaces contained within a mark that are either replaced by hyphens or omitted; (b) only certain special characters contained within a trade mark are spelled out with appropriate words describing it ("@" and "&"); (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name may either be (i) omitted or (ii) replaced by a hyphen and still be considered Identical matches; and (d) no plural or "marks contained" (i.e., "brandx" in "brandxproducts").

**Registrar** means an ICANN-accredited registrar authorized to provide domain name registration services in the .ROCHER TLD.

**Registry Services Provider** means the entity providing back-end technical and operational services for the .ROCHER Registry.

**Top Level Domain** means the final characters after the dot in a domain name; in the case of “nic.rocher”, this is “.rocher”.

**Trademark Claims** means the process whereby notice is given to a prospective domain name registrant concerning the scope of the rights of a trade mark owner whose mark is an Identical Match to the requested domain name, and whereby the prospective registrant warrants that: (i) they have received notification that the mark(s) is included in the Trademark Clearinghouse; (ii) they have received and understood the notice; and (iii) to the best of their knowledge, the registration and use of the requested domain name will not infringe the rights that are the subject of the notice. If the domain name is registered subsequent to the notice being issued and the registrant attesting to its non-infringement, the Registrar or the Trademark Clearinghouse will notify the mark holder(s) of the registration.

**Trademark Clearinghouse** means the central storage repository of validated (authenticated) trade mark rights-related data and information for dissemination with respect to trade mark rights protection mechanisms and other registry-related services mandated by ICANN and currently run by Deloitte.

**You or your** means an individual or entity seeking to initiate registration of a .ROCHER domain name, or if allowed, the domain name registrant.

*Terms used in the singular or plural are merely for convenience, and shall apply mutatis mutandis, as the context may require.*

*All communications and information under this .ROCHER TLD T&Cs shall be in English.*

## Registration Terms & Conditions

By submitting a request to register a .ROCHER domain name, or by asking us to maintain or renew a .ROCHER domain name registration, you agree to the following terms and conditions:

- you have read and understood, and agree to be bound by the .ROCHER TLD Registration Policy and the .ROCHER TLD T&Cs
- you warrant and represent that you meet the .ROCHER domain name registration eligibility criteria
- you warrant and represent that you are legally capable, and authorized to enter into an agreement for a .ROCHER domain name registration
- you acknowledge and agree that all .ROCHER domain name registrations are, and shall irrevocably remain, the sole property of Ferrero and that any attempted transfer, delegation, or assignment to any third party may be considered void ab initio
- registration of a .ROCHER domain name merely provides you with a temporary, revocable, and non-transferrable license to register or use that domain name, and you agree that all .ROCHER domain name registrations are made for the benefit of Ferrero in furtherance of its goals and operating principles

- you agree that Ferrero’s Whois data requirements require you to provide your complete, accurate, and current contact details in order to undertake a .ROCHER domain name registration; you also agree that, pursuant to its contractual obligations to ICANN or for any reason determined appropriate in its sole discretion, Ferrero may publish these contact details or provide them to third parties
- you agree to immediately (but at least within 48 hours of any change) update your contact details and to certify their accuracy annually
  - you agree that any change or update to your contact details may be subject to prior approval by Ferrero
  - Ferrero reserves the right to periodically verify your contact details, and to cancel, suspend, or revoke your domain name registration for any non-compliance with the .ROCHER TLD Registration Policy and the .ROCHER TLD T&Cs including your obligation to provide accurate and current contact details
  - you agree to indemnify and hold Ferrero harmless for any communication failure due to your provision of inaccurate contact details
  - you understand that Ferrero disclaims all liability for any communication failure due to your provision of inaccurate contact details
- you understand and agree that if relevant, and in appropriate circumstances, the publicly-available Whois information for .ROCHER domain name registrations may reflect Ferrero as the domain name registrant
- you will not distribute malware or operate botnets, or engage in phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or any other activity contrary to applicable law
- you agree that for certain aspects of the management of the .ROCHER Top Level Domain, for example a rapid takedown process, Ferrero may delegate certain functions to an agent such as its Registry Services Provider
- you agree to the applicability of ICANN-mandated Rights Protection Mechanisms, including
  - the Uniform Domain Name Dispute Resolution Policy (UDRP); the UDRP and rules are located at: [www.icann.org/dndr/udrp/policy.htm](http://www.icann.org/dndr/udrp/policy.htm)
  - the Uniform Rapid Suspension system (URS); the URS and rules are located at: <http://newqtlds.icann.org/en/applicants/urs>

You agree to indemnify Ferrero and its Affiliates and their directors and employees, and keep them indemnified, and hold them harmless against all losses, claims, liabilities, damages, proceedings, costs and expenses (including legal fees), arising out of (i) any breach by you of the .ROCHER TLD Registration Policy or .ROCHER TLD T&Cs, (ii) your use of any .ROCHER domain name, or (iii) a violation by you of applicable law or any agreement or terms with a third party to which you are subject.

Ferrero expressly disclaims all warranties of any kind in relation to any .ROCHER domain name including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement.

You agree that your use of any .ROCHER domain name and our domain name registration services is at your sole risk and (except in the case of death or personal injury caused by our negligence), to the maximum extent permitted by law, Ferrero shall only be liable to you in respect of the same up to the amount paid (if anything) for the initial registration of the .ROCHER domain names. Ferrero and its Affiliates shall not be liable for any indirect, consequential or special loss or damage (howsoever arising) in connection with your use of any .ROCHER domain name and our domain name registration services.

You agree that Ferrero reserves the right, in its sole discretion, to suspend, lock, cancel, revoke, or otherwise alter any .ROCHER domain name registration including by making changes to DNS settings or taking any other action (including any actions made possible in the future by changes in DNS-related technical protocols or otherwise) deemed necessary by Ferrero in its sole discretion: (i) to protect the interests of Ferrero; (ii) to comply with any laws, court or law enforcement requests, or any dispute resolution process including ICANN rights protection mechanisms; (iii) to avoid any civil or criminal liability against Ferrero or its Affiliates, subsidiaries, officers, directors, employees, agents, consultants, or contractors; (iv) to remedy any error in connection with a .ROCHER domain name registration; (v) pursuant to the .ROCHER TLD Registration Policy and the .ROCHER TLD T&Cs; or (vi) as otherwise deemed necessary by Ferrero in its sole discretion.

## Acceptable Use

Ferrero reserves the right to periodically review .ROCHER domain name registrations and uses for compliance with the .ROCHER TLD Registration Policy and the .ROCHER TLD T&Cs. For example, but without limitation, by registering a .ROCHER domain name, or by asking us to maintain or renew a .ROCHER domain name registration:

- you represent and warrant that you will not distribute malware or operate botnets, or engage in phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or any other activity contrary to applicable law
- you acknowledge and agree that it is your responsibility to determine whether your domain name registration does or may infringe or violate the rights of a third party or applicable law
- you warrant and represent that your registration or use of a .ROCHER domain name does not and will not:
  - give rise to any morally objectionable or otherwise socially questionable conduct
  - violate any applicable laws or regulations
  - in any way harm the reputation or goals and operating principles of Ferrero

You further agree that Ferrero may, in its sole discretion, lock, suspend, cancel, revoke, or otherwise take (or require you to take) remedial action to cure any breach of the .ROCHER TLD Registration Policy or the .ROCHER TLD T&Cs if your registration or use of a .ROCHER domain name violates the .ROCHER TLD Registration Policy, the .ROCHER TLD T&Cs or applicable law, or otherwise violates standards of conduct deemed acceptable to Ferrero in its sole discretion.

By registering a .ROCHER domain name, or by asking us to maintain or renew a .ROCHER domain name registration, you agree to use any technical and operations protocols required by Ferrero in its sole discretion.

Any failure to comply with these acceptable use standards may be considered a breach of the .ROCHER TLD Registration Policy and the .ROCHER TLD T&Cs and may, in Ferrero's sole discretion, be grounds for the suspension, cancellation, or revocation of your .ROCHER domain name registration.

### Rapid Takedown Process

In furtherance of Ferrero's efforts aimed at abuse prevention and mitigation, or where it appears that a .ROCHER domain name is being used to threaten the stability or security of the .ROCHER Top Level Domain or is a part of a real-time investigation by law enforcement, Ferrero may, either on its own initiative or at the request of a third party, initiate a rapid takedown process.

In the event a rapid takedown process is initiated, after assessment by Ferrero, the Registrar may be contacted for its cooperation in taking the subject domain name down (by locking or suspending the domain name, or placing it on hold or deleting it), unless a compelling argument is provided by the Registrar to Ferrero on which basis the subject domain name may remain in the zone. In either event, if the Registrar has not reacted within 12 hours of Ferrero's request, Ferrero may place the subject domain name on "ServerHold" or any other status it deems necessary or appropriate. If Ferrero determines that the subject domain name is being used to threaten the stability or security of the .ROCHER Top Level Domain or is a part of a real-time investigation by law enforcement, Ferrero reserves the right to immediately remove the subject domain name from the zone, in which case Ferrero will inform the Registrar of such action being taken.

### Abuse Prevention and Mitigation

Ferrero will not tolerate abusive or malicious conduct (including, but not limited to: illegal or fraudulent actions, spam, phishing, pharming, distribution of malware, malicious fast flux hosting, botnets, distribution of illegal child sexual images, online sale or distribution of illegal pharmaceuticals) in the .ROCHER Top Level Domain. In addition to any monitoring Ferrero may undertake to prevent abusive or malicious conduct, Ferrero has established an abuse point of contact for handling complaints or concerns related to any such conduct, which shall also include investigation of and a response to any reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of the .ROCHER Top Level Domain.

In the event of any suspected abusive or malicious conduct or violation of .ROCHER TLD Registration Policy, the .ROCHER TLD T&Cs or any applicable laws, Ferrero may suspend or lock your domain name registration pending resolution of any such suspected violation. Ferrero may also initiate a rapid takedown process to handle such complaints or suspected violations.

While respecting privacy and confidentiality, Ferrero may periodically conduct technical analyses to assess whether domain names in the .ROCHER Top Level Domain are being used to perpetrate security threats, such as pharming, phishing, malware, or botnets. If Ferrero identifies security risks that pose an actual risk of harm, it will notify the Registrar and, if the registrar does not take immediate action, Ferrero may suspend the domain name until the matter is resolved.

Ferrero or its delegate may remove orphan glue records (see [www.icann.org/en/committees/security/sac048.pdf](http://www.icann.org/en/committees/security/sac048.pdf)) when provided with written evidence that such records are present in connection with malicious conduct.

## Abuse Point of Contact

Inquiries, whether from law enforcement or the general public, related to alleged abusive or malicious conduct in the .ROCHER Top Level Domain should be directed to the .ROCHER Abuse Point of Contact. Complaints may also concern Whois information accuracy, or concerns that a domain name registration is being used to facilitate or promote malware, operation of botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise to engage in activity contrary to applicable law.

The .ROCHER Abuse Point of Contact can be reached by email at: [abuse\\_rocher@valideus.com](mailto:abuse_rocher@valideus.com).

## Data & Privacy

By applying to register a .ROCHER domain name, or by asking us to maintain or renew a domain name registration, you agree to Ferrero and its Affiliates using any information you provide as part of that application, and any other information it holds about you including your IP address, in connection with registering or renewing the domain name and associated administrative activities and providing that information to our service providers and ICANN. Ferrero and its Affiliates may also use your information in the following ways:

- To monitor the accuracy of Whois data
- To help us develop, deliver and improve our products and services
- To share with our parent, subsidiary, and affiliated companies, as required to perform functions on our behalf in connection with the operation of the .ROCHER registry.
- To share with third party service providers whom we employ to perform functions on our behalf in connection with the .ROCHER registry (such as registrars, data escrow providers, etc). These third party service providers have access to your information insofar as it is needed to perform their functions, and may collect or store the information as part of their performance of these functions, but are not authorized to use it for other purposes.
- We may share information with credit reference and fraud prevention agencies for use in credit decisions, and for fraud detection and prevention purposes. If false or inaccurate information is provided and fraud is identified, the details will be passed to fraud prevention and law enforcement agencies
- To enable us to comply with any legal or regulatory requirements; to protect or enforce our rights or the rights of any third party; in the detection and prevention of fraud and other crimes; and for the purpose of safeguarding national security
- We may disclose your information to any successors of our business for them to use for the purposes set out in this privacy notice

You agree that Ferrero's Whois data requirements require you to provide your complete, accurate, and current contact details in order to undertake a .ROCHER domain name registration; you also agree that, pursuant to its contractual obligations to ICANN or for any reason determined appropriate in its sole discretion, Ferrero may publish these contact details or provide them to third parties.

You also agree that ICANN may conduct Whois verification and checks on a statistically significant basis to identify registrations with deliberately false, inaccurate or incomplete Whois data at least

twice a year which may result in the Registrar contacting you to solicit accurate and complete Whois contact information.

## Disputes

These .ROCHER TLD T&Cs are governed by Luxembourg law. Disputes between you and Ferrero shall be dealt with by the Luxembourg courts.

All disputes between you and a third party concerning that third party's rights shall be handled according to the terms of the UDRP or URS (see Registration Terms & Conditions), court, or other appropriate adjudicatory system.

### (i) UDRP

By registering a .ROCHER domain name, you agree to the applicability of the Uniform Domain Name Dispute Resolution Policy (UDRP); the UDRP policy and rules are located at: [www.icann.org/dndr/udrp/policy.htm](http://www.icann.org/dndr/udrp/policy.htm).

The remedies available for a successful complaint under the UDRP are cancellation or transfer of the domain name to the UDRP filing complainant. In the event of a UDRP decision concerning a .ROCHER domain name ordering transfer of a domain name to a UDRP complainant, any such transfer can only occur if the prevailing UDRP complainant meets all requirements of the .ROCHER TLD Registration Policy including as to eligibility. In the event a prevailing UDRP complainant does not meet the conditions of the .ROCHER TLD Registration Policy including as to eligibility, notwithstanding any UDRP transfer order, Ferrero will cancel the subject domain name registration. At Ferrero's sole discretion, such cancelled domain name registration may be placed on a "reserved" list, or may be made available for registration under the terms of the .ROCHER TLD Registration Policy and .ROCHER TLD T&Cs.

*The UDRP is an out-of-court dispute resolution procedure for adjudicating a claim by a third party that your registration and use of a .ROCHER domain name infringes their trademark rights, i.e., your domain name registration is identical or confusingly similar to a trademark in which the third-party complainant has rights, you have no rights or legitimate interests in the domain name, and your registration and use of the domain name are in bad faith; a successful UDRP proceeding would result in either the cancellation of your domain name, or the transfer of your domain name registration to the complainant.*

### (ii) URS

By registering a .ROCHER domain name, you agree to the applicability of the Uniform Rapid Suspension system (URS); the URS policy and rules are located at: <http://newqtlds.icann.org/en/applicants/urs>.

*The URS is an out-of-court dispute resolution procedure for adjudicating a claim by a third party that your registration and use of a .ROCHER domain name infringes their trademark rights, i.e., your domain name registration is identical or confusingly similar to a trademark in which the third-party complainant has rights, you have no rights or legitimate interests in the domain name, and your registration and use of the domain name are in bad faith; a successful UDRP proceeding would result in the suspension cancellation of your domain name for the duration of the registration period (with the complainant having the option of paying to extend that suspension for one year).*



## Trademark Claims

For the first 90 days after the .ROCHER Top Level Domain is open for general registration (the “Trademark Claims Period”), an attempt to register a domain name that is an Identical Match to a Clearinghouse-validated mark will trigger a Trademark Claims Notice (see Annex). Upon a registrant’s confirmation that they have received and understand Trademark Claims Notice, and that to the best of their knowledge the registration and use of the requested domain name will not infringe the trademark rights listed in the Trademark Claims Notice, a request for registration will be managed by Ferrero in accordance with the .ROCHER TLD Registration Policy.

If, pursuant to the .ROCHER TLD Registration Policy, a request to register a .ROCHER domain name which is an Identical Match to a Clearinghouse-validated mark is eligible and subsequently registered, Ferrero or the Registrar will notify the relevant mark holders(s) of the registration.

For purposes of .ROCHER Trademark Claims Ferrero will recognise and honour all word marks that have been or are:

- (i) nationally or regionally registered;
- (ii) court-validated; or
- (iii) specifically protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion – for purposes of Trademark Claims no demonstration of use is required.

## Annex - Trademark Claims Notice

### **TRADEMARK NOTICE**

*[In English and the language of the registration agreement]*

You have received this Trademark Notice because you have applied for a domain name which matches at least one trademark record submitted to the Trademark Clearinghouse.

YOU MAY OR MAY NOT BE ENTITLED TO REGISTER THE DOMAIN NAME DEPENDING ON YOUR INTENDED USE AND WHETHER IT IS THE SAME OR SIGNIFICANTLY OVERLAPS WITH THE TRADEMARKS LISTED BELOW. YOUR RIGHTS TO REGISTER THIS DOMAIN NAME MAY OR MAY NOT BE PROTECTED AS NONCOMMERCIAL USE OR "FAIR USE" BY THE LAWS OF YOUR COUNTRY.

Please read the trademark information below carefully, including the trademarks, jurisdictions, and goods and services for which the trademarks are registered. Please be aware that not all jurisdictions review trademark applications closely, so some of the trademark information below may exist in a national or regional registry which does not conduct a thorough or substantive review of trademark rights prior to registration. If you have questions, you may want to consult an attorney or legal expert on trademarks and intellectual property for guidance.

If you continue with this registration, you represent that, you have received and you understand this notice and to the best of your knowledge, your registration and use of the requested domain name will not infringe on the trademark rights listed below. The following *[number]* marks are listed in the Trademark Clearinghouse:

1. Mark: <tmNotice:markName> Jurisdiction: <tmNotice:jurDesc>  
Goods and Services: <tmNotice:goodsAndServices>  
International Class of Goods and Services or Equivalent if applicable: <tmNotice:classDesc>  
Trademark Registrant: <tmNotice:holder> Trademark Registrant Contact: <tmNotice:contact>

This domain name label has previously been found to be used or registered abusively against the following trademarks according to the referenced decisions:

Decision Number:  
UDRP Provider:

- 2 (<tmNotice:claim>). Mark: Jurisdiction: Goods and Services: International Class of Goods and Services or Equivalent if applicable: Trademark Registrant:

Trademark Registrant Contact:

X (<tmNotice:claim>). Mark: Jurisdiction: Goods and Services: International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact

For more information concerning the records included in this notice, see <link to [info] page>.