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.Cymru & .Wales Registry-Registrar Agreement

Nominet UK – .Cymru & .Wales Registry-Registrar Agreement

(July 2014)

This Registry-Registrar Agreement (the "Agreement"), is made and entered into by and between Nominet UK, a company incorporated in England and Wales (number 3203859) whose registered office is Minerva House, Edmund Halley Road, Oxford Science Park, Oxford OX4 4DQ ("Nominet"), and the ICANN accredited registrar that has indicated that it accepts the terms of this Agreement ("Registrar"). Nominet and Registrar may be referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, Nominet has entered into Registry Agreements with the Internet Corporation for Assigned Names and Numbers to operate a shared registration system, TLD nameservers, and other equipment for the .cymru and .wales top-level domains;

WHEREAS, multiple registrars will provide Internet domain name registration services within the .cymru and .wales top-level domains;

WHEREAS, Registrar wishes to act as a registrar for domain names within the .cymru and .wales top-level domains.

NOW, THEREFORE, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Nominet and Registrar, intending to be legally bound, agree as follows:

1. DEFINITIONS

1.1. "Confidential Information" means all information and materials, including, without limitation, computer software, data, information, intellectual property, databases, protocols, reference implementation and documentation, financial information, statistics and functional and interface specifications, provided by a Party (the "Disclosing Party") to the other Party (the "Receiving Party") under this Agreement and marked or otherwise identified as Confidential, provided that if a communication is oral, the Disclosing Party will notify the Receiving Party in writing, including by email, within 15 calendar days of the disclosure that it is confidential.

1.2. "Credit and Payment Terms" means the credit and payment terms published by Nominet on its website, which govern the provision of credit to Registrar.

1.3. "DNS" means the Internet domain name system.

1.4. The "Effective Date" shall be the date on which Registrar indicated that it accepted the terms of this Agreement.

1.5. "EPP" means the Extensible Provisioning Protocol, which is the protocol used by the Registry System.

1.6. "ICANN" means the Internet Corporation for Assigned Names and Numbers.

1.7. "Personal Data" has the meaning given to it in the UK's Data Protection Act 1998.

1.8. "Registered Name" means a domain name registered by or on behalf of the Registered Name Holder in the Registry Database.

1.9. "Registered Name Holder" means the registrant of a Registered Name.

1.10. The "Registrar Tool Kit" comprises the EPP and System Instructions.

1.11. "Registration Information" means the information regarding a Registered Name and the associated Registered Name Holder that is recorded on the Registry Database, including but not limited to the Registered Name Holder's name, postal and email addresses and telephone number(s).

1.12. "Registry Agreement" means the Registry Agreements between Nominet and ICANN dated as of 8 May 2014, for the operation of the Registry TLDs, as amended from time to time.

1.13. "Registry Database" means a database comprised of data about one or more DNS domain names within the domains of one of the Registry TLDs that is used to generate either DNS resource records that are published authoritatively or responses to domain-name availability lookup requests or whois queries, for some or all of those names.

1.14. "Registry Services" means (a) those services that are both (i) operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement; and (ii) provided by Nominet for the .cymru and .wales registries as of the Effective Date; (b) other products or services that Nominet is required to provide because of the establishment of a Consensus Policy (as defined in the Registry Agreement); (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and shall be deemed to include (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.

1.15. "Registry TLDs" means the .cymru and .wales TLDs, which may be referred to individually as a "Registry TLD".

1.16. The "Registry System" means the system operated by Nominet for Registered Names in the Registry TLDs.

1.17. "System Instructions" means the instructions on the proper use of the Registry System, which Nominet publishes on its website from time to time.

1.18. "Term" means the term of this Agreement, as set forth in subsection 9.1.

1.19. A "TLD" means a top-level domain of the DNS.

1.20. "Working Day" means any day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday in England.

Other terms used in this Agreement as defined terms shall have the meanings ascribed to them in the context in which they are defined.

2. OBLIGATIONS OF NOMINET

2.1. Access to Registry System. Throughout the Term of this Agreement, Nominet shall operate the Registry System and provide Registrar with access to the Registry System to transmit Registration Information for the Registry TLDs to the Registry System. Nothing in this Agreement entitles Registrar to enforce any agreement between Nominet and ICANN. In no event will Registrar be required to enter into any third-party agreements in order to gain access to the Registry System.

2.2. Maintenance of Registrations Sponsored by Registrar. Subject to the provisions of this Agreement, ICANN requirements, and Nominet requirements authorised by ICANN, Nominet shall maintain the registrations of Registered Names sponsored by Registrar in the Registry System during the Term for which Registrar has paid the fees required by Subsection 4.1.

2.3. Provision of Tool Kit; Licence. No later than three Working Days after the Effective Date, Nominet shall provide to Registrar a copy of the Registrar Tool Kit, which shall provide sufficient System Instructions to allow registrar to interface with the Registry System and employ its features that are available to registrars. Subject to the terms and conditions of this Agreement, Nominet hereby grants Registrar and Registrar accepts a non-exclusive, nontransferable, worldwide limited licence to use for the Term and purposes of this Agreement, all components owned by or licenced to Nominet in and to the Registrar Toolkit and Registry System and any other intellectual property included in the Registrar Tool Kit, as well as updates and redesigns thereof, to provide domain name registration services in the Registry TLDs only and for no other purpose.

2.4. Changes to System. Nominet may from time to time replace or make modifications to the Registrar Toolkit or other materials licenced hereunder that will modify, revise or augment the features of the Registry System. Nominet will provide Registrar with at least 90 calendar days' notice prior to the implementation of any material changes, or 30 calendar days' notice prior to the implementation of any non-material changes, or as described in clause 3.6.2, to the Registrar Toolkit or other materials licenced hereunder.

2.5. Engineering and Customer Service Support.

2.5.1. Engineering Support. Nominet agrees to provide Registrar with reasonable engineering telephone support (24 hour per day, 7 days a week) to address engineering issues arising in connection with Registrar's use of the Registry System.

2.5.2. Customer Service Support. During the Term of this Agreement, Nominet will provide reasonable telephone and e-mail customer service support to Registrar (but not to Registered Name Holders or prospective customers of Registrar), for non-technical issues solely relating to the Registry System and its operation. Nominet will provide Registrar with a telephone number and e-mail address for such support during implementation of the Registrar Toolkit. First-level telephone support will be available on Working Days between the hours of 9 a.m. and 5 p.m. UK time.

2.6. Handling of Personal Data. Nominet shall comply with its obligations under the Data Protection Act 1998 (or any successor legislation) and its published privacy and/or data protection policies. Registrar may refer Registered Name Holders to those policies where necessary. Nominet shall not do anything to put Registrar in breach of any obligations it has

under European data protection law.

2.7. ICANN Requirements. Nominet's obligations hereunder are subject to modification at any time as the result of ICANN-mandated requirements and Consensus Policies. Notwithstanding anything in this Agreement to the contrary, Registrar shall comply with any such ICANN requirements in accordance with the timeline defined by ICANN.

3. OBLIGATIONS OF REGISTRAR

3.1. Accredited Registrar. During the Term of this Agreement, Registrar shall maintain in full force and effect its accreditation by ICANN.

3.2. Registrar Responsibility for Customer Support. Registrar shall provide (i) support to accept orders for registration, cancellation, modification, renewal, deletion or transfer of Registered Names and (ii) customer service (including domain name record support) and billing and technical support to Registered Name Holders. Registrar shall publish to Registered Name Holders emergency contact information for critical situations such as domain name hijacking.

3.3. Registrar shall not misrepresent its relationship with Nominet to Registered Name Holders, or otherwise mislead Registered Name Holders.

3.4. Registrar's Registration Agreement. At all times while it is sponsoring the registration of any Registered Name within the Registry System, Registrar shall have in effect an electronic or paper registration agreement with the Registered Name Holder. Registrar shall include in its registration agreement those terms required by this Agreement and other terms that are consistent with Registrar's obligations to Nominet under this Agreement.

3.5. Indemnification Required of Registered Name Holders. In its registration agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to indemnify, defend and hold harmless Nominet and its subcontractors, and the directors, officers, employees, affiliates and agents of each of them, from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registered Name Holder's domain name registration. The registration agreement shall further require that this indemnification obligation survive the termination or expiration of the registration agreement.

3.6. Compliance with Terms and Conditions. Registrar shall comply with each of the following requirements, and further shall include in its registration agreement with each Registered Name Holder, as applicable, an obligation for such Registered Name Holder to comply with each of the following requirements:

3.6.1. ICANN standards, policies, procedures, and practices for which Nominet has monitoring responsibility in accordance with the Registry Agreement or other arrangement with ICANN; and

3.6.2. operational standards, policies, procedures, and practices for the Registry TLDs, including but not limited to the System Instructions, established from time to time by Nominet in a non-arbitrary manner and applicable to all registrars, including affiliates of Nominet, and consistent with ICANN's standards, policies, procedures, and practices and Nominet's Registry Agreement with ICANN. Additional or revised Nominet operational standards, policies, procedures, and practices for the Registry TLDs shall be effective upon 90 calendar days notice by Nominet to Registrar, save that Nominet may amend or introduce such operational standards, policies, procedures and practices for the Registry TLD upon 30 calendar days' prior notice, in the event of an emergency or where it is necessary to make such changes due to the imposition of a new or altered requirement by ICANN that affects the operation of the Registry TLDs. If there is a discrepancy between the terms required by this Agreement and the terms of the Registrar's registration agreement, the terms of this Agreement shall supersede those of the Registrar's registration agreement.

3.6.3. With respect to proceedings commenced under the Uniform Rapid Suspension ("URS"), Registrar must accept and process payments for the renewal of a domain name by a URS Complainant in cases where the URS Complainant prevailed; provided, however, that the Registrar must not renew a domain name to a URS Complainant who prevailed for longer than one year.

3.7. Additional Requirements for Registration Agreement. In addition to the provisions of Subsection 3.6, in its registration agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to:

3.7.1. consent to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by Nominet and its designees and agents in a manner consistent with the purposes specified in Nominet's data protection and privacy policies;

3.7.2. submit to proceedings commenced under ICANN's dispute resolution procedures relating to Rights Protection Mechanisms (RPMs), including, without limitation, the obligation to handle payments for renewals or restoration by the Complainant in any proceeding in cases where the Complainant prevails.

3.7.3. provide accurate and correct Registration Information for the Registered Name, and immediately correct and update the Registration Information for the Registered Name during the registration term for the Registered Name;

3.7.4. agree to be bound by the terms and conditions of the initial launch of the Registry TLDs, including without limitation the RPMs and the dispute resolution procedures relating thereto, and further to acknowledge that Nominet has no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the RPMs and the dispute resolution procedures relating thereto, including, without limitation: (a) the ability or inability of a registrant to obtain a Registered Name during these periods, and (b) the results of any dispute over the outcome of dispute resolution proceeding; and

3.7.5. acknowledge and agree that Nominet reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold or similar status, that it deems necessary, in its discretion; (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of Nominet, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) per the terms of the registration agreement or (5) to correct mistakes made by Nominet or any Registrar in connection with a domain name registration. Nominet also reserves the right to place upon registry lock, hold or similar status a domain name during resolution of a dispute.

3.7.6 acknowledge and agree that Registered Name Holders are prohibited from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and further, that consistent with applicable law and any related procedures, any prohibited activity described herein may result in remedial measures including, but not limited to, the denial, cancellation or transfer of any registration or transaction, the placement of one or more registry lock functions on any domain name and the suspension of the domain name.

3.7.7. not use the Registered Name for any unlawful purpose.

3.8. Data Submission Requirements.

3.8.1. As part of its registration and sponsorship of Registered Names in the Registry TLDs, Registrar shall submit complete data as required by the System Instructions. Registrar shall exercise due care and attention in the collection and submission of such names to Nominet.

3.8.2. Registrar shall submit any corrections or updates from a Registered Name Holder relating to the Registration Information for a Registered Name to Nominet in a timely manner.

3.9. Security.

3.9.1. Registrar shall develop and employ in its domain name registration business all necessary technology and restrictions to ensure that its connection to the Registry System is secure and that all data exchanged between Registrar's system and the Registry System shall be protected to avoid unintended disclosure of information. Registrar shall employ the necessary measures to prevent its access to the Registry System granted hereunder from being used to (i) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than its own existing customers; or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Nominet, any other registry operated under an agreement with ICANN, or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations. In addition, Nominet may require other reasonable security provisions to ensure that the Registry System is secure and stable.

3.9.2. Registrar must comply with any technical security requirements set out in the System Instructions. Registrar shall disclose only its Registrar password to its employees on a need to know basis. Registrar agrees to notify Nominet within four hours of learning that its Registrar password has been compromised in any way or if its server certificate has been revoked by the issuing certification authority or compromised in any way.

3.9.3. Registrar shall not provide identical Registrar-generated authorization <authinfo> codes for domain names registered by different registrants with the same Registrar. The Registrar shall provide the Registered Name Holder with timely access to the authorization code along with the ability to modify the authorization code. Registrar shall respond to any inquiry by a Registered Name Holder regarding access to and/or modification of an authorization code within five (5) calendar days.

3.10. Resolution of Technical Problems. Registrar shall employ necessary employees, contractors, or agents with sufficient technical training and experience to respond to and fix all technical problems concerning the use of the EPP, the APIs and the systems of Nominet in conjunction with Registrar's systems. In the event of significant degradation of the Registry System or other emergency, Nominet may, in its sole discretion, temporarily suspend or restrict Registrar's access to the Registry System. Such temporary suspensions shall be applied in a non-arbitrary manner and shall apply fairly to any registrar similarly situated, including affiliates of Nominet. Except in the case of an emergency, Nominet will provide advance notice via email and phone call to Registrar's technical contact of any temporary suspension or restriction, except where Registry Operator is prevented from doing so due to an emergency.

3.11. Time of Registration. In the event of any dispute concerning the time of the entry of a domain name registration into the Registry Databases, the time shown in the Registry records shall be definitive.

3.12. Transfer of Registration Sponsorship. Registrar agrees to implement transfers of Registered Name registrations from another registrar to Registrar and vice versa pursuant to the Inter-Registrar Transfer Policy as may be amended from time to

time by ICANN (the "Transfer Policy").

3.13. Restrictions on Registered Names. In addition to complying with ICANN standards, policies, procedures, and practices limiting domain names that may be registered, Registrar agrees to comply with applicable statutes and regulations limiting the domain names that may be registered.

3.14. Resellers. Registrar must comply with the terms of this Agreement, even where it deals with Registered Name Holders indirectly (e.g. via a 'reseller'). Registrar will be responsible for any breaches of this Agreement as a result of the action or inaction of any such resellers.

3.15. Offering both .cymru and .wales for sale. Where Registrar offers for sale domain name registrations in one of the Registry TLDs, it must also offer for sale domain name registrations in the other Registry TLD.

4. REGISTRATION FEES.

4.1. Amount of Nominet Fees. Registrar agrees to pay Nominet the fees published on its website for services provided by Nominet to Registrar (collectively, "Fees"). Nominet reserves the right to adjust the Fees in a manner consistent with Nominet's Registry Agreement with ICANN, provided that Nominet will not give less than one hundred and eighty (180) calendar days notice of any change to the fee to renew a Registered Name, and not less than ninety (90) calendar days notice of any change to the fee to register a new Registered Name. In addition, Registrar agrees to pay Nominet the applicable variable fees assessed to Nominet by ICANN, as permitted by Subsection 6.3 of the Registry Agreement by no later thirty (30) calendar days after the date of an invoice from Nominet for such fees.

4.2. Payment of Nominet Fees. Subject to the Credit and Payment Terms, in advance of incurring Fees, Registrar will establish a credit account or make an advance payment on account. All Fees are due immediately upon receipt of applications for initial and renewal registrations, registrations associated with transfer of sponsorship, or upon provision of other services by Nominet to Registrar. Payment shall be made by debit of the deposit or credit account. Nominet will provide monthly invoices to Registrar.

4.3. Non-Payment of Fees. In the event Registrar has insufficient funds deposited or available through its credit account with Nominet, Nominet may do any or all of the following: (a) stop accepting new initial or renewal registrations, or registrations associated with a change of sponsorship, from Registrar; (b) delete any domain names from the Registry Database associated with any negative credit balance incurred or unpaid invoices; (c) give written notice of termination of this Agreement, pursuant to clause 9.2.1.; and (d) pursue any other remedy under this Agreement and Credit and Payment Terms.

4.4 Taxes. All Fees due under this Agreement are exclusive of tax. All taxes, duties, fees and other governmental charges of any kind (including sales, turnover, services, use and value-added taxes, but excluding taxes based on the net income of Nominet) which are imposed by or under the authority of any government or any political subdivision thereof on the fees for any services, software and/or hardware shall be borne by Registrar and shall not be considered a part of, a deduction from or an offset against such Fees. All payments due to Nominet shall be made without any deduction or withholding on account of any tax, duty, charge or penalty except as required by law, in which case, the sum payable by Registrar from which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, Nominet receives and retains (free from any liability with respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required.

5. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

5.1. Use of Confidential Information. During the Term of this Agreement, each party a Disclosing Party may disclose its Confidential Information to a Receiving Party. Each party's use and disclosure of the Confidential Information of the other party shall be subject to the following terms and conditions:

5.1.1. The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of, all Confidential Information of the Disclosing Party, including implementing reasonable physical security measures and operating procedures.

5.1.2. The Receiving Party agrees that it will use any Confidential Information of the Disclosing Party solely for the purpose of exercising its right or performing its obligations under this Agreement and for no other purposes whatsoever.

5.1.3. The Receiving Party shall make no disclosures whatsoever of any Confidential Information of the Disclosing Party to others; provided, however, that if the Receiving Party is a corporation, partnership, or similar entity, disclosure is permitted to the Receiving Party's officers, employees, contractors and agents who have a demonstrable need to know such Confidential Information, provided the Receiving Party shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality thereof.

5.1.4. The Receiving Party shall not modify or remove any confidentiality legends and/or copyright notices appearing on any Confidential Information of the Disclosing Party.

5.1.5. The Receiving Party agrees not to prepare any derivative works based on the Confidential Information.

5.1.6. Notwithstanding the foregoing, this Subsection 5.1 imposes no obligation upon the parties with respect to information that (i) is disclosed in the absence of a confidentiality agreement and such disclosure was agreed to by the Disclosing Party in writing prior to such disclosure; or (ii) is or has entered the public domain through no fault of the Receiving Party; or (iii) is known by the Receiving Party prior to the time of disclosure; or (iv) is independently developed by the Receiving Party without use of the Confidential Information; or (v) is made generally available by the Disclosing Party without restriction on disclosure; or (vi) is required to be disclosed by law, regulation or court order; provided, that in the event the Receiving Party is required by law, regulation or court order to disclose any of Disclosing Party's Confidential Information, To the extent that it is legally able to do so, Receiving Party will promptly notify Disclosing Party in writing prior to making any such disclosure in order to facilitate Disclosing Party seeking a protective order or other appropriate remedy from the proper authority, at the Disclosing Party's expense. Receiving Party agrees to cooperate with Disclosing Party in seeking such order or other remedy. Receiving Party further agrees that if Disclosing Party is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which is legally required.

5.1.7. The Receiving Party's duties under this Subsection 5.1 shall expire two (2) years after the expiration or termination of this Agreement or earlier, upon written agreement of the parties.

5.2. Intellectual Property.

5.2.1. Subject to the licences granted hereunder, each party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property.

5.2.2. Without limiting the generality of the foregoing, no commercial use, rights or any licences under any patent, patent application, copyright, trademark, know-how, trade secret, or any other intellectual proprietary rights are granted by the Disclosing Party to the Receiving Party by this Agreement, or by any disclosure of any Confidential Information to the Receiving Party under this Agreement.

5.2.3. The Registry Databases for the Registry TLDs, and the data contained within them, are the property of Nominet, and Registrar may not use that data without Nominet's permission. As a confirmatory assignment, under this Agreement Registrar assigns to Nominet any rights it may have in the data contained within the Registry Databases.

5.2.4. Notwithstanding the terms of clause 5.2.3., Nominet acknowledges that Registrar has proprietary rights in the data it holds regarding its own customers, and that Registrar's right to use that data is not restricted by the terms of clause 5.2.3.

6. INDEMNITIES AND LIMITATION OF LIABILITY

6.1. Indemnification. Registrar, at its own expense and within thirty days after presentation of a demand by Nominet under this Section, will indemnify, defend and hold harmless Nominet and its subcontractors, and the directors, officers, employees, representatives, agents and affiliates of each of them, against any claim, suit, action, or other proceeding brought against any such party(ies) based on or arising from any claim or alleged claim: (i) relating to any product or service of Registrar; (ii) relating to any agreement, including Registrar's dispute policy, with any Registered Name Holder or Registrar; or (iii) relating to Registrar's domain name registration business, including, but not limited to, Registrar's advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service. Nominet shall provide Registrar with prompt notice of any such claim, and upon Registrar's written request, Nominet will provide to Registrar all available information and assistance reasonably necessary for Registrar to defend such claim, provided that Registrar reimburses Nominet for Nominet's actual and reasonable costs incurred in connection with providing such information and assistance. Registrar will not enter into any settlement or compromise of any such indemnifiable claim without Nominet's prior written consent, which consent shall not be unreasonably withheld. Registrar will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by Nominet in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

Registry Operator, will indemnify, defend and hold harmless Registrar and their employees, directors, officers, representatives, agents, affiliates, against any claim, suit, action, or other proceeding brought against Registrar based on, arising from or related to: (i) Registry Operator's breach of this Agreement or; (ii) infringement of the EPP, Registrar Tool Kit, or Registry System; provided, however, that in any such case: (a) Registrar provides Registry Operator with prompt notice of any such claim, and (b) upon Registry Operator's written request, Registrar will provide to Registry Operator all available information and assistance reasonably necessary for Registry Operator to defend such claim, provided that Registry Operator reimburses Registrar for its actual and reasonable costs incurred in connection with providing such information and assistance. Registry Operator will not enter into any settlement or compromise of any such indemnifiable claim without Registrar's prior written consent, which consent shall not be unreasonably withheld. Registry Operator will pay any and all costs, damages and expenses, including, but not limited to reasonable attorneys' fees and costs awarded against or otherwise incurred by Registrar in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

6.2. Representation and Warranty. Each Party represents and warrants that: (i) it is a corporation duly incorporated, validly

existing and in good standing under the law of the jurisdiction of its formation (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (iii) the execution, performance and delivery of this Agreement has been duly authorised, (iv) in the Registrar's case, that it is, and will continue to be, accredited by ICANN or its successor and (v) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by a Party in order for it to enter into and perform its obligations under this Agreement.

6.3. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS OR BUSINESS INTERRUPTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING THOSE UNDER CLAUSE 6.1, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY OR THEIR SUBCONTRACTORS EXCEED THE LESSER OF (i) THE TOTAL AMOUNT PAID TO NOMINET UNDER THE TERMS OF THIS AGREEMENT FOR THE IMMEDIATELY PRECEEDING 12 MONTH PERIOD, OR (ii) GBP100,000 (ONE HUNDRED THOUSAND POUNDS STERLING).

6.4. Disclaimer of Warranties. THE REGISTRAR TOOL KIT, REGISTRY SYSTEM AND ALL OTHER ITEMS PROVIDED BY NOMINET HEREUNDER ARE PROVIDED "AS-IS" AND WITHOUT ANY WARRANTY OF ANY KIND. NOMINET EXPRESSLY DISCLAIMS ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. NOMINET DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE REGISTRAR TOOL KIT WILL MEET REGISTRAR'S REQUIREMENTS, OR THAT THE OPERATION OF THE REGISTRAR TOOL KIT WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE REGISTRAR TOOL KIT WILL BE CORRECTED. FURTHERMORE, NOMINET DOES NOT WARRANT NOR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE REGISTRAR TOOL KIT OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SHOULD THE REGISTRAR TOOL KIT PROVE DEFECTIVE, REGISTRAR ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF REGISTRAR'S OWN SYSTEMS AND SOFTWARE.

6.4. Reservation of Rights. Nominet reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold or similar status, that it deems necessary, in its discretion; (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of Nominet, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) for violations of this Agreement, including, without limitation, the exhibits hereto; or (5) to correct mistakes made by Nominet or any Registrar in connection with a domain name registration. Nominet also reserves the right to place a domain name on registry hold, registry lock, or similar status during resolution of a dispute.

7. INSURANCE

7.1. Insurance Requirements. Registrar shall acquire, on or before the Effective Date, at least USD500,000 in comprehensive general liability insurance from a reputable insurance provider with a rating equivalent to an A.M. Best rating of "A" or better and shall maintain insurance meeting these requirements throughout the Term of this Agreement. Registrar shall provide a copy of their insurance policy or certificate to Nominet, current as of the Effective Date, upon execution of this Agreement, and from time to time thereafter upon Nominet's reasonable request. Such insurance shall entitle Nominet to seek compensation under such policy on behalf of Nominet and its subcontractors, and the directors, officers, employees, representatives, agents, and affiliates of each of them, in respect of all costs and damages (including reasonable legal fees) which any of them may suffer by reason of Registrar's failure to meet its indemnification obligations under this Agreement.

8. DISPUTE RESOLUTION

8.1. Dispute Resolution. Disputes arising under or in connection with this Agreement, including requests for specific performance, shall be resolved initially through negotiation between the Parties. In the event that disputes cannot be resolved through such negotiation, either party may refer the dispute to an independent adjudicator appointed by the Centre for Effective Dispute Resolution (CEDR) under the 'CEDR Solve Rules for Commercial Adjudication' (or any replacement thereof). Any costs of the adjudication, including any CEDR administration fee, will be split equally between the Parties, unless otherwise directed by the appointed adjudicator.

8.2. While a dispute referred to an adjudicator under clause 8.1 is being considered the Parties will continue as if this Agreement was still in full force and effect. Nominet may, however, impose particular reasonable restrictions on Registrar's ability to use the Registrar Tool Kit while the dispute is being considered by the appointed adjudicator, only where Nominet has initiated the dispute due to a breach of this Agreement by Registrar and provided those restrictions are reasonably relevant to the dispute at hand. Those restrictions may include, but are not limited to:

8.2.1. degrading the responsiveness of any Registry Services;

8.2.2. reducing any look-up thresholds or access to any Registry Services;

8.2.3. removing the ability to register new domains; or

8.2.4. imposing credit restrictions as per the Credit and Payment Terms and clause 4.3.

8.3. No action taken by either Party or by any adjudicator considering a complaint under clause 8.1. will affect either Party's legal rights, act as a block to any right or claim or act as an admission of anything, but while this Agreement continues to operate in accordance with clause 8.1., both sides are bound by this Agreement for that period (even if the decision is that the contract is ended and should be ended).

9. TERM AND TERMINATION

9.1. Term of the Agreement; Revisions.

9.1.1. The Term of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the provisions of this Agreement, shall expire on the last day of the calendar month which is two (2) years following the Effective Date. This Agreement shall automatically renew for additional successive two (2) year terms unless previously terminated by either party under the terms of this clause 9.

9.1.2. In the event that ICANN requires revisions to this form of Registry-Registrar Agreement, or Nominet elects to make changes to this form of the Registry-Registrar Agreement (in accordance with any ICANN processes for making such changes), such changes will automatically take effect and bind both Parties 30 calendar days' after Nominet formally notifies Registrar of the form of those changes, unless the Registrar elects to terminate this Agreement by giving Nominet notice within the 30 day period following Nominet's notice. In the event that Nominet does not receive such notice of termination from Registrar, Registrar shall be deemed to have agreed to the revised form of this Agreement at the end of the 30 day period following Nominet's notice.

9.2. Termination. This Agreement may be terminated as follows:

9.2.1. Termination For Cause. In the event that either party materially breaches any of its obligations under this Agreement and such breach is not substantially cured within thirty (30) calendar days after written notice thereof is given by the other party, then the nonbreaching party may, by giving written notice thereof to the other party, terminate this Agreement as of the date specified in such notice of termination.

9.2.2. Termination at Option of a Party. Either Party may terminate this Agreement at any time by giving the other Party thirty (30) calendar days' notice of termination.

9.2.3. Termination Upon Loss of Registrar's Accreditation. This Agreement shall immediately terminate in the event Registrar's accreditation by ICANN is terminated or expires without renewal.

9.2.4. Termination in the Event of Termination of Registry Agreement. This Agreement shall terminate in the event that Nominet's Registry Agreement with ICANN is terminated or expires without entry of a subsequent Registry Agreement with ICANN and this Agreement is not assigned under Subsection 10.1.1.

9.2.5. Termination in the Event of Insolvency or Bankruptcy. Either party may terminate this Agreement if the other party is adjudged insolvent or bankrupt, or if proceedings are instituted by or against a party seeking relief, reorganization or arrangement under any laws relating to insolvency, or seeking any assignment for the benefit of creditors, or seeking the appointment of a receiver, liquidator or trustee of a party's property or assets or the liquidation, dissolution or winding up of a party's business.

9.3. Effect of Termination. Upon the expiration or termination of this Agreement for any reason:

9.3.1. Nominet will complete the registration of all domain names processed by Registrar prior to the effective date of such expiration or termination, provided that Registrar's payments to Nominet for Fees are current and timely.

9.3.2. Registrar shall immediately transfer its sponsorship of Registered Names to another ICANN-accredited registrar in compliance with any procedures established or approved by ICANN.

9.3.3. All Confidential Information of the Disclosing Party in the possession of the Receiving Party shall be immediately returned to the Disclosing Party.

9.3.4. In the event of termination in accordance with the provisions of Subsections 9.1, 9.2.1, 9.2.2, 9.2.3 or 9.2.5, Nominet reserves the right to immediately contact any and all Registered Name Holders to facilitate the orderly and stable transition of Registered Name Holders to other ICANN-accredited registrars.

9.3.5. All fees owing to Nominet shall become immediately due and payable.

9.4. Survival. In the event of termination of this Agreement, the following shall survive: (i) Subsections 1, 2.6, 3.7, 4.2, 4.3, 5.1, 5.2, 6.1, 6.3, 6.4, 8.1, 8.2, 8.3, 9.4, 10.2, 10.3, 10.4, 10.6, 10.7, 10.8, 10.10 and 10.11 and (ii) the Registered Name Holder's

indemnification obligation under Subsection 3.5. Neither party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms.

10. MISCELLANEOUS

10.1. Assignments.

10.1.1. Assignment to Successor Registry. In the event the Nominet's Registry Agreement is terminated or expires without entry by Nominet and ICANN of a subsequent registry agreement, Nominet's rights under this Agreement may be assigned to a company with a subsequent registry agreement covering the Registry TLDs upon ICANN's giving Registrar written notice within sixty (60) calendar days of the termination or expiration, provided that the subsequent registry assumes the duties of Nominet under this Agreement.

10.1.2. Assignment in Connection with Assignment of Agreement with ICANN. In the event that Nominet's Registry Agreement with ICANN for the Registry TLDs is validly assigned, Nominet's rights under this Agreement shall be automatically assigned to the assignee of the Registry Agreement, provided that the assignee assumes the duties of Nominet under this Agreement. In the event that Registrar's accreditation agreement with ICANN for the Registry TLDs is validly assigned, Registrar's rights under this Agreement shall be automatically assigned to the assignee of the accreditation agreement, provided that the subsequent registrar assumes the duties of Registrar under this Agreement.

10.1.3. Other Assignments. Except as otherwise expressly provided in this Agreement, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and permitted assigns of the parties. Neither party shall assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.

10.2. Notices. Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service, or by fax during business hours) to the address or fax number, and marked for the attention of the person or office, as notified in writing to the other Party.

10.3. Third-Party Beneficiaries. This Agreement shall not be construed to create any obligation by either party to any non-party to this Agreement, including any holder of a Registered Name. Registrar expressly acknowledges that, notwithstanding anything in this Agreement to the contrary, it is not an intended third-party beneficiary of the Registry Agreement.

10.4. Relationship of the Parties. Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the parties.

10.5. Force Majeure. Neither party shall be liable to the other for any loss or damage resulting from any cause beyond its reasonable control (a "Force Majeure Event") including, but not limited to, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either party's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, and acts or omissions of persons for whom neither party is responsible. Upon occurrence of a Force Majeure Event and to the extent such occurrence interferes with either party's performance of this Agreement, such party shall be excused from performance of its obligations (other than payment obligations) during the first six months of such interference, provided that such party uses best efforts to avoid or remove such causes of nonperformance as soon as possible.

10.6. Amendments. No amendment, supplement, or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties.

10.7. Waivers. No failure on the part of either party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of either party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise or waiver of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Neither party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

10.8. Entire Agreement. This Agreement (including its exhibits, which form a part of it) constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

10.9. Counterparts. All executed copies of this Agreement are duplicate originals, equally admissible as evidence. This Agreement may be executed in counterparts, and such counterparts taken together shall be deemed the Agreement. A facsimile copy of a signature of a party hereto shall have the same effect and validity as an original signature.

10.10. Severance. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

10.11. Governing law and jurisdiction. This Agreement shall be governed by English law and the Parties submit to the exclusive jurisdiction of the English Courts, save in matters of enforcement of the judgment of an English Court, where the parties submit to the non-exclusive jurisdiction of the English Courts.

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