

# **NIRA Registrar Agreement**

Version 1.0, May 5, 2008

**BETWEEN**

**Nigeria Internet Registration Association**  
CAC/IT/ O. 21008

**AND**

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## Registrar Agreement

This Agreement dated the .....day of .....20..... is between the **Nigerian Internet Registration Association**, of 8, Funso Williams, Avenue, Iponri Alaka, Surulere, Lagos, here after referred to as **NIRA** (of which expression where the context so permits shall include its assigns and successors in title) of the First Part; and

.....

A legal person registered under the laws of the \_\_\_\_\_ hereafter referred to as the **Registrar** particularly described in (i) Of Schedule B (of which expression where the context so permits shall include its assigns and successors in title) of the Second Part.

### WHEREAS:

1. NIRA is a non-profit organisation that is the body charged with the management and administration of the Nigeria ccTLD .ng (the Registry);
2. NIRA is committed to exercising its responsibilities to the Registrar and the Nigerian Internet community in an open and transparent manner, and to apply standards and policies in a way, which are not arbitrary, unjust or inequitable.
3. The Registrar desires to be certified by NIRA as a domain name registrar;
4. Both parties agree to be bound by this Agreement and all other policies for the administration of the Nigerian ccTLD .ng; and
5. For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged

### IT IS AGREED BY THE PARTIES AS FOLLOWS:

#### DEFINITIONS

In this document unless expressed or implied to the contrary:

**SLD** means an .ng second level domain, that is, a name at the second level of the .ng domain name hierarchy (for example, com.ng).

**Accreditation Certificate** means a notice from NIRA certifying that the Registrar has met the Accreditation Criteria in respect of the designated SLD.

**Accreditation Criteria** means the requirements specified by NIRA from time to time in relation to the minimum criteria as set out in the NIRA Registrar Accreditation Policy, which must be satisfied by a person in order for that person to be a NIRA Accredited Registrar.

**Agreement** means the agreement between NIRA and the Registrar recorded in this document.

**Business Day** means Monday to Friday excluding public holidays in Nigeria

**ccTLD** means country code top level domain in the domain name hierarchy (for example, .ng in Nigeria, .uk in the United Kingdom).

**Centralised WHOIS Service** means the WHOIS Service of all SLDs which are made available to the public by NIRA.

**Commencement Date** means the date of this document.

**Confidential Information** means all information and materials about the other party or a third party, in any form, which comes into a party's possession pursuant to, or as a result of or in performance of this document, excluding information:

- a. which at the time of its first disclosure under this document was in the public domain; or
- b. which, after disclosure under this document, comes into the public domain otherwise than by disclosure in breach of this document; or
- c. which is received by either party from a third party who has the right to provide the information and which is not itself subject to confidentiality; or
- d. which was already in the party's possession or knowledge without restriction prior to its disclosure; or
- e. which the party is required by law to disclose.

**Constitutional Privacy Principles** means the principle guaranteed under Section 37 of the Constitution of the Federal Republic of Nigeria 1999.

**Domain Name** means a domain name in the SLD.

**Domain Name Application** means an application by a Registrant for a Domain Name license, or the renewal of an existing Domain Name license.

**Domain Name License** means the license to use a Domain Name for a specified period of time.

**Effective Control** means, unless otherwise stipulated in any NIRA Policies:

- a. in respect of a company incorporated pursuant to the provisions of the *Companies and Allied Matters Act 1990 or any other Law in the country the registrar resides:*

  - i. control of a majority of the board of directors of the Registrar; or
  - ii. control of more than 50% of the voting rights attaching to shares in the Registrar; or
  - iii. control of the disposal of more than 50% of the issued share capital of the Registrar.

- b. in all other cases, as determined by NIRA in the NIRA Policies.

**Events of Default** has the meaning given in clause 20.1.

**Fees** means the fees payable by the Registrar to NIRA set out in the NIRA Fees Policy.

**Intellectual Property Rights** means all and any patents, patent applications, trademarks, service marks, trade names, domain names, registered designs, unregistered design rights, copyrights, know how, trade secrets and rights in confidential information, URLs and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.

**Interface Tests** means the registrar/registry interface and other tests conducted by NIRA to ensure that the Registrar's system can properly interface with the Registry system for the processing of Registry Data.

**License Fee** means the fee payable by the Registrar to NIRA set out in the NIRA Fees Policy.

**NIRA Accredited** means to be accredited by NIRA as having met the Accreditation Criteria and in respect of the SLD, as evidenced by the issue of an Accreditation Certificate by NIRA to the Registrar.

**NIRA Policies** means those specifications and policies established and published by NIRA from time to time.

**NIRA Registrant Agreement** means the agreement to be entered into, or renewed, between NIRA and a Registrant in relation to an approved Domain Name.

**Registrant** means a holder of, or an applicant for, a Domain Name License, and includes its agent.

**Registrant Data** means the data submitted by the Registrar to the Registry under clause 10.1.

**Registrar** means the party to this document in its capacity as a registrar for the SLD.

**Registrars Best Practices Policy** means an industry code of practice, the development of which will be facilitated by NIRA, which together with other Policies, regulates or will regulate the practices of participants in the domain names industry towards other participants in the industry, or towards consumers in the industry.

**Registrar Registrant Agreement** means the agreement to be entered into, or renewed, between the Registrar and a Registrant in relation to an approved Domain Name.

**Registrar Services** means the provision of the services set out in this document in respect of the SLD, consisting of the following services:

- a. processing application to register a Domain Name on behalf of a Registrant;
- b. providing all associated services to such Registrants, including services relating to the maintenance, transfer, modification, renewal and cancellation of a Domain Name or Domain Name License; and
- c. providing services otherwise required by the NIRA Policies.

**Registry** means a database consisting of primary and secondary nameservers and WHOIS servers, containing the Registry Data and a mechanism for accessing that data, in relation to the SLD.

**Registry Access Protocol** means the protocol used to create modify or delete Domain Name registrations, as set out in the *NIRA Registry Technical Specification*, published by NIRA from time to time at its web site.

**Registry Data** means all data maintained in electronic form in the Registry, including without limitation; Zone File data, Registrant contact information; technical and administrative contact information; all other data submitted by registrars in electronic form; and other data concerning particular registrations or nameservers maintained in electronic form in the Registry database.

**Reseller** means a person appointed by the registrar to sell domain name services on its behalf.

**Term** means the period during which this agreement has effect, as set out in clause 1.1.

**WHOIS Service** means the protocol used to provide a public information service in relation to data in a registry.

**Zone File** means a file that contains the mapping between each domain name in the SLD and the Internet addresses of computers that can resolve sub-domains of the domain name to physical Internet addresses.

## **ARTICLE 1 DURATION OF AGREEMENT**

### **1.1 Duration**

This agreement has effect on and from the Commencement Date, and continues until it is terminated:

- 1.1.1 by NIRA under clause 1.2; or
- 1.1.2 by the Registrar under clause 1.2 or Article 20

### **1.2 Termination by Registrar**

- 1.2.1 The Registrar may, at any time, terminate this document by giving NIRA 30 days prior notice in writing of its intention to do so.

1.2.2 The provisions in Article 21 apply in relation to such termination.

1.2.3 For clarity, Fees paid by the Registrar to NIRA are not refundable, regardless of the time of such termination.

## **ARTICLE 2 REGISTRAR'S ACCREDITATION**

### **2.1 Requirement for Accreditation**

The Registrar must be NIRA Accredited for the duration of the Term.

### **2.2 Registrar Service**

Upon being NIRA Accredited, the Registrar is entitled to:

2.2.1 operate as a registrar in the SLD; and

2.2.2 provide Registrar Services in the SLD, on a non-exclusive basis.

### **2.3 on-Exclusivity**

The Registrar acknowledges and agrees that there is no limit upon NIRA as to the number of registrars, which NIRA may accredit.

### **2.4 Warranties**

The Registrar represents and warrants to NIRA:

2.4.1 on the Commencement Date, that it meets the Accreditation Criteria; and

2.4.2 as a continuing warranty during the Term that it continues to meet the Accreditation Criteria.

### **2.5 Continuous Disclosure**

The Registrar must promptly notify NIRA if the Registrar becomes aware:

2.5.1 that it does not meet any of the Accreditation Criteria; or

2.5.2 of any circumstance, fact or thing that affects its ability to continue to meet the Accreditation Criteria.

### **2.6 Acknowledgments**

The Registrar acknowledges that:

2.6.1 NIRA may begin accepting or processing Domain Name Applications by the Registrar on a date which is later than the Commencement Date; and

2.6.2 NIRA may post on its web site, the Registrar's name and contact information, and a link to the Registrar's web site.

## **ARTICLE 3 LOSS OF REGISTRAR'S ACCREDITATION**

### **3.1 Loss of Accreditation**

The Registrar's NIRA Accreditation is automatically terminated when this document terminates.

### **3.2 Suspension or Termination Accreditation**

NIRA may suspend or terminate the Registrar's NIRA Accreditation if NIRA considers that an Event of Default has occurred in respect of the Registrar.

### **3.3 Consequences of Loss of Accreditation**

- 3.3.1 In the event that the Registrar's Accreditation is terminated because an Event of Default occurred in respect of the Registrar, the Registrar must not apply to NIRA to be a NIRA Accredited Registrar from the date of such termination for a period as determined by NIRA, but not exceeding 12 months.
- 3.3.2 NIRA is entitled to waive the restriction referred to in clause 3.3.1.

## **ARTICLE 4 WARRANTIES**

### **4.1 Information Provided to NIRA**

The Registrar represents and warrants to NIRA that all written information and reports which it has furnished, or will furnish, to NIRA in connection with this document (including during the process of seeking to be Accredited):

- 4.1.1 are true, accurate and not misleading in all material respects, whether by omission or otherwise; and
- 4.1.2 where appropriate, contain forecasts and opinions all of which were made or formed after due and careful consideration on the part of its relevant officers based on the best information available to it and are fair and reasonable.

### **4.2 NIRA's Reliance**

The Registrar acknowledges that NIRA has entered into this document in reliance upon the representations and warranties in this agreement.

## **ARTICLE 5 USE OF NIRA NAME AND LOGO**

### **5.1 Grant of License**

NIRA grants to the Registrar a non-exclusive, worldwide, royalty-free license to:

- 5.1.1 state that it is accredited by NIRA as a registrar for the SLD;
- 5.1.2 use the logo specified by NIRA to indicate that the Registrar is accredited by NIRA as a registrar for the SLD; and
- 5.1.3 link to pages and documents within NIRA's web site, provided they are not framed by any other materials.

### **5.2 Other Use not Permitted**

- 5.2.1 Other than in accordance with clause 5.1, the Registrar is not permitted to use NIRA's name or logo or trademark.
- 5.2.2 The rights granted under this Article 5 are personal to the Registrar and must not be transferred or assigned or sub-licensed to any other person.

## **ARTICLE 6 GENERAL OBLIGATIONS OF REGISTRAR**

### **6.1 Registrar Services**

When performing the Registrar Services for the SLD, the Registrar must do so in accordance with this agreement.

## **6.2 Compliance with NIRA Policies**

- 6.2.1 Subject to clause 6.2.2, the Registrar must comply with all NIRA Policies, as if they were incorporated into, and form a part of, this agreement.
- 6.2.2 If, after the Commencement Date, NIRA:  
6.2.2.1. introduces new NIRA Policies; or  
6.2.2.2 makes changes to any existing NIRA Policies,  
then the Registrar must comply with those new or changed NIRA Policies as soon as practicable, but in any event within 7 days or as determined by the NIRA board after NIRA notifies the Registrar of the new or changed NIRA Policies.
- 6.2.3 NIRA may notify the Registrar of the new or changed NIRA Policies by:  
6.2.3.1 following the procedures described in Article 25; or  
6.2.3.2 posting the new or changed NIRA Policies on NIRA's website.
- 6.2.4 If the Registrar does not comply with any new or changed NIRA Policies within the stipulated period (referred to in clause 6.2.2), this failure alone will not cause the Registrar to be in breach of this document.

## **6.3 Compliance with Registrars Best Practice Policy**

NIRA will facilitate the development of a Registrars Best Practice Policy. When the Registrars Best Practice Policy is developed, then:

- 6.3.1 the Registrar must comply with the Registrars Best Practice Policy as if it were incorporated into, and forms a part of, this agreement; and
- 6.3.2 if any other law or regulation is promulgated by a proper authority within Nigeria and such law or regulations affect the practice of the Registrar, the Registrar agrees to be bound by such law or regulation.

## **6.4 Inconsistencies**

In the event of any inconsistencies between the provisions of this document and the provisions in the NIRA Policies and Registrars Best Practice Policy, then to the extent of the inconsistencies, the various documents will be interpreted in the following order of priority:

- 6.4.1 the NIRA Policies (highest level of priority); and  
6.4.2 the Registrar Best Practice Policies; and  
6.4.3 this agreement.

## **6.5 Limitation**

Subject to clause 6.4, nothing in this Article 6 limits or otherwise affects the Registrar's obligations as provided elsewhere in this agreement.

## **ARTICLE 7 PAYMENT OF FEES**

### **7.1 Obligation to Pay**

The Registrar must pay the Fees to NIRA in the manner set out in the NIRA Fees Policy.

### **7.2 Value Added Tax (VAT)**

- 7.2.1 All fees referred to in this agreement are exclusive of VAT, unless otherwise stated.
- 7.2.2 All applicable VAT must be paid by the Registrar to NIRA at the same time and in the same manner as the relevant fee is paid or given under this document.

### **7.3 Timely Payment**

The Registrar must make all payments to NIRA under this agreement in a timely manner, despite any dispute, which may exist between NIRA and the Registrar.

### **7.4 Interest on Late Payment**

The Registrar must pay interest on late payments to NIRA at:

- 7.4.1 the rate which is the aggregate of 2% per annum and the prevailing base lending rate by the Central Bank of Nigeria from time to time; or
- 7.4.2 if that rate is not available or cannot be determined, such other rate which may be reasonably determined by NIRA.

### **7.5 Set-Off**

The Registrar must not exercise any right of set-off on any account as against NIRA.

## **ARTICLE 8 APPLICATION FOR DOMAIN NAME LICENCE**

### **8.1 Consideration by Registrar**

Whenever the Registrar receives a Domain Name Application, the Registrar must:

- 8.1.1 consider whether the Domain Name Application complies with the NIRA Policies; and
- 8.1.2 use reasonable endeavors to verify the information provided to the Registrar in the Domain Name Application.

### **8.2 Compliance with NIRA Policies**

Where the Registrar:

- 8.2.1 is satisfied that a Domain Name Application complies with the NIRA Policies, the Registrar must approve the Domain Name Application; or
- 8.2.2 is not satisfied that a Domain Name Application complies with the NIRA Policies, the Registrar must reject the Domain Name Application.

### **8.3 Approved Domain Name Applications**

The Registrar must, in relation to each approved Domain Name Application:

- 8.3.1 ensure that the Registrant is bound by the NIRA Registrant Agreement in respect of that approved Domain Name; and
- 8.3.2 thereafter submit the Registrant Data to the Registry.

### **8.4 Final Check by NIRA**

The Registrar acknowledges that even if the Registrar has approved a Domain Name Application, that Domain Name Application may still be rejected by the NiRA in performing the final integrity checks.

### **8.5 Rejected Domain Name Applications**

The Registrar must, in relation to each rejected Domain Name Application, immediately notify the Registrant that the Domain Name Application has been rejected, and provide the Registrant with written reasons for such rejection.

**ARTICLE 9  
REGISTRANT AGREEMENTS**

**9.1 Registrar Registrant Agreement**

The Registrar must:

- 9.1.1 enter into a binding and enforceable Registrant Agreement with each of its Registrants upon approval of the Domain Name Application; and
- 9.1.2 comply with the provisions of the Registrant Agreements.

**9.2 NIRA Registrant Agreement**

The Registrar must:

- 9.2.1 ensure that the Registrant endorses the NIRA Registrant Agreement with each of its Registrants upon approval of the Domain Name Application; and
- 9.2.2 comply with the provisions of the Registrant Agreements.

**9.3 NIRA Provisions**

All Registrar Registrant Agreements must contain:

- 9.3.1 the provisions set out in Schedule A; and
- 9.3.2 in a prominent location, a summary of the main provisions in this Agreement.

**9.4 Inconsistent Terms**

Subject to any inconsistency between the following documents (in which case clause 6.4 will apply to resolve the inconsistency), the Registrar must not make any contract or arrangement, or arrive at any understanding with a Registrant, which contains terms or conditions, which are inconsistent with the provision of:

- 9.4.1 this Agreement; and
- 9.4.2 any NIRA Policies; and
- 9.4.3 the Registrar Best Practices Policy.

**9.5 Make Information Available to Registrant**

The Registrar must, at NIRA's request, inform its Registrants by email about new or changed NIRA Policies or Code of Practice.

**9.6 Registrar's Agency**

The Registrar agrees and covenants to act as agent for NIRA for the sole purpose, but only to the extent necessary, to enable NIRA to receive the benefit of rights and covenants conferred to them under the NIRA and Registrar Registrant Agreement.

**ARTICLE 10  
REGISTRANT DATA**

**10.1 Submit to Registry**

In respect of each approved Domain Name Application, the Registrar must promptly submit to the Registry, or must place in the Registry database, the mandatory information required under the Registry Access Protocol.

**10.2 Updated Registrant Data**

The Registrar must, immediately after receiving any updated Registrant Data information from the Registrant, submit the updated Registrant Data to the Registry, or place the updated Registrant Data in the Registry database.

### **10.3 Access to Registrant Data**

The Registrar must not sell or otherwise grant access to any Registrant Data to any person, other than in order to comply with its obligations under this document, unless:

- 10.3.1 authorized by NIRA; and
- 10.3.2 in compliance with any conditions of use specified by NIRA; and
- 10.3.3 in compliance with any NIRA Policies.
- 10.3.4 In compliance with the laws of Federal Republic of Nigeria

### **10.4 Information to be Publicly Available**

The Registrar must ensure that a document containing the following information be publicly available, and be easily accessible to the public (such as through its web site):

- 10.4.1 the terms and conditions of the Registrant Agreement;
- 10.4.2 if the document is made available through the Registrar's web site, it must contain the NIRA logo and link to the NIRA homepage;
- 10.4.3 the service levels provided to Registrants and a statement of commitment to those service levels.

## **ARTICLE 11 TRANSFER BETWEEN REGISTRARS**

### **11.1 Transfers**

The Registrar must ensure that its Registrant can easily transfer registered Domain Names to another registrar in accordance with the NIRA Policies.

### **11.2 Acknowledgement**

The parties acknowledge that the NIRA Policies will include, but are not limited to, such matters as:

- 11.2.1 the maximum fees chargeable by the Registrar;
- 11.2.2 when fees are not chargeable by the Registrar;
- 11.2.3 the conditions pursuant to which the Registrar must transfer; and
- 11.2.4 the conditions pursuant to which the Registrar does not have to transfer.

## **ARTICLE 12 ON -SOLICITATION OF REGISTRANTS**

### **12.1 Use of Registry or Centralised WHOIS Service Information**

The Registrar must not use information obtained from the Registry or NIRA's Centralised WHOIS Service to solicit business from, or to otherwise make contact with, a Registrant, unless:

- 12.1.1 the Registrar is the registrar of the Registrant, as identified in the Registry; or
- 12.1.2 the Registrant has previously contacted the Registrar in respect of the registration of a Domain Name; or
- 12.1.3 the Registrant is otherwise a customer of the Registrar and has authorized the Registrar to use information obtained to accept business from or contact with the Registrant; or
- 12.1.4 both the Registrant and the Registrant's registrar (as identified in the Registry) have consented in writing to such use of the information.

### **12.2 No Application**

The Registrar must not submit a Domain Name Application to the Registry or provide any other Registrar Services to a Registrant unless:

- 12.2.1 the Registrar is the registrar of the Registrant, as identified in the Registry; or
- 12.2.2 the Registrant has asked the Registrar to provide such services.

**ARTICLE 13**  
**OTHER OBLIGATIONS OF THE REGISTRAR**

**13.1 Positive Covenants**

The Registrar must:

- 13.1.1 act in good faith in its dealings with NIRA, other registrars and each Registrant;
- 13.1.2 do all things necessary to ensure that during the Term, it continues to meet the Accreditation Criteria;
- 13.1.3 immediately give NIRA notice of any security breaches affecting the Registrar or any part of its systems;
- 13.1.4 within two Business Days, give notice to NIRA if the Registrar becomes aware or has cause to believe that a Registrant is no longer entitled to a Domain Name License;
- 13.1.5 provide to NIRA (at NIRA's request at all times), all information related to each approved Domain Name, including information relating to the renewal, transfer, modification, or cancellation of a Domain Name License;
- 13.1.6 within two Business days, give notice to NIRA if the Registrar becomes aware or has cause to believe that a particular Registrant is in breach of, or a particular Domain Name breaches, the NIRA Policies;
- 13.1.7 accurately represent to the Registrants, the media, any government entity and the general public, the NIRA Policies and the Registrar's relationship with and status in the domain name infrastructure relative to NIRA;
- 13.1.8 keep NIRA informed of any changes in the information supplied to NiRA, including information supplied on behalf of Registrants and all changes of the Registrar's personal or company details;
- 13.1.9 provide to NIRA from time to time, upon NIRA's request, all information in relation to the Registrar and the operation of the registrar's business as NIRA may reasonably request;
- 13.1.10 within two Business Days, give notice to NIRA of any impending claims, litigation, proceedings or material disputes against the Registrar by any person or authority relating directly or indirectly to its provision of Registrar Services including arbitration and administrative or governmental investigation;
- 13.1.11 continue to hold all material statutory licenses, consents and authorisations necessary to perform its obligations under this document; and
- 13.1.12 comply with all applicable law.

**13.2 Other Covenants**

The Registrar must not:

- 13.2.1 approve any Domain Name Application, nor submit to or place in the Registry, any Registrant Data that relates to a Domain Name, which does not comply with the NIRA Policies;
- 13.2.2 use NIRA's intellectual or industrial property other than as contemplated in this document;

- 13.2.3 be involved in any activity which involves the acquisition or accumulation of Domain Names which are not connected to the provision of Registrar Services under this document, for the purposes of removing them from the availability of others, transferring them for a direct or indirect, immediate or deferred gain or profit or for any other reason which can be considered to be done in bad faith;
- 13.2.4 be involved in any activity which may directly or indirectly bring NIRA into disrepute;
- 13.2.5 not represent to any person that the Registrar enjoys access to the Registry that is superior to that of any other NIRA Accredited registrar;
- 13.2.6 use any personal information held in relation to a Registrant or other person other than in accordance with the NIRA Policies, this agreement, and all applicable law; or
- 13.2.7 use any information belonging to or regarding NIRA other than in accordance with this agreement.

### **13.3 Insurance**

The Registrar represents and warrants to NIRA that it has in place, and will maintain during the Term the following insurance coverage:

- 13.3.1 products liability/performance bond;
- 13.3.2 business insurance (All Risk, contents, fire, damage, perils, burglary, riots, business interruption);

the types and levels of which a prudent provider of Registrar Services would have in place.

### **13.4 Bundled Services**

If the Registrar provides bundled services to its customers (which include the provision of services relating to Domain Names), then the Registrar must specify the price of each Domain Name License. No Registrar is allowed to ONLY offer bundled services, it must also indicate the price for a domain name registration in addition to its bundled service for benefit of clients that ONLY want domain name registrations.

### **13.5 Enquiries and Complaints**

The Registrar must act promptly to investigate all enquiries and complaints from or regarding any Registrant in relation to a Domain Name or a Registrant Agreement, in respect of which the Registrar is identified as the registrar in the Registry.

## **ARTICLE 14 PRIVACY**

The Registrar must comply with the Constitutional Privacy Principles; or in the event that NIRA adopts an approved privacy code, consents to being bound to any such privacy code.

## **ARTICLE 15 INTELLECTUAL PROPERTY RIGHTS**

### **15.1 Acknowledgement on Registrant Data**

The Registrar and NIRA both acknowledge and agree that Registrant Data:

- 15.1.1 are not proprietary information; and
- 15.1.2 for clarity, are not owned by the Registrar or NIRA; and
- 15.1.3 are held by NIRA for the benefit of the Nigerian public.

## **15.2 Registrant Data**

The Registrar is not entitled to claim any Intellectual Property Rights in the Registrant Data.

## **ARTICLE 16 OBLIGATIONS OF NIRA**

### **16.1 General obligations**

With respect to all matters that impact the rights, obligations or role of the Registrar, NIRA must during the Term:

- 16.1.1 exercise its responsibilities in good faith and in an open and transparent manner; and
- 16.1.2 not unreasonably restrain competition and, to the extent possible, promote and encourage robust competition; and
- 16.1.3 not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably; and
- 16.1.4 not single out the Registrar for disparate treatment unless justified by substantial and reasonable cause; and
- 16.1.5 ensure, through its reconsideration and independent review policies adequate opportunity for the Registrar to contribute to NIRA's standards, policies, procedures or practices.

### **16.2 Assignment to New Authority**

In the event that another entity becomes the authority for the .ng namespace, NIRA will transfer all its rights, obligations and liabilities under this document to the other entity.

## **ARTICLE 17 CONFIDENTIALITY**

### **17.1 Confidentiality Security and Reproduction**

Each party must:

- 17.1.1 keep confidential; and
- 17.1.2 take reasonable steps to ensure that the party's employees do not disclose to a third party; and
- 17.1.3 maintain proper and secure custody of; and
- 17.1.4 not use or reproduce in any form, any Confidential Information belonging to the other party without the written consent of the other party or as required by law.

### **17.2 Delivery or Destruction of Confidential Information**

A party must immediately on receipt of a request from the other party in accordance with the other party's rights under this document:

- 17.2.1 deliver all Confidential Information belonging to the other party and all changes to, reproductions of, extracts from and notes regarding that Confidential Information, in any form; or
- 17.2.2 destroy the Confidential Information and, if it is stored in other media, by erasing it from the media on which it is stored so that the Confidential Information is incapable of being revived; and
- 17.2.3 provide a statutory declaration to the other party that all Confidential Information has been delivered or destroyed in accordance with this clause.

## **ARTICLE 18 LIMITATIONS OF LIABILITY**

### **18.1 Effect of Legislation**

Nothing in this Article 18 is to be read as excluding, restricting or modifying the application of any legislation, which by law cannot be excluded, restricted or modified.

### **18.2 Exclusion of Implied Warranties**

Any representation, warranty, condition or undertaking which (but for this clause 18.2) would be implied in this document by law, is excluded to the fullest extent permitted by law.

### **18.3 General Exclusion of Liability**

NIRA is not liable to the Registrar for any claim arising under this agreement in contract, tort, and statute or otherwise, except where NIRA has acted in bad faith.

### **18.4 Specific Performance**

Either party may seek specific performance of any provision in this agreement, provided that the party seeking such specific performance is not in material breach of its obligations under this agreement.

### **18.5 Limitation of Liability**

The liability of NIRA for breach of a condition or warranty implied by the any law in Nigeria in relation to the supply of goods or services not of a kind ordinarily acquired for personal domestic or household use or consumption is limited, at NIRA's option, to:

18.5.1 in the case of goods – the replacement of the goods, the supply of equivalent goods, the payment of the cost of replacing the goods or the payment of the cost of acquiring equivalent goods; or

18.5.2 in the case of services – the supplying of the services again or the payment of the cost of having the services supplied again.

### **18.6 Aggregate Liability**

Without reducing the effect of any other provisions in this Article 18, NIRA's aggregate liability to the Registrar will not, in any event, exceed the Fees payable by the Registrar to NIRA in respect of the first 12 months of the Term.

### **18.7 Consequential Losses**

Despite any other provision of this document and to the fullest extent permitted by law, NIRA will not be liable to the Registrar for consequential, indirect or special losses or damages of any kind (including, without limitation, loss of profit, loss or corruption of data, business interruption or indirect costs) suffered by the Registrar as a result of any act or omission whatsoever of NIRA, its employees, agents or sub-contractors.

## **ARTICLE 19 DISPUTE RESOLUTION**

Any question, dispute difference or controversy arising out of, concerning, in consequence of in relation to, or in connection with this Agreement or as to the interpretation of any of the provisions thereof or the validity or invalidity of the performance under it which cannot be settled by mutual negotiation between the parties shall, at the request of either of the parties hereto, be submitted to an arbitrator agreed upon by the parties and where they are unable to reach an agreement in accordance with the Arbitration and Conciliation Act Cap 19 laws of the Federation (LFN) 1990.

**ARTICLE 20**  
**DEFAULT AND TERMINATION**

**20.1 Events of Default**

In this document, **Event of Default** means, in relation to a party, any of the following events:

- 20.1.1 where a party becomes bankrupt; or
- 20.1.2 the Registrar does not continue to meet the Accreditation Criteria; or
- 20.1.3 any amount due and payable by the party under this document is in arrears for 30 days after formal demand has been made; or
- 20.1.4 the party commits a breach of this document which is not capable of being remedied; or
- 20.1.5 the party commits a breach of this document and fails to rectify that breach within 30 days after receipt of written notice specifying the breach and requiring rectification; or
- 20.1.6 if clause 20.2 applies.

**20.2 Consequences of Default**

At any time following an Event of Default, the non-defaulting party may, by notice in writing to the party do all or any of the following:

- 20.2.1 demand that all money actually or contingently owing under this agreement are immediately due and payable by the party and the party must immediately repay those moneys; or
- 20.2.2 demand that the party must pay to the non defaulting party interest at the rate set out in clause 7.4, computed on the amount overdue during the period of default and the party must immediately pay such interest; or
- 20.2.3 declare that the obligations of the non defaulting party under this document cease and the non defaulting party is no longer obliged to perform any obligations under this agreement; or
- 20.2.4 if the defaulting party is the Registrar, NIRA may demand that the Registrar pay the reasonable expenses incurred by NIRA as a result of any breach of this agreement by the Registrar and the service of notices as required by this clause, and the Registrar must immediately pay those expenses; or
- 20.2.5 terminate this Agreement.

**ARTICLE 21**  
**CONSEQUENCES OF TERMINATION**

**21.1 Rights and Obligations on Termination**

If this agreement is terminated for any reason, in addition to and without prejudice to any other rights, powers or remedies provided by law:

- 21.1.1 each party is released from its further obligations under this agreement, except those provisions of this agreement which are expressly intended to survive termination; and
- 21.1.2 each party retains the rights it had against the other party in respect of any past breach.

**21.2 Confidential Information**

If this document is terminated, then a party must immediately on receipt of a request from the other party:

- 21.2.1 deliver all Confidential Information belonging to the other party and all changes to, reproductions of, extracts from and notes regarding that Confidential Information, in any form; or
- 21.2.2 destroy the Confidential Information and, if it is in the form of computer software, by erasing it from the magnetic media on which it is stored so that the Confidential Information is incapable of being revived; and
- 21.2.3 provide a statutory declaration to the other party that all Confidential Information has been delivered or destroyed in accordance with this clause.

### **21.3 Survival**

For clarity, each of the party's rights and obligations in this Article 21 survives termination of this agreement.

## **ARTICLE 22 PROHIBITION OF ASSIGNMENT**

### **22.1 No Assignment**

The Registrar must not:

- 22.1.1 sell, transfer, delegate, assign, license; or
- 22.1.2 mortgage, charge or otherwise encumber any right under this agreement to any person (**Proposed Assignee**), or permit a Proposed Assignee to assume any obligation under this agreement without the prior written consent of NIRA.

### **22.2 No Change of Control**

22.2.1 Subject to clause 22.2.2, the Registrar:

22.2.1.1 must ensure that there is no change of Effective Control of the Registrar without the approval of NIRA; and

22.2.1.2 acknowledges and agrees that a change of Effective Control of the Registrar will be regarded as an Event of Default, whether such change is within or beyond the control of the Registrar.

22.2.2 Clause 22.2.1 does not apply to the Registrar if it is or becomes a company in respect of which marketable securities are quoted on an official stock exchange in Nigeria, or on any other stock exchange approved by NIRA.

### **22.3 Fees and Expenses**

The Registrar must pay all fees and expenses (including legal fees on a solicitor/own client basis) incurred by NIRA in connection with the proposed assignment and the investigation of the Proposed Assignee, whether or not consent is granted.

### **22.4 Details**

The Registrar must deliver to NIRA:

- 22.4.1 the name, address and occupation (if applicable) of the Proposed Assignee;
- 22.4.2 two written references as to financial circumstances of the Proposed Assignee;
- 22.4.3 an agreement in a form approved by NIRA, executed by the Proposed Assignee, in which the Proposed Assignee agrees to perform the obligations of the Registrar under this document; and

22.4.4 if required by NIRA, a guarantee in a form approved by NIRA executed by persons approved by NIRA, guaranteeing the performance of the Proposed Assignee's obligations.

## **ARTICLE 23 GENERAL**

### **23.1 Amendment**

This agreement may only be varied or replaced by a document duly executed by the parties.

### **23.2 Entire Understanding**

This agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this agreement and have no effect.

### **23.3 Further Assurance**

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this agreement.

### **23.4 Legal Costs and Expenses**

Each party must pay its own legal costs and expenses in relation to the negotiation, preparation and execution of this agreement and other documents referred to in it, unless expressly stated otherwise.

### **23.5 Waiver and Exercise of Rights**

23.5.1 A single or partial exercise or waiver of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.

23.5.2 No party will be liable for any loss or expenses incurred by another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

### **23.6 Time of the Essence**

Time is of the essence as regards all dates, periods of time and times specified in this document.

## **ARTICLE 24 NOTICES**

### **24.1 Service of Notice**

A notice or other communication required or permitted, under this agreement, to be served on a person must be in writing and must be served using at least **two** of the following methods:

24.1.1 personally on the person;

24.1.2 by leaving it at the person's current address for service;

24.1.3 by posting it by prepaid post addressed to that person to the person's current postal address for service; or

24.1.4 by email to the person's current email address for service.

### **24.2 Particulars for Service**

24.2.1 The particulars for service of NIRA are:

Address: 8, Funsho Williams Avenue,  
Iponri Alaka, Surulere,  
Lagos Nigeria

Postal address: As above  
Email address: accreditation@nira.org.ng  
Attention: President

- 24.2.2 The particulars for service of Registrar are set out in item (ii) of Schedule C.
- 24.2.3 Any party may change its particulars for service by giving notice to the other party.
- 24.2.4 If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

## **ARTICLE 25 INTERPRETATION**

### **25.1 Governing Law and Jurisdiction**

This agreement is governed by and is to be construed in accordance with the laws of the Federal Republic of Nigeria. Each party irrevocably and unconditionally submits to the nonexclusive jurisdiction of the courts of Nigeria and waives any right to object to proceedings being brought in those courts.

### **25.2 Persons**

In this agreement, a reference to:

- 25.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- 25.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and
- 25.2.3 a body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

### **25.3 Joint and Several**

If a party consists of more than one person, this agreement binds them jointly and each of them severally.

### **25.4 Legislation**

In this agreement, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

### **25.5 This Agreement, Clauses and Headings**

In this agreement:

- 25.5.1 a reference to this or other document includes this agreement, NIRA Policies and Registrar Best Practices Policy at the Commencement Date and as varied or replaced from time to time;
- 25.5.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this agreement all of which are deemed part of this agreement.
- 25.5.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 25.5.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this agreement; and
- 25.5.5 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

### **25.6 Severance**

- 25.6.1 If a provision in this agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

25.6.2 If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this agreement.

**25.7 Counterparts**

This agreement may be executed in any number of counterparts all of which taken together constitute one instrument.

**25.8 Currency**

In this agreement, the currency of transaction is the Nigerian Naira.

**25.9 Business Day**

If a payment or other act is required by this agreement to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

**25.10 Number and Gender**

In this agreement, a reference to:

26.10.1 the singular includes the plural and vice versa; and

26.10.2 a gender includes the other genders.

**25.11 Property**

In this agreement, a reference to any property or assets of a person includes the legal and beneficial interest of that person in those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise.

IN WITNESS WHEREOF, the parties have signed this Agreement on the day, month and year first above mentioned.

The Common Seal of the NIRA is hereby affixed in execution of this agreement

\_\_\_\_\_  
**Common Seal**

\_\_\_\_\_  
**President**

In the Presence of:

Name:

Address:

Occupation:

Signature:

The Common Seal of the Registrar is hereby affixed in execution of this agreement

\_\_\_\_\_  
**Common Seal**

\_\_\_\_\_  
**Director**

In the Presence of:

Name:

Address:

Occupation:

Signature:

# Schedule A – Registrar Registrant Agreement – Mandatory Provisions

## Notes:

This document contains the **minimum** terms and conditions for a Registrant Agreement. It does not purport to be, and is not, a comprehensive Registrant Agreement. This document assumes that capitalised words have the meanings given in the Registrar Agreement

The Registrant Agreement must contain the following **minimum** terms and conditions:

## 1. REGISTRAR'S AGENCY

The Registrar agrees and covenants to act as agent for NIRA for the sole purpose, but only to the extent necessary, to enable NIRA to receive the benefit of rights and covenants conferred to them under this Registrant Agreement.

## 2. REGISTRATION OF DOMAIN NAMES

- 2.1 A Domain Name Application must be in the form prescribed under the NIRA Policies. The Domain Name must comply with the NIRA Policies.
- 2.2 The Registrar and the Registrant do not have any proprietary right arising from:
  - 2.2.1 the registered Domain Name; or
  - 2.2.2 the entry of a Domain Name in the Registry Database.
- 2.3 All personal information pertaining to the Registrant is held by NIRA for the benefit of the Nigerian public.

## 3. CONSENT TO USE REGISTRANT INFORMATION

The Registrant grants to:

- 3.1 NIRA, the right to publicly disclose to third parties, all information relating to the registered Domain Names in accordance with the NIRA Policies.
- 3.2 the Registrar, the right to disclose to NiRA, all information which are reasonably required by NiRA in order to register the Domain Name in the Registry; and
- 3.3 NiRA, the right to publicly disclose to third parties, all information relating to the registered Domain Name to enable NiRA to maintain a public WHOIS service, provided that such disclosure is consistent with:
  - 3.4 the Constitutional Privacy Principles; and
  - 3.5 NIRA's Policies.

## 4. CHANGE OF REGISTRARS

- 4.1 The Registrar must ensure that the Registrant can easily transfer registered Domain Names to another registrar in accordance with the NIRA Policies. The NIRA Policies include, but are not limited to, such matters as:
  - 4.1.1 the conditions pursuant to which the Registrar must transfer; and
  - 4.1.2 the conditions pursuant to which the Registrar does not have to transfer.
- 4.2 In the event that:
  - 4.2.1 the Registrar is no longer a registrar; or
  - 4.2.2 the Registrar's NIRA Accreditation is suspended or terminated; or
  - 4.2.3 the Registrar Agreement is terminated by NIRA, the Registrant is responsible for transferring the registered Domain Name to a new registrar in accordance with the

NIRA Policies within 30 days of written notice being provided to the Registrant by NIRA.

- 4.3 In the event that the Registrar Agreement between NIRA and the Registrar is terminated, the Registrar must not charge the Registrant any fee for the transfer of the registered Domain Name to another registrar.

## **5. REGISTRAR'S OBLIGATIONS**

- 5.1 The Registrar must immediately give written notice to the Registrant if:
  - 5.1.1 the Registrar is no longer a registrar; or
  - 5.1.2 the Registrar's NIRA Accreditation is suspended or terminated; or
  - 5.1.3 the Registrar Agreement is terminated by NIRA.
- 5.2 NIRA may post notice of:
  - 5.2.1 the fact that the Registrar is no longer a registrar;
  - 5.2.2 the suspension or termination of a Registrar's NIRA Accreditation; or
  - 5.2.3 the termination of the Registrar Agreement between NIRA and the Registrar on its web site and may, if it considers appropriate, give such notice to the Registrant.

## **6. REGISTRANT'S OBLIGATIONS**

- 6.1 Throughout the Term of the Registrant Agreement, the Registrant must:
  - 6.1.1 comply with the NIRA Policies;
  - 6.1.2 give notice to NiRA, through the Registrar, of any change to any information in the Registrant Data.
- 6.2 The Registrant must not, directly or indirectly, through registration or use of its Domain Name or otherwise:
  - 6.2.1 register a Domain Name for the purpose of selling it;
  - 6.2.2 register a Domain Name for the purpose of diverting trade from another business or web site;
  - 6.2.3 deliberately register misspellings of another entity's company or brand name in order to trade on the reputation of another entity's goodwill; and
  - 6.2.4 register a Domain Name and then passively hold a Domain Name License for the purpose of preventing another registrant from registering it.
- 6.3 The Registrant must not in any way:
  - 6.3.1 transfer or purport to transfer a proprietary right in any domain name registration;
  - 6.3.2 grant or purport to grant a registered domain name as security; or
  - 6.3.3 encumber or purport to encumber a domain name registration.

## **7. DISPUTE RESOLUTION**

7.1 NIRA currently has in place a dispute resolution policy called NIRA Dispute Resolution Policy which applies in the event of disputes between a registrar and a registrant, or between a registrant and a third party, in relation to entitlements to domain names in the .ng name space. The NDRP binds the Registrar and the Registrant as if it were incorporated in the Registrant Agreement.

7.2 The Registrant acknowledges that NIRA may develop and implement other dispute resolution policies which are accessible by the Registrant as an alternative and further to any complaints handling procedure prescribed by the Registrar. Such policies bind the Registrar and the Registrant as if they were incorporated in the Registrant Agreement.

## **8. REGISTRANT WARRANTIES**

8.1 The Registrant warrants that it meets, and continues to meet, the eligibility criteria prescribed in NIRA Policies for registering a Domain Name. In the event that the Registrant ceases to meet such eligibility criteria, the Domain Name License may be terminated by either the Registrar or NIRA.

8.2 The Registrant warrants that it has not previously submitted a domain name which is the same as the Domain Name for registration with another registrar where:

- 8.2.1 the Registrant is relying upon the same eligibility criteria for both domain names; and
- 8.2.2 the Domain Name has previously been rejected by the other registrar.

## **9. LIABILITIES**

9.1 The Registrant must not pursue any claim against NIRA, and NIRA is not liable for any direct, indirect, special, punitive, exemplary or consequential damages, including but not limited to damages resulting from loss of use, lost profits, lost business revenue or third party damages arising from any breach by the Registrar of its obligations under the Registrant Agreement or the Registrar Agreement between NIRA and the Registrar.

9.2 The Registrant acknowledges and agrees that if the Registrar has any outstanding fees owing to NIRA, entitling NIRA to terminate the Registrar Agreement between NIRA and the Registrar, NIRA may in its sole discretion terminate the Registrar Agreement.

9.3 The Registrant agrees that NIRA is not responsible for the use of any Domain

Name in the Registry database and that NIRA is not responsible in any way for any conflict or dispute with or any actual or threatened claim against a Registrar or Registrant, including one relating to a registered or unregistered trademark, a corporate, business or other trade-name, rights relating to a name of an individual or other intellectual property rights of a third party or relating to the defamation or unlawful discrimination with respect to any other person.

9.4 Notwithstanding any other provision of this document and to the fullest extent permitted by law, NIRA will not be liable to the Registrant for consequential, indirect or special losses or damages of any kind (including, without limitation, loss of profit, loss or corruption of data, business interruption or indirect costs) suffered by the Registrant as a result of any act or omission whatsoever of NIRA, its employees, agents or sub-contractors.

9.5 Nothing in this document is intended to exclude the operation of any law of the Federal Republic of Nigeria.

## **Schedule B - Table of Particulars**

### **(i) REGISTRAR**

Name:

Company Registration Number:

Address:

### **(ii) PARTICULARS FOR SERVICE**

Street Address:

Postal Address:

Facsimile number:

Email address:

Attention: