

HEADS of AGREEMENT

.mu ccTLD

This Heads of Agreement (the "Communication") is entered into, effective on the date signed below by and between the Government of Mauritius (the "Government"), represented herein by the Information and Communication Technologies Authority ("ICTA") on one hand, and Internet Direct Limited ("IntD"), represented by its Managing Director, Yann Kwok on the other hand. IntD is an entity incorporated in Mauritius and the entity listed as the delegated Sponsoring Organisation for the .mu country code Top Level Domain ("ccTLD") in the Internet Assigned Numbers Authority's (the "IANA") root zone WHOIS.

This Communication is not a redelegation agreement, both parties acknowledge they have no clearly defined rights and are unable to offer consideration, nor is this Communication intended to be an enduring document. This communication is a transitional document drafted to serve as a memorandum of the good faith steps being taken to align the management of the .mu ccTLD with a global best practice model, applicable legislation and the ICTA's stated public policy objectives related to the .mu ccTLD. Both parties agree that the undertakings herein are required to be completed in advance of a submission to the IANA for a formal redelegation of the .mu ccTLD. Both parties have agreed in principle that the undertakings below are necessary to ensure the long term stability of the .mu ccTLD and are prerequisites to a transition in administration and a transfer of the technical registry function.

Recitals

Whereas; the International Standards Organization ("ISO") maintenance agency has assigned Mauritius the two letter code ".mu" as the ISO-3166-1 code.

Whereas; the Internet Assigned Numbers Authority ("IANA") adopted the ISO-3166-1 list as the basis for delegating authority for administrative control over portions of the Domain Name System ("DNS") geographically.

Whereas; the initial IANA delegations of Internet Top Level Domains ("TLD's") were made on the basis of IANA RFC1591, a document which defines the administrator of a TLD as a "trustee" of the TLD on behalf of the applicable local Internet community.

Whereas; a ccTLD is not the property of the sovereign, however in any transition discussion the Internet Corporation for Assigned Names and Numbers ("ICANN"), as the entity performing the IANA function, has advised that "the desires of the government of a

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country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions”.

Whereas; the Government of Mauritius passed legislation by way of introduction of the ICTA Act of 2001 which provides that the ICTA “authorise or regulate the registration, administration and management of domain names for Mauritius”; and that the Internet Management Committee (“IMC”) “administer domain names in the context of the development of the information and communication industry”

Whereas; the trustee of a country code TLD (ccTLD) has two primary responsibilities in the administration of a ccTLD;

1. maintaining the stability and interoperability of a ccTLD with the global DNS and;
2. establishing policy for the TLD which is consistent with the culture, customs and desires of the applicable community, providing those policies don't conflict with item 1.

Whereas; the evolving Global Best Practice model for administration of ccTLD recommends separation of Policy Development from core technical function and commercial exploitation.

Whereas; the .mu ccTLD is part of the global DNS, that this global naming system must be administered in the public or common interest.

Whereas; Section 16 of the ICTA ACT of 2001 defines the Objects of the Authority to be:

1. to democratise access to information taking into account the quality, diversity and plurality in the choice of services available through the use of information and communication technologies;
2. to create a level playing field for all operators in the interest of consumers in general;
3. to license and regulate the information and communication services;
4. to ensure that information and communication services including telecommunication services are reasonably accessible at affordable cost nationwide and are supplied as efficiently and economically as practicable and at performance standards that reasonably meet the social, educational, industrial, commercial and other needs of Mauritius;

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5. to encourage the optimum use of information and communication technologies in business, industry and the country at large, the introduction of new technology and the investment in infrastructure and services;
6. to promote the efficiency and international competitiveness of Mauritius in the information and communication sector;
7. to further the advancement of technology, research and development relating to information and communication technologies through modern and effective infrastructure taking into account the convergence of information technology, media, telecommunications and consumer electronics;
8. to advise the Minister on all matters relating to information and communication technologies and on matters relating to the Authority generally.

Whereas; the .mu ccTLD and the DNS in general are increasingly important to communication, commerce, and development of the Knowledge economy.

Whereas; the ICTA and IntD support the establishment of a new Mauritian entity to manage the .mu ccTLD on behalf of the Mauritian and global Internet Community. This entity shall be multi-stakeholder and include a place at the table for significantly interested parties and civil society.

Therefore; with the full intention to be legally bound, it is agreed:

Obligations of Internet Direct:

- 1) **Public Policy Concerns** On formal IANA re-delegation, IntD relinquishes all authority to establish .mu ccTLD policies for Privacy, Whois, Acceptable Use, and Complaint / Dispute Resolution to the ICTA. Draft recommendations, which reflect current policy, and are aligned with WIPO and other best practice recommendations, are will be forwarded to the ICTA as part of the ICTA's public consultation process for consideration.
- 2) **Commercial Environment:** On formal IANA re-delegation IntD relinquishes to the ICTA the right to accredit, and grant registry access to registrars.
- 3) **Expired / Reserved Legacy Domains:** On formal IANA re-delegation expired (or administratively reserved) .mu domains will be placed in an "escrow registrar account" under full autonomous control of the ICTA. The ICTA may suspend or revoke these domains at anytime.

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- 4) **Stake-Holder Representation:** IntD will cooperate with the ICTA to identify / establish an appropriate Mauritius entity (broadly representative of civil society but operating under the appropriate legislative framework) to formulate policy for the .mu ccTLD.
- 5) **Technology Transfer:** IntD will assist the ICTA and the new entity to develop requisite technical skills to operate the .mu ccTLD post re-delegation, the EPP registry systems currently used for the .mu ccTLD will be made available to the ICTA at no cost under a mutually agreed Open Source licence. The Open Source license would allow modification and redistribution of the registry system. The EPP registrar system and a flash-based shopping cart still under development would also be made available under a similar license.
- 6) **Data Escrow:** On formal IANA re-delegation, IntD, recognising the importance of the .mu ccTLD to communication and commerce in Mauritius, will place a mirror registry system in escrow with a mutually agreed third party under the Mauritius jurisdiction. This mirror registry system will include both the data and registry software required to ensure the stability and interoperability of the .mu ccTLD (and protect the interests of existing registrants and registrars) in the event of insolvency, catastrophic system failure or network disruption. The mirror registry shall be held in escrow under a formal escrow agreement that prohibits the escrow agent from release of registrant data or registry software to any party except the IANA or the ICTA, and only then when there has been a catastrophic system failure lasting more than 7 days - or IntD has agreed in writing to its release. In the unlikely event that IntD fails to meet its undertakings under this agreement (or remedy a breach within 30 days of being formally notified) the escrow agent shall be authorised to release the registry data and systems from escrow six months after execution of this agreement - subject to the ICTA having met all its obligations under this agreement, and providing no matter regarding compliance with this agreement is the subject of ongoing mediation or arbitration.

Obligations of the ICTA

- 7) **Public Policy Concerns:** On formal IANA re-delegation the ICTA shall assume responsibility for the development and publication of Privacy, Whols, Acceptable Use for policy .mu domains and any other applicable policies. The ICTA shall also be responsible for administration of an AUP Complaint / Dispute

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Resolution Service that is aligned with WIPO and other best practice recommendations. The ICTA shall sub-delegate this policy formulation to a multi-stakeholder entity with governmental and civil society representation.

8) Commercial Environment: The ICTA shall, in advance of requesting IANA complete the .mu redelegation process (and launching of a new registry system), offer IntD and legacy registrars accreditation on terms which allow them equal and equitable access to the .mu registry. The fee for accreditation shall not exceed USD 500.

Accreditation Provisions:

- a. Registrars shall be accredited by the ICTA for a minimum of three years, (with a performance review after 18 months) and shall have their accreditation renewed automatically on the three year anniversary unless they have breached (and failed to remedy) a material condition of the accreditation agreement.
- b. Accredited Registrars shall operate in a competitive environment that gives them the latitude to charge whatever fees the market will encourages and allows them to develop reseller networks.
- c. Registrants will be free to transfer from one registrar to another at no costs with full domain portability.
- d. The registry fee for the initial term shall be not greater than six (USD) in the first year and (12 USD) in subsequent years. Registrars shall not be subject to any additional accreditation levies or licensing fees during the term of their accreditation.
- e. Registrars shall be treated equally by the ICTA in all regards, all registrars shall be subject to the same Terms and Conditions of accreditation.
- f. The Accreditation Agreement shall be largely consistent with those in other gTLD and ccTLDs operating a shared registry.

To ensure a smooth technical transition, the ICTA shall (in advance of formally lodging a request with the IANA to re-delegate) put in place an OT&E environment which will allow legacy registrars, resellers and registrants reasonable

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opportunity to familiarise themselves with the new registry system and API.

- 9) Capacity Building:** The ICTA shall develop systems, skill sets and polices to ensure the stable and reliable operation of the .mu ccTLD registry by the (as yet undefined) entity which will assume day to day operation of the registry.

The new registry system shall have an API compatible with RFC 3730 (EPP) which accommodates larger registrars yet have a facility which allows smaller registrars to register and manage domains via a direct login to the registry (the current EPP registry system would be available at no cost to ICTA's nominee).

The new .mu registry systems established shall be located in Mauritius.

- 10) Network Stability & Security:** The ICTA shall sign an accountability framework agreement at an appropriate time with ICANN which confirms the ICTA's commitment to stability and interoperability of the .mu ccTLD with the global DNS.

Disputes: Either party may notify that other that they consider them to be in breach of this agreement. The party receiving formal notice has 30 days to remedy or otherwise reply to the breach. If the matter is still in dispute or otherwise unresolved 30 days after notice is given the matter may be sent to mediation - in the event mediation fails, it can be sent to binding arbitration.

Dispute Resolution: Either party may bring a matter to the attention of an agreed Ombudsman and ask for his mediation, if mediation fails to resolve the matter in 28 days the matter may be brought before a mutually agreed arbitrator whose decision shall be final. If there is no agreement within 28 days on who the arbitrator should be, the Ombudsman shall appoint an arbitrator. The arbitrator shall only be entitled to rule on whether a party is in compliance with this agreement, or any collateral agreement executed during the term of this agreement.

Modification: This agreement may modified at any time - by formal execution of a collateral agreement between IntD and ICTA.

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Notices: Notices should be sent by registered courier to:

Internet Direct Ltd
48 Rémy Ollier Street
Port Louis
Mauritius

Or if to the ICTA

Information Communication Technology Authority of Mauritius
Level 12, The Celicourt
6, Sir Celicourt Antelme Street
Port Louis
Mauritius

Communiqué: The ICTA and IntD shall release a joint communiqué which confirms the terms of this agreement and seeks public comment on each parties' undertakings under this agreement. The Communiqué should invite the various stakeholders and civil society to participate in shaping the new entity which will represent the local internet community in management of the .mu ccTLD.

Executed as an Agreement

Internet Direct Ltd

ICTA