

**Memorandum of Understanding
for the Management and Administration of Internet Domain Names
in Hong Kong**

- (1) **THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION (“HK Government”)**, and
- (2) **HONG KONG INTERNET REGISTRATION CORPORATION LIMITED**, a company incorporated and existing under the laws of Hong Kong with its registered office at Unit 2002-2005, 20/F ING Tower, 308 Des Voeux Road Central, Sheung Wan, the Hong Kong Special Administrative Region (“**HKIRC**”),
- hereinafter each referred to as a “**Party**”, and collectively to as the “**Parties**”,

RECOGNISING that under the Designation Agreement for the Management and Administration of Internet Domain Names in Hong Kong signed by the Parties on March 17, 2010 (the “**Designation Agreement**”), HK Government reconfirms the exclusive designation of HKIRC, and HKIRC reconfirms its acceptance of HK Government’s designation, to manage and administer .hk domain names, subject to the terms therein,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

1. Definitions

In this Memorandum of Understanding (the “Memorandum”), except where the context otherwise requires:

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| “Board” | means the Board of Directors of HKIRC; |
| “domain name registration” | means the process through which an individual or organisation obtains a domain name, and which enables the individual or organisation to use that particular domain name for a specified period of time, provided certain conditions are met and payment for services is made; |
| “domain name system” | means a system which helps users to find their way around the Internet and makes using the Internet easier |

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| | by allowing a familiar string of letters (the “domain name”) to be used instead of IP address; |
| “.hk country code” | means the Hong Kong country code in English, i.e. .hk, or its equivalents in other languages (including, without limitation, .香港), in the country code top-level domain of the Internet domain name system, in connection with the delegation by ICANN of the right to operate the registration of the Hong Kong country code top-level domain; |
| “.hk domain names” | means all Internet domain names under .hk country code top-level domain of the Internet domain name system; |
| “HKIRC member” | means a person admitted to membership of HKIRC by the Board and whose name appears on the Register of Members for the time being; |
| “Hong Kong” | means the Hong Kong Special Administrative Region; |
| “ICANN” | means the Internet Corporation for Assigned Names and Numbers; |
| “intellectual property rights” | means patents, trade marks, service marks, trade names, design rights, copyright, domain names, database rights, rights in know-how, new inventions, designs or processes and other intellectual property rights of whatever nature and wheresoever arising, whether now known or hereafter created, and in each case whether registered or unregistered and including applications for the grant of any such rights; |
| “person” | means such person as defined in the Interpretation and General Clauses Ordinance (Cap 1), association, organisation, body, or HK Government; |
| “registrant” | means a person that has entered into registration agreement with HKIRC for .hk domain names; |
| “registrar” | means a person which has entered into an agreement with a registry concerning the right to submit applications and notifications of amendments to the registry on behalf of applicants for and holders of domain names under country code top-level domains; |
| “registry” | means a person which, as designated by the relevant government or public authority and by agreement with |

the international administrator of top-level domains, is entitled to assign domain names under country code top-level domains;

“subsidiary” has the meaning ascribed to it in Section 2 of the Companies Ordinance (Cap 32) and any modifications thereto.

2. Principles of Management and Administration

2.1 HKIRC will adopt the following principles in managing and administering .hk domain names in the public interest:

- (a) **Independence:** HKIRC shall operate independently of HK Government in managing and administering .hk domain names. HKIRC shall act, and be able to demonstrate that it acts, in the interests of the Internet community in Hong Kong and the global Internet community, without undue interference by any single group of stakeholders or by HK Government.
- (b) **World-class standards:** HKIRC shall perform all activities in connection with the domain name system and registration service in good quality, security, stability and reliability.
- (c) **Competition:** HKIRC shall support competition and consumer choice in the sourcing of .hk domain name holders and managing .hk domain name registration.
- (d) **Stakeholder involvement:** HKIRC shall ensure that balanced attention will be given to the interests of all stakeholders in the Internet community in Hong Kong when making decisions in connection with the domain name system and registration service.
- (e) **Transparency:** HKIRC shall conduct its activities in an open and transparent manner that ensures wide public access to all relevant information.
- (f) **Future orientation:** HKIRC shall seek to be innovative in the provision of new services, and to anticipate and respond flexibly to new technological and market developments which may impact domain name sourcing, registration and usage.
- (g) **Protection of rights of individuals and organisations:** HKIRC shall uphold the rights of data privacy and of freedom of speech, of publication, of communication and of religious belief in accordance with the laws in force in Hong Kong in its management and administration of .hk domain names.

3. Openness and Transparency

3.1 HKIRC will operate in an open and transparent manner, including -

- (a) Maintaining a Consultative and Advisory Panel (“CAP”) as required by HKIRC’s Memorandum and Articles of Association Article 47A;
- (b) Consulting the CAP on matters where HKIRC may have to make decisions and where the consequences of such decisions are of legitimate public interest, including domain name registration rules and pricing;
- (c) Giving attention to advice given by the CAP, whether solicited or unsolicited. Where the Board decides not to follow such advice and where so asked by the CAP or any HKIRC member, HKIRC will provide a written explanation of its reasons to the CAP and HKIRC members without unreasonable delay;
- (d) Developing and publishing, following consultation with the CAP, policies and rules for domain name registration including such matters as:
 - (i) Eligibility for licensing of .hk domain names including general principles and procedures for the application and registration of .hk domain names,
 - (ii) Measures to preserve the legitimate interest of registrants and users of .hk domain names and ensure their satisfaction,
 - (iii) Conditions of use of .hk domain names, and policies and procedures for cancellation of registration for breach of conditions of use,
 - (iv) Rules and procedures for modification, change and transfer of .hk domain names,
 - (v) Permitted formats of .hk domain names, and
 - (vi) Reserved .hk domain names;
- (e) Publishing its policies about openness and transparency in the governance and operations of HKIRC and its subsidiaries including policies about disclosure of information related to the following:
 - (i) Statistics of .hk domain names (including total number of registrations by domain name category at each month end, and the new, renewed, and discontinued registrations during the month by domain name category),
 - (ii) Incidents of refused registration applications and suspended or cancelled registrations, with reasons (but not revealing the names of the involved parties),
 - (iii) Incidents of complaints or disputes,
 - (iv) Audited financial reports of HKIRC, and

- (v) Use of retained profits and maintenance of reserves of HKIRC.
- (f) Developing and publishing, following consultation with the CAP, the policies or guidelines for members of the Board and members of the CAP to consult stakeholders in general and with specific interest groups on matters of HKIRC.

4. Strategic Plan

4.1 HKIRC will develop and publish, following consultation with the CAP, a rolling strategic plan for the next three years within three months from the beginning of each financial year of HKIRC. The first rolling strategic plan shall include the plan to:

- (a) Broaden the base for participating in the governance of HKIRC by promoting membership of HKIRC members and streamlining the process for admitting an HKIRC member; and
- (b) Following market analysis, financial implication assessment and consultation with stakeholders via the CAP, determine whether and, if appropriate, how a “Registry/Registrar” model shall be introduced, whereby (i) appropriate bodies may provide .hk users with registrar services on an equal competitive basis and (ii) Internet Service Providers may provide a complete service to their customers removing the necessity for those customers also to have to interact with HKIRC.

5. Assuring Performance

5.1 HKIRC will introduce measures to assure that HKIRC is discharging its duties under this Memorandum. Such measures shall include monitoring system performance and compiling system performance statistics in respect of those performance indicators stipulated in a document of system performance monitoring and measurement, which is to be updated following consultation with the CAP. System performance statistics shall include domain name system service availability and performance statistics of registration servers and servers hosting HKIRC’s website.

6. Relationship with Government

6.1 HKIRC will operate independently of HK Government. If HK Government wishes to express its views on the strategy or policy of HKIRC or other matters within the terms

of reference of the CAP, it will communicate those views either (a) through the CAP by virtue of the HK Government's representative on the CAP or (b) in writing addressed to the Chairman of the Board.

- 6.2 HKIRC will provide, quarterly within one month after the end of each quarter, HK Government with (i) information described above under Clause 5.1, (ii) financial reports and (iii) reports of human resource issues.
- 6.3 HKIRC will submit, within three months after the end of each financial year, an annual report to HK Government confirming that HKIRC has abided by its obligations under this Memorandum.
- 6.4 HK Government will have the right to commission an independent audit of HKIRC's compliance with the terms of this Memorandum and HKIRC will cooperate with this audit.
- 6.5 HKIRC will cooperate with HK Government in connection with any formal review of the Designation Agreement and this Memorandum that the HK Government wishes to conduct or commission.
- 6.6 It is recognised that HK Government may wish to communicate with HKIRC on the following or similar matters. Where the matter is strictly non controversial and will not involve significant consumption of HKIRC resources, HK Government may communicate in writing or by other appropriate means directly with the Chief Executive Officer (or his/her designate) of HKIRC. Where these conditions do not apply, HK Government will in the first instance communicate with the Chairman of the Board.
 - (a) Providing HK Government with the information it needs in order to report to the Legislative Council on issues relating to the management and administration of .hk domain names;
 - (b) Coordinating the position to be taken by HK Government and HKIRC in ICANN forums in which they participate;
 - (c) Providing input for discussions between HK Government and other interested parties on current and future Internet policy issues;
 - (d) Liaising on certain operational issues including but not limited to incident or crime investigation, prevention of phishing and spamming, complaints from the public and consumer related matters; and

- (e) Liaising on matters of mutual interest related to the industry, including but not limited to partnership or participation in industry events.

7. Dispute


- 7.1 In the event that either Party is of the view that the other Party has acted in a manner inconsistent with the provisions of this Memorandum, the Party may give written notice to the other of that view. Such notice will be made public by the Parties.
- 7.2 Upon receipt of the notice by that other Party, the Parties will consult together for the purpose of agreeing a resolution of the matter and will publish a record of the resolution once it is agreed.
- 7.3 If either Party wishes to resolve the dispute by entering into mediation, the other Party shall not unreasonably refuse to take part in it and shall participate in it in good faith.
- 7.4 Each Party recognises that if no agreement can be reached, then this would be a factor to be considered by each Party in deciding whether to give a notice of termination of the Designation Agreement.

8. Miscellaneous

- 8.1 This Memorandum will become effective upon its execution and will terminate upon termination of the Designation Agreement (howsoever occasioned).
- 8.2 This Memorandum may be amended at any time by written mutual consent of the Parties.
- 8.3 This Memorandum does not create any legally-binding obligation on either Party,

SIGNED in the Hong Kong on March 17, 2010 in duplicate.

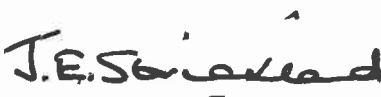
**THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION**

By: 

Name: Jeremy GODFREY

Title: Government Chief Information Officer

HONG KONG INTERNET REGISTRATION CORPORATION LIMITED

By: 

Name: John Estmond STRICKLAND

Title: Chairman