

## AGREEMENT FOR AWARD OF .MOBI DOMAIN NAME

This AGREEMENT FOR AWARD OF A .MOBI DOMAIN NAME (the “Agreement”) is entered into by and between Mobile Top Level Domain, Ltd, an Irish Limited Liability Company (“mTLD”) and [ ] (“Licensee”).

WHEREAS mTLD is the global registry for the .mobi top level domain; and

WHEREAS mTLD desires to allocate certain .mobi domain names, including the Domain Name, to parties committed to serving the mobile Internet community, developing mobile content, creating new features, services, and product offerings formatted to deliver a predictable, consistent user experience, and strengthen user loyalty and goodwill toward the .mobi top level domain; and

WHEREAS, Registry Operator wishes to ensure that geographic identifiers in the .mobi top-level domain are used in a manner that is consistent with the WIPO II recommendations, reflects the desires and concerns of the relevant community, and is useful by intended end users;

WHEREAS mTLD issued a Solicitation for the Domain Name, to identify parties that would meet mTLD’s stated goals above; and

WHEREAS Licensee submitted the Proposal to operate the Website in response to the Solicitation; and

WHEREAS, Licensee *[describe relationship between entity and city/town]*;

WHEREAS mTLD elected to enter into discussions with Licensee regarding its Proposal; and

WHEREAS Licensee desires to register the Domain Name and create, launch, and operate the Domain Name in accordance with the Proposal and this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby enter into the Agreement to read in its entirety as follows:

### DEFINITIONS

In this Agreement, the following terms have the respective meanings ascribed to them below:

“Agreement” means this Agreement Authorizing the Registration of the Domain Name, including all appendices, attachments, schedules, and exhibits hereto.

“dotMobi Site” means the website operated by mTLD with the URL address: www.dotmobi.mobi.

“mTLD” means mobile Top Level Domain, Ltd, an Irish Limited Liability Licensee.

“Domain Name” means [INSERT], the .mobi domain name that is the subject of the Licensee’s Proposal and this Agreement.

“Proposal” means the proposal submitted by Licensee in response to the Solicitation seeking authorization to register the Domain Name and create, launch, and operate the Website.

“Registrar” means an entity accredited by ICANN and authorized by mTLD to provide domain name registration services in the .mobi TLD.

“Registration” means the registration of the Domain Name by Licensee, using a Registrar, pursuant to this Agreement.

“Registration Code” means the unique code issued by mTLD evidencing Licensee’s authorization to register the Domain Name.

“Solicitation” means the solicitation issued by mTLD seeking proposals to register the Domain Name and create, launch, and operate the Website.

“Website” means a live website using the Domain Name with the URL address www.[.].mobi, and any website to which Internet users seeking www.[.].mobi are automatically redirected.

## **ARTICLE 1 Effective Date and Term**

**Section 1.1 Effective Date.** This Agreement shall be deemed effective upon signing by both parties.

**Section 1.2 Domain Term.** Subject to the terms and conditions set forth in this Agreement, mTLD grants Licensee the right to register the Domain Name for a period of two years, for the purpose of operating the Website on the terms set forth in Schedule 1.2.

**Section 1.3 Renewal.** Subject to its continued compliance with the terms and conditions of this Agreement, and fulfillment of its material obligations hereunder, Licensee shall have the right (but not the obligation) to renew its Registration of the Domain Name (“Automatic Renewal Right”), on the terms set forth in Schedule 1.3. Subject to Section 1.4 below, mTLD may withdraw Licensee’s Automatic Renewal Right by providing Licensee with written notice no less than sixty (60) days prior to the renewal date, specifying Licensee’s failure to fulfill its obligations under and/or comply with the terms and conditions of this Agreement. Licensee must notify mTLD in writing of its intention not to exercise its right to renew its Registration of the Domain Name no less than sixty (60) days prior to the renewal date.

**Section 1.4 Renewal Disputes.** The parties will negotiate in good faith to resolve the issues identified by mTLD as grounds for its decision to withdraw Licensee’s Automatic

Renewal Right, either by curing the non-compliance or reaching mutual agreement to modify the terms of this Agreement to reflect such non-compliance. Any dispute between the parties related to withdrawal of Licensee's Automatic Renewal Right shall be resolved in accordance with Section 9.1 (Arbitration) of this Agreement, and in that event Licensee's Automatic Renewal Right may be frozen until such Arbitration is completed, but shall not be withdrawn unless and until such dispute is resolved in mTLD's favor.

**Section 1.5 Term of the Agreement.** Unless terminated, this Agreement shall remain in effect for the longer of thirteen (13) months or the term of Licensee's Registration of the Domain Name through a Registrar. Each renewal of Licensee's Registration in accordance with and as permitted by Section 1.3 above shall be deemed a renewal of this Agreement.

**Section 1.6 Rights Following Termination of Agreement.** Upon the termination or expiration of this Agreement: (i) any and all rights of Licensee to the Domain Name and/or Registration Code shall be terminated, and all rights to the Domain Name and/or Registration Code shall revert to mTLD; and (ii) mTLD may grant rights to the Domain Name and/or Registration Code to any entity or person in its sole discretion, and Licensee shall have no rights or recourse with respect to mTLD relating to the promotion or use of the Domain Name and/or Registration Code by any other such entity or person.

## **ARTICLE 2 Covenants of Licensee**

Licensee covenants and agrees with mTLD as follows:

**Section 2.1** Licensee agrees to be bound by the terms and conditions set forth in the Solicitation, all representations, commitments made by Licensee with respect to its creation, launch, and operation of the Website, the Proposal, and any supplemental written material submitted by Licensee and expressly agreed to by mTLD, including, but not limited to any business terms specified in the Proposal and any technical or substantive terms regarding the creation and/or operation of a .mobi website specified in the Proposal (collectively, the "Supplemental Materials"). The Proposal and Supplemental Materials are hereby expressly incorporated as part of this Agreement.

**Section 2.2** Licensee will comply with all applicable laws, statutes, ordinances, and regulations relating to its Registration of the Domain Name and its creation, launch, and operation of the Website.

**Section 2.3** Licensee will comply with applicable ICANN requirements, standards, policies, procedures, and practices relating to its Registration of the Domain Name and its creation, launch, and operation of the Website.

**Section 2.4** Licensee will comply with all standards, policies, procedures and practices specified by mTLD relating to its Registration of the Domain Name and its creation, launch, and operation of the Website, including without limitation all standards, policies, procedures, and practices set forth in the dotMobi Switch On! Guide [[http://pc.mtld.mobi/mobilenet/dotmobi\\_guides.html](http://pc.mtld.mobi/mobilenet/dotmobi_guides.html)] (the "Style Guide") and any modifications thereto in accordance with Section 2.5.

**Section 2.5** Licensee consents to the monitoring of the Website as described in the dotMobi Style Guide monitoring guidelines. Furthermore, Licensee acknowledges and agrees that this Style Guide is subject to modification by mTLD, and agrees to comply with any such changes posted on the dotMobi website in the time allotted.

**Section 2.6** Licensee's Website shall produce a score of 5 on the ready.mobi tool [<http://ready.mobi>].

### **ARTICLE 3 Registration, Development and Promotion of Domain Name**

#### **Section 3.1 Registration of Domain Name.**

**3.1.1** Subject to Schedule 1.2, mTLD will transfer the Registration Code for the Domain Name to Licensee on the Effective Date of this Agreement. Without limiting the foregoing, (a) mTLD represents and warrants that it has not transferred, and shall not transfer during the term of this Agreement, the Registration Code for the Domain Name to any person or entity other than Licensee, and (b) mTLD covenants and agrees that if at any time during the term of this Agreement mTLD transfers the Registration Code (and/or the Registration) for the Domain Name to any person or entity other than Licensee, whether through an inadvertent, negligent, willful or any other act, mTLD shall promptly and at its sole expense use best efforts to reclaim the Registration Code (and/or the Registration) for the Domain Name for Licensee's continued use hereunder. mTLD's liability under this Section 3.1.1 shall be limited to expenses related to its use of best efforts to reclaim the Registration Code (and/or Registration) for the Domain Name for Licensee's continued use hereunder as set forth above.

**3.1.2** Licensee is solely responsible for registering the Domain Name and will promptly do so through a Registrar. Licensee will provide current, accurate and complete information in connection with its Registration of the Domain Name and its creation, launch, and operation of the Website, including but not limited to information required for the purposes of the Whois records.

**3.1.3** This Agreement and Licensee's rights hereunder shall terminate automatically if Licensee fails to register the Domain Name within ten (10) days of the Effective Date of this Agreement, provided that mTLD, in its sole discretion, may waive such automatic termination for any reason including, but not limited to, that Licensee's failure to register the Domain Name within such period is caused by delay on the part of the Registrar or any other factors beyond Licensee's control.

**3.1.4** Registration of the Domain Name by Licensee, and Licensee's creation, launch, and operation of the Website is the result of, and is subject to, all of the conditions, limitations, and restrictions contained in the end-user agreement with the Registrar (the "End-User Registration Agreement"), the domain name registration agreement between mTLD and a Registrar (the "RAA"), a copy of which has been provided to Licensee, including the Registrant Agreement as posted from time to time on the dotMobi Site (whether or not the End-User Registration Agreement contains such conditions, limitations, and restrictions), and all applicable policies promulgated by ICANN now or in the future.

**3.1.5** Nothing in this Agreement shall be construed to imply that Licensee possesses any rights to the Domain Name beyond those specified in this Agreement and the RAA, including the Registrant Agreement, the End User Registration Agreement, and all applicable ICANN policies. Licensee must enter into an End-User Registration Agreement with a Registrar to register the Domain Name. By registering the Domain Name, Licensee agrees and acknowledges that mTLD is an intended third party beneficiary of any such End-User Registration Agreement between Licensee and the Registrar. In the event of a conflict between this Agreement and the End User Registration Agreement, this Agreement controls the rights and obligations of the parties hereto.

**3.1.6** Licensee is solely responsible for exercising its Automatic Renewal Right to renew its Registration of the Domain Name with a Registrar prior to the expiration date listed in mTLD's Whois database or in the End-User Registration Agreement, as applicable.

### **Section 3.2 Licensee's Development of Website.**

**3.2.1** Licensee will make best efforts to launch the Website within sixty (60) days of the effective date of this Agreement, and to achieve the development milestones listed, on the timeline set forth in Schedule 3.2.1.

**3.2.2** Licensee's creation, launch, and operation of the Website will comply in all material respects with this Agreement and the Supplemental Materials.

**3.2.3** During the term of this Agreement, Licensee will make commercially reasonable efforts to operate the Website in accordance with this Agreement and the Supplemental Materials.

**3.2.4** Licensee will use commercially reasonable efforts to create, launch, and operate the Website so as to achieve mTLD's stated goals of: (a) optimizing the mobile experience by providing a predictable, consistent user experience; (b) providing the mobile community with new features and services; and (c) strengthening user loyalty and goodwill toward the .mobi top level domain.

**3.2.5** Licensee's unexcused failure to create, launch, or operate the Website in accordance with material terms of this Agreement, including without limitation, Schedule 3.2.1 and Schedule 3.3.1, shall constitute a material breach of its obligations hereunder.

### **Section 3.3 Promotion of Website Developed Using Domain Name.**

**3.3.1** Licensee agrees to use commercially reasonable efforts to promote the Domain Name and the Website in accordance with Schedule 3.3.1 hereto.

**3.3.2** Licensee and mTLD shall cooperate in good faith and on reasonable commercial terms to design and implement joint marketing initiatives to promote the Domain Name, the Website, and the .mobi TLD.

## **ARTICLE 4 Representations and Disclaimer of Warranties**

**Section 4.1 Authority to Contract.** mTLD and Licensee both represent to the other that it has full authority to enter into this Agreement and perform its terms.

### **Section 4.2 Disclaimer of Warranties by mTLD.**

**4.2.1** WITH RESPECT TO THE SUBJECT MATTER HEREOF, MTL D EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. MTL D MAKES NO WARRANTY THAT THE DOMAIN NAME, WEBSITE, THIS AGREEMENT, AND/OR SERVICE(S) REFERENCED HEREIN, WHETHER OR NOT LICENSEE REGISTERS THE DOMAIN NAME, WILL MEET LICENSEE'S REQUIREMENTS, OR THAT THE SERVICE(S) AND/OR ACCESS TO AND USE OF THE DOMAIN NAME OR WEBSITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES MTL D MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S), THE WEBSITE, AND/OR THE DOMAIN NAME OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE DOTMOBI SITE. LICENSEE UNDERSTANDS AND AGREES THAT ANY MATERIAL AND/OR DATA OBTAINED THROUGH THE USE OF THE DOTMOBI SITE IS DONE AT LICENSEE'S SOLE DISCRETION AND RISK AND THAT LICENSEE WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO LICENSEE'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA.

**4.2.2** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY LICENSEE FROM MTL D OR THROUGH THE DOTMOBI SITE SHALL CREATE ANY WARRANTY BY MTL D NOT EXPRESSLY MADE HEREIN.

**4.2.3** TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO LICENSEE.

### **Section 4.3 Notice of Potential Violation of Third Party Rights.**

**4.3.1** Licensee acknowledges and agrees that mTLD makes no representations or warranties of any kind in connection with the Solicitation, this Agreement, the Supplemental Materials, the Domain Name, and/or the Website and specifically makes no guarantee to Licensee against the possibility of: (i) Objection to, or challenge of, the Registration or use of the Domain Name or operation of the Website by third parties; (ii) selection and/or Registration of a similar domain name by another applicant in the Solicitation process or a third party in any other context; and/or (iii) Registration and/or use of a similar domain name by another applicant in the Solicitation process or a third party in any other context in a manner that might compete with or cause confusion with respect to Licensee's Registration and/or use of the Domain Name, or its creation, launch, or operation of the Website.

**4.3.2** mTLD cannot and does not check to see whether the Domain Name (or any use Licensee may make of the Domain Name) infringes the legal rights of others nor can it or does it check to see whether another domain name (or the use of another domain name by another applicant or a third party in any context) infringes the legal rights of Licensee.

**4.3.3** Licensee acknowledges that it is Licensee's responsibility to investigate its legal rights and the legal rights of others with respect to the Domain Name and the Website. Licensee acknowledges and agrees that it is exclusively liable for any infringement resulting from its Registration or use of the Domain Name and/or relating to the Domain Name, the Website, and any content on the Website.

**4.3.4** Licensee acknowledges and agrees that it is exclusively liable for any claims of infringement arising out of or relating to the Registration or use of the Domain Name and/or the creation, launch or operation of the Website.

**Section 4.4 Disclaimer of Warranties by Licensee.** WITH RESPECT TO THE SUBJECT MATTER HEREOF, EXCEPT AS SET FORTH IN THIS AGREEMENT, LICENSEE EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS SET FORTH IN THIS AGREEMENT, LICENSEE MAKES NO WARRANTY THAT THE WEBSITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES LICENSEE MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE AS TO THE ACCURACY OR RELIABILITY OF ANY WEATHER FORECAST OR REPORT CONTAINED WITHIN THE WEBSITE.

## **ARTICLE 5 Termination or Cancellation of Registration**

**Section 5.1 Right to Terminate or Cancel Domain Name Registration.** mTLD reserves the right to deny, cancel or transfer Licensee's Registration of the Domain Name or operation of the Website to the extent that it deems appropriate, in its sole discretion, (i) to protect the integrity and stability of the Registry, the domain name system, and/or the Internet; (ii) to comply with all applicable laws, regulations, government rules or requirements, any requests of law enforcement, and/or to take any actions in compliance with any dispute resolution process; (iii) to avoid any liability, civil or criminal, on the part of the Registry as well as its affiliates, subsidiaries, officers, directors, representatives, employees, and stockholders; (iv) for material violations of the terms and conditions herein, or the terms of its agreement with ICANN; or (v) to correct mistakes made by the Registry or any Registrar in connection with a Domain Name Registration. The Registry also reserves the right to freeze a Domain Name and/or Registration of a Domain Name during the resolution of any dispute regarding the Domain Name or the website operated using the Domain Name.

## **ARTICLE 6 Liability Disclaimer**

**Section 6.1** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES RESULTING FROM OR RELATING TO THIS AGREEMENT OR RESULTING

FROM ANY DATA, INFORMATION, OR SERVICES OBTAINED OR TRANSACTIONS ENTERED INTO THROUGH OR ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA, OR OTHER INTANGIBLES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOR SHALL mTLD BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES.

**Section 6.2** WITHOUT LIMITING THE FOREGOING, mTLD EXPRESSLY DISCLAIMS ANY LIABILITY RESULTING FROM: THE CONDUCT OF OR PARTICIPATION IN THE SOLICITATION PROCESS; ITS CONSIDERATION OF PROPOSALS AND/OR SELECTION OR FAILURE TO SELECT ANY APPLICATION FOR A DOMAIN NAME, DATA NON-DELIVERY OR MIS-DELIVERY BETWEEN LICENSEE AND mTLD; PROCESSING, REGISTRATION, AND/OR LOSS OF REGISTRATION OF A DOMAIN NAME; USE OF THE DOMAIN NAME AND/OR THE WEBSITE; DISPUTES OVER DOMAIN NAME REGISTRATIONS, INCLUDING THE DECISION OF ANY DISPUTE RESOLUTION PROCEEDING; ERRORS, OMISSIONS OR MISSTATEMENTS NOT MADE IN BAD FAITH; AND/OR EVENTS BEYOND mTLD'S CONTROL (*I.E.*, ACTS OF GOD).

**Section 6.3** IN NO EVENT SHALL EITHER PARTY'S LIABILITY TO THE OTHER OR ANY THIRD PARTY IN CONNECTION WITH OR ARISING FROM THIS AGREEMENT EXCEED THE AMOUNT OF FEES LICENSEE HAS PAID TO MTLD PURSUANT TO THIS AGREEMENT IN THE PRECEDING TWELVE (12) MONTHS.

**Section 6.4** IF ANY STATE OR JURISDICTION DOES NOT PERMIT THE ELIMINATION OR LIMITATION OF CERTAIN TYPES OF LIABILITY, THE APPLICABLE PARTY'S LIABILITY SHALL BE LIMITED TO THE SMALLEST AMOUNT PERMITTED BY LAW.

## **ARTICLE 7 Indemnification**

**Section 7.1** Licensee shall release, defend, indemnify, and hold harmless to the maximum extent permitted by law mTLD, and its directors, officers, employees, affiliates, contractors, and agents from and against any and all third party claims, and all damages, liabilities, costs and expenses, including reasonable legal fees and expenses, incurred in connection with such third party claims, arising out of or relating to (i) Licensee's breach of this Agreement, the Solicitation, and/or Licensee's Registration and/or use of the Domain Name and/or the Website, and (ii) any dispute concerning the Domain Name and/or the Website. This indemnification obligation shall survive the termination or expiration of this Agreement and the End-User Registration Agreement between Licensee and a Registrar for the Domain Name. This indemnification is in addition to any indemnification required under the UDRP.

**Section 7.2** Licensee agrees that if mTLD is notified that a complaint has been filed with a governmental, administrative, or judicial body regarding the Domain Name, mTLD, in its sole discretion, may take whatever action it deems necessary regarding further modification, assignment of and/or control of the Domain Name deemed necessary to comply with the actions or requirements of the governmental, administrative, or judicial body until such time as the

dispute is settled. In this event, Licensee agrees to hold mTLD harmless for any action taken by mTLD.

## **ARTICLE 8 Termination and Modification**

### **Section 8.1 Termination of the Agreement.**

**8.1.1** Licensee agrees that mTLD shall have the right to suspend, cancel, transfer, or modify Licensee's Registration of the Domain Name and/or terminate this Agreement in the event Licensee materially breaches this Agreement and does not cure such breach within thirty (30) days of written notice by mTLD. Material breaches shall include, but not be limited to, the failure of Licensee to develop and maintain the Website in all material respects in accordance with this Agreement and the Supplemental Materials. In the event mTLD suspends, cancels, transfers, or modifies Licensee's Registration of the Domain Name or terminates this Agreement pursuant to this section, Licensee agrees that mTLD is not obligated to refund any fees previously paid by Licensee.

**8.1.2** Licensee agrees that mTLD shall have the right to suspend, cancel, transfer, or modify Licensee's Registration of a Domain Name and/or terminate this Agreement pursuant to any ICANN policy or procedure, pursuant to any Registrar or registry procedure not inconsistent with an ICANN-adopted policy, or for the resolution of disputes concerning the Domain Name. In the event mTLD suspends, cancels, transfers, or modifies Licensee's Registration of the Domain Name or terminates this Agreement pursuant to this section, Licensee agrees that mTLD is not obligated to refund any fees previously paid by Licensee.

**8.1.3** Notwithstanding the foregoing, mTLD is not precluded from seeking any other remedy available to it under this Agreement or applicable law including seeking any available remedy from an arbitrator pursuant to Section 9.1 below.

### **Section 8.2 Modification of the Agreement.**

#### **8.2.1 Modification by mTLD.**

**8.2.1.1** Licensee acknowledges that the domain name system and the practice of registering and administering domain names are evolving, and therefore, Licensee agrees that mTLD shall have the right, in its sole discretion, to modify or amend the terms and conditions of this Agreement, including any incorporated documents or mTLD policies, from time to time. Licensee agrees that any modification or amendment to this Agreement by mTLD shall not require Licensee's or mTLD's signature or inclusion of a signature page to be deemed effective. Any modification or amendment shall be binding and effective immediately upon Licensee's receipt of written notification in accordance with the terms hereof that contains the entire text of such modification and amendment.

**8.2.1.2** If Licensee does not agree with any such modification or amendment, Licensee's sole remedy is to terminate this Agreement and cancel Licensee's Registration of the Domain Name(s), provided that Licensee may only elect this remedy if in Licensee's reasonable opinion the applicable modification or amendment materially and adversely impacts Licensee's Registration. If Licensee chooses to elect this remedy, it must

provide mTLD with notice of Licensee's intention to terminate this Agreement within sixty (60) days after Licensee's receipt of written notice of such modification or amendment, and Licensee's termination shall be effective upon mTLD's receipt of such notice. Licensee hereby acknowledges and agrees that mTLD is not obligated to refund any fees paid by Licensee in the event Licensee terminates pursuant to this section of the Agreement.

**8.2.1.3** In the event notice of termination from Licensee is not received by mTLD within sixty (60) days of receipt of written notice from mTLD, Licensee will be deemed to have agreed to the modification or amendment.

**8.2.2 Modification by Licensee.** Licensee may request reasonable modifications or amendments to this Agreement, and mTLD agrees to negotiate in good faith any requested modifications or amendments. Notwithstanding the foregoing, mTLD is not bound to accept any such proposed modification or amendment.

## **ARTICLE 9 Dispute Resolution**

**Section 9.1 Arbitration.** Any difference, controversy or claim (whether based on contract, tort, statute, or any other legal basis) arising out of or relating to this Agreement (including, without limitation, the formation, existence, validity, enforceability, performance, expiration, or termination of this Agreement or the arbitration provision herein) or the products and services supplied by either party to this Agreement including any application for provisional or protective relief shall be finally, confidentially, and individually resolved by arbitration by three (3) arbitrators in accordance with the Rules of Arbitration then in effect of the International Court of Arbitration of the International Chamber of Commerce, or its successor; provided that this Agreement shall control if there is a conflict between it and the Rules. The seat of the arbitration shall be a mutually agreed location in the Commonwealth of Virginia, USA, or such other location mutually agreed upon by the parties. The language of the arbitration shall be English, and all documentation, testimony, or other materials submitted to the arbitrators shall be in the English language.

**Section 9.2 UDRP.** Licensee agrees to be bound by ICANN's Uniform Domain Dispute Resolution Policy ("UDRP"), as modified or amended from time to time, with respect to its Registration of the Domain Name and/or its creation, launch, or operation of the Website. The UDRP sets forth the terms and conditions in connection with a dispute between a domain name registrant and any other party other than the registry operator or registrar over the registration and use of a domain name registered by the registrant. The UDRP is incorporated herein and made part of this Agreement by reference. The current version of the UDRP may be found at ICANN's web site: [www.ICANN.org](http://www.ICANN.org).

## **ARTICLE 10 Additional Terms**

**Section 10.1 Choice of Law and Forum.** This Agreement, its terms and conditions, and the relationship between Licensee and mTLD shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, USA, excluding its conflict of laws rules. Any action arising out of or related to this Agreement must be filed in the courts of the Commonwealth of Virginia. For any disputes arising under or related to this Agreement, the

parties agree to the exclusive subject matter jurisdiction, personal jurisdiction, and venue of the courts of the Commonwealth of Virginia. THE PARTIES AGREE TO WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING THAT TAKES PLACE RELATING TO OR ARISING OUT OF THIS AGREEMENT.

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**Section 10.2 No Third Party Beneficiaries; Relationship to the Parties** This Agreement does not provide and shall not be construed to provide third parties (i.e., non-parties to this Agreement), with any remedy, claim, cause of action or privilege. Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the Parties.

**Section 10.3 No Waiver**. mTLD's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by mTLD in writing.

**Section 10.4 Severability**. The terms of this Agreement are severable. If any term or provision is declared invalid or unenforceable, that term or provision will be construed consistent with applicable law as nearly as possible to reflect the original intentions of the parties, and the remaining terms and provisions will remain in full force and effect.

**Section 10.5 Notices**. All notices to be given to either party under or in relation to this Agreement shall be given either (1) in writing at the address set forth below or (2) by facsimile or electronic mail as provided below.

mTLD Ltd /dotMobi/  
11 Exchange Place  
IFSC  
Dublin 1  
Ireland  
/E-mail/  
/Facsimile/  
Attention: Caroline Greer

**Section 10.6 Force Majeure**. Neither Party shall be responsible for any failure to perform any obligation or provide service hereunder because of any Act of God, strike, work stoppage, governmental acts or directives, war, riot or civil commotion, equipment or facilities shortages which are being experienced by providers of telecommunications services generally, or other similar force beyond such Party's reasonable control.

**Section 10.7 Further Assurances**. Each Party hereto shall execute and/or cause to be delivered to each other Party hereto such instruments and other documents, and shall take such other actions, as such other Party may reasonably request for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

**Section 10.8 Amendment in Writing:** Any amendment or supplement to this Agreement shall be in writing and duly executed by both Parties.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES.

**MOBILE TOP LEVEL DOMAIN LTD**

BY: \_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

Licensee:

BY: \_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

**Schedules to be attached:**

Schedule 1.2: Initial Award Terms

Schedule 1.3: Renewal Award Terms

Schedule 3.2.1: Website Development Schedule

Schedule 3.3.1: Promotion Schedule

**SCHEDULE 1.2**

**Initial Award Terms**

## **SCHEDULE 1.3**

### **Renewal Award Terms**

Renewal of the Registration of the Domain Name shall be subject to the standard terms and conditions for general renewal of a domain name registration applicable at the time of renewal, including any renewal or registration fees.

**SCHEDULE 3.2.1**

**Website Development Schedule**

**SCHEDULE 3.3.1**

**Promotion Schedule**