

Ministry of Posts and Telecommunications  
(as "MoPT")

and

GMO Registry, Inc.  
(as "GMO REGISTRY")

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COOPERATION AGREEMENT

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**THIS COOPERATION AGREEMENT** (the "Agreement") is made as of the 7<sup>th</sup> of June, 2010

**BETWEEN:**

- 1) **Ministry of Posts and Telecommunications of The Transitional Federal Government of The Somali Republic**, a government organization duly organized and existing under the Laws of Somalia domiciled in Mogadishu, Somalia, hereinafter referred as "**MoPT**."
- 2) **GMO Registry, Inc.**, a company duly organized and existing under the laws of Japan domiciled in 26-1 Sakuragaoka-cho, Shibuya-ku, Tokyo, Japan, hereinafter referred as "**GMO REGISTRY**."

(Each hereafter referred as the "**Party**" and together referred as the "**Parties**")

**WHEREAS:**

- (A) MoPT, a sole authorized organization by The Transitional Federal Government of The Somali Republic which takes the responsibility of domain name registry to operate and administer .SO, country code top level domain ("ccTLD") for The Somali Republic, hereinafter referred as "Somalia", desires to build and operate world class domain name registry of ".SO", country code top level domain name of Somalia with support of GMO REGISTRY.
- (B) GMO REGISTRY, subsidiary company of GMO Internet, Inc. focusing on providing consulting, system development, system operation, marketing and sales service for top level domain name registry, desires to support MoPT to build and operate world class domain name registry of ".SO", country code top level domain name of Somalia.
- (C) GMO Internet, Inc. ("GMO"), the parent company of GMO REGISTRY, is one of experienced accredited registrar of Internet Corporation for Assigned Names and Numbers ("ICANN").
- (D) MoPT and GMO REGISTRY have entered into an Agreement dated the 7<sup>th</sup> of June, 2010, pursuant to which both parties agreed to cooperate in the setting-up of a work scheme to develop Somalia's domain name registry, inclusive but not limited, to the area of management, technical as well as international marketing/promotion of .SO.
- (E) GMO REGISTRY and MoPT have entered into Cooperation Agreement dated the 7<sup>th</sup> of June, 2010, pursuant to which both parties agreed to cooperate in the development and marketing of domain business in Somalia, including providing registry system for organization managing ccTLD of Somalia.
- (F) MoPT, considering strategic and better economies, legal position and public acceptance, desire to have an extension of support from GMO REGISTRY.

## THE PARTIES NOW AGREE AS FOLLOWS:

### 1. Definitions

In this Agreement, defined terms shall have the meanings set forth in this Article and elsewhere in this Agreement.

- (a) "Domain Name" means a name consisting of two or more (for example, john.smith.name) levels, maintained in a registry database.
- (b) "DNS" means The Internet Domain Name System. The DNS helps users find their way around the Internet. Every computer on the Internet has a unique address—just like a telephone number—which is a rather complicated string of numbers. Called an IP address (IP stand for Internet Protocol), the string of numbers is hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the domain name) to be used instead of the arcane IP address. So instead of typing 207.151.159.3, a user can type www.internic.net. It is a mnemonic device that makes addresses easier to remember.
- (c) "ICANN" means the Internet Cooperation for Assigned Names and Numbers.
- (d) "ICANN-accredited Registrar" means a company that registers domain names for Internet users. There are more than 900 ICANN-accredited registrars who provide domains to Internet users.
- (e) ".SO" means the country code top level domain name of Somalia.
- (f) "ccTLD" means country code top level domain.
- (g) "Registry" means organization appointed by the Ministry of Posts & Telecommunications (acting for the The Transitional Federal Government of The Somali Republic) to operate domain name administration of .SO
- (h) "GMO" means GMO Internet, Inc., a company duly organized and existing under the laws of Japan domiciled in 26-1, Sakuragaoka-cho, Shibuya-ku, Tokyo, Japan.
- (i) "Registry Service" has the meanings ascribed in Article 4.
- (j) "Marketing Service" has the meanings ascribed in Article 6.
- (k) "Whois" means Records containing registration information about registered domain names.

### 2. Services

GMO REGISTRY hereby agrees to provide Registry Service and Marketing Service to MoPT, and MoPT hereby accepts to receive Registry Service and Marketing Service solely from GMO REGISTRY.

### 3. Agreement Term

The term of this Agreement shall be for a period of five years ("Term") commencing as of date of this Agreement and shall be automatically renewed thereafter on a year-by-year basis if 90 day prior written notice is not made from either party. Term shall always be subject to the termination provisions set forth herein.



#### **4. Registry Service**

- (a) Provide use of domain name registry system for name space of .SO including web-based administration system, extensible provisioning protocol, DNS server, Whois server and operational testing and evaluation system.
- (b) Provide data escrow service through designated third party to ensure continuity in the event of catastrophic failure.
- (c) Provide billing measures in which GMO will deliver appropriate funds to MoPT on a monthly basis at an agreed date, unless otherwise specified by either party.
- (d) Provide MoPT quarterly reports of the registry operations of the .so ccTLD.
- (e) Support MoPT in technical and policy development.
- (f) Support MoPT in operation, including training and transfer options of comprehensive knowledge.
- (g) Set up the hardware and install domain name registry system for domain name space of .SO, initially at the location suggested by GMO REGISTRY.
- (h) Assist MoPT with operations of domain name space of .SO which includes;
  - (I) Staff training for the registry system
  - (II) Extended support of the registry system
  - (III) Definition and Implementation of Rights Protection Mechanism Period
  - (IV) Implementation plan for new registrations
  - (V) Setting up a new website for MoPT in the future

#### **5. Ownership of Registry Data**

MoPT shall be entitled to the ownership of registry data, which shall be made available through data escrow service in case of emergency.

#### **6. Marketing Service**

- (a) GMO REGISTRY will be responsible to design and operate marketing and sales promotion plan of .SO.
- (b) Cooperate with domain name registrars and domain name resellers to sell .SO outside of Somalia, internationally and exclusively.

#### **7. Obligations**

- (a) MoPT shall immediately obtain approval required to subsequently embark on this Agreement.

#### **8. Payments**

- (a) MoPT shall pay fee to GMO REGISTRY, \$1 of revenue earned from sales of newly registered and renewed .SO domain names both domestic and international, subject to foreign exchange rates. The fee will start to incur from the date domain registry system provided by GMO REGISTRY is in operation.

- (b) MoPT shall pay fee to GMO REGISTRY 30% of revenue, subject to foreign exchange rate, earned during Sunrise and Landrush periods including auctions that may be held at a later date for premium names of .SO domain.

## **9. Termination**

The following transactions or occurrences shall constitute material events of default (each an "Event of Default") by the applicable party (the "defaulting party") hereunder such that, in addition to and without prejudice to or limiting any other rights and remedies available to the non-defaulting party at law or in equity the non-defaulting party may elect to immediately and prospectively terminate this Agreement at the sole discretion of the non-defaulting party by giving written notice thereof to the other party at any time after the occurrence of an Event of Default setting forth sufficient facts to establish the existence of such Event of Default.

- (a) **Material Breach**  
A material breach by a Party of any material covenant, material warranty, or material representation contained herein, where such defaulting party fails to cure such breach within 120 calendar days after receipt of written notice thereof, or within such specific cure period as is expressly provided for elsewhere in this Agreement; or
- (b) **Insolvency and/or Bankruptcy**  
A Party makes an attempt to make any arrangement for the benefit of creditors, or a voluntary or involuntary bankruptcy, insolvency or assignment for the benefit of creditors of a party or in the event any action or proceeding is instituted relating to any of the foregoing and the same is not dismissed within 120 calendar days after such institution; or
- (c) **Failure to Make Payment**  
A failure by either party to make payment of any monies payable pursuant to this Agreement, as and when payment is due. Except as otherwise provided herein, no termination of this Agreement for any reason shall relieve or discharge any party hereto from any duty, obligation or liability hereunder which was accrued as of the date of such termination.

## **10. Arbitration**

Any dispute controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled amicably by the Parties within 30 (thirty) days after a Party notifies another Party of any such dispute. However, if such dispute cannot be settled amicably within such time period, such dispute shall be settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The award rendered by the arbitrators shall be final and binding on the Parties and shall be enforceable in any court of competent jurisdiction.

Subject to the award of the arbitrators, the costs and expenses incurred in connection with any dispute referred to arbitration under this Agreement shall be borne by the Party against whom such



an award is made.

### **11. Assignment**

This Agreement shall not be assignable by any third party hereto without the prior written consent of the other Party.

### **12. Confidentiality**

- (a) The Parties recognize that, in connection with the performance of this Agreement, each Party (in such capacity, the "Disclosing Party") may disclose "Confidential Information" (as defined below) to another Party (the "Receiving Party"). For the purposes of this Agreement "Confidential Information" means proprietary information (whether owned by the Disclosing Party or a third party to whom the Disclosing Party owes a non-disclosure obligation) regarding the Disclosing Party's business, which is marked as confidential at the time of disclosure to the Receiving Party, or if in oral form, is identified as confidential at the time of oral disclosure and reduced in writing or other tangible (including electronic) form including a confidentiality notice and delivered to the Receiving Party within ten (10) days of disclosure. "Confidential Information" shall not include information which:
- (A) was known to the Receiving Party at the time of the disclosure by the Disclosing Party;
  - (B) is or has become publicly known through no wrongful act of the Receiving Party;
  - (C) has rightfully been received by the Receiving Party from a third party without a duty of confidentiality;
  - (D) is disclosed by the Disclosing Party to a third party without a duty of confidentiality on the third party; or
  - (E) has been independently developed by the Receiving Party.
- The Receiving Party agrees (x) not to use any such Confidential Information for any purpose other than in the performance of its obligations under this Agreement or any Related Documents and (y) not to disclose any such Confidential Information, except (i) to its employees who are reasonably required to have the Confidential Information in connection herewith or with any Related Documents, (ii) to its agents, representatives, lawyers and other advisers who have a need to know such Confidential Information and (iii) pursuant to, and to the extent of, a request or order by a governmental authority.
- (b) The Receiving Party agrees to take all reasonable measures to protect the secrecy and confidentiality of, and avoid disclosure or unauthorized use of, the Disclosing Party's Confidential Information. The Receiving Party's duty under this Article shall expire three (3) years after the date of the disclosure. Each Party acknowledges and agrees that (i) its obligations under this Article are necessary and reasonable to protect the other Party and its businesses, (ii) any violation of these provisions could cause irreparable injury to another Party for which money damages would be inadequate, and (iii) as a result, such other Party shall be entitled to obtain injunctive relief against the threatened breach of the provisions of this Article without the

necessity of proving actual damages. The Parties agree that the remedies set forth in this Article are in addition to and in no way preclude any other remedies or actions that may be available at law or under this Agreement.

- (c) Each Party agrees that the terms and conditions of this Agreement and the Related Documents shall be treated as confidential information and that no reference thereto shall be made without the prior written consent of the other Parties (which consent shall not be unreasonably withheld) except (i) as required by applicable law including, without limitation, by the regulations under the Tokyo Stock Exchange and Japanese governmental authorities, (ii) to its accountants, banks, financing sources, lawyers and other professional advisors, provided that such Parties undertake in writing (or are otherwise bound by rules of professional conduct) to keep such information strictly confidential, (iii) in connection with the enforcement of this Agreement, (iv) in connection with a merger, acquisition or proposed merger or acquisition, or (v) pursuant to joint press releases prepared in good faith. The Parties will consult with each other, in advance, with regard to the terms of all proposed press releases, public announcements and other public statements with respect to the transactions contemplated hereby.

### **13. Indemnity**

Each party (the "Indemnifying Party") shall indemnify and hold the other party and its affiliates and their respective employees, officers, agents, attorneys, stockholders and directors, and their respective permitted successors, licensees and assigns (the "Indemnified Party(ies)") harmless from and against (and shall pay as incurred) any and all claims, proceedings, actions, damages, costs, expenses and other liabilities and losses (whether under a theory of strict liability, or otherwise) of whatsoever kind or nature ("Claim(s)") incurred by, or threatened, imposed or filed against, any Indemnified Party (including, without limitation, (a) actual and reasonable costs of defense, which shall include without limitation court costs and reasonable attorney and other reasonable expert and reasonable third party fees; and (b) to the extent permitted by Law, any fines, penalties and forfeitures) in connection with any proceedings against an Indemnified Party caused by any breach (or, with respect to third party claims only, alleged breach) by the Indemnifying Party of any representation, term, warranty or Agreement hereunder. Neither party shall settle, compromise or consent to the entry of any judgment in or otherwise seek to terminate any pending or threatened Claim in respect of which the Indemnified Party is entitled to indemnification hereunder (whether or not the Indemnified Party is a party thereto), without the prior written consent of the other party hereto; provided, however, that the Indemnifying Party shall be entitled to settle any claim without the written consent of the Indemnified Party so long as such settlement only involves the payment of money by the Indemnifying Party and in no way affects any rights of the Indemnified Party.

36% - Shirkada.  
70% - Jaso Inl (Kandib  
10% - Shirkada?  
90% - Inl (Kandib



#### **14. No Consequential Damages For Legal Incapacity**

Neither Party shall be liable to the other for any consequential damages, including but not limited to lost profits, increased construction or occupancy costs, or other losses, costs and expenses by reason of any legal incapacity during the Term, or other conduct not due to the gross negligence or misfeasance of such Party.

#### **15. No Waiver**

A Party that in a particular situation waives its rights in respect of a breach of Agreement by the other Party shall not be deemed to have waived its rights against such other Party for a similar breach of Agreement in other situations or to have waived any of its other rights under this Agreement.

#### **16. Survival**

The Agreements of the Parties contained in Article 9 (Termination), Article 10 (Arbitration), Article 12 (Confidentiality), 13 (Indemnity) shall survive the expiration or termination of this Agreement as provided therein.

#### **17. Force Majeure**

In the event of any failure or delay in the performance of this Agreement due to war, civil commotion, labor dispute, fire, natural disaster, or any other cause whatsoever beyond the reasonable control of a Party whose performance is affected thereby, the Party so affected shall not be liable for such failure or delay, or results thereof. Upon the occurrence of any of the above events, the Party being affected by such event shall, without delay, notify in writing the other Party of the same, and the Parties shall meet and discuss appropriate or necessary steps or actions to be taken to cope with the situation.

#### **18. Notice**

Any notice, request and other correspondence under or in connection with this Agreement shall be in the English language and be sent by e-mail, registered air mail or personal delivery from one Party to the other Party at their respective point of contact specified below.

#### **MoPT**

Address	: Posts & telecommunications Hse. Via Republica, Mogadishu, Somalia
Attn	: Eng. Ahmed M. ADEN
E-mail	: minpostel_somalia@hotmail.com



## GMO REGISTRY

Address : CERULEAN TOWER, 26-1 Sakuragaoka-cho,  
Shibuya-ku, Tokyo, Japan  
Attn : Hiroya TSUKAHARA  
E-mail : legal@gmoregistry.com

The notice, request, and other correspondence pursuant to this Article 18 shall be deemed validly received by the addressee upon expiration of forty-eight (48) hours after transmission in case of e-mail, on the fifteenth (15th) day after mailing in case of registered air mail, or, immediately upon delivery to the Party in the case of personal delivery.

Any Party shall, upon a change of its address, notify the other Party of such change in accordance with the procedures provided for in this Article 18.

### **19. Severability and Interpretation**

In the event that any part of this Agreement shall, for any reason, be determined by a court or arbitral tribunal to be invalid or unenforceable, the remaining provisions hereof shall not be affected, impaired or invalidated, and so far as possible, the said part shall be deemed to be modified to the maximum degree possible so as to comply with applicable law and be valid and enforceable. In that event, the Parties shall thereupon negotiate in good faith in order to agree upon the terms of a mutually satisfactory provision to be substituted for the provision so found to be invalid or unenforceable.

### **20. Governing Law**

This Agreement shall be construed in accordance with and governed by the Rules of Arbitration of the International Chamber of Commerce, without giving effect to internal principles of the conflict of laws.

### **21. Amendments**

This Agreement may not be amended or supplemented in any manner orally or otherwise except by an instrument in writing signed by a duly authorized representative of each of the Parties.

### **22. Entire Agreement**

This Agreement sets forth the entire Agreement and understanding of the Parties relating to the subject matter contained herein and merges all prior discussions between the Parties and none of the Parties shall be bound by any previous Agreement, negotiation, commitment and writing other than as expressly stated in this Agreement.

Ministry of Posts and Telecommunications



By

Name

Prof. H.E Abdirizak Osman HASSAN

Title

Minister for Posts and Telecommunications

**GMO Registry, Inc.**

By

Name \_\_\_\_\_

Masatoshi KUMAGAI

Title

Chief Executive Officer



