

NIRA DISPUTE RESOLUTION POLICY

Version 1.0 – May 5, 2008

Definitions

- a. **Abusive Registration** means a Domain Name which either:
 - i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; OR
 - ii. has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights;
- b. **Bad Faith Registration** means a Domain Name which either:
 - iii. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; OR
 - iv. has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights;
- c. **Business Day** means any day other than a Saturday, a Sunday, any recognized public holiday in Lagos, Nigeria or a day on which NIRA or Expert for that Proceeding is not open for business in accordance with information posted on NIRA website;
- d. **Complainant** means the party initiating a complaint concerning a domain name registration.
- e. **Contract** means the contract between us and the Respondent, made up of our Registrant Agreement, the Policies Rules and Procedure for .ng domain and sub-domains, this Policy and the Procedure;
- f. **Days** means any day other than a Saturday, a Sunday, any recognized public holiday in Lagos, Nigeria or a day on which NIRA or Expert for that Proceeding is not open for business in accordance with information posted on NIRA website;
- g. **Decision** means the decision reached by an Expert and where applicable includes decisions of an appeal panel;
- h. **Dispute Resolution Service** means the service provided by NIRA according to this Policy and the Procedure;
- i. **Domain Name** means a domain name registered in any sub-domain of the .ng domain;
- j. **Expert** means the expert(s) NIRA appoints under paragraphs 8 or 18 of the Procedure;
- k. **Informal Mediation** means impartial mediation which NIRA may conduct to facilitate an acceptable resolution to the dispute;
- l. **ISP** means the internet service provider through which the Domain Name in dispute is hosted;
- m. **NIRA** refers to the Nigeria Internet Registration Association.
- n. **Panel** Constituted of Experts appointed to decide in a Dispute Resolution Service. For an appeal panel is made up of three Experts.

- o. **Panelist** means an Expert that has been appointed to arbitrate in a Dispute Resolution Service. Single Expert for a complaint and three for an Appeal.
- p. **Party** means a Complainant or a Respondent.
- q. **Policy** means the NIRA Dispute Resolution Policy (NDRP) that is incorporated by reference and made a part of the Registrant Agreement.
- r. **Procedure** means the Procedure for the conduct of proceedings under the Dispute Resolution Service;
- s. **Registrar** means the entity with which the Respondent has registered a domain name that is the subject of a complaint.
- t. **Registrant Agreement** means the agreement between NIRA/ a Registrar and a domain name holder.
- u. **Registration** mean the process of obtaining a Domain Name license for a domain under the .ng ccTLD
- v. **Registration Information** means the information of record regarding a Registration in the Registry’s WHOIS database;
- w. **Registry** mean the service provided for the processing of domains on the Nigerian country code top level domain .ng, managed by NIRA
- x. **Respondent** means the holder of a domain name registration against which a complaint is initiated.
- y. **Response** means the materials filed by or on behalf of the Registrant in answer to a Complaint;
- z. **Reverse Domain Name Hijacking** means using the Policy in bad faith to attempt to deprive a registered domain name holder of a domain name.
- aa. **Rights** includes, but is not limited to, rights enforceable under Nigerian law. However, a Complainant will be unable to rely on rights in a name or term which is wholly descriptive of the Complainant’s business;
- bb. **Schedule** means documentary or other evidence, including without limitation a copy of any trade-mark registration, articles of incorporation or trade name registration, upon which a Party relies annexed to a Complaint, a Response or a written request, as the case may be.
- cc. **Tariff** with respect to a Proceeding, means the tariff of fees of the Expert in respect of the Proceeding for dispute resolution services pursuant to the Policy and the Resolution Rules as posted on NIRA’s website on the date the Complainant submits the Complaint in the Proceeding.

1. Introduction

- 1.1 This document sets out the NIRA Dispute Resolution Policy (NDRP) to provide a forum in which cases of conflicting registration of domain names on the .ng country code top level domain name registry operated by NIRA (the “**Registry**”) can be dealt with relatively inexpensively and quickly.
- 1.2 The Policy sets forth the terms and conditions for resolution by Informal mediation then by arbitration of a dispute between a person (the “**Registrant**”) who has obtained the registration of a domain name in the Registry (the “**Registration**”) and any other person (other than NIRA or a NIRA Certified Registrar (a “**Registrar**”) acting in its capacity as Registrar) concerning the registration of the domain name. For

the purposes of this Policy, “**domain name**” means the domain name excluding the “ng” suffix and the suffixes associated with all second, third, and fourth level domain names accepted for registration by NIRA.

- 1.3 The NDRP is an adaptation of the Uniform Dispute Resolution Policy (UDRP) administered by the Internet Corporation for Assigned Names and Numbers (ICANN) with respect to the global Top Level Domains (gTLDs). Some parts of the NDRP are substantively different from the UDRP. Prospective complainants should not assume that principles derived from UDRP decisions would be applicable to NDRP disputes.

2. APPLICATION OF THE NDRP

- 2.1 All domain names registered in the second level domains as at the time this policy comes into force are subject to a mandatory administrative proceeding under the NDRP. Domain names registered before adoption of this Policy are not subject to a mandatory administrative proceeding under the NDRP:
 - a. until the registered domain name is renewed by the Registrant; or
 - b. the registrant voluntarily elects to be bound by the NDRP before the domain name license is renewed by the Registrant.
- 2.2 The NDRP does not apply to all types of domain name disputes. It only applies to disputes, which meet the requirements, set out in Paragraph 4(a) of the NDRP at Schedule A of this document.
- 2.3 The NDRP is an *alternative* dispute resolution mechanism for parties not bound by any NiRA Agreement. Complainants are not obliged to use the NDRP but may instead choose to pursue other means of resolving their dispute, such as litigation. Commencement of an administrative proceeding under the NDRP does not prevent either party from initiating legal proceedings at any time.

3. APPROVED LIST OF DISPUTE RESOLUTION EXPERTS

- 3.1 Each NDRP proceeding is administered by an independent, NIRA Approved Dispute Resolution Service Expert. A list of approved DRS Independent Experts will be made available on NIRA’s website.
- 3.2 From within the list of DRS Independent Experts, an Expert Chair is appointed and an Expert Review Group ERG is also selected. Any queries or complaints about a panelist should be directed to the Expert chair.

4. HOW TO FILE A COMPLAINT UNDER THE NDRP - SUMMARY OF REQUIREMENTS

- 4.1 To determine whether a complaint can be lodged in respect of a particular domain name, the complainant may apply to NIRA using a Dispute Resolution Form, which would be made available by NIRA to determine if the domain name license is subject to a mandatory administrative proceeding under the NDRP.
- 4.2 The complainant should ensure that they have read the entire NDRP and NDRP Rules and Procedure at Schedules A and B of this document before filing their complaint. The complaint should be filed with NIRA directly or through its Website. The complaint must meet the requirements set out in Paragraph 3 of the NDRP Rules & Procedure in Schedule B of this document.
- 4.3 The fee to be paid by the complainant is specified under Paragraph 22 of the NDRP Rules and procedure in Schedule B of this document is:

5. HOW TO FILE A RESPONSE UNDER THE NDRP - SUMMARY OF REQUIREMENTS

- 5.1 The respondent will receive notice of the complaint from NIRA. The respondent may file a response no later than 20 days after they are notified of the complaint.
- 5.2 The respondent should ensure that they have read the entire NDRP, Rules and Procedure at Schedules A and B of this document before filing a response. The response must meet the requirements set out in Paragraph 5 of the NDRP Rules and Procedure in Schedule B of this document.
- 5.3 The respondent is not obliged to file a response. If no response is received, unless there are exceptional circumstances, the Independent Expert panel shall decide the dispute based on the information provided in the complaint.

6. REMEDIES AVAILABLE TO COMPLAINANT

- 6.1 A complainant may seek to have the domain name license:
 - a. cancelled, in which case the domain name will become available for registration in the normal way; or
 - b. transferred to themselves, but only if NIRA determines that they are eligible to hold the domain name under the relevant policy rules and have executed the necessary Registrant Agreement.

7. ENFORCEMENT OF NDRP DECISIONS

- 7.1 Panel decisions under the NDRP are binding on both parties. While this is so parties can appeal to an appeal panel of independent experts.
- 7.2 If the unsuccessful party is not satisfied with the outcome of an NDRP proceeding, they may decide to initiate legal proceedings against the other party. If the Panel decides that the domain name should be transferred or cancelled, the registrar is required to wait 10 business days before implementing the decision to allow for legal proceedings to be commenced.

8. PUBLICATION OF NDRP PROCEEDINGS AND DECISIONS

- 8.1 NIRA will maintain a public index of all NDRP proceedings and panel decisions on the NIRA Website.

9. REVIEW OF POLICY

- 9.1 From time to time, NIRA may update this document for the purposes of clarification or correction. Any amended Policy will become effective 30 calendar days or as specified by the board, after the amended Policy is posted on the NIRA Website. The version of the Policy in effect at the time a Proceeding is initiated will apply to the Proceeding.
- 9.2 NIRA will closely monitor the operation of the NDRP to ensure that it meets its policy and administrative objectives, and will conduct a public review of the NDRP 12 months after implementation.

**SCHEDULE A
NIRA DISPUTE RESOLUTION POLICY**

1. Purpose.

The NIRA Dispute Resolution Policy ("NDRP") is incorporated by reference into the Registrant Agreement, and sets forth the terms and conditions in connection with a dispute between the Registrant and any party other than the registrar over the registration and use of an Internet domain name registered by the Registrant in any level of the .ng domain registered directly by NIRA. Proceedings under Paragraph 4 of this Policy will be

conducted according to the Rules and Procedure for the NDRP (the "NDRP Rules and Procedure"), which are at Schedule B of this document.

2. The Registrant Representations.

By applying to register a domain name, or by asking NIRA to maintain or renew a domain name registration, the registrant hereby represents and warrant to NIRA that:

- a. the statements made in the Registrant domain name application are complete and accurate, including those as to the eligibility for a domain name under the .ng ccTLD;
- b. to the best of the knowledge of the Registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;
- c. the Registrant is/are not registering the domain name for an unlawful purpose; and
- d. the Registrant will not knowingly use the domain name in violation of any applicable laws or regulations. It is registrants' responsibility to determine whether the Registrant domain name registration infringes or violates someone else's rights.

3. Cancellations, Transfers, and Changes.

NIRA will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:

- a. subject to the provisions of Paragraph 8, NIRA's receipt of written or appropriate electronic instructions from the Registrant or his authorized agent to take such action;
- b. NIRA's receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction, requiring such action; and/or
- c. NIRA's receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which the Registrant was a party and which was conducted under this Policy or a later version of this Policy adopted by NIRA, subject to Paragraph 4(i) and (k) below.

NIRA may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of the Registrant Agreement or other legal requirements.

4. Mandatory Administrative Proceeding.

This Paragraph sets forth the type of disputes for which the Registrant is required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the Dispute Resolution Service Independent Experts listed on the NIRA Website.

- a. **Applicable Disputes** The Registrant is required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to NIRA, in compliance with the Rules of Procedure that:
 - i. the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the complainant has rights; and
 - ii. the Registrant have no rights or legitimate interests in respect of the domain name; and
 - iii. the Registrant domain name constitutes an Abusive Registration or subsequently used in bad faith.

In an administrative proceeding, the complainant bears the onus of proof.

b. **Evidence of Abusive Registration or Use in Bad Faith.** For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- i. circumstances indicating that the Registrant has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to another person for valuable consideration in excess of the Registrant documented out-of-pocket costs directly related to the domain name; or
- ii. the Registrant has registered the domain name in order to prevent the owner of a name, trademark or service mark from reflecting that name or mark in a corresponding domain name; or
- iii. the Registrant has registered the domain name primarily for the purpose of disrupting the business or activities of another person; or
- iv. by using the domain name, the Registrant has intentionally attempted to attract, for commercial gain, Internet users to a the Website or other online location, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of that the Website or location or of a product or service on that the Website or location.
- v. the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorized by, or otherwise connected with the Complainant;
- vi. The Complainant can demonstrate that the Respondent is engaged in a pattern of registrations where the Respondent is the registrant of domain names (under .ng or otherwise) which correspond to well known names or trademarks in which the Respondent has no apparent rights, and the Domain Name is part of that pattern;
- vii. It is independently verified that the Respondent has given false contact details to us; or
- viii. The domain name was registered as a result of a relationship between the Complainant and the Respondent, and the Complainant:
 1. has been using the domain name registration exclusively; and
 2. paid for the registration and/or renewal of the domain name registration.

Failure on the Respondent's part to use the Domain Name for the purposes of e-mail or a web-site is not in itself evidence that the Domain Name is an Abusive Registration.

c. **How to Demonstrate The Registrant Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint.** When the Registrant receives a complaint, the Registrant should refer to Paragraph 5 of the NDRP Rules and Procedure in determining how the Registrant's response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence

presented, is to be taken to demonstrate the Registrant rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- i. before any notice to the Registrant of the subject matter of the dispute, the Registrant's bona fide use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with an offering of goods or services (not being the offering of domain names that the Registrant acquired for the purpose of selling, renting or otherwise transferring); or
 - ii. the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
 - iii. the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the name, trademark or service mark at issue.
 - iv. The Domain Name is generic or descriptive and the Respondent is making fair use of it;
 - v. In relation to paragraph 4(b)(viii); that the Registrant's holding of the Domain Name is consistent with an express term of a written agreement entered into by the Parties; or
 - vi. In relation to paragraphs 4(b)(vi); that the Domain Name is not part of a wider pattern or series of registrations because the Domain Name is of a significantly different type or character to the other domain names registered by the Respondent.
 - vii. Fair use may include sites operated solely in tribute to or in criticism of a person or business.
- d. **Informal Mediation:** After we have received the Parties' submissions under the Procedure, we will initiate and conduct a period of Informal Mediation under paragraph 7 of the Rules and Procedure in Schedule B
- e. **Without Prejudice:** Documents and information which are 'without prejudice' (or are marked as being 'without prejudice') may be used in submissions and may be considered by the Expert except that the Expert will not consider such materials if:
- i. they are generated within Informal Mediation; or
 - ii. the Expert believes that it is in the interests of justice that the document or information be excluded from consideration
- f. **Appointment of Expert:** If an acceptable resolution cannot be found by Informal Mediation we will notify the Parties that we will appoint an Expert when the Complainant has paid the applicable fees set out in paragraph 22(a) of the Rules and Procedure and within the time specified in paragraph 22(c) of the Rules and Procedure. The Expert will come to a written Decision.
- g. **Consolidation:** In the event of multiple disputes between the Registrant and a complainant, either the Registrant or the complainant may petition to consolidate the disputes before a single Expert Panel. This petition shall be made to the first Expert Panel appointed to hear a pending

dispute between the parties. This Expert Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated, are governed by this Policy or a later version of this Policy adopted by NIRA.

- h. **Fees:** All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the complainant, except in an appeal in which case all fees will be borne evenly by the Registrant and the complainant.
- i. **NIRA's Involvement in Expert Proceedings:** NIRA does not, and will not, participate in the conduct of any proceeding before an Expert. In addition, NIRA will not be liable as a result of any decisions rendered by the Expert.
- j. **Remedies:** The remedies available to a complainant pursuant to any proceeding before an Expert shall be limited to requiring the cancellation of the Registrant's domain name or the transfer of the Registrant domain name registration to the complainant (provided that the complainant is otherwise eligible to hold that domain name).
- k. **Notification and Publication:** NIRA shall notify the Registrant and the Registrant's Registrar of any decision made by an Expert with respect to a domain name the Registrant has registered. All decisions under this Policy will be published in full over the Internet, except when an Expert Panel determines in an exceptional case to redact portions of its decision.
- l. **Appeal, Repeat complaints, and Availability of Court Proceedings:**
 - i. Either Party will have the right to appeal a Decision under paragraph 18 of the Rules and Procedure. The appeal panel will consider appeals on the basis of a full review of the matter and may review procedural matters.
 - ii. We may refer questions of interpretation of the Policy and Procedure to the appeal panel. Any decision rendered as a result of our referral will not affect any Decision previously made under the Dispute Resolution Service.
 - iii. We will publish decisions of the appeal panel. Appeal decisions will not have precedent value, but will be of persuasive value to Experts in future decisions.
 - iv. The operation of the Dispute Resolution Service will not prevent either the Complainant or the Respondent from submitting the dispute to a court of competent jurisdiction.
 - v. If a complaint has reached the Decision stage on a previous occasion it will not be reconsidered (but it may be appealed) by an Expert. If the Expert finds that the complaint is a resubmission of an earlier complaint he or she shall reject the complaint without a consideration of its merits.
 - vi. In determining whether a complaint is a resubmission of an earlier complaint, or contains a material difference that justifies a re-hearing the Expert shall consider the following questions:
 - a. Are the Complainant, the Respondent and the domain name in issue the same as in the earlier case?
 - b. Does the substance of the complaint relate to acts that occurred prior to or subsequent to the close of submissions in the earlier case?

- c. If the substance of the complaint relates to acts that occurred prior to the close of submissions in the earlier case, are there any exceptional grounds for the rehearing or reconsideration, bearing in mind the need to protect the integrity and smooth operation of the Policy and Procedure?
 - d. If the substance of the complaint relates to acts that occurred subsequent to the close of submissions in the earlier decision, acts on which the re-filed complaint is based should not be, in substance, the same as the acts on which the previous complaint was based.
- vii. A non-exhaustive list of examples which may be exceptional enough to justify a re-hearing under paragraph 10(f)(iii) include:
 - a. serious misconduct on the part of the Expert, a party, witness or lawyer;
 - b. false evidence having been offered to the Expert;
 - c. the discovery of credible and material evidence which could not have been reasonably foreseen or known for the Complainant to have included it in the evidence in support of the earlier complaint;
 - d. a breach of natural justice; and
 - e. the avoidance of an unconscionable result.
- viii. If an Expert decides that the Registrant's domain name registration should be cancelled or transferred, NIRA will wait ten (10) business days after NIRA has been informed Experts decision before implementing that decision. NIRA will then implement the decision unless it receives from the Registrant during that ten (10)-business day period official documentation (such as a copy of a complaint, sealed by Registrar of the court) that the Registrant has commenced a lawsuit against the complainant. If NIRA receives such documentation within the ten (10) business day period, NIRA will not implement the Expert decision, and NIRA will take no further action, until it receives;
 - i. satisfactory evidence of a resolution between the parties;
 - ii. satisfactory evidence that the Registrant lawsuit has been dismissed or struck out;
 - iii. a copy of an order from such court dismissing the Registrant lawsuit or ordering that the registrant does not have the right to continue to use the Registrant's domain name.

5. All Other Disputes and Litigation.

All other disputes between the Registrant and any party other than NIRA regarding the Registrant's domain name registration that are not brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between the Registrant and such other party through any court, arbitration or other proceeding that may be available.

6. Our Involvement in Disputes.

NIRA will not participate in any way in any dispute between the Registrant and any party other than NIRA regarding the registration and use of the Registrant domain name. The Registrant shall not name NIRA as a

party or otherwise include NIRA in any such proceeding. In the event that NIRA is named as a party in any such proceeding, NIRA reserves the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend itself.

7. Maintaining the Status Quo.

NIRA will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8. Transfers During a Dispute.

- a. **Transfers of a Domain Name to a New Holder** The Registrant may not transfer a domain name registration to another holder
 - i. during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or
 - iii. during a pending court proceeding or arbitration commenced regarding the Registrant domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. NIRA reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.
- b. **Changing Registrars.** The Registrant may not transfer the domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days after such proceeding is concluded. The Registrant may transfer administration of the Registrant domain name registration to another registrar during a pending court action or arbitration, provided that the domain name the Registrant has registered with shall continue to be subject to the proceedings commenced against the Registrant in accordance with the terms of this Policy. In the event that the Registrant transfers a domain name registration to another Registrar during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of NIRA from which the domain name registration was transferred.

9. Bad Faith of Complainant. If the Registrant is successful, and the Registrant proves, on a balance of probabilities, that the Complaint was commenced by the Complainant for the purpose of attempting, unfairly and without colour of right, to cancel or obtain a transfer of any Registration which is the subject of the Proceeding, then the Expert may order the Complainant to pay to NIRA in trust for the Registrant an amount of up to five hundred thousand Naira (N500, 000) to defray the costs incurred by the Registrant in preparing for, and filing material in the Proceeding. The Complainant will be ineligible to file another Complaint in respect of any Registration with NIRA until the amount owing is paid in full.

10. Limitation on Liability. In no event will NIRA, the Registrant's Registrar, or their respective directors, officers, members, employees, agents or representatives, or any member or members of an Expert Panel, be liable to a Registrant, a Registrant's Registrar, a Complainant or any other person for any loss, damages or expense including, without limitation, any special, indirect, incidental, exemplary, punitive or consequential damages, or economic loss or damages resulting from loss of use, lost business revenue, lost profits or third party damages arising from or in any way connected with:

- a. the application of the Policy or the Resolution Rules by any of them;
- b. a decision or *corrigendum* rendered by a Panel in a Proceeding;

- c. NIRA's compliance with any order, ruling, decision, *corrigendum*, or judgment made by a Panel in a Proceeding or by any court, tribunal, board, administrative body, commission or arbitrator; or
- d. any action taken or not taken by NIRA, the Registrant's Registrar, an Expert Panel or a member of a Panel in consequence of the Resolution Rules or this Policy, including without limitation paragraph 10(a), 10(b) or 10(c).

11. Policy Modifications. This Policy may only be modified by NIRA. Each such change will be published in advance (where practicable, 30 calendar days in advance) on our web site: <http://www.nira.org.ng/> and will become binding and effective upon the date specified therein

SCHEDULE B RULES AND PROCEDURES FOR NIRA DISPUTE RESOLUTION POLICY

(NDRP Rules and Procedures)

1. Introduction

Administrative proceedings for the resolution of disputes under the NDRP are governed by the NDRP Rules and Regulations.

2. Communications

- a. NIRA shall employ reasonably available means calculated to achieve actual notice to Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:
 - i. sending the complaint to either postal mail or facsimile addresses supplied by Registrar to NIRA for the purposes of achieving actual notice to Respondent; and
 - ii. sending the complaint in electronic form (including annexes to the extent available in that form) by email to:
 - A. the email addresses for the Respondent, including technical, administrative, and other notified contacts;
 - B. `postmaster@<the contested domain name>`; and
 - C. if the domain name (or "www." Followed by the domain name) resolves to an active web page (other than a generic page the Provider concludes is maintained by a registrar or ISP for parking domain names registered by multiple domain name holders), any email address shown or email links on that web page; and
 - iii. sending the complaint to any address the Respondent has notified NIRA it prefers and, to the extent practicable, to all other addresses provided to NIRA by Complainant under Paragraph 3(b)(v).
- b. Except as provided in Paragraph 2(a), any written communication to Complainant or Respondent provided for under these Rules shall be made by the preferred means stated by the Complainant or Respondent, respectively (see Paragraphs 3(b)(iii) and 5(b)(iii)), or in the absence of such specification
 - i. by facsimile transmission, with a confirmation of transmission; or

- ii. by postal or courier service, postage pre-paid and return receipt requested; or
 - iii. electronically via the Internet, provided a record of its transmission is available.
- d. Communications shall be made in the language prescribed in Paragraph 13. Email communications should, if practicable, be sent in plaintext.
- e. Either Party may update its contact details by notifying NIRA.
- f. Except as otherwise provided in these Rules, or decided by a Panel, all communications provided for under these Rules shall be deemed to have been made:
- i. if delivered by telecopy or facsimile transmission, on the date shown on the confirmation of transmission; or
 - ii. if by postal or courier service, on the date marked on the receipt; or
 - iii. if via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable.
- g. Except as otherwise provided in these Rules, all time periods calculated under these Rules to begin when a communication is made shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Paragraph 2(f).
- h. Any communications (Except for communications relating to Informal Mediation) by
- i. a Panel to any Party shall be copied to NIRA and to the other Party;
 - ii. NIRA to any Party shall be copied to the other Party and the Expert if already appointed; and
 - iii. a Party shall be copied to the other Party, the Panel and NIRA, as the case may be.
- I It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes.
- j. In the event a Party sending a communication receives notification of non-delivery of the communication, the Party shall promptly notify the Panel (or, if no Panel is yet appointed, NIRA) of the circumstances of the notification. Further proceedings concerning the communication and any response shall be as directed by the Panel.

3. The Complaint

- a. Any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the NDRP and these Rules and Regulation to NIRA. In exceptional circumstances, we may have to suspend our ability to accept complaints. If so, we will post a message to that effect on our web-site which will indicate when the suspension is likely to be lifted.
- b. More than one person or entity may jointly make a complaint. Where this occurs the joint Complainants must:
 - i. all sign the hard copy of the complaint (or have it signed on their behalf) ;

- ii. specify one of the Complainants, or a single representative, who will be the 'lead Complainant' who will receive correspondence on behalf of all the Complainants and is entitled to act on behalf of them all (e.g. in Informal Mediation); and
 - iii. specify which Complainant the Complainants wish to become the sole registrant of each Domain Name(s) which are the subject of the complaint if the Complainants are successful (this does not bind the Expert).
- c. The complaint shall be submitted in hard copy and (except to the extent not available for annexes) in electronic form and shall:
- i. not exceed 2000 words (not including the text set out in paragraph 3(c)(xiv) below and annexes);
 - ii. Request that the complaint be submitted for decision in accordance with the Policy and these Rules and Procedures;
 - iii. Provide the name, postal and email addresses, and the telephone and fax numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;
 - iv. Specify a preferred method for communications directed to the Complainant in the administrative proceeding (including person to be contacted, medium, and address information) for each of
 - a. electronic material and
 - b. material including hard copy;
 - v. specify the Domain Name which is the subject of the dispute and the name or mark which is identical or similar to the Domain Name and in which the Complainant asserts it has Rights;
 - vi. Provide the name of the Respondent (domain name holder) and all information (including any postal and email addresses and telephone and fax numbers) known to Complainant regarding how to contact Respondent or any representative of Respondent, including contact information based on pre-complaint dealings, in sufficient detail to allow the Provider to send the complaint as described in Paragraph 2(a);
 - vii. Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the complaint is filed;
 - viii. Specify the name(s), trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which the mark is used (Complainant may also separately describe other goods and services with which it intends, at the time the complaint is submitted, to use the mark in the future.);
 - ix. Describe, in accordance with the Policy, the grounds on which the complaint is made. (The description should discuss any aspects of the policy that are applicable. The description shall comply with any word or page limit set forth by NIRA in the Rules and Procedures.);
 - x. Specify, in accordance with the Policy, the remedies sought, whether the Complainant is seeking to have the Domain Name transferred, suspended, cancelled or otherwise amended;

- xi. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
- xii. State whether a copy of the complaint, together with the cover sheet as prescribed by NIRA, has been sent or transmitted to the Respondent (domain name holder), in accordance with Paragraph 2(b);
- xiii. State that Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the jurisdiction of the courts in the Federal Republic of Nigeria;
- xiv. Conclude with the following statement followed by the signature of the Complainant or its authorized representative:

"Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against (a) the Expert panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) NIRA, and their directors, officers, employees, and agents."

"Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good faith and reasonable argument."; and

- xv. Annex any documentary or other evidence, including a copy of the Policy applicable to the domain name(s) in dispute and any name, trademark or service mark registration upon which the complaint relies, together with a schedule indexing such evidence.
- d. The complaint may relate to more than one domain name, provided that the same domain name holder registers the domain names.

4. Notification of Complaint

- a. NIRA shall review the complaint for administrative compliance with the Policy and these Rules and Regulation, and if in compliance, shall forward the complaint together with the explanatory cover sheet to the Respondent, in the manner prescribed by Paragraph 2(a), within three (3) calendar days of receipt of complaint.
- b. If NIRA finds the complaint to be administratively deficient, it shall promptly notify the Complainant of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.
- c. The date of commencement of the administrative proceeding shall be the date on which NIRA completes its responsibilities under Paragraph 2(a) in connection with forwarding the Complaint to the Respondent. NIRA shall duly inform all parties of the commencement date.

5. The Response

- a. No later than twenty (20) days after the date of commencement of the administrative proceeding the Respondent shall submit a response to NIRA.
- b. The response shall be submitted in hard copy and (except to the extent not available for annexes) in electronic form and shall:
 - i. Respond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name. This portion of the response shall not exceed 2000 words (not including the text set out in paragraph 5(c)(vi) and annexes);
 - ii. Provide the name, postal and email address, and the telephone and telefax numbers of the Respondent (domain name holder) and of any representative authorized to act for the Respondent in the administrative proceeding;
 - iii. Specify a preferred method for communications directed to the Respondent in the administrative proceeding (including person to be contacted, medium, and address information) for each of
 - a. electronic only material and
 - b. material including hard copy;
 - iv. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
 - v. At the option of the Registrant state within the word limits as contained in the Providers' Supplementary rules, a claim pursuant to Paragraph 9 of the policy for cost of up to N500, 000 incurred by the Respondent in preparing for, and filing materials in the proceeding and provide particulars of the basis for the claim and receipt or other evidence of the cost.
 - vi. State that a copy of the response has been sent or transmitted to the Complainant, in accordance with Paragraph 2(b); and conclude with the following statement following by the signature of the Respondent or its authorized representative:

"Respondent agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the complainant and waives all such claims and remedies against (a) the dispute resolution Expert panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) NIRA, as well as their directors, officers, employees, and agents."

"Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good faith and reasonable argument."; and
 - vii. Annex any documentary or other evidence upon which the Respondent relies, together with a schedule indexing such documents.

- c. At the request of the Respondent, NIRA may, in exceptional cases, extend the period of time for the filing of the response. The period may also be extended by written stipulation by the Parties, provided the stipulation is approved by NIRA.
- d. If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.
- e. With three (3) days of the receipt by NIRA of the response as stipulated, NIRA shall review the response for administrative compliance with the Policy and the rules and Procedures and if satisfied notify the complainant.
- f. Where NIRA finds the response deficient, it shall within five (5) days following the deadline for receipt of the response give notice to the Respondent of the nature of all instances of non-compliance. The Respondent shall then have five (5) days within which to convert all such instances of non-compliance to the satisfaction of the Provider, failing which the Panel shall decide the proceeding on the basis of the Complaint.

6. Reply by the Complainant

Within five (5) Days of receiving the response from NIRA, the Complainant may submit to us a reply to the Respondent's response, which shall not exceed 2000 words (not including annexes). If a reply is submitted it must be submitted in hard copy (including three copies of all annexes) and as far as possible in electronic form to us. If the Complainant does not submit a reply to us within five (5) Days we will proceed to Informal Mediation.

7. Informal Mediation

- a. Within three (3) Days of our receipt of the Complainant's reply (or the expiry of the deadline to do so), we will begin to conduct Informal Mediation. Informal Mediation will be conducted in a manner which we, in our sole discretion, consider appropriate. No Informal Mediation will occur if the Respondent does not file a Response.
- b. Negotiations conducted between the Parties during Informal Mediation (including any information obtained from or in connection to negotiations) shall be confidential, that is they will not be shown to the Expert. Neither we nor any Party may reveal details of such negotiations to any third parties unless a court of competent jurisdiction orders disclosure, or we or either Party are required to do so by applicable laws or regulations. Neither Party shall use any information gained during mediation for any ulterior or collateral purpose or include it in any submission likely to be seen by any Expert, judge or arbitrator in this dispute or any later dispute or litigation.
- c. If the Parties reach a settlement during Informal Mediation then the existence, nature and terms of the settlement shall be confidential, unless the Parties specifically agree otherwise or a court of competent jurisdiction orders otherwise.
- d. No binding verbal agreements can be reached as part of the Informal Mediation: any settlement reached by the Parties must be in writing or similar electronic form to be enforceable.
- e. If the Parties do not achieve an acceptable resolution through Informal Mediation within ten (10) Days, NIRA will send notice to the Parties that it will appoint an Expert when the Complainant has paid the applicable fees set out under paragraph 22(a) within the time limit specified in paragraph 22(c). NIRA will inform the Expert whether or not Informal Mediation occurred, but NIRA will not inform the Expert what happened during Informal Mediation or why it failed to resolve the dispute.

- f. No Party may ask NIRA to reveal information or materials gained as a result of any Informal Mediation under the Dispute Resolution Service unless such disclosure has been ordered by a court of competent jurisdiction. Neither Party shall call the Expert or NIRA (including our directors, officers, employees, contractors, or agents) as a witness (either in person or to produce documents or other materials) in any proceedings which arise from, or are in connection with, the matters discussed in the mediation.

8. Appointment of the Panel and Timing of Decision

- a. If NIRA does not receive the Complainant's request to refer the matter to an Expert together with the applicable fees within ten (10) Days of the Complainant's receipt of the notice referred to in paragraph 7(e) above, NIRA will deem the complaint to be withdrawn. This will not prevent the Complainant submitting a different complaint to us.
- b. Within five (5) Days of NIRA's receipt of the applicable fees from the Complainant, NIRA will appoint an Expert on a rotational basis from its list of Experts.
- c. NIRA will maintain and publish a list of Experts and their qualifications.
- d. Once NIRA has appointed the Expert, NIRA will notify the Parties of the name of the Expert appointed and the date by which, except in exceptional circumstances, the Expert will forward his or her Decision to NIRA.

9. Impartiality and Independence

A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to NIRA any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to NIRA. In such event, NIRA shall have the discretion to appoint a substitute Panelist.

10. Communication Between Parties and the Panel

No Party or anyone acting on its behalf may have any unilateral communication with the Panel. All communications between a Party and the Panel shall be made through NIRA.

11. Transmission of the File to the Panel

NIRA shall forward the file to the Panel as soon as the Panelist is appointed.

12. General Powers of the Panel

- a. The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules and Procedures.
- b. In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.
- c. The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules and Procedures or by the Panel.
- d. The Panel shall determine the admissibility, relevance, materiality and the weight of the evidence.

- e. A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

13. Language of Proceedings

- a. Unless otherwise agreed by the Parties, or specified otherwise in the Registrant Agreement, the language of the administrative proceeding shall be the language of the Registrant Agreement, which shall be ENGLISH, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.
- b. The Panel may order that any documents submitted in languages other than the language of the administrative proceeding be accompanied by a translation in whole or in part into the language of the administrative proceeding.

14. Further Statements

In addition to the complaint and the response, the Panel may request or permit, in its sole discretion, further statements or documents from either of the Parties.

15. In-Person Hearings

There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panel determines, in its sole discretion and as an exceptional matter, that such a hearing is necessary for deciding the complaint.

16. Default

- a. In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, we will notify the Parties that we will appoint the Expert when the Complainant has paid the applicable fees set out in paragraph 22 and in the absence of exceptional circumstances. Once appointed the Expert will decide the dispute based upon the complaint and evidence attached to it.
- b. If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

17. Panel Decisions

- a. A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.
- b. In the absence of exceptional circumstances, the Panel shall forward its decision on the complaint to NIRA within fourteen (14) days of its appointment pursuant to Paragraph 8.
- d. The Panel's decision shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered and identify the name(s) of the Panelist(s).
- e. Panel decisions shall normally comply with NIRA's Rules. If the Panel concludes that the dispute is not within the scope of Paragraph 4(a) of the Policy, it shall so state. If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

- f. Where the Panel finds the complaint in bad faith and the Respondent had earlier submitted a claim, the Panel shall order the Complainant to pay NIRA in trust of the Respondent an amount of up to N500, 000 to defray the cost incurred by the Respondent in preparing and filing materials in the proceeding.

18. Communication of Decision to Parties

- a. Within three (3) calendar days after receiving the decision from the Panel, NIRA shall communicate the full text of the decision to each Party, and the concerned Registrar(s).
- b. If the Panel makes a Decision that a Domain Name registration should be cancelled, suspended, transferred or otherwise amended, NIRA will implement that Decision by making the necessary changes to the Domain Name register database after ten (10) Days of the date that the parties were notified, unless, during the ten (10) Days following the date that the parties were notified NIRA receives from either Party:
- i. an appeal or statement of intention to appeal complying with paragraph 19 of this Rules and Procedure, in which case we will take no further action in respect of the Domain Name until the appeal is concluded; or
 - ii. Official documentation showing that the Party has issued and served (or in the case of service outside Nigeria, commenced the process of serving) legal proceedings against the other Party in respect of the domain name. In this case, we will take no further action in respect of the Domain Name unless we receive:
 - A. evidence which satisfies us that the Parties have reached a settlement; or
 - B. evidence which satisfies us that such proceedings have been dismissed, withdrawn or are otherwise unsuccessful.
- c. Except if the Panel determines otherwise (see Paragraph 4(j) of the Policy), the Provider shall publish the full decision and the date of its implementation on a publicly accessible website. In any event, the portion of any decision determining a complaint to have been brought in bad faith (see Paragraph 15(e) of these Rules) shall be published.

19. Appeal

- a. Either Party shall have the right to appeal a Decision by submitting either:
- i. a statement of the intention to appeal (see paragraph 19(b)), plus the non-refundable deposit (see paragraph 22(e)), which must be followed within fifteen (15) Days by an appeal notice (see paragraph 19(c)) and the balance of the fee (see paragraph 22(e)); or
 - ii. an appeal notice (see paragraph 19(c)) and the whole fee (see paragraph 22(e)).
- b. A statement of intention to appeal should only contain sufficient information to make it clear that an appeal is requested. The statement of intention to appeal should not contain the actual grounds or reasons for appeal.
- c. An appeal notice should not exceed 1000 words, should set out detailed grounds and reasons for the appeal, but shall contain no new evidence or annexes.
- d. Within three (3) Days of our receipt of the:

- i. statement of the intention to appeal and deposit; or
- ii. appeal notice and the full fee

NIRA will forward the statement of intention to appeal or appeal notice (as the case may be) to the other Party.

- e. Within ten (10) Days of receiving the appeal notice from NIRA, the other Party may submit to NIRA an appeal notice response (paragraph 19(f)).
- f. An appeal notice response must not exceed 1000 words, should set out detailed grounds and reasons why the appeal should be rejected but should contain no new evidence or annexes.
- g. Following the filing of an appeal notice response (or the expiry of the deadline to do so) NIRA will appoint an appeal panel of three Experts. The test of impartiality shall apply to each appeal Expert subject to this the appeal panel shall consist of:
 - i. the chairman of the group of Experts, or at his or her discretion, an Expert of his or her choice; and
 - ii. the next available two Independent Experts appointed by rotation from our list.
- h. The appeal panel should not normally take into consideration any new evidence presented in an appeal notice or appeal notice response, unless they believe that it is in the interests of justice to do so.
- i. So far as is appropriate in the circumstances paragraphs 16 and 17 apply equally to appeal Decisions, except that:
 - i. appeal Decisions should be returned by the appeal panel to NIRA within thirty (30) days of the appointment of the last panellist, but this deadline may be extended by up to ten (10) Days by agreement with NIRA; and
 - ii. appeal Decisions cannot be subject to any appeal within the Dispute Resolution Service.

20. Settlement or Other Grounds for Termination

- a. If, before the Panel's decision, the Parties agree on a settlement, the Panel shall terminate the administrative proceeding.
- b. If, before the Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panel.

21. Effect of Court Proceedings

- a. In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision.
- b. In the event that a Party initiates any legal proceedings during the pendency of an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, it shall promptly notify the Panel and NIRA. See Paragraph 10 above.

22. Fees

- a. The applicable fees in respect of the referral of proceedings under the Dispute Resolution Service to an Expert are =N=100,000 + VAT for disputes involving 1-5 Domain Names and only one Complainant. For

disputes involving 6 or more Domain Names, and/or more than one Complainant, NIRA will set a fee in consultation with the Complainant. Fees are calculated on a cost-recovery basis, and are passed on in their entirety to the Expert(s). NIRA does not charge for its mediation or administration services in respect of the Dispute Resolution Service.

- b. Fees are payable by the Complainant only if an acceptable resolution by Informal Mediation has not been reached and NIRA will notify the Parties that an Expert is to be appointed.
- c. If NIRA has not received the fees from the Complainant as set out in paragraph 22(a) above within ten (10) Days of receipt by the Complainant of notice from us that an Expert is to be appointed under paragraphs 5(d), 7(e) or 16(a) we will deem the complaint to be withdrawn
- d. In exceptional circumstances, for example in the event an in-person hearing is held, the Provider shall request the Parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.
- e. The applicable fees for the submission of an appeal are =N=250,000 + VAT. If the option is used to pay a deposit and the balance, the deposit is =N=50,000 + VAT and non-refundable, and the balance is =N=200,000 + VAT. If the deposit is paid, and the balance of the fee and/or appeal notice are not filed in time, that appeal is deemed withdrawn and the case will be closed.

23. Exclusion of Liability

Except in the case of deliberate wrongdoing done in bad faith, neither NIRA nor a Panelist shall be liable to a Party for any act or omission in connection with any administrative proceeding under these Rules.

24. Amendments

NIRA reserves the right to amend the Rules at any time. All amended Rules will become effective 30 calendar days or as specified by the board, after the amended Rules are posted at NIRA's Website. The version of these Rules in effect at the time of the submission of the complaint to the NIRA shall apply to the administrative proceeding commenced thereby.