

## SPONSORING ORGANIZATION AGREEMENT

This Sponsoring Organization Agreement (“Agreement”) between the International Foundation for Online Responsibility (“IFFOR”), a Delaware not-for-profit corporation with its principle place of business at 919 18<sup>th</sup> Street NW, Suite 925, Washington, DC 20006 and ICM Registry LLC (“ICM”), a Delaware Limited Liability corporation with its principle place of business at 1097 Jupiter Park lane, Suite 3, Jupiter FL 33458, is entered into this \_\_\_\_day of \_\_\_\_\_, 2010 (the “Effective Date”).

WHEREAS, ICM has entered into a registry agreement (the “Registry Agreement”) with the International Corporation for Assigned Names and Numbers (“ICANN”) under which it will operate the .xxx sponsored top level domain (the “sTLD”) to serve providers of online, sexually-oriented adult entertainment intended for consenting adults, their representatives, and their service providers, that have voluntarily determined that a system of self-identification would be beneficial, and have voluntarily agreed to develop and comply with industry best practices (the “Sponsored Community”);

WHEREAS, IFFOR is organized and shall operate to (i) promote adoption and use of the .xxx sponsored top level domain in accordance with the .xxx Charter, (ii) foster communication between the Sponsored Community and other Internet stakeholders, (iii) protect free expression rights as defined in the United Nations Declaration of Human Rights, and (iv) promote the development and adoption of responsible business practices designed to combat child pornography, facilitate user choice and parental control regarding access to online adult entertainment, and protect the privacy, security, and consumer rights of consenting adult consumers of online adult entertainment goods and services (the “Policy Goals”);

WHEREAS, ICM wishes to delegate to IFFOR, and IFFOR wishes to accept responsibility for developing policies, practices and procedures designed to serve the Sponsored Community and in furtherance of the Policy Goals (“IFFOR Policy”);

WHEREAS, ICM wishes to delegate to IFFOR, and IFFOR wishes to accept responsibility for developing policies and procedures under which a portion of IFFOR’s revenues are distributed in furtherance of the Policy Goals (the “Grants Program”), and for administering the Grants Program

NOW THEREFORE, ICM and IFFOR (each, a “Party” and collectively the “Parties”) hereby agree as follows:

### **I. Obligations of ICM Registry**

ICM hereby agrees as follows:

1. Pay to IFFOR the sum of US\$10 per resolving registration in the .xxx sTLD per year (or, in the event of a price change of the regular wholesale price to registrars from US\$60 per resolving registration, a sum of no less than 15% of the regular wholesale price) for IFFOR to develop policies in furtherance of the Policy Goals, to administer the Grants Program, and to provide ombudsman, labeling, and monitoring services in accordance with and as detailed in this Agreement. Payment will be made:

- a. In advance, on a non-recourse basis, in the sum of US \$250,000, which the Parties deem sufficient to cover IFFOR's start-up costs; and
  - b. On a quarterly basis thereafter, within 15 days of ICM's quarterly payment to ICANN set forth in Section [7.2] of the Registry Agreement.
2. ICM shall delegate to IFFOR authority to develop IFFOR Policy, including the terms and conditions for registration in the .xxx sTLD, in furtherance of the Policy Goals (the "Scope of Delegated Authority");
  3. ICM shall implement policies, practices, and procedures developed by IFFOR and accepted by ICM ("IFFOR Policies") in accordance with the IFFOR Policy Development Process attached hereto as **Appendix A** ("IFFOR Policy Development Process" or the "PDP"), including, without limitation, the IFFOR Baseline Policies attached hereto as **Appendix B** (the "Baseline Policies") In fulfilling its obligations hereunder, ICM shall:
    - a. Ensure that its agreements with ICANN accredited registrars ("Registrars") and approved proxy services require registrars to obligate registrants to (i) comply with IFFOR Policies, as they may be amended in accordance with the PDP from time to time, and (ii) acknowledge that all such obligations shall be enforceable directly by ICM as a third party beneficiary).
    - b. Create readily available and easy to use mechanisms for reporting violations of IFFOR Policies, and for processing such reports, consistent with the requirements of the Compliance Reporting System (the "CRS") described in **Appendix C** (the "Compliance Reporting System" or "CRS");
    - c. Name a Compliance Officer to receive and respond to reports of non-compliance and administer IFFOR Policies regarding:
      1. Reporting suspected violations of IFFOR Policies, including IFFOR Baseline Policies prohibiting child pornography and/or content that suggests the presence of child pornography;
      2. Penalties for failure to cure non-compliance with IFFOR Policies, up to and including cancellation of registration and disqualification for future registration.
  4. Respect ethical screens designed by IFFOR to ensure its independence from ICM and to protect it from inappropriate influence by ICM.

## II. Obligations of IFFOR

IFFOR hereby agrees to:

1. Create and maintain an IFFOR website.
2. Name an Executive Director, the IFFOR Policy Council, and the IFFOR Board of Directors in accordance with IFFOR's By-Laws and the PDP.

3. Create and maintain the organization structure set forth in the IFFOR organization chart attached as **Appendix D** (the “IFFOR Org Chart”) hereto, which may be amended only in accordance with the PDP.
4. Create open and transparent policy development procedures and mechanisms, as set forth in the IFFOR PDP (**Appendix A**) that without limitation;
  - a. Include sufficient opportunity for public comment and input from concerned and affected groups, and mechanisms;
  - b. Promote well-informed decisions based on expert advice;
  - c. Ensure that those entities most affected can assist in the policy development process; and
  - d. Support informed participation reflecting the functional, geographic, and cultural diversity of the responsible online adult entertainment community and the broader Internet stakeholders at all levels of policy development and decision-making.
5. Ensure Openness and Transparency by naming a Manager of Public Participation who, in addition to the tasks set forth in the Policy Development Process, shall be responsible for maintaining the IFFOR website, which shall include a calendar of scheduled meetings of the Board, Policy Council, and Stakeholder Groups, a docket of all pending policy development matters, information on IFFOR’s budget, audit and financial information, sources and uses of funding, and grants activities, and the tasks set forth in the IFFOR PDP (**Appendix A**).
6. Establish and operate the Grants Program including, without limitation, by
  - a. Establishing a Grants Committee;
  - b. Developing the grants application procedures and award criteria (“Grant Award Criteria”) based on public comment and input from concerned and affected stakeholders;
  - c. Reviewing and acting on grants applications in accordance with the Grant Award Criteria; and
  - d. Publish annual reports on grants and sponsorship activities.
7. Proactively reach out to governments and international organizations to provide information about IFFOR’s activities and solicit input and participation.
8. Adopt the IFFOR Baseline Policies ( **Appendix B** ) .
9. Contract with 3<sup>rd</sup> party providers to monitor compliance with IFFOR Policies related to labeling obligations and prohibitions relating to child pornography and/or content or conduct suggesting the presence of child pornography.
10. In addition to the Baseline Policies, develop best business practices, for consideration, recommendation, and adoption in accordance with the PDP (**Appendix A**):

- a. Safeguard children online and combat child pornography
  - b. Prohibit misuse of personal information
  - c. Require accurate labeling
  - d. Prohibit malicious conduct and protect the privacy, security, and consumer rights of consenting adult consumers of online adult entertainment goods and services
  - e. Implement innovative approaches to reduce the incidence of children exposed to online adult entertainment.
11. Name an ombudsman to receive and respond to complaints and/or concerns about Registry Operator, including concerns about enforcement of registry policies and handling of complaints related to registrant non-compliance, in accordance with the charter of the ICM Ombudsman attached hereto as **Appendix E** (the "Ombudsman Charter"). The ombudsman must be an experienced provider of such services, possessing such training and credentials as are recommended from time to time by the International Ombudsman Association, and must adhere to the Code of Ethics and Standards of Practice promulgated from time to time by the International Ombudsman Association.
12. Proactively reach out to governments and international organizations to provide information about IFFOR's activities and solicit input and participation, and consult regularly with and seek input from governments with respect to Policy Goals, Grants Program, and other matters consistent with the Scope of Delegated Authority and in furtherance of the Policy Goals.
13. Conduct stakeholder meetings prior to Limited Launch of the sTLD and at least annually thereafter.
14. Quarterly for one year following the Effective Date of this Agreement, and as reasonably requested by ICM thereafter, submit a written progress report describing its activities relating to and demonstrating reasonable progress towards fulfillment of its obligations with respect to the Policy Goals and Grants Program.

### **III. Term and Termination**

1. The initial term of this Agreement shall expire ten years from the Effective Date (the "Expiration Date"), as extended by any renewal terms. This Agreement shall automatically terminate in the event of the termination or expiration of the Registry Agreement.

### **IV. Disputes**

- 1, Policy Objection. ICM may object in writing ("Object," in each case an "ICM Objection") within fifteen (15) days of its receipt of notification by IFFOR of its intention to adopt a Proposed Policy (as defined in the PDP) on the grounds that the Proposed Policy (i)

exceeds the Scope of Delegated Authority; (ii) violates the contract between ICM and IFFOR; (iii) would, if implemented, require ICM to violate its contract with ICANN; (iv) creates a threat to the stability or security of the Domain Name System (as defined in the Registry Agreement); or (v) to the extent any such Proposed Policy requires modification of the systems, practices, and procedures used by ICM Registry and/or its registrars in connection with registration of names in the .XXX sTLD, cannot be implemented in a commercially reasonable manner.

2. Reconciliation Process. In the event ICM Objects to a Proposed Policy, it will (i) articulate the reasons for its determination in a report to the IFFOR Board (the "ICM Statement"); and (ii) submit the ICM Statement to the IFFOR Board. The IFFOR Board will review ICM's Statement for discussion with ICM within twenty (20) calendar days after the Board's receipt of the ICM Statement. ICM will determine the method (e.g., by teleconference, e-mail, or otherwise) by which ICM and the IFFOR Board will discuss the ICM Statement.

At the conclusion of the ICM and IFFOR Board discussions, each Party will meet separately to affirm or modify its position or to take other action to reconcile the views of ICM and the IFFOR Board with respect to the Proposed Policy, and communicate that conclusion to the other Party. In the event that the Parties are not able to reconcile their positions with respect to the Proposed Policy, each Party will provide a written explanation of its position, which shall be posted on the IFFOR website for public comment for no less than thirty (30) days. ICM and the IFFOR Board will meet again following the close of the public comment period in a good faith attempt to reconcile their respective positions. ICM shall thereafter inform the IFFOR Board in writing whether or not it intends to accept the Proposed Policy, which decision will be final.

3. Cooperative Engagement. In the event of a disagreement between the Parties arising under this Agreement, the Parties will attempt to resolve the dispute by cooperative engagement. If either Party provides written notice to the other seeking cooperative engagement, then each Party will, within seven calendar days after such written notice is received in accordance with Section V.8. below, designate a single executive officer as its representative with full authority to act on such party's behalf to resolve the dispute. The designated representatives shall, within 2 business days after being designated, confer by telephone or in person to attempt to resolve the dispute. If they are not able to resolve the dispute during such telephone conference or meeting, they shall further meet in person within 7 calendar days of the initial telephone conference or meeting, at a location reasonably designated by ICM, at which meeting the parties shall attempt to reach a definitive resolution. The time schedule and process set forth above may be modified with respect to any dispute, but only if both parties agree to a revised time schedule or process in writing in advance.

## **V. Miscellaneous**

1. Consequential Damages. In no event shall a Party be liable to the other Party for any consequential, special, incidental or indirect damages of any kind arising out of the use of the Data or the termination of this Agreement, even if the Party has been advised of the possibility of such damages.
2. Governing Law. This Agreement (including the validity and applicability of the arbitration provisions of this Agreement, the conduct of any arbitration of a Dispute, the enforcement of

any arbitral award made hereunder and any other questions of arbitration law or procedure arising hereunder) and its interpretation and all disputes between the parties arising in any manner hereunder, shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdictions other than those of the State of New York.

3. No Third Party Beneficiaries. Except as explicitly stated, this Agreement shall not confer any rights or remedies upon any third party.
4. Entire Agreement. This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, with respect to the subject matter hereof
5. Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Neither party may assign or transfer this Agreement in whole or in part, nor any of the rights hereunder, without the prior written consent of the other party.
6. Counterparts and Facsimile Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile signature.
7. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
8. Notices. All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly delivered four business days after it is sent by registered or certified mail, return receipt requested, postage prepaid, or one business day after it is sent for next business day delivery via a reputable nationwide overnight courier service, in each case to the intended recipient as set forth below:

If to ICM:

Copy to:

If to IFFOR:

Copy to:

Either Party may give any notice, request, demand, claim, or other communication hereunder using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice,

request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the party for whom it is intended. Either Party may change the address to which notices, requests, demands, claims, or other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

9. Amendments. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Parties.
10. No Waiver. No waiver by either Party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the Party giving such waiver. No waiver by either Party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
11. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power to limit the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified.
12. Force Majeure. Neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, fire, embargo, riot, sabotage, or failure of third party power or telecommunications networks, provided that the delayed Party: (a) gives the other Party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. Notwithstanding the foregoing, if such event causes a delay in performance of more than thirty (30) days, the unaffected Party shall have the right to terminate this Agreement without penalty upon written notice at any time prior to the affected Party's resumption of performance.
13. Relationship of Parties. The Parties shall be deemed independent contractors for all purposes hereunder. This Agreement does not constitute a partnership, joint venture or agency between the Parties hereto, nor shall either of the Parties hold itself out as such contrary to the terms hereof by advertising or otherwise nor shall either of the Parties become bound or become liable because of any representation, action, or omission of the other. Neither Party is an agent of the other Party and has no authority to represent the other Party as to any matters, except as expressly authorized in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**INTERNATIONAL FOUNDATION FOR ONLINE RESPONSIBILITY**

By: \_\_\_\_\_

Date:

**ICM REGISTRY LLC**

By: \_\_\_\_\_  
Stuart Lawley, President & CEO

Date: