

## ASSIGNMENT, TRANSFER AND ASSUMPTION AGREEMENT

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### of the top-level domain .PROMO registry agreement

This ASSIGNMENT AND TRANSFER AGREEMENT (this “**Agreement**”) of (i) the top-level domain .PROMO (the “**TLD**”) registry agreement entered into as of 18 December 2014 by and among Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation (“**ICANN**”) and Play.PROMO Oy, a limited liability company formed under the laws of Finland, (“**Seller**”), a copy of which is set out as Schedule 1 (the “**Registry Agreement**”) is entered into as of the date of the last signature hereto (the “**Effective Date**”) by and between Seller and Afilias plc, a public limited company incorporated under the laws of Ireland, having its registered office at 6th Floor, 2 Grand Canal Square, Dublin 2, Ireland, registered under company number 338901 (the “**Assignee**”). The Seller and the Assignee are hereafter sometimes referred to collectively as the “**Parties**” and any of them individually as a “**Party**”.

WHEREAS, the Seller is a party to the Registry Agreement as described above, have desired to assign at auction such Registry Agreement and, thus, have employed Innovative Auctions Ltd., a limited company incorporated under the laws of Hong Kong, having its registered office at 5/F, Yat Chau Building, 262 Des Vœux Road Central, Hong Kong, registered under company number 1898368 (the “**Auctioneer**”), to effect this assignment (the “**Auction**”);

WHEREAS, on 4 June 2015, the Assignee has won the Auction after submitting therein the highest binding bid for the Registry Agreement;

WHEREAS, by participating in the Auction, the Seller and the Assignee have agreed to complete the proposed assignment and assumption of the Registry Agreement upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

#### ARTICLE 1

##### ASSIGNMENT AND ASSUMPTION OF THE REGISTRY AGREEMENT

(a) Upon the terms and subject to the conditions of this Agreement, including completion of the Seller Closing as defined in the Auction process plan, the terms of which are set forth in Schedule 2 (the “**Auction Process Plan**”), Seller assigns to the Assignee, and the Assignee accepts and assumes from Seller, the Registry Agreement, as of the Effective Date pursuant to this Agreement and in accordance with the steps described below, all rights, benefits, obligations and liabilities attached or accruing to it. The parties agree that the Assignee shall be substituted for Assignor for all purposes of the Registry Agreement as of the Effective Date.

#### ARTICLE 2

##### COVENANTS

**Section 2.1. Specific Undertakings.** (a) Seller undertakes to the Assignee that it will take any steps necessary to ensure that the Registry Agreement is duly assigned hereunder, and to cooperate with the Assignee, the Auctioneer and ICANN to effect such assignment. In particular, Seller shall (i) assign to the Assignee any and all rights and interest in, including benefits, obligations and liabilities contained in or derived from, the Registry Agreement; and (ii) use its commercially reasonable efforts to introduce the Assignee before certain established institutions representing the

community of the TLD that have endorsed the application relating to the TLD filed by Seller with ICANN.

(b) The Assignee undertakes (i) not to breach any policies and requirements applicable to the registry services related to the TLD in an adverse manner to Seller (and its affiliates or representatives) and further agrees to assume and perform all of the covenants, obligations and agreements under the Registry Agreement from and after the Effective Date.

(c) Each of Seller and the Assignee expressly recognizes and acknowledges that the assignment of the Registry Agreement, including any and all rights, benefits, obligations and liabilities contained therein and/or derived therefrom, made hereunder does not waive any rights ICANN may have pursuant to the Registry Agreement.

**Section 2.2. Further Assurances.** Each Party shall use its commercially reasonable efforts to do, execute and deliver, or cause to be done, executed and delivered, all such further actions, documents and instruments as may be reasonably required by the other Parties and/or ICANN to give full effect to this Agreement and the transactions contemplated hereby.

**Section 2.3. Confidentiality.** (a) Each Party shall, and shall ensure that its affiliates and its and their respective representatives shall, at all times treat as confidential the provisions of this Agreement and all information that it or they have received or obtained about the other Parties or any of their affiliates in connection with the negotiation, execution and performance of this Agreement. Each Party shall keep confidential all information relating to the Registry Agreement that it has in its possession or control, whatever its source, and shall not permit the use of such information for any purpose whatsoever.

(b) Notwithstanding the foregoing, a Party may disclose information that would otherwise be confidential if and to the extent: (i) required by applicable law or regulation or by a governmental authority or ICANN, provided that a prior Notice of any such confidential information to be disclosed shall (wherever it is reasonably practicable to do so) be given to the other Parties, (ii) disclosed to its representatives who need to know such information, provided that such representatives are required to treat such information as confidential and, provided, further, that the disclosing Party shall remain liable to the other Parties hereunder for any breach of confidentiality by any such representative, or (iii) it comes into the public domain other than as a result of a breach by the disclosing Party or any of its representatives of this Section 2.3.

(c) The confidentiality restrictions in this Section 2.3 shall not prevent the Parties from complying with the provisions of Sections 2.1 and 2.2, and shall survive the execution of this Agreement for a period of time of 3 years.

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

**Section 3.1. Parties' Representations.** Each Party represents and warrants to the other Parties, as of the Effective Date, as set forth below.

(a) Organization; Qualification; Solvency. It is a company duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is registered. It has all requisite corporate power and authority to carry on its business, as currently conducted. No order has been made, petition presented or resolution passed for its winding up. Any person in respect of it or all has appointed no administrator or any receiver or manager or any of its respective assets and no voluntary arrangement have been proposed by it with respect to such appointment. It is not in a state of insolvency, and to its knowledge, no facts exist that would make it likely that such circumstance will occur.

(b) Authorization; Binding Obligation. It has all necessary power and authority to make, execute and deliver this Agreement and to perform all of the obligations to be performed by it hereunder. The making, execution, delivery and performance of this Agreement and the completion by it of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on its part. This Agreement has been duly and validly executed and delivered by it, and assuming the due authorization, execution and delivery of this Agreement by the other Parties, the Agreement constitutes its valid, legal and binding obligation, enforceable against it in accordance with the terms and conditions provided hereunder.

(c) Notwithstanding the foregoing, Seller shall continue to be bound by the covenants, obligations and agreements set forth in the Registry Agreement until ICANN has approved the transfer of the Registry Agreement, including any and all rights, benefits and obligations contained therein or derived therefrom to Assignee. After ICANN has approved the transfer of the Registry Agreement, Assignor shall continue to be bound by the covenants, obligations and agreements set forth in the Registry Agreement with respect to all acts or omissions by the Assignor for the periods prior to the assignment.

(d) No Conflicts. Neither the execution and delivery of this Agreement by it, nor the completion of the transactions contemplated hereby, nor the performance of its obligations hereunder will (i) violate any provision of its articles of association; or (ii) violate, conflict with, result in the breach of, constitute a default under, be prohibited by, require any additional approval under, accelerate the performance provided by, require the assumption of, give any third party the right to terminate or result in any other change in right or obligation or the loss of a benefit under any term, condition or provision of any material mortgage, indenture, deed of trust, debt security, loan or credit agreement or other agreement or instrument to which it is now a party or by which it is bound. Notwithstanding the foregoing, nothing in this Agreement shall be construed to suggest that ICANN approval has either been obtained or is not a requirement.

(e) Approvals. No notices, approvals, reports or other filings are required to be made by it with, nor are there any consents, registrations, approvals, permits or other authorizations required to be obtained by it from, any governmental authority or other third party in order for it to execute or deliver this Agreement or to complete the transactions contemplated hereby. Notwithstanding the above, nothing in this Agreement shall be construed to suggest that ICANN approval has either been obtained or is not a requirement.

(f) Litigation. No action or investigation is pending, or to its knowledge threatened, that seeks to delay or prevent the completion of, or that would be reasonably expected to materially adversely affect its ability to complete, the transactions contemplated by this Agreement.

**Section 3.2. Specific Seller's Representations.** Seller represents and warrants to the Assignee, as of the Effective Date, as set forth below.

(a) Rights. Seller is a lawful party to the Registry Agreement it shall assign hereunder, and it has the absolute right to assign, transfer and deliver the Registry Agreement and any and all rights, benefits and obligations incident to it, all of which rights, benefits and obligations are transferable by the said Seller to the Assignee pursuant to this Agreement.

(b) Compliance with Laws. It is in compliance in all material respects with all laws applicable to it relating to the Registry Agreement.

#### **ARTICLE 4 INDEMNIFICATION**

(a) Each Party shall indemnify, defend and hold harmless, the other Parties (and their respective affiliates or representatives) from and against any and all losses, claims, damages, liabilities

and expenses based upon, arising out of or otherwise in respect of, any inaccuracy in, or any breach of, the representations or warranties of such Party and the covenants or agreements made by such Party in this Agreement.

(b) Notwithstanding any damages that a Party might incur for any reason whatsoever, the entire liability of the other Parties (and their respective affiliates or representatives) under any provision of this Agreement shall be limited to the amount received by Seller upon completion of the Seller Closing (as defined in the Auction Process Plan).

## ARTICLE 5 MISCELLANEOUS

**Section 5.1. Notices.** (a) Any notice or other communications required or permitted to be given to any Party under or in connection with this Agreement (each a “**Notice**”) shall be in writing, in the English language, signed on or on behalf of the Party giving the Notice, and marked for the attention of the relevant Party. A Notice may be delivered personally or sent by fax (with telephone confirmation), pre-paid recorded delivery or pre-paid registered airmail to the address or fax number set out below (or at such other address or facsimile number as the Party shall furnish the other Parties by Notice in accordance with this Section 5.1):

- if to the Seller:

Play.PROMO Oy  
Köydenpunojankatu 2 a D  
00180 Helsinki  
Finland  
Fax: +1 815 331 5181

Markus.stahlberg@calcus.com  
Tel. +358 40 565 1099

if to the Assignee:

Afilias plc  
Attn.: Legal  
4th Floor, International House  
3 Harbourmaster Place, IFSC  
Dublin 1  
Ireland  
Fax: +353-1-791-8569  
Telephone confirmation: 353-1-854-1100

(b) A Notice shall be deemed to have been received: (i) at the time of delivery if delivered personally; (ii) at the time of transmission (if such transmission is confirmed) if sent by fax; (iii) 2 Business Days after the time and date of mailing if sent by pre-paid inland registered mail; or (iv) 5 Business Days after the time and date of mailing if sent by pre-paid registered airmail; provided that if deemed receipt of any Notice occurs after 6:00 p.m. or is not on a Business Day, deemed receipt of the Notice shall be 9:00 a.m. on the next Business Day. References to time in this Section 5.1 are to local time in the country of the addressee. For the purposes of this Agreement, “**Business Day**” means a day (other than a Saturday or Sunday) when commercial banks are open for business in Finland and in Hong Kong.

**Section 5.2. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, United States.

**Section 5.3. Dispute Resolution.** All disputes arising out of or in connection with this Agreement shall be finally settled by arbitration pursuant to Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Finland. The language of the arbitration shall be English.

**Section 5.4. No Partnership or Agency.** Nothing in this Agreement shall constitute a partnership between any or all of the Parties or constitute any such person as agent of the other for any purpose whatever and no Party shall have authority or power to bind any other Party or to contract in the name of or create liability against any other Party in any way or for any purpose except as expressly set forth in this Agreement or as authorized in writing by the applicable other Party from time to time.

**Section 5.5. Entire Agreement.** This Agreement and all annexes, exhibits and schedules hereto constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede in their entirety all prior agreements (written or oral) with respect thereto.

**Section 5.6. Amendment, Modification and Waiver.** No amendment to or modification of this Agreement shall be effective unless it shall be in writing and signed by each Party. Any failure of a Party to comply with any obligation, covenant, agreement or condition contained in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument duly executed and delivered by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure of compliance.

**Section 5.7. Interpretation; Severability.** The Parties intend for this Agreement to comply with applicable state and federal laws, as well as all of the other applicable rules, mandates, policies, and procedures promulgated by ICANN with respect to the gTLD Program (the “**ICANN Rules**”). If any term or provision hereof is illegal or invalid for any reason whatsoever or otherwise inconsistent with applicable laws or the ICANN Rules, such provisions will be replaced with a valid provision that as closely as possible resembles the purposes and intents of the invalid provision or, if such replacement is not possible, will be severed from this Agreement, and such invalid or unenforceable provision will not affect the enforceability or validity of the remainder of this Agreement.

**Section 5.8. Survival; Successors and Assigns.** All representations, warranties, covenants, indemnities and other provisions made by the Parties shall be considered to have been relied upon by the Parties, shall be true and correct as of the Effective Date, and shall survive the execution, delivery, and performance of this Agreement. This Agreement, including the representations, warranties, covenants and indemnities contained in this Agreement, shall inure to the benefit of, be binding upon and be enforceable by and against the Parties and their respective successors and permitted assigns.

**Section 5.9. Expenses.** Except as otherwise expressly stated in this Agreement, any costs, expenses, or charges incurred by any of the Parties in connection with the negotiation, preparation and performance of this Agreement shall be borne by the Party incurring such cost, expense or charge whether or not the series of transactions contemplated hereby shall be completed.

**Section 5.10. Specific Performance.** The Parties expressly recognize and acknowledge that immediate, extensive and irreparable damage would result, no adequate remedy at law would exist and damages would be difficult to determine in the event that any provision of this Agreement is not performed in accordance with its specific terms or otherwise breached. Therefore, in addition to, and not in limitation of, any other remedy available to the Parties, an aggrieved Party under this Agreement would be entitled to specific performance of the terms hereof and immediate injunctive relief, without the necessity of proving the inadequacy of money damages as a remedy. Such remedies and any and all other remedies provided for in this Agreement shall, however, be cumulative in nature

and not exclusive and shall be in addition to any other remedies whatsoever which any Party may otherwise have.


**Section 5.11. Counterparts.** This Agreement may be executed by the Parties on separate counterparts and in multiple counterparts, which may be delivered by Notice to the other Parties, but shall not be effective until each Party has executed at least one counterpart. Each counterpart when so executed and delivered shall be deemed an original, and all such counterparts taken together shall constitute one and the same instrument.


**Section 5.12. Third Party Beneficiary.** ICANN shall constitute a third party beneficiary of this Assignment and Assumption Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed on its behalf as of the day and year first above written, in three original copies (one for each Party).

**SELLER**

By:   
Name: Markus Ståhlberg  
Title: Member of the Board  
Date: 13-Dec-2015

By:   
Name: HOWSPIGRS  
Title: CFO  
Date: 14/12/15

**Schedule 1**

**Copy of the Registry Agreement**



**Schedule 2**  
**Auction Process Plan**