

APNIC EC Meeting Minutes

Teleconference

Thursday, 21 June 2012

Meeting Start: 3:00pm (UTC +10:00)

Present

Akinori Maemura
Kenny Huang
Gaurab Raj Upadhaya
Che-Hoo Cheng
Ma Yan
Wendy Zhao
Paul Wilson

Geoff Huston
Irene Chan
Sanjaya
Craig Ng

Apologies

James Spenceley

Agenda

1. Agenda Bashing
2. Review of Previous Minutes
3. Financial Reports
4. NIR Agreement
5. Transfer Fee Schedule
6. DG Report
7. AOB

Minutes

The Director General of APNIC called the meeting to order at 4:10 pm.

1. Agenda Bashing

There were no changes to the agenda.

The EC Chair joined the meeting, and assumed the role of chair of the meeting.

2. Review of Minutes and Actions

The minutes of the meeting held on 24 May 2012, as amended, were unanimously approved.

Motion to approve the minutes proposed by Ma Yan, seconded by: Kenny Huang

3. Financial Reports

The EC noted the May 2012 financial report (attached).

Currently 2012 year-to-date revenue is some AUD 1.3M over year-to-date expenses. This is reported to be a continuing timing issue, where year-to-date expenses are less than a pro rata distribution of annual expense projections and income is slightly higher than this pro rata projection. However, there continues to be very strong growth in members with IPv4 allocations and there is some an expectation of a revenue level for the year at a higher positive position than forecast in the original 2012 budget papers, and a projected lower expenses position as compared to the 2012 budget.

By the end of May APNIC had 3,157 members, with continued high levels of member enrolment in the small and very small tiers.

The EC noted the May Financial report as representing the financial position of APNIC as of the end of the May 2012, and the EC was satisfied that the company is solvent and able to meet all current debts.

As a followup to an action item from the previous EC meeting, Sanjaya reported that some 5.6M addresses have been reclaimed/recovered, of which some 4.2M addresses form an historical legacy resource pool to be returned to IANA, pending confirmation of the reclaimed status in some cases, and some 1.4M addresses will be available to be recycled into APNIC's available IPv4 address pool

4. NIR Agreement

The D-G reported that all received comments have been integrated into draft NIR Agreement (attached). It is proposed to circulate this draft agreement to the NIRs for a further period of review and comment. There may be further rounds of EC review of the draft if the NIRs choose to make further comment on this version of the draft agreement.

It was noted that the standard APNIC document publication process is being followed for this document, including a further step of public comment prior to adoption following the current phase of NIR review and comment.

The EC unanimously approved the release of this draft version of the NIR Agreement to be released to the NIR community for review and comment.

Motion to approve the release of this draft NIR agreement proposed by Paul Wilson, seconded by: Kenny Huang.

5. Transfer Fee Schedule

The EC considered the matter of whether to levy a fee on members for the registration of a transfer of IPv4 addresses.

The EC considered a number of issues relating to transfer of registrations, additional workload, consideration of the potential incremental liability risks involved in this activity and the status of previous EC decisions that waived the levying of a transfer fee for an interim period.

The EC determined that this item be placed on the agenda for the next EC meeting for further consideration.

6. DG Report

The Director General reported to the EC on current matters.

The major new activity in the current period has been that of IPv4 address transfers, aligning APNIC to transfer policies being adopted in the other RIRs. The Registration Service Managers will be holding a coordination meeting at the ICANN meeting venue in late June, and this matter will be considered at that meeting.

The D-G reported the return by the RIPE NCC and by ARIN of their returned legacy address holdings to the IANA in recent weeks. APNIC is preparing a return of their returned legacy addresses. The initial return transactions will involve those addresses that were voluntarily passed back to APNIC. APNIC will retain the reclaimed legacy address space to ensure as far as practical that all possible efforts have been undertaken to confirm that the previous legacy address holder has relinquished all interest in these reclaimed addresses.

The APNIC 2012 Survey has concluded with some than 1300 responses received. This is a significant increase in participation in this service from previous surveys. A preliminary analysis of the survey outcomes will be circulated to the EC in the coming weeks, and a full report will be circulated to the EC some weeks in advance of the August APNIC Conference.

This month has seen a relatively busy travel period, with the DG participating in the first Vietnamese IPv6 summit and also a keynote presentation to the PTC meeting in Japan. A number of WCIT preparatory meetings have been held in Geneva have been attended by Pablo Hinajosa, and there is the forthcoming APEC TELMIN meeting being held in Moscow in the coming weeks. A meeting of the RIRs, ICANN, ISOC and the IAB was held in New York in late May, and a number of coordination topics were discussed at that meeting.

The Secretariat has been implementing a electronic records management system, which has streamlined a number of administrative processes and improved the efficiency of the administrative function within APNIC.

There has been an expression of interest from another international developmental funding bureau with respect to the ISIF program.

The D-G reported on HR matters.

7. AOB

The D-G proposed an announcement in the name of the APNIC EC relating to inter-RIR address transfers. A followup to this proposal will be undertaken via email.

Next Scheduled Meeting

19 July, 2012 (Teleconference)

Meeting closed: 5:34 pm (UTC+1000) Thursday 21 June 2012



Monthly financial report

(in AUD)

May 2012

1. Statement of Financial Position

| | 31/05/2012 | % of Total | % change 31/12/2011 | Year-End 2011 |
|-------------------------------------------------|-------------------|-------------|------------------------|-------------------|
| CURRENT ASSETS | | | | |
| Cash/ Short term deposits (less than 12 Months) | 10,220,929 | 48% | 13.0% | 9,048,267 |
| Receivables | 960,086 | 5% | -10.9% | 1,077,330 |
| Others | 671,457 | 3% | 11.0% | 604,933 |
| TOTAL CURRENT ASSETS | 11,852,472 | 56% | 10.5% | 10,730,530 |
| NON-CURRENT ASSETS | | | | |
| Other financial assets | 1,114,287 | 5% | 12.9% | 986,920 |
| Property, plant and equipment | 8,266,342 | 39% | -2.0% | 8,436,968 |
| Deferred tax assets | 60,985 | 0% | 0.0% | 60,985 |
| TOTAL NON-CURRENT ASSETS | 9,441,614 | 44% | -0.5% | 9,484,874 |
| TOTAL ASSETS | 21,294,085 | 100% | 5.3% | 20,215,404 |
| CURRENT LIABILITIES | | | | |
| Payables | 808,721 | 4% | 81.5% | 445,677 |
| Provisions | 1,154,998 | 5% | -3.0% | 1,190,748 |
| Unearned revenue | 6,424,824 | 30% | -10.4% | 7,171,080 |
| TOTAL LIABILITIES | 8,388,543 | 39% | -4.8% | 8,807,506 |
| EQUITY | | | | |
| Share capital | 1.00 | 0% | 0.0% | 1.00 |
| Reserves other financial assets investment * | 82,122 | 0% | 0.0% | (43,085) |
| Retained earnings | 12,823,420 | 60% | 12.0% | 11,450,982 |
| TOTAL EQUITY | 12,905,543 | 61% | 13.1% | 11,407,898 |
| TOTAL LIABILITIES & EQUITY | 21,294,085 | 100% | 5.3% | 20,215,404 |

Note:

* Reserves on other financial assets investment – This balance is due to the revaluation of our investment in unit trusts based on the market valuation as at the end of March 2012. These investments are revalued on a quarterly basis.

1.1 Notes to the 2012 Balance Sheet

The total asset position for APNIC as the end of May 2012 has increased by 5.3% when compared to the position at the end of 2011. The major factors causing the change are:

- The increase in the “Cash” position is primarily due to the timing impact of expenses. Cash includes amounts held in the operating account and short-term deposits of up to 12 months.

2. Statement of Income

2.1 Expenses

This report incorporates the approved 2012 budget. Year to date May expenses are compared to figures for the same period last year, and to the budget which is based on a linear pro rata calculation.

| EXPENSES (AUD) | YTD May-12 | YTD May-11 | Variance % | YTD Budget 2012 | YTD Budget Variation | YTD Budget Variation % | Budget 2012 |
|------------------------------------------|------------------|------------------|---------------|-----------------------|----------------------------|---------------------------------|-------------------|
| Bank charges | 47,531 | 41,466 | 14.6% | 48,333 | (803) | -1.7% | 116,000 |
| Communication expenses | 181,857 | 175,110 | 3.9% | 185,320 | (3,463) | -1.9% | 444,768 |
| Computer expenses | 187,364 | 177,383 | 5.6% | 239,088 | (51,724) | -21.6% | 573,812 |
| Depreciation expense | 353,963 | 346,349 | 2.2% | 375,000 | (21,037) | -5.6% | 900,000 |
| Doubtful debt expenses | 1,258 | 137 | 815.4% | 10,417 | (9,159) | -87.9% | 25,000 |
| ICANN contract fee | 129,167 | 118,704 | 8.8% | 129,167 | (0) | 0.0% | 310,000 |
| Income tax expense * | 0 | 0 | 0.0% | 62,500 | (62,500) | -100.0% | 150,000 |
| Insurance expense | 52,119 | 51,056 | 2.1% | 53,583 | (1,464) | -2.7% | 128,600 |
| Meeting and training expenses * | 84,215 | 142,161 | -40.8% | 204,333 | (120,118) | -58.8% | 490,400 |
| Membership fees | 27,263 | 22,281 | 22.4% | 29,333 | (2,070) | -7.1% | 70,400 |
| Miscellaneous expenses | 2 | 1,038 | -99.8% | 417 | (415) | -99.5% | 1,000 |
| Office operating expenses | 106,300 | 135,290 | -21.4% | 99,769 | 6,531 | 6.5% | 239,445 |
| Postage & delivery | 12,171 | 15,283 | -20.4% | 14,375 | (2,204) | -15.3% | 34,500 |
| Printing & photocopy | 11,421 | 8,127 | 40.5% | 28,167 | (16,746) | -59.5% | 67,600 |
| Professional fees | 228,835 | 225,728 | 1.4% | 375,146 | (146,311) | -39.0% | 900,350 |
| Recruitment expense | 36,813 | 37,770 | -2.5% | 42,083 | (5,271) | -12.5% | 101,000 |
| Salaries and personnel expenses * | 3,243,811 | 2,780,532 | 16.7% | 3,435,668 | (191,857) | -5.6% | 8,245,603 |
| Sponsorship and Publicity expenses | 72,389 | 86,820 | -16.6% | 144,167 | (71,778) | -49.8% | 346,000 |
| Staff training/conference expenses | 76,146 | 47,537 | 60.2% | 66,380 | 9,766 | 14.7% | 159,313 |
| Translation expenses | 0 | 0 | 0.0% | 6,250 | (6,250) | -100.0% | 15,000 |
| Travel expenses * | 825,495 | 697,934 | 18.3% | 1,005,149 | (179,654) | -17.9% | 2,412,358 |
| TOTAL EXPENSES | 5,678,118 | 5,110,703 | 11.1% | 6,554,645 | (876,527) | -13.4% | 15,731,149 |

2.2 Revenue

| Revenue (AUD) | YTD May-12 | YTD May-11 | Variance % | YTD Budget 2012 | YTD Budget Variation | YTD Budget Variation % | Budget 2012 |
|---------------------------------------|------------------|------------------|---------------|-----------------------|----------------------------|---------------------------------|-------------------|
| IP Resource application fees * | 805,500 | 705,750 | 14.1% | 412,126 | 393,374 | 95.4% | 989,103 |
| Interest income * | 225,886 | 137,485 | 64.3% | 171,667 | 54,219 | 31.6% | 412,000 |
| Membership fees | 5,851,156 | 5,179,283 | 13.0% | 5,813,361 | 37,794 | 0.7% | 13,952,067 |
| Non-members fees | 95,521 | 75,422 | 26.6% | 91,279 | 4,242 | 4.6% | 219,069 |
| Reactivation fees | 16,200 | 8,400 | 92.9% | 11,413 | 4,788 | 41.9% | 27,390 |
| Sundry income * | 44,770 | 46,757 | -4.2% | 357,878 | (313,108) | -87.5% | 858,907 |
| Foreign exchange gain/(loss) | 11,524 | (3,875) | -397.4% | 0 | 11,524 | 0.0% | 0 |
| TOTAL REVENUE | 7,050,556 | 6,149,223 | 14.7% | 6,857,724 | 192,833 | 2.8% | 16,458,536 |

2.3 Operating Surplus/ Deficit

| REVENUE and EXPENSES (AUD) | YTD May-12 | YTD May-11 | Variance % | YTD Budget 2012 | YTD Budget Variation | YTD Budget Variation % | Budget 2012 |
|------------------------------------|------------------|------------------|---------------|-----------------------|----------------------------|---------------------------------|----------------|
| Total Revenue | 7,050,556 | 6,149,223 | 14.7% | 6,857,724 | 192,833 | 2.8% | 16,458,536 |
| Total Expenses | 5,678,118 | 5,110,703 | 11.1% | 6,554,645 | (876,527) | -13.4% | 15,731,149 |
| OPERATING SURPLUS/(DEFICIT) | 1,372,438 | 1,038,519 | 32.2% | 303,078 | 1,069,360 | 352.8% | 727,387 |

2.4 Notes on the Statement of Income

The major factors causing the variance between May's budgeted and actual operating position are:

Expenses

The favourable variances for expenses are caused by timing differences between the budget allocation that is based on a 12-month prorated basis and the actual timing of the expenses during the year.

- **Meeting & Training Expenses** – expenses relating to the APNIC 34 Conference will not be incurred until August/September
- **Professional Fees** – Major expenses including the ISIF contribution will not be incurred until later in the year
- **Salary & Wages Expenses** are low compared to budget because of the following:
 - A portion of the budget for S&W relates to annual payments that are made in December each year
 - The budget includes approved headcount increases that are yet to be included in the expenses for 2012.
 - Time taken to recruit vacant positions
- **Travel Expenses** in the budget included an annual amount of \$593k relating to cost recovery training; to date no costs for this initiative has been incurred.
- **Income Tax Expenses** will not be incurred until the end of the year.

Revenue

- **IP Resource application fees** – There is continued strong growth in new member allocations exceeding forecast, our revised forecast would see a variance of close to \$1m compared to the budget estimate by the end of the year.
- **Interest Income** – The increased cash flow from the growth of member income and strong returns for cash investments has resulted in higher than anticipated Interest Income.
- **Sundry Income** in the budget included an annual amount of \$593k relating to cost recovery training income, to date no income for this initiative has been incurred.

3. APNIC Reserve

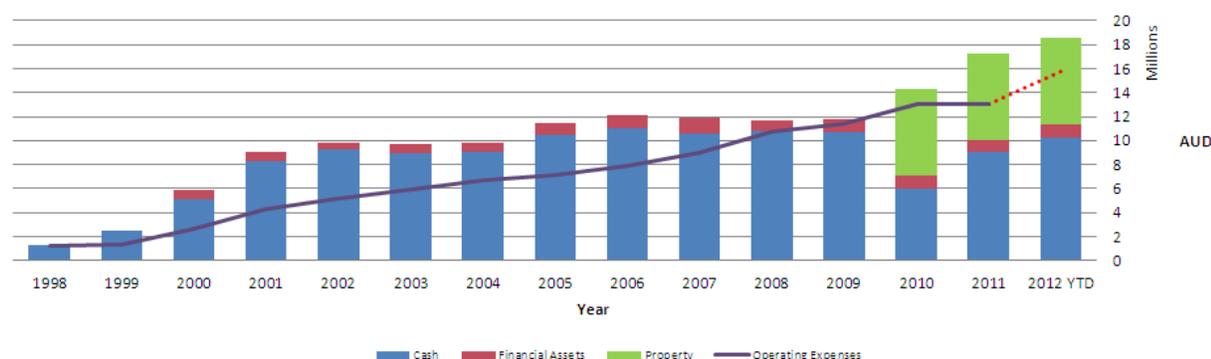
3.1 Cash Flow Statement

This report shows the draft cash flow status as at the end of May.

| ACCOUNTS | AMOUNT (AUD) |
|-------------------------------------------|-------------------|
| Operating Activities | |
| Net Income | 1,372,438 |
| Adjustments to Profit/(Loss) | |
| Accounts Receivable | 129,914 |
| Other Current Asset | (79,199) |
| Accounts Payable | 15,131 |
| Sales Tax Payable | (9,223) |
| Other Current Liabilities | (424,871) |
| Total Adjustments to Profit/(Loss) | (368,248) |
| Total Operating Activities | 1,004,190 |
| Investing Activities | |
| Fixed Asset | 170,627 |
| Other Asset | (127,366) |
| Total Investing Activities | 43,260 |
| Financing Activities | |
| Other Equity | 125,207 |
| Total Financing Activities | 125,207 |
| Net Change in Cash for Period | 1,172,657 |
| Cash at Beginning of Period | 9,048,272 |
| Cash at End of Period | 10,220,929 |

3.2 APNIC Capital Reserve

The APNIC Reserve is continuously diversified between Cash Investments, Managed Funds, and Property (APNIC Office). At the end of May, APNIC maintained \$10m in cash reserves, \$1m in managed fund investments and \$7m was invested in the APNIC Property. The following chart tracks the value and the allocation of these reserves over time and also tracks the forecast operating expenses for each year for comparison:



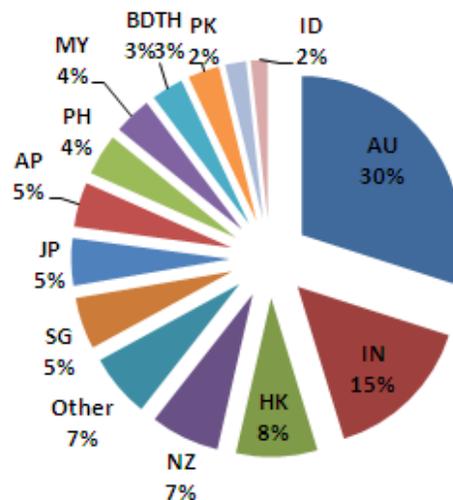
4. Membership

4.1 Membership Statistics

At the end of May 2012, APNIC had a total of 3,157 members serving 52 economies. Membership growth has been remained strong in May.

4.1.1 Membership by Economy

APNIC membership distribution by economy is shown at chart below.



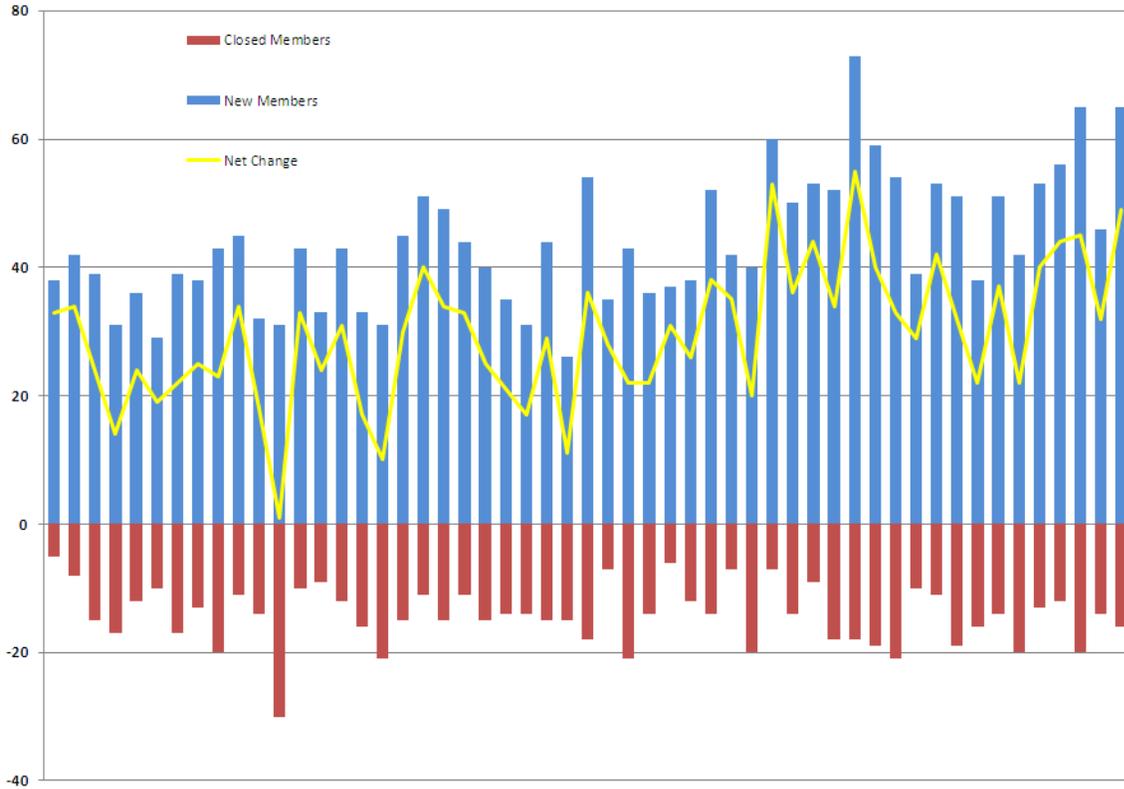
4.1.2 Membership by Category

The following table shows the monthly changes in membership and provides an analysis of APNIC's membership tiers. The majority of APNIC members remain in the Small and Very Small membership tier.

| Membership | Total Apr-12 | New May-12 | Reactivated May-12 | (Closed) May-12 | Size Change May-12 | Total YTD May-12 | Total YTD (%) May-12 |
|--------------|--------------|------------|--------------------|-----------------|--------------------|------------------|----------------------|
| Extra Large | 21 | 0 | 0 | 0 | 0 | 21 | 1% |
| Very Large | 43 | 0 | 0 | (1) | 0 | 42 | 1% |
| Large | 142 | 0 | 0 | 0 | 0 | 142 | 4% |
| Medium | 385 | 0 | 0 | (1) | 6 | 390 | 12% |
| Small | 1030 | 5 | 2 | (4) | 20 | 1053 | 33% |
| Very Small | 887 | 2 | 0 | (6) | 22 | 905 | 29% |
| Associate | 600 | 56 | 0 | (4) | (48) | 604 | 19% |
| TOTAL | 3108 | 63 | 2 | (16) | 0 | 3157 | 100% |

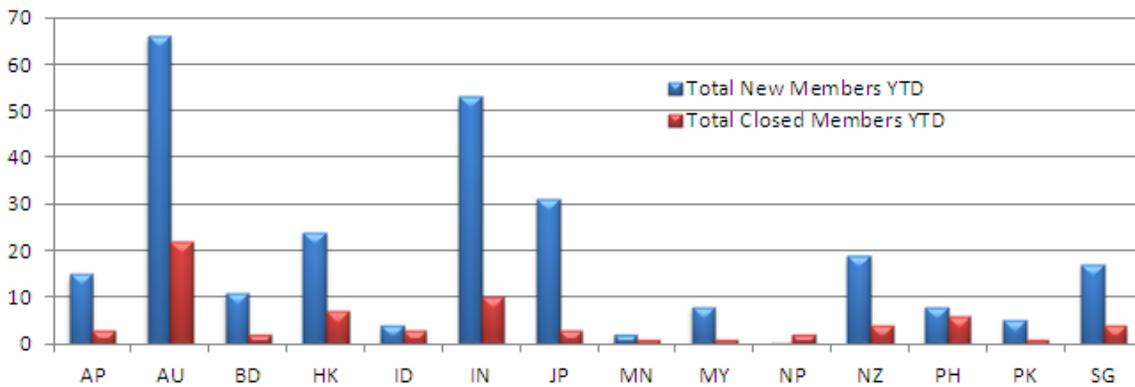
4.1.3 Membership Growth

The following graph illustrates APNIC membership monthly movements. Membership growth remains strong in 2012.



4.1.4 Year to Date Membership Movement by Economy

The graph below illustrates new and closed membership movement by economy as at the end of May 2012. Australia remain has the highest growth of 23% total new members, followed by India and Japan.





APNIC and NIR Member Relationship Agreement

##DATE

PARTIES

APNIC PTY LTD ACN 081 528 010

and

##

APNIC and NIR Member Relationship Agreement

NIR Member's details

Name of organization:

[##]

Address for notes and legal correspondence:

a) *Street or postal address:*

[##]

b) *Email address:*

[##]

Country or Economy:

[##]

Following details to be inserted by APNIC Pty Ltd

Account name (as assigned by APNIC Pty Ltd):

[##]

Membership date:

[##]

Renewal dates:

Recitals

- A. APNIC is a non-profit proprietary limited company incorporated under Australian law.
- B. APNIC is committed to acting in accordance with the interests and wishes of its membership in pursuing the following objectives:
 - To support APNIC members in fulfilling their responsibilities as managers of Internet resources;
 - To promote the representation of the APNIC membership and the Internet community of the Asia Pacific region by ensuring open and transparent communications and consensus-driven decision-making processes;
 - To promote responsible management of Internet resources throughout the Asia Pacific region, as well as the responsible development and operation of Internet infrastructures;
 - To promote and advance technical policy development in relation to APNIC services, and to Internet resource management in general;
 - To provide high-quality Internet resource management services to APNIC Members, namely resource allocation services, registration and database services, and membership administration and support services;
 - To assist Internet development activities in the Asia Pacific region, relating to the above objectives.
- C. A category has been established within the APNIC membership for National Internet Registries, which serve organizations within their respective countries or economies. National Internet Registries provide procedures and services that take account of local cultural differences, while operating in a way that remains consistent with regional and global resource management policies.
- D. APNIC recognises the importance of National Internet Registries as APNIC's partners in contributing to the sustainable growth of the Internet in the APNIC service region, and fostering the interests of the global Internet community.
- E. APNIC recognises the NIR Member as a member of APNIC, as well as the National Internet Registry for the country or economy listed in this agreement. APNIC and the NIR Member enter into this agreement to record the co-operative nature of their relationship.

1. Definitions and Interpretation

1.1 Definitions

In this agreement, unless the context requires otherwise:

APNIC means APNIC Pty Ltd ACN 081 528 010, a non-profit company incorporated under Australian laws. A reference to membership of APNIC is a reference to membership of the special committee called "APNIC", which was established under APNIC's constitution.

APNIC Definition Document means the document titled "APNIC Definition Document", forming part of APNIC's corporate documents, which can be located at APNIC's website at <<http://www.apnic.net>>.

APNIC Address Management Policies means APNIC's policies for the management of Internet address space and number resources in the Asia Pacific region, including the "Criteria for the recognition of NIRs in the APNIC region" and "Operational policies for National Internet Registries in the APNIC region", as amended from time to time.

Dispute Resolution Document has the meaning given in the APNIC Definition Document.

Executive Council means the executive council of APNIC, established under the constitution and by-laws of APNIC.

Fee Schedule has the meaning given in the APNIC Definition Document.

Insolvency Event has the meaning given in the APNIC Definition Document.

Membership Agreement has the meaning given in the APNIC Definition Document.

National Internet Registries has the meaning given in Recital C.

NIR Member means the party described on the cover page of this agreement as the NIR Member.

RFC1591 means the request for comment numbered 1591, published by the Internet Engineering Task Force.

1.1 Interpretation

The interpretation provisions of the APNIC Definition Document apply to this agreement.

2. Term

2.1 Commencement & term

This agreement commences on the date of this agreement and is effective for one year. Upon the commencement of this agreement, and during the term of this agreement (including any renewed term), APNIC recognises the NIR Member as a member of APNIC,

and as the National Internet Registry for the country or economy specified in this agreement.

2.2 Membership fees and renewals

- a. APNIC will invoice the NIR Member in accordance with the Fee Schedule upon signing this agreement, then annually thereafter. The NIR Member must pay the invoiced fee to APNIC, before the due date for payment.
- b. The NIR Member may renew its membership by paying APNIC the renewal fee by the due date. By renewing its membership, the NIR Member will be deemed to have agreed to the terms of the standard agreement governing the relationship between APNIC and National Internet Registry members as it exists at the time of renewal.

2.3 Termination

- a. APNIC may terminate this agreement in any of the following circumstances:
 1. The NIR Member fails to renew its membership within 30 days of the due date;
 2. The NIR Member experiences an Insolvency Event;
 3. The NIR Member undertakes any change to its nature, constitution, or circumstances, which puts it in breach of this agreement or any APNIC Address Management Policy;
 4. The NIR Member commits a substantial breach of this agreement or any APNIC Address Management Policy;
 5. Significantly interested parties (within the meaning of paragraph 4(4) of RFC1591) in the country or economy of the NIR Member agree that another party should be the National Internet Registry for that country or economy, and APNIC proceeds to recognise that other party to be the National Internet Registry for that country of economy, according to APNIC's "Criteria for the recognition of NIRs in the APNIC region".
- b. In relation to circumstance described in clause 2.3(a)(2), APNIC may immediately terminate the agreement by written notice to the NIR Member, and revoke all of the NIR Member's rights under this agreement and/or under the APNIC Address Management Policies.
- c. In relation to circumstances described in clause 2.3(a)(1), 2.3(a)(3), 2.3(a)(4) or 2.3(a)(5), the Notice, Response, and Appeal Provisions of clause 4 shall apply.
- d. Upon termination:
 1. APNIC has the right to reinstate the membership of the members of the NIR Member, as members of APNIC, provided that such members enter into a Membership Agreement with APNIC; and
 2. At APNIC's request, the NIR Member must give all reasonable assistance (other than financial assistance) to APNIC to facilitate the efficient and effective transfer of the membership of the members of the NIR Member, to APNIC.
- e. For clarity, the NIR Member's obligations in clause 2.3(d)(2) survives the termination of this agreement.

3. Obligations

3.1 APNIC's obligations

- a. APNIC must:
 1. Establish and maintain mechanisms which support open communications within the Asia Pacific Internet community, for the development of policies and procedures relating to Internet resource management;
 2. Promote and support training and educational activities relating to the development of Internet services and responsible management of Internet resources;
 3. Undertake other activities as required by APNIC's members in support of Internet development within the Asia Pacific region;
 4. Consider all requests relating to the operations of APNIC that are made by APNIC's members, either directly or through the Executive Council;
 5. Ensure that the Executive Council considers all requests relating to the operations of APNIC that are referred to it either by APNIC's members directly or through APNIC;
 6. Provide rights and services (including delegated resources) to the NIR Member in accordance with the APNIC Address Management Policies;
 7. Not disclose to any person (except to its general secretariat, Internet administration authorities, staff, and contractors performing necessary work for APNIC who sign a non-disclosure agreement, or as legally required to do so) any confidential information which the NIR Member provides to APNIC;
 8. Maintain APNIC Address Management Policies in accordance with its policy development process, and make all reasonable efforts to keep current versions of those documents publicly available on APNIC's website;
 9. Recognize and recommend the NIR Member as the chosen National Internet Registry for the country or economy concerned and as the registry of choice for ISPs, end users, and other customers in the NIR Member's country or economy.
- b. The NIR Member acknowledges that if, at any time, APNIC reasonably considers that the NIR Member's organizational or technical capacity is inadequate for it to thoroughly implement all aspects of APNIC's Address Management Policies, then APNIC may temporarily suspend the provision of any registration or other services to the NIR Member whilst this situation remains.

3.2 NIR Member's obligations

The NIR Member must:

- a. Promptly pay all fees and charges due to APNIC in accordance with the Fee Schedule;
- b. Not provide any information to APNIC which is false or misleading;
- c. Inform APNIC as soon as possible of any changes in material information which the NIR Member has previously supplied to APNIC;
- d. Comply with this agreement and all APNIC Address Management Policies;
- e. Enter into a formal membership agreement or other suitable contractual arrangement with its own members, requiring its members to comply with resource and address management policies which are consistent, and not in conflict, with

- APNIC Address Management Policies, and to take all reasonable steps to enforce compliance with such agreement or arrangement;
- f. Provide to APNIC upon a well-grounded request, material evidence of compliance with the terms of this agreement and all APNIC Address Management Policies as amended from time to time;
 - g. To the extent permitted by the laws of the NIR Member's country or economy, guarantee the freedom of Local Internet Registries (LIRs), ISPs, and end users in their country or economy to choose between APNIC and the NIR Member as the registry from which they will receive Internet resources.

3.3 Liability and indemnity

- a. The NIR Member and APNIC acknowledge that the following clauses 3.3(b) and 3.3(c) are essential in order to protect the membership as a whole and APNIC's ability to pursue the aims expressed in Recital B.
- b. To the extent permitted by law, APNIC excludes all liability to the NIR Member arising out of or in connection with this agreement, the APNIC Address Management Policies, or delegated resources. This exclusion applies, without limitation, to all liability in contract or tort for actions or omissions of APNIC or its members, employees, agents, and contractors, but does not apply to liability arising directly from:
 - 1. Personal injury, including sickness and death;
 - 2. Loss of, or damage to, tangible property (including both the property of the NIR Member and third party property);
 - 3. An unintentional infringement of intellectual property rights (other than any passing off, infringement of patent or trade secret, or legal proceedings in the United States and/or Canada in respect to the infringement of intellectual property rights);
 - 4. A breach of confidentiality or privacy,

to the extent caused or contributed to by any act or omission of APNIC or its employees, agents, and contractors.

- c. The NIR Member indemnifies APNIC against the full amount of all expenses, losses, damages, and costs that APNIC may reasonably incur as a result, whether directly or indirectly, of any breach of this agreement or any APNIC Address Management Policy by the NIR Member, its employees, contractors, or agents.
- d. For clarity, this clause 3.3 survives the termination of this agreement.

4. Notices, responses, and appeals

4.1 Notice

- a. If APNIC believes that there is a basis to terminate this agreement under clause 2.3, then before APNIC terminates this agreement, it must send a written notice ("Notice") to the NIR Member.
- b. The Notice must:
 - 1. Describe the basis for termination under clause 2.3, and the course of action necessary to remedy the breach (if any), or alternatively, inviting the NIR Member to provide reasons why APNIC should not terminate this agreement;

2. Specify a reasonable period of at least 30 days for the NIR Member to provide a response to the Notice within the terms of clause 4.2, or to take the action necessary to remedy the breach (if any); and
3. Advise the NIR Member of APNIC's intended action if the breach (if any) is not remedied, or alternatively, if the NIR Member is unable to provide sufficient reasons to persuade APNIC not to terminate this agreement.

4.2 Response to Notice

The NIR Member must, by the time specified in clause 4.1(b)(2), send APNIC a response to the Notice detailing either:

- a. The NIR Member has not committed the breach; or
- b. The NIR Member has remedied the breach in accordance with clause 4.1(b)(1); or
- c. Exceptional circumstances exist which justify APNIC retracting or revising the Notice.

4.3 Subsequent actions

If the period specified in clause 4.1(b)(2) expires and, taking full account of any responses received under clause 4.2, APNIC reasonably believes that either the breach (if any) has not been remedied, or that there is no exceptional circumstances which exist to justify APNIC retracting or revising the Notice, then APNIC may, in its discretion, either send the NIR Member:

- a. A subsequent Notice as described in clause 4.1(b); or
- b. A written notice immediately revoking some or all of the NIR Member's rights under this agreement and/or under the APNIC Address Management Policies (including, without limitation, delegated resources); and/or immediately terminating this agreement.

4.4 Appeal to Executive Council

If the NIR Member believes that APNIC has failed to adequately consider all relevant circumstances or has acted unreasonably in sending a revocation notice under clause 4.3(b), then the NIR Member may appeal APNIC's decision to the Executive Council within 30 days. If the Executive Council decides that the NIR Member's appeal is justified then APNIC will withdraw the revocation notice.

4.5 Acknowledgement by Member

The NIR Member acknowledges that:

- a. If the NIR Member receives a notice under clauses 2.3(b) or 4.3(b) then the NIR Member must immediately cease using the delegated resources specified in the notice; and
- b. If the NIR Member fails to comply with clause 4.5(a), then APNIC may apply to a Court seeking an injunction or similar remedy, restraining the NIR Member from using the relevant delegated resources.

5. General

5.1 APNIC Address Management Policies

The NIR Member agrees that:

- a. The APNIC Address Management Policies may be amended from time to time in accordance with APNIC's policy development process;
- b. Any such amendments are binding upon the NIR Member;
- c. APNIC Address Management Policies as they exist from time to time form an integral part of and apply fully to this agreement; and
- d. If this agreement is either terminated or not renewed, the NIR Member shall continue to be bound by the provisions of this agreement and other APNIC Address Management Policies to the extent that the provisions relate to the use of resources or disputes arising from this agreement or any other APNIC Address Management Policies.

5.2 Assignment and Sub-contracting

- a. The NIR Member must not, without the prior written consent of APNIC, sell, transfer or pledge any right under this agreement, or permit another body to assume or perform any obligation under this agreement.
- b. The NIR Member's obligations to APNIC under this agreement remains, and is not reduced, by the NIR Member doing any of the things described in clauses 5.2(a), even if APNIC gives its consent to the NIR Member under clause 5.2(a).

5.3 Governing law

- a. This agreement is governed by the laws of Queensland, Australia.
- b. Subject to the Dispute Resolution Document, the NIR Member and APNIC irrevocably submit to the exclusive jurisdiction of the courts of Queensland, Australia.

5.4 To the extent not excluded by law

The rights, duties, and remedies granted or imposed under the provisions of this agreement operate to the extent not excluded by law.

5.5 Order of precedence

To the extent of any inconsistency, the terms and conditions contained within this agreement will prevail over any other agreement executed between the parties.

Execution Page

Executed as an agreement

Signed for

[##]

by its authorized representative

in the presence of:

(Signature of authorized representative)

(Signature of Witness)

Full name of authorized representative
(please print)

Full name of Witness
(please print)

Official company title of authorized representative

Signed for

APNIC PTY LTD

by its authorized representative

in the presence of:

(Signature of authorized representative)

(Signature of Witness)

Full name of authorized representative
(please print)

Full name of Witness
(please print)

Official company title of authorized representative