

DjIX PARTICIPATION AGREEMENT

Entered into between

Djibouti Internet Exchange (“DjIX”)

DESCRIPTION	A not-for-profit organization providing an open and neutral peering point (IX) in Djibouti		
PHYSICAL ADDRESS	Haramous, 3G Building, Boulaos Street, Djibouti City, Djibouti		
POSTAL ADDRESS	Haramous, 3G Building, Boulaos Street, Djibouti City, Djibouti		
PHONE NUMBER		EMAIL	notices@djix.dj
NAME OF SIGNATORY			
DESIGNATION / TITLE			
SIGNATURE			
SIGNED AT (HH:MM)		DATE (YYYY-MM-DD)	

And

(“Participant”)

ORGANIZATION NAME			
DESCRIPTION			
PHYSICAL ADDRESS			
POSTAL ADDRESS			
NAME OF SIGNATORY			
DESIGNATION / TITLE			
SIGNATURE			
SIGNED AT (HH:MM)		DATE (YYYY-MM-DD)	
TELEPHONE NUMBER		EMAIL	

DjIX PARTICIPATION AGREEMENT

This Participation Agreement is entered into between the Djibouti Internet Exchange ("DjIX ") and ("the Participant").

1. Background

1.1 DJIX wishes to provide network interconnection and access peering point (" DjIX") and related services; and

1.2 The Participant wishes to access the Exchange in order to enjoy the benefits thereof.

2. Basis

2.1 Whilst DJIX will use all reasonable commercial endeavors to ensure the availability and proper functioning of the Exchange:

2.1.1 the Exchange is provided on an "as is" basis and DJIX hereby disclaims all warranties, whether implied, statutory or otherwise to the fullest extent permitted by law; and

2.1.2 DJIX will not have any liability to the Participant or any third party, whether direct, indirect, consequential, punitive, special or general for any failure to provide the Exchange. Accordingly, the Participant hereby indemnifies and holds DJIX harmless against any claims which may be instituted against DJIX by any third party.

3. Duration

3.1 This Agreement shall commence on the date of the last-dated signature of this Agreement by a party and shall continue thereafter for an indefinite period, subject to the right of either Party to terminate this Agreement on no less than 30 (thirty) days written notice to the other party, unless otherwise terminated according to its terms.

4. DjIX Exchange

4.1 DJIX shall provide the Exchange to the Participant on the basis set out in **Schedule 1** .

5. Obligations of the Participant

5.1 In order to ensure that the Exchange achieves its objective of universal interconnection and operates effectively, the Participant shall comply with the technical and other requirements set out in **Schedule 2** as well as all other processes and procedures as may be stipulated by DJIX from time to time.

6. Suspension and Termination

6.1 DjIX may, without terminating this Agreement, suspend any service in whole or in part with immediate effect if the DjIX is obliged to comply with an order, lawful instruction or request of government, an emergency services organization, or other competent administrative authority, or DjIX needs to carry out work relating to the upgrading or maintenance of the DjIX facilities (subject to DjIX giving to the Participant

reasonable notice in writing of the proposed suspension of services).

6.2 If the Participant at any time fails to fulfill the obligations set out in **Schedule 2** then DJIX may:

6.2.1 provide the Participant with written notice detailing the nature of the failure and the steps required to remedy same and the timeframe within which such steps must be taken;

6.2.2 in addition, suspend the Participant's access to the Exchange, with or without prior notice, pending remediation of the failure complained of, provided that DJIX shall notify you of such suspension as soon as reasonably possible before or after such suspension occurs; and/or

6.2.3 terminate this Participation Agreement on written notice to the Participant.

6.3 Should the Participant be suspended for any reason:

6.3.1 its suspension will be notified immediately to all other participants in the Exchange;

6.3.2 it will be disconnected from all services related to the Exchange while suspended;

6.3.3 the Participant must continue to comply with all its obligations under this Participation Agreement that are not affected by the suspension;

6.3.4 the Participant may not hold itself out as a participant in the Exchange.

6.4 The Participant may reapply for access if this Participation Agreement is terminated for any reason, subject to its complying with the requirements set out in **Schedule 2**.

7. Monitoring

7.1 The Participant understands that DJIX may monitor any of its ports or connections associated with the Exchange, but only where:

7.1.1 the information is generic in nature and is only gathered for statistical or network management purposes;

7.1.2 DJIX reasonably believes the Participant is failing to comply with its obligations under this Participation Agreement; or

7.1.3 the Participant has explicitly requested the specific monitoring or has consented to it following a request from DJIX.

7.2 Where DJIX does monitor a port/connection, it will endeavor (where possible) to make sure that such monitoring will neither:

DjIX PARTICIPATION AGREEMENT

7.2.1 have a substantially adverse affect on the services provided to the Participant; nor

7.2.2 compromise the Participant's confidentiality.

8. Indemnity

8.1 The Participant hereby indemnifies and holds DJIX harmless against any claim instituted by any other participant in the Exchange or other third party against DJIX, which claim arises out of any wrongful act or omission on the part of the Participant. The Participant further agrees that it shall have no claim against DJIX for any loss, harm, or damage arising out of this Participation Agreement or its participation in the Exchange, including, without limitation, due to any wrongful act or omission of any other participant in the Exchange or any other third party.

9. Charges, Payments, and Taxes

9.1 The Participant must pay all fees due according to the payment terms set out in **Schedule 3**, and on invoices, without offsets, deductions, or with-holding, as issued by DJIX. If no payment terms are listed, fees must be paid within 30 days of the invoice date as listed on the invoice.

9.2 Non-payment shall constitute a breach of this Agreement and entitle DJIX to suspend the Participant from the Exchange without notice or terminate this Agreement on written notice to the Participant (or both).

9.3 Participant shall pay any and all applicable foreign, national, provincial, and/or local taxes, including without limitation, all use, sales, value-added, surcharges, excise, franchise, property, commercial, gross receipts, license, privilege or other similar taxes, levies, surcharges, duties, fees, or other tax-related surcharges, whether charged to or against DjIX or Participant, with respect to the Services ("Taxes"). Should Participant claim an exemption of any such Taxes, Participant shall provide DjIX with official documented/certified proof of such exemption. It is Participant's responsibility to ensure its exempt status, and the proof thereof, remains current. In no event shall DjIX be liable for any Taxes due by Participant and Participant shall indemnify DjIX if any such claim for Taxes is made. DjIX will invoice Participant for Taxes not covered by a valid Tax exemption certificate that is properly filed with DjIX.

10. Confidentiality

10.1 Each Party shall treat and hold as confidential all information which it may receive from the other party or which becomes known to it concerning the other party during the term of this Participation Agreement which is marked as confidential or has the necessary quality of confidentiality about it (" **Confidential Information** ").

11. Communications

11.1 Email is the primary means of communication between DJIX and the Participant and any reference to "in writing" in

this Participation Agreement shall include communication by email.

12. Publicity

12.1 The Participant hereby agrees that DJIX may communicate via its website, and in other forms of marketing media, the names of participants that access the Exchange. Either Party may make or send public announcements, public circulars or public communications to any person without the prior written consent of the other Party by way of advertising, sales promotions, press releases or other publicity which does not use the Intellectual Property of the other Party.

13. Assignment

13.1 Neither Party shall be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of all or any part of this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

14. Force Majeure

14.1 A Party shall not be liable to perform any of its obligations in terms of this Participation Agreement insofar as it is able to prove that such failure was due to an impediment beyond its reasonable control and, for purposes of this clause 14, the following events shall be deemed to be impediments beyond the control of the Parties, namely: war, natural disasters, boycotts, strikes, lockouts, cable cuts, destruction of equipment and installations, acts of authority and any other similar events beyond either Party's reasonable control.

14.2 If a force majeure event continues for a period of more than 30 (thirty) days, then the other Party may terminate this Participation Agreement by written notice to the Party seeking relief by reason of force majeure.

15. General

15.1 The Parties shall at all times owe each other a duty of good faith.

15.2 Each Party warrants that:

15.2.1 it has the full corporate right, power and authority to enter into this Participation Agreement and to perform its obligations hereunder;

15.2.2 when executed and delivered by such Party, this Participation Agreement will constitute a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

15.3 Nothing in this Agreement shall be construed as constituting a temporary employment service.

DjIX PARTICIPATION AGREEMENT

15.4 Nothing in this Agreement shall be construed as creating a partnership between the parties and neither party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other party.

15.5 This Agreement constitutes the entire agreement between the Parties in respect of the subject matter hereof and replaces all prior agreements or arrangements between the Parties in regard to the subject matter of this Agreement.

15.6 No amendment or modification to this Agreement shall be effective unless in writing and signed by authorized signatories of the Parties.

15.7 No granting of time or forbearance shall be or be deemed to be a waiver of any term or condition of this Agreement and no waiver of any breach shall operate a waiver of any continuing or subsequent breach.

15.8 Each party shall be responsible for its own legal and other costs relating to the negotiation of this Agreement.

15.9 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.

15.10 References to:

15.10.1 persons shall include companies, corporations, and partnerships;

15.10.2 any party shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective successors or permitted assigns;

15.10.3 the singular shall include the plural and vice versa;

15.10.4 any one gender shall include a reference to all other genders; and

15.10.5 any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

15.11 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day.

15.12 The rule of construction that an agreement shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.

15.13 This Participation Agreement shall be construed and governed in accordance with the laws of the United Kingdom without regard to its conflicts of law principles.

16. Counterparts

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

DjIX PARTICIPATION AGREEMENT

Schedule 1: Services

DjIX shall provide the following services associated with the provision of the Exchange:

1. OSI Layer 2 switching infrastructure in order to facilitate Bilateral and Multilateral Peering.
2. Bilateral Peering
 - 2.1. Bilateral peering is the direct interconnection between only two networks across a Layer 1 or 2 medium.
 - 2.2. Bilateral Peering agreements are the responsibility of the connecting networks.
 - 2.3. Bilateral Peering is subject to the guidelines as stated in Schedule 2.
3. Multilateral Peering
 - 3.1. Multilateral Peering is a voluntary service that facilitates route exchange between multiple participants.
 - 3.2. DjIX shall provide redundant route servers in order to facilitate Multilateral Peering.
 - 3.3. Multilateral Peering is subject to the guidelines as stated in Schedule 2.
4. Monitoring, traffic statistics, and technical support services.

DJIX PARTICIPATION AGREEMENT

Schedule 2: Participant Obligations

In order to participate in and enjoy continued access to the Exchange, the Participant shall, at all times during the term of this Participation Agreement, and adhere to the following requirements. Failure to adhere to these requirements shall constitute a breach of this Agreement and entitle the DJIX to suspend the Participant from the Exchange without notice; or terminate this Agreement on written notice to the Participant (or both).

1. Organizational Requirements

1.1. The Participant shall appoint one or more persons to be its corporate representative in terms of this Participation Agreement. The Participant shall advise the DJIX of the identity of its Corporate Representatives within 7 (seven) days of the commencement date of this Participation Agreement. The Participant agrees that its Corporate Representatives shall have the authority to make binding decisions with regard to this Participation Agreement and the Participant's participation in the Exchange, which may be communicated through authenticated access to the DJIX website or otherwise. Such decisions may include the appointment of further Corporate Representatives and the removal of Corporate Representatives.

1.2. The Participant shall maintain at least one member of operations personnel who understands the rights and obligations of the Participant under this Participation Agreement.

1.3. The Participant shall provide the DJIX with up-to-date NOC, administrative, and billing data upon request.

1.4. The Participant will not refer any of its customers, or their representatives, directly to the DJIX support staff unless specifically agreed by a member of DJIX staff by email.

1.5. The Participant will make sure that at least one member of its staff is subscribed to the DJIX mailing list.

1.6. The Participant undertakes that its usage of the Exchange will not be harmful to the DJIX network or the other participants in the Exchange at any time. "Harmful" means usage, which, in the reasonable opinion of DJIX, adversely affects other Participants or the entire exchange.

2. Hardware and Equipment Requirements

2.1. The Participant shall be responsible for extending their network to the DJIX facility and switching infrastructure and bearing all associated costs.

2.2. The Participant shall only mount equipment in DJIX rack space with the approval of the DJIX and within the rack units assigned to them. All other equipment shall be removed without warning.

2.3. The Participant shall only install equipment in DJIX rack space which they own and operate themselves unless given written approval from the DJIX. All other equipment shall be removed without warning.

2.4. The Participant shall clearly label all of their equipment with ownership information.

2.5. The Participant shall not touch or interfere with any equipment and/or cabling owned by other Exchange participants without the explicit permission of the DJIX management or the equipment owner.

3. Technical and Networking Requirements

3.1. The Participant shall have an Autonomous System Number (ASN) assigned by one of the Regional Internet Registries (RIRs) or an alternative agreed by the DJIX.

3.2. Connected ports must be Ethernet.

DjIX PARTICIPATION AGREEMENT

- 3.3. The Participant shall use only the DJIX switch port(s) and IP address(es) assigned to them.
- 3.4. The Participant shall use a single MAC address per port.
- 3.5. Any intermediate devices between the DJIX switch and the Participant's router, for example an aggregation switch, a third party Ethernet transport provider, or media conversion device must not emit any traffic towards the Exchange.
- 3.6. The Participant shall use BGP to exchange routing information.
- 3.7. Only ethertypes 0x0800 (IPv4), 0x08dd (IPv6) and 0x0806 (ARP) are permitted on the public peering LAN.
- 3.8. The Participant shall disable Proxy ARP on the router interface connected to the Exchange.
- 3.9. The Participant shall disable all link-local protocols on the router interface connected to the Exchange except for ARP and IPv6 Neighbour Discovery.
- 3.10. The Participant shall not export the Exchange peering LAN address space to other networks without permission.
- 3.11. Aggregated ports will follow 802.3ad specifications. The aggregated links must be of the same media type and link speed.
- 3.12. The Participant shall BGP peer with the Exchange's route collector, if available.

DjIX PARTICIPATION AGREEMENT

Schedule 3: Payment Terms

3.1 The Participant must pay all fees due according to the payment terms listed on invoices, without offsets, deductions, or with-holding, as issued by DjIX, or third party on behalf of the DjIX. If no payment terms are listed, fees must be paid within 30 days of the invoice date as listed on the invoice. Payments under this Agreement shall be sent at Participant's own risk and expense via electronic funds transfer (EFT):

Payment to: DJIBOUTI DATA CENTER SARL Bank: Banque Pour le Commerce et L'Industrie - Mer Rouge (BCIMR) Address: Place Lagarde P.O.Box 2122, Djibouti, Republic of Djibouti Account #: 000 10007219 840 001 36 USD Swift Code: BCIMDJJXXX Reference account and invoice numbers and date
