

# 28 SEPTEMBER 2015 BOARD MEETING

## Reference Materials

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**Annex A**

**Input Tracking – GNSO PDP Recommendations**

The purpose of this checklist is to assist the Board in assuring that all parties with an interest have had an opportunity to participate and weigh in on the recommendations arising out of the GNSO PDP, and to provide a summary of how those inputs were considered. This checklist should be included with the Board paper transmitting the policy recommendations to the Board for decision.

**ISSUE: Translation and Transliteration of Contact Information Policy Development Process**

**DATE OF COUNCIL APPROVAL: 24 June 2015**

**Public Comment<sup>1</sup>**

Identify all documents submitted for public comment as part of the consideration of this issue and the dates of the public comment forums. Also identify the total number of commenters. Also note any open mic/forum sessions on the topic. Include link to the summary and analysis of public comments.<sup>2</sup> In the “outreach efforts” column, please identify the actions taken to publicize the comment period or meeting to encourage participation.

<b>Comment Period Dates or Meeting Date</b>	<b>Dates opened / closed or Meeting date</b>	<b>Number of commenters</b>	<b>Outreach Efforts</b>
Initiation of PDP –	4 February 2014		Broadly circulated,

<sup>1</sup> This checklist is not intended as a replacement for full public comment summaries. Rather, this checklist is a supplement to the comment summarization work, to identify in a quick manner that key inputs were received and taken into consideration prior to the issue reaching the Board.

<sup>2</sup> Required public comment sessions upon presentation of the GNSO Recommendations to the Board will be tracked separately.

Request for Input			incl. announcement on ICANN web-site
Public meeting at ICANN49	24 March 2015		<a href="#">Public session</a>
Public meeting at ICANN50	25 June 2014		<a href="#">Public session</a>
Public meeting at ICANN51	13 October 2014		<a href="#">Public session</a>
Initial Report	16 December 2014 – 22 February 2015	12	<a href="#">Broadly circulated, incl. announcement on ICANN web-site</a>
Recommendations subject to Board consideration	29 June – 10 August 2015	6	<a href="#">Broadly circulated, incl. announcement on ICANN web-site</a>

### Tracking of GNSO or Stakeholder Inputs

For each GNSO Stakeholder Group, Constituency or Advisory Committee identified below, identify if any input was received, and provide a brief summary of how those inputs were considered. The brief summary should include whether the stakeholder group at issue voiced any opposition to the items under consideration and whether any changes were recommended to the recommendations. Note: In some cases, certain Stakeholder Groups may make comments through component constituencies instead of through a collective statement of the Stakeholder Group. Only comments that are provided on behalf of one of the identified SGs or Constituencies should be recorded in this section.

Group	Requested	Received	Summary of Action on Input
GNSO Council	Yes	Yes	<a href="#">Approved</a> by the GNSO Council on 24 June 2015.
Registrar	Yes	No	WG reviewed and addressed input

Stakeholder Group			received: <a href="#">Initial Report</a> .
Registry Stakeholder Group	Yes	Yes	WG reviewed and addressed input received: <a href="#">Initial Report</a> , <a href="#">Final Report</a> prior to Board approval.
Commercial Stakeholder Group	Yes	No	
Business Constituency	Yes	Yes	WG reviewed and addressed input received: <a href="#">Initial Report</a> , <a href="#">Final Report</a> prior to Board approval.
IPC Constituency	Yes	No	WG reviewed and addressed input received: <a href="#">Initial Report</a> , <a href="#">Final Report</a> prior to Board approval.
ISP Constituency	Yes	No	
Non-Commercial Stakeholder Group	Yes	No	WG reviewed and addressed input received: <a href="#">Initial Report</a> , Final Report prior to Board approval.
Non-Commercial Users Constituency	Yes	No	
Not for Profit Operational Concerns Constituency	Yes	No	

<b>Group</b>	<b>Requested</b>	<b>Received</b>	<b>Summary of Action on Input</b>
ccNSO	Yes	No	
ASO	Yes	No	
At-Large Advisory Committee	Yes	Yes	WG reviewed and addressed input received: <a href="#">Initial Report</a>
Governmental Advisory Committee <sup>3</sup>	Yes	No	

<sup>3</sup> Formal GAC advice to the Board will be tracked through the GAC registry process.

RSSAC	Yes	No	
SSAC	Yes	No	

**Specific Outreach and Emerging Interests**

If the working group or the GNSO Council performed any specific outreach to groups not identified above for advice or assistance on the issues under discussion, please identify the groups/entities consulted, the inputs received and how they were considered. In addition, if a definable group of collective interests emerge during a PDP and is not listed above, those collective inputs should be identified below. In the “outreach efforts” column, please identify the actions taken to identify key interested parties to encourage their participation. Also note if there are any groups identified as key that did not respond to outreach efforts.

<b>Entity/Group</b>	<b>Outreach efforts</b>	<b>How inputs were considered</b>
n/a	n/a	n/a

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1b

### ANNEX B GNSO Council Recommendations Report to the Board for the adoption of the Translation and Transliteration of Contact Information PDP Working Group Recommendations

#### 1. Executive Summary

The Generic Names Supporting Organization (GNSO) unanimously [approved](#) at its meeting on 24 June 2015 the [Final Report](#) containing seven recommendation and is now seeking ICANN Board review and approval.

The Translation and Transliteration of Contact Information Policy Development Process (PDP) Working Group (the “Working Group”) is concerned with the way that contact information data – commonly referred to as ‘Whois’ – are collected and displayed within generic top-level domains (gTLDs). According to the [Charter](#) (see also Annex A), the Working Group “is tasked to provide the GNSO Council with a policy recommendation regarding the translation and transliteration of contact information. As part of its deliberations on this issue, the Working Group should, at a minimum, consider the following two issues:

- Whether it is desirable to translate contact information to a single common language or transliterate contact information to a single common script?
- Who should decide who should bear the burden [of] translating contact information to a single common language or transliterating contact information to a single common script?

The recommendations address the first Charter question; the [Final Report](#) also contains an observation (but no recommendations) in relation to the second of the aforementioned Charter question.

The policy recommendations, if approved by the Board, will impose obligations on contracted parties. The GNSO Council's unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

Under the ICANN Bylaws, the Council's supermajority support for the motion<sup>1</sup> obligates the Board to adopt the recommendations unless by a vote of more than two-thirds, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

*First Charter Question: Whether it is desirable to translate contact information to a single common language or transliterate contact information to a single common script.*

**\*Recommendation #1** The Working Group recommends that it is not desirable to make transformation of contact information mandatory. Any parties requiring transformation are free to do so on an *ad hoc* basis outside Whois or any replacement system, such as the Registration Data Access Protocol (RDAP). If not undertaken voluntarily by registrar/registry (see Recommendation #5), the burden of transformation lies with the requesting party.

**Recommendation #2** Whilst noting that a Whois replacement system should be capable of receiving input in the form of non-ASCII script contact information, the Working Group recommends its data fields be stored and displayed in a way that allows for easy identification of what the different data entries represent and what language(s)/script(s) have been used by the registered name holder.

**Recommendation #3** The Working Group recommends that the language(s) and script(s) supported for registrants to submit their contact information data may be chosen in accordance with gTLD- provider business models.

**Recommendation #4** The Working Group recommends that, regardless of the language(s)/script(s) used, it is assured that the data fields are consistent to standards in the Registrar Accreditation Agreement (RAA), relevant Consensus Policy, Additional Whois Information Policy (AWIP) and any other applicable policies. Entered contact

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<sup>1</sup> The motion was [passed unanimously](#) by the GNSO Council.

information data are validated, in accordance with the aforementioned Policies and Agreements and the language/script used must be easily identifiable.

**Recommendation #5** The Working Group recommends that if the transformation of contact information is performed, and if the Whois replacement system is capable of displaying more than one data set per registered name holder entry, these data should be presented as additional fields (in addition to the authoritative local script fields provided by the registrant) and that these fields be marked as transformed and their source(s) indicated.

**Recommendation #6** The Working Group recommends that any Whois replacement system, for example RDAP, remains flexible so that contact information in new scripts/languages can be added and expand its linguistic/script capacity for receiving, storing and displaying contact information data.

**Recommendation #7** The Working Group recommends that these recommendations are coordinated with other Whois modifications where necessary and are implemented and/or applied as soon as a Whois replacement system that can receive, store and display non-ASCII characters, becomes operational.

*Second Charter Question: Who should decide who should bear the burden translating contact information to a single common language or transliterating contact information to a single common script.*

**Finding in relation to second Charter question** Based on recommendations #1-#7, the question of who should decide who should bear the burden of translating or transliterating contact information to a single common script is moot.

\*Recommendation 1 was accompanied by a **Minority Statement**, reading as follows: Working Group member Petter Rindforth, in line with the position taken by his Constituency, the Intellectual Property Constituency (ICP),<sup>2</sup> recommends mandatory translation and/or transliteration (transformation) of contact information in all generic top-level domains (gTLDs).

Although he agrees that there are situations where the contact information in the local language of the registrant is the primary version, such as to identify the registrant in

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<sup>2</sup> see also 5.1.1 and the Public Comment Review Tool (Annex B).



preparation for a local legal action, there are a number of situations where a global WHOIS search, providing access to data in as uniform a fashion as possible, is necessary for the data registration service to achieve its goals of providing transparency and accountability in the DNS. See also 5.1.1 [of the Final Report] explaining the Working Group's arguments supporting mandatory transformation of contact information in all generic top-level domains.

**2. If a Successful GNSO Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) or Stakeholder Group(s) that held that position.**

N/A

**3. An analysis of how the issue(s) would affect each Constituency or Stakeholder Group, including any financial impact on the constituency or Stakeholder Group.**

Any policy recommendation regarding the translation and transliteration of contact information will affect a number of Constituencies and Stakeholder Groups and all those listed below were adequately represented during the Working Group phase of the PDP that led to the recommendations.

Registrar Stakeholder Group (RrSG)

Registrars are at the frontline of collecting contact information from registrants for it is them that registrants interact with when registering a domain name. Recommendation 3 clearly states 'that the language(s) and script(s) supported for registrants to submit their contact information data may be chosen in accordance with gTLD- provider business models', meaning that it is up to the Registrar to decide which languages and script they support. This will allow for market forces to determine which breadth of choices are offered by registrars. Crucially, allowing for contact information registration in script/languages different than US ASCII, does not reduce any contractual obligations for registrars as the Group states that 'data fields are consistent to standards in the

Registrar Accreditation Agreement (RAA), relevant Consensus Policy, Additional Whois Information Policy (AWIP) and any other applicable policies. Entered contact information data are validated, in accordance with the aforementioned Policies and Agreements [...].’ The Working Group has not assessed any financial impacts because offering registrants to register domain names in different scripts/languages would be a business decision to be taken by each Registrar individually.

#### Registry Stakeholder Group (RySG)

Registries – at least in thick registry models<sup>3</sup> - maintain WHOIS databases of registrant contact information and it is thus them who will be maintaining a multi-script/multi-linguistic database. This will only be possible, as pointed out by Recommendation 1, once a Whois or any replacement system, such as the Registration Data Access Protocol (RDAP) is in place allowing for storing and displaying non-ASCII datasets. The Registries would have to assure that the data fields present in their contact information database are ‘consistent to standards in the Registrar Accreditation Agreement (RAA), relevant Consensus Policy, Additional Whois Information Policy (AWIP) and any other applicable policies.’ In addition, if a ‘Whois replacement system is capable of displaying more than one data set per registered name holder entry, these data should be presented as additional fields (in addition to the authoritative local script fields provided by the registrant).’ Adopting a WHOIS replacement system may occur costs to Registries, however, no additional will occur from these recommendations.

#### Intellectual Property Constituency (IPC) and Business Constituency (BC)

The IPC and BC both called for mandatory transformation and/or transliteration of contact information during the WG deliberations. They were the only two constituencies who continuously did so because they argued that a mono-script database would be an integral part of WHOIS and the DNS, providing transparency and search-ability of any current or future contact information database. These concerns were taken into consideration and the recommendations mean that consistency in data fields will allow for those wishes to contact any registrant to be able to identify which dataset represents name, address, email etc., even if the data itself not submitted in a

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<sup>3</sup> For an explanation on the difference between thin and thick registry models, see, e.g., the Summary on the [Thick WHOIS PDP project website](#).

familiar script. The large number of datasets and the comparatively small number of cases in which translation and/or transformation may be required do not justify a blanket translation/transliteration of all data submitted; as Recommendation 1 states: ‘the burden of transformation lies with the requesting party.’ Therefore, there will be of costs for those seeking to translate/transliterate contact information data but these costs are much smaller – and more proportional, than those that would occur if the translation/transliteration of all data was mandatory.

There is no other impact on Stakeholder Groups and/or Constituencies. It should be noted that registrants will benefit from these recommendation as it will allow them, as soon as the RDAP is in place, to register domain names with contact information in their local script and languages.

#### **4. An Analysis of the period of time that would likely be necessary to implement the policy.**

The implementation of these recommendations is dependent on the implementation of a WHOIS replacement system that has non-ASCII capabilities for contact information data. The current status of the RDAP, that would have these capabilities, is moving towards a rollout in the near future.

#### **5. The Advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor’s (i) qualifications and relevant experience; and (ii) potential conflicts of interest.**

No outside advisor provided input to the Working Group.

#### **6. The Final Report Submitted to the Council**

The Translation and Transliteration Final Report:

- [Final Report](#)
- Translations have been provided in:

**7. A copy of the minutes of the Council deliberation on the policy issue, including all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.**

See <http://gnso.icann.org/en/council/resolutions#20150624-3> - 24 June 2015.

## **8. Consultations undertaken**

### *External*

Shortly after the start of the PDP Working Group, members reached out to ICANN's Supporting Organizations and Advisory Committees as well as the GNSO's Stakeholder Groups and Constituencies to seek input on the Charter questions. See: <file:///Users/lars.hoffmann/Downloads/Public%20comment%20review%20tool%20T&T%20-%202005%20May%202014.pdf>

In line with the PDP Manual, the Initial Report was also published for public comment following its release on 3 March 2014 – see <https://community.icann.org/download/attachments/53777190/Public%20comment%20review%20tool%20TT%20Initial%20Report%20V10.doc?version=1&modificationDate=1432716326000&api=v2>.

The Working Group met in public during ICANN 49, 50, and 51 to report on its process and seek community feedback. Transcripts can be found here:

<https://singapore49.icann.org/en/schedule/mon-transliteration-contact/transcript-transliteration-contact-24mar14-en>

<https://london50.icann.org/en/schedule/wed-transliteration-contact/transcript-transliteration-contact-25jun14-en>

<https://la51.icann.org/en/schedule/mon-transliteration-contact/transcript-transliteration-contact-13oct14-en>

All comments received have been reviewed and considered by the Translation and Transliteration Part D PDP Working Group (See Section 6 of Final Report).

### *Internal*

Regular updates were provided to ICANN Contractual Compliance, General Counsel's Office, and the Registrar Services team. Some of their team members attended WG calls on a regular basis and joined the Group for their face-to-face meetings. Their feedback was very constructive and aided in consensus formation among Working Group members.

## **9. Summary and Analysis of Public Comment Forum to provide input on the Translation and Transliteration of Contact Information Recommendations, adopted by the GNSO Council prior to ICANN Board consideration.**

A public comment forum was opened on 29 June 2015 to solicit feedback on the recommendations prior to ICANN Board consideration. See

<https://www.icann.org/public-comments/transliteration-contact-recommendations-2015-06-29-en>.

Six comments were received - see Report of Public Comments. The Registry Stakeholder Group and the Non-Commercial Stakeholder Group both supported all recommendations. The Business Constituency, the Intellectual Property Constituency, International Trademark Association, and the International Federation of Intellectual Property Attorneys all support all recommendations apart from Recommendation 1. All four support the Minority Opinion that formed part of the Final Report; see Report of Public Comments: INSERT LINK TO PUBLIC COMMENT REPORT

## 10. Impact/Implementation Considerations from ICANN Staff

Staff noted that very little implementation-related work will have to take place from its side. Contractual obligations with regard to data verification and validation remain unaffected for Registrars and Registries. ICANN Compliance will have to assure that non-ASCII contact information, if/when it can be submitted to a WHOIS replacement system, is subject to the same validation/verification as is the case under the status quo. This also extends to the consistency of data fields and the detectability of language and script used – to facilitate search ability and transparency of any future database containing non-ASCII entries.

Staff notes, that the GNSO is in the process to commence a Working Group, that will pick up the work from the [Expert Working Group on gTLD Directory Services](#), through an ICANN Board-launched PDP. The outcome of that PDP must take into consideration the recommendations from Translation and Transliteration PDP Working Group and any reforms to the WHOIS system should not adversely affect future submission of contact information data in non-ASCII scripts and/or languages. In this context staff highlights that the WG provided suggestion on future policy work [highlight in the original]:

- Should data in a Whois replacement system be **machine-readable**?
- If transformation is ever carried out, **transformation standards** would be required to avoid discrepancies between the original and transformed data sets.
- Should the language of non-Latin Whois data fields be indicated ("**marked**")? If so, is there a better solution than tagging?
- Is the registrant's **consent** required before a transformed version of Whois data is published in Whois?
- Is a **Whois verification** required every time a transformed field is updated?
- What are the responsibilities on registrants and registrars as regards **contactability**?

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1c

### Annex A - Proposed Amendments to the ICANN Bylaws to Implement the GNSO Council recommendations concerning Policy & Implementation

#### Redlined Language:

Article X: Generic Names Supporting Organization

Section 3. GNSO Council

9. Except as otherwise specified in these Bylaws, [Annex A](#), [Annex A-1](#) and [Annex A-2](#) hereto, or the GNSO Operating Procedures, the default threshold to pass a GNSO Council motion or other voting action requires a simple majority vote of each House. The voting thresholds described below shall apply to the following GNSO actions:
- a. Create an Issues Report: requires an affirmative vote of more than one-fourth (1/4) vote of each House or majority of one House.
  - b. Initiate a Policy Development Process ("PDP") Within Scope (as described in [Annex A](#)): requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.
  - c. Initiate a PDP Not Within Scope: requires an affirmative vote of GNSO Supermajority.
  - d. Approve a PDP Team Charter for a PDP Within Scope: requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.
  - e. Approve a PDP Team Charter for a PDP Not Within Scope: requires an affirmative vote of a GNSO Supermajority.
  - f. Changes to an Approved PDP Team Charter: For any PDP Team Charter approved under d. or e. above, the GNSO Council may approve an amendment to the Charter through a simple majority vote of each House.
  - g. Terminate a PDP: Once initiated, and prior to the publication of a Final Report, the GNSO Council may terminate a PDP only for significant cause, upon a motion that passes with a GNSO Supermajority Vote in favor of termination.
  - h. Approve a PDP Recommendation Without a GNSO Supermajority: requires an affirmative vote

of a majority of each House and further requires that one GNSO Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation.

i. Approve a PDP Recommendation With a GNSO Supermajority: requires an affirmative vote of a GNSO Supermajority,

j. Approve a PDP Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN contract provision specifies that "a two-thirds vote of the council" demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded.

k. Modification of Approved PDP Recommendation: Prior to Final Approval by the ICANN Board, an Approved PDP Recommendation may be modified or amended by the GNSO Council with a GNSO Supermajority vote.

l. Initiation of an Expedited Policy Development Process (EPDP): requires an affirmative vote of a GNSO Supermajority.

m. Approve an EPDP Team Charter: requires an affirmative vote of a GNSO Supermajority

n. Approval of EPDP recommendations: requires an affirmative vote of a GNSO Supermajority.

o. Approve an EPDP Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN contract provision specifies that "a two-thirds vote of the council" demonstrates the presence of a consensus, the GNSO Supermajority vote threshold will have to be met or exceeded.

p. Initiation of a GNSO Guidance Process (GGP): requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.

q. Rejection of initiation of a GGP requested by the ICANN Board: requires an affirmative vote of a GNSO Supermajority.

r. Approval of GGP recommendations: requires an affirmative vote of a GNSO Supermajority.

s. A "GNSO Supermajority" shall mean: (a) two-thirds (2/3) of the Council members of each House, or (b) three-fourths (3/4) of one House and a majority of the other House."



## **New Annex A-1 GNSO Expedited Policy Development Process**

The following process shall govern the specific instances where the GNSO Council invokes the GNSO Expedited Policy Development Process ("EPDP"). The GNSO Council may invoke the EPDP in the following limited circumstances: (1) to address a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of such an adopted recommendation; or (2) to create new or additional recommendations for a specific policy issue that had been substantially scoped previously such that extensive, pertinent background information already exists, e.g. (a) in an Issue Report for a possible PDP that was not initiated; (b) as part of a previous PDP that was not completed; or (c) through other projects such as a GGP. The following process shall be in place until such time as modifications are recommended to and approved by the ICANN Board of Directors. Where a conflict arises in relation to an EPDP between the PDP Manual (see Annex 2 of the GNSO Operating Procedures) and the procedures described in this Annex A-1, the provisions of this Annex A-1 shall prevail.

The role of the GNSO is outlined in Article X of these Bylaws. Provided the Council believes and documents via Council vote that the above-listed criteria are met, an EPDP may be initiated to recommend an amendment to an existing Consensus Policy; however, in all cases where the GNSO is conducting policy-making activities that do not meet the above criteria as documented in a Council vote, the Council should act through a Policy Development Process (see Annex A).

### **Section 1. Required Elements of a GNSO Expedited Policy Development Process**

The following elements are required at a minimum to develop expedited GNSO policy recommendations, including recommendations that could result in amendments to an existing Consensus Policy, as part of a GNSO Expedited Policy Development Process (EPDP):

- a) Formal initiation of the GNSO Expedited Policy Development Process by the GNSO Council, including an EPDP scoping document;
- b) Formation of an EPDP Team or other designated work method;
- c) Initial Report produced by an EPDP Team or other designated work method;
- d) Final EPDP Policy Recommendation(s) Report produced by an EPDP Team, or other designated work method, and forwarded to the Council for deliberation;

- e) GNSO Council approval of EPDP Policy Recommendations contained in the Final EPDP Policy Recommendation(s) Report, by the required thresholds;
- f) EPDP Recommendations and Final EPDP Recommendation(s) Report forwarded to the Board through a Recommendations Report approved by the Council; and
- g) Board approval of EPDP Recommendation(s).

## **Section 2. Expedited Policy Development Process Manual**

The GNSO shall include a specific section(s) on the EPDP process as part of its maintenance of the GNSO Policy Development Process Manual (PDP Manual), described in Annex 2 of the GNSO Operating Procedures. The EPDP section(s) of the PDP Manual shall contain specific additional guidance on completion of all elements of an EPDP, including those elements that are not otherwise defined in these Bylaws. The PDP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Article X, Section 3.6.

## **Section 3. Initiation of the EPDP**

The Council may initiate an EPDP as follows:

The Council may only initiate the EPDP by a vote of the Council. Initiation of an EPDP requires an affirmative Supermajority vote of the Council (as defined in these Bylaws) in favor of initiating the EPDP.

The request to initiate an EPDP must be accompanied by an EPDP scoping document, which is expected to include at a minimum the following information:

1. Name of Council Member / SG / C;
2. Origin of issue (e.g. previously completed PDP);
3. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
4. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either: (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO policy recommendation by the ICANN Board or the implementation of

such an adopted recommendation, or (2) new or additional policy recommendations on a specific GNSO policy issue that had been scoped previously as part of a PDP that was not completed or other similar effort, including relevant supporting information in either case;

5. If not provided as part of item 4, the opinion of the ICANN General Counsel as to whether the issue proposed for consideration is properly within the scope of the ICANN's mission, policy process and more specifically the role of the GNSO;
6. Proposed EPDP mechanism (e.g. WG, DT, individual volunteers);
7. Method of operation, if different from GNSO Working Group Guidelines;
8. Decision-making methodology for EPDP mechanism, if different from GNSO Working Group Guidelines;
9. Target completion date.

#### **Section 4. Council Deliberation**

Upon receipt of an EPDP Final Recommendation(s) Report, whether as the result of an EPDP Team or otherwise, the Council chair will (i) distribute the Final EPDP Recommendation(s) Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the PDP Manual.

Approval of EPDP Recommendation(s) requires an affirmative vote of the Council meeting the thresholds set forth in in Article X, Section 3, paragraphs 9 n-o, as supplemented by the PDP Manual.

#### **Section 5. Preparation of the Board Report**

If the EPDP Recommendation(s) contained in the Final EPDP Recommendation(s) Report are approved by the GNSO Council, a Recommendation(s) Report shall be approved by the GNSO Council for delivery to the ICANN Board.

#### **Section 6. Board Approval Processes**

The Board will meet to discuss the EPDP recommendation(s) as soon as feasible, but preferably not later than the second meeting after receipt of the Recommendations Report from the Staff Manager. Board deliberation on the EPDP Recommendations contained within the Recommendations Report shall proceed as follows:

a. Any EPDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN. If the GNSO Council recommendation was approved by less than a GNSO Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN community or ICANN.

b. In the event that the Board determines, in accordance with paragraph a above, that the proposed EPDP Recommendations are not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.

c. The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.

d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN. For any Supplemental Recommendation approved by less than a GNSO Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the guidance in the Supplemental Recommendation is not in the best interest of the ICANN community or ICANN.

#### **Section 7. Implementation of Approved Policies**

Upon a final decision of the Board adopting the EPDP recommendations, the Board shall, as appropriate, give authorization or direction to ICANN staff to implement the EPDP Recommendations. If deemed necessary, the Board shall direct ICANN staff to work with the GNSO Council to create a guidance implementation plan, based upon the guidance recommendations identified in the Final EPDP Recommendation(s) Report.

**Section 8. Maintenance of Records**

Throughout the EPDP, from initiation to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each EPDP issue. Such status page will outline the completed and upcoming steps in the EPDP process, and contain links to key resources (e.g. Reports, Comments Fora, EPDP Discussions, etc.).

**Section 9. Applicability**

The procedures of this Annex A-1 shall be applicable from [date] onwards.

## **NEW ANNEX A-2 GNSO Guidance Process**

The following process shall govern the GNSO guidance process ("GGP") until such time as modifications are recommended to and approved by the ICANN Board of Directors ("Board"). The role of the GNSO is outlined in Article X of these Bylaws. If the GNSO is conducting activities that are intended to result in a Consensus Policy, the Council should act through a Policy Development Process (see Annex A).

### **Section 1. Required Elements of a GNSO Guidance Process**

The following elements are required at a minimum to develop GNSO guidance:

1. Formal initiation of the GNSO Guidance Process by the Council, including a GGP scoping document;
2. Identification of the types of expertise needed on the GGP Team;
3. Recruiting and formation of a GGP Team or other designated work method;
4. Proposed GNSO Guidance Recommendation(s) Report produced by a GGP Team or other designated work method;
5. Final GNSO Guidance Recommendation(s) Report produced by a GGP Team, or other designated work method, and forwarded to the Council for deliberation;
6. Council approval of GGP Recommendations contained in the Final Recommendation(s) Report, by the required thresholds;
7. GGP Recommendations and Final Recommendation(s) Report shall be forwarded to the Board through a Recommendations Report approved by the Council]; and
8. Board approval of GGP Recommendation(s).

### **Section 2. GNSO Guidance Process Manual**

The GNSO shall maintain a GNSO Guidance Process (GGP Manual) within the operating procedures of the GNSO maintained by the GNSO Council. The GGP Manual shall contain specific additional guidance on completion of all elements of a GGP, including those elements that are not otherwise defined in these Bylaws. The GGP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Article X, Section 3.6.

### **Section 3. Initiation of the GGP**

The Council may initiate a GGP as follows:

The Council may only initiate the GGP by a vote of the Council or at the formal request of the ICANN Board. Initiation of a GGP requires a vote as set forth in Article X, Section 3, paragraph 9.p in favor of initiating the GGP. In the case of a GGP requested by the ICANN Board, a GGP will automatically be initiated unless the GNSO Council votes against the initiation of a GGP as set forth in Article X, Section 3, paragraph 9 q<sup>1</sup>.

The request to initiate a GGP must be accompanied by a GGP scoping document, which is expected to include at a minimum the following information:

1. Name of Council Member / SG / C
4. Origin of issue (e.g., board request)
5. Scope of the effort (detailed description of the issue or question that the GGP is expected to address)
6. Proposed GGP mechanism (e.g. WG, DT, individual volunteers)
7. Method of operation, if different from GNSO Working Group Guidelines
8. Decision-making methodology for GGP mechanism, if different from GNSO Working Group Guidelines
9. Desired completion date and rationale

In the event the Board makes a request for a GGP, the Board should provide a mechanism by which the GNSO Council can consult with the Board to provide information on the scope, timing, and priority of the request for a GGP.

### **Section 4. Council Deliberation**

Upon receipt of a Final Recommendation(s) Report, whether as the result of a GGP Team or otherwise, the Council chair will (i) distribute the Final Recommendation(s) Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the GGP Manual.

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<sup>1</sup> A GNSO Supermajority Vote will be required to not initiate a GGP following a formal request from the ICANN Board.

The Council approval process is set forth in Article X, Section 3, paragraph 9. r<sup>2</sup> as supplemented by the GGP Manual.

### **Section 5. Preparation of the Board Report**

If the GGP recommendations contained in the Final Recommendation(s) Report are approved by the GNSO Council, a Recommendations Report shall be approved by the GNSO Council for delivery to the ICANN Board.

### **Section 6. Board Approval Processes**

The Board will meet to discuss the GNSO Guidance recommendation(s) as soon as feasible, but preferably not later than the second meeting after receipt of the Board Report from the Staff Manager. Board deliberation on the GGP Recommendations contained within the Recommendations Report shall proceed as follows:

a. Any GGP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such guidance is not in the best interests of the ICANN community or ICANN.

b. In the event that the Board determines, in accordance with paragraph a above, that the proposed GNSO Guidance recommendation(s) adopted by a GNSO Supermajority Vote is not in the best interests of the ICANN community or ICANN (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "Board Statement"); and (ii) submit the Board Statement to the Council.

c. The Council shall review the Board Statement for discussion with the Board as soon as feasible after the Council's receipt of the Board Statement. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board will discuss the Board Statement.

d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more

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<sup>2</sup> Approval of GGP recommendations requires a GNSO Supermajority Vote.



than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN community or ICANN.

#### **Section 7. Implementation of Approved GNSO Guidance**

Upon a final decision of the Board adopting the guidance, the Board shall, as appropriate, give authorization or direction to ICANN staff to implement the GNSO Guidance. If deemed necessary, the Board may direct ICANN Staff to work with the GNSO Council to create a guidance implementation plan, if deemed necessary, based upon the guidance recommendations identified in the Final Recommendation(s) Report.

#### **Section 8. Maintenance of Records**

Throughout the GGP, from initiation to a final decision by the Board, ICANN will maintain on the Website, a status web page detailing the progress of each GGP issue. Such status page will outline the completed and upcoming steps in the GGP process, and contain links to key resources (e.g. Reports, Comments Fora, GGP Discussions, etc.).

#### **Section 9. Additional Definitions**

"Comment Site", "Comment Forum", "Comments Fora" and "Website" refer to one or more websites designated by ICANN on which notifications and comments regarding the GGP will be posted.

"GGP Staff Manager" means an ICANN staff person(s) who manages the GGP.

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1c

### Annex B – GNSO Policy & Implementation Principles / Requirements

#### A. Overarching Principle

Since its inception, ICANN has embraced the bottom-up multistakeholder model (MSM) as a framework for the development of global DNS policy. “Multistakeholder Model” is an organizational framework or structure for organizational governance or policymaking which aims to bring together all stakeholders affected by such governance or policymaking to cooperate and participate in the dialogue, decision making and implementation of solutions to identified problems or goals. A “stakeholder” refers to an individual, group or organization that has a direct or indirect interest or stake in a possible outcome.<sup>1</sup>

ICANN’s implementation of the Multistakeholder Model is composed of different Internet stakeholders from around the world organized in various Supporting Organizations, Stakeholder Groups, Constituencies and Advisory Committees, and utilizes bottom-up, consensus-based policy development processes, open to anyone willing to participate.

In the case of the GNSO, policy development processes and in particular the GNSO Policy Development Process<sup>2</sup> (PDP) enshrines this concept of a robust MSM and to that end the following Principles apply.

#### B. Principles / Requirements that apply to Policy & Implementation

Both GNSO Policy and Implementation processes must be based on the ICANN Multistakeholder Model. To ensure this, the following Principles are proposed:

1. Policy development processes must function in a bottom-up manner. The process must not be conducted in a top-down manner and then imposed on stakeholders<sup>3</sup>, although an exception may be made in emergency cases such as where there are risks to security and stability, as defined in ICANN’s Security, Stability and Resiliency framework<sup>4</sup>.
2. The development and implementation of policy must have a basis in and adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability and due process consistent with ICANN’s core values (see <http://www.icann.org/en/about/governance/bylaws#I>)

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<sup>1</sup> See ICANN Wiki: [http://icannwiki.com/index.php/Multistakeholder\\_Model](http://icannwiki.com/index.php/Multistakeholder_Model)

<sup>2</sup> See Annex A of the ICANN Bylaws.

<sup>3</sup> This Principle is applicable regardless of when a Policy Development Process is initiated, and by whom. For example, under the ICANN Bylaws a GNSO PDP may be initiated by the Board, the GNSO Council or another ICANN Supporting Organization or Advisory Committee.

<sup>4</sup> <http://www.icann.org/en/about/staff/security/ssr/ssr-plan-fy14-06mar13-en.pdf>

3. Implementation should be regarded as an integral and continuing part of the process rather than an administrative follow-on, and should be seen as a process that allows for dialogue and collaboration among those implementing the policy (e.g. Board, staff, and IRT) and those that developed it and/or any stakeholders affected by and/or interested in the implementation (e.g. GNSO or any SO or AC).
4. Whilst implementation processes as such need not always function in a purely bottom-up manner, in all cases the relevant policy development body (e.g., the chartering organization) must have the opportunity to be involved during implementation, to provide guidance<sup>5</sup> on the implementation of the policies as recommended by the GNSO.
5. In cases where potentially new or additional policy issues are introduced during an implementation process, these issues should be communicated to the relevant policy development body (e.g., the chartering organization) prior to the completion of the implementation process. In this regard, reference should be made to certain other Principles in this document that may be applicable in such situations (see e.g. Principles D-1(b), D-1(c) and D-2(a).)
6. Policy and Implementation are not two separate phases entirely, but require continuous dialogue and communication between those that developed the policy (e.g., GNSO) and those that are charged with operationalizing/implementing it (e.g., contracted parties, staff).

### **C. Principles / Requirements that apply primarily to Policy**

1. Policy Standards:
  - a) As outlined in the ICANN Bylaws, the GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. As such, gTLD policy development should not take place outside of the GNSO.

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<sup>5</sup> The word “guidance” is being used here in its ordinary generic sense, and should not be read as referring to the phrase “Policy Guidance” as defined by this Working Group.

- b) GNSO policy recommendations should be clear and unambiguous and should include performance timelines as well as other targets and standards<sup>6</sup> as appropriate.
- c) Policy processes must be designed to be as time-sensitive as possible without compromising the multistakeholder process.
- d) Policy staff is expected to provide PDP WGs assistance, as outlined in the GNSO WG Guidelines, in a transparent and neutral manner, including drafting, if required, which should reflect faithfully the deliberations of the Working Group.

## 2. Policy and the Community:

- a) An analysis of the impact of new policy on stakeholders is an essential part of the policy development process.
- b) The GNSO, with the assistance of Policy Staff, must provide timely notification to the rest of the community about policy development efforts and/or implementation processes in which it is engaged. It is the responsibility of the other SOs and ACs and stakeholders in general to determine whether or not they are impacted by that activity, and to provide their input in a timely manner. The GNSO is responsible for reviewing and considering all such input. Final documents should include references to the input received and its disposition in the final outcome.
- c) Each of the principles in this document must be considered in terms of the degree to which they adhere to and further the principles defined in ICANN's Core Values as documented in article 2 of the ICANN by-laws (<http://www.icann.org/en/about/governance/bylaws#!>). Particular note should be made to core value 4: "Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making".
- d) Whenever the Board determines that the recommendations of the GNSO do not, in its view, reflect a broader consensus including the advice of the Advisory Committees and public comments, it will use existing process mechanisms to

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<sup>6</sup> These standards should be developed in coordination with, or with reference to, definitions and other work underway in relation to data gathering and metrics, e.g. by the GNSO's Working Group on Data & Metrics for Policy Making.

send the issue back to the GNSO for further consideration to initiate broader community discussion. All final recommendations would still be the responsibility of the GNSO.

#### **D. Principles / Requirements that apply primarily to implementation**

1. Implementation Standards:
  - a. The development and implementation of policy must have a basis in and adhere to standards of fairness, notice, transparency, integrity, objectivity, predictability and due process consistent with ICANN's core values and in particular its commitment to the global public interest as outlined in the ICANN Articles of Incorporation.
  - b. All GNSO PDP WGs should be encouraged to provide as much implementation guidance as possible within a reasonable timeframe as outlined in the PDP Manual. To the extent implementation guidance cannot be provided, the PDP recommendations should strive to identify areas where additional policy work may be identified during implementation.
  - c. Changes to the proposed GNSO implementation guidance need to be examined by the GNSO Council or another appropriate entity as designated by the GNSO Council on where they fall in the spectrum of policy and implementation. In all cases, the community maintains the right to challenge whether such updates need further review for policy implications, while at the same time recognising that all stakeholders have the right to bring specific issues to the GNSO Council and to contribute to the GNSO challenge process.
  - d. ICANN staff tasked by the Board with the implementation of the approved GNSO Policy recommendations should be able to make changes to the proposed implementation of the policy recommendations into an implementation plan as long as these do not affect the intent of the policy recommendations and as long as they are fully transparent. Examples of such changes include administrative updates, error corrections and process details. In all cases, any such changes should be communicated to the GNSO Council or appropriate entity as designated by the GNSO Council, which should, based on the Working Principles enumerated above, have standardized and efficient mechanisms for

challenging whether such changes would affect the intent of the policy recommendations.

- e. In all cases, all material changes that are made in the development of the implementation plan that affect the implementation guidance, intent of and/or policy recommendations as adopted by the GNSO Council should be communicated to the GNSO Council or appropriate entity as designated by the GNSO Council. The Council or its designated entity should then use standardized processes to review the changes, determine whether they are supported by the intent of the policy recommendations, and make recommendations to modify the implementation plan accordingly.
- f. Each of the principles in this document must be considered in terms of the degree to which it adheres to and further the principles defined in ICANN's Core Values as documented in article 2 of the ICANN by-laws (see <http://www.icann.org/en/about/governance/bylaws#l>).
- g. The resolution of unexpected policy or implementation related issues identified during the implementation phase should not delay implementation more than the minimum amount of time that is necessary.

## 2. Limitation of Implementation:

- a. There should be a mechanism to flag and address unanticipated outcomes of implementation decisions that may significantly impact<sup>7</sup> the community.
- b. There should be a mechanism to flag and address situations where there may be a deviation between the implementation and the policy as it was originally intended.
- c. If substantive policy implications are identified during implementation<sup>8</sup>, the GNSO Council should be notified and involved in the process of resolving the issue(s) and it should not be left to ICANN staff (or to whomever ICANN has delegated this task) to resolve by themselves.

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<sup>7</sup> Some possible examples include but are not limited to: if new obligations are imposed on parties; substantive changes to burdens such as related privacy, accessibility, rights protections, costs, risks, etc.

<sup>8</sup> Identified via a process as defined by the PI WG in this report.

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1c

### Annex C – GNSO Implementation Review Team Principles & Guidelines

- I. IRT Recruitment
  - A. The Implementation Review Team (IRT) volunteer recruitment process should take into account what areas of expertise are expected to be needed. Identification of necessary areas of expertise should preferably be done before issuing a call for volunteers. The PDP working group may elect to issue guidance on relevant areas of expertise for the IRT along with its policy recommendations. Additional expert participation in the IRT may be sought throughout implementation as needs are identified.
  - B. The call for IRT volunteers should clearly identify the needed areas of expertise, the scope and approximate time frame of the work, the roles of IRT participants, and the value the group is expected to bring.
  - C. The call for IRT volunteers should at a minimum be sent to all members of the PDP working group that was responsible for developing the policy recommendations. The call for volunteers may need to reach beyond the working group members to ensure broad participation by parties directly impacted by the implementation and parties with specialized expertise needed for implementation. In some cases, additional outreach at the start or at a later stage of the IRT may be necessary to ensure that appropriate expertise is available and that directly affected parties are involved in the IRT.
  - D. Where there is a lag in time between the PDP WG's adoption of Consensus Policy recommendations and the launch of an IRT, staff and community efforts to recruit IRT members should include components to support education and awareness. Staff should also keep the larger community and the GNSO Council up to date on the status of convening the IRT.
  - E. Where there are stakeholder groups who are identified as being significantly impacted by the policy implementation, recruitment activities should seek to enhance awareness of the effort and the opportunity to participate in the IRT

among these groups. To the extent feasible and applicable, composition of the IRT should be balanced among stakeholder groups.

## II. IRT Composition

- A. IRTs should include at least one participant from the original PDP WG who can provide insight into the original reasoning behind consensus policy recommendations.
- B. The GNSO Council is expected to designate a GNSO Council liaison to each IRT to ensure a direct link to the GNSO Council if/when needed.
- C. IRTs should be open to all interested parties, but may not necessarily be representative of the ICANN community, as actual participation may depend on interest and relevance of the topic under discussion.

## III. IRT Role

- A. As provided in the PDP Manual, the IRT is convened to assist staff in developing the implementation details for the policy to ensure that the implementation conforms to the intent of the policy recommendations.
- B. The IRT is not a forum for opening or revisiting policy discussions. Where issues emerge that may require possible policy discussion, these will be escalated using the designated procedure as outlined in section V.E (see hereunder).

## IV. ICANN Staff interaction with IRT

- A. Staff must provide regular updates to the IRT on the status of the implementation and conduct appropriate outreach to the IRT at critical milestones. In some cases, status updates and communications about key implementation developments may also need to be pushed out to the broader community. At a minimum:
  - a. A Consensus Policy Implementation status page hosted on icann.org that contains a summary of the project, primary tasks as shaped by the consensus recommendations, percent complete, and expected delivery dates (note this page is currently under construction)



- b. The GNSO Council Project List, hosted on [gnso.icann.org](http://gnso.icann.org) contains a summary of the project, latest accomplishments, and expected delivery. The Project List is reviewed at each GNSO Council meeting.
  - B. Staff must set clear deadlines for IRT feedback on documents and implementation plans and send documents to the IRT in a timely manner to ensure sufficient time for IRT review.
- V. IRT Operating Principles
  - A. Meetings of the IRT must be scheduled by GDD Staff in a timely manner, in consultation with the members of the IRT. The draft agenda is expected to be circulated by GDD Staff to the IRT at least 24 hours in advance and will send out the call-in details and other relevant materials to all the members of the IRT.
  - B. There is a presumption that all IRTs will operate with full transparency, with at a minimum a publicly archived mailing list and recording of all IRT calls. In the extraordinary event that the IRT should require confidentiality, the IRT is normally encouraged to conduct its meeting(s) in accordance with the Chatham House Rule<sup>1</sup> as the preferred option, and if necessary, additional rules and procedures may be developed by the IRT in co-ordination with staff.
  - C. The GDD Project Manager will lead the meetings of the IRT.
  - D. If there is lack of participation resulting in meetings being cancelled and/or decisions being postponed, the GDD Project Manager is expected to explore the reasons (e.g. issues with the schedule of meetings, conflict with other activities or priorities) and attempt to address them (e.g. review meeting schedule). However, should the lack of participation be reasonably deemed to be the result of IRT members seeing no specific need to attend the calls as they are content with the direction the implementation is going, ICANN Staff can continue with the proposed implementation plan as long as: (i) a notice to this effect is sent to the IRT; and (ii) regular meetings are held and regular updates are provided for the public record, including on decisions being taken, on the mailing list and deadlines for input are clearly communicated.

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<sup>1</sup> See <http://www.chathamhouse.org/about/chatham-house-rule> for a description of the Chatham House Rule.

- E. In the event of disagreement between ICANN Staff and the IRT or any of its members on the implementation approach proposed by ICANN Staff, the GDD Project Manager, in consultation with the GNSO Council liaison<sup>2</sup> if appropriate, shall exercise all reasonable efforts to resolve the disagreement. Should the disagreement prove irreconcilable despite such efforts, the GNSO Council liaison in consultation with the IRT is expected to make an assessment as to the level of consensus within the IRT on whether to raise the issue with the GNSO Council for consideration, using the standard decision making methodology outlined in the GNSO Working Group Guidelines. If the GNSO Council liaison makes the determination that there is consensus for such consideration, the liaison will inform the GNSO Council accordingly which will deliberate on the issue and then make a determination on how to proceed which could include, for example, the initiation of a GGP, a PDP or further guidance to the IRT and/or GDD staff on how to proceed. This process also applies to cases in which there is agreement between the IRT and GDD staff concerning the need for further guidance from the GNSO Council and/or when issues arise that may require possible policy discussion.
- F. Any IRT member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the IRT or GDD Staff should first discuss the circumstances with the GNSO Council liaison to the IRT. In the event that the matter cannot be resolved satisfactorily, the IRT member should request an opportunity to discuss the situation with the Chair of the GNSO Council or their designated representative. In addition, an IRT member always has the option to involve the ombudsman (see <https://www.icann.org/resources/pages/accountability/ombudsman-en> for further details).
- G. IRT deliberations should not be used as a tool to reopen a previously explored policy issue only because a constituency or stakeholder group was not satisfied with the outcome of a previously held process on the same policy issue, unless the circumstances have changed and/or new information is available

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<sup>2</sup> Should the Council Liaison not be willing or available to carry out this role, the IRT will inform the GNSO Council accordingly and identify a member of the IRT to take on the role of the GNSO Council liaison for this specific purpose.



AL-ALAC-ST-0915-05-00-EN  
ORIGINAL: English  
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STATUS: Ratification Pending

## AT-LARGE ADVISORY COMMITTEE

### ALAC Statement on the Proposed ICANN Bylaws Amendments—GNSO Policy & Implementation Recommendations

#### Introduction

Alan Greenberg, Chair of the ALAC and ALAC member of the North-American At-Large Organization (NARALO) developed an initial draft of the ALAC Statement in response to this public comment request. The ALAC submitted Statements on the work of the GNSO Policy and Implementation Working Group in its earlier stages.<sup>1</sup> This Statement restates the same position in the previous ALAC Statements.

On 15 September 2015, the Chair posted the first draft of the Statement on the [ALAC Leadership Team mailing list](#) to solicit input from the ALAC members who have been deeply involved in the process.

On 16 September 2015, a version incorporating the comments received was posted on the [At-Large Proposed ICANN Bylaws Amendments—GNSO Policy & Implementation Recommendations Workspace](#). In the interest of time, the Chair issued a [Consensus Call](#) on the Statement to end on 18 September 2015 at 23:59 UTC. In the absence of significant opposition, this Statement will be deemed to be ratified.

The Chair then requested that the Statement be transmitted to the ICANN public comment process, copying the ICANN Staff member responsible for this topic, with a note that the Statement is pending ALAC ratification. The Chair also requested that the Statement be sent to the ICANN Board of Directors as a formal ALAC Advice.

Once ratified, this Statement will be resubmitted incorporating updated ratification information in the Introduction section.

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<sup>1</sup> Previous ALAC Statements on this topic can be found at <http://forum.icann.org/lists/comments-policy-implementation-initial-19jan15/pdfUnucnpMxHh.pdf> and <http://atlarge.icann.org/correspondence/statement-policy-implementation-21nov13-en.pdf>.

## **ALAC Statement on the Proposed ICANN Bylaws Amendments—GNSO Policy & Implementation Recommendations**

ALAC and At-Large representatives were very active in the Policy and Implementation Working Group and the ALAC supports the recommendations.

The ALAC nonetheless has two concerns that have been raised throughout the WG processes.

1. GNSO processes allow participation from all communities, and so in theory can equitably balance all issues. However, given that contracted parties can be greatly impacted by GNSO policy decision outcomes, they have strong motivation to actively participate in policy development working groups, and are often well funded to do so. Those representing users and the public interest such as At-Large or non-commercial users' constituencies are less able to participate on the same level. Accordingly, it is possible for WG participation to be unbalanced. Moreover, within the GNSO Council, the Contracted House Stakeholder Groups acting in unison can block a super-majority approval of any prospective recommendation. As a result, the ALAC has concerns that if an issue were to arise where the public interest and the needs of users is in conflict with the needs of contracted parties, the GNSO may not be able to arrive at an equitable solution.
2. Although the principle of referring all policy-like issues encountered during implementation back to the GNSO for resolution supports the concept of the GNSO being the sole gTLD policy body, the ALAC is concerned that for complex implementations such as the new gTLD process and future directory services solutions, the number of such referrals may unreasonably elongate the overall implementation process.

As stated above, the ALAC supports the recommended processes, but Advises the Board to carefully monitor both issues to ensure that user and public interests are appropriately considered and that the implementation of complex policy can be accomplished in reasonable time-frames.

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1d

**TITLE:** **Renewal of .CAT Registry Agreement**

These Reference Materials provide additional provisions included in the proposed renewal of the .CAT Registry Agreement:

- Pricing for Registry Services (Section 2.10 and Specification 12)
- Registry-Level Fees (Article 6)
- Obligations of Registry Operator to TLD Community (Specification 12)
- Approved Services (Exhibit A)
- Schedule of Reserved Names (Specification 5)
- Rights Protection Mechanisms (Specification 7)
- Service Level Agreement Matrix (Specification 10)
- Emergency Transition (Specification 10)
- Public Interest Commitments (Specification 11)
- 2013 Registrar Accreditation Agreement (Specification 11)

**Pricing for Registry Services (Section 2.10 and Specification 12):** The proposed renewal Registry Agreement states that the Registry Operator shall provide advance written notice of any price increases for initial and renewal of domain registrations. The Registry Operator must also have uniform pricing for renewals of domain name registrations. The uniform pricing is favorable to the Registry Operator as their pricing will go down due to their fees being lower. Additionally, subject to the provisions of the Registry Agreement and Specification 12, pricing of registry services are delegated to the Registry Operator.

**Registry-Level Fees: (Article 6):** As a result of approval of the Renewal Registry Agreement, the projected annual registry fees decrease from \$112,000USD to \$56,000USD. The nominal fiscal impact is offset by the additional benefits to registrants and the Internet community including public interest commitments, requiring the use of registrars under the 2013 RAA, and the ability for ICANN to designate an emergency

interim registry operator in the event that emergency thresholds for critical registry services is reached.

**Obligations of Registry Operator to TLD Community (Specification 12):** The .CAT TLD will be bound by its [Sponsored TLD charter](#) as carried over to Specification 12 of the proposed renewal Registry Agreement.

**Approved Services (Exhibit A):** The Approved Services for .CAT includes IDN service and also a provision on the exclusion of Community-Assigned Domain Names from the Registry-Level Transaction Fees. Additionally, the proposed renewal Registry Agreement gives Registry Operator a nine-month implementation period to transition its technical operations to the new standards in the proposed renewal Registry Agreement.

**Schedule of Reserved Names (Specification 5):** The proposed renewal Registry Agreement reflects Registry Operator's February 2010 authorization to allocate previously reserved single- and two-character labels in the TLD through ICANN-accredited registrars via a Phased Allocation Program. As the Board/NGPC agreed to provide temporary protections prior to the launch of New gTLDs, the proposed renewal Registry Agreement does not include the provisions in the New gTLD Registry Agreement pertaining to the protection of International Olympic Committee, International Red Cross, Red Crescent Movement and Intergovernmental Organizations names and acronyms. It should be noted, however, that .CAT will eventually be subject to consensus policy recommendations in the [Protection of IGO-INGO Identifiers in All gTLDs Policy Development Process](#), which implementation plan is currently being developed as directed by [ICANN Board Resolution 2014.04.30.05](#). This consensus policy addresses the protection of IGO and INGO names and acronyms, including the Red Cross/Red Crescent Movement and the International Olympic Committee.

**Rights Protection Mechanisms (Specification 7):** The proposed renewal Registry Agreement states Registry Operator may develop and implement rights protection mechanisms (RPMs) to protect rights holders. The Registry Operator will comply with

the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) and the Uniform Rapid Suspension system (URS). The .CAT TLD will not be subject to the Registry Restrictions Dispute Resolution Procedure (RRDRP), which was designed specifically for community TLDs under the New gTLD program.

**Service Level Agreement Matrix (Specification 10):** The proposed renewal Registry Agreement provides a Service Level Agreement Matrix by which the Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. If the Registry Operator declares an outage on services under a service level agreement and performance requirements, it will notify the ICANN emergency operations department so ICANN can suspend emergency escalation services for the monitored services involved.

**Emergency Transition (Specification 10):** The proposed renewal Registry Agreement states that the Registry Operator agrees that, in the event that any of the emergency thresholds for registry functions is reached, ICANN may designate an emergency interim registry operator of the registry for the TLD which will mitigate the risks to the stability and security of the Domain Name System.

**Public Interest Commitments (Specification 11):** The Registry has agreed to additional safeguards to protect registrants in the form public interest commitments, which shall be enforceable through the Public Interest Commitment Dispute Resolution Process (PICDRP).

**2013 Registrar Accreditation Agreement (Specification 11):** The proposed renewal Registry Agreement includes provisions which require the Registry Operator to use ICANN accredited registrars that are party to the 2013 Registrar Accreditation Agreement after a certain threshold is met subject to the provisions of Section 2.9 (a) of the proposed renewal Registry Agreement. The 2013 RAA, with its substantial improvements, provides more benefits to both registrars and registrants.

As part of the adaptation needed to carry over the Sponsored TLD Policies of .CAT to the proposed renewal Registry Agreement, Specification 12 ("Community Registration Policies") incorporates the language of the original [Appendix S](#) (applicable under the current .CAT TLD Registry Agreement).

**Signature Block:**

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 9 September 2015

Email: [cyrus.namazi@icann.org](mailto:cyrus.namazi@icann.org)



## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1e

**TITLE: Renewal of .TRAVEL Registry Agreement**

These Reference Materials provide additional provisions included in the proposed renewal of the .TRAVEL Registry Agreement:

- Pricing for Registry Services (Section 2.10 and Specification 12)
- Registry-Level Fees: (Article 6)
- Obligations of Registry Operator to TLD Community (Specification 12)
- Approved Services (Exhibit A)
- Schedule of Reserved Names (Specification 5)
- Rights Protection Mechanisms (Specification 7)
- Service Level Agreement Matrix (Specification 10)
- Emergency Transition (Specification 10)
- Public Interest Commitments (Specification 11)
- 2013 Registrar Accreditation Agreement (Specification 11)

**Pricing for Registry Services (Section 2.10 and Specification 12):** The proposed renewal Registry Agreement states that the Registry Operator shall provide advance written notice of any price increases for initial and renewal of domain registrations. The Registry Operator must also have uniform pricing for renewals of domain name registrations. The uniform pricing is favorable to the Registry Operator as their pricing will go down due to their fees being lower. Additionally, subject to the provisions of the Registry Agreement and Specification 12, pricing of registry services are delegated to the Registry Operator.

**Registry-Level Fees: (Article 6):** As a result of approval of the Renewal Registry Agreement, the projected annual registry fees decrease from \$46,000USD to \$25,000USD. The nominal fiscal impact is offset by the additional benefits to registrants and the Internet community including public interest commitments, requiring the use of registrars under the 2013 RAA, and the ability for ICANN to designate an emergency interim

registry operator in the event that emergency thresholds for critical registry services is reached.

**Obligations of Registry Operator to TLD Community (Specification 12):** The .TRAVEL TLD will be bound by its [Sponsored TLD charter](#) as carried over to Specification 12 of the proposed renewal Registry Agreement.

**Approved Services (Exhibit A):** The proposed renewal Registry Agreement gives Registry Operator a nine-month implementation period to transition its technical operations to the new standards in the proposed renewal Registry Agreement.

**Schedule of Reserved Names (Specification 5):** The proposed renewal Registry Agreement reflects Registry Operator's August 2010 authorization to allocate previously reserved single- and two-character labels in the TLD through ICANN-accredited registrars via a Phased Allocation Program. As the Board/NGPC agreed to provide temporary protections prior to the launch of New gTLDs, the proposed renewal Registry Agreement does not include the provisions in the New gTLD Registry Agreement pertaining to the protection of International Olympic Committee, International Red Cross, Red Crescent Movement and Intergovernmental Organizations names and acronyms. It should be noted, however, that .TRAVEL will eventually be subject to consensus policy recommendations in the [Protection of IGO-INGO Identifiers in All gTLDs Policy Development Process](#), which implementation plan is currently being developed as directed by [ICANN Board Resolution 2014.04.30.05](#). This consensus policy addresses the protection of IGO and INGO names and acronyms, including the Red Cross/Red Crescent Movement and the International Olympic Committee.

**Rights Protection Mechanisms (Specification 7):** The proposed renewal Registry Agreement states Registry Operator may develop and implement rights protection mechanisms (RPMs) to protect rights holders. The Registry Operator will comply with the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) and the Uniform Rapid Suspension system (URS). The .TRAVEL TLD will not be subject to the Registry

Restrictions Dispute Resolution Procedure (RRDRP), which was designed specifically for community TLDs under the New gTLD program.

**Service Level Agreement Matrix (Specification 10):** The proposed renewal Registry Agreement provides a Service Level Agreement Matrix by which the Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. If the Registry Operator declares an outage on services under a service level agreement and performance requirements, it will notify the ICANN emergency operations department so ICANN can suspend emergency escalation services for the monitored services involved.

**Emergency Transition (Specification 10):** The proposed renewal Registry Agreement states that the Registry Operator agrees that, in the event that any of the emergency thresholds for registry functions is reached, ICANN may designate an emergency interim registry operator of the registry for the TLD, which will mitigate the risks to the stability and security of the Domain Name System.

**Public Interest Commitments (Specification 11):** The Registry has agreed to additional safeguards to protect registrants in the form public interest commitments, which shall be enforceable through the Public Interest Commitment Dispute Resolution Process (PICDRP).

**2013 Registrar Accreditation Agreement (Specification 11):** The proposed renewal Registry Agreement includes provisions which require the Registry Operator to use ICANN accredited registrars that are party to the 2013 Registrar Accreditation Agreement after a certain threshold is met. The 2013 RAA, with its substantial improvements, provides more benefits to both registrars and registrants.

As part of the adaptation needed to carry over the Sponsored TLD Policies of .TRAVEL to the proposed renewal Registry Agreement, Specification 12 ("Community Registration

Policies") has been renamed "TLD Policies". It incorporates the language of the original [Appendix S](#) (applicable under the current .TRAVEL TLD Registry Agreement).

**Signature Block:**

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 9 September 2015

Email: [cyrus.namazi@icann.org](mailto:cyrus.namazi@icann.org)

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.1f

### **TITLE: Renewal of .PRO Registry Agreement**

These Reference Materials provide additional provisions included in the proposed renewal of the .PRO Registry Agreement:

- Pricing for Registry Services (Section 2.10)
- Registry-level Fees (Article 6)
- Termination by Registry Operator (section 4.4)
- Approved Services (Exhibit A)
- Schedule of Reserved Names (Specification 5)
- Rights Protection Mechanisms (Specification 7)
- Service Level Agreement Matrix (Specification 10)
- Emergency Transition (Specification 10)
- Public Interest Commitments (Specification 11)
- 2013 Registrar Accreditation Agreement (Specification 11)

**Pricing for Registry Services (Section 2.10):** The proposed renewal Registry Agreement states that the Registry Operator shall provide advance written notice of any price increases for initial and renewal of domain registrations. The Registry Operator must also have uniform pricing for renewals of domain name registrations. The uniform pricing is favorable to the Registry Operator as their pricing will go down due to their fees being lower.

**Registry-Level Fees: (Article 6):** The existing Registry Agreement contains a cap on the price (“Maximum Service Fee”) an ICANN-accredited registrar can charge for new, renewal, and redirect domain name registrations and for transferring a domain name registration from one ICANN-accredited registrar to another. The Maximum Service Fee is not included in the proposed renewal Registry Agreement.

**Termination by Registry Operator (section 4.4):** Termination by the Registry Operator is not in the current Registry Agreement, however it has been included in the proposed renewal Registry Agreement.

**Approved Services (Exhibit A):** The proposed renewal Registry Agreement gives Registry Operator a nine-month implementation period to transition its technical operations to the new standards in the proposed renewal Registry Agreement. The Approved Services for .PRO also includes “Bulk Transfer After Partial Portfolio Acquisition (BTAPPA)” which was incorporated to the .PRO Registry Agreement on 25 April 2014 as Amendment No.2.

**Schedule of Reserved Names (Specification 5):** The proposed renewal Registry Agreement reflects Registry Operator's June 2009 authorization to allocate previously reserved single-, two and three-character labels in the TLD through ICANN-accredited registrars via a Phased Allocation Program. As the Board/NGPC agreed to provide temporary protections prior to the launch of New gTLDs, the proposed renewal Registry Agreement does not include the provisions in the New gTLD Registry Agreement pertaining to the protection of International Olympic Committee, International Red Cross, Red Crescent Movement and Intergovernmental Organizations names and acronyms. It should be noted, however, that .PRO will eventually be subject to consensus policy recommendations in the [Protection of IGO-INGO Identifiers in All gTLDs Policy Development Process](#), which implementation plan is currently being developed as directed by [ICANN Board Resolution 2014.04.30.05](#). This consensus policy addresses the protection of IGO and INGO names and acronyms, including the Red Cross/Red Crescent Movement and the International Olympic Committee.

**Rights Protection Mechanisms (Specification 7):** The proposed renewal Registry Agreement states Registry Operator may develop and implement rights protection mechanisms (RPMs) to protect rights holders. The Registry Operator will comply with the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) and the Uniform

Rapid Suspension system (URS). The .PRO TLD will not be subject to the Registry Restrictions Dispute Resolution Procedure (RRDRP), which was designed specifically for community TLDs under the New gTLD program.

**Service Level Agreement Matrix (Specification 10):** The proposed renewal Registry Agreement provides a Service Level Agreement Matrix by which the Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. If the Registry Operator declares an outage on services under a service level agreement and performance requirements, it will notify the ICANN emergency operations department so ICANN can suspend emergency escalation services for the monitored services involved.

**Emergency Transition (Specification 10):** The proposed renewal Registry Agreement states that the Registry Operator agrees that, in the event that any of the emergency thresholds for registry functions is reached, ICANN may designate an emergency interim registry operator of the registry for the TLD, which will mitigate the risks to the stability and security of the Domain Name System.

**Public Interest Commitments (Specification 11):** The Registry will perform public interest commitments which shall be enforceable through the Public Interest Commitment Dispute Resolution Process (PICDRP). The existing Registration Restrictions in Appendix 11 of the .PRO Agreement are proposed to be replaced with the set of standard public interest commitments applicable to all new gTLDs. Also, GAC Category 1 Safeguards 1 through 3 are added to Specification 11 to align with the removal of the TLDs previously included Registration Restrictions of Appendix 11.

**2013 Registrar Accreditation Agreement (Specification 11):** The proposed renewal Registry Agreement includes provisions which require the Registry Operator to use ICANN accredited registrars that are party to the 2013 Registrar Accreditation

Agreement after a certain threshold is met. 2013 RAA, with its substantial improvements, provides more benefits to both registrars and registrants.

**Signature Block:**

Submitted by: Cyrus Namazi

Position: Vice President, Domain Name Services & Industry Engagement

Date Noted: 10 September 2015

Email: [cyrus.namazi@icann.org](mailto:cyrus.namazi@icann.org)



## REGISTRY AGREEMENT

This REGISTRY AGREEMENT (this "Agreement") is entered into as of \_\_\_\_\_ (the "Effective Date") between Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation ("ICANN"), and Registry Services Corporation, a Nevada corporation ("Registry Operator").

### ARTICLE 1.

#### DELEGATION AND OPERATION OF TOP-LEVEL DOMAIN; REPRESENTATIONS AND WARRANTIES

**1.1 Domain and Designation.** The Top-Level Domain to which this Agreement applies is .PRO (the "TLD"). Upon the Effective Date and until the earlier of the expiration of the Term (as defined in Section 4.1) or the termination of this Agreement pursuant to Article 4, ICANN designates Registry Operator as the registry operator for the TLD.

**1.2 Technical Feasibility of String.** While ICANN has encouraged and will continue to encourage universal acceptance of all top-level domain strings across the Internet, certain top-level domain strings may encounter difficulty in acceptance by ISPs and webhosters and/or validation by web applications. Registry Operator shall be responsible for ensuring to its satisfaction the technical feasibility of the TLD string prior to entering into this Agreement.

**1.3 Representations and Warranties.**

(a) Registry Operator represents and warrants to ICANN as follows:

(i) all material information provided and statements made in writing during the negotiation of this Agreement, were true and correct in all material respects at the time made, and such information or statements continue to be true and correct in all material respects as of the Effective Date except as otherwise previously disclosed in writing by Registry Operator to ICANN;

(ii) Registry Operator is duly organized, validly existing and in good standing under the laws of the jurisdiction set forth in the preamble hereto, and Registry Operator has all requisite power and authority and has obtained all necessary approvals to enter into and duly execute and deliver this Agreement; and

(b) ICANN represents and warrants to Registry Operator that ICANN is a nonprofit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California, United States of America. ICANN has all requisite power and authority and has obtained all necessary corporate approvals to enter into and duly execute and deliver this Agreement.

## ARTICLE 2.

### COVENANTS OF REGISTRY OPERATOR

Registry Operator covenants and agrees with ICANN as follows:

**2.1 Approved Services; Additional Services.** Registry Operator shall be entitled to provide the Registry Services described in clauses (a) and (b) of the first paragraph of Section 2.1 in the Specification 6 attached hereto (“Specification 6”) and such other Registry Services set forth on Exhibit A (collectively, the “Approved Services”). If Registry Operator desires to provide any Registry Service that is not an Approved Service or is a material modification to an Approved Service (each, an “Additional Service”), Registry Operator shall submit a request for approval of such Additional Service pursuant to the Registry Services Evaluation Policy at <http://www.icann.org/en/registries/rsep/rsep.html>, as such policy may be amended from time to time in accordance with the bylaws of ICANN (as amended from time to time, the “ICANN Bylaws”) applicable to Consensus Policies (the “RSEP”). Registry Operator may offer Additional Services only with the written approval of ICANN, and, upon any such approval, such Additional Services shall be deemed Registry Services under this Agreement. In its reasonable discretion, ICANN may require an amendment to this Agreement reflecting the provision of any Additional Service which is approved pursuant to the RSEP, which amendment shall be in a form reasonably acceptable to the parties.

**2.2 Compliance with Consensus Policies and Temporary Policies.** Registry Operator shall comply with and implement all Consensus Policies and Temporary Policies found at <http://www.icann.org/general/consensus-policies.htm>, as of the Effective Date and as may in the future be developed and adopted in accordance with the ICANN Bylaws, provided such future Consensus Policies and Temporary Policies are adopted in accordance with the procedure and relate to those topics and subject to those limitations set forth in Specification 1 attached hereto (“Specification 1”).

**2.3 Data Escrow.** Registry Operator shall comply with the registry data escrow procedures set forth in Specification 2 attached hereto (“Specification 2”).

**2.4 Monthly Reporting.** Within twenty (20) calendar days following the end of each calendar month, Registry Operator shall deliver to ICANN reports in the format set forth in Specification 3 attached hereto (“Specification 3”).

**2.5 Publication of Registration Data.** Registry Operator shall provide public access to registration data in accordance with Specification 4 attached hereto (“Specification 4”).

**2.6 Reserved Names.** Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall comply with the requirements set forth in Specification 5 attached hereto (“Specification 5”). Registry Operator may at any time establish or modify policies concerning Registry Operator’s ability to reserve (i.e., withhold from registration or allocate to Registry Operator, but not register to third parties, delegate,

use, activate in the DNS or otherwise make available) or block additional character strings within the TLD at its discretion. Except as specified in Specification 5, if Registry Operator is the registrant for any domain names in the registry TLD, such registrations must be through an ICANN accredited registrar, and will be considered Transactions (as defined in Section 6.1) for purposes of calculating the Registry-level transaction fee to be paid to ICANN by Registry Operator pursuant to Section 6.1.

**2.7 Registry Interoperability and Continuity.** Registry Operator shall comply with the Registry Interoperability and Continuity Specifications as set forth in Specification 6 attached hereto (“Specification 6”).

**2.8 Protection of Legal Rights of Third Parties.** Registry Operator must comply with the processes and procedures for ongoing protection of the legal rights of third parties as set forth Specification 7 attached hereto (“Specification 7”). Registry Operator may, at its election, implement additional protections of the legal rights of third parties. Registry Operator must comply with all remedies imposed by ICANN pursuant to Section 2 of Specification 7, subject to Registry Operator’s right to challenge such remedies as set forth in the applicable procedure described therein. Registry Operator shall take reasonable steps to investigate and respond to any reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD. In responding to such reports, Registry Operator will not be required to take any action in contravention of applicable law.

**2.9 Registrars.**

(a) All domain name registrations in the TLD must be registered through an ICANN accredited registrar; provided, that Registry Operator need not use a registrar if it registers names in its own name in order to withhold such names from delegation or use in accordance with Section 2.6. Subject to the requirements of Specification 11, Registry Operator must provide non-discriminatory access to Registry Services to all ICANN accredited registrars that enter into and are in compliance with the registry-registrar agreement for the TLD; provided that Registry Operator may establish non-discriminatory criteria for qualification to register names in the TLD that are reasonably related to the proper functioning of the TLD. Registry Operator must use a uniform non-discriminatory agreement with all registrars authorized to register names in the TLD (the “Registry-Registrar Agreement”). Registry Operator may amend the Registry-Registrar Agreement from time to time; provided, however, that any material revisions thereto must be approved by ICANN before any such revisions become effective and binding on any registrar. Registry Operator will provide ICANN and all registrars authorized to register names in the TLD at least fifteen (15) calendar days written notice of any revisions to the Registry-Registrar Agreement before any such revisions become effective and binding on any registrar. During such period, ICANN will determine whether such proposed revisions are immaterial, potentially material or material in nature. If ICANN has not provided Registry Operator with notice of its determination within such fifteen (15) calendar-day period, ICANN shall be deemed to have determined that such proposed revisions are immaterial in nature. If ICANN determines, or is deemed to have determined under this

Section 2.9(a), that such revisions are immaterial, then Registry Operator may adopt and implement such revisions. If ICANN determines such revisions are either material or potentially material, ICANN will thereafter follow its procedure regarding review and approval of changes to Registry-Registrar Agreements at <http://www.icann.org/en/resources/registries/rra-amendment-procedure>, and such revisions may not be adopted and implemented until approved by ICANN. Within sixty (60) calendar days of the RAA Adoption Date, as that term is defined herein below, Registry Operator will submit to ICANN for approval an amended version of the Registry-Registrar Agreement (“Amended RAA”) in accordance with the provisions below, which will include a provision requiring all ICANN-accredited registrars who are a party to Registry Operator’s Registry-Registrar Agreement either to (i) become a party to the form registrar accreditation agreement adopted by the ICANN Board of Directors on 27 June 2013 (the “2013 RAA”) within two hundred seventy (270) calendar days after the effective date of the Amended RRA, or (ii) be Suspended (as defined below) by Registry Operator. Once such Amended RRA is approved by ICANN, Registry Operator shall promptly adopt and require each of the ICANN-accredited registrars that access Registry Services for the TLD to enter into the Amended RRA pursuant to the amendment procedures set forth in Registry Operator’s Registry-Registrar Agreement in effect as of the date hereof. In the event that any such registrar does not enter the 2013 RAA with ICANN within such two hundred seventy (270) calendar day period, and Registry Operator is notified of that fact by ICANN in writing (a “Non-Compliant Registrar”), then Registry Operator will Suspend the Non-Compliant Registrar until such time as such Non-Compliant Registrar becomes a party to the 2013 RAA. “RAA Adoption Date” means the date that ICANN notifies Registry Operator that ICANN-accredited registrars that access Registry Services for the TLD accounting for sixty-seven percent (67%) of all registrations in the TLD have executed the 2013 RAA. “Suspend” means to suspend the Non-Compliant Registrar’s ability to create or sponsor new domain name registrations in the TLD or initiate inbound transfers of domain names in the TLD.

(b) If Registry Operator (i) becomes an Affiliate or reseller of an ICANN accredited registrar, or (ii) subcontracts the provision of any Registry Services to an ICANN accredited registrar, registrar reseller or any of their respective Affiliates, then, in either such case of (i) or (ii) above, Registry Operator will give ICANN prompt notice of the contract, transaction or other arrangement that resulted in such affiliation, reseller relationship or subcontract, as applicable, including, if requested by ICANN, copies of any contract relating thereto; provided, that ICANN will treat such contract or related documents that are appropriately marked as confidential (as required by Section 7.15) as Confidential Information of Registry Operator in accordance with Section 7.15 (except that ICANN may disclose such contract and related documents to relevant competition authorities). ICANN reserves the right, but not the obligation, to refer any such contract, related documents, transaction or other arrangement to relevant competition authorities in the event that ICANN determines that such contract, related documents, transaction or other arrangement might raise significant competition issues under applicable law. If feasible and appropriate under the circumstances, ICANN will give Registry Operator advance notice prior to making any such referral to a competition authority.

(c) For the purposes of this Agreement: (i) “Affiliate” means a person or entity that, directly or indirectly, through one or more intermediaries, or in combination with one or more other persons or entities, controls, is controlled by, or is under common control with, the person or entity specified, and (ii) “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

## **2.10 Pricing for Registry Services.**

(a) With respect to initial domain name registrations, Registry Operator shall provide ICANN and each ICANN accredited registrar that has executed the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying or other programs which had the effect of reducing the price charged to registrars, unless such refunds, rebates, discounts, product tying or other programs are of a limited duration that is clearly and conspicuously disclosed to the registrar when offered) of no less than thirty (30) calendar days. Registry Operator shall offer registrars the option to obtain initial domain name registrations for periods of one (1) to ten (10) years at the discretion of the registrar, but no greater than ten (10) years.

(b) With respect to renewal of domain name registrations, Registry Operator shall provide ICANN and each ICANN accredited registrar that has executed the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying, Qualified Marketing Programs or other programs which had the effect of reducing the price charged to registrars) of no less than one hundred eighty (180) calendar days. Notwithstanding the foregoing sentence, with respect to renewal of domain name registrations: (i) Registry Operator need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to (A) for the period beginning on the Effective Date and ending twelve (12) months following the Effective Date, the initial price charged for registrations in the TLD, or (B) for subsequent periods, a price for which Registry Operator provided a notice pursuant to the first sentence of this Section 2.10(b) within the twelve (12) month period preceding the effective date of the proposed price increase; and (ii) Registry Operator need not provide notice of any price increase for the imposition of the Variable Registry-Level Fee set forth in Section 6.3. Registry Operator shall offer registrars the option to obtain domain name registration renewals at the current price (i.e., the price in place prior to any noticed increase) for periods of one (1) to ten (10) years at the discretion of the registrar, but no greater than ten (10) years.

(c) In addition, Registry Operator must have uniform pricing for renewals of domain name registrations (“Renewal Pricing”). For the purposes of determining Renewal Pricing, the price for each domain registration renewal must be identical to the price of all other domain name registration renewals in place at the time of such renewal,

and such price must take into account universal application of any refunds, rebates, discounts, product tying or other programs in place at the time of renewal. The foregoing requirements of this Section 2.10(c) shall not apply for (i) purposes of determining Renewal Pricing if the registrar has provided Registry Operator with documentation that demonstrates that the applicable registrant expressly agreed in its registration agreement with registrar to higher Renewal Pricing at the time of the initial registration of the domain name following clear and conspicuous disclosure of such Renewal Pricing to such registrant, and (ii) discounted Renewal Pricing pursuant to a Qualified Marketing Program (as defined below). The parties acknowledge that the purpose of this Section 2.10(c) is to prohibit abusive and/or discriminatory Renewal Pricing practices imposed by Registry Operator without the written consent of the applicable registrant at the time of the initial registration of the domain and this Section 2.10(c) will be interpreted broadly to prohibit such practices. For purposes of this Section 2.10(c), a “Qualified Marketing Program” is a marketing program pursuant to which Registry Operator offers discounted Renewal Pricing, provided that each of the following criteria is satisfied: (i) the program and related discounts are offered for a period of time not to exceed one hundred eighty (180) calendar days (with consecutive substantially similar programs aggregated for purposes of determining the number of calendar days of the program), (ii) all ICANN accredited registrars are provided the same opportunity to qualify for such discounted Renewal Pricing; and (iii) the intent or effect of the program is not to exclude any particular class(es) of registrations (e.g., registrations held by large corporations) or increase the renewal price of any particular class(es) of registrations. Nothing in this Section 2.10(c) shall limit Registry Operator’s obligations pursuant to Section 2.10(b).

(d) Registry Operator shall provide public query-based DNS lookup service for the TLD (that is, operate the Registry TLD zone servers) at its sole expense.

## **2.11 Contractual and Operational Compliance Audits.**

(a) ICANN may from time to time (not to exceed twice per calendar year) conduct, or engage a third party to conduct, contractual compliance audits to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement. Such audits shall be tailored to achieve the purpose of assessing compliance, and ICANN will (a) give reasonable advance notice of any such audit, which notice shall specify in reasonable detail the categories of documents, data and other information requested by ICANN, and (b) use commercially reasonable efforts to conduct such audit during regular business hours and in such a manner as to not unreasonably disrupt the operations of Registry Operator. As part of such audit and upon request by ICANN, Registry Operator shall timely provide all responsive documents, data and any other information reasonably necessary to demonstrate Registry Operator’s compliance with this Agreement. Upon no less than ten (10) calendar days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement. ICANN will treat any information obtained in connection with such audits that

is appropriately marked as confidential (as required by Section 7.15) as Confidential Information of Registry Operator in accordance with Section 7.15.

(b) Any audit conducted pursuant to Section 2.11(a) will be at ICANN's expense, unless (i) Registry Operator (A) controls, is controlled by, is under common control or is otherwise Affiliated with, any ICANN accredited registrar or registrar reseller or any of their respective Affiliates, or (B) has subcontracted the provision of Registry Services to an ICANN accredited registrar or registrar reseller or any of their respective Affiliates, and, in either case of (A) or (B) above, the audit relates to Registry Operator's compliance with Section 2.14, in which case Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with the portion of the audit related to Registry Operator's compliance with Section 2.14, or (ii) the audit is related to a discrepancy in the fees paid by Registry Operator hereunder in excess of 5% in a given quarter to ICANN's detriment, in which case Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with the entirety of such audit. In either such case of (i) or (ii) above, such reimbursement will be paid together with the next Registry-Level Fee payment due following the date of transmittal of the cost statement for such audit.

(c) Notwithstanding Section 2.11(a), if Registry Operator is found not to be in compliance with its representations and warranties contained in Article 1 of this Agreement or its covenants contained in Article 2 of this Agreement in two consecutive audits conducted pursuant to this Section 2.11, ICANN may increase the number of such audits to one per calendar quarter.

(d) Registry Operator will give ICANN immediate notice of Registry Operator's knowledge of the commencement of any of the proceedings referenced in Section 4.3(d) or the occurrence of any of the matters specified in Section 4.3(f).

## **2.12 [RESERVED]**

**2.13 Emergency Transition.** Registry Operator agrees that, in the event that any of the emergency thresholds for registry functions set forth in Section 6 of Specification 10 is reached, ICANN may designate an emergency interim registry operator of the registry for the TLD (an "Emergency Operator") in accordance with ICANN's registry transition process (available at <http://www.icann.org/en/resources/registries/transition-processes>) (as the same may be amended from time to time, the "Registry Transition Process") until such time as Registry Operator has demonstrated to ICANN's reasonable satisfaction that it can resume operation of the registry for the TLD without the reoccurrence of such failure. Following such demonstration, Registry Operator may transition back into operation of the registry for the TLD pursuant to the procedures set out in the Registry Transition Process, provided that Registry Operator pays all reasonable costs incurred (i) by ICANN as a result of the designation of the Emergency Operator and (ii) by the Emergency Operator in connection with the operation of the registry for the TLD, which costs shall be documented in reasonable detail in records that shall be made available to Registry Operator. In the event ICANN designates an Emergency Operator pursuant to this Section 2.13 and the

Registry Transition Process, Registry Operator shall provide ICANN or any such Emergency Operator with all data (including the data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such Emergency Operator. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event that an Emergency Operator is designated pursuant to this Section 2.13.

**2.14 Registry Code of Conduct.** In connection with the operation of the registry for the TLD, Registry Operator shall comply with the Registry Code of Conduct as set forth in Specification 9 attached hereto (“Specification 9”).

**2.15 Cooperation with Economic Studies.** If ICANN initiates or commissions an economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters, Registry Operator shall reasonably cooperate with such study, including by delivering to ICANN or its designee conducting such study all data related to the operation of the TLD reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold (a) any internal analyses or evaluations prepared by Registry Operator with respect to such data and (b) any data to the extent that the delivery of such data would be in violation of applicable law. Any data delivered to ICANN or its designee pursuant to this Section 2.15 that is appropriately marked as confidential (as required by Section 7.15) shall be treated as Confidential Information of Registry Operator in accordance with Section 7.15, provided that, if ICANN aggregates and makes anonymous such data, ICANN or its designee may disclose such data to any third party. Following completion of an economic study for which Registry Operator has provided data, ICANN will destroy all data provided by Registry Operator that has not been aggregated and made anonymous.

**2.16 Registry Performance Specifications.** Registry Performance Specifications for operation of the TLD will be as set forth in Specification 10 attached hereto (“Specification 10”). Registry Operator shall comply with such Performance Specifications and, for a period of at least one (1) year, shall keep technical and operational records sufficient to evidence compliance with such specifications for each calendar year during the Term.

**2.17 Additional Public Interest Commitments.** Registry Operator shall comply with the public interest commitments set forth in Specification 11 attached hereto (“Specification 11”).

**2.18 Personal Data.** Registry Operator shall (i) notify each ICANN-accredited registrar that is a party to the registry-registrar agreement for the TLD of the purposes for which data about any identified or identifiable natural person (“Personal Data”) submitted to Registry Operator by such registrar is collected and used under this Agreement or otherwise and the intended recipients (or categories of recipients) of such Personal Data, and (ii) require such registrar to obtain the consent of each registrant in the TLD for such collection and use of Personal Data. Registry Operator shall take reasonable steps to



protect Personal Data collected from such registrar from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars.

### ARTICLE 3.

#### COVENANTS OF ICANN

ICANN covenants and agrees with Registry Operator as follows:

**3.1 Open and Transparent.** Consistent with ICANN's expressed mission and core values, ICANN shall operate in an open and transparent manner.

**3.2 Equitable Treatment.** ICANN shall not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and shall not single out Registry Operator for disparate treatment unless justified by substantial and reasonable cause.

**3.3 TLD Nameservers.** ICANN will use commercially reasonable efforts to ensure that any changes to the TLD nameserver designations submitted to ICANN by Registry Operator (in a format and with required technical elements specified by ICANN at <http://www.iana.org/domains/root/> will be implemented by ICANN within seven (7) calendar days or as promptly as feasible following technical verifications.

**3.4 Root-zone Information Publication.** ICANN's publication of root-zone contact information for the TLD will include Registry Operator and its administrative and technical contacts. Any request to modify the contact information for the Registry Operator must be made in the format specified from time to time by ICANN at <http://www.iana.org/domains/root/>.

**3.5 Authoritative Root Database.** To the extent that ICANN is authorized to set policy with regard to an authoritative root server system (the "Authoritative Root Server System"), ICANN shall use commercially reasonable efforts to (a) ensure that the authoritative root will point to the top-level domain nameservers designated by Registry Operator for the TLD, (b) maintain a stable, secure, and authoritative publicly available database of relevant information about the TLD, in accordance with ICANN publicly available policies and procedures, and (c) coordinate the Authoritative Root Server System so that it is operated and maintained in a stable and secure manner; provided, that ICANN shall not be in breach of this Agreement and ICANN shall have no liability in the event that any third party (including any governmental entity or internet service provider) blocks or restricts access to the TLD in any jurisdiction.

## ARTICLE 4.

### TERM AND TERMINATION

**4.1 Term.** The term of this Agreement will be ten (10) years from the Effective Date (as such term may be extended pursuant to Section 4.2, the "Term").

**4.2 Renewal.**

(a) This Agreement will be renewed for successive periods of ten (10) years upon the expiration of the initial Term set forth in Section 4.1 and each successive Term, unless:

(i) Following notice by ICANN to Registry Operator of a fundamental and material breach of Registry Operator's covenants set forth in Article 2 or breach of its payment obligations under Article 6 of this Agreement, which notice shall include with specificity the details of the alleged breach, and such breach has not been cured within thirty (30) calendar days of such notice, (A) an arbitrator or court of competent jurisdiction has finally determined that Registry Operator has been in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (B) Registry Operator has failed to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court of competent jurisdiction; or

(ii) During the then current Term, Registry Operator shall have been found by an arbitrator (pursuant to Section 5.2 of this Agreement) or a court of competent jurisdiction on at least three (3) separate occasions to have been in (A) fundamental and material breach (whether or not cured) of Registry Operator's covenants set forth in Article 2 or (B) breach of its payment obligations under Article 6 of this Agreement.

(b) Upon the occurrence of the events set forth in Section 4.2(a) (i) or (ii), the Agreement shall terminate at the expiration of the then-current Term.

**4.3 Termination by ICANN.**

(a) ICANN may, upon notice to Registry Operator, terminate this Agreement if: (i) Registry Operator fails to cure (A) any fundamental and material breach of Registry Operator's representations and warranties set forth in Article 1 or covenants set forth in Article 2, or (B) any breach of Registry Operator's payment obligations set forth in Article 6 of this Agreement, each within thirty (30) calendar days after ICANN gives Registry Operator notice of such breach, which notice will include with specificity the details of the alleged breach, (ii) an arbitrator or court of competent jurisdiction has finally determined that Registry Operator is in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (iii) Registry Operator fails to

comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court of competent jurisdiction.

(b) ICANN may, upon notice to Registry Operator, terminate this Agreement if Registry Operator fails to complete all testing and procedures (identified by ICANN in writing to Registry Operator prior to the date hereof) for delegation of the TLD into the root zone within twelve (12) months of the Effective Date. Registry Operator may request an extension for up to additional twelve (12) months for delegation if it can demonstrate, to ICANN's reasonable satisfaction, that Registry Operator is working diligently and in good faith toward successfully completing the steps necessary for delegation of the TLD. Any fees paid by Registry Operator to ICANN prior to such termination date shall be retained by ICANN in full.

(c) [RESERVED]

(d) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator makes an assignment for the benefit of creditors or similar act, (ii) attachment, garnishment or similar proceedings are commenced against Registry Operator, which proceedings are a material threat to Registry Operator's ability to operate the registry for the TLD, and are not dismissed within sixty (60) calendar days of their commencement, (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registry Operator or maintains control over any of Registry Operator's property, (iv) execution is levied upon any material property of Registry Operator, (v) proceedings are instituted by or against Registry Operator under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within sixty (60) calendar days of their commencement, or (vi) Registry Operator files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101, et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations or the operation of the TLD.

(e) ICANN may, upon thirty (30) calendar days' notice to Registry Operator, terminate this Agreement pursuant to Section 2 of Specification 7 or Sections 2 and 3 of Specification 11, subject to Registry Operator's right to challenge such termination as set forth in the applicable procedure described therein.

(f) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator knowingly employs any officer who is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such officer is not terminated within thirty (30) calendar days of Registry Operator's knowledge of the foregoing, or (ii) any member of Registry Operator's board of directors or similar governing body is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the

subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such member is not removed from Registry Operator's board of directors or similar governing body within thirty (30) calendar days of Registry Operator's knowledge of the foregoing.

(g) ICANN may, upon thirty (30) calendar days' notice to Registry Operator, terminate this Agreement as specified in Section 7.5.

#### **4.4 Termination by Registry Operator.**

(a) Registry Operator may terminate this Agreement upon notice to ICANN if (i) ICANN fails to cure any fundamental and material breach of ICANN's covenants set forth in Article 3, within thirty (30) calendar days after Registry Operator gives ICANN notice of such breach, which notice will include with specificity the details of the alleged breach, (ii) an arbitrator or court of competent jurisdiction has finally determined that ICANN is in fundamental and material breach of such covenants, and (iii) ICANN fails to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court of competent jurisdiction.

(b) Registry Operator may terminate this Agreement for any reason upon one hundred eighty (180) calendar day advance notice to ICANN.

**4.5 Transition of Registry upon Termination of Agreement.** Upon expiration of the Term pursuant to Section 4.1 or Section 4.2 or any termination of this Agreement pursuant to Section 4.3 or Section 4.4, Registry Operator shall provide ICANN or any successor registry operator that may be designated by ICANN for the TLD in accordance with this Section 4.5 with all data (including the data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry operator in its sole discretion and in conformance with the Registry Transition Process; provided, however, that (i) ICANN will take into consideration any intellectual property rights of Registry Operator (as communicated to ICANN by Registry Operator) in determining whether to transition operation of the TLD to a successor registry operator and (ii) if Registry Operator demonstrates to ICANN's reasonable satisfaction that (A) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator or its Affiliates for their exclusive use, (B) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (C) transitioning operation of the TLD is not necessary to protect the public interest, then ICANN may not transition operation of the TLD to a successor registry operator upon the expiration or termination of this Agreement without the consent of Registry Operator (which shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, the foregoing sentence shall not prohibit ICANN from delegating the TLD pursuant to a future application process for the delegation of top-level domains, subject to any

processes and objection procedures instituted by ICANN in connection with such application process intended to protect the rights of third parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5. In addition, ICANN or its designee shall retain and may enforce its rights under the Continued Operations Instrument for the maintenance and operation of the TLD, regardless of the reason for termination or expiration of this Agreement.

**4.6 Effect of Termination.** Upon any expiration of the Term or termination of this Agreement, the obligations and rights of the parties hereto shall cease, provided that such expiration or termination of this Agreement shall not relieve the parties of any obligation or breach of this Agreement accruing prior to such expiration or termination, including, without limitation, all accrued payment obligations arising under Article 6. In addition, Article 5, Article 7, Section 4.5, and this Section 4.6 shall survive the expiration or termination of this Agreement. For the avoidance of doubt, the rights of Registry Operator to operate the registry for the TLD shall immediately cease upon any expiration of the Term or termination of this Agreement.

## ARTICLE 5.

### DISPUTE RESOLUTION

**5.1 Mediation.** In the event of any dispute arising under or in connection with this Agreement, before either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator must attempt to resolve the dispute through mediation in accordance with the following terms and conditions:

(a) A party shall submit a dispute to mediation by written notice to the other party. The mediation shall be conducted by a single mediator selected by the parties. If the parties cannot agree on a mediator within fifteen (15) calendar days of delivery of written notice pursuant to this Section 5.1, the parties will promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity's selection, designate a mediator, who is a licensed attorney with general knowledge of contract law, has no ongoing business relationship with either party and, to the extent necessary to mediate the particular dispute, general knowledge of the domain name system. Any mediator must confirm in writing that he or she is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, or security holder of ICANN or Registry Operator. If such confirmation is not provided by the appointed mediator, then a replacement mediator shall be appointed pursuant to this Section 5.1(a).

(b) The mediator shall conduct the mediation in accordance with the rules and procedures that he or she determines following consultation with the parties. The parties shall discuss the dispute in good faith and attempt, with the mediator's assistance, to reach an amicable resolution of the dispute. The mediation shall be treated as a settlement discussion and shall therefore be confidential and may not be used against

either party in any later proceeding relating to the dispute, including any arbitration pursuant to Section 5.2. The mediator may not testify for either party in any later proceeding relating to the dispute.

(c) Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator. Each party shall treat information received from the other party pursuant to the mediation that is appropriately marked as confidential (as required by Section 7.15) as Confidential Information of such other party in accordance with Section 7.15.

(d) If the parties have engaged in good faith participation in the mediation but have not resolved the dispute for any reason, either party or the mediator may terminate the mediation at any time and the dispute can then proceed to arbitration pursuant to Section 5.2 below. If the parties have not resolved the dispute for any reason by the date that is ninety (90) calendar days following the date of the notice delivered pursuant to Section 5.1(a), the mediation shall automatically terminate (unless extended by agreement of the parties) and the dispute can then proceed to arbitration pursuant to Section 5.2 below.

**5.2 Arbitration.** Disputes arising under or in connection with this Agreement that are not resolved pursuant to Section 5.1, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce. The arbitration will be conducted in the English language and will occur in Los Angeles County, California. Any arbitration will be in front of a single arbitrator, unless (i) ICANN is seeking punitive or exemplary damages, or operational sanctions, (ii) the parties agree in writing to a greater number of arbitrators, or (iii) the dispute arises under Section 7.6 or 7.7. In the case of clauses (i), (ii) or (iii) in the preceding sentence, the arbitration will be in front of three arbitrators with each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator(s) determine that a hearing is necessary, the hearing shall be limited to one (1) calendar day, provided that in any arbitration in which ICANN is seeking punitive or exemplary damages, or operational sanctions, the hearing may be extended for one (1) additional calendar day if agreed upon by the parties or ordered by the arbitrator(s) based on the arbitrator(s) independent determination or the reasonable request of one of the parties thereto. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in the awards. In the event the arbitrators determine that Registry Operator has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 or Section 5.4 of this Agreement, ICANN may request the arbitrators award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator's right to sell new registrations). Each party shall treat information received from the other party pursuant to the arbitration that is appropriately marked as confidential (as required by Section 7.15) as Confidential Information of such other party in accordance with Section 7.15. In any

litigation involving ICANN concerning this Agreement, jurisdiction and exclusive venue for such litigation will be in a court located in Los Angeles County, California; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.

**5.3 Limitation of Liability.** ICANN's aggregate monetary liability for violations of this Agreement will not exceed an amount equal to the Registry-Level Fees paid by Registry Operator to ICANN within the preceding twelve-month period pursuant to this Agreement (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any). Registry Operator's aggregate monetary liability to ICANN for breaches of this Agreement will be limited to an amount equal to the fees paid to ICANN during the preceding twelve-month period (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any), and punitive and exemplary damages, if any, awarded in accordance with Section 5.2, except with respect to Registry Operator's indemnification obligations pursuant to Section 7.1 and Section 7.2. In no event shall either party be liable for special, punitive, exemplary or consequential damages arising out of or in connection with this Agreement or the performance or nonperformance of obligations undertaken in this Agreement, except as provided in Section 5.2. Except as otherwise provided in this Agreement, neither party makes any warranty, express or implied, with respect to the services rendered by itself, its servants or agents, or the results obtained from their work, including, without limitation, any implied warranty of merchantability, non-infringement or fitness for a particular purpose.

**5.4 Specific Performance.** Registry Operator and ICANN agree that irreparable damage could occur if any of the provisions of this Agreement was not performed in accordance with its specific terms. Accordingly, the parties agree that they each shall be entitled to seek from the arbitrator or court of competent jurisdiction specific performance of the terms of this Agreement (in addition to any other remedy to which each party is entitled).

## ARTICLE 6.

### FEES

#### 6.1 Registry-Level Fees.

(a) Registry Operator shall pay ICANN a registry-level fee equal to (i) the registry fixed fee of US\$6,250 per calendar quarter and (ii) the registry-level transaction fee (collectively, the "Registry-Level Fees"). The registry-level transaction fee will be equal to the number of annual increments of an initial or renewal domain name registration (at one or more levels, and including renewals associated with transfers from one ICANN-accredited registrar to another, each a "Transaction"), during the applicable calendar quarter multiplied by US\$0.25; provided, however that the registry-level transaction fee shall not apply until and unless more than 50,000 Transactions have occurred in the TLD during any calendar quarter or any consecutive four calendar quarter period in the aggregate (the "Transaction Threshold") and shall apply to each Transaction

that occurred during each quarter in which the Transaction Threshold has been met, but shall not apply to each quarter in which the Transaction Threshold has not been met. Registry Operator's obligation to pay the quarterly registry-level fixed fee will begin on the date on which the TLD is delegated in the DNS to Registry Operator. The first quarterly payment of the registry-level fixed fee will be prorated based on the number of calendar days between the delegation date and the end of the calendar quarter in which the delegation date falls.

(b) Subject to Section 6.1(a), Registry Operator shall pay the Registry-Level Fees on a quarterly basis to an account designated by ICANN within thirty (30) calendar days following the date of the invoice provided by ICANN.

**6.2 Cost Recovery for RSTEP.** Requests by Registry Operator for the approval of Additional Services pursuant to Section 2.1 may be referred by ICANN to the Registry Services Technical Evaluation Panel ("RSTEP") pursuant to that process at <http://www.icann.org/en/registries/rsep/>. In the event that such requests are referred to RSTEP, Registry Operator shall remit to ICANN the invoiced cost of the RSTEP review within fourteen (14) calendar days of receipt of a copy of the RSTEP invoice from ICANN, unless ICANN determines, in its sole and absolute discretion, to pay all or any portion of the invoiced cost of such RSTEP review.

### **6.3 Variable Registry-Level Fee.**

(a) If the ICANN accredited registrars (accounting, in the aggregate, for payment of two-thirds of all registrar-level fees (or such portion of ICANN accredited registrars necessary to approve variable accreditation fees under the then-current registrar accreditation agreement), do not approve, pursuant to the terms of their registrar accreditation agreements with ICANN, the variable accreditation fees established by the ICANN Board of Directors for any ICANN fiscal year, upon delivery of notice from ICANN, Registry Operator shall pay to ICANN a variable registry-level fee, which shall be paid on a fiscal quarter basis, and shall accrue as of the beginning of the first fiscal quarter of such ICANN fiscal year (the "Variable Registry-Level Fee"). The fee will be calculated and invoiced by ICANN on a quarterly basis, and shall be paid by Registry Operator within sixty (60) calendar days with respect to the first quarter of such ICANN fiscal year and within twenty (20) calendar days with respect to each remaining quarter of such ICANN fiscal year, of receipt of the invoiced amount by ICANN. The Registry Operator may invoice and collect the Variable Registry-Level Fees from the registrars that are party to a registry-registrar agreement with Registry Operator (which agreement may specifically provide for the reimbursement of Variable Registry-Level Fees paid by Registry Operator pursuant to this Section 6.3); provided, that the fees shall be invoiced to all ICANN accredited registrars if invoiced to any. The Variable Registry-Level Fee, if collectible by ICANN, shall be an obligation of Registry Operator and shall be due and payable as provided in this Section 6.3 irrespective of Registry Operator's ability to seek and obtain reimbursement of such fee from registrars. In the event ICANN later collects variable accreditation fees for which Registry Operator has paid ICANN a Variable Registry-Level Fee, ICANN shall reimburse the Registry Operator an appropriate amount of the Variable



Registry-Level Fee, as reasonably determined by ICANN. If the ICANN accredited registrars (as a group) do approve, pursuant to the terms of their registrar accreditation agreements with ICANN, the variable accreditation fees established by the ICANN Board of Directors for a fiscal year, ICANN shall not be entitled to a Variable-Level Fee hereunder for such fiscal year, irrespective of whether the ICANN accredited registrars comply with their payment obligations to ICANN during such fiscal year.

(b) The amount of the Variable Registry-Level Fee will be specified for each registrar, and may include both a per-registrar component and a transactional component. The per-registrar component of the Variable Registry-Level Fee shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each ICANN fiscal year. The transactional component of the Variable Registry-Level Fee shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each ICANN fiscal year but shall not exceed US\$0.25 per domain name registration (including renewals associated with transfers from one ICANN accredited registrar to another) per year.

#### **6.4 [RESERVED]**

**6.5 Adjustments to Fees.** Notwithstanding any of the fee limitations set forth in this Article 6, commencing upon the expiration of the first year of this Agreement, and upon the expiration of each year thereafter during the Term, the then-current fees set forth in Section 6.1 and Section 6.3 may be adjusted, at ICANN's discretion, by a percentage equal to the percentage change, if any, in (i) the Consumer Price Index for All Urban Consumers, U.S. City Average (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index (the "CPI") for the month which is one (1) month prior to the commencement of the applicable year, over (ii) the CPI published for the month which is one (1) month prior to the commencement of the immediately prior year. In the event of any such increase, ICANN shall provide notice to Registry Operator specifying the amount of such adjustment. Any fee adjustment under this Section 6.5 shall be effective as of the first day of the first calendar quarter following at least thirty (30) days after ICANN's delivery to Registry Operator of such fee adjustment notice.

**6.6 Additional Fee on Late Payments.** For any payments thirty (30) calendar days or more overdue under this Agreement, Registry Operator shall pay an additional fee on late payments at the rate of 1.5% per month or, if less, the maximum rate permitted by applicable law.

### **ARTICLE 7.**

#### **MISCELLANEOUS**

##### **7.1 Indemnification of ICANN.**

(a) Registry Operator shall indemnify and defend ICANN and its directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all third-party claims, damages, liabilities, costs, and expenses, including reasonable legal fees

and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services, provided that Registry Operator shall not be obligated to indemnify or defend any Indemnitee to the extent the claim, damage, liability, cost or expense arose: (i) due to the actions or omissions of ICANN, its subcontractors, panelists or evaluators specifically related to and occurring during the registry TLD application process (other than actions or omissions requested by or for the benefit of Registry Operator), or (ii) due to a breach by ICANN of any obligation contained in this Agreement or any willful misconduct by ICANN. This Section shall not be deemed to require Registry Operator to reimburse or otherwise indemnify ICANN for costs associated with the negotiation or execution of this Agreement, or with monitoring or management of the parties' respective obligations hereunder. Further, this Section shall not apply to any request for attorney's fees in connection with any litigation or arbitration between or among the parties, which shall be governed by Article 5 or otherwise awarded by a court of competent jurisdiction or arbitrator.

(b) For any claims by ICANN for indemnification whereby multiple registry operators (including Registry Operator) have engaged in the same actions or omissions that gave rise to the claim, Registry Operator's aggregate liability to indemnify ICANN with respect to such claim shall be limited to a percentage of ICANN's total claim, calculated by dividing the number of total domain names under registration with Registry Operator within the TLD (which names under registration shall be calculated consistently with Article 6 hereof for any applicable quarter) by the total number of domain names under registration within all top level domains for which the registry operators thereof are engaging in the same acts or omissions giving rise to such claim. For the purposes of reducing Registry Operator's liability under Section 7.1(a) pursuant to this Section 7.1(b), Registry Operator shall have the burden of identifying the other registry operators that are engaged in the same actions or omissions that gave rise to the claim, and demonstrating, to ICANN's reasonable satisfaction, such other registry operators' culpability for such actions or omissions. For the avoidance of doubt, in the event that a registry operator is engaged in the same acts or omissions giving rise to the claims, but such registry operator(s) do not have the same or similar indemnification obligations to ICANN as set forth in Section 7.1(a) above, the number of domains under management by such registry operator(s) shall nonetheless be included in the calculation in the preceding sentence.

**7.2 Indemnification Procedures.** If any third-party claim is commenced that is indemnified under Section 7.1 above, ICANN shall provide notice thereof to Registry Operator as promptly as practicable. Registry Operator shall be entitled, if it so elects, in a notice promptly delivered to ICANN, to immediately take control of the defense and investigation of such claim and to employ and engage attorneys reasonably acceptable to ICANN to handle and defend the same, at Registry Operator's sole cost and expense, provided that in all events ICANN will be entitled to control at its sole cost and expense the litigation of issues concerning the validity or interpretation of ICANN's policies, Bylaws or conduct. ICANN shall cooperate, at Registry Operator's cost and expense, in all reasonable respects with Registry Operator and its attorneys in the investigation, trial, and defense of such claim and any appeal arising therefrom, and may, at its own cost and expense,

participate, through its attorneys or otherwise, in such investigation, trial and defense of such claim and any appeal arising therefrom. No settlement of a claim that involves a remedy affecting ICANN other than the payment of money in an amount that is fully indemnified by Registry Operator will be entered into without the consent of ICANN. If Registry Operator does not assume full control over the defense of a claim subject to such defense in accordance with this Section 7.2, ICANN will have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Registry Operator and Registry Operator shall cooperate in such defense.

**7.3 Defined Terms.** For purposes of this Agreement, unless such definitions are amended pursuant to a Consensus Policy at a future date, in which case the following definitions shall be deemed amended and restated in their entirety as set forth in such Consensus Policy, Security and Stability shall be defined as follows:

(a) For the purposes of this Agreement, an effect on “Security” shall mean (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

(b) For purposes of this Agreement, an effect on “Stability” shall refer to (1) lack of compliance with applicable relevant standards that are authoritative and published by a well-established and recognized Internet standards body, such as the relevant Standards-Track or Best Current Practice Requests for Comments (“RFCs”) sponsored by the Internet Engineering Task Force; or (2) the creation of a condition that adversely affects the throughput, response time, consistency or coherence of responses to Internet servers or end systems operating in accordance with applicable relevant standards that are authoritative and published by a well-established and recognized Internet standards body, such as the relevant Standards-Track or Best Current Practice RFCs, and relying on Registry Operator’s delegated information or provisioning of services.

**7.4 No Offset.** All payments due under this Agreement will be made in a timely manner throughout the Term and notwithstanding the pendency of any dispute (monetary or otherwise) between Registry Operator and ICANN.

**7.5 Change of Control; Assignment and Subcontracting.** Except as set forth in this Section 7.5, neither party may assign any of its rights and obligations under this Agreement without the prior written approval of the other party, which approval will not be unreasonably withheld. For purposes of this Section 7.5, a direct or indirect change of control of Registry Operator or any subcontracting arrangement that relates to any Critical Function (as identified in Section 6 of Specification 10) for the TLD (a “Material Subcontracting Arrangement”) shall be deemed an assignment.

(a) Registry Operator must provide no less than thirty (30) calendar days advance notice to ICANN of any assignment or Material Subcontracting Arrangement, and any agreement to assign or subcontract any portion of the operations of the TLD (whether or not a Material Subcontracting Arrangement) must mandate compliance with all

covenants, obligations and agreements by Registry Operator hereunder, and Registry Operator shall continue to be bound by such covenants, obligations and agreements. Registry Operator must also provide no less than thirty (30) calendar days advance notice to ICANN prior to the consummation of any transaction anticipated to result in a direct or indirect change of control of Registry Operator.

(b) Within thirty (30) calendar days of either such notification pursuant to Section 7.5(a), ICANN may request additional information from Registry Operator establishing (i) compliance with this Agreement and (ii) that the party acquiring such control or entering into such assignment or Material Subcontracting Arrangement (in any case, the "Contracting Party") and the ultimate parent entity of the Contracting Party meets the ICANN-adopted specification or policy on registry operator criteria then in effect (including with respect to financial resources and operational and technical capabilities), in which case Registry Operator must supply the requested information within fifteen (15) calendar days.

(c) Registry Operator agrees that ICANN's consent to any assignment, change of control or Material Subcontracting Arrangement will also be subject to background checks on any proposed Contracting Party (and such Contracting Party's Affiliates).

(d) If ICANN fails to expressly provide or withhold its consent to any assignment, direct or indirect change of control of Registry Operator or any Material Subcontracting Arrangement within thirty (30) calendar days of ICANN's receipt of notice of such transaction (or, if ICANN has requested additional information from Registry Operator as set forth above, thirty (30) calendar days of the receipt of all requested written information regarding such transaction) from Registry Operator, ICANN shall be deemed to have consented to such transaction.

(e) In connection with any such assignment, change of control or Material Subcontracting Arrangement, Registry Operator shall comply with the Registry Transition Process.

(f) Notwithstanding the foregoing, (i) any consummated change of control shall not be voidable by ICANN; provided, however, that, if ICANN reasonably determines to withhold its consent to such transaction, ICANN may terminate this Agreement pursuant to Section 4.3(g), (ii) ICANN may assign this Agreement without the consent of Registry Operator upon approval of the ICANN Board of Directors in conjunction with a reorganization, reconstitution or re-incorporation of ICANN upon such assignee's express assumption of the terms and conditions of this Agreement, (iii) Registry Operator may assign this Agreement without the consent of ICANN directly to a wholly-owned subsidiary of Registry Operator, or, if Registry Operator is a wholly-owned subsidiary, to its direct parent or to another wholly-owned subsidiary of its direct parent, upon such subsidiary's or parent's, as applicable, express assumption of the terms and conditions of this Agreement, and (iv) ICANN shall be deemed to have consented to any assignment, Material Subcontracting Arrangement or change of control transaction in which the

Contracting Party is an existing operator of a generic top-level domain pursuant to a registry agreement between such Contracting Party and ICANN (provided that such Contracting Party is then in compliance with the terms and conditions of such registry agreement in all material respects), unless ICANN provides to Registry Operator a written objection to such transaction within ten (10) calendar days of ICANN's receipt of notice of such transaction pursuant to this Section 7.5. Notwithstanding Section 7.5(a), in the event an assignment is made pursuant to clauses (ii) or (iii) of this Section 7.5(f), the assigning party will provide the other party with prompt notice following any such assignment.

## **7.6 Amendments and Waivers.**

(a) If the ICANN Board of Directors determines that an amendment to this Agreement (including to the Specifications referred to herein) and all other registry agreements between ICANN and the Applicable Registry Operators (the "Applicable Registry Agreements") is desirable (each, a "Special Amendment"), ICANN may adopt a Special Amendment pursuant to the requirements of and process set forth in this Section 7.6; provided that a Special Amendment may not be a Restricted Amendment.

(b) Prior to submitting a Special Amendment for Registry Operator Approval, ICANN shall first consult in good faith with the Working Group regarding the form and substance of such Special Amendment. The duration of such consultation shall be reasonably determined by ICANN based on the substance of the Special Amendment. Following such consultation, ICANN may propose the adoption of a Special Amendment by publicly posting such amendment on its website for no less than thirty (30) calendar days (the "Posting Period") and providing notice of such proposed amendment to the Applicable Registry Operators in accordance with Section 7.9. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registry Operators).

(c) If, within one hundred eighty (180) calendar days following the expiration of the Posting Period (the "Approval Period"), the ICANN Board of Directors approves a Special Amendment (which may be in a form different than submitted for public comment, but must address the subject matter of the Special Amendment posted for public comment, as modified to reflect and/or address input from the Working Group and public comments), ICANN shall provide notice of, and submit, such Special Amendment for approval or disapproval by the Applicable Registry Operators. If, during the sixty (60) calendar day period following the date ICANN provides such notice to the Applicable Registry Operators, such Special Amendment receives Registry Operator Approval, such Special Amendment shall be deemed approved (an "Approved Amendment") by the Applicable Registry Operators, and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Approved Amendment to Registry Operator (the "Amendment Effective Date"). In the event that a Special Amendment does not receive Registry Operator Approval, the Special Amendment shall be deemed not approved by the Applicable Registry Operators (a "Rejected Amendment"). A Rejected Amendment will have no effect on the terms and conditions of this Agreement, except as set forth below.

(d) If the ICANN Board of Directors reasonably determines that a Rejected Amendment falls within the subject matter categories set forth in Section 1.2 of Specification 1, the ICANN Board of Directors may adopt a resolution (the date such resolution is adopted is referred to herein as the “Resolution Adoption Date”) requesting an Issue Report (as such term is defined in ICANN’s Bylaws) by the Generic Names Supporting Organization (the “GNSO”) regarding the substance of such Rejected Amendment. The policy development process undertaken by the GNSO pursuant to such requested Issue Report is referred to herein as a “PDP.” If such PDP results in a Final Report supported by a GNSO Supermajority (as defined in ICANN’s Bylaws) that either (i) recommends adoption of the Rejected Amendment as Consensus Policy or (ii) recommends against adoption of the Rejected Amendment as Consensus Policy, and, in the case of (i) above, the Board adopts such Consensus Policy, Registry Operator shall comply with its obligations pursuant to Section 2.2 of this Agreement. In either case, ICANN will abandon the Rejected Amendment and it will have no effect on the terms and conditions of this Agreement. Notwithstanding the foregoing provisions of this Section 7.6(d), the ICANN Board of Directors shall not be required to initiate a PDP with respect to a Rejected Amendment if, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registry Operator Approval pursuant to Section 7.6(c), the subject matter of such Rejected Amendment was the subject of a concluded or otherwise abandoned or terminated PDP that did not result in a GNSO Supermajority recommendation.

(e) If (a) a Rejected Amendment does not fall within the subject matter categories set forth in Section 1.2 of Specification 1, (b) the subject matter of a Rejected Amendment was, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registry Operator Approval pursuant to Section 7.6(c), the subject of a concluded or otherwise abandoned or terminated PDP that did not result in a GNSO Supermajority recommendation, or (c) a PDP does not result in a Final Report supported by a GNSO Supermajority that either (A) recommends adoption of the Rejected Amendment as Consensus Policy or (B) recommends against adoption of the Rejected Amendment as Consensus Policy (or such PDP has otherwise been abandoned or terminated for any reason), then, in any such case, such Rejected Amendment may still be adopted and become effective in the manner described below. In order for the Rejected Amendment to be adopted, the following requirements must be satisfied:

(i) the subject matter of the Rejected Amendment must be within the scope of ICANN’s mission and consistent with a balanced application of its core values (as described in ICANN’s Bylaws);

(ii) the Rejected Amendment must be justified by a Substantial and Compelling Reason in the Public Interest, must be likely to promote such interest, taking into account competing public and private interests that are likely to be affected by the Rejected Amendment, and must be narrowly tailored and no broader than reasonably necessary to address such Substantial and Compelling Reason in the Public Interest;

(iii) to the extent the Rejected Amendment prohibits or requires conduct or activities, imposes material costs on the Applicable Registry Operators, and/or materially reduces public access to domain name services, the Rejected Amendment must be the least restrictive means reasonably available to address the Substantial and Compelling Reason in the Public Interest;

(iv) the ICANN Board of Directors must submit the Rejected Amendment, along with a written explanation of the reasoning related to its determination that the Rejected Amendment meets the requirements set out in subclauses (i) through (iii) above, for public comment for a period of no less than thirty (30) calendar days; and

(v) following such public comment period, the ICANN Board of Directors must (a) engage in consultation (or direct ICANN management to engage in consultation) with the Working Group, subject matter experts, members of the GNSO, relevant advisory committees and other interested stakeholders with respect to such Rejected Amendment for a period of no less than sixty (60) calendar days; and (b) following such consultation, reapprove the Rejected Amendment (which may be in a form different than submitted for Registry Operator Approval, but must address the subject matter of the Rejected Amendment, as modified to reflect and/or address input from the Working Group and public comments) by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN's Conflict of Interest Policy (a "Board Amendment").

Such Board Amendment shall, subject to Section 7.6(f), be deemed an Approved Amendment, and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Board Amendment to Registry Operator (which effective date shall be deemed the Amendment Effective Date hereunder). Notwithstanding the foregoing, a Board Amendment may not amend the registry fees charged by ICANN hereunder, or amend this Section 7.6.

(f) Notwithstanding the provisions of Section 7.6(e), a Board Amendment shall not be deemed an Approved Amendment if, during the thirty (30) calendar day period following the approval by the ICANN Board of Directors of the Board Amendment, the Working Group, on the behalf of the Applicable Registry Operators, submits to the ICANN Board of Directors an alternative to the Board Amendment (an "Alternative Amendment") that meets the following requirements:

(i) sets forth the precise text proposed by the Working Group to amend this Agreement in lieu of the Board Amendment;

(ii) addresses the Substantial and Compelling Reason in the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment; and

(iii) compared to the Board Amendment is: (a) more narrowly tailored to address such Substantial and Compelling Reason in the Public Interest, and (b) to the extent the Alternative Amendment prohibits or requires conduct or activities, imposes material costs on Affected Registry Operators, or materially reduces access to domain name services, is a less restrictive means to address the Substantial and Compelling Reason in the Public Interest.

Any proposed amendment that does not meet the requirements of subclauses (i) through (iii) in the immediately preceding sentence shall not be considered an Alternative Amendment hereunder and therefore shall not supersede or delay the effectiveness of the Board Amendment. If, following the submission of the Alternative Amendment to the ICANN Board of Directors, the Alternative Amendment receives Registry Operator Approval, the Alternative Amendment shall supersede the Board Amendment and shall be deemed an Approved Amendment hereunder (and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Alternative Amendment to Registry Operator, which effective date shall be deemed the Amendment Effective Date hereunder), unless, within a period of sixty (60) calendar days following the date that the Working Group notifies the ICANN Board of Directors of Registry Operator Approval of such Alternative Amendment (during which time ICANN shall engage with the Working Group with respect to the Alternative Amendment), the ICANN Board of Directors by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN's Conflict of Interest Policy, rejects the Alternative Amendment. If (A) the Alternative Amendment does not receive Registry Operator Approval within thirty (30) calendar days of submission of such Alternative Amendment to the Applicable Registry Operators (and the Working Group shall notify ICANN of the date of such submission), or (B) the ICANN Board of Directors rejects the Alternative Amendment by such two-thirds vote, the Board Amendment (and not the Alternative Amendment) shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice to Registry Operator (which effective date shall be deemed the Amendment Effective Date hereunder). If the ICANN Board of Directors rejects an Alternative Amendment, the board shall publish a written rationale setting forth its analysis of the criteria set forth in Sections 7.6(f)(i) through 7.6(f)(iii). The ability of the ICANN Board of Directors to reject an Alternative Amendment hereunder does not relieve the Board of the obligation to ensure that any Board Amendment meets the criteria set forth in Section 7.6(e)(i) through 7.6(e)(v).

(g) In the event that Registry Operator believes an Approved Amendment does not meet the substantive requirements set out in this Section 7.6 or has been adopted in contravention of any of the procedural provisions of this Section 7.6, Registry Operator



may challenge the adoption of such Special Amendment pursuant to the dispute resolution provisions set forth in Article 5, except that such arbitration shall be conducted by a three-person arbitration panel. Any such challenge must be brought within sixty (60) calendar days following the date ICANN provided notice to Registry Operator of the Approved Amendment, and ICANN may consolidate all challenges brought by registry operators (including Registry Operator) into a single proceeding. The Approved Amendment will be deemed not to have amended this Agreement during the pendency of the dispute resolution process.

(h) Registry Operator may apply in writing to ICANN for an exemption from the Approved Amendment (each such request submitted by Registry Operator hereunder, an "Exemption Request") during the thirty (30) calendar day period following the date ICANN provided notice to Registry Operator of such Approved Amendment. Each Exemption Request will set forth the basis for such request and provide detailed support for an exemption from the Approved Amendment. An Exemption Request may also include a detailed description and support for any alternatives to, or a variation of, the Approved Amendment proposed by such Registry Operator. An Exemption Request may only be granted upon a clear and convincing showing by Registry Operator that compliance with the Approved Amendment conflicts with applicable laws or would have a material adverse effect on the long-term financial condition or results of operations of Registry Operator. No Exemption Request will be granted if ICANN determines, in its reasonable discretion, that granting such Exemption Request would be materially harmful to registrants or result in the denial of a direct benefit to registrants. Within ninety (90) calendar days of ICANN's receipt of an Exemption Request, ICANN shall either approve (which approval may be conditioned or consist of alternatives to or a variation of the Approved Amendment) or deny the Exemption Request in writing, during which time the Approved Amendment will not amend this Agreement. If the Exemption Request is approved by ICANN, the Approved Amendment will not amend this Agreement; provided, that any conditions, alternatives or variations of the Approved Amendment required by ICANN shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. If such Exemption Request is denied by ICANN, the Approved Amendment will amend this Agreement as of the Amendment Effective Date (or, if such date has passed, such Approved Amendment shall be deemed effective immediately on the date of such denial), provided that Registry Operator may, within thirty (30) calendar days following receipt of ICANN's determination, appeal ICANN's decision to deny the Exemption Request pursuant to the dispute resolution procedures set forth in Article 5. The Approved Amendment will be deemed not to have amended this Agreement during the pendency of the dispute resolution process. For avoidance of doubt, only Exemption Requests submitted by Registry Operator that are approved by ICANN pursuant to this Section 7.6(j), agreed to by ICANN following mediation pursuant to Section 5.1 or through an arbitration decision pursuant to Section 5.2 shall exempt Registry Operator from any Approved Amendment, and no Exemption Request granted to any other Applicable Registry Operator (whether by ICANN or through arbitration) shall have any effect under this Agreement or exempt Registry Operator from any Approved Amendment.

(i) Except as set forth in this Section 7.6, Section 7.7 and as otherwise set forth in this Agreement and the Specifications hereto, no amendment, supplement or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties, and nothing in this Section 7.6 or Section 7.7 shall restrict ICANN and Registry Operator from entering into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement or failure to enforce any of the provisions hereof shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided. For the avoidance of doubt, nothing in this Sections 7.6 or 7.7 shall be deemed to limit Registry Operator's obligation to comply with Section 2.2.

(j) For purposes of this Section 7.6, the following terms shall have the following meanings:

(i) "Applicable Registry Operators" means, collectively, the registry operators of top-level domains party to a registry agreement that contains a provision similar to this Section 7.6, including Registry Operator.

(ii) "Registry Operator Approval" means the receipt of each of the following: (A) the affirmative approval of the Applicable Registry Operators whose payments to ICANN accounted for two-thirds of the total amount of fees (converted to U.S. dollars, if applicable, at the prevailing exchange rate published the prior day in the U.S. Edition of the Wall Street Journal for the date such calculation is made by ICANN) paid to ICANN by all the Applicable Registry Operators during the immediately previous calendar year pursuant to the Applicable Registry Agreements, and (B) the affirmative approval of a majority of the Applicable Registry Operators at the time such approval is obtained. For the avoidance of doubt, with respect to clause (B), each Applicable Registry Operator shall have one vote for each top-level domain operated by such Registry Operator pursuant to an Applicable Registry Agreement.

(iii) "Restricted Amendment" means the following: (A) an amendment of Specification 1, (B) except to the extent addressed in Section 2.10 hereof, an amendment that specifies the price charged by Registry Operator to registrars for domain name registrations, (C) an amendment to the definition of Registry Services as set forth in the first paragraph of Section 2.1 of Specification 6, or (D) an amendment to the length of the Term.

(iv) "Substantial and Compelling Reason in the Public Interest" means a reason that is justified by an important, specific, and articulated public interest goal that is within ICANN's mission and consistent with a balanced application of ICANN's core values as defined in ICANN's Bylaws.

(v) “Working Group” means representatives of the Applicable Registry Operators and other members of the community that the Registry Stakeholders Group appoints, from time to time, to serve as a working group to consult on amendments to the Applicable Registry Agreements (excluding bilateral amendments pursuant to Section 7.6(i)).

(k) Notwithstanding anything in this Section 7.6 to the contrary, (i) if Registry Operator provides evidence to ICANN's reasonable satisfaction that the Approved Amendment would materially increase the cost of providing Registry Services, then ICANN will allow up to one-hundred eighty (180) calendar days for Approved Amendment to become effective with respect to Registry Operator, and (ii) no Approved Amendment adopted pursuant to Section 7.6 shall become effective with respect to Registry Operator if Registry Operator provides ICANN with an irrevocable notice of termination pursuant to Section 4.4(b).

### **7.7 Negotiation Process.**

(a) If either the Chief Executive Officer of ICANN (“CEO”) or the Chairperson of the Registry Stakeholder Group (“Chair”) desires to discuss any revision(s) to this Agreement, the CEO or Chair, as applicable, shall provide written notice to the other person, which shall set forth in reasonable detail the proposed revisions to this Agreement (a “Negotiation Notice”). Notwithstanding the foregoing, neither the CEO nor the Chair may (i) propose revisions to this Agreement that modify any Consensus Policy then existing, (ii) propose revisions to this Agreement pursuant to this Section 7.7 on or before June 30, 2014, or (iii) propose revisions or submit a Negotiation Notice more than once during any twelve (12) month period beginning on July 1, 2014.

(b) Following receipt of the Negotiation Notice by either the CEO or the Chair, ICANN and the Working Group (as defined in Section 7.6) shall consult in good faith negotiations regarding the form and substance of the proposed revisions to this Agreement, which shall be in the form of a proposed amendment to this Agreement (the “Proposed Revisions”), for a period of at least ninety (90) calendar days (unless a resolution is earlier reached) and attempt to reach a mutually acceptable agreement relating to the Proposed Revisions (the “Discussion Period”).

(c) If, following the conclusion of the Discussion Period, an agreement is reached on the Proposed Revisions, ICANN shall post the mutually agreed Proposed Revisions on its website for public comment for no less than thirty (30) calendar days (the “Posting Period”) and provide notice of such revisions to all Applicable Registry Operators in accordance with Section 7.9. ICANN and the Working Group will consider the public comments submitted on the Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registry Operators). Following the conclusion of the Posting Period, the Proposed Revisions shall be submitted for Registry Operator Approval (as defined in Section 7.6) and approval by the ICANN Board of Directors. If such approvals are obtained, the Proposed Revisions shall be deemed an Approved Amendment (as defined in Section 7.6) by the Applicable Registry Operators and ICANN, and shall be

effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registry Operator.

(d) If, following the conclusion of the Discussion Period, an agreement is not reached between ICANN and the Working Group on the Proposed Revisions, either the CEO or the Chair may provide the other person written notice (the “Mediation Notice”) requiring each party to attempt to resolve the disagreements related to the Proposed Revisions through impartial, facilitative (non-evaluative) mediation in accordance with the terms and conditions set forth below. In the event that a Mediation Notice is provided, ICANN and the Working Group shall, within fifteen (15) calendar days thereof, simultaneously post the text of their desired version of the Proposed Revisions and a position paper with respect thereto on ICANN’s website.

(i) The mediation shall be conducted by a single mediator selected by the parties. If the parties cannot agree on a mediator within fifteen (15) calendar days following receipt by the CEO or Chair, as applicable, of the Mediation Notice, the parties will promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity’s selection, designate a mediator, who is a licensed attorney with general knowledge of contract law, who has no ongoing business relationship with either party and, to the extent necessary to mediate the particular dispute, general knowledge of the domain name system. Any mediator must confirm in writing that he or she is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, or security holder of ICANN or an Applicable Registry Operator. If such confirmation is not provided by the appointed mediator, then a replacement mediator shall be appointed pursuant to this Section 7.7(d)(i).

(ii) The mediator shall conduct the mediation in accordance with the rules and procedures for facilitative mediation that he or she determines following consultation with the parties. The parties shall discuss the dispute in good faith and attempt, with the mediator’s assistance, to reach an amicable resolution of the dispute.

(iii) Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator.

(iv) If an agreement is reached during the mediation, ICANN shall post the mutually agreed Proposed Revisions on its website for the Posting Period and provide notice to all Applicable Registry Operators in accordance with Section 7.9. ICANN and the Working Group will consider the public comments submitted on the agreed Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registry Operators). Following the conclusion of the Posting Period, the Proposed Revisions shall be submitted for Registry Operator Approval and approval by the ICANN Board of Directors. If such approvals are obtained, the Proposed

Revisions shall be deemed an Approved Amendment (as defined in Section 7.6) by the Applicable Registry Operators and ICANN, and shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registry Operator.

(v) If the parties have not resolved the dispute for any reason by the date that is ninety (90) calendar days following receipt by the CEO or Chair, as applicable, of the Mediation Notice, the mediation shall automatically terminate (unless extended by agreement of the parties). The mediator shall deliver to the parties a definition of the issues that could be considered in future arbitration, if invoked. Those issues are subject to the limitations set forth in Section 7.7(e)(ii) below.

(e) If, following mediation, ICANN and the Working Group have not reached an agreement on the Proposed Revisions, either the CEO or the Chair may provide the other person written notice (an "Arbitration Notice") requiring ICANN and the Applicable Registry Operators to resolve the dispute through binding arbitration in accordance with the arbitration provisions of Section 5.2, subject to the requirements and limitations of this Section 7.7(e).

(i) If an Arbitration Notice is sent, the mediator's definition of issues, along with the Proposed Revisions (be those from ICANN, the Working Group or both) shall be posted for public comment on ICANN's website for a period of no less than thirty (30) calendar days. ICANN and the Working Group will consider the public comments submitted on the Proposed Revisions during the Posting Period (including comments submitted by the Applicable Registry Operators), and information regarding such comments and consideration shall be provided to a three (3) person arbitrator panel. Each party may modify its Proposed Revisions before and after the Posting Period. The arbitration proceeding may not commence prior to the closing of such public comment period, and ICANN may consolidate all challenges brought by registry operators (including Registry Operator) into a single proceeding. Except as set forth in this Section 7.7, the arbitration shall be conducted pursuant to Section 5.2.

(ii) No dispute regarding the Proposed Revisions may be submitted for arbitration to the extent the subject matter of the Proposed Revisions (i) relates to Consensus Policy, (ii) falls within the subject matter categories set forth in Section 1.2 of Specification 1, or (iii) seeks to amend any of the following provisions or Specifications of this Agreement: Articles 1, 3 and 6; Sections 2.1, 2.2, 2.5, 2.7, 2.9, 2.10, 2.16, 2.17, 2.19, 4.1, 4.2, 7.3, 7.6, 7.7, 7.8, 7.10, 7.11, 7.12, 7.13, 7.14; Section 2.8 and Specification 7 (but only to the extent such Proposed Revisions seek to implement an RPM not contemplated by Sections 2.8 and Specification 7); Exhibit A; and Specifications 1, 4, 6, 10 and 11.

(iii) The mediator will brief the arbitrator panel regarding ICANN and the Working Group's respective proposals relating to the Proposed Revisions.

(iv) No amendment to this Agreement relating to the Proposed Revisions may be submitted for arbitration by either the Working Group or ICANN, unless, in the case of the Working Group, the proposed amendment has received Registry Operator Approval and, in the case of ICANN, the proposed amendment has been approved by the ICANN Board of Directors.

(v) In order for the arbitrator panel to approve either ICANN or the Working Group's proposed amendment relating to the Proposed Revisions, the arbitrator panel must conclude that such proposed amendment is consistent with a balanced application of ICANN's core values (as described in ICANN's Bylaws) and reasonable in light of the balancing of the costs and benefits to the business interests of the Applicable Registry Operators and ICANN (as applicable), and the public benefit sought to be achieved by the Proposed Revisions as set forth in such amendment. If the arbitrator panel concludes that either ICANN or the Working Group's proposed amendment relating to the Proposed Revisions meets the foregoing standard, such amendment shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registry Operator and deemed an Approved Amendment hereunder.

(f) With respect to an Approved Amendment relating to an amendment proposed by ICANN, Registry may apply in writing to ICANN for an exemption from such amendment pursuant to the provisions of Section 7.6.

(g) Notwithstanding anything in this Section 7.7 to the contrary, (a) if Registry Operator provides evidence to ICANN's reasonable satisfaction that the Approved Amendment would materially increase the cost of providing Registry Services, then ICANN will allow up to one-hundred eighty (180) calendar days for the Approved Amendment to become effective with respect to Registry Operator, and (b) no Approved Amendment adopted pursuant to Section 7.7 shall become effective with respect to Registry Operator if Registry Operator provides ICANN with an irrevocable notice of termination pursuant to Section 4.4(b).

**7.8 No Third-Party Beneficiaries.** This Agreement will not be construed to create any obligation by either ICANN or Registry Operator to any non-party to this Agreement, including any registrar or registered name holder.

**7.9 General Notices.** Except for notices pursuant to Sections 7.6 and 7.7, all notices to be given under or in relation to this Agreement will be given either (i) in writing at the address of the appropriate party as set forth below or (ii) via facsimile or electronic mail as provided below, unless that party has given a notice of change of postal or email address, or facsimile number, as provided in this Agreement. All notices under Sections 7.6

and 7.7 shall be given by both posting of the applicable information on ICANN's web site and transmission of such information to Registry Operator by electronic mail. Any change in the contact information for notice below will be given by the party within thirty (30) calendar days of such change. Other than notices under Sections 7.6 or 7.7, any notice required by this Agreement will be deemed to have been properly given (i) if in paper form, when delivered in person or via courier service with confirmation of receipt or (ii) if via facsimile or by electronic mail, upon confirmation of receipt by the recipient's facsimile machine or email server, provided that such notice via facsimile or electronic mail shall be followed by a copy sent by regular postal mail service within three (3) calendar days. Any notice required by Sections 7.6 or 7.7 will be deemed to have been given when electronically posted on ICANN's website and upon confirmation of receipt by the email server. In the event other means of notice become practically achievable, such as notice via a secure website, the parties will work together to implement such notice means under this Agreement.

If to ICANN, addressed to:  
Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536  
USA  
Telephone: +1-310-301-5800  
Facsimile: +1-310-823-8649  
Attention: President and CEO

With a Required Copy to: General Counsel  
Email: (As specified from time to time.)

If to Registry Operator, addressed to:

Registry Services Corporation  
Bldg 3, Ste 105  
300 Welsh Rd  
Horsham, PA 19046  
Attention: CEO

Telephone: 215-706-5700  
With a Required Copy to: General Counsel  
Email: (As specified from time to time.)

**7.10 Entire Agreement.** This Agreement (including those specifications and documents incorporated by reference to URL locations which form a part of it) constitutes the entire agreement of the parties hereto pertaining to the operation of the TLD and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties on that subject.

**7.11 English Language Controls.** Notwithstanding any translated version of this Agreement and/or specifications that may be provided to Registry Operator, the English language version of this Agreement and all referenced specifications are the official versions that bind the parties hereto. In the event of any conflict or discrepancy between any translated version of this Agreement and the English language version, the English language version controls. Notices, designations, determinations, and specifications made under this Agreement shall be in the English language.

**7.12 Ownership Rights.** Nothing contained in this Agreement shall be construed as (a) establishing or granting to Registry Operator any property ownership rights or interests of Registry Operator in the TLD or the letters, words, symbols or other characters making up the TLD string, or (b) affecting any existing intellectual property or ownership rights of Registry Operator.

**7.13 Severability; Conflicts with Laws.** This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of the balance of this Agreement or of any other term hereof, which shall remain in full force and effect. If any of the provisions hereof are determined to be invalid or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible. ICANN and the Working Group will mutually cooperate to develop an ICANN procedure for ICANN's review and consideration of alleged conflicts between applicable laws and non-WHOIS related provisions of this Agreement. Until such procedure is developed and implemented by ICANN, ICANN will review and consider alleged conflicts between applicable laws and non-WHOIS related provisions of this Agreement in a manner similar to ICANN's Procedure For Handling WHOIS Conflicts with Privacy Law.

**7.14 Court Orders.** ICANN will respect any order from a court of competent jurisdiction, including any orders from any jurisdiction where the consent or non-objection of the government was a requirement for the delegation of the TLD. Notwithstanding any other provision of this Agreement, ICANN's implementation of any such order will not be a breach of this Agreement

### **7.15 Confidentiality**

(a) Subject to Section 7.15(c), during the Term and for a period of three (3) years thereafter, each party shall, and shall cause its and its Affiliates' officers, directors, employees and agents to, keep confidential and not publish or otherwise disclose to any third party, directly or indirectly, any information that is, and the disclosing party has marked as, or has otherwise designated in writing to the receiving party as, "confidential trade secret," "confidential commercial information" or "confidential financial information" (collectively, "Confidential Information"), except to the extent such disclosure is permitted by the terms of this Agreement.

(b) The confidentiality obligations under Section 7.15(a) shall not apply to any Confidential Information that (i) is or hereafter becomes part of the public domain



by public use, publication, general knowledge or the like through no fault of the receiving party in breach of this Agreement, (ii) can be demonstrated by documentation or other competent proof to have been in the receiving party's possession prior to disclosure by the disclosing party without any obligation of confidentiality with respect to such information, (iii) is subsequently received by the receiving party from a third party who is not bound by any obligation of confidentiality with respect to such information, (iv) has been published by a third party or otherwise enters the public domain through no fault of the receiving party, or (v) can be demonstrated by documentation or other competent evidence to have been independently developed by or for the receiving party without reference to the disclosing party's Confidential Information.

(c) Each party shall have the right to disclose Confidential Information to the extent that such disclosure is (i) made in response to a valid order of a court of competent jurisdiction or, if in the reasonable opinion of the receiving party's legal counsel, such disclosure is otherwise required by applicable law; provided, however, that the receiving party shall first have given notice to the disclosing party and given the disclosing party a reasonable opportunity to quash such order or to obtain a protective order or confidential treatment order requiring that the Confidential Information that is the subject of such order or other applicable law be held in confidence by such court or other third party recipient, unless the receiving party is not permitted to provide such notice under such order or applicable law, or (ii) made by the receiving party or any of its Affiliates to its or their attorneys, auditors, advisors, consultants, contractors or other third parties for use by such person or entity as may be necessary or useful in connection with the performance of the activities under this Agreement, provided that such third party is bound by confidentiality obligations at least as stringent as those set forth herein, either by written agreement or through professional responsibility standards.

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

**INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS**

By: \_\_\_\_\_  
[\_\_\_\_\_] President and CEO  
Date:

**REGISTRY SERVICES CORPORATION**

By: \_\_\_\_\_  
[\_\_\_\_\_] \_\_\_\_\_  
Date:

## **EXHIBIT A**

### **Approved Services**

The RSEP specifies processes for consideration of proposed registry services. Registry Operator may provide any service that is required by the terms of this Agreement. In addition, the following services (if any) are specifically identified as having been approved by ICANN prior to the effective date of the Agreement, and Registry Operator may provide such services:

#### **1. DNS Service – TLD Zone Contents**

Notwithstanding anything else in this Agreement, as indicated in section 2.2.3.3 of the gTLD Applicant Guidebook, permissible contents for the TLD's zone are:

- 1.1.** Apex SOA record
- 1.2.** Apex NS records and in-bailiwick glue for the TLD's DNS servers
- 1.3.** NS records and in-bailiwick glue for DNS servers of registered names in the TLD
- 1.4.** DS records for registered names in the TLD
- 1.5.** Records associated with signing the TLD zone (i.e., RRSIG, DNSKEY, NSEC, and NSEC3)

(Note: The above language effectively does not allow, among other things, the inclusion of DNS resource records that would enable a dotless domain name (e.g., apex A, AAAA, MX records) in the TLD zone.)

If Registry Operator wishes to place any DNS resource record type into its TLD DNS zone (other than those listed in Sections 1.1 through 1.5 above), it must describe in detail its proposal and submit a Registry Services Evaluation Process (RSEP) request. This will be evaluated per RSEP to determine whether the service would create a risk of a meaningful adverse impact on security or stability of the DNS. Registry Operator recognizes and acknowledges that a service based on the use of less-common DNS resource records in the TLD zone, even if approved, might not work as intended for all users due to lack of software support.

#### **2. Anti-Abuse**

Registry Operator may suspend, delete or otherwise make changes to domain names in compliance with its anti-abuse policy.

#### **3. Whois Contact Lookup**

Registry Operator may offer the Whois contact lookup service, which is a service that extends the functionality specified in Specification 4 by allowing the end-user to look up for Contact data using the contact ROID as the lookup key:

**Query format:** whois "contact 5372809-ERL"

**Response format:**

Contact ID: 5372808-ERL  
Name: EXAMPLE REGISTRANT  
Organization: EXAMPLE ORGANIZATION  
Street: 123 EXAMPLE STREET  
City: ANYTOWN  
State/Province: AP  
Postal Code: A1A1A1  
Country: EX  
Phone: +1.5555551212  
Phone Ext: 1234  
Fax: +1.5555551213  
Fax Ext: 4321  
Email: EMAIL@EXAMPLE.TLD  
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

#### **4. Bulk Transfer After Partial Portfolio Acquisition**

Bulk Transfer After Partial Portfolio Acquisition (BTAPPA) is a registry service available to consenting registrars in the circumstance where one ICANN-accredited registrar purchases, by means of a stock or asset purchase, merger or similar transaction, a portion but not all, of another ICANN-accredited registrar's domain name portfolio in the .PRO top-level domain.

At least fifteen days before completing a BTAPPA, the losing registrar must provide to all domain name registrants for names involved in the bulk transfer, written notice of the bulk change of sponsorship. The notice must include an explanation of how the Whois record will change after the bulk transfer occurs, and customer support and technical contact information of the gaining registrar.

If a domain is transferred under the BTAPPA service during any applicable registry grace period, there is no credit. The expiration dates of transferred registrations are not affected.

Domain names in the following statuses at the time of the Transfer Request will not be transferred in a BTAPPA: "pendingTransfer", "Redemption Grace Period (RGP)", or "pendingDelete". Domain names that are within the auto-renew grace period window are subject to bulk transfer, but Registry Operator may decline to provide a credit for those names deleted after the bulk transfer, but prior to the expiration of the auto-renew grace period window.

Registry Operator has discretion to reject a BTAPPA request if there is reasonable evidence that a transfer under BTAPPA is being requested in order to avoid fees otherwise due to Registry Operator or ICANN, or if a registrar with common ownership

or management or both has already requested BTAPPA service within the preceding six-month period.

## **5. Implementation Period**

Registry Operator will have a 270 calendar days grace period, beginning on the Effective Date, to work with ICANN and backend providers to ensure that all technical operations and obligations have transitioned from the previous registry agreement for the TLD to this Registry Agreement.

## **6. Third-Level Registration**

Registry Operator may offer domain name registrations at the third level in the following domain names:

### **6.1. Legal**

**6.1.1. .law.pro**

**6.1.2. .avocat.pro**

**6.1.3. .bar.pro**

**6.1.4. .recht.pro**

**6.1.5. .jur.pro**

### **6.2. Medical**

**6.2.1. .med.pro**

### **6.3. Accountancy**

**6.3.1. .cpa.pro**

**6.3.2. .aaa.pro**

**6.3.3. .aca.pro**

**6.3.4. .acct.pro**

### **6.4. Engineering**

**6.4.1. .eng.pro**

### **6.5. Architecture**

**6.5.1. .arc.pro**

### **6.6. Business**

**6.6.1. .bus.pro**

### **6.7. Chiropractic**

**6.7.1. .chi.pro**

**6.7.2. .chiro.pro**

6.8. Dentistry

6.8.1. .den.pro

6.8.2. .dent.pro

6.9. Education

6.9.1. prof.pro

6.9.2. .teach.pro

6.10. Nursing

6.10.1. .nur.pro

6.10.2. .nurse.pro

6.11. Pharmacy

6.11.1. .prx.pro

6.11.2. .pharma.pro

6.12. Religious Ministry

6.12.1. .rel.pro

6.12.2. .min. pro

6.13. Veterinary

6.13.1. .vet.pro

## SPECIFICATION 1

### CONSENSUS POLICIES AND TEMPORARY POLICIES SPECIFICATION

#### 1. Consensus Policies.

- 1.1. “*Consensus Policies*” are those policies established (1) pursuant to the procedure set forth in ICANN’s Bylaws and due process, and (2) covering those topics listed in Section 1.2 of this Specification. The Consensus Policy development process and procedure set forth in ICANN’s Bylaws may be revised from time to time in accordance with the process set forth therein.
- 1.2. Consensus Policies and the procedures by which they are developed shall be designed to produce, to the extent possible, a consensus of Internet stakeholders, including the operators of gTLDs. Consensus Policies shall relate to one or more of the following:
  - 1.2.1 issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or Domain Name System (“DNS”);
  - 1.2.2 functional and performance specifications for the provision of Registry Services;
  - 1.2.3 Security and Stability of the registry database for the TLD;
  - 1.2.4 registry policies reasonably necessary to implement Consensus Policies relating to registry operations or registrars;
  - 1.2.5 resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
  - 1.2.6 restrictions on cross-ownership of registry operators and registrars or registrar resellers and regulations and restrictions with respect to registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or registrar reseller are affiliated.
- 1.3. Such categories of issues referred to in Section 1.2 of this Specification shall include, without limitation:
  - 1.3.1 principles for allocation of registered names in the TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);
  - 1.3.2 prohibitions on warehousing of or speculation in domain names by registries or registrars;

- 1.3.3 reservation of registered names in the TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration); and
    - 1.3.4 maintenance of and access to accurate and up-to-date information concerning domain name registrations; and procedures to avoid disruptions of domain name registrations due to suspension or termination of operations by a registry operator or a registrar, including procedures for allocation of responsibility for serving registered domain names in a TLD affected by such a suspension or termination.
  - 1.4. In addition to the other limitations on Consensus Policies, they shall not:
    - 1.4.1 prescribe or limit the price of Registry Services;
    - 1.4.2 modify the terms or conditions for the renewal or termination of the Registry Agreement;
    - 1.4.3 modify the limitations on Temporary Policies (defined below) or Consensus Policies;
    - 1.4.4 modify the provisions in the registry agreement regarding fees paid by Registry Operator to ICANN; or
    - 1.4.5 modify ICANN's obligations to ensure equitable treatment of registry operators and act in an open and transparent manner.
2. **Temporary Policies.** Registry Operator shall comply with and implement all specifications or policies established by the Board on a temporary basis, if adopted by the Board by a vote of at least two-thirds of its members, so long as the Board reasonably determines that such modifications or amendments are justified and that immediate temporary establishment of a specification or policy on the subject is necessary to maintain the stability or security of Registry Services or the DNS ("**Temporary Policies**").
  - 2.1. Such proposed specification or policy shall be as narrowly tailored as feasible to achieve those objectives. In establishing any Temporary Policy, the Board shall state the period of time for which the Temporary Policy is adopted and shall immediately implement the Consensus Policy development process set forth in ICANN's Bylaws.
    - 2.1.1 ICANN shall also issue an advisory statement containing a detailed explanation of its reasons for adopting the Temporary Policy and why

the Board believes such Temporary Policy should receive the consensus support of Internet stakeholders.

2.1.2 If the period of time for which the Temporary Policy is adopted exceeds ninety (90) calendar days, the Board shall reaffirm its temporary adoption every ninety (90) calendar days for a total period not to exceed one (1) year, in order to maintain such Temporary Policy in effect until such time as it becomes a Consensus Policy. If the one (1) year period expires or, if during such one (1) year period, the Temporary Policy does not become a Consensus Policy and is not reaffirmed by the Board, Registry Operator shall no longer be required to comply with or implement such Temporary Policy.

3. **Notice and Conflicts.** Registry Operator shall be afforded a reasonable period of time following notice of the establishment of a Consensus Policy or Temporary Policy in which to comply with such policy or specification, taking into account any urgency involved. In the event of a conflict between Registry Services and Consensus Policies or any Temporary Policy, the Consensus Policies or Temporary Policy shall control, but only with respect to subject matter in conflict.



## SPECIFICATION 2

### DATA ESCROW REQUIREMENTS

Registry Operator will engage an independent entity to act as data escrow agent (“**Escrow Agent**”) for the provision of data escrow services related to the Registry Agreement. The following Technical Specifications set forth in Part A, and Legal Requirements set forth in Part B, will be included in any data escrow agreement between Registry Operator and the Escrow Agent, under which ICANN must be named a third-party beneficiary. In addition to the following requirements, the data escrow agreement may contain other provisions that are not contradictory or intended to subvert the required terms provided below.

#### PART A – TECHNICAL SPECIFICATIONS

1. **Deposits.** There will be two types of Deposits: Full and Differential. For both types, the universe of Registry objects to be considered for data escrow are those objects necessary in order to offer all of the approved Registry Services.
  - 1.1. “**Full Deposit**” will consist of data that reflects the state of the registry as of 00:00:00 UTC (Coordinated Universal Time) on the day that such Full Deposit is submitted to Escrow Agent.
  - 1.2. “**Differential Deposit**” means data that reflects all transactions that were not reflected in the last previous Full or Differential Deposit, as the case may be. Each Differential Deposit will contain all database transactions since the previous Deposit was completed as of 00:00:00 UTC of each day, but Sunday. Differential Deposits must include complete Escrow Records as specified below that were not included or changed since the most recent full or Differential Deposit (i.e., newly added or modified domain names).
2. **Schedule for Deposits.** Registry Operator will submit a set of escrow files on a daily basis as follows:
  - 2.1. Each Sunday, a Full Deposit must be submitted to the Escrow Agent by 23:59 UTC.
  - 2.2. The other six (6) days of the week, a Full Deposit or the corresponding Differential Deposit must be submitted to Escrow Agent by 23:59 UTC.
3. **Escrow Format Specification.**
  - 3.1. **Deposit’s Format.** Registry objects, such as domains, contacts, name servers, registrars, etc. will be compiled into a file constructed as described in draft-arias-noguchi-registry-data-escrow, see Part A, Section 9, reference 1 of this Specification and draft-arias-noguchi-dnrd-objects-mapping, see Part A, Section 9, reference 2 of this Specification (collectively, the “DNDE Specification”). The DNDE Specification describes some elements as

optional; Registry Operator will include those elements in the Deposits if they are available. If not already an RFC, Registry Operator will use the most recent draft version of the DNDE Specification available at the Effective Date. Registry Operator may at its election use newer versions of the DNDE Specification after the Effective Date. Once the DNDE Specification is published as an RFC, Registry Operator will implement that version of the DNDE Specification, no later than one hundred eighty (180) calendar days after. UTF-8 character encoding will be used.

- 3.2. **Extensions.** If a Registry Operator offers additional Registry Services that require submission of additional data, not included above, additional “extension schemas” shall be defined in a case by case basis to represent that data. These “extension schemas” will be specified as described in Part A, Section 9, reference 2 of this Specification. Data related to the “extensions schemas” will be included in the deposit file described in Part A, Section 3.1 of this Specification. ICANN and the respective Registry Operator shall work together to agree on such new objects’ data escrow specifications.
4. **Processing of Deposit files.** The use of compression is recommended in order to reduce electronic data transfer times, and storage capacity requirements. Data encryption will be used to ensure the privacy of registry escrow data. Files processed for compression and encryption will be in the binary OpenPGP format as per OpenPGP Message Format - RFC 4880, see Part A, Section 9, reference 3 of this Specification. Acceptable algorithms for Public-key cryptography, Symmetric-key cryptography, Hash and Compression are those enumerated in RFC 4880, not marked as deprecated in OpenPGP IANA Registry, see Part A, Section 9, reference 4 of this Specification, that are also royalty-free. The process to follow for the data file in original text format is:
  - (1) The XML file of the deposit as described in Part A, Section 9, reference 1 of this Specification must be named as the containing file as specified in Section 5 but with the extension xml.
  - (2) The data file(s) are aggregated in a tarball file named the same as (1) but with extension tar.
  - (3) A compressed and encrypted OpenPGP Message is created using the tarball file as sole input. The suggested algorithm for compression is ZIP as per RFC 4880. The compressed data will be encrypted using the escrow agent’s public key. The suggested algorithms for Public-key encryption are Elgamal and RSA as per RFC 4880. The suggested algorithms for Symmetric-key encryption are TripleDES, AES128 and CAST5 as per RFC 4880.
  - (4) The file may be split as necessary if, once compressed and encrypted, it is larger than the file size limit agreed with the escrow agent. Every part of a

split file, or the whole file if not split, will be called a processed file in this section.

- (5) A digital signature file will be generated for every processed file using the Registry Operator's private key. The digital signature file will be in binary OpenPGP format as per RFC 4880 Section 9, reference 3, and will not be compressed or encrypted. The suggested algorithms for Digital signatures are DSA and RSA as per RFC 4880. The suggested algorithm for Hashes in Digital signatures is SHA256.
- (6) The processed files and digital signature files will then be transferred to the Escrow Agent through secure electronic mechanisms, such as, SFTP, SCP, HTTPS file upload, etc. as agreed between the Escrow Agent and the Registry Operator. Non-electronic delivery through a physical medium such as CD-ROMs, DVD-ROMs, or USB storage devices may be used if authorized by ICANN.
- (7) The Escrow Agent will then validate every (processed) transferred data file using the procedure described in Part A, Section 8 of this Specification.

5. **File Naming Conventions.** Files will be named according to the following convention: {gTLD}\_{YYYY-MM-DD}\_{type}\_S{#}\_R{rev}.{ext} where:

- 5.1. {gTLD} is replaced with the gTLD name; in case of an IDN-TLD, the ASCII-compatible form (A-Label) must be used;
- 5.2. {YYYY-MM-DD} is replaced by the date corresponding to the time used as a timeline watermark for the transactions; i.e. for the Full Deposit corresponding to 2009-08-02T00:00Z, the string to be used would be "2009-08-02";
- 5.3. {type} is replaced by:
  - (1) "full", if the data represents a Full Deposit;
  - (2) "diff", if the data represents a Differential Deposit;
  - (3) "thin", if the data represents a Bulk Registration Data Access file, as specified in Section 3 of Specification 4;
- 5.4. {#} is replaced by the position of the file in a series of files, beginning with "1"; in case of a lone file, this must be replaced by "1".
- 5.5. {rev} is replaced by the number of revision (or resend) of the file beginning with "0":

5.6. {ext} is replaced by “sig” if it is a digital signature file of the quasi-homonymous file. Otherwise it is replaced by “ryde”.

6. **Distribution of Public Keys.** Each of Registry Operator and Escrow Agent will distribute its public key to the other party (Registry Operator or Escrow Agent, as the case may be) via email to an email address to be specified. Each party will confirm receipt of the other party’s public key with a reply email, and the distributing party will subsequently reconfirm the authenticity of the key transmitted via offline methods, like in person meeting, telephone, etc. In this way, public key transmission is authenticated to a user able to send and receive mail via a mail server operated by the distributing party. Escrow Agent, Registry Operator and ICANN will exchange public keys by the same procedure.
7. **Notification of Deposits.** Along with the delivery of each Deposit, Registry Operator will deliver to Escrow Agent and to ICANN (using the API described in draft-lozano-icann-registry-interfaces, see Part A, Section 9, reference 5 of this Specification (the “Interface Specification”)) a written statement (which may be by authenticated e-mail) that includes a copy of the report generated upon creation of the Deposit and states that the Deposit has been inspected by Registry Operator and is complete and accurate. Registry Operator will include the Deposit’s “id” and “resend” attributes in its statement. The attributes are explained in Part A, Section 9, reference 1 of this Specification.

If not already an RFC, Registry Operator will use the most recent draft version of the Interface Specification at the Effective Date. Registry Operator may at its election use newer versions of the Interface Specification after the Effective Date. Once the Interface Specification is published as an RFC, Registry Operator will implement that version of the Interface Specification, no later than one hundred eighty (180) calendar days after such publishing.

8. **Verification Procedure.**
  - (1) The signature file of each processed file is validated.
  - (2) If processed files are pieces of a bigger file, the latter is put together.
  - (3) Each file obtained in the previous step is then decrypted and uncompressed.
  - (4) Each data file contained in the previous step is then validated against the format defined in Part A, Section 9, reference 1 of this Specification.
  - (5) If Part A, Section 9, reference 1 of this Specification includes a verification process, that will be applied at this step.

If any discrepancy is found in any of the steps, the Deposit will be considered incomplete.

9. **References.**

- (1) Domain Name Data Escrow Specification (work in progress),  
<http://tools.ietf.org/html/draft-arias-noguchi-registry-data-escrow>
- (2) Domain Name Registration Data (DNRD) Objects Mapping,  
<http://tools.ietf.org/html/draft-arias-noguchi-dnrd-objects-mapping>
- (3) OpenPGP Message Format, <http://www.rfc-editor.org/rfc/rfc4880.txt>
- (4) OpenPGP parameters,  
<http://www.iana.org/assignments/pgp-parameters/pgp-parameters.xhtml>
- (5) ICANN interfaces for registries and data escrow agents,  
<http://tools.ietf.org/html/draft-lozano-icann-registry-interfaces>

## PART B – LEGAL REQUIREMENTS

1. **Escrow Agent.** Prior to entering into an escrow agreement, the Registry Operator must provide notice to ICANN as to the identity of the Escrow Agent, and provide ICANN with contact information and a copy of the relevant escrow agreement, and all amendments thereto. In addition, prior to entering into an escrow agreement, Registry Operator must obtain the consent of ICANN to (a) use the specified Escrow Agent, and (b) enter into the form of escrow agreement provided. ICANN must be expressly designated as a third-party beneficiary of the escrow agreement. ICANN reserves the right to withhold its consent to any Escrow Agent, escrow agreement, or any amendment thereto, all in its sole discretion.
2. **Fees.** Registry Operator must pay, or have paid on its behalf, fees to the Escrow Agent directly. If Registry Operator fails to pay any fee by the due date(s), the Escrow Agent will give ICANN written notice of such non-payment and ICANN may pay the past-due fee(s) within fifteen (15) calendar days after receipt of the written notice from Escrow Agent. Upon payment of the past-due fees by ICANN, ICANN shall have a claim for such amount against Registry Operator, which Registry Operator shall be required to submit to ICANN together with the next fee payment due under the Registry Agreement.
3. **Ownership.** Ownership of the Deposits during the effective term of the Registry Agreement shall remain with Registry Operator at all times. Thereafter, Registry Operator shall assign any such ownership rights (including intellectual property rights, as the case may be) in such Deposits to ICANN. In the event that during the term of the Registry Agreement any Deposit is released from escrow to ICANN, any intellectual property rights held by Registry Operator in the Deposits will automatically be licensed to ICANN or to a party designated in writing by ICANN on a non-exclusive, perpetual, irrevocable, royalty-free, paid-up basis, for any use related to the operation, maintenance or transition of the TLD.
4. **Integrity and Confidentiality.** Escrow Agent will be required to (i) hold and maintain the Deposits in a secure, locked, and environmentally safe facility, which is accessible only to authorized representatives of Escrow Agent, (ii) protect the integrity and confidentiality of the Deposits using commercially reasonable measures and (iii) keep and safeguard each Deposit for one (1) year. ICANN and Registry Operator will be provided the right to inspect Escrow Agent’s applicable records upon reasonable prior notice and during normal business hours. Registry Operator and ICANN will be provided with the right to designate a third-party auditor to audit Escrow Agent’s compliance with the technical specifications and maintenance requirements of this Specification 2 from time to time.

If Escrow Agent receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposits, Escrow Agent will promptly notify the Registry Operator and ICANN unless prohibited by law. After notifying the Registry Operator and ICANN, Escrow Agent shall allow

sufficient time for Registry Operator or ICANN to challenge any such order, which shall be the responsibility of Registry Operator or ICANN; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order. Escrow Agent will cooperate with the Registry Operator or ICANN to support efforts to quash or limit any subpoena, at such party's expense. Any party requesting additional assistance shall pay Escrow Agent's standard charges or as quoted upon submission of a detailed request.

5. **Copies.** Escrow Agent may be permitted to duplicate any Deposit, in order to comply with the terms and provisions of the escrow agreement.
6. **Release of Deposits.** Escrow Agent will make available for electronic download (unless otherwise requested) to ICANN or its designee, within twenty-four (24) hours, at the Registry Operator's expense, all Deposits in Escrow Agent's possession in the event that the Escrow Agent receives a request from Registry Operator to effect such delivery to ICANN, or receives one of the following written notices by ICANN stating that:
  - 6.1. the Registry Agreement has expired without renewal, or been terminated; or
  - 6.2. ICANN has not received a notification as described in Part B, Sections 7.1 and 7.2 of this Specification from Escrow Agent within five (5) calendar days after the Deposit's scheduled delivery date; (a) ICANN gave notice to Escrow Agent and Registry Operator of that failure; and (b) ICANN has not, within seven (7) calendar days after such notice, received the notification from Escrow Agent; or
  - 6.3. ICANN has received notification as described in Part B, Sections 7.1 and 7.2 of this Specification from Escrow Agent of failed verification of the latest escrow deposit for a specific date or a notification of a missing deposit, and the notification is for a deposit that should have been made on Sunday (i.e., a Full Deposit); (a) ICANN gave notice to Registry Operator of that receipt; and (b) ICANN has not, within seven (7) calendar days after such notice, received notification as described in Part B, Sections 7.1 and 7.2 of this Specification from Escrow Agent of verification of a remediated version of such Full Deposit; or
  - 6.4. ICANN has received five notifications from Escrow Agent within the last thirty (30) calendar days notifying ICANN of either missing or failed escrow deposits that should have been made Monday through Saturday (i.e., a Differential Deposit), and (x) ICANN provided notice to Registry Operator of the receipt of such notifications; and (y) ICANN has not, within seven (7) calendar days after delivery of such notice to Registry Operator, received notification from Escrow Agent of verification of a remediated version of such Differential Deposit; or

- 6.5. Registry Operator has: (i) ceased to conduct its business in the ordinary course; or (ii) filed for bankruptcy, become insolvent or anything analogous to any of the foregoing under the laws of any jurisdiction anywhere in the world; or
- 6.6. Registry Operator has experienced a failure of critical registry functions and ICANN has asserted its rights pursuant to Section 2.13 of the Agreement; or
- 6.7. a competent court, arbitral, legislative, or government agency mandates the release of the Deposits to ICANN; or
- 6.8. pursuant to Contractual and Operational Compliance Audits as specified under Section 2.11 of the Agreement.

Unless Escrow Agent has previously released the Registry Operator's Deposits to ICANN or its designee, Escrow Agent will deliver all Deposits to ICANN upon expiration or termination of the Registry Agreement or the Escrow Agreement.

## 7. **Verification of Deposits.**

- 7.1. Within twenty-four (24) hours after receiving each Deposit or corrected Deposit, Escrow Agent must verify the format and completeness of each Deposit and deliver to ICANN a notification generated for each Deposit. Reports will be delivered electronically using the API described in draft-lozano-icann-registry-interfaces, see Part A, Section 9, reference 5 of this Specification.
- 7.2. If Escrow Agent discovers that any Deposit fails the verification procedures or if Escrow Agent does not receive any scheduled Deposit, Escrow Agent must notify Registry Operator either by email, fax or phone and ICANN (using the API described in draft-lozano-icann-registry-interfaces, see Part A, Section 9, reference 5 of this Specification) of such nonconformity or non-receipt within twenty-four (24) hours after receiving the non-conformant Deposit or the deadline for such Deposit, as applicable. Upon notification of such verification or delivery failure, Registry Operator must begin developing modifications, updates, corrections, and other fixes of the Deposit necessary for the Deposit to be delivered and pass the verification procedures and deliver such fixes to Escrow Agent as promptly as possible.

8. **Amendments.** Escrow Agent and Registry Operator shall amend the terms of the Escrow Agreement to conform to this Specification 2 within ten (10) calendar days of any amendment or modification to this Specification 2. In the event of a conflict between this Specification 2 and the Escrow Agreement, this Specification 2 shall control.



9. **Indemnity.** Escrow Agent shall indemnify and hold harmless Registry Operator and ICANN, and each of their respective directors, officers, agents, employees, members, and stockholders (“Indemnitees”) absolutely and forever from and against any and all claims, actions, damages, suits, liabilities, obligations, costs, fees, charges, and any other expenses whatsoever, including reasonable attorneys’ fees and costs, that may be asserted by a third party against any Indemnitee in connection with the misrepresentation, negligence or misconduct of Escrow Agent, its directors, officers, agents, employees and contractors.

## SPECIFICATION 3

### FORMAT AND CONTENT FOR REGISTRY OPERATOR MONTHLY REPORTING

Registry Operator shall provide one set of monthly reports per gTLD, using the API described in draft-lozano-icann-registry-interfaces, see Specification 2, Part A, Section 9, reference 5, with the following content.

ICANN may request in the future that the reports be delivered by other means and using other formats. ICANN will use reasonable commercial efforts to preserve the confidentiality of the information reported until three (3) months after the end of the month to which the reports relate. Unless set forth in this Specification 3, any reference to a specific time refers to Coordinated Universal Time (UTC). Monthly reports shall consist of data that reflects the state of the registry at the end of the month (UTC).

1. **Per-Registrar Transactions Report.** This report shall be compiled in a comma separated-value formatted file as specified in RFC 4180. The file shall be named “gTLD-transactions-yyyymm.csv”, where “gTLD” is the gTLD name; in case of an IDN-TLD, the A-label shall be used; “yyyymm” is the year and month being reported. The file shall contain the following fields per registrar:

Field #	Field name	Description
01	registrar-name	Registrar’s full corporate name as registered with IANA
02	iana-id	For cases where the registry operator acts as registrar (i.e., without the use of an ICANN accredited registrar) 9999 should be used, otherwise the sponsoring Registrar IANA id should be used as specified in <a href="http://www.iana.org/assignments/registrar-ids">http://www.iana.org/assignments/registrar-ids</a>
03	total-domains	total domain names under sponsorship in any EPP status but pendingCreate that have not been purged
04	total-nameservers	total name servers (either host objects or name server hosts as domain name attributes) associated with domain names registered for the TLD in any EPP status but pendingCreate that have not been purged
05	net-adds-1-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of one (1) year (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
06	net-adds-2-yr	number of domains successfully registered (i.e., not

		in EPP pendingCreate status) with an initial term of two(2) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
07	net-adds-3-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of three (3) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
08	net-adds-4-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of four (4) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
09	net-adds-5-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of five (5) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
10	net-adds-6-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of six (6) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
11	net-adds-7-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of seven (7) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
12	net-adds-8-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of eight (8) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
13	net-adds-9-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of nine (9) years (and not deleted within the add grace period). A transaction must be reported in the month the add grace period ends.
14	net-adds-10-yr	number of domains successfully registered (i.e., not in EPP pendingCreate status) with an initial term of ten (10) years (and not deleted within the add grace period). A transaction must be reported in the month

		the add grace period ends.
15	net-renews-1-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of one (1) year (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
16	net-renews-2-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of two (2) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
17	net-renews-3-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of three (3) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
18	net-renews-4-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of four (4) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
19	net-renews-5-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of five (5) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
20	net-renews-6-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of six (6) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.

21	net-renews-7-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of seven (7) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
22	net-renews-8-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of eight (8) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
23	net-renews-9-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of nine (9) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
24	net-renews-10-yr	number of domains successfully renewed (i.e., not in EPP pendingRenew status) either automatically or by command with a new renewal period of ten (10) years (and not deleted within the renew or auto-renew grace period). A transaction must be reported in the month the renew or auto-renew grace period ends.
25	transfer-gaining-successful	number of domain transfers initiated by this registrar that were successfully completed (either explicitly or automatically approved) and not deleted within the transfer grace period. A transaction must be reported in the month the transfer grace period ends.
26	transfer-gaining-nacked	number of domain transfers initiated by this registrar that were rejected (e.g., EPP transfer op="reject") by the other registrar
27	transfer-losing-successful	number of domain transfers initiated by another registrar that were successfully completed (either explicitly or automatically approved)
28	transfer-losing-nacked	number of domain transfers initiated by another registrar that this registrar rejected (e.g., EPP transfer op="reject")

29	transfer-disputed-won	number of transfer disputes in which this registrar prevailed (reported in the month where the determination happened)
30	transfer-disputed-lost	number of transfer disputes this registrar lost (reported in the month where the determination happened)
31	transfer-disputed-nodecision	number of transfer disputes involving this registrar with a split or no decision (reported in the month where the determination happened)
32	deleted-domains-grace	domains deleted within the add grace period (does not include names deleted while in EPP pendingCreate status). A deletion must be reported in the month the name is purged.
33	deleted-domains-nograce	domains deleted outside the add grace period (does not include names deleted while in EPP pendingCreate status). A deletion must be reported in the month the name is purged.
34	restored-domains	domain names restored from redemption period
35	restored-noreport	total number of restored names for which the registrar failed to submit a restore report
36	agp-exemption-requests	total number of AGP (add grace period) exemption requests
37	agp-exemptions-granted	total number of AGP (add grace period) exemption requests granted
38	agp-exempted-domains	total number of names affected by granted AGP (add grace period) exemption requests
39	attempted-adds	number of attempted (both successful and failed) domain name create commands

The first line shall include the field names exactly as described in the table above as a “header line” as described in section 2 of RFC 4180. The last line of each report shall include totals for each column across all registrars; the first field of this line shall read “Totals” while the second field shall be left empty in that line. No other lines besides the ones described above shall be included. Line breaks shall be <U+000D, U+000A> as described in RFC 4180.

2. **Registry Functions Activity Report.** This report shall be compiled in a comma separated-value formatted file as specified in RFC 4180. The file shall be named “gTLD-activity-yyyymm.csv”, where “gTLD” is the gTLD name; in case of an IDN-TLD, the A-label shall be used; “yyyymm” is the year and month being reported. The file shall contain the following fields:

Field #	Field Name	Description
01	operational-registrars	number of operational registrars at the end of the reporting period
02	ramp-up-registrars	number of registrars that have received a password for access to OT&E at the end of the reporting period
03	pre-ramp-up-registrars	number of registrars that have requested access, but have not yet entered the ramp-up period at the end of the reporting period
04	zfa-passwords	number of active zone file access passwords at the end of the reporting period
05	whois-43-queries	number of WHOIS (port-43) queries responded during the reporting period
06	web-whois-queries	number of Web-based Whois queries responded during the reporting period, not including searchable Whois
07	searchable-whois-queries	number of searchable Whois queries responded during the reporting period, if offered
08	dns-udp-queries-received	number of DNS queries received over UDP transport during the reporting period
09	dns-udp-queries-responded	number of DNS queries received over UDP transport that were responded during the reporting period
10	dns-tcp-queries-received	number of DNS queries received over TCP transport during the reporting period
11	dns-tcp-queries-responded	number of DNS queries received over TCP transport that were responded during the reporting period
12	srs-dom-check	number of SRS (EPP and any other interface) domain name "check" requests responded during the reporting period
13	srs-dom-create	number of SRS (EPP and any other interface) domain name "create" requests responded during the reporting period
14	srs-dom-delete	number of SRS (EPP and any other interface) domain name "delete" requests responded during the reporting period
15	srs-dom-info	number of SRS (EPP and any other interface) domain name "info" requests responded during the reporting period
16	srs-dom-renew	number of SRS (EPP and any other interface) domain name "renew" requests responded during

Field #	Field Name	Description
		the reporting period
17	srs-dom-rgp-restore-report	number of SRS (EPP and any other interface) domain name RGP "restore" requests delivering a restore report responded during the reporting period
18	srs-dom-rgp-restore-request	number of SRS (EPP and any other interface) domain name RGP "restore" requests responded during the reporting period
19	srs-dom-transfer-approve	number of SRS (EPP and any other interface) domain name "transfer" requests to approve transfers responded during the reporting period
20	srs-dom-transfer-cancel	number of SRS (EPP and any other interface) domain name "transfer" requests to cancel transfers responded during the reporting period
21	srs-dom-transfer-query	number of SRS (EPP and any other interface) domain name "transfer" requests to query about a transfer responded during the reporting period
22	srs-dom-transfer-reject	number of SRS (EPP and any other interface) domain name "transfer" requests to reject transfers responded during the reporting period
23	srs-dom-transfer-request	number of SRS (EPP and any other interface) domain name "transfer" requests to request transfers responded during the reporting period
24	srs-dom-update	number of SRS (EPP and any other interface) domain name "update" requests (not including RGP restore requests) responded during the reporting period
25	srs-host-check	number of SRS (EPP and any other interface) host "check" requests responded during the reporting period
26	srs-host-create	number of SRS (EPP and any other interface) host "create" requests responded during the reporting period
27	srs-host-delete	number of SRS (EPP and any other interface) host "delete" requests responded during the reporting period
28	srs-host-info	number of SRS (EPP and any other interface) host "info" requests responded during the reporting period
29	srs-host-update	number of SRS (EPP and any other interface) host



Field #	Field Name	Description
		"update" requests responded during the reporting period
30	srs-cont-check	number of SRS (EPP and any other interface) contact "check" requests responded during the reporting period
31	srs-cont-create	number of SRS (EPP and any other interface) contact "create" requests responded during the reporting period
32	srs-cont-delete	number of SRS (EPP and any other interface) contact "delete" requests responded during the reporting period
33	srs-cont-info	number of SRS (EPP and any other interface) contact "info" requests responded during the reporting period
34	srs-cont-transfer-approve	number of SRS (EPP and any other interface) contact "transfer" requests to approve transfers responded during the reporting period
35	srs-cont-transfer-cancel	number of SRS (EPP and any other interface) contact "transfer" requests to cancel transfers responded during the reporting period
36	srs-cont-transfer-query	number of SRS (EPP and any other interface) contact "transfer" requests to query about a transfer responded during the reporting period
37	srs-cont-transfer-reject	number of SRS (EPP and any other interface) contact "transfer" requests to reject transfers responded during the reporting period
38	srs-cont-transfer-request	number of SRS (EPP and any other interface) contact "transfer" requests to request transfers responded during the reporting period
39	srs-cont-update	number of SRS (EPP and any other interface) contact "update" requests responded during the reporting period

The first line shall include the field names exactly as described in the table above as a "header line" as described in section 2 of RFC 4180. No other lines besides the ones described above shall be included. Line breaks shall be <U+000D, U+000A> as described in RFC 4180.

For gTLDs that are part of a single-instance Shared Registry System, the Registry Functions Activity Report may include the total contact or host transactions for all the gTLDs in the system.

## SPECIFICATION 4

### REGISTRATION DATA PUBLICATION SERVICES

1. **Registration Data Directory Services.** Until ICANN requires a different protocol, Registry Operator will operate a WHOIS service available via port 43 in accordance with RFC 3912, and a web-based Directory Service at <whois.nic.TLD> providing free public query-based access to at least the following elements in the following format. ICANN reserves the right to specify alternative formats and protocols, and upon such specification, the Registry Operator will implement such alternative specification as soon as reasonably practicable.

Registry Operator shall implement a new standard supporting access to domain name registration data (SAC 051) no later than one hundred thirty-five (135) days after it is requested by ICANN if: 1) the IETF produces a standard (i.e., it is published, at least, as a Proposed Standard RFC as specified in RFC 2026); and 2) its implementation is commercially reasonable in the context of the overall operation of the registry.

- 1.1. The format of responses shall follow a semi-free text format outline below, followed by a blank line and a legal disclaimer specifying the rights of Registry Operator, and of the user querying the database.
- 1.2. Each data object shall be represented as a set of key/value pairs, with lines beginning with keys, followed by a colon and a space as delimiters, followed by the value.
- 1.3. For fields where more than one value exists, multiple key/value pairs with the same key shall be allowed (for example to list multiple name servers). The first key/value pair after a blank line should be considered the start of a new record, and should be considered as identifying that record, and is used to group data, such as hostnames and IP addresses, or a domain name and registrant information, together.
- 1.4. The fields specified below set forth the minimum output requirements. Registry Operator may output data fields in addition to those specified below, subject to approval by ICANN, which approval shall not be unreasonably withheld.
- 1.5. **Domain Name Data:**

1.5.1 **Query format:** whois EXAMPLE.TLD

1.5.2 **Response format:**

Domain Name: EXAMPLE.TLD

Domain ID: D1234567-TLD

WHOIS Server: whois.example.tld  
Referral URL: http://www.example.tld  
Updated Date: 2009-05-29T20:13:00Z  
Creation Date: 2000-10-08T00:45:00Z  
Registry Expiry Date: 2010-10-08T00:44:59Z  
Sponsoring Registrar: EXAMPLE REGISTRAR LLC  
Sponsoring Registrar IANA ID: 5555555  
Domain Status: clientDeleteProhibited  
Domain Status: clientRenewProhibited  
Domain Status: clientTransferProhibited  
Domain Status: serverUpdateProhibited  
Registrant ID: 5372808-ERL  
Registrant Name: EXAMPLE REGISTRANT  
Registrant Organization: EXAMPLE ORGANIZATION  
Registrant Street: 123 EXAMPLE STREET  
Registrant City: ANYTOWN  
Registrant State/Province: AP  
Registrant Postal Code: A1A1A1  
Registrant Country: EX  
Registrant Phone: +1.5555551212  
Registrant Phone Ext: 1234  
Registrant Fax: +1.5555551213  
Registrant Fax Ext: 4321  
Registrant Email: EMAIL@EXAMPLE.TLD  
Admin ID: 5372809-ERL  
Admin Name: EXAMPLE REGISTRANT ADMINISTRATIVE  
Admin Organization: EXAMPLE REGISTRANT ORGANIZATION  
Admin Street: 123 EXAMPLE STREET  
Admin City: ANYTOWN  
Admin State/Province: AP  
Admin Postal Code: A1A1A1  
Admin Country: EX  
Admin Phone: +1.5555551212  
Admin Phone Ext: 1234  
Admin Fax: +1.5555551213  
Admin Fax Ext:  
Admin Email: EMAIL@EXAMPLE.TLD  
Tech ID: 5372811-ERL  
Tech Name: EXAMPLE REGISTRAR TECHNICAL  
Tech Organization: EXAMPLE REGISTRAR LLC  
Tech Street: 123 EXAMPLE STREET  
Tech City: ANYTOWN  
Tech State/Province: AP  
Tech Postal Code: A1A1A1  
Tech Country: EX  
Tech Phone: +1.1235551234

Tech Phone Ext: 1234  
Tech Fax: +1.5555551213  
Tech Fax Ext: 93  
Tech Email: EMAIL@EXAMPLE.TLD  
Name Server: NS01.EXAMPLEREGISTRAR.TLD  
Name Server: NS02.EXAMPLEREGISTRAR.TLD  
DNSSEC: signedDelegation  
DNSSEC: unsigned  
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

1.6. **Registrar Data:**

1.6.1 **Query format:** whois "registrar Example Registrar, Inc."

1.6.2 **Response format:**

Registrar Name: Example Registrar, Inc.  
Street: 1234 Admiralty Way  
City: Marina del Rey  
State/Province: CA  
Postal Code: 90292  
Country: US  
Phone Number: +1.3105551212  
Fax Number: +1.3105551213  
Email: registrar@example.tld  
WHOIS Server: whois.example-registrar.tld  
Referral URL: http://www.example-registrar.tld  
Admin Contact: Joe Registrar  
Phone Number: +1.3105551213  
Fax Number: +1.3105551213  
Email: joeregistrar@example-registrar.tld  
Admin Contact: Jane Registrar  
Phone Number: +1.3105551214  
Fax Number: +1.3105551213  
Email: janeregistrar@example-registrar.tld  
Technical Contact: John Geek  
Phone Number: +1.3105551215  
Fax Number: +1.3105551216  
Email: johngeek@example-registrar.tld  
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

1.7. **Nameserver Data:**

1.7.1 **Query format:** whois "NS1.EXAMPLE.TLD", whois "nameserver (nameserver name)", or whois "nameserver (IP Address)"

1.7.2 **Response format:**

Server Name: NS1.EXAMPLE.TLD  
IP Address: 192.0.2.123  
IP Address: 2001:0DB8::1  
Registrar: Example Registrar, Inc.  
WHOIS Server: whois.example-registrar.tld  
Referral URL: http://www.example-registrar.tld  
>>> Last update of WHOIS database: 2009-05-29T20:15:00Z <<<

- 1.8. The format of the following data fields: domain status, individual and organizational names, address, street, city, state/province, postal code, country, telephone and fax numbers (the extension will be provided as a separate field as shown above), email addresses, date and times should conform to the mappings specified in EPP RFCs 5730-5734 so that the display of this information (or values return in WHOIS responses) can be uniformly processed and understood.
- 1.9. In order to be compatible with ICANN's common interface for WHOIS (InterNIC), WHOIS output shall be in the format outline above.
- 1.10. **Searchability.** Offering searchability capabilities on the Directory Services is optional but if offered by the Registry Operator it shall comply with the specification described in this section.
  - 1.10.1 Registry Operator will offer searchability on the web-based Directory Service.
  - 1.10.2 Registry Operator will offer partial match capabilities, at least, on the following fields: domain name, contacts and registrant's name, and contact and registrant's postal address, including all the sub-fields described in EPP (e.g., street, city, state or province, etc.).
  - 1.10.3 Registry Operator will offer exact-match capabilities, at least, on the following fields: registrar id, name server name, and name server's IP address (only applies to IP addresses stored by the registry, i.e., glue records).
  - 1.10.4 Registry Operator will offer Boolean search capabilities supporting, at least, the following logical operators to join a set of search criteria: AND, OR, NOT.
  - 1.10.5 Search results will include domain names matching the search criteria.
  - 1.10.6 Registry Operator will: 1) implement appropriate measures to avoid abuse of this feature (e.g., permitting access only to legitimate authorized users); and 2) ensure the feature is in compliance with any applicable privacy laws or policies.

- 1.11. Registry Operator shall provide a link on the primary website for the TLD (i.e., the website provided to ICANN for publishing on the ICANN website) to a web page designated by ICANN containing WHOIS policy and educational materials.

## 2. **Zone File Access**

### 2.1. **Third-Party Access**

2.1.1 **Zone File Access Agreement.** Registry Operator will enter into an agreement with any Internet user, which will allow such user to access an Internet host server or servers designated by Registry Operator and download zone file data. The agreement will be standardized, facilitated and administered by a Centralized Zone Data Access Provider, which may be ICANN or an ICANN designee (the "CZDA Provider"). Registry Operator (optionally through the CZDA Provider) will provide access to zone file data per Section 2.1.3 of this Specification and do so using the file format described in Section 2.1.4 of this Specification. Notwithstanding the foregoing, (a) the CZDA Provider may reject the request for access of any user that does not satisfy the credentialing requirements in Section 2.1.2 below; (b) Registry Operator may reject the request for access of any user that does not provide correct or legitimate credentials under Section 2.1.2 below or where Registry Operator reasonably believes will violate the terms of Section 2.1.5. below; and, (c) Registry Operator may revoke access of any user if Registry Operator has evidence to support that the user has violated the terms of Section 2.1.5 below.

2.1.2 **Credentialing Requirements.** Registry Operator, through the facilitation of the CZDA Provider, will request each user to provide it with information sufficient to correctly identify and locate the user. Such user information will include, without limitation, company name, contact name, address, telephone number, facsimile number, email address and IP address.

2.1.3 **Grant of Access.** Each Registry Operator (optionally through the CZDA Provider) will provide the Zone File FTP (or other Registry supported) service for an ICANN-specified and managed URL (specifically, <TLD>.zda.icann.org where <TLD> is the TLD for which the registry is responsible) for the user to access the Registry's zone data archives. Registry Operator will grant the user a non-exclusive, nontransferable, limited right to access Registry Operator's (optionally CZDA Provider's) Zone File hosting server, and to transfer a copy of the top-level domain zone files, and any associated cryptographic checksum files no more than once per 24 hour period using FTP, or other data transport and access protocols that may be

prescribed by ICANN. For every zone file access server, the zone files are in the top-level directory called <zone>.zone.gz, with <zone>.zone.gz.md5 and <zone>.zone.gz.sig to verify downloads. If the Registry Operator (or the CZDA Provider) also provides historical data, it will use the naming pattern <zone>-yyyymmdd.zone.gz, etc.

**2.1.4 File Format Standard.** Registry Operator (optionally through the CZDA Provider) will provide zone files using a subformat of the standard Master File format as originally defined in RFC 1035, Section 5, including all the records present in the actual zone used in the public DNS. Sub-format is as follows:

1. Each record must include all fields in one line as: <domain-name> <TTL> <class> <type> <RDATA>.
2. Class and Type must use the standard mnemonics and must be in lower case.
3. TTL must be present as a decimal integer.
4. Use of /X and /DDD inside domain names is allowed.
5. All domain names must be in lower case.
6. Must use exactly one tab as separator of fields inside a record.
7. All domain names must be fully qualified.
8. No \$ORIGIN directives.
9. No use of "@" to denote current origin.
10. No use of "blank domain names" at the beginning of a record to continue the use of the domain name in the previous record.
11. No \$INCLUDE directives.
12. No \$TTL directives.
13. No use of parentheses, e.g., to continue the list of fields in a record across a line boundary.
14. No use of comments.
15. No blank lines.
16. The SOA record should be present at the top and (duplicated at) the end of the zone file.

17. With the exception of the SOA record, all the records in a file must be in alphabetical order.
18. One zone per file. If a TLD divides its DNS data into multiple zones, each goes into a separate file named as above, with all the files combined using tar into a file called <tld>.zone.tar.
  - 2.1.5 **Use of Data by User.** Registry Operator will permit user to use the zone file for lawful purposes; provided that (a) user takes all reasonable steps to protect against unauthorized access to and use and disclosure of the data and (b) under no circumstances will Registry Operator be required or permitted to allow user to use the data to, (i) allow, enable, or otherwise support the transmission by email, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than user's own existing customers, or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator or any ICANN-accredited registrar.
  - 2.1.6 **Term of Use.** Registry Operator, through CZDA Provider, will provide each user with access to the zone file for a period of not less than three (3) months. Registry Operator will allow users to renew their Grant of Access.
  - 2.1.7 **No Fee for Access.** Registry Operator will provide, and CZDA Provider will facilitate, access to the zone file to user at no cost.
- 2.2. **Co-operation**
  - 2.2.1 **Assistance.** Registry Operator will co-operate and provide reasonable assistance to ICANN and the CZDA Provider to facilitate and maintain the efficient access of zone file data by permitted users as contemplated under this Schedule.
- 2.3. **ICANN Access.** Registry Operator shall provide bulk access to the zone files for the TLD to ICANN or its designee on a continuous basis in the manner ICANN may reasonably specify from time to time. Access will be provided at least daily. Zone files will include SRS data committed as close as possible to 00:00:00 UTC.
- 2.4. **Emergency Operator Access.** Registry Operator shall provide bulk access to the zone files for the TLD to the Emergency Operators designated by ICANN on a continuous basis in the manner ICANN may reasonably specify from time to time.

### 3. **Bulk Registration Data Access to ICANN**



- 3.1. **Periodic Access to Thin Registration Data.** In order to verify and ensure the operational stability of Registry Services as well as to facilitate compliance checks on accredited registrars, Registry Operator will provide ICANN on a weekly basis (the day to be designated by ICANN) with up-to-date Registration Data as specified below. Data will include data committed as of 00:00:00 UTC on the day previous to the one designated for retrieval by ICANN.
- 3.1.1 **Contents.** Registry Operator will provide, at least, the following data for all registered domain names: domain name, domain name repository object id (roid), registrar id (IANA ID), statuses, last updated date, creation date, expiration date, and name server names. For sponsoring registrars, at least, it will provide: registrar name, registrar repository object id (roid), hostname of registrar Whois server, and URL of registrar.
- 3.1.2 **Format.** The data will be provided in the format specified in Specification 2 for Data Escrow (including encryption, signing, etc.) but including only the fields mentioned in the previous section, i.e., the file will only contain Domain and Registrar objects with the fields mentioned above. Registry Operator has the option to provide a full deposit file instead as specified in Specification 2.
- 3.1.3 **Access.** Registry Operator will have the file(s) ready for download as of 00:00:00 UTC on the day designated for retrieval by ICANN. The file(s) will be made available for download by SFTP, though ICANN may request other means in the future.
- 3.2. **Exceptional Access to Thick Registration Data.** In case of a registrar failure, deaccreditation, court order, etc. that prompts the temporary or definitive transfer of its domain names to another registrar, at the request of ICANN, Registry Operator will provide ICANN with up-to-date data for the domain names of the losing registrar. The data will be provided in the format specified in Specification 2 for Data Escrow. The file will only contain data related to the domain names of the losing registrar. Registry Operator will provide the data as soon as commercially practicable, but in no event later than five (5) calendar days following ICANN's request. Unless otherwise agreed by Registry Operator and ICANN, the file will be made available for download by ICANN in the same manner as the data specified in Section 3.1 of this Specification.

## SPECIFICATION 5

### SCHEDULE OF RESERVED NAMES

Except to the extent that ICANN otherwise expressly authorizes in writing, and subject to the terms and conditions of this Specification, Registry Operator shall reserve the following labels from initial (i.e., other than renewal) registration within the TLD. If using self-allocation, the Registry Operator must show the registration in the RDDS. In the case of IDN names (as indicated below), IDN variants will be identified according to the registry operator IDN registration policy, where applicable.

1. **Example.** The ASCII label “EXAMPLE” shall be withheld from registration or allocated to Registry Operator at the second level and at all other levels within the TLD at which Registry Operator offers registrations (such second level and all other levels are collectively referred to herein as, “All Levels”). Such label may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator. Upon conclusion of Registry Operator’s designation as operator of the registry for the TLD, such withheld or allocated label shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such name without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.
2. **Additional Second-Level Reservations.** In addition, the following names shall be reserved at the second level:
  - All single, two, and three-character labels that were previously reserved by the Registry Operator prior to the Effective Date of this Registry Agreement may be allocated through ICANN-accredited registrars according to a phased allocation program (“Phased Allocation Program”). The domain names included within the scope of the Phased Allocation Program shall be limited to single, two and three-character labels. Registry Operator reserves the right to not allocate all single, two, and three-character labels. Pursuant to the Phased Allocation Program, Registry Operator may elect to allocate labels by applying one or more of the following processes: 1) request for proposals and allocation based on evaluation criteria; 2) auction; or 3) first come, first serve registration.
3. **Reservations for Registry Operations.**
  - 3.1. The following ASCII labels must be withheld from registration or allocated to Registry Operator at All Levels for use in connection with the operation of the registry for the TLD: WWW, RDDS and WHOIS. The following ASCII label must be allocated to Registry Operator at All Levels for use in connection with the operation of the registry for the TLD: NIC. Registry Operator may activate WWW, RDDS and WHOIS in the DNS, but must activate NIC in the DNS, as necessary for the operation of the TLD. None of WWW, RDDS, WHOIS or NIC may be released or registered to any person (other than

Registry Operator) or third party. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD all such withheld or allocated names shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.

3.2. Registry Operator may withhold from registration or allocate to Registry Operator names (including their IDN variants, where applicable) at All Levels in accordance with Section 2.6 of the Agreement. Such names may not be activated in the DNS, but may be released for registration to another person or entity at Registry Operator's discretion. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD, all such names that remain withheld from registration or allocated to Registry Operator shall be transferred as specified by ICANN. Upon ICANN's request, Registry Operator shall provide a listing of all names withheld or allocated to Registry Operator pursuant to Section 2.6 of the Agreement. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.

4. **Country and Territory Names.** The country and territory names (including their IDN variants, where applicable) contained in the following internationally recognized lists shall be withheld from registration or allocated to Registry Operator at All Levels:

4.1. the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time, including the European Union, which is exceptionally reserved on the ISO 3166-1 list, and its scope extended in August 1999 to any application needing to represent the name European Union  
<[http://www.iso.org/iso/support/country\\_codes/iso\\_3166\\_code\\_lists/iso-3166-1\\_decoding\\_table.htm](http://www.iso.org/iso/support/country_codes/iso_3166_code_lists/iso-3166-1_decoding_table.htm)>;

4.2. the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and

4.3. the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names;

provided, that the reservation of specific country and territory names (including their IDN variants according to the registry operator IDN registration policy, where applicable) may be released to the extent that Registry Operator reaches agreement with the applicable government(s). Registry Operator must not activate such names

in the DNS; provided, that Registry Operator may propose the release of these reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD, all such names that remain withheld from registration or allocated to Registry Operator shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.

5. **International Olympic Committee; International Red Cross and Red Crescent Movement.** As instructed from time to time by ICANN, the names (including their IDN variants, where applicable) relating to the International Olympic Committee, International Red Cross and Red Crescent Movement listed at <http://www.icann.org/en/resources/registries/reserved> shall be withheld from registration or allocated to Registry Operator at the second level within the TLD. Additional International Olympic Committee, International Red Cross and Red Crescent Movement names (including their IDN variants) may be added to the list upon ten (10) calendar days notice from ICANN to Registry Operator. Such names may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD, all such names withheld from registration or allocated to Registry Operator shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.
6. **Intergovernmental Organizations.** As instructed from time to time by ICANN, Registry Operator will implement the protections mechanism determined by the ICANN Board of Directors relating to the protection of identifiers for Intergovernmental Organizations. A list of reserved names for this Section 6 is available at <http://www.icann.org/en/resources/registries/reserved>. Additional names (including their IDN variants) may be added to the list upon ten (10) calendar days notice from ICANN to Registry Operator. Any such protected identifiers for Intergovernmental Organizations may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator. Upon conclusion of Registry Operator's designation as operator of the registry for the TLD, all such protected identifiers shall be transferred as specified by ICANN. Registry Operator may self-allocate and renew such names without use of an ICANN accredited registrar, which will not be considered Transactions for purposes of Section 6.1 of the Agreement.

## SPECIFICATION 6

### REGISTRY INTEROPERABILITY AND CONTINUITY SPECIFICATIONS

#### 1. Standards Compliance

- 1.1. **DNS.** Registry Operator shall comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF), including all successor standards, modifications or additions thereto relating to the DNS and name server operations including without limitation RFCs 1034, 1035, 1123, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 4343, and 5966. DNS labels may only include hyphens in the third and fourth position if they represent valid IDNs (as specified above) in their ASCII encoding (e.g., “xn--ndk061n”).
- 1.2. **EPP.** Registry Operator shall comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF) including all successor standards, modifications or additions thereto relating to the provisioning and management of domain names using the Extensible Provisioning Protocol (EPP) in conformance with RFCs 5910, 5730, 5731, 5732 (if using host objects), 5733 and 5734. If Registry Operator implements Registry Grace Period (RGP), it will comply with RFC 3915 and its successors. If Registry Operator requires the use of functionality outside the base EPP RFCs, Registry Operator must document EPP extensions in Internet-Draft format following the guidelines described in RFC 3735. Registry Operator will provide and update the relevant documentation of all the EPP Objects and Extensions supported to ICANN prior to deployment.
- 1.3. **DNSSEC.** Registry Operator shall sign its TLD zone files implementing Domain Name System Security Extensions (“DNSSEC”). During the Term, Registry Operator shall comply with RFCs 4033, 4034, 4035, 4509 and their successors, and follow the best practices described in RFC 4641 and its successors. If Registry Operator implements Hashed Authenticated Denial of Existence for DNS Security Extensions, it shall comply with RFC 5155 and its successors. Registry Operator shall accept public-key material from child domain names in a secure manner according to industry best practices. Registry shall also publish in its website the DNSSEC Practice Statements (DPS) describing critical security controls and procedures for key material storage, access and usage for its own keys and secure acceptance of registrants’ public-key material. Registry Operator shall publish its DPS following the format described in RFC 6841.
- 1.4. **IDN.** If the Registry Operator offers Internationalized Domain Names (“IDNs”), it shall comply with RFCs 5890, 5891, 5892, 5893 and their successors. Registry Operator shall comply with the ICANN IDN Guidelines at <<http://www.icann.org/en/topics/idn/implementation-guidelines.htm>>,

as they may be amended, modified, or superseded from time to time. Registry Operator shall publish and keep updated its IDN Tables and IDN Registration Rules in the IANA Repository of IDN Practices as specified in the ICANN IDN Guidelines.

- 1.5. **IPv6.** Registry Operator shall be able to accept IPv6 addresses as glue records in its Registry System and publish them in the DNS. Registry Operator shall offer public IPv6 transport for, at least, two of the Registry's name servers listed in the root zone with the corresponding IPv6 addresses registered with IANA. Registry Operator should follow "DNS IPv6 Transport Operational Guidelines" as described in BCP 91 and the recommendations and considerations described in RFC 4472. Registry Operator shall offer public IPv6 transport for its Registration Data Publication Services as defined in Specification 4 of this Agreement; e.g., Whois (RFC 3912), Web based Whois. Registry Operator shall offer public IPv6 transport for its Shared Registration System (SRS) to any Registrar, no later than six (6) months after receiving the first request in writing from a gTLD accredited Registrar willing to operate with the SRS over IPv6.

## 2. **Registry Services**

- 2.1. **Registry Services.** "Registry Services" are, for purposes of the Agreement, defined as the following: (a) those services that are operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry DNS servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement; (b) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy as defined in Specification 1; (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.
- 2.2. **Wildcard Prohibition.** For domain names which are either not registered, or the registrant has not supplied valid records such as NS records for listing in the DNS zone file, or their status does not allow them to be published in the DNS, the use of DNS wildcard Resource Records as described in RFCs 1034 and 4592 or any other method or technology for synthesizing DNS Resources Records or using redirection within the DNS by the Registry is prohibited. When queried for such domain names the authoritative name servers must return a "Name Error" response (also known as NXDOMAIN), RCODE 3 as described in RFC 1035 and related RFCs. This provision applies for all DNS zone files at all levels in the DNS tree for which the Registry

Operator (or an affiliate engaged in providing Registration Services) maintains data, arranges for such maintenance, or derives revenue from such maintenance.

### 3. **Registry Continuity**

- 3.1. **High Availability.** Registry Operator will conduct its operations using network and geographically diverse, redundant servers (including network-level redundancy, end-node level redundancy and the implementation of a load balancing scheme where applicable) to ensure continued operation in the case of technical failure (widespread or local), or an extraordinary occurrence or circumstance beyond the control of the Registry Operator. Registry Operator's emergency operations department shall be available at all times to respond to extraordinary occurrences.
- 3.2. **Extraordinary Event.** Registry Operator will use commercially reasonable efforts to restore the critical functions of the registry within twenty-four (24) hours after the termination of an extraordinary event beyond the control of the Registry Operator and restore full system functionality within a maximum of forty-eight (48) hours following such event, depending on the type of critical function involved. Outages due to such an event will not be considered a lack of service availability.
- 3.3. **Business Continuity.** Registry Operator shall maintain a business continuity plan, which will provide for the maintenance of Registry Services in the event of an extraordinary event beyond the control of the Registry Operator or business failure of Registry Operator, and may include the designation of a Registry Services continuity provider. If such plan includes the designation of a Registry Services continuity provider, Registry Operator shall provide the name and contact information for such Registry Services continuity provider to ICANN. In the case of an extraordinary event beyond the control of the Registry Operator where the Registry Operator cannot be contacted, Registry Operator consents that ICANN may contact the designated Registry Services continuity provider, if one exists. Registry Operator shall conduct Registry Services Continuity testing at least once per year.

### 4. **Abuse Mitigation**

- 4.1. **Abuse Contact.** Registry Operator shall provide to ICANN and publish on its website its accurate contact details including a valid email and mailing address as well as a primary contact for handling inquiries related to malicious conduct in the TLD, and will provide ICANN with prompt notice of any changes to such contact details.
- 4.2. **Malicious Use of Orphan Glue Records.** Registry Operator shall take action to remove orphan glue records (as defined at <http://www.icann.org/en/committees/security/sac048.pdf>) when provided

with evidence in written form that such records are present in connection with malicious conduct.

5. **Supported Initial and Renewal Registration Periods**

- 5.1. **Initial Registration Periods.** Initial registrations of registered names may be made in the registry in one (1) year increments for up to a maximum of ten (10) years. For the avoidance of doubt, initial registrations of registered names may not exceed ten (10) years.
- 5.2. **Renewal Periods.** Renewal of registered names may be made in one (1) year increments for up to a maximum of ten (10) years. For the avoidance of doubt, renewal of registered names may not extend their registration period beyond ten (10) years from the time of the renewal.



## SPECIFICATION 7

### MINIMUM REQUIREMENTS FOR RIGHTS PROTECTION MECHANISMS

1. **Rights Protection Mechanisms.** Registry Operator may develop and implement rights protection mechanisms (“RPMs”) that discourage or prevent registration of domain names that violate or abuse another party’s legal rights. Registry Operator will include RPMs developed and implemented by Registry Operator in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD. Registry Operator shall not mandate that any owner of applicable intellectual property rights use any other trademark information aggregation, notification, or validation service in addition to or instead of the ICANN-designated Trademark Clearinghouse.
2. **Dispute Resolution Mechanisms.** Registry Operator will comply with the following dispute resolution mechanisms as they may be revised from time to time:
  - a. the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) adopted by ICANN (posted at <http://www.icann.org/en/resources/registries/pddrp>). Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Agreement) following a determination by any PDDRP panel and to be bound by any such determination; and
  - b. the Uniform Rapid Suspension system (“URS”) adopted by ICANN (posted at <http://www.icann.org/en/resources/registries/urs>), including the implementation of determinations issued by URS examiners.

**SPECIFICATION 8**

**[RESERVED]**

## SPECIFICATION 9

### REGISTRY OPERATOR CODE OF CONDUCT

1. In connection with the operation of the registry for the TLD, Registry Operator will not, and will not allow any parent, subsidiary, Affiliate, subcontractor or other related entity, to the extent such party is engaged in the provision of Registry Services with respect to the TLD (each, a “Registry Related Party”), to:
  - a. directly or indirectly show any preference or provide any special consideration to any registrar with respect to operational access to registry systems and related registry services, unless comparable opportunities to qualify for such preferences or considerations are made available to all registrars on substantially similar terms and subject to substantially similar conditions;
  - b. register domain names in its own right, except for names registered through an ICANN accredited registrar; provided, however, that Registry Operator may reserve names from registration pursuant to Section 2.6 of the Agreement;
  - c. register names in the TLD or sub-domains of the TLD based upon proprietary access to information about searches or resolution requests by consumers for domain names not yet registered (commonly known as, “front-running”); or
  - d. allow any Affiliated registrar to disclose Personal Data about registrants to Registry Operator or any Registry Related Party, except as reasonably necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such user data on substantially similar terms and subject to substantially similar conditions.
2. If Registry Operator or a Registry Related Party also operates as a provider of registrar or registrar-reseller services, Registry Operator will, or will cause such Registry Related Party to, ensure that such services are offered through a legal entity separate from Registry Operator, and maintain separate books of accounts with respect to its registrar or registrar-reseller operations.
3. If Registry Operator or a Registry Related Party also operates as a provider of registrar or registrar-reseller services, Registry Operator will conduct internal reviews at least once per calendar year to ensure compliance with this Code of Conduct. Within twenty (20) calendar days following the end of each calendar year, Registry Operator will provide the results of the internal review, along with a certification executed by an executive officer of Registry Operator certifying as to Registry Operator’s compliance with this Code of Conduct, via email to an address to be provided by ICANN. (ICANN may specify in the future the form and contents of

such reports or that the reports be delivered by other reasonable means.) Registry Operator agrees that ICANN may publicly post such results and certification; provided, however, ICANN shall not disclose Confidential Information contained in such results except in accordance with Section 7.15 of the Agreement.

4. Nothing set forth herein shall: (i) limit ICANN from conducting investigations of claims of Registry Operator's non-compliance with this Code of Conduct; or (ii) provide grounds for Registry Operator to refuse to cooperate with ICANN investigations of claims of Registry Operator's non-compliance with this Code of Conduct.
5. Nothing set forth herein shall limit the ability of Registry Operator or any Registry Related Party, to enter into arms-length transactions in the ordinary course of business with a registrar or reseller with respect to products and services unrelated in all respects to the TLD.
6. Registry Operator may request an exemption to this Code of Conduct, and such exemption may be granted by ICANN in ICANN's reasonable discretion, if Registry Operator demonstrates to ICANN's reasonable satisfaction that (i) all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for the exclusive use of Registry Operator or its Affiliates, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and (iii) application of this Code of Conduct to the TLD is not necessary to protect the public interest.

## SPECIFICATION 10

### REGISTRY PERFORMANCE SPECIFICATIONS

#### 1. Definitions

- 1.1. **DNS.** Refers to the Domain Name System as specified in RFCs 1034, 1035, and related RFCs.
- 1.2. **DNSSEC proper resolution.** There is a valid DNSSEC chain of trust from the root trust anchor to a particular domain name, e.g., a TLD, a domain name registered under a TLD, etc.
- 1.3. **EPP.** Refers to the Extensible Provisioning Protocol as specified in RFC 5730 and related RFCs.
- 1.4. **IP address.** Refers to IPv4 or IPv6 addresses without making any distinction between the two. When there is need to make a distinction, IPv4 or IPv6 is used.
- 1.5. **Probes.** Network hosts used to perform (DNS, EPP, etc.) tests (see below) that are located at various global locations.
- 1.6. **RDDS.** Registration Data Directory Services refers to the collective of WHOIS and Web-based WHOIS services as defined in Specification 4 of this Agreement.
- 1.7. **RTT.** Round-Trip Time or RTT refers to the time measured from the sending of the first bit of the first packet of the sequence of packets needed to make a request until the reception of the last bit of the last packet of the sequence needed to receive the response. If the client does not receive the whole sequence of packets needed to consider the response as received, the request will be considered unanswered.
- 1.8. **SLR.** Service Level Requirement is the level of service expected for a certain parameter being measured in a Service Level Agreement (SLA).

#### 2. Service Level Agreement Matrix

	Parameter	SLR (monthly basis)
<b>DNS</b>	DNS service availability	0 min downtime = 100% availability
	DNS name server availability	≤ 432 min of downtime (≈ 99%)
	TCP DNS resolution RTT	≤ 1500 ms, for at least 95% of the queries
	UDP DNS resolution RTT	≤ 500 ms, for at least 95% of the queries
	DNS update time	≤ 60 min, for at least 95% of the probes
<b>RDDS</b>	RDDS availability	≤ 864 min of downtime (≈ 98%)

	RDDS query RTT	≤ 2000 ms, for at least 95% of the queries
	RDDS update time	≤ 60 min, for at least 95% of the probes
<b>EPP</b>	EPP service availability	≤ 864 min of downtime (≈ 98%)
	EPP session-command RTT	≤ 4000 ms, for at least 90% of the commands
	EPP query-command RTT	≤ 2000 ms, for at least 90% of the commands
	EPP transform-command RTT	≤ 4000 ms, for at least 90% of the commands

Registry Operator is encouraged to do maintenance for the different services at the times and dates of statistically lower traffic for each service. However, note that there is no provision for planned outages or similar periods of unavailable or slow service; any downtime, be it for maintenance or due to system failures, will be noted simply as downtime and counted for SLA purposes.

### 3. DNS

- 3.1. **DNS service availability.** Refers to the ability of the group of listed-as-authoritative name servers of a particular domain name (e.g., a TLD), to answer DNS queries from DNS probes. For the service to be considered available at a particular moment, at least, two of the delegated name servers registered in the DNS must have successful results from “**DNS tests**” to each of their public-DNS registered “**IP addresses**” to which the name server resolves. If 51% or more of the DNS testing probes see the service as unavailable during a given time, the DNS service will be considered unavailable.
- 3.2. **DNS name server availability.** Refers to the ability of a public-DNS registered “**IP address**” of a particular name server listed as authoritative for a domain name, to answer DNS queries from an Internet user. All the public DNS-registered “**IP address**” of all name servers of the domain name being monitored shall be tested individually. If 51% or more of the DNS testing probes get undefined/unanswered results from “**DNS tests**” to a name server “**IP address**” during a given time, the name server “**IP address**” will be considered unavailable.
- 3.3. **UDP DNS resolution RTT.** Refers to the **RTT** of the sequence of two packets, the UDP DNS query and the corresponding UDP DNS response. If the **RTT** is 5 times greater than the time specified in the relevant **SLR**, the **RTT** will be considered undefined.
- 3.4. **TCP DNS resolution RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the DNS response for only one DNS query. If the **RTT** is 5 times greater than the time specified in the relevant **SLR**, the **RTT** will be considered undefined.
- 3.5. **DNS resolution RTT.** Refers to either “**UDP DNS resolution RTT**” or “**TCP DNS resolution RTT**”.

- 3.6. **DNS update time.** Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, until the name servers of the parent domain name answer “**DNS queries**” with data consistent with the change made. This only applies for changes to DNS information.
- 3.7. **DNS test.** Means one non-recursive DNS query sent to a particular “**IP address**” (via UDP or TCP). If DNSSEC is offered in the queried DNS zone, for a query to be considered answered, the signatures must be positively verified against a corresponding DS record published in the parent zone or, if the parent is not signed, against a statically configured Trust Anchor. The answer to the query must contain the corresponding information from the Registry System, otherwise the query will be considered unanswered. A query with a “**DNS resolution RTT**” 5 times higher than the corresponding SLR, will be considered unanswered. The possible results to a DNS test are: a number in milliseconds corresponding to the “**DNS resolution RTT**” or, undefined/unanswered.
- 3.8. **Measuring DNS parameters.** Every minute, every DNS probe will make an UDP or TCP “**DNS test**” to each of the public-DNS registered “**IP addresses**” of the name servers of the domain name being monitored. If a “**DNS test**” result is undefined/unanswered, the tested IP will be considered unavailable from that probe until it is time to make a new test.
- 3.9. **Collating the results from DNS probes.** The minimum number of active testing probes to consider a measurement valid is 20 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.
- 3.10. **Distribution of UDP and TCP queries.** DNS probes will send UDP or TCP “**DNS test**” approximating the distribution of these queries.
- 3.11. **Placement of DNS probes.** Probes for measuring DNS parameters shall be placed as near as possible to the DNS resolvers on the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

#### 4. **RDDS**

- 4.1. **RDDS availability.** Refers to the ability of all the RDDS services for the TLD, to respond to queries from an Internet user with appropriate data from the relevant Registry System. If 51% or more of the RDDS testing probes see any of the RDDS services as unavailable during a given time, the RDDS will be considered unavailable.

- 4.2. **WHOIS query RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the WHOIS response. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.
  - 4.3. **Web-based-WHOIS query RTT.** Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the HTTP response for only one HTTP request. If Registry Operator implements a multiple-step process to get to the information, only the last step shall be measured. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.
  - 4.4. **RDDS query RTT.** Refers to the collective of “**WHOIS query RTT**” and “**Web-based- WHOIS query RTT**”.
  - 4.5. **RDDS update time.** Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, host or contact, up until the servers of the RDDS services reflect the changes made.
  - 4.6. **RDDS test.** Means one query sent to a particular “**IP address**” of one of the servers of one of the RDDS services. Queries shall be about existing objects in the Registry System and the responses must contain the corresponding information otherwise the query will be considered unanswered. Queries with an **RTT** 5 times higher than the corresponding SLR will be considered as unanswered. The possible results to an RDDS test are: a number in milliseconds corresponding to the **RTT** or undefined/unanswered.
  - 4.7. **Measuring RDDS parameters.** Every 5 minutes, RDDS probes will select one IP address from all the public-DNS registered “**IP addresses**” of the servers for each RDDS service of the TLD being monitored and make an “**RDDS test**” to each one. If an “**RDDS test**” result is undefined/unanswered, the corresponding RDDS service will be considered as unavailable from that probe until it is time to make a new test.
  - 4.8. **Collating the results from RDDS probes.** The minimum number of active testing probes to consider a measurement valid is 10 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.
  - 4.9. **Placement of RDDS probes.** Probes for measuring RDDS parameters shall be placed inside the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.
5. **EPP**



- 5.1. **EPP service availability.** Refers to the ability of the TLD EPP servers as a group, to respond to commands from the Registry accredited Registrars, who already have credentials to the servers. The response shall include appropriate data from the Registry System. An EPP command with “**EPP command RTT**” 5 times higher than the corresponding SLR will be considered as unanswered. If 51% or more of the EPP testing probes see the EPP service as unavailable during a given time, the EPP service will be considered unavailable.
- 5.2. **EPP session-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a session command plus the reception of the EPP response for only one EPP session command. For the login command it will include packets needed for starting the TCP session. For the logout command it will include packets needed for closing the TCP session. EPP session commands are those described in section 2.9.1 of EPP RFC 5730. If the **RTT** is 5 times or more the corresponding SLR, the **RTT** will be considered undefined.
- 5.3. **EPP query-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a query command plus the reception of the EPP response for only one EPP query command. It does not include packets needed for the start or close of either the EPP or the TCP session. EPP query commands are those described in section 2.9.2 of EPP RFC 5730. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.
- 5.4. **EPP transform-command RTT.** Refers to the **RTT** of the sequence of packets that includes the sending of a transform command plus the reception of the EPP response for only one EPP transform command. It does not include packets needed for the start or close of either the EPP or the TCP session. EPP transform commands are those described in section 2.9.3 of EPP RFC 5730. If the **RTT** is 5 times or more the corresponding SLR, the **RTT** will be considered undefined.
- 5.5. **EPP command RTT.** Refers to “**EPP session-command RTT**”, “**EPP query-command RTT**” or “**EPP transform-command RTT**”.
- 5.6. **EPP test.** Means one EPP command sent to a particular “**IP address**” for one of the EPP servers. Query and transform commands, with the exception of “create”, shall be about existing objects in the Registry System. The response shall include appropriate data from the Registry System. The possible results to an EPP test are: a number in milliseconds corresponding to the “**EPP command RTT**” or undefined/unanswered.
- 5.7. **Measuring EPP parameters.** Every 5 minutes, EPP probes will select one “**IP address**” of the EPP servers of the TLD being monitored and make an

“EPP test”; every time they should alternate between the 3 different types of commands and between the commands inside each category. If an “EPP test” result is undefined/unanswered, the EPP service will be considered as unavailable from that probe until it is time to make a new test.

- 5.8. **Collating the results from EPP probes.** The minimum number of active testing probes to consider a measurement valid is 5 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.
- 5.9. **Placement of EPP probes.** Probes for measuring EPP parameters shall be placed inside or close to Registrars points of access to the Internet across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

## 6. Emergency Thresholds

The following matrix presents the emergency thresholds that, if reached by any of the services mentioned above for a TLD, would cause the emergency transition of the Registry for the TLD as specified in Section 2.13 of this Agreement.

Critical Function	Emergency Threshold
DNS Service (all servers)	4-hour total downtime / week
DNSSEC proper resolution	4-hour total downtime / week
EPP	24-hour total downtime / week
RDDS (WHOIS/Web-based WHOIS)	24-hour total downtime / week
Data Escrow	Breach of the Registry Agreement as described in Specification 2, Part B, Section 6.

## 7. Emergency Escalation

Escalation is strictly for purposes of notifying and investigating possible or potential issues in relation to monitored services. The initiation of any escalation and the subsequent cooperative investigations do not in themselves imply that a monitored service has failed its performance requirements.

Escalations shall be carried out between ICANN and Registry Operators, Registrars and Registry Operator, and Registrars and ICANN. Registry Operators and ICANN must provide said emergency operations departments. Current contacts must be maintained between ICANN and Registry Operators and published to Registrars, where relevant to their role in

escalations, prior to any processing of an Emergency Escalation by all related parties, and kept current at all times.

### 7.1. **Emergency Escalation initiated by ICANN**

Upon reaching 10% of the Emergency thresholds as described in Section 6 of this Specification, ICANN's emergency operations will initiate an Emergency Escalation with the relevant Registry Operator. An Emergency Escalation consists of the following minimum elements: electronic (i.e., email or SMS) and/or voice contact notification to the Registry Operator's emergency operations department with detailed information concerning the issue being escalated, including evidence of monitoring failures, cooperative trouble-shooting of the monitoring failure between ICANN staff and the Registry Operator, and the commitment to begin the process of rectifying issues with either the monitoring service or the service being monitoring.

### 7.2. **Emergency Escalation initiated by Registrars**

Registry Operator will maintain an emergency operations department prepared to handle emergency requests from registrars. In the event that a registrar is unable to conduct EPP transactions with the registry for the TLD because of a fault with the Registry Service and is unable to either contact (through ICANN mandated methods of communication) the Registry Operator, or the Registry Operator is unable or unwilling to address the fault, the registrar may initiate an emergency escalation to the emergency operations department of ICANN. ICANN then may initiate an emergency escalation with the Registry Operator as explained above.

### 7.3. **Notifications of Outages and Maintenance**

In the event that a Registry Operator plans maintenance, it will provide notice to the ICANN emergency operations department, at least, twenty-four (24) hours ahead of that maintenance. ICANN's emergency operations department will note planned maintenance times, and suspend Emergency Escalation services for the monitored services during the expected maintenance outage period.

If Registry Operator declares an outage, as per its contractual obligations with ICANN, on services under a service level agreement and performance requirements, it will notify the ICANN emergency operations department. During that declared outage, ICANN's emergency operations department will note and suspend emergency escalation services for the monitored services involved.

## 8. **Covenants of Performance Measurement**

8.1. **No interference.** Registry Operator shall not interfere with measurement **Probes**, including any form of preferential treatment of the requests for the monitored services. Registry Operator shall respond to the measurement tests described in this Specification as it would to any other request from an Internet user (for DNS and RDDS) or registrar (for EPP).

8.2. **ICANN testing registrar.** Registry Operator agrees that ICANN will have a testing registrar used for purposes of measuring the **SLRs** described above. Registry Operator agrees to not provide any differentiated treatment for the testing registrar other than no billing of the transactions. ICANN shall not use the registrar for registering domain names (or other registry objects) for itself or others, except for the purposes of verifying contractual compliance with the conditions described in this Agreement.

## **SPECIFICATION 11**

### **PUBLIC INTEREST COMMITMENTS**

1. Registry Operator will use only ICANN accredited registrars that are party to the Registrar Accreditation Agreement approved by the ICANN Board of Directors on 27 June 2013 in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN's website.
2. [Intentionally omitted. Registry Operator has not included commitments, statements of intent or business plans provided for in its application to ICANN for the TLD]
3. Registry Operator agrees to perform the following specific public interest commitments, which commitments shall be enforceable by ICANN and through the PICDRP. Registry Operator shall comply with the PICDRP. Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Agreement) following a determination by any PICDRP panel and to be bound by any such determination.
  - a. Registry Operator will include a provision in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name.
  - b. Registry Operator will periodically conduct a technical analysis to assess whether domains in the TLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. Registry Operator will maintain statistical reports on the number of security threats identified and the actions taken as a result of the periodic security checks. Registry Operator will maintain these reports for the term of the Agreement unless a shorter period is required by law or approved by ICANN, and will provide them to ICANN upon request.
  - c. Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies.

- d. Registry Operator of a “Generic String” TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person’s or entity’s “Affiliates” (as defined in Section 2.9(c) of the Registry Agreement). “Generic String” means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others.
- e. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
- f. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
- g. Registry Operators will include a provision in their Registry-Registrar Agreements that requires registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.

## REFERENCE MATERIALS TO BOARD SUBMISSION No. 2015.09.28.2a

**TITLE: June 2016 ICANN Meeting Venue Contracting**

### DETAILED ANALYSIS:

#### 1. Background:

The June 2016 ICANN Public Meeting in Latin America/Caribbean will be the inaugural, mid-year, format “B” Meeting focused on policy development as proposed by the Meeting Strategy Working Group and approved by the ICANN Board in November 2014 (see <https://features.icann.org/meeting-strategy-working-group-mswg-recommendations-implementation-plan-2016>).

In March 2015, ICANN called for expressions of interest to assist as host of the Meeting. Three proposals were received, but none met the requirements for an ICANN Meeting. The location that is recommended for approval is discussed below.

#### 2. Site Visit:

- Panama City, Panama: A preliminary site visit was conducted in June 2015.

#### 3. Discussion of Issues:

Panama City, Panama – The Hard Rock Hotel Panama Megapolis

- Meeting Rooms: The Hard Rock Hotel Panama Megapolis, comprised of the Megapolis Convention Center, the Hard Rock Hotel and the Radisson Decapolis Hotel, has excellent conference facilities for an ICANN Meeting.
- Host Hotel: The Hard Rock Hotel, adjacent to the convention center, will serve as the host hotel for the Meeting. With 1,400 guest rooms, it can accommodate most meeting delegates.
- Area Hotels: The Radisson Decapolis Hotel, adjacent to the Megapolis Convention Center and the Hard Rock Hotel, offers 240 guest rooms at a lower rate than the Hard Rock. Other area hotels offer a wide variety of guest room accommodations at varying price points.
- Food & Beverage Outlets: The Hard Rock Hotel, the Radisson Hotel and the Megapolis Convention Center offer a wide variety of dining options, including a food court and shopping center. In addition, there are a number of other restaurants in close proximity.
- Air Travel: Air access to Panama City is good, with 12 daily direct flights from North America, 4 from Europe, and over 80 from South America, Central America and the Caribbean. However, almost all international itineraries will require a stop.
- Ground Transportation: Panama Tocumen International Airport is 35 kilometers/25 minutes from the meeting venue. Taxi fare is approximately US\$31.
- Safety & Security: A preliminary risk assessment by ICANN security has not identified any areas of concern for Panama City that would require other than standard security measures provided for an ICANN Meeting.

Staff recommends that the board approve Panama City, Panama as the location of the June 2016 ICANN Meeting.

#### 4. The Hard Rock Hotel Panama Megapolis – **Board Approval Required:**

- The contract for the Hard Rock Hotel Panama Megapolis will include:

- US\$ 50,000 Meeting room rental charges
- US\$425,000 Guest rooms for ICANN board, staff and funded travellers (425 rooms on peak nights at a rate of \$145 including fees and taxes)
- US\$300,000 Guest rooms for delegates (400 rooms on peak nights at a rate of \$145 including fees and taxes). These rooms are contracted by ICANN to ensure availability, but paid by delegates.
- US\$ 25,000 Internet network
- US\$ 87,000 Guest rooms for board, staff and delegates for potential IANA Transition meeting prior to the ICANN Meeting (200 rooms for three nights at a rate of \$145 including fees and taxes)
- US\$ 88,700 Contingency at 10%
- US\$975,700 Total\*

\*Note that negotiations are in progress. This is currently an estimate, which we do not believe will be exceeded.

## 5. Subvention

- We are working with the convention and visitors bureau of Panama City, Panama on possible funding for meeting-related activities like food & beverage events, local transportation, etc.

Staff recommends that the board approve the expenditure (including contracting and disbursements) for the contract with the Hard Rock Hotel Panama Megapolis.

**\*\*\* Confidential Proposal Information Set Forth Below\*\*\***

## 6. Other Hosting Proposals Received:

- St. Michael, Barbados: Submitted by Roosevelt O. King, Secretary General, Barbados Association of Non-Governmental Organisations. The facility is too small for an ICANN Meeting.
- St. George's, Grenada: Submitted by the Secret Harbour Resort. The facility is much too small for an ICANN Meeting.
- Acapulco, Mexico: Submitted by Consorcio Operativo, a local destination management company. The facility is not suitable for an ICANN Meeting.

**\*\*\* Confidential Proposal Information Set Forth Above\*\*\***

Submitted by: Nick Tomasso  
 Position: VP, Meetings  
 Date Noted: 26 August 2015  
 Email: [nick.tomasso@icann.org](mailto:nick.tomasso@icann.org)



26 August 2015

DRAFT Budget Estimate	Comparative Budget Estimates					
	Panama	San Juan	Dublin	Buenos Aires	Singapore	Los Angeles
October 2016 NA ICANN Meeting	City					
<b>Total Budget Estimate</b>						
Meeting Space Rental	\$50,000	\$100,000	\$340,000	\$160,000	\$360,000	\$0
Catering	\$200,000	\$325,000	\$250,000	\$250,000	\$290,000	\$302,450
Audio-Visual	\$200,000	\$350,000	\$300,000	\$300,000	\$300,000	\$275,000
Gala	\$0	\$0	\$0	\$0	\$0	\$200,000
Professional Services	\$228,000	\$368,000	\$340,000	\$340,000	\$340,000	\$340,000
Administration	\$72,000	\$168,000	\$140,000	\$140,000	\$140,000	\$140,000
Contingency @ 10%	\$0	\$0	\$0	\$0	\$0	\$125,745
<b>Subtotal</b>	<b>\$750,000</b>	<b>\$1,311,000</b>	<b>\$1,370,000</b>	<b>\$1,190,000</b>	<b>\$1,430,000</b>	<b>\$1,383,195</b>
Subvention	TBD	-\$130,000	\$0	\$0	-\$149,000	\$0
Sponsorship Revenue Offset	\$0	-\$300,000	-\$300,000	-\$300,000	-\$300,000	-\$400,000
<b>Total Budget Excluding Lodging</b>	<b>\$750,000</b>	<b>\$881,000</b>	<b>\$1,070,000</b>	<b>\$890,000</b>	<b>\$981,000</b>	<b>\$983,195</b>
Number of Nights per Participant	7	7	7	7	7	7
Estimated Number of ICANN-funded Participants	375	450	450	450	450	450
Average Guest Room Rate Including Tax	\$145	\$199	\$235	\$288	\$317	\$249
<b>Lodging Estimated Total</b>	<b>\$380,625</b>	<b>\$626,850</b>	<b>\$740,250</b>	<b>\$908,460</b>	<b>\$998,550</b>	<b>\$784,350</b>
<b>Total</b>	<b>\$1,130,625</b>	<b>\$1,507,850</b>	<b>\$1,810,250</b>	<b>\$1,798,460</b>	<b>\$1,979,550</b>	<b>\$1,767,545</b>

Panama City will be the first "Meeting B" Policy Forum. Some expenses will be lower than prior meetings due to the reduced scope of the meeting. However, there will be no sponsorship revenue. Negotiations on subvention are in progress.

## REFERENCE MATERIALS - BOARD PAPER NO. 2015.09.28.2e

**TITLE:** RAA Insurance Waiver

### BACKGROUND:

- **March 2014:** ICANN Registrar Services team (“Registrar Services”) initiates public inquiry into registrar accreditation criteria’s impact in underserved regions by holding public session at ICANN49 in Singapore.
- **June 2014:** Registrar Services [solicits public comments](#) about supporting the domain name industry in underserved regions.
- **June 2014:** Registrar Services meets with Registrar Stakeholder Group at ICANN50 in London to discuss possibility of modifying or waiving Registrar Accreditation Agreement’s commercial general liability (CGL) insurance requirement.
- **August 2014:** Registrar Services enlists services of outside consultant to review RAA insurance requirement and suggest possibilities for improvements. Consultant advises that CGL insurance does nothing to protect registrants.
- **September 2014:** Registrar Services publishes [report of public comments](#).
- **October 2014:** Registrar Services provides briefing on project at ICANN51 in Los Angeles to Registrar Stakeholder Group, Latin American stakeholders, and the ccNSO.
- **January 2015:** Registrar Services [solicits public comments](#) on possibility of waiving CGL insurance requirement.
- **April 2015:** Registrar Services posts [report of public comments](#).

### ISSUE IN BRIEF

The 2009 and 2013 Registrar Accreditation Agreements contain a requirement that registrars obtain Commercial General Liability insurance with a policy limit of at least US\$500,000.

It appears that this requirement is not counterbalanced by any benefit to registrants or the broader Internet community, and should be waived. This requirement does not achieve its policy intent, as stated in ICANN's 1999 Statement of Registrar Accreditation Policy, of ensuring that registrants have a remedy in the event of a registrar's wrongful covered acts.

Staff has found no evidence that any registrant has ever used the CGL insurance requirement to remedy harm caused by a registrar's provision of domain name registration services.

In addition, this requirement poses both financial and practical challenges for some entities that seek to become an ICANN-accredited registrar. This burden disproportionately disadvantages registrars and prospective registrars outside of developing countries, particularly in Africa and South America, as well as some parts of Asia, where this type of insurance is unduly expensive and/or nonexistent.

A different insurance requirement, such as a requirement that registrars obtain professional liability insurance, could better deliver on the existing CGL requirement's policy goals. Such policies, however, are even less common than CGL policies in developing parts of the world. Any new requirement should come through GNSO policy development—not from ICANN staff.

ICANN's waiver of this requirement should apply to all registrars (current and future). Selectively waiving compliance for registrars who demonstrate difficulty in obtaining CGL insurance would disadvantage the registrars who have to bear the cost, but receive no benefit to the insurance. It would also require prospective registrars to understand and navigate the process for obtaining a waiver; lack of awareness could undermine the purpose of the waiver.

It would be appropriate for the Board to formally communicate this development the GNSO Council and note that different, more appropriate, requirements could be created through policy recommendations if the GNSO wishes to create Consensus Policy on this issue.

#### **KEY STAKEHOLDERS AND POSITIONS:**

- **Registrar Stakeholder Group:** The Registrar Stakeholder Group is generally supportive of waiving this requirement, so long as a waiver would apply across-the-board to all registrars.
- **Business Constituency:** The Business Constituency expressed concerns during the most recent comment period about the possibility of a waiver. The BC stated that: *“we firmly believe that the existing commercial general liability (CGL) insurance requirement is fundamental and ensures registrar accountability and beneficial protections of both consumers and business interests.”*

Registrar Services followed up with the Business Constituency, informally, following the public comment period. After discussing the limitations of CGL coverage, the BC expressed support for a change to registrar insurance requirements that would better protect registrants from potential registrar negligence.

- **ALAC:** ALAC stated during the second round of public comments that, “...the insurance required for registrars is a real concern for underserved regions [...]. The ALAC emphasizes that the CGL requirement is not the only barrier for underserved regions to participate in the domain name industry, but the most critical one.”
- **Lawrence Olawale-Roberts, MicroBoss Technologies:** Lawrence Olawale-Roberts submitted a comment clearly illustrating the burden this requirement places on prospective registrars in certain regions outside North America. “Nigeria’s local content law also does not allow businesses with its headquarters in Nigeria to seek such covers outside the shores of the country. The value of the local currency in Nigeria to 1 USD currently stands at over 200 Naira, an

insurance cover of \$500,000 USD thus amounts to approximately seeking insurance in the sum of (N100,000,000.00k) one hundred million Naira. For this reason, seeking and paying premiums over an insurance bond of \$500,000USD would not only pose a difficult condition to fulfil but will put any registrar operating in my region at a great disadvantage especially with their peers in the west and other developed economies as they would be forced to pass the cost of servicing their premiums to their clients, thereby inflating the cost of acquiring a domain name locally. The ripple effect of this is that the local DNS market would keep securing their domain names from western companies, as their pricing would remain cheaper whilst capital flight would continue.”

- **Michele Neylon, Blacknight:** With respect to insurance, the terminology is problematic. ‘Commercial general liability’ insurance is an American concept, so even though we do have more than adequate insurance it wouldn't be called that.”
- **Asia Pacific Top Level Domain Association:** We support ICANN working with insurance companies around the world to help better understanding of the insurance requirements of the RAAs. ICANN could publish a list of insurers who understand the industry so that nascent registrars have choice.

#### **POTENTIAL OBJECTIONS AND PROPOSED RESPONSES:**

- **Potential Objection:** Waiving this requirement could leave registrants without a remedy in the event of a registrar's wrongful covered acts, contrary to ICANN's Statement of Registrar Accreditation Policy's reasoning underlying this requirement.
- **Response:** Today's CGL policies do not generally provide meaningful protection to domain name holders or the broader community for losses caused by their registrars, as envisioned by the Accreditation Policy. CGL insurance policies generally protect businesses against liability claims for bodily injury and property damage that occur on their premises, as well as for advertising and personal injury liability in some cases. However, most CGL policies would

exclude coverage for errors and omissions by the registrar. In other words, domain name holders generally would not be able to receive compensation from an insurance company (under a CGL policy) for negligent acts by the registrar, such as accidentally deleting or failing to renew a registration, or allowing a domain name to be hijacked.

Should the community wish to provide domain name holders with this type of protection through a new registrar insurance requirement, this requirement should be developed through bottom-up Consensus Policy development since it would create new obligations for contracted parties.

- **Potential Objection:** Waiving this requirement across-the-board, for all registrars, is unnecessary.
- **Response:** Although CGL insurance is widely available in some jurisdictions, the costs are not trivial. Requiring a relatively unnecessary form of insurance for some, but not all, registrars would create an uneven playing field, something registrars have objected to in their comments throughout the process.

Exhibits (2)

**Signature Block:**

Submitted by: Cyrus Namazi

Position: Vice President,  
Domain Name Services &  
Industry Engagement, Global  
Domains Division

Date Noted: 28 September 2015

Email: [cyrus.namazi@icann.org](mailto:cyrus.namazi@icann.org)