

Consideration of New gTLD Registry Agreement

<p>What is the Issue?</p> <p>The NGPC is being asked to consider the revised New gTLD Registry Agreement that will be entered into between ICANN and successful new gTLD applicants. The NGPC is being asked to consider adopting the agreement so that ICANN can begin the contracting process with successful new gTLD applicants.</p>	<p>Why Is It Important?</p> <p>Successful gTLD applicants would be required to enter into this form of New gTLD Registry Agreement with ICANN prior to delegation of the new gTLD. The NGPC approval of the agreement is needed to begin the contracting process.</p>
<p>Who is the Decision-maker? Who is the Shepherd?</p> <p>The NGPC is the decision-maker. The NGPC Chair is the NGPC's shepherd on this issue.</p>	<p>Next Steps?</p> <p>If the NGPC approves the New gTLD Registry Agreement, ICANN may begin entering into the agreements with successful applicants.</p>

ICANN NGPC PAPER NO. 2013.07.02.2b

TITLE: New gTLD Registry Agreement

PROPOSED ACTION: For NGPC Consideration

EXECUTIVE SUMMARY:

The NGPC is being asked to consider the New gTLD Registry Agreement that will be entered into between ICANN and successful new gTLD applicants. The revised agreement is the result of several months of negotiations, formal community feedback (most recently during public comment forums initiated on 5 February 2013 on 29 April 2013), and meetings with various stakeholders and communities. The revisions include feedback from the ICANN community at the ICANN 46 Meeting on 7-11 April 2013 in Beijing as well as the GAC advice issued in its Beijing Communiqué.

STAFF RECOMMENDATION:

Staff recommends the NGPC accept the New gTLD Registry Agreement as presented in Annex 1 of the Resolution.

PROPOSED RESOLUTION:

Whereas, the new generic Top-Level Domain (New gTLD) Program was developed to increase competition and choice by introducing new gTLDs into the Internet's addressing system;

Whereas, the Applicant Guidebook (AGB) was produced to define the New gTLD Program, and included a draft New gTLD Registry Agreement to be entered into by successful applicants and ICANN before proceeding to delegation;

Whereas, on 5 February 2013, ICANN posted for public comment a proposed "[Revised New gTLD Registry Agreement Including Additional Public Interest Commitments Specification](#)," which announced proposed revisions to the agreement in response to developments since the last posting of the AGB in June 2012 and a general review of the contractual needs of the New gTLD Program;

Whereas, on 29 April 2013, ICANN posted for public comment the “[Proposed Final New gTLD Registry Agreement](#),” which included certain updates and changes to the New gTLD Registry Agreement in response to community feedback on the version of the New gTLD Registry Agreement posted for public comment on 5 February 2013 and discussions of the agreement at the ICANN 46 meeting in Beijing, China;

Whereas, ICANN and a group selected by the Registry Stakeholder Group, the Registry Negotiating Team, have continued negotiating the proposed terms of the New gTLD Registry Agreement;

Whereas, the GAC met during the ICANN 46 meeting in Beijing and issued advice in a Communiqué on 11 April 2013 (“Beijing Communiqué”);

Whereas, on 23 April 2013, ICANN initiated a public comment forum to solicit the community’s input on how the NGPC should address GAC advice in the Beijing Communiqué regarding safeguards applicable to broad categories of New gTLD strings <<http://www.icann.org/en/news/public-comment/gac-safeguard-advice-23apr13-en.htm>>;

Whereas, the Beijing Communiqué included advice, which if implemented as suggested by the community, in some cases would require revisions to the New gTLD Registry Agreement;

Whereas, on 25 June 2013, the NGPC adopted resolutions to revise the New gTLD Registry Agreement to respond to certain elements of the GAC’s safeguard advice in the Beijing Communiqué <<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-25jun13-en.htm#2>>;

Whereas, the NGPC has considered all of the comments received from the community from the various public comment forums, and has determined that the revised New gTLD Registry Agreement attached to this Resolution as Annex 1 includes significant improvements in response to the concerns raised by the community; and

Whereas, the NGPC is undertaking this action pursuant to the authority granted to it by the Board on 10 April 2012, to exercise the ICANN Board's authority for any and all issues that may arise relating to the New gTLD Program.

Resolved (2013.xx.xx.NGxx), the NGPC approves the form of the New gTLD Registry Agreement attached to this Resolution as Annex 1.

Resolved (2013.xx.xx.NGxx), the President and CEO is authorized to take all necessary steps to implement the revised New gTLD Registry Agreement and to move forward with implementation of the New gTLD Program.

PROPOSED RATIONALE:

Why the NGPC is addressing the issue?

After the NGPC approves the revised terms of the New gTLD Registry Agreement, it will serve as the contract between successful New gTLD Applicants and ICANN, and will govern the rights and obligations of New gTLD registry operators. Successful New gTLD applicants would be expected to enter into this agreement before proceeding to the next phase of delegation of the TLD.

What is the proposal being considered?

The NGPC is considering approving the revised New gTLD Registry Agreement for the New gTLD Program. The New gTLD Registry Agreement reflects months of negotiations on many key issues raised by the community during various public comment forums. In addition, the New gTLD Registry Agreement addresses GAC advice issued on the New gTLD Program, including its most recent advice issued through the Beijing Communiqué.

Some of the changes to the New gTLD Registry Agreement include:

- **Publication of Registration Data; Personal Data** (Sections 2.5 and 2.18): In response to comments advising that the publication of registration data should be subject to all applicable data protection and regulations (including European Data

Protection laws), the latest version of the Registry Agreement (Section 7.13) provides that ICANN and the Working Group (as defined in the Registry Agreement) will mutually cooperate to develop an ICANN procedure for ICANN's review and consideration of alleged conflicts between applicable laws and provisions of the Registry Agreement. In the meantime, ICANN will review and consider alleged conflicts between applicable laws and the provisions of the registry in a manner similar to ICANN's Procedure For Handling WHOIS Conflicts with Privacy Law.

- **Public Interest Commitments (Specification 11):** Revisions were made to Specification 11 to implement the non-Category 1 safeguard advice in the GAC's Beijing Communiqué (i.e. safeguards applicable to all strings and Category 2 safeguards). The revisions to Specification 11 will incorporate standardized language that would be included in every New gTLD's Specification 11 to address the safeguard advice. Applicant-specific PICs will be included on a case-by-case basis to the extent not superseded by or inconsistent with the standard PICs included to address the GAC's Beijing Communiqué.
- **Adjustment to Fees (Section 6.5):** Taking the public comment into consideration, the fees section was revised to provide that adjustments to fees will become effective as of the first day of the first calendar quarter following ICANN's notice of the adjustment.
- **Referrals to Competition Authorities:** In response to the public comments, the agreement was modified to provide that ICANN will, when feasible and appropriate, provide registry operators with advance notice prior to referring arrangement to competition authorities. (Section 2.9)
- **Brand gTLDs:** ICANN is currently considering alternative provisions for inclusion in the Registry Agreement for .brand and closed registries, and is working with members of the community to identify appropriate alternative provisions. Following this effort, alternative provisions may be included in the Registry Agreement.

The complete Summary of Changes to the New gTLD Registry Agreement is attached to this Resolution as Annex 2. A redline of the current agreement as compared to the previous version dated 29 April 2013 is attached to this Resolution as Annex 3. The Summary and Analysis of Public Comments is attached as Annex 4. In adopting this Resolution, the NGPC considered the comments and rationale provided for the changes as presented in the Annexes.

What significant materials did the NGPC review?

As part of its deliberations, the NGPC reviewed the following significant materials and documents:

- GAC Beijing Communiqué:
<http://www.icann.org/en/news/correspondence/gac-to-board-18apr13-en.pdf>
- Public comments in response to broad categories of GAC safeguard advice:
<http://www.icann.org/en/news/public-comment/gac-safeguard-advice-23apr13-en.htm>
- Report of Public Comments, New gTLD Board Committee Consideration of GAC Safeguard Advice dated 18 June 2013: <http://www.icann.org/en/news/public-comment/report-comments-gac-safeguard-advice-19jun13-en>
- Public comments on 29 April 2013 version of the New gTLD Registry Agreement: <<http://www.icann.org/en/news/public-comment/base-agreement-29apr13-en.htm>>
- New gTLD Program Applicant Guidebook:
<http://newgtlds.icann.org/en/applicants/agb>

What factors did the NGPC find to be significant?

The NGPC took into consideration the public comments from the community submitted during the various public comment forums on the New gTLD Registry Agreement. In addition, the NGPC considered the advice offered by the GAC in its Beijing

Communiqué and the public comments on the safeguard advice in the GAC's Beijing Communiqué. The NGPC also considered the New gTLD Program as established in the Applicant Guidebook.

Are there positive or negative community impacts?

The adoption of the Resolution will permit successful New gTLD applicants to move forward to the contracting phase of the New gTLD Program. This progress will mark another milestone toward the goal of delegating new gTLDs into the root.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

There is no fiscal impact. The fee provisions in the New gTLD Registry Agreement will provide substantial additional resources for ICANN's compliance and registry engagement services in furtherance of ICANN's ongoing coordination, security and stability role. The revised agreement clarifies that registry fees will become due upon delegation, which will help fund expected expenditures to support the roll out of new gTLDs.

Are there any security, stability or resiliency issues relating to the DNS?

Approval of the proposed resolution will not impact security, stability or resiliency issues relating to the DNS. The NGPC previously considered issues of security, stability and resiliency of the DNS issue when adopting the New gTLD Program.

Is this either a defined policy process within ICANN's Supporting Organizations or ICANN's Organizational Administrative Function decision requiring public comment or not requiring public comment?

On 29 April 2013, ICANN initiated a public comment forum to solicit input on the proposed final draft of the New gTLD Registry Agreement. The public comment forum closed on 11 June 2013. On 23 April 2013, ICANN initiated a public comment forum to

solicit input on how the NGPC should address GAC advice regarding safeguards applicable to broad categories of new gTLD strings

<http://www.icann.org/en/news/public-comment/gac-safeguard-advice-23apr13-en.htm>.

The public comment forum closed on 4 June 2013.

Signature Block:

Submitted by: Cyrus Namazi

Position: Vice President, DNS Industry Engagement

Date Noted: 1 July 2013

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New gTLD Agreement

This document contains the registry agreement associated with the Applicant Guidebook for New gTLDs.

Successful gTLD applicants would enter into this form of registry agreement with ICANN prior to delegation of the new gTLD. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed agreement during the course of the application process, including as the possible result of new policies that might be adopted during the course of the application process).

**REGISTRY AGREEMENT
(PROPOSED DRAFT 2 JULY 2013)**

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 _____, a _____ (“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 ____ (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, subject to the requirements and necessary approvals for delegation of the TLD and entry into the root-zone.

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 the registry TLD application, 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

(iii) Registry Operator has delivered to ICANN a duly executed instrument that secures the funds required to perform registry functions for the TLD in the event of the termination or expiration of this Agreement (the

“Continued Operations Instrument”), and such instrument is a binding obligation of the parties thereto, enforceable against the parties thereto in accordance with its terms.

(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 specify, and comply with, the processes and procedures for launch of the TLD and initial registration-related and 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. Any changes or modifications to the process and procedures required by Specification 7 following the Effective Date must be approved in advance by ICANN in writing. 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.

(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 Continued Operations Instrument. Registry Operator shall comply with the terms and conditions relating to the Continued Operations Instrument set forth in Specification 8 attached hereto ("Specification 8").

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. In addition, in the

event of such failure, ICANN shall retain and may enforce its rights under the Continued Operations Instrument.

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.

2.19 [Note: For Community-Based TLDs Only] Obligations of Registry Operator to TLD Community. Registry Operator shall establish registration policies in conformity with the application submitted with respect to the TLD for: (i) naming conventions within the TLD, (ii) requirements for registration by members of the TLD community, and (iii) use of registered domain names in conformity with the stated purpose of the community-based TLD. Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD. Registry Operator shall establish procedures for the enforcement of registration policies for the TLD, and resolution of disputes concerning compliance with TLD registration policies, and shall enforce such registration policies. Registry Operator agrees to implement and be bound by the Registry Restrictions Dispute Resolution Procedure as set forth at [insert applicable URL] with respect to disputes arising pursuant to this Section 2.19. Registry Operator shall implement and comply with the community registration policies set forth on Specification 12 attached hereto.]

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) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator fails to cure a material breach of Registry Operator's obligations set forth in Section 2.12 of this Agreement within thirty (30) calendar days of delivery of notice of such breach by ICANN, or if the Continued Operations Instrument is not in effect for greater than sixty (60) consecutive calendar days at any time following the Effective Date, (ii) an arbitrator or court of competent jurisdiction has finally determined that Registry Operator is in material breach of such covenant, and (iii) Registry Operator fails to 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.

(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 7.5.

(h) [*Applicable to intergovernmental organizations or governmental entities only.*] ICANN may terminate this Agreement pursuant to Section 7.16.

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.

[Alternative Section 4.5 Transition of Registry upon Termination of Agreement text for intergovernmental organizations or governmental entities or other special circumstances:

“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, in connection with ICANN's designation of a successor registry operator for the TLD, Registry Operator and ICANN agree to consult each other and work cooperatively to facilitate and implement the transition of the TLD in accordance with this Section 4.5. 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. In the event ICANN determines to transition operation of the TLD to a successor registry operator, upon Registry Operator's consent (which shall not be unreasonably withheld, conditioned or delayed), Registry Operator shall provide ICANN or such successor registry operator for the TLD with any data regarding operations of the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator in addition to data escrowed in accordance with Section 2.3 hereof. In the event that Registry Operator does not consent to provide such data, any registry data related to the TLD shall be returned to Registry Operator, unless otherwise agreed upon by the 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, 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 2.12, 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.

[Alternative **Section 5.2 Arbitration** text for intergovernmental organizations or governmental entities or other special circumstances:

“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 Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN. 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 Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN; 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 Pass Through Fees. Registry Operator shall pay to ICANN (i) a one-time fee equal to US\$5,000 for access to and use of the Trademark Clearinghouse as described in Specification 7 (the “RPM Access Fee”) and (ii) US\$0.25¹ per Sunrise Registration and Claims Registration (as such terms are used in Trademark Clearinghouse RPMs incorporated herein pursuant to Specification 7) (the “RPM Registration Fee”). The RPM Access Fee will be invoiced as of the Effective Date of this Agreement, and Registry Operator shall pay such fee to an account specified by ICANN within thirty (30) calendar days following the date of the invoice. ICANN will invoice Registry Operator quarterly for the RPM Registration Fee, which shall be due in accordance with the invoicing and payment procedure specified in Section 6.1.

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

¹ Subject to further approvals.

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.

[Alternative **Section 7.1(a)** text for intergovernmental organizations or governmental entities:

"Registry Operator shall use its best efforts to cooperate with ICANN in order to ensure that ICANN does not incur any costs associated with 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 provide such cooperation to the extent the claim, damage, liability, cost or expense arose due to a breach by ICANN of any of its obligations 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. [**Note: This Section 7.1(b) is inapplicable to intergovernmental organizations or governmental entities.**]

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. [**Note: This Section 7.2 is inapplicable to intergovernmental organizations or governmental entities.**]

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, 7.16; 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
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:
[_____]

[_____]
[_____]
Telephone:

With a Required Copy to:
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.

[Note: The following section is applicable to intergovernmental organizations or governmental entities only.]

7.16 Special Provision Relating to Intergovernmental Organizations or Governmental Entities.

(a) ICANN acknowledges that Registry Operator is an entity subject to public international law, including international treaties applicable to Registry Operator

(such public international law and treaties, collectively hereinafter the “Applicable Laws”). Nothing in this Agreement and its related specifications shall be construed or interpreted to require Registry Operator to violate Applicable Laws or prevent compliance therewith. The Parties agree that Registry Operator’s compliance with Applicable Laws shall not constitute a breach of this Agreement.

(b) In the event Registry Operator reasonably determines that any provision of this Agreement and its related specifications, or any decisions or policies of ICANN referred to in this Agreement, including but not limited to Temporary Policies and Consensus Policies (such provisions, specifications and policies, collectively hereinafter, “ICANN Requirements”), may conflict with or violate Applicable Law (hereinafter, a “Potential Conflict”), Registry Operator shall provide detailed notice (a “Notice”) of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy. In the event Registry Operator determines that there is Potential Conflict between a proposed Applicable Law and any ICANN Requirement, Registry Operator shall provide detailed Notice of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy.

(c) As soon as practicable following such review, the parties shall attempt to resolve the Potential Conflict by mediation pursuant to the procedures set forth in Section 5.1. In addition, Registry Operator shall use its best efforts to eliminate or minimize any impact arising from such Potential Conflict between Applicable Laws and any ICANN Requirement. If, following such mediation, Registry Operator determines that the Potential Conflict constitutes an actual conflict between any ICANN Requirement, on the one hand, and Applicable Laws, on the other hand, then ICANN shall waive compliance with such ICANN Requirement (provided that the parties shall negotiate in good faith on a continuous basis thereafter to mitigate or eliminate the effects of such noncompliance on ICANN), unless ICANN reasonably and objectively determines that the failure of Registry Operator to comply with such ICANN Requirement would constitute a threat to the Security and Stability of Registry Services, the Internet or the DNS (hereinafter, an “ICANN Determination”). Following receipt of notice by Registry Operator of such ICANN Determination, Registry Operator shall be afforded a period of ninety (90) calendar days to resolve such conflict with an Applicable Law. If the conflict with an Applicable Law is not resolved to ICANN’s complete satisfaction during such period, Registry Operator shall have the option to submit, within ten (10) calendar days thereafter, the matter to binding arbitration as defined in subsection (d) below. If during such period, Registry Operator does not submit the matter to arbitration pursuant to subsection (d) below, ICANN may, upon notice to Registry Operator, terminate this Agreement with immediate effect.

(d) If Registry Operator disagrees with an ICANN Determination, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2, except that the sole issue presented to the arbitrator for determination will be whether or not ICANN reasonably and objectively reached the ICANN Determination. For the purposes of such arbitration, ICANN shall present evidence to the arbitrator supporting

the ICANN Determination. If the arbitrator determines that ICANN did not reasonably and objectively reach the ICANN Determination, then ICANN shall waive Registry Operator's compliance with the subject ICANN Requirement. If the arbitrators or pre-arbitral referee, as applicable, determine that ICANN did reasonably and objectively reach the ICANN Determination, then, upon notice to Registry Operator, ICANN may terminate this Agreement with immediate effect.

(e) Registry Operator hereby represents and warrants that, to the best of its knowledge as of the date of execution of this Agreement, no existing ICANN Requirement conflicts with or violates any Applicable Law.

(f) Notwithstanding any other provision of this Section 7.16, following an ICANN Determination and prior to a finding by an arbitrator pursuant to Section 7.16(d) above, ICANN may, subject to prior consultations with Registry Operator, take such reasonable technical measures as it deems necessary to ensure the Security and Stability of Registry Services, the Internet and the DNS. These reasonable technical measures shall be taken by ICANN on an interim basis, until the earlier of the date of conclusion of the arbitration procedure referred to in Section 7.16(d) above or the date of complete resolution of the conflict with an Applicable Law. In case Registry Operator disagrees with such technical measures taken by ICANN, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2 above, during which process ICANN may continue to take such technical measures. In the event that ICANN takes such measures, Registry Operator shall pay all costs incurred by ICANN as a result of taking such measures. In addition, in the event that ICANN takes such measures, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

* * * * *

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 Operator]

By: _____
[_____] _____
Date:

EXHIBIT A

Approved Services

The ICANN gTLD Applicant Guidebook (located at <http://newgtlds.icann.org/en/applicants/agb>) and the RSEP specify 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:

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-ariasnoguchi-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 http://www.iana.org/assignments/registrar-ids
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-successfully	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

Field #	Field Name	Description
16	srs-dom-renew	number of SRS (EPP and any other interface) domain name “renew” requests responded during 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

Field #	Field Name	Description
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 "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. **Two-character labels.** All two-character ASCII labels shall be withheld from registration or allocated to Registry Operator at the second level within the TLD. Such labels may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator, provided that such two-character label strings may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN. Upon conclusion of Registry Operator’s designation as operator of the registry for the TLD, all such labels 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.

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 activate in the DNS at All Levels up to one hundred (100) names (plus their IDN variants, where applicable) necessary for the operation or the promotion of the TLD. Registry Operator must act as the Registered Name Holder of such names as that term is defined in the then-current ICANN Registrar Accreditation Agreement (RAA). These activations will be considered Transactions for purposes of Section 6.1 of the Agreement. Registry Operator must either (i) register such names through an ICANN-accredited registrar; or (ii) self-allocate such names and with respect to those names submit to and be responsible to ICANN for compliance with ICANN Consensus Policies and the obligations set forth in Subsections 3.7.7.1 through 3.7.7.12 of the then-current RAA (or any other replacement clause setting out the terms of the registration agreement between a registrar and a registered name holder). At Registry Operator's discretion and in compliance with all other terms of this Agreement, such names may be released for registration to another person or entity.
- 3.3. 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#EU>;

- 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://archive.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://archive.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, 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.
- 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 shall implement and adhere to the rights protection mechanisms (“RPMs”) specified in this Specification. In addition to such RPMs, Registry Operator may develop and implement additional RPMs that discourage or prevent registration of domain names that violate or abuse another party’s legal rights. Registry Operator will include all RPMs required by this Specification 7 and any additional 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 implement in accordance with requirements set forth therein each of the mandatory RPMs set forth in the Trademark Clearinghouse as of the date hereof, as posted at [url to be inserted] (the “Trademark Clearinghouse Requirements”), which may be revised in immaterial respects by ICANN from time to time. 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. If there is a conflict between the terms and conditions of this Agreement and the Trademark Clearinghouse Requirements, the terms and conditions of this Agreement shall control.

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) and the Registration Restriction Dispute Resolution Procedure (RRDRP) adopted by ICANN (posted at [urls to be inserted when final procedure is adopted]). 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 or RRDRP panel and to be bound by any such determination; and

 - b. the Uniform Rapid Suspension system (“URS”) adopted by ICANN (posted at [url to be inserted]), including the implementation of determinations issued by URS examiners.

SPECIFICATION 8**CONTINUED OPERATIONS INSTRUMENT**

1. The Continued Operations Instrument shall (a) provide for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6th) anniversary of the Effective Date, and (b) be in the form of either (i) an irrevocable standby letter of credit, or (ii) an irrevocable cash escrow deposit, each meeting the requirements set forth in item 50(b) of Attachment to Module 2 – Evaluation Questions and Criteria – of the gTLD Applicant Guidebook, as published and supplemented by ICANN prior to the date hereof (which is hereby incorporated by reference into this Specification 8). Registry Operator shall use its best efforts to take all actions necessary or advisable to maintain in effect the Continued Operations Instrument for a period of six (6) years from the Effective Date, and to maintain ICANN as a third party beneficiary thereof. If Registry Operator elects to obtain an irrevocable standby letter of credit but the term required above is unobtainable, Registry Operator may obtain a letter of credit with a one-year term and an “evergreen provision,” providing for annual extensions, without amendment, for an indefinite number of additional periods until the issuing bank informs ICANN of its final expiration or until ICANN releases the letter of credit as evidenced in writing, if the letter of credit otherwise meets the requirements set forth in item 50(b) of Attachment to Module 2 – Evaluation Questions and Criteria – of the gTLD Applicant Guidebook, as published and supplemented by ICANN prior to the date hereof; provided, however, that if the issuing bank informs ICANN of the expiration of such letter of credit prior to the sixth (6th) anniversary of the Effective Date, such letter of credit must provide that ICANN is entitled to draw the funds secured by the letter of credit prior to such expiration. The letter of credit must require the issuing bank to give ICANN at least thirty (30) calendar days’ notice of any such expiration or non-renewal. If the letter of credit expires or is terminated at any time prior to the sixth (6th) anniversary of the Effective Date, Registry Operator will be required to obtain a replacement Continued Operations Instrument. ICANN may draw the funds under the original letter of credit, if the replacement Continued Operations Instrument is not in place prior to the expiration of the original letter of credit. Registry Operator shall provide to ICANN copies of all final documents relating to the Continued Operations Instrument and shall keep ICANN reasonably informed of material developments relating to the Continued Operations Instrument. Registry Operator shall not agree to, or permit, any amendment of, or waiver under, the Continued Operations Instrument or other documentation relating thereto without the prior written consent of ICANN (such consent not to be unreasonably withheld).

2. If, notwithstanding the use of best efforts by Registry Operator to satisfy its obligations under the preceding paragraph, the Continued Operations Instrument expires or is terminated by another party thereto, in whole or in part, for any reason, prior to the sixth anniversary of the Effective Date, Registry Operator shall promptly (i) notify ICANN of such expiration or termination and the reasons therefor and (ii) arrange for an alternative instrument that provides for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date (an "Alternative Instrument"). Any such Alternative Instrument shall be on terms no less favorable to ICANN than the Continued Operations Instrument and shall otherwise be in form and substance reasonably acceptable to ICANN.
3. Notwithstanding anything to the contrary contained in this Specification 8, at any time, Registry Operator may replace the Continued Operations Instrument with an Alternative Instrument that (i) provides for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date, and (ii) contains terms no less favorable to ICANN than the Continued Operations Instrument and is otherwise in form and substance reasonably acceptable to ICANN. In the event Registry Operator replaces the Continued Operations Instrument either pursuant to paragraph 2 or this paragraph 3, the terms of this Specification 8 shall no longer apply with respect to the original Continuing Operations Instrument, but shall thereafter apply with respect to such Alternative Instrument(s), and such instrument shall thereafter be considered the Continued Operations Instrument for purposes of this Agreement.

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 (a) reserve names from registration pursuant to Section 2.6 of the Agreement and (b) may withhold from registration or allocate to Registry Operator up to one hundred (100) names pursuant to Section 3.2 of Specification 5;
 - 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)
DNS	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
RDDS	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
EPP	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 troubleshooting 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 _____, 2013 in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN's website.
2. Registry Operator will operate the registry for the TLD in compliance with all commitments, statements of intent and business plans stated in the following sections of Registry Operator's application to ICANN for the TLD, which commitments, statements of intent and business plans are hereby incorporated by reference into this Agreement. Registry Operator's obligations pursuant to this paragraph shall be enforceable by ICANN and through the Public Interest Commitment Dispute Resolution Process established by ICANN (posted at [url to be inserted when final procedure is adopted]), which may be revised in immaterial respects by ICANN from time to time (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.

[Registry Operator to insert specific application sections here, if applicable]

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 may establish restricted registration policies for the TLD, including any that may be appropriate for risks associated with the TLD.]²
- e. 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.

² This provision is a preliminary draft for discussion purposes. It is subject to consideration by the NGPC at its meeting scheduled for 2 July 2013.

SPECIFICATION 12

COMMUNITY REGISTRATION POLICIES

Registry Operator shall implement and comply with all community registration policies described below and/or attached to this Specification 12.

[Insert registration policies]

Summary of Changes to Registry Agreement for New gTLDs

The table below sets out the proposed changes to the draft base registry agreement for new gTLDs. Additions are reflected in bold double underline and deletions are reflected in strike through. These changes were made in response to comments received from the community on the April 2013 discussion draft base agreement for new gTLDs (the “Agreement”) and further review of the contractual needs of the new gTLD program. Note that non-substantive, purely technical and stylistic changes to the draft base agreement for new gTLDs are not reflected in the below table. To review all changes to the agreement, please see the full redline comparison posted with this summary.

Summary of Proposed Changes to Base gTLD Agreement

Section	Change to Text	Comments and Rationale
Section 2.9(b)	<p>(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. <u>If feasible and appropriate under the circumstances, ICANN will give Registry Operator advance notice prior to making any such referral to a competition authority.</u></p>	<p>In response to public comment, ICANN will, when feasible and appropriate, provide Registry Operator with advance notice prior to referring arrangements to competition authorities.</p>
Section 2.9(c)	<p>(c) For the purposes of this Agreement: (i) “Affiliate” means a person or entity that, directly or indirectly, through one or more intermediaries, <u>or in combination with one or more other persons or entities,</u></p>	<p>Edit made in response to public comments to clarify that entity does not need to be wholly-owned to be an</p>

Section	Change to Text	Comments and Rationale
	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.	Affiliate.
Section 2.11(a)	(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 <u>during regular business hours and</u> 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 <u>reasonably</u> 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.	Clarification of timing and scope of audit.
Section 2.11(b)	(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	Clarification of relevant time period for determining audit reimbursement

Section	Change to Text	Comments and Rationale
	<p>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% <u>in a given quarter</u> 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.</p>	<p>calculation.</p>
<p>Section 2.11(d)</p>	<p>(d) Registry Operator will give ICANN immediate notice <u>of Registry Operator’s knowledge</u> 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).</p>	<p>Clarification that Registry Operator only has to provide notice of a proceeding that it knows about.</p>
<p>Section 4.3(d)</p>	<p>(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 <u>material</u> 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 thirtysixty (3060) <u>thirty (30)</u> calendar days of their commencement, or (vi) Registry Operator files for protection under the United States Bankruptcy Code, 11</p>	<p>In response to public comment, the provision was revised to require levies upon material assets of the Registry Operator and provide additional time for the Registry Operator to challenge an involuntary bankruptcy proceeding.</p>

Section	Change to Text	Comments and Rationale
	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.	
Section 4.5	<p>4.5 Transition of Registry upon Termination of Agreement.</p> <p>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 for<u>for</u> its own<u>own</u> <u>Affiliates for their</u> 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</p>	In response to public comment, ICANN will also take into consideration TLDs in which all domain name registrations are owned by Affiliates in determining whether to transition the TLD to a successor registry operator.

Section	Change to Text	Comments and Rationale
	<p>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.</p>	
Section 5.1(a)	<p>(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, <u>has no ongoing business relationship with either party</u> 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).</p>	<p>In response to public comment, provision clarified to make clear that mediator must not have any ongoing business relationship with ICANN or Registry Operator.</p>
Section 6.5	<p>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</p>	<p>In response to public comment, adjustments to fees will become effective as of the first day of the first calendar quarter following ICANN's notice of such adjustment.</p>

Section	Change to Text	Comments and Rationale
	<p>specifying the amount of such adjustment. Any fee adjustment under this Section 6.5 shall be effective as of the first day of the year in which the above calculation is made<u>first calendar quarter following at least thirty (30) days after ICANN’s delivery to Registry Operator of such fee adjustment notice.</u></p>	
Section 7.5(f)	<p>(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. <u>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.</u></p>	<p>Clarification that when an assignment is made pursuant to Section 7.5(f), even though the notification requirements of Section 7.5(a) do not apply, the parties must still give prompt notice.</p>
Section 7.6(j)(ii)	<p>(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</p>	<p>Addition to clarify calculation of converted currency.</p>

Section	Change to Text	Comments and Rationale
	<p>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.</p>	
Section 7.7(d)(i)	<p>(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).</p>	<p>In response to public comment, provision clarified to make clear that arbitrator must not have any ongoing business relationship with ICANN or Registry Operator.</p>
Section 7.9	<p>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</p>	<p>Deletion to remove duplicative provision that is also contained in Section 7.11.</p>

Section	Change to Text	Comments and Rationale
	<p>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 agreementAgreement. 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. Notices, designations, determinations, and specifications made under this Agreement will be in the English language. 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.</p>	
Section 7.15(a)	<p>(a) Subject to Section 7.15(c), during the Term and for a period of twothree (23) 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.</p>	<p>In response to public comment, confidentiality period extended to three years.</p>
Specification 2	<p>1.1. “Full Deposit” will consist of data that reflects the state of the registry as of 00:00:00 UTC on each Sunday(Coordinated Universal Time) on the day that such Full Deposit is submitted</p>	<p>Revision to account for possibility that Registry Operator may submit Full</p>

Section	Change to Text	Comments and Rationale
Part A Section 1.1	to Escrow Agent.	Deposits on days other than the mandatory Full Deposit on Sunday.
Specification 2 Part A Section 3.1	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. The aforementioned document (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 time of signing the Agreement, if not already an RFC Effective Date . Registry Operator may at its election use newer versions of the DNDE Specification after the Effective Date . Once the specification DNDE Specification is published as an RFC, Registry Operator will implement that specification version of the DNDE Specification , no later than one hundred eighty (180) calendar days after. UTF-8 character encoding will be used.	Addition to clarify that Registry Operator must follow the then-current version of the specification.
Specification 2 Part A Section 4.3	(3) The A compressed and encrypted OpenPGP Message is created using the tarball file should be compressed as sole input . The suggested algorithm for compression is ZIP as per RFC 4880. (4) 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.	Clarification that the file is encrypted and compressed as an OpenPGP Message.

Section	Change to Text	Comments and Rationale
Specification 2 Part A Section 6	<p>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.</p>	<p>Clarification that the key that will be exchanged by the parties will be their public keys.</p>
Specification 2 Part A Section 7	<p>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.</p> <p>If not already an RFC, Registry Operator will use the most recent draft version available at the time of signing this Agreement, if not already an RFCof 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 specificationInterface Specification is published as an RFC, Registry Operator will implement that specificationversion of the Interface Specification, no later than one hundred eighty (180) calendar days after such publishing.</p>	<p>Addition to clarify that Registry Operator must follow the then-current version of the specification.</p>

Section	Change to Text	Comments and Rationale
Specification 2 Part B Section 3	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 <u>to ICANN or to a party designated in writing by ICANN</u> on a non-exclusive, perpetual, irrevocable, royalty-free, paid-up basis to ICANN or to a party designated in writing by ICANN, for any use related to the operation, maintenance or transition of the TLD.	Revision clarify that license extends to ICANN’s designees and defines the scope of the license granted.
Specification 2 Part B Section 9	9. Indemnity. Registry Operator shall indemnify and hold harmless Escrow Agent and each of its directors, officers, agents, employees, members, and stockholders (“Escrow Agent 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 Escrow Agent Indemnitees in connection with the Escrow Agreement or the performance of Escrow Agent or any Escrow Agent Indemnitees thereunder (with the exception of any claims based on the misrepresentation, negligence, or misconduct of Escrow Agent, its directors, officers, agents, employees, contractors, members, and stockholders). 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,	In response to public comments, the provision was revised to allow Registry Operators and escrow agents’ to determine the level of indemnity between such parties.

Section	Change to Text	Comments and Rationale															
	employees and contractors.																
Specification 3 Preamble	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 <u>(3)</u> 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). <u>Monthly reports shall consist of data that reflects the state of the registry at the end of the month (UTC).</u>	Clarification of the relevant data that should be included in reports.															
Specification 3 Section 1	<p>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:</p> <table border="1" data-bbox="428 834 1411 1419"> <thead> <tr> <th data-bbox="428 834 527 906">Field #</th> <th data-bbox="527 834 774 906">Field name</th> <th data-bbox="774 834 1411 906">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="428 906 527 987">01</td> <td data-bbox="527 906 774 987">registrar-name</td> <td data-bbox="774 906 1411 987">Registrar’s full corporate name as registered with IANA</td> </tr> <tr> <td data-bbox="428 987 527 1203">02</td> <td data-bbox="527 987 774 1203">iana-id</td> <td data-bbox="774 987 1411 1203">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 http://www.iana.org/assignments/registrar-ids</td> </tr> <tr> <td data-bbox="428 1203 527 1317">03</td> <td data-bbox="527 1203 774 1317">total-domains</td> <td data-bbox="774 1203 1411 1317">total domains domain names under sponsorship in any EPP status but pending Create that have not been purged</td> </tr> <tr> <td data-bbox="428 1317 527 1419">04</td> <td data-bbox="527 1317 774 1419">total-nameservers</td> <td data-bbox="774 1317 1411 1419">total name servers (either host objects or name server hosts as domain name attributes) associated with domain names registered for the</td> </tr> </tbody> </table>	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 http://www.iana.org/assignments/registrar-ids	03	total-domains	total domains domain names under sponsorship in any EPP status but pending Create 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	Clarification on several field descriptions per public commentary and questions from applicants.
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 http://www.iana.org/assignments/registrar-ids															
03	total-domains	total domains domain names under sponsorship in any EPP status but pending Create 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															

Section	Change to Text			Comments and Rationale
			TLD <u>in any EPP status but pendingCreate that have not been purged</u>	
	05	net-adds-1-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of one <u>(1)</u> year (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	06	net-adds-2-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of two <u>(2)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	07	net-adds-3-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of three <u>(3)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	08	net-adds-4-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of four <u>(4)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	09	net-adds-5-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of five <u>(5)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	

Section	Change to Text			Comments and Rationale
	10	net-adds-6-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of six <u>(6)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	11	net-adds-7-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of seven <u>(7)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	12	net-adds-8-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of eight <u>(8)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	13	net-adds-9-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of nine <u>(9)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	14	net-adds-10-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of ten <u>(10)</u> years (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>	
	15	net-renews-1-yr	number of domains successfully renewed <u>(i.e., not in EPP pendingRenew status)</u> either	

Section	Change to Text			Comments and Rationale
			<p>automatically or by command with a new renewal period of one <u>(1)</u> year (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u></p>	
	16	net-renews-2-yr	<p>number of domains successfully renewed <u>(i.e., not in EPP pendingRenew status)</u> either automatically or by command with a new renewal period of two <u>(2)</u> years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u></p>	
	17	net-renews-3-yr	<p>number of domains successfully renewed <u>(i.e., not in EPP pendingRenew status)</u> either automatically or by command with a new renewal period of three <u>(3)</u> years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u></p>	
	18	net-renews-4-yr	<p>number of domains successfully renewed <u>(i.e., not in EPP pendingRenew status)</u> either automatically or by command with a new renewal period of four <u>(4)</u> years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u></p>	
	19	net-renews-5-yr	<p>number of domains successfully renewed <u>(i.e., not in EPP pendingRenew status)</u> either automatically or by command with a new renewal period of five <u>(5)</u> years (and not deleted</p>	

Section	Change to Text			Comments and Rationale
			within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u>	
	20	net-renews-6-yr	number of domains successfully renewed (<u>i.e., not in EPP pendingRenew status</u>) either automatically or by command with a new renewal period of six (<u>6</u>) years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u>	
	21	net-renews-7-yr	number of domains successfully renewed (<u>i.e., not in EPP pendingRenew status</u>) either automatically or by command with a new renewal period of seven (<u>7</u>) years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u>	
	22	net-renews-8-yr	number of domains successfully renewed (<u>i.e., not in EPP pendingRenew status</u>) either automatically or by command with a new renewal period of eight (<u>8</u>) years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u>	
	23	net-renews-9-yr	number of domains successfully renewed (<u>i.e., not in EPP pendingRenew status</u>) either automatically or by command with a new renewal period of nine (<u>9</u>) years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the</u>	

Section	Change to Text			Comments and Rationale
			<u>month the renew or auto-renew grace period ends.</u>	
	24	net-renews-10-yr	number of domains successfully renewed (<u>i.e., not in EPP pendingRenew status</u>) either automatically or by command with a new renewal period of ten (<u>10</u>) years (and not deleted within the renew <u>or auto-renew</u> grace period). <u>A transaction must be reported in the month the renew or auto-renew grace period ends.</u>	
	25	transfer-gaining-successful	<u>number of domain</u> transfers initiated by this registrar that were ack'd by the other registrar—either by command <u>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.</u>	
	26	transfer-gaining-nacked	<u>number of domain</u> transfers initiated by this registrar that were n'acked <u>rejected (e.g., EPP transfer op="reject")</u> by the other registrar	
	27	transfer-losing-successfully	<u>number of domain</u> transfers initiated by another registrar that this registrar ack'd—either by command <u>were successfully completed (either explicitly or automatically approved)</u>	
	28	transfer-losing-nacked	<u>number of domain</u> transfers initiated by another registrar that this registrar n'acked <u>rejected (e.g., EPP transfer op="reject")</u>	
	29	transfer-disputed-won	number of transfer disputes in which this registrar prevailed (<u>reported in the month where the determination happened</u>)	
	30	transfer-	number of transfer disputes this registrar lost	

Section	Change to Text			Comments and Rationale
		disputed-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	
Specification 4 Section 1.4	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.			Clarification that ICANN will not unreasonably withhold its approval.

Section	Change to Text	Comments and Rationale
Specification 4 Section 1.8	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 <u>(the extension will be provided as a separate field as shown above)</u> , 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.	Clarification that the phone/fax extension shall be provided as a separate field and not as part of the phone/fax field as the EPP standard.
Specification 4 Section 1.9	1.9. WHOIS output shall <u>In order to</u> be compatible with ICANN's common interface for WHOIS (InterNIC), <u>WHOIS output shall be in the format outline above.</u>	Provision revised to provide additional clarity
Specification 4 Section 2.1.2	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 the Internet host machine name and IP address.	Clarification that the host name is not a required field.
Specification 4 Section 3.2	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 within three <u>as soon as commercially practicable, but in no event later than five (5)</u> calendar days <u>following ICANN's request</u> . Unless otherwise agreed by Registry Operator and ICANN, the file will	In response to public comment, period for compliance extended from three calendar days to five calendar days, although data should be provided as soon as commercially practicable.

Section	Change to Text	Comments and Rationale
	<p>be made available for download by ICANN in the same manner as the data specified in Section 3.1 of this Specification.</p>	
<p>Specification 5 Section 5</p>	<p>5. International Olympic Committee; International Red Cross and Red Crescent Movement. The following <u>As instructed from time to time by ICANN, the</u> names (including their IDN variants, where applicable) <u>relating to the International Olympic Committee, International Red Cross and Red Crescent Movement listed at</u> http://archive.icann.org/en/resources/registries/reserved shall be withheld from registration or allocated to Registry Operator at the second level within the TLD. Additional <u>International Olympic Committee, International Red Cross and Red Crescent Movement</u> names (including their IDN variants) may be added to the following 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.</p>	<p>Clarifications in response to public comment. Link inserted rather than embedded table.</p>
<p>Specification 5 Section 6</p>	<p>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. <u>A list of reserved names for this Section 6 is available at</u> http://archive.icann.org/en/resources/registries/reserved. <u>Additional names (including their IDN variants) may be added to the list upon ten (10) calendar days notice from ICANN to Registry Operator.</u> 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</p>	<p>Link inserted rather than embedded table. Provision also revised to provide for addition of reserved names upon notice to Registry Operator.</p>

Section	Change to Text	Comments and Rationale
	<p>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.</p>	
<p>Specification 6 Section 1.1</p>	<p>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, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 4343, and 5966. <u>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”).</u></p>	<p>Provision moved from Section 1.4.</p>
<p>Specification 6 Section 1.2</p>	<p>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 <u>(if using host objects)</u>, 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.</p>	<p>Clarification that supporting EPP host objects is optional.</p>

Section	Change to Text	Comments and Rationale
Specification 6 Section 1.4	<p>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. 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”).</p>	Provision moved to Section 1.1.
Specification 7 Section 1	<p>1. Rights Protection Mechanisms. Registry Operator shall implement and adhere to the rights protection mechanisms (“RPMs”) specified in this Specification. In addition to such RPMs, Registry Operator may develop and implement additional RPMs that discourage or prevent registration of domain names that violate or abuse another party’s legal rights. Registry Operator will include all ICANN mandated and independently developed RPMs <u>RPMs required by this Specification 7 and any additional RPMs developed and implemented by Registry Operator</u> in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD. Registry Operator shall implement in accordance with requirements set forth therein each of the mandatory RPMs set forth in the Trademark Clearinghouse as of the date hereof, as posted at [<i>url to be inserted</i>] (the “Trademark Clearinghouse Requirements”), which may be revised in immaterial respects by ICANN from time to time. 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. If there is a conflict between the terms and conditions of this Agreement and the Trademark Clearinghouse Requirements, the terms and conditions of this Agreement shall</p>	In response to public comment, provision revised to make clear that Registry Operator must implement the RPMs required by Specification 7 but may also implement its RPMs as well.

Section	Change to Text	Comments and Rationale																																	
	control.																																		
Specification 9 Section 6	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 its own 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.	In response to public comment, provision revised to include TLDs in which domain names are only registered to Registry Operator and its Affiliates.																																	
Specification 10 Section 2	<p>2. <u>Service Level Agreement Matrix</u></p> <table border="1" data-bbox="430 768 1409 1398"> <thead> <tr> <th></th> <th>Parameter</th> <th>SLR (monthly basis)</th> </tr> </thead> <tbody> <tr> <td>DNS</td> <td>DNS service availability</td> <td>0 min downtime = 100% availability</td> </tr> <tr> <td></td> <td>DNS name server availability</td> <td>≤ 432 min of downtime (≈ 99%)</td> </tr> <tr> <td></td> <td>TCP DNS resolution RTT</td> <td>≤ 1500 ms, for at least 95% of the queries</td> </tr> <tr> <td></td> <td>UDP DNS resolution RTT</td> <td>≤ 500 ms, for at least 95% of the queries</td> </tr> <tr> <td></td> <td>DNS update time</td> <td>≤ 60 min, for at least 95% of the probes</td> </tr> <tr> <td>RDDS</td> <td>RDDS availability</td> <td>≤ 864 min of downtime (≈ 98%)</td> </tr> <tr> <td></td> <td>RDDS query RTT</td> <td>≤ 2000 ms, for at least 95% of the queries</td> </tr> <tr> <td></td> <td>RDDS update time</td> <td>≤ 60 min, for at least 95% of the probes</td> </tr> <tr> <td>EPP</td> <td>EPP service availability</td> <td>≤ 864 min of downtime (≈ 98%)</td> </tr> <tr> <td></td> <td>EPP session-command</td> <td>≤ 4000 ms, for at least 90% of the</td> </tr> </tbody> </table>		Parameter	SLR (monthly basis)	DNS	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	RDDS	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	EPP	EPP service availability	≤ 864 min of downtime (≈ 98%)		EPP session-command	≤ 4000 ms, for at least 90% of the	Edit to clarify previous text.
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Section	Change to Text		Comments and Rationale	
		RTT	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	
	<p>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.</p>			
<p>Specification 11 Section 3</p>	<p>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.</p> <p>{Registry Operator to insert specific commitments here, if applicable}</p> <p>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.</p>		<p>The changes to Spec 11 are in response to the New gTLD Program Committee responding to the GAC's safeguard advice in the Beijing Communiqué. During the public comment period on the safeguard advice in the GAC's Beijing Communiqué, many members of the community suggested that if the NGPC accepts the advice, it could be done through the PIC Spec in the New gTLD Registry Agreement. The NGPC adopted resolutions on 25 June 2013 directing staff to revise the New gTLD Registry Agreement to include new provisions in the PIC Spec to implement the GAC's advice</p>	

Section	Change to Text	Comments and Rationale
	<p><u>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.</u></p> <p><u>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.</u></p> <p><u>d. [Registry Operator may establish restricted registration policies for the TLD, including any that may be appropriate for risks associated with the TLD.]</u></p> <p><u>e. 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.</u></p>	

New gTLD Agreement

This document contains the registry agreement associated with the Applicant Guidebook for New gTLDs.

Successful gTLD applicants would enter into this form of registry agreement with ICANN prior to delegation of the new gTLD. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed agreement during the course of the application process, including as the possible result of new policies that might be adopted during the course of the application process).

REGISTRY AGREEMENT
(PROPOSED DRAFT ~~29-APRIL~~ 2 JULY 2013)

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 _____, a _____ (“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 ____ (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, subject to the requirements and necessary approvals for delegation of the TLD and entry into the root-zone.

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 the registry TLD application, 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

(iii) Registry Operator has delivered to ICANN a duly executed instrument that secures the funds required to perform registry functions for the TLD in the event of the termination or expiration of this Agreement (the

“Continued Operations Instrument”), and such instrument is a binding obligation of the parties thereto, enforceable against the parties thereto in accordance with its terms.

(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 specify, and comply with, the processes and procedures for launch of the TLD and initial registration-related and 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. Any changes or modifications to the process and procedures required by Specification 7 following the Effective Date must be approved in advance by ICANN in writing. 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.

(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 Continued Operations Instrument. Registry Operator shall comply with the terms and conditions relating to the Continued Operations Instrument set forth in Specification 8 attached hereto ("Specification 8").

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. In addition, in the

event of such failure, ICANN shall retain and may enforce its rights under the Continued Operations Instrument.

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.

2.19 [Note: For Community-Based TLDs Only] Obligations of Registry Operator to TLD Community. Registry Operator shall establish registration policies in conformity with the application submitted with respect to the TLD for: (i) naming conventions within the TLD, (ii) requirements for registration by members of the TLD community, and (iii) use of registered domain names in conformity with the stated purpose of the community-based TLD. Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD. Registry Operator shall establish procedures for the enforcement of registration policies for the TLD, and resolution of disputes concerning compliance with TLD registration policies, and shall enforce such registration policies. Registry Operator agrees to implement and be bound by the Registry Restrictions Dispute Resolution Procedure as set forth at [insert applicable URL] with respect to disputes arising pursuant to this Section 2.19. Registry Operator shall implement and comply with the community registration policies set forth on Specification 12 attached hereto.]

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) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator fails to cure a material breach of Registry Operator's obligations set forth in Section 2.12 of this Agreement within thirty (30) calendar days of delivery of notice of such breach by ICANN, or if the Continued Operations Instrument is not in effect for greater than sixty (60) consecutive calendar days at any time following the Effective Date, (ii) an arbitrator or court of competent jurisdiction has finally determined that Registry Operator is in material breach of such covenant, and (iii) Registry Operator fails to 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.

(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 ~~thirtysixty~~ (30/60) 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 ~~that~~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 7.5.

(h) [*Applicable to intergovernmental organizations or governmental entities only.*] ICANN may terminate this Agreement pursuant to Section 7.16.

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 ~~for~~for its own 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.

[Alternative Section 4.5 Transition of Registry upon Termination of Agreement text for intergovernmental organizations or governmental entities or other special circumstances:

“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, in connection with ICANN's designation of a successor registry operator for the TLD, Registry Operator and ICANN agree to consult each other and work cooperatively to facilitate and implement the transition of the TLD in accordance with this Section 4.5. 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. In the event ICANN determines to transition operation of the TLD to a successor registry operator, upon Registry Operator's consent (which shall not be unreasonably withheld, conditioned or delayed), Registry Operator shall provide ICANN or such successor registry operator for the TLD with any data regarding operations of the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator in addition to data escrowed in accordance with Section 2.3 hereof. In the event that Registry Operator does not consent to provide such data, any registry data related to the TLD shall be returned to Registry Operator, unless otherwise agreed upon by the 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, 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 2.12, 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.

[Alternative **Section 5.2 Arbitration** text for intergovernmental organizations or governmental entities or other special circumstances:

“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 Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN. 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 Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN; 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 ~~who~~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 Pass Through Fees. Registry Operator shall pay to ICANN (i) a one-time fee equal to US\$5,000 for access to and use of the Trademark Clearinghouse as described in Specification 7 (the “RPM Access Fee”) and (ii) US\$0.25¹ per Sunrise Registration and Claims Registration (as such terms are used in Trademark Clearinghouse RPMs incorporated herein pursuant to Specification 7) (the “RPM Registration Fee”). The RPM Access Fee will be invoiced as of the Effective Date of this Agreement, and Registry Operator shall pay such fee to an account specified by ICANN within thirty (30) calendar days following the date of the invoice. ICANN will invoice Registry Operator quarterly for the RPM Registration Fee, which shall be due in accordance with the invoicing and payment procedure specified in Section 6.1.

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 ~~year in which the above calculation is made~~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

¹ Subject to further approvals.

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.

[Alternative **Section 7.1(a)** text for intergovernmental organizations or governmental entities:

"Registry Operator shall use its best efforts to cooperate with ICANN in order to ensure that ICANN does not incur any costs associated with 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 provide such cooperation to the extent the claim, damage, liability, cost or expense arose due to a breach by ICANN of any of its obligations 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. [**Note: This Section 7.1(b) is inapplicable to intergovernmental organizations or governmental entities.**]

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. [**Note: This Section 7.2 is inapplicable to intergovernmental organizations or governmental entities.**]

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, [\(a\)](#) 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 Approved Amendment to become effective with respect to Registry Operator, and [\(b\)](#) 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, ~~2.1~~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, 7.16; 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~~[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. ~~Notices, designations, determinations, and specifications made under this Agreement will be in the English language.~~ 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
 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:

[_____]

[_____]

[_____]

Telephone:

With a Required Copy to:
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 ~~two~~three (23) 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.

[Note: The following section is applicable to intergovernmental organizations or governmental entities only.]

7.16 Special Provision Relating to Intergovernmental Organizations or Governmental Entities.

(a) ICANN acknowledges that Registry Operator is an entity subject to public international law, including international treaties applicable to Registry Operator (such public international law and treaties, collectively hereinafter the “Applicable Laws”). Nothing in this Agreement and its related specifications shall be construed or interpreted to require Registry Operator to violate Applicable Laws or prevent compliance therewith. The Parties agree that Registry Operator’s compliance with Applicable Laws shall not constitute a breach of this Agreement.

(b) In the event Registry Operator reasonably determines that any provision of this Agreement and its related specifications, or any decisions or policies of ICANN referred to in this Agreement, including but not limited to Temporary Policies and Consensus Policies (such provisions, specifications and policies, collectively hereinafter, “ICANN Requirements”), may conflict with or violate Applicable Law (hereinafter, a “Potential Conflict”), Registry Operator shall provide detailed notice (a “Notice”) of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy. In the event Registry Operator determines that there is Potential Conflict between a proposed Applicable Law and any ICANN Requirement, Registry Operator shall provide detailed Notice of such Potential Conflict to ICANN as early as possible and, in the case of a Potential Conflict with a proposed Consensus Policy, no later than the end of any public comment period on such proposed Consensus Policy.

(c) As soon as practicable following such review, the parties shall attempt to resolve the Potential Conflict by mediation pursuant to the procedures set forth in Section 5.1. In addition, Registry Operator shall use its best efforts to eliminate or minimize any impact arising from such Potential Conflict between Applicable Laws and any ICANN Requirement. If, following such mediation, Registry Operator determines that the Potential Conflict constitutes an actual conflict between any ICANN Requirement, on the one hand, and Applicable Laws, on the other hand, then ICANN shall waive compliance with such ICANN Requirement (provided that the parties shall negotiate in good faith on a continuous basis thereafter to mitigate or eliminate the effects of such noncompliance on ICANN), unless ICANN reasonably and objectively determines that the failure of Registry Operator to comply with such ICANN Requirement would constitute a threat to the Security and Stability of Registry Services, the Internet or the DNS (hereinafter, an “ICANN Determination”). Following receipt of notice by Registry Operator of such ICANN Determination, Registry Operator shall be afforded a period of ninety (90) calendar days to resolve such conflict with an Applicable Law. If the conflict with an Applicable Law is not resolved to ICANN’s complete satisfaction during such period, Registry Operator shall have the option to submit, within ten (10) calendar days thereafter, the matter to binding arbitration as defined in subsection (d) below. If during such period, Registry Operator

does not submit the matter to arbitration pursuant to subsection (d) below, ICANN may, upon notice to Registry Operator, terminate this Agreement with immediate effect.

(d) If Registry Operator disagrees with an ICANN Determination, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2, except that the sole issue presented to the arbitrator for determination will be whether or not ICANN reasonably and objectively reached the ICANN Determination. For the purposes of such arbitration, ICANN shall present evidence to the arbitrator supporting the ICANN Determination. If the arbitrator determines that ICANN did not reasonably and objectively reach the ICANN Determination, then ICANN shall waive Registry Operator's compliance with the subject ICANN Requirement. If the arbitrators or pre-arbitral referee, as applicable, determine that ICANN did reasonably and objectively reach the ICANN Determination, then, upon notice to Registry Operator, ICANN may terminate this Agreement with immediate effect.

(e) Registry Operator hereby represents and warrants that, to the best of its knowledge as of the date of execution of this Agreement, no existing ICANN Requirement conflicts with or violates any Applicable Law.

(f) Notwithstanding any other provision of this Section 7.16, following an ICANN Determination and prior to a finding by an arbitrator pursuant to Section 7.16(d) above, ICANN may, subject to prior consultations with Registry Operator, take such reasonable technical measures as it deems necessary to ensure the Security and Stability of Registry Services, the Internet and the DNS. These reasonable technical measures shall be taken by ICANN on an interim basis, until the earlier of the date of conclusion of the arbitration procedure referred to in Section 7.16(d) above or the date of complete resolution of the conflict with an Applicable Law. In case Registry Operator disagrees with such technical measures taken by ICANN, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2 above, during which process ICANN may continue to take such technical measures. In the event that ICANN takes such measures, Registry Operator shall pay all costs incurred by ICANN as a result of taking such measures. In addition, in the event that ICANN takes such measures, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

* * * * *

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 Operator]

By: _____
[_____] _____
Date:

EXHIBIT A

Approved Services

The ICANN gTLD Applicant Guidebook (located at <http://newgtlds.icann.org/en/applicants/agb>) and the RSEP specify 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:

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 ~~on each Sunday~~ (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. ~~The aforementioned document~~ (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 time of signing the Agreement, if not already an RFC Effective Date. Registry Operator may at its election use newer versions of the DNDE Specification after the Effective Date. Once the ~~specification~~DNDE Specification is published as an RFC, Registry Operator will implement that ~~specification~~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) The A compressed and encrypted OpenPGP Message is created using the tarball file ~~should be compressed~~as sole input. The suggested algorithm for compression is ZIP as per RFC 4880. ~~(4)~~ 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.

- (54) 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 ~~is not used~~, will be called a processed file in this section.
- (65) A digital signature file will be generated for every processed file using the ~~Registry's~~ 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.
- (76) 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.
- (87) 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 ~~available at the time of signing this Agreement, if not already an RFC~~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 ~~specification~~Interface Specification is published as an RFC, Registry Operator will implement that ~~specification~~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-ariasnoguchi-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 ~~amendment~~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 ~~to ICANN or to a party designated in writing by ICANN~~, 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.** ~~Registry Operator shall indemnify and hold harmless Escrow Agent and each of its directors, officers, agents, employees, members, and stockholders (“Escrow Agent 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 Escrow Agent Indemnitees in connection with the Escrow Agreement or the performance of Escrow Agent or any Escrow Agent Indemnitees thereunder (with the exception of any claims based on the misrepresentation, negligence, or misconduct of Escrow Agent, its directors, officers, agents, employees, contractors, members, and stockholders).~~ 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 ~~to~~, 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 http://www.iana.org/assignments/registrar-ids
03	total-domains	total domains <u>domain names</u> under sponsorship <u>in any EPP status but pendingCreate that have not been purged</u>
04	total-nameservers	total name servers <u>(either host objects or name server hosts as domain name attributes) associated with domain names</u> registered for <u>the TLD in any EPP status but pendingCreate that have not been purged</u>
05	net-adds-1-yr	number of domains successfully registered <u>(i.e., not in EPP pendingCreate status)</u> with an initial term of one <u>(1)</u> year (and not deleted within the add grace period). <u>A transaction must be reported in the month the add grace period ends.</u>

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

		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 ack'd by the other registrar— either by command 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 n'acked rejected (e.g., EPP transfer op="reject") by the other registrar
27	transfer-losing-successful	number of domain transfers initiated by another registrar that this registrar ack'd— either by command were successfully completed (either explicitly or automatically approved)

28	transfer-losing-nacked	number of domain transfers initiated by another registrar that this registrar n'acked 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; “yyymm” 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

Field #	Field Name	Description
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 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

Field #	Field Name	Description
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 "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. ~~WHOIS output shall~~ [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 ~~education~~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 ~~that,~~ 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 the Internet host machine name~~ 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 ~~within three~~ [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. **Two-character labels.** All two-character ASCII labels shall be withheld from registration or allocated to Registry Operator at the second level within the TLD. Such labels may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator, provided that such two-character label strings may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO 3166-1 alpha-2 standard. The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN. Upon conclusion of Registry Operator’s designation as operator of the registry for the TLD, all such labels 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.

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 activate in the DNS at All Levels up to one hundred (100) names (plus their IDN variants, where applicable) necessary for the operation or the promotion of the TLD. Registry Operator must act as the Registered Name Holder of such names as that term is defined in the then-current ICANN Registrar Accreditation Agreement (RAA). These activations will be considered Transactions for purposes of Section 6.1 of the Agreement. Registry Operator must either (i) register such names through an ICANN-accredited registrar; or (ii) self-allocate such names and with respect to those names submit to and be responsible to ICANN for compliance with ICANN Consensus Policies and the obligations set forth in Subsections 3.7.7.1 through 3.7.7.12 of the then-current RAA (or any other replacement clause setting out the terms of the registration agreement between a registrar and a registered name holder). At Registry Operator's discretion and in compliance with all other terms of this Agreement, such names may be released for registration to another person or entity.
- 3.3. 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#EU>;

- 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.** ~~The following~~ 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://archive.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 ~~following~~ list upon ten (10) calendar days notice from ICANN to Registry Operator.² 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.

² ~~ICANN will revise below table to indicate A-Label/U-Label.~~

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://archive.icann.org/en/resources/registries/reserved) <http://archive.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, 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. ~~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”).~~

- 1.5. **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.
- 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 inquires 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 shall implement and adhere to the rights protection mechanisms (“RPMs”) specified in this Specification. In addition to such RPMs, Registry Operator may develop and implement additional RPMs that discourage or prevent registration of domain names that violate or abuse another party’s legal rights. Registry Operator will include all ~~ICANN-mandated and independently developed RPMs~~ RPMs required by this Specification 7 and any additional 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 implement in accordance with requirements set forth therein each of the mandatory RPMs set forth in the Trademark Clearinghouse as of the date hereof, as posted at [*url to be inserted*] (the “Trademark Clearinghouse Requirements”), which may be revised in immaterial respects by ICANN from time to time. 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. If there is a conflict between the terms and conditions of this Agreement and the Trademark Clearinghouse Requirements, the terms and conditions of this Agreement shall control.

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) and the Registration Restriction Dispute Resolution Procedure (RRDRP) adopted by ICANN (posted at [urls to be inserted when final procedure is adopted]). 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 or RRDRP panel and to be bound by any such determination; and
 - b. the Uniform Rapid Suspension system (“URS”) adopted by ICANN (posted at [*url to be inserted*]), including the implementation of determinations issued by URS examiners.

SPECIFICATION 8

CONTINUED OPERATIONS INSTRUMENT

1. The Continued Operations Instrument shall (a) provide for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6th) anniversary of the Effective Date, and (b) be in the form of either (i) an irrevocable standby letter of credit, or (ii) an irrevocable cash escrow deposit, each meeting the requirements set forth in item 50(b) of Attachment to Module 2 – Evaluation Questions and Criteria – of the gTLD Applicant Guidebook, as published and supplemented by ICANN prior to the date hereof (which is hereby incorporated by reference into this Specification 8). Registry Operator shall use its best efforts to take all actions necessary or advisable to maintain in effect the Continued Operations Instrument for a period of six (6) years from the Effective Date, and to maintain ICANN as a third party beneficiary thereof. If Registry Operator elects to obtain ~~a~~an irrevocable standby letter of credit but the term required above is unobtainable, Registry Operator may obtain a letter of credit with a one-year term and an “evergreen provision,” providing for annual extensions, without amendment, for an indefinite number of additional periods until the issuing bank informs ICANN of its final expiration or until ICANN releases the letter of credit as evidenced in writing, if the letter of credit otherwise meets the requirements set forth in item 50(b) of Attachment to Module 2 – Evaluation Questions and Criteria – of the gTLD Applicant Guidebook, as published and supplemented by ICANN prior to the date hereof; provided, however, that if the issuing bank informs ICANN of the expiration of such letter of credit prior to the sixth (6th) anniversary of the Effective Date, such letter of credit must provide that ICANN is entitled to draw the funds secured by the letter of credit prior to such expiration. The letter of credit must require the issuing bank to give ICANN at least thirty (30) calendar days’ notice of any such expiration or non-renewal. If the letter of credit expires or is terminated at any time prior to the sixth (6th) anniversary of the Effective Date, Registry Operator will be required to obtain a replacement Continued Operations Instrument. ICANN may draw the funds under the original letter of credit, if the replacement Continued Operations Instrument is not in place prior to the expiration of the original letter of credit. Registry Operator shall provide to ICANN copies of all final documents relating to the Continued Operations Instrument and shall keep ICANN reasonably informed of material developments relating to the Continued Operations Instrument. Registry Operator shall not agree to, or permit, any amendment of, or waiver under, the Continued Operations Instrument or other documentation relating thereto without the prior written consent of ICANN (such consent not to be unreasonably withheld).

2. If, notwithstanding the use of best efforts by Registry Operator to satisfy its obligations under the preceding paragraph, the Continued Operations Instrument expires or is terminated by another party thereto, in whole or in part, for any reason, prior to the sixth anniversary of the Effective Date, Registry Operator shall promptly (i) notify ICANN of such expiration or termination and the reasons therefor and (ii) arrange for an alternative instrument that provides for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date (an “Alternative Instrument”). Any such Alternative Instrument shall be on terms no less favorable to ICANN than the Continued Operations Instrument and shall otherwise be in form and substance reasonably acceptable to ICANN.
3. Notwithstanding anything to the contrary contained in this Specification 8, at any time, Registry Operator may replace the Continued Operations Instrument with an Alternative Instrument that (i) provides for sufficient financial resources to ensure the continued operation of the critical registry functions related to the TLD set forth in Section 6 of Specification 10 to this Agreement for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date or for a period one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date, and (ii) contains terms no less favorable to ICANN than the Continued Operations Instrument and is otherwise in form and substance reasonably acceptable to ICANN. In the event Registry Operator replaces the Continued Operations Instrument either pursuant to paragraph 2 or this paragraph 3, the terms of this Specification 8 shall no longer apply with respect to the original Continuing Operations Instrument, but shall thereafter apply with respect to such Alternative Instrument(s), and such instrument shall thereafter be considered the Continued Operations Instrument for purposes of this Agreement.

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 (a) reserve names from registration pursuant to Section 2.6 of the Agreement and (b) may withhold from registration or allocate to Registry Operator up to one hundred (100) names pursuant to Section 3.2 of Specification 5;
 - 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 ~~its own~~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)
DNS	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
RDDS	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
EPP	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, ~~they~~it will provide ~~related~~ 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 ~~their~~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 ~~do with~~to any other request

from an Internet ~~users~~user (for DNS and RDDS) or ~~registrars~~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 _____, 2013 in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN's website.
2. ~~☒~~ Registry Operator will operate the registry for the TLD in compliance with all commitments, statements of intent and business plans stated in the following sections of Registry Operator's application to ICANN for the TLD, which commitments, statements of intent and business plans are hereby incorporated by reference into this Agreement. Registry Operator's obligations pursuant to this paragraph shall be enforceable by ICANN and through the Public Interest Commitment Dispute Resolution Process established by ICANN (posted at [url to be inserted when final procedure is adopted]), which may be revised in immaterial respects by ICANN from time to time (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.

[Registry Operator to insert specific application sections here, if applicable]

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.

~~[Registry Operator to insert specific commitments here, if applicable]~~

- ~~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 may establish restricted registration policies for the TLD, including any that may be appropriate for risks associated with the TLD.]²
- e. 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.

²This provision is a preliminary draft for discussion purposes. It is subject to consideration by the NGPC at its meeting scheduled for 2 July 2013.

SPECIFICATION 12

COMMUNITY REGISTRATION POLICIES

Registry Operator shall implement and comply with all community registration policies described below and/or attached to this Specification 12.

[Insert registration policies]

Summary Report:	
Litera Change-Pro ML IC 6.5.0.313 Document Comparison done on 7/1/2013 2:24:56 PM	
Style Name: JD Color With Moves	
Original Filename:	
Original DMS: iw://IRI/IRI/47648/10	
Modified Filename:	
Modified DMS: iw://IRI/IRI/47648/11	
Changes:	
<u>Add</u>	249
Delete	68
Move From	1
<u>Move To</u>	1
<u>Table Insert</u>	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	1
Embedded Excel	0
Total Changes:	320

Report of Public Comments

Title:	Proposed Final New gTLD Registry Agreement		
Publication Date:	29 April 2013		
Prepared By:			
Comment & Reply Period:		Important Information Links	
Open Date:	29 April 2013 & 21 May 2013		Announcement
Close Date:	20 May 2013 & 11 June 2013		Public Comment Box
Time (UTC):	23:59		View Comments Submitted
Staff Contact:	Daniel Halloran	Email:	daniel.halloran@icann.org
Section I: General Overview and Next Steps			
Section II: Contributors			
<p><i>At the time this report was prepared, a total of thirty-eight (38) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.</i></p>			
ORGANIZATIONS AND GROUPS:			
Name	Submitted by	Initials	
Verisign	Richard Goshorn & Patrick Kane	RG, PK	
Verisign	Chuck Gomes	CG	
Donuts Inc. (Donuts)	Jonathon Nevett	JN	
Bloomberg IP Holdings LLC (Bloomberg)	William Ried	WR	
Verisign	Chuck Gomes & Thomas Indelicarto	CG & TI	
Victorian Government Domain Provider, Melbourne VIC 3000, Australia (Victoria Government)	Cheryl Hardy, Manager eGovernment Research, Department of Business and Innovation	CH	
National Association Boards of Pharmacy (NABP)	Gertrude Levine	GL	
ARI Registry Services (ARI Registry)	Yasmin Omer	YO	
Richemont DNS Inc. (Richemont)	Richard Graham	RG	
Brights Consulting Inc. (Brights Consulting)			
Verisign	Jacquelyn Conrad	JC	
FairWinds Partners LLC et al. (FairWinds)	Elizabeth Sweezey	ES	

Partners et al.)		
Valideus Ltd. (Valideus)	Brian Beckham	BB
Google Inc. (Google)	Halimah DeLaine Prado	HDP
Dish DBS Corporation (DISH)	Deborah Lodge	DL
Yahoo!	J. Scott Evans	JSE
Istituto Salumi Italiani Tutelati (ISIT)	Vito Galluzzi	VG
Kuwait Finance House (KFH)	Majeed Behzadi	MB
Sony Corporation (Sony)		
China Unicom	Zhou Xiaomin	ZX
UniForum SA (UniForum)	Neil Duncan Dundas	NDD
City of Amsterdam	Egbert Wolf	EW
Intellectual Property Constituency (IPC)	Kiran Malancharuvil, MarkMonitor	KM
Business Constituency (BC)	Steve DelBianco	SD
Coalition for Online Accountability (COA)	Steven Metalitz	SM
W.W. Grainger, Inc. (Grainger)	Marc Trachtenberg	MT
Steptoe & Johnson LLP (Steptoe)	Brian Winterfeldt	BW
Allstate Fire and Casualty Company (Allstate)	Marc Trachtenberg	MT
NCSG	Avri Doria	AD
Saudi Telecom (STC)	Mohameed Abdullah Alsanad	MAA

INDIVIDUALS:

Name	Affiliation (if provided)	Initials
Dave Wrixon (D. Wrixon)	Structures Asset Management, Carillion	DW
Toren		
Jason Rawkins (J. Rawkins)		JR
Balasubramanian		
Rubens Kuhl (R. Kuhl)		RK

Section III: Summary of Comments and Analysis

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted). Responses labeled "Analysis" are intended to provide a preliminary analysis and evaluation of the comments received.

A. GENERAL COMMENTS

Support for Registry Agreement

Donuts supports the newly published Registry Agreement. *Donuts (6 May 2013)*

While Google still has concerns about specific issues in the Registry Agreement, none of those issues should prevent the current contract from being approved and signed by willing applicants. The revised Registry Agreement corrects a number of long-standing flaws compared with the version contained within the Applicant Guidebook. Google recommends that ICANN allow Registry Operators to begin signing this agreement as soon as possible. *Google (20 May 2013)*

Analysis: *ICANN remains committed to entering into the contract phase of the New gTLD Program as soon as practicable.*

IDN Aliasing--Support

It is time for ICANN to protect existing registrants of IDN.com against confusion from transliterated IDN versions of existing gTLDs. There is audible confusion between extensions. Verisign promised with their application that these domains would effectively be bundled so that only the owner of the original dot com can register them. But there is no evidence that there is going to be any kind of contractual obligation to do so, or even an indication that there is not going to be a massive price differential between English and other versions of dot com. ICANN should be championing the much neglected domain registrants. *D. Wrixon (2 May 2013)*

IDN Aliasing--Opposition

No IDN aliasing should be done for IDNs, and there is no need for clarification from Verisign or PIR. There is no confusion and they should be given to new comers. Verisign and PIR have no legal obligation to give .IDNs to any existing hybrid domain owners. In fact, they must not alias any of those domains if they plan to meet the ICANN goal to reach end users. *Toren (18 May 2013)*

Analysis: *These comments are indicative of the debate regarding IDN aliasing. ICANN believes it would be difficult to fully assess, analyze and reach community consensus on this issue. As a result, this topic may be a matter for the GNSO policy development process in the future.*

Brand gTLDs

Brights supports creation of an alternative Registry Agreement that addresses issues for .brands since the Registry Agreement contains multiple items that are not fully applicable to TLDs intended to be operated in a "single registrant, single user" manner or more specifically what is called a .brand. ICANN should actively pursue the creation of an alternative Registry Agreement and if necessary coordinate these efforts and consult with the interested parties. *Brights Consulting (20 May 2013); FairWinds Partners et al. (20 May 2013)*

The revisions requested for "brand" gTLDs apply equally to all closed gTLDs--whether or not they are linked to specific brands. ICANN's rules do not recognize a "closed brand" category. DISH does not

believe ICANN should distinguish between closed TLDs and closed-brand TLDs or should create a sub-category for the latter. It does make sense for ICANN to make certain adjustments in the Draft Registry Agreement to distinguish between the “open” and “closed” registries. *DISH (20 May 2013)*

The fundamental points needed for brand owners in a second template draft of the Registry Agreement for .brands, or in provisions drafted into the existing Registry Agreement, are proposed in the FairWinds Partners et al. comments. *FairWinds Partners et al. (20 May 2013)*

Valideus supports the shared efforts of the Brand Registry Group (BRG) which is in formation and looks forward to further coordinated dialog with ICANN on a Registry Agreement more cognizant of the particular interests of .brand applicants. *Valideus (20 May 2013); Yahoo! (20 May 2013); China Unicom (29 May 2013); IPC (11 June 2013); Grainger (11 June 2013); Steptoe (11 June 2013); Allstate (11 June 2013)*

Google believes there is value in considering general situations where a standardized variation of the New gTLD Registry Agreement could be used for specific classes of Registry Operator, such as brands. This is already recognized in the inclusion of variant language for Intergovernmental Organizations and government entities. This approach would prevent ICANN from having to negotiate the same set of terms for those Registry Operators repeatedly, creating operational efficiencies and freeing up resources to focus on any situations in which unique exceptions to the base agreement may be warranted. In general, Google is supportive of the suggestions made in the comments submitted to ICANN by FairWinds Partners on behalf of a number of brand applicants. These suggestions may serve as a useful basis for specific contractual variants for brands. *Google (20 May 2013)*

The need for a separate .brand registry agreement is highlighted in several areas, such as Geographic Names, Accredited Registrar Requirement and Transition Upon Termination. *IPC (11 June 2013)*

Analysis: *ICANN is currently considering alternative provisions for inclusion in the Registry Agreement for .brand and closed registries, and is working with members of the community to identify appropriate alternative provisions. Following this effort, alternative provisions may be included in the Registry Agreement.*

Geographical TLDs

Given the particular circumstances applicable to geographical TLDs, it is suggested that the Registry Agreement address these concerns or be flexible enough for the parties to negotiate provisions (or if need be exceptions to “default” provisions) which address these concerns. *UniForum (10 June 2013)*

Analysis: *Registry Operator may request revisions to the form Registry Agreement during the negotiation phase of the New gTLD Program.*

Timing

The new gTLD program has been delayed for far too long. ICANN has permitted delays in the gTLD

program to be caused, in part, by those who never supported the program in the first place and are using delay tactics as a strategy. *Donuts (6 May 2013)*

Analysis: *ICANN remains committed to entering into the contract phase of the New gTLD Program as soon as practicable.*

Process and Transparency

ICANN should explain how it determines which letters it makes public. ICANN should ensure that all comments about the Registry Agreement and new gTLD program are made public. Verisign (20 May 2013)

Analysis: *ICANN is committed to operating in an open and transparent manner. ICANN's public comment forum automatically posts all comments submitted. Additionally, ICANN routinely posts correspondence of general interest to the community. Any community members are invited to contact ICANN regarding any correspondence that should be posted.*

Risks of New gTLD Program--Generic Terms

ISIT agrees with concerns already expressed by other organizations about the risks posed to the European agro-industry by the new gTLD program. Reserving exclusive rights to private companies on certain generic terms, in the absence of an adequate regulation, could result in an improper use of those terms, contrary to the rules of European geographical indications. There is also a clear problem of private trademarks protection. ISIT hopes ICANN will do its best to protect the European agro-industry system, with particular reference to the Geographical Indications (Protected Designations of Origin and Protected Geographical Indication) and the interests of the numerous companies involved. ISIT (21 May 2013)

Analysis: *ICANN acknowledges this comment, which appears to be directed to concepts broader than the Registry Agreement.*

B. NEW gTLD AGREEMENT PROVISIONS

General

Drafting Improvements

Bloomberg requests that ICANN consider incorporating any or all of the handwritten, specific edits Bloomberg inserted in the redlined copy of the Registry Agreement attached to the Bloomberg comments, which are applicable to all applicants for brand gTLDs. A number of the Bloomberg edits are directed to drafting and would apply to base agreements for all gTLD applicants. Incorporating any or all of the Bloomberg handwritten edits would improve the draft and save time in the negotiation process with individual applicants. *Bloomberg (10 May 2013)*

Many of the terms in the Registry Agreement still do not meet commercially reasonable standards and need to be revised before the Registry Agreement can be executed. *Steptoe (11 June 2013)*

Analysis: *Successful applicants may request changes to the form Registry Agreement during the contracting phase of the New gTLD Program. In addition, ICANN will continue to consider comments made to the form Registry Agreement by the community until such time as the Registry Agreement is approved by the ICANN Board of Directors.*

Notice of Updates and Changes

In paragraph 2 on page 1, the language should be revised to read that ICANN reserves the right to make reasonable updates and changes to this proposed agreement during the course of the application process so long as it provides timely notice thereof to the Applicant. *KFH (21 May 2013)*

Article 1--Delegation and Operation of Top-Level Domain; Representation and Warranties

Closed Domains (Section 1.1)

The Registry Agreement should provide for automatic renewal for closed domains. *DISH (20 May 2013)*

Analysis: *Section 4.2 of the Registry Agreement sets forth the conditions to automatic renewal of the agreement.*

Scope (Section 1.3(a)(i))

The “made in writing” clause should be eliminated. It is standard in modern contracts to not limit the representations and warranties regarding the truthfulness and correctness of statements made during the negotiation of the Registry Agreement to statements “made in writing,” as negotiation statements are made by various means. Instead the final agreement should be fully inclusive of all promises, statements, and other agreements between parties that might have been made during the negotiation. *Steptoe (11 June 2013)*

Analysis: *The “made in writing” clause reflects a balancing of ICANN’s need to rely upon statements made by Registry Operators during the negotiation of the Registry Agreement, and a hesitancy of potential Registry Operators to acknowledge ICANN’s reliance on oral statements, which may be interpreted in varying manners. ICANN reserves the right to request that Registry Operators reduce oral statements into writing during the negotiation of the Registry Agreement.*

Letter of Credit (Section 1.3(a)(iii))

Comments text proposes revised language to enable flexibility to sign the Registry Agreement first with an equivalent authorization letter from the bank, and then after signing the Registry Agreement the official standby letter of credit would be provided. *China Unicom (29 May 2013)*

Analysis: *ICANN requires that the continuing operations instrument (for example, a letter of credit) be*

in place and operative at the execution of the Registry Agreement.

Article 2--Covenants of Registry Operator

Approved Services; Additional Services (Section 2.1)

Richemont would prefer that its reasonable changes to its business proposition not be subject to the RSEP process. The RSEP process should only be used where a proposed service touches upon what ICANN has deemed the five (5) critical registry functions. All other changes and/or additions should simply be subject to the prior consent of ICANN, which consent should not be unreasonably withheld or delayed. *Richemont (20 May 2013)*

Analysis: *The RSEP is the mechanism through which existing TLD Registry Operator's seek ICANN's consent to offer new or modified registry services. Registry Operators may offer Approved Services (as defined in the Registry Agreement), but must seek ICANN's consent to offer new services or material modifications to an Approved Service. If Registry Operator wishes to change an Approved Service, then Registry Operator is free to do so, if the change is immaterial in nature.*

Consensus Policies (Section 2.2)

The procedure for implementing new Consensus Policies is unclear. Richemont requires a right to wind down the registry should a change in Consensus Policy have a material impact upon its business. *Richemont (20 May 2013)*

For brand gTLDs, there should be an ability to wind down the registry (and such registry should not be available for use by anyone else for at least two application cycles or similar time frame) if an adopted Consensus Policy impacts our business. The process for involving registries in Consensus Policy development should be clearly defined with adequate reviews and appeals. *Richemont (20 May 2013)*

A Registry Operator of a closed domain should not have to comply with Consensus Policies or other Policies that could harm a brand or registrants of second level domains within a closed domain. *DISH (20 May 2013)*

Analysis: *ICANN's policy development process is set forth in the ICANN bylaws, and the Registry Agreement is not the proper instrument to modify policy development procedures. While noting that a Registry Operator's compliance with consensus policies is a fundamental part of the Registry Agreement (and all existing registry agreements), ICANN will consider community input and comments relating to .brand and closed gTLDs.*

Publication of Registration Data (Section 2.5)

This provision should be explicitly subject to all applicable data protection and regulations (e.g. EU data protection directive and U.S. safe harbor and state data protection laws). There should be such an exemption for at least any registration data that could be considered personally identifiable information or personal data, as this risks putting registries in breach of applicable law. *Richemont (20*

May 2013)

Analysis: *The latest version of the Registry Agreement (Section 7.13) provides that ICANN and the Working Group (as defined in the Registry Agreement) will mutually cooperate to develop an ICANN procedure for ICANN's review and consideration of alleged conflicts between applicable laws and provisions of the Registry Agreement. In the meantime, ICANN will review and consider alleged conflicts between applicable laws and the provisions of the registry in a manner similar to ICANN's Procedure For Handling WHOIS Conflicts with Privacy Law.*

Reserved Names (Section 2.6)

Closed domains should be allowed to use country code or country name designations as part of the second level domains. E.g., DISH or other brand owners may wish to designate the geographic location of an authorized dealer. *DISH (20 May 2013)*

Analysis: *The restrictions set forth in Section 2.6 and Specification 5 to the Registry Agreement relating to use of geographic names are the product of community-wide input (particularly the GAC).*

Protection of Legal Rights of Third Parties (Section 2.8)

Registry Operators of Closed Domains should not be required to maintain Sunrise, Claims and URS processes where the domain is intended to serve a specific brand or designation. In those circumstances, there is no likelihood of trademark infringement. The additional cost of maintaining those periods and processes is not warranted. *DISH (20 May 2013)*

Analysis: *All Registry Operators will be required to implement the required rights protection mechanisms.*

Use of Registrars (Section 2.9(a))

For brand gTLDs, Richemont would prefer to work with its own trusted registrars. The non-discriminatory requirement is less relevant in closed registries and it should be removed. At the very least it should be made clear that a .brand registry operator will not be penalized for utilizing a registrar of its choice for handling all second-level domain name registrations or that a .brand registry operator may only enter into Registry-Registrar Agreements with registrars of its choice. *Richemont (20 May 2013)*

Registry Operators should be allowed to designate registrars for their closed domains and to register second level domains themselves. *DISH (20 May 2013)*

Analysis: *This issue has been raised to ICANN by members of the community. ICANN has requested that these members explain why the existing exemption related to use of registrars set forth in the Code of Conduct is not sufficient to meet the needs of .brand and closed gTLDs. Under the Code of Conduct, a registry operator may request an exemption to the restrictions set forth in the Code of Conduct, if the registry operator demonstrates to ICANN's reasonable satisfaction that (i) all domain*

name registrations in the gTLD are registered to, and maintained by, Registry Operator for its own exclusive use, (ii) Registry Operator does not sell, distribute or transfer control or use of any registrations in the gTLD to any third party that is not an affiliate of Registry Operator, and (iii) application of the Code of Conduct to the gTLD is not necessary to protect the public interest.

Registry-Registrar Agreement (RRA) Amendment (Section 2.9)

Verisign agrees that “immaterial” changes to the RRA should not be subject to ICANN’s approval, but ICANN’s revisions to this section are unclear and provide ICANN with too much discretion. All revisions require 15 calendar days’ notice, thereby creating an inability for the Registry Operator to move forward until ICANN has determined what category the change falls into. ICANN should include examples of changes that would fall into each of the three identified categories (“immaterial,” “potentially material,” or “material in nature”). No standard is provided as to how ICANN will make its determinations. The standards should be defined. There is also no clear timeframe by which the entire process, including consultations, must take place. *Verisign (20 May 2013)*

Analysis: *The revisions reflected in Section 2.9 of the revised Registry Agreement were based on discussions between ICANN and the Registry Stakeholders Group negotiating team. The previous version of the Registry Agreement provided that all revisions to the Registry Agreement be approved in advance by ICANN. Materiality standards are widely used and not defined in contracts. As set forth in the Registry Agreement, if ICANN determines that a change in material, it will follow its existing procedures regarding review and approval of changes to RRAs.*

Definition of Affiliate (Section 2.9 (c))

The current definition of “affiliate” in Section 2.9(c) is not broad enough to cover all forms of group structures. Therefore, see proposed amendment to this provision attached to comments. *J. Rawkins (21 May 2013)*

Analysis: *ICANN revised Section 2.9(c) to clarify the definition of “Affiliate.”*

Pricing (Section 2.10)

This section is not as relevant for brand gTLDs so the provision should be removed for them or made explicitly inapplicable to them. One approach would be to make Section 2.10 inapplicable to Registry Operators to whom an exemption to the Registry Operator Code of Conduct (Specification 9) has been granted. *Richemont (20 May 2013)*

Analysis: *The pricing provisions of Section 2.10 are relevant to all gTLDs, whether or not a Registry Operator receives an exemption from the Registry Code of Conduct.*

Contractual and Operational Compliance Audits (Section 2.11)

Audit rights should not extend beyond the actual entity providing the Registry Services, including where the entity is a subcontracted third party. Internal registration or security information should not be disseminated to third parties by ICANN. Richemont requires indemnification and/or additional

protections (e.g. injunctions) should there be a breach of this provision. As the purpose of the gTLD is outside that of the standard domain name business, Richemont should not be responsible for costs of any audit under Section 2.11(b). *Richemont (20 May 2013)*

Any audit of a Registry Operator that operates a closed domain should be limited to the specific registration and maintenance processes. ICANN should indemnify Registry Operators and affected entities in the event that any confidential information is compromised as a result of an audit or other breach by ICANN. *DISH (20 May 2013)*

Technical audits should be restricted to the relevant service provider(s). Registry operators should not be required to bear the cost of audits, even if certain registry functions have been outsourced to an ICANN-accredited registrar. *NABP (17 May 2013)*

Technical and financial audits should be restricted to the relevant service provider(s) or the Registry Operator, respectively, and not extend to corporate parent companies in cases where the Registry Operator is a subsidiary. Registry operators should not be required to bear the cost of audits, even if certain registry functions have been outsourced to an ICANN-accredited registrar. *FairWinds Partners et al. (20 May 2013)*

Analysis: *The audit provision of the Registry Agreement has been revised numerous times to address the concerns of Registry Operators. ICANN believes that the current provision appropriately balances ICANN's auditing needs with the Registry Operator's interests relating to scope, confidentiality, disruption, etc. The Registry Operator is ultimately responsible for the performance of the agreement, irrespective of whether the Registry Operator has retained a third-party service provider. ICANN also notes that any audit must be tailored to achieve the purpose of compliance, and as such cannot be a fishing expedition as to other unrelated information of a Registry Operator or its affiliates.*

Emergency Transition (Section 2.13)

Due to concern that any emergency transition operator will not necessarily operate the gTLDs in accordance with the mission and purpose of the gTLD (e.g. for prevention of counterfeiting), Richemont requires further protection should an emergency transition take place. *Richemont (20 May 2013)*

It is vital that the Registry Agreement make clear that any Emergency Back End Registry Operator (EBERO) which may provide services for a .brand gTLD will not gain trademark rights to the relevant trademark in so doing. The Registry Agreement should require that the EBERO disclaims any rights in the relevant trademark and that it agree in writing not to challenge registry operator's rights to the trademark as a condition for providing any services for a .brand. *Grainger (11 June 2013); Allstate (11 June 2013)*

The Emergency Back End Registry Operator should be required to maintain the registration

restrictions established by the Registry Operator during a period of emergency transition. *NABP (17 May 2013); FairWinds Partners et al. (20 May 2013)*

There should be a separate provision for transitions for closed gTLDs, in recognition of the goodwill and value of a trademark and other closed designations. If a situation warrants appointment of an Emergency Operator (EO), the EO should be required to maintain the status quo and to uphold the integrity and goodwill of the brand/designation until such time as the RO authorizes changes or a successor. The EO should not be allowed to register, renew, or delete any second level domain or other domain name during the emergency period without the approval of the Registry Operator or its designee. *DISH (20 May 2013)*

STC is concerned about having to bear the costs as provided for in this section. *STC (12 June 2013)*

Analysis: *The EBERO appointed by ICANN will have limited responsibilities and its services will be limited in scope. In general, an EBERO will be tasked with maintaining the operation of the critical registry functions. For example, an EBERO will not make initial registrations in the TLD, but may renew registrations and, in limited cases, delete registrations. In addition, an EBERO will not be tasked with implementing the policies applicable to the gTLD, or the gTLD's mission. An appointment of an EBERO is a short-term measure to protect operation of the gTLD, and not a long-term transition of the gTLD.*

Section 2.13 of the Registry Agreement does not contemplate the "transition" of the operations of the gTLD to an EBERO. Instead, the section provides for the temporary operation of the gTLD by an EBERO. The goal of emergency transition is to facilitate the continued operation of the gTLD during the limited period of time the Registry Operator is unable to do so.

ICANN also notes that Section 7.12 of the Registry Agreement was revised to provide that nothing in the Registry Agreement should be construed to affect any existing intellectual property rights of the Registry Operator.

Registry Code of Conduct (Section 2.14)

Registry Operators of closed registries should not be required to adhere to a general Code of Conduct, due to the differing circumstances between an open registry and a closed registry. ICANN should implement an expedited process for Registry Operators of closed gTLDs to seek and obtain exemptions from the Code of Conduct as warranted by such differing circumstances. *DISH (20 May 2013)*

Analysis: *The Code of Conduct, as set forth in the Registry Agreement, provides for an exemption mechanism. ICANN will consider community input as to any additional appropriate exemptions from the Code of Conduct. ICANN is developing a procedure for reviewing exemption requests.*

Cooperation with Economic Studies (Section 2.15)

Production of data should be subject to applicable laws. Given how many registries Richemont will be operating, complying with an undue amount of requests for data could be costly. Therefore, only

essential and generic information should be provided as part of this process. There are no limits on the amount, nature or burden of the data, and the amount of studies which can request data from a registry, and there is no mention of costs reimbursement. *Richemont (20 May 2013)*

Given the sensitivities under local law of certain kinds of bank information, in this provision ICANN should give a Registry Operator a prior opportunity at its discretion to opt out of any such disclosure process, even if it is anonymous. *KFH (21 May 2013)*

Analysis: *Under Section 2.15 of the Registry Agreement, the Registry Operator is only required to provide a “reasonable” level of cooperation in connection with “an economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters.” In addition, the provision was revised in response to public comment to addresses confidentiality concerns. Should the provision of information pursuant to Section 2.15 conflict with applicable law, the parties may rely upon the provisions set forth in Section 7.13 of the Registry Agreement.*

Personal Data (Section 2.18)

This language will need to be updated to reflect the mandatory requirements of European data protection laws and, where applicable, reference to the U.S. safe harbor program. *Richemont (20 May 2013)*

It is standard for confidentiality obligations such as these to be subject to applicable law(s). *Steptoe (11 June 2013)*

Analysis: *The latest version of the Registry Agreement (Section 7.13) provides that ICANN and the Working Group (as defined in the Registry Agreement) will mutually cooperate to develop an ICANN procedure for ICANN’s review and consideration of alleged conflicts between applicable laws and provisions of the Registry Agreement. In the meantime, ICANN will review and consider alleged conflicts between applicable laws and the provisions of the registry in a manner similar to ICANN’s Procedure For Handling WHOIS Conflicts with Privacy Law.*

Article 3--Covenants of ICANN

Disaster Recovery Plan

ICANN should make and maintain, as well as comply with, an acceptable Disaster Recovery Plan/Business Contingency Plan for the Registry Operator. *Sony (24 May 2013)*

Analysis: *ICANN’s disaster recovery plans and business continuity plans are outside the scope of the Registry Agreement, and more appropriately addressed in ICANN’s operational reviews.*

Notice of Changes

It should be made ICANN’s duty that in the event ICANN makes changes to the procedures, rules or policies that the Registry Operator must comply with (Secs. 2.1, 2.2, 2.9(a), 2.13, 6.2, Exhibit A and

each Specification of this contract), ICANN must inform the Registry Operator beforehand (allowing proper time to deal with systematic details) and allow opportunity for the Registry Operator to discuss the applicable changes. *Sony (24 May 2013)*

Analysis: *ICANN will comply with the terms and condition of the Registry Agreement, including providing required notices. In addition, if future amendments to the Registry Agreement are made, ICANN will consider the impact of such amendments on Registry Operators, including whether transition periods are appropriate*

Intellectual Property Rights

It is understood that ICANN maintains a policy of protection for the rights of trademarks and so forth owned by the Registry Operator as well as rights under the Unfair Competition Prevention Act; however, ICANN should bear the responsibility of complying with such policy. *Sony (24 May 2013)*

Analysis: *Whether or not provided for specifically in the Registry Agreement, all parties to the Registry Agreement (including ICANN) must comply with applicable laws.*

Article 4--Term and Termination

Renewal and termination (Section 4.2(a)(i)-(ii))

The renewal and termination provisions could be much more clear and streamlined. E.g., the non-renewal provisions in Section 4.2(a) (i)-(ii) are redundant of the termination provisions in Section 4.3 and could be removed, and merely be revised to state that the Agreement shall renew unless the Agreement has been terminated pursuant to Section 4.3 and 4.4. If this change is made, see Steptoe comments for specific proposed revisions that should be made to Section 4.3 accordingly. *Steptoe (11 June 2013)*

Termination for breach of payment (Sections 4.2(a)(i), 4.3)

The right to terminate for any breach of any payment obligation is too strict. It is sufficient for non-payment to be included within a material or fundamental breach of the Registry Agreement and not a separate termination right (e.g. failure to make payment by one day is essentially a breach of the payment obligations but it is not sufficiently material to allow for termination of the Registry Agreement). *Richemont (20 May 2013)*

Details of alleged breach (Section 4.3)

To implement fairness among the parties, any notice of termination by ICANN should also include “with specificity the details” of the Registry Operator’s alleged breach (see for comparison Section 4.4(a)). *KFH (21 May 2013)*

Fees (Section 4.3(b))

This last sentence should be amended by adding at the end of the sentence the phrase “so long as ICANN has not acted with gross negligence, fraud or willful misconduct.” *KFH (21 May 2013)*

Termination for levy made against property (Section 4.3(d)(iv))

This wording needs clarification as levies are regularly made against properties and this does not fit within the standard “insolvency event” wording. *Richemont (20 May 2013)*

This provision should be revised to limit its scope to a narrow set of cases where termination is actually warranted. *Allstate (11 June 2013); Grainger (11 June 2013)*

Termination for breach of Specifications 7 & 11 (Section 4.3(e))

For brand gTLDs, the termination right for ICANN for any breach of the relevant specifications needs to be restricted to the extent that the obligations relating to RPMs (Spec. 7) and public interest commitments (Spec. 11) are not required for brand-related gTLDs. *Richemont (20 May 2013)*

Employment Law and Other Applicable Law (Section 4.3(f))

The termination provisions of Section 4.3(f) should be conditioned upon a statement such as that the termination of such officer or director is not otherwise prohibited by applicable law and that doing so would not subject Registry Operator to a potential wrongful termination claim or other claim(s) by such officer or director. *Steptoe (11 June 2013)*

Judicial Review (Section 4.3(f))

Any provisions within this entire section, related for example to conviction of any officer, board member, etc., should be effective only after a final, non-appealable determination of a court of competent jurisdiction. *KFH (21 May 2013)*

Termination by Registry Operator (Section 4.4)

With relevant amendment, termination by Registry Operator should include provisions similar in nature to those set forth in favor of ICANN in Articles 4.3(d), (f) and (g). *KFH (21 May 2013)*

The Registry Operator’s ability to terminate the Registry Agreement based on ICANN’s fundamental and material breaches should not be limited to those relating to Article 3. Rather, under standard contracting principles, Registry Operator should be able to terminate with 30-days’ notice based on ICANN’s fundamental and material breach of any part of the Registry Agreement. *Steptoe (11 June 2013)*

Analysis: *The termination provisions have evolved over time in response to considerable input from the community. ICANN does not anticipate making material revisions to the termination provisions of the Registry Agreement.*

Termination of .Brand Registry

The Registry Agreement must be revised to ensure that .brand registry winds down upon termination, whether that termination is initiated by ICANN or the registry operator and whether it is for cause or not, and is not reassigned. The risk of having ICANN reassign a .brand registry is too great to both the

registry operator and the general public as it is likely in many cases that consumer confusion would result from a reassignment to an unrelated party. Further, giving ICANN the ability to reassign a .brand places too much power in the hands of ICANN in future negotiations over Registry Agreement changes or consensus policy revisions. Changes need to be made throughout the Registry Agreement to address this concern. *Grainger (11 June 2013); Allstate (11 June 2013)*

Analysis: *This comment is under consideration by ICANN, and ICANN will work with the community to determine whether .brand specific provisions are appropriate.*

Transition Upon Termination (Section 4.5)

- ICANN should not have the right to transition any gTLD in circumstances where the registry has terminated the Registry Agreement as a result of a default of ICANN. *Richemont (20 May 2013)*
- To the extent that brand gTLDs are allowed to delegate names to affiliates, customers, licensees, advertisers, dealers, etc., then the provisions in Section 4.5 relating to “own exclusive use” should be broadened accordingly. *Richemont (20 May 2013)*
- Richemont may have broader reasons to object to a successor registry operator taking over the platform (e.g. the new operator may allow the gTLD to sell counterfeit products which would destroy the goodwill created by Richemont). Flexibility in the language is needed to accommodate all reasonable requests not to transition over to a new operator. *Richemont (20 May 2013)*
- ICANN’s obligation to take into account intellectual property rights on any transition may not be sufficient to protect either a brand gTLD or a Generic gTLD, especially where second-level domains have been provided to affiliates or others in the relevant industry. The preferred language should consider: a right for the registry operator to transfer the gTLD to a nominated third party (such as a trusted industry-led foundation); and a prohibition of transferring the gTLD where (i) the gTLD contains the registered trademark of the registry operator; or (ii) the registry operator was otherwise responsible for all the registrations in the gTLD. *Richemont (20 May 2013)*

The BC commends ICANN for its addition to Section 4.5 which states that ICANN will consider IP rights of the Registry Operator in determining whether to transition operation of the registry to a successor operator. This brings the Registry Agreement closer to meeting the BC’s position in this regard. BC notes with concern that ICANN still retains sole discretion for transferring control if the registry had allowed any non-affiliates to use domains it had registered, under Section 4.5(ii)(B). The BC maintains its objection to the phrase “or use” and recommends its deletion in order to accommodate use by entities that are not affiliates of the operator (such as subscribers and customers). *BC (11 June 2013)*

If Sections 4.2 and 4.3 are revised, Steptoe recommends for consistency purposes that Section 4.5 be revised to reflect that Sections 4.2, 4.3 and 4.4 are termination provisions and not expiration provisions. Also, Registry Operator should only have to provide data upon termination that is “reasonably required” for operation of the registry for the TLD “only to the extent” necessary to

maintain operations and registry functions. Other data may be confidential and not necessary to operate the registry upon termination. *Stepto* (11 June 2013)

Registry Transition

Following Registry Transition, the secondary Registry Operator should be required to maintain registration restrictions to the extent that such restrictions exist to protect the public interest. *NABP* (17 May 2013)

A registry should not be transitioned upon termination of the Registry Agreement in cases where no domains have been sold, distributed or transferred to unaffiliated third parties, or where the gTLD corresponds to a trademark owned by the Registry Operator. *FairWinds Partners et al.* (20 May 2013)

Closed registries

The circumstances under which ICANN could terminate an agreement of a closed registry should be limited to cases of extreme breach or solely with the approval of the Registry Operator. ICANN should not be permitted to transition any TLD in a closed domain without consent of the Registry Operator. A third party should not be allowed to operate a TLD consisting of the Registry Operator's (or former Registry Operator's) trademark or brand, or other closed TLD. *DISH* (20 May 2013)

Analysis: *Further restrictions or qualifications to the transition of a .brand gTLD or termination due to ICANN's breach to a successor registry operator are under consideration by ICANN, and ICANN will work with the community to determine whether such specific provisions are appropriate. However, it is not appropriate for a Registry Operator to retain the sole discretion to assign the gTLD to a successor registry operator. If such an assignment is requested, it will be subject to the approval of ICANN pursuant to the existing provisions of the Registry Agreement. See also above analysis regarding the termination provisions.*

Article 5--Dispute Resolution

Mediation (Section 5.1)

- It is pointless for ICANN to insist that parties participate in a pre-arbitration process that will result in delays to resolution and additional costs and expense for both parties, especially when the process is poorly defined. *Verisign* (20 May 2013)
- Although ICANN added language requiring the mediator to consult with the parties regarding the rules and procedure for mediation, "consultation" is insufficient and the provision continues to create uncertainty and inconsistency in the process. *Verisign* (20 May 2013)
- There is no mechanism in the event the parties are unable to agree to a mediation provider entity and there is no timeframe for resolution. *Verisign* (20 May 2013)

Analysis: *ICANN believes mediation is a beneficial dispute resolution mechanism as it facilitates discussions and compromise between the parties. In addition, the provisions were drafted to provide flexibility to the parties and the mediator to craft proceedings best suited to reach an amicable*

resolution of a dispute.

Arbitration (Section 5.2)

- Punitive or exemplary damages should not be permitted. *Richemont (20 May 2013); STC (12 June 2013)*
- Arbitration should be subject to both the consent of the registry operator and ICANN. *Richemont (20 May 2013)*
- The location of the arbitration should be mutually agreed. *Richemont (20 May 2013)*

Prior to the start of any arbitration process, parties to the agreement should have an equal opportunity to opt out and proceed instead with litigation through the court system of an agreed jurisdiction. *KFH (21 May 2013)*

Limitation of Liability (Section 5.3)

Punitive or exemplary damages should not be permitted under any circumstances. *Richemont (20 May 2013)*

The possibility of punitive damages being awarded against a Registry Operator should be deleted or at least capped (as they have been with other TLDs such as .tel and .mobi). *DISH (20 May 2013)*

ICANN's last minute change carving out the Registry Operator's indemnification obligations from the liability cap creates a significant and unforeseen exposure for Registry Operators. Such a change would normally require substantive negotiations and discussions. ICANN should remove the carve-out and revert to the language agreed to by applicants in the June 4, 2012, version of the Applicant Guidebook. *Verisign (20 May 2013)*

Liability should not be excluded for fraud, confidentiality, data protection, death or personal injury caused by negligence (mandatory in many EU jurisdictions), intellectual property infringement and any other liability that cannot be excluded by applicable law. *Richemont (20 May 2013)*

It is a standard contracting principle that the limitations of liability should not apply to damages : (i) resulting from the gross negligence, intentional breach, bad faith or willful misconduct of a party or its personnel; (ii) stemming from personal injury, death, or property damage caused by a party or its personnel; (iii) arising from claims for which either party has agreed to indemnify the other party pursuant to the provisions of this agreement; or (iv) arising from any breach by a party of its confidentiality obligations. This language should be inserted into Section 5.3. *Steptoe (11 June 2013)*

It is not usual contracting practice to disclaim only warranties "with respect to the services rendered by itself, its servants or agents, or the results obtained from their work." It is thus recommended that this be revised to merely state that each party disclaims all other representations and warranties to protect both parties. *Steptoe (11 June 2013)*

Limitation on Liability--Registry Operator

The maximum aggregate monetary liability of the Registry Operator should be equal to that of ICANN. *NABP (17 May 2013); FairWinds Partners et al. (20 May 2013)*

Specific Performance (Section 5.4)

This provision is overly broad as it is understood that injunctive relief is usually limited to breach of the confidentiality provision or breach of performance obligations that are critical with respect to the services and products to be provided. This provision should be revised accordingly. Also, specific performance should be limited to non-performance by the other party. *Steptoe (11 June 2013)*

Analysis: ICANN appreciates these comments and has made revisions to the Registry Agreement over time where appropriate in order to address several of these concerns. Many of the provisions referenced in the comments have been revised in the past in order to reflect previous public comments. To the extent the provision does not fully address the interests of any particular applicant or groups of applicants they are free to seek to negotiate with ICANN regarding the specific terms and conditions of their Registry Agreements.

Article 6-Fees

Registry-Level Fees (Section 6.1(a))

Section 6.1(a) should be revised to provide that the Registry Operator's obligation to pay the Registry Level Fixed Fees begins 30 days from the date upon which the new gTLD is delegated in the DNS to the Registry Operator. This obligation must be aligned with the commencement of the Sunrise period following provision of 30 days' notice as mandated by ICANN. *ARI Registry (20 May 2013)*

- Insofar as the Section 6.1(a) revisions of the Agreement are intended to postpone the effectiveness of the Registry-Level Fixed Fees to a point in time where the Registry Operator is capable, not hindered by any ICANN restrictions or delays, of commencing its Sunrise, the revisions fail to recognize the restrictions of the Trademark Clearinghouse RPM requirements document. TLD Startup Information cannot be submitted prior to delegation of the TLD into the root zone. Therefore, the earliest possible time a Registry Operator can commence its Sunrise period is 30 days following delegation of its new gTLD. *ARI Registry (20 May 2013)*
- Registry Operators must not be obligated to pay Registry-Level Fixed Fees to ICANN when they are hindered, through no fault of their own, from generating revenue from the new gTLD. *ARI Registry (20 May 2013)*
- Further clarification is required regarding the timing of the Registry Operator's payment of the Registry-Level fees. Language should be added to clarify that ICANN will not invoice the Registry Operator for such fees until sometime following the end of the quarter in which the fees are incurred. *Verisign (20 May 2013)*
- The date that starts the 30-day clock ticking for the Registry Operator's payment of Registry-Level fees must be based on the date the invoice is received, not the date ICANN writes the invoice. *Verisign (20 May 2013)*

Clarification by ICANN on the operation of Section 6.1 and guidance from ICANN on the calculation of fees is requested based on an example set forth in the comments. *Balasubramanian GR (30 May 2013)*

Analysis: ICANN clarified Section 6.1 as it relates to the timing of invoices. The accrual of the obligation to pay the applicable quarterly fees is not tied to the commencement of the RPMs.

Pass-Through Fees (Section 6.4); Minimum Requirements for RPMs (Specification 7)

- The proposed language requires the Registry Operator to agree in advance to pay fees for RPMs pursuant to Specification 7, which has not been finalized. The RPMs must be made publicly available for comment. *Verisign (20 May 2013)*
- ICANN has maintained in this provision the ability to unilaterally revise the Trademark Clearinghouse Requirements (Specification 7) in “immaterial respects” from time to time. ICANN must define “immaterial” as such changes could require Registry Operators and Registrars to expend development time and cost to implement such changes, whether it be to format, naming convention, or technical specifications. The language also leaves open for ICANN to subject Registry Operators and Registrars to timelines that could place a party at risk for non-compliance. *Verisign (20 May 2013)*

Analysis: The RPMs were previously made available for public review, and ICANN has received comments from many within the community. ICANN intends to post the RPMs for public comment following additional input and interaction with the community. As discussed above, materiality standards are widely used and not defined in contracts.

Adjustments to Fees (Section 6.5)

This provision only allows for increases equal to CPI. It should allow for increases less than or equal to CPI. *UniForum (10 June 2013)*

Additional Fees on Late Payments (Section 6.6)

This provision should be deleted in its entirety, given certain applicable institutional restrictions. *KFH (21 May 2013)*

China Unicom could not agree with the preset rate; see text of comments for proposed revision. *China Unicom (29 May 2013)*

Analysis: ICANN appreciates these comments, but does not anticipate making revisions to Sections 6.5 or 6.6. Any material reduction in fees payable pursuant to the Registry Agreement would be the result of public discussion and likely be accomplished through the amendment mechanisms to the Registry Agreement.

Article 7 -Miscellaneous

Indemnification of ICANN (Section 7.1)

The provision is completely one-sided and should have reciprocity. *Richemont (20 May 2013); DISH (20 May 2013)*

Alternatively, the indemnification of ICANN by a Registry Operator should be limited to situations of intentional infliction of harm or gross negligence, and should be limited in amount. *DISH (20 May 2013)*

STC is concerned about the scope of this provision including Section 7.1(b). *STC (12 June 2013)*

Indemnification (Section 7.2)

This provision raises the concern that the indemnification provisions will not provide Registry Operators enough time to respond to indemnification notices. It is requested that all indemnification notices ensure that Registry Operator has sufficient time to investigate and respond to such claims. As with other provisions, ICANN's consent regarding a remedy affecting ICANN must not be unreasonably withheld. *Steptoe (11 June 2013)*

No Offset (Section 7.4)

China Unicom suggests that this term be waived. *China Unicom (29 May 2013)*

Analysis: Existing registry agreements do not provide for reciprocal indemnification, and ICANN does not anticipate providing reciprocal indemnification in the Registry Agreement. The indemnification provision in the Registry Agreement is consistent with existing provisions in registry agreements.

Change of Control; Assignment and Subcontracting (Section 7.5)

Certain changes will be highly confidential and 30 days' advance notice will not always be possible. In such circumstances, Richemont would prefer for consent to be obtained on the change of control and for there to be a right of termination for ICANN if the change of control was not "reasonable." *Richemont (20 May 2013)*

ICANN continues to fail to address Verisign concerns regarding this provision. ICANN's refusal to define review criteria for assignment and change of control gives ICANN the flexibility to make inconsistent, discriminatory and/or dilatory determinations. The language still allows ICANN to object based on undefined criteria, standard or process, which completely undermines the consent provision regarding subcontractors or assignment to compliant gTLD Registry Operators. There are no clear time limits for ICANN's decision to approve a subcontractor or assignment. ICANN must provide certainty to companies in this regard. ICANN also made a last minute change removing important protections restricting ICANN from assigning the Registry Agreement, broadening ICANN's right to assign the agreement to an entity that may not be appropriate and to an entity in an unknown jurisdiction. ICANN should revert back to the language in the Registry Agreement that was included in the June 4, 2012, version of the Applicant Guidebook as it pertains to this provision. *Verisign (20 May 2013)*

An exemption should be created so that no approval is needed from ICANN if the change in control or ownership is due to a reorganization of the Registry Operator's business. *DISH (20 May 2013)*

The current wording in Article 7.5(f)(iii) is not broad enough to cover all forms of group structures. Therefore, see proposed amendment to this provision attached to comments. *J. Rawkins (21 May 2013)*

Analysis: *The Registry Agreement has been substantially revised over time to address concerns relating to ICANN's consent over change of control transactions. As revised, ICANN cannot void such transactions (or prevent their occurrence), but may terminate the Registry Agreement in circumstances where ICANN withholds its consent to an assignment via change of control. The provision also does not require the Registry Operator to give ICANN advance notice of execution of a definitive agreement relating to such a change of control, which greatly reduces confidentiality concerns. ICANN notes that the latest revised version of the assignment provision provides that Registry Operator may assign the Registry 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 the Registry Agreement.*

Further, the provision provides for the general parameters under which parties will seek consent to assignments, etc. A precise listing of each item or procedure that will be followed when analyzing requests is inappropriate as such listings and procedures are likely to evolve over time, as the marketplace develops and as ICANN and Registry Operators become accustomed to making and responding to such requests in a prudent manner.

Amendment and Waiver (Section 7.6) & Negotiation Process (Sec. 7.7)

Opposition. ICANN should not be allowed to usurp power unilaterally to amend registry agreements, determining registry/registrar rights and economics. *Verisign (1 May 2013)*

- The changes to Secs. 7.6 and 7.7 would give ICANN the right unilaterally to change the terms of the registry agreements, during the term of those agreements, without review by government authority and over the objection of registries. *Verisign (1 May 2013)*
- This is potentially not confined to registry operators of new gTLDs. ICANN will no doubt claim that this broad power, and specific uses of that power to change contracts, will become part of all registry agreements upon their renewal. *Verisign (1 May 2013)*
- The new terms would allow ICANN to determine issues reserved for consensus policies and allow ICANN to determine issues even more far-reaching than consensus policies are permitted to go. *Verisign (1 May 2013)*
- The new powers are subject to challenge under ICANN structured arbitration and an ICANN developed process, not in a court or under normal rules of arbitration. Secs. 7.6 and 7.7 are the antithesis of bottom-up policy development and ICANN's core values and should not

become part of Registry Agreements. ICANN should not have regulatory powers without accountability to an independent authority in a competent jurisdiction which can assess the validity of any such exercise of power against well understood criteria. Terms and conditions should be subject to judicial review as a facial challenge or as applied. *Verisign (1 May 2013)*

- At a minimum, Sections 7.6 and 7.7, if they survive and are recommended to the Board for approval, must contain a carve-out from the arbitration process to provide for judicial review of any action taken thereunder. ICANN's failure to permit judicial review will not insulate the exercise of its power under these sections from court actions that challenge the enforcement of any Registry Agreement unilateral changes. *Verisign (20 May 2013)*
- The Governmental Advisory Committee and Department of Commerce should rein in any such unprecedented expansion of ICANN's powers. *Verisign (1 May 2013)*
- The ICANN Board should vote "no" on Sections 7.6 and 7.7 and revert to the 2010 compromise language included in the final AGB. Verisign is fundamentally opposed to any extraordinary amendment process beyond the 2010 compromise language in the Applicant Guidebook which appropriately requires Registry Operator Approval for a Special Amendment. ICANN's newly proposed language unravels the 2010 compromise by granting ICANN a unilateral right to amend Registry Agreements. ICANN is refusing to act in a transparent manner; its action is not in good faith and is contrary to the multistakeholder process. ICANN is attempting to force through a new version of the Registry Agreement with last minute changes that a subset of anxious applicants could feel compelled to accept, further empowering ICANN to establish these last minute changes as the new baseline for all new gTLD registry operators. *Verisign (3 May 2013); NCSG (12 June 2013)*
- The "public interest" standard is illusory and meaningless in providing boundaries for the exercise of ICANN's proposed new unilateral powers. It is susceptible to misuse and abuse. There is no accountability mechanism in Section 7.6 for ICANN and no safeguards or opportunity for judicial review. Verisign petitions ICANN to withdraw Sections 7.6 and 7.7 and any version of the concept of unilateral amendment rights for ICANN--they are not in the public interest, not in the best interest of the community and not consistent with the letter and spirit of the multi-stakeholder model. *Verisign (16 May 2013)*

Mechanisms such as the Extraordinary Amendment process (Section 7.6 (e-h)) should be developed through the PDP rather than being introduced into an existing Agreement and posted for Public Comment. The Extraordinary Amendment process is both cumbersome and unlikely to be used; therefore, the added complexity in the contract is unnecessary. *Google (20 May 2013)*

There is no need for a separate process for amendment on top of the current PDP process. This section of the agreement creates a new, unnecessarily complex, convoluted and cumbersome process for amendment. The BC encourages ICANN to simplify the process by using existing procedures to solicit community input and involvement in the amendment of the new gTLD registry agreement. *BC (11 June 2013)*

Regarding the Negotiation Process (Sec. 7.7), arbitration is only applicable to a limited number of

clause amendments but would suggest that arbitrators would need profound knowledge of DNS as well as the economics of the industry in order to make a ruling. Also, “2.1” appears twice in Sec. 7.7(e)(ii). *UniForum (10 June 2013)*

Support. The positives in the new agreement outweigh the concerns about the new amendment process (which is far better than the version ICANN published earlier this year). *Donuts (6 May 2013)*

Revisions Required (Section 7.6)

IPC urges ICANN to revise Section 7.6; it is too complex and difficult to grasp. The circumstances defined in the current version of the Registry Agreement under which the ICANN Board could make changes to an Agreement without initiation of a PDP are too narrow. The criteria to be used by ICANN are inapposite. The standards and the automatic stay provision could undermine ICANN responsibility to act in the public interest and should be revised. *IPC (11 June 2013)*

Analysis: *ICANN appreciates these comments. Sections 7.6 and 7.7 of the Registry Agreement are the result of significant discussions and negotiations between ICANN and members of the community. In reaching the terms of these Sections, ICANN considered all public comments submitted on the amendment topic and believes that the revised Registry Agreement appropriately balances ICANN’s need for a mechanism to modify the Registry Agreement when appropriate and Registry Operators’ desire to have contractual certainty over the life of the agreement.*

Ownership Rights (Section 7.12)

Specific reference should be made to the fact that ICANN or any of its third party vendors must not seek to obtain any intellectual property rights over the terms to which the gTLD corresponds. Richemont also requires a mutual non-infringement warranty relating to the use by the other of any intellectual property rights supplied by a party under the Registry Agreement. *Richemont (20 May 2013)*

ICANN or third party vendors involved in operation of a gTLD should not seek or gain trademark or other intellectual property rights over the mark to which the gTLD refers. *FairWinds Partners et al. (20 May 2013)*

This section needs to explicitly acknowledge the .brand registry operator’s rights in the trademark(s) which comprise the .brand TLD string and ICANN needs to explicitly agree that it does not gain any rights in such trademark by delegating the TLD. This section should also have a clear non-challenge provision. *Grainger (11 June 2013); Allstate (11 June 2013)*

This provision should be revised to note that it does not affect any rights the Registry Operator or its affiliates may have in brands used as TLDs. *DISH (20 May 2013)*

Analysis: *Section 7.12 of the Registry Agreement was revised to provide for certain of the safeguards requested in previous comments. Specifically, Section 7.12 provides that nothing in the Registry*

Agreement shall be construed as affecting any existing intellectual property or ownership rights of Registry Operator. Although ICANN is willing to consider further revisions to this Section, ICANN cannot through the Registry Agreement extend protections against third parties, as the Registry Agreement is not binding on such parties.

Obligation to Publish a WHOIS that includes Personal Data (Section 7.13)

This obligation violates our national and European laws and it is hard to imagine a governmental organization signing a contract containing such an obligation. The WHOIS Conflicts with Privacy Law provision in Section 7.13 seems to suggest that there will be no room to negotiate on this issue in individual contract negotiations. The City of Amsterdam believes that use of that Section 7.13 provision at this point is entirely inappropriate. To avoid lengthy delays and complexity given that this issue affects many entities, it is recommended that ICANN arrange for an acceptable standard deviation on this point for EU based registries. The City of Amsterdam is willing to assist ICANN in that effort and notes that already two clear examples (.tel and .cat) can be pointed to in facilitating the drafting and reaching of agreement on an acceptable standard deviation for EU based registries. *City of Amsterdam (11 June 2013)*

Analysis: *Registry Operators may request revisions to the form Registry Agreement during the negotiation phase of the New gTLD Program.*

Confidentiality (Section 7.15)

This clause should be amended to take into account documents which the receiving party should reasonably have considered to be confidential by the nature of the information contained. *Victoria Government (17 May 2013)*

The added language falls far short of the necessary protections found in standard confidentiality clauses. *Verisign (20 May 2013)*

- The term for confidential treatment of information should be extended from two years to three years with a caveat that confidential information that is a trade secret under applicable law shall continue as long as the confidential information remains a trade secret under applicable law. *Verisign (20 May 2013)*
- The standard for disclosure, which includes the information being “useful,” is too low and should be removed. *Verisign (20 May 2013)*
- The provision allows disclosure to an overbroad group of recipients, such as “third parties.” *Verisign (20 May 2013)*
- A standard of care should be imposed to at least the degree of care the receiving party uses to prevent disclosure, publication or dissemination of its own confidential information, but in no event less than reasonable care. *Verisign (20 May 2013)*

Confidentiality provisions should be expanded, and should incorporate appropriate remedies in cases where breaches in confidentiality result in material harm to the Registry Operator. *FairWinds Partners et al. (20 May 2013)*

It is not standard to limit confidentiality obligations to only two years. Rather, they should be extended “so long as such information is treated as confidential by the disclosing party.” *Steptoe (11 June 2013)*

Confidentiality provisions should be expanded, and should incorporate appropriate remedies in cases where breaches in confidentiality result in material harm to the Registry Operator. *NAPB (17 May 2013)*

Analysis: *The confidentiality provision was drafted to ensure appropriate confidential protections for the parties. ICANN believes that, when read in its totality, the confidentiality provision appropriately protects confidential information of the parties, and provides clarity as to the information that will be considered “confidential” under the provision. For example, the references to “use” and “third party” (as noted in the comments) in Section 7.15(c) is qualified by the proviso that such third party (such as outside counsel, consultants, etc.) use must be limited to (i) use in connection with the performance of the activities under the Registry Agreement and (ii) third parties bound by confidentiality obligations at least as stringent as those set forth in the provision. ICANN revised the provision to include a three-year term (rather than two years).*

C. NEW gTLD AGREEMENT SPECIFICATIONS

Specification 2, Data Escrow Requirements

Notification of Deposits (Part A, Section 7)

The second paragraph of this provision limits the Registry Operator to the draft version available at execution of the Agreement and does not allow the Registry Operator to utilize a later draft version of the specification that is updated following execution of the Agreement. This is problematic for Registry Operators that manage the infrastructure for several TLDs which may launch at various times. Section 7 should be revised to allow, but not require, the Registry Operator to utilize any draft version that is updated following execution of the Agreement but prior to publication of a RFC. *ARI Registry (20 May 2013)*

Analysis: *ICANN agrees with the suggestion and will clarify in the specification that Registry Operators can use the current draft or a subsequent draft of the specification, but once the specification becomes an RFC, they will need to transition to the RFC version within 180 days.*

Release of Deposits (Part B, Section 6)

This language of this provision could result in the Registry Operator being in breach or otherwise penalized through no fault of its own, but due to the actions/inactions of the Escrow Agent. The language needs to distinguish between a failure of the Registry Operator and the failure of the Escrow Agent. *Verisign (20 May 2013)*

In some cases there should be validation of the escrow release trigger event. This is true for Secs. 6.1, 6.5, 6.6, 6.7, and 6.8. In these events, ICANN should provide supporting documentation to prove that the event has occurred. *UniForum (10 June 2013)*

Analysis: *Registry Operator is responsible for the performance of the escrow agreement by the escrow agent it contracts with to provide the escrow services. If the escrow agent does not provide ICANN required notices, such failure should not adversely affect ICANN's ability to receive deposits, and presumably Registry Operator would seek recourse against the escrow agent for any failure to comply with its obligations under the applicable escrow agreement. Escrow agreements may provide for dispute resolution mechanisms (such as directing that disputes between ICANN and Registry Operator under the escrow agreement be resolved pursuant to the dispute resolution provisions of the Registry Agreement) in the event that Registry Operator believes that ICANN was not entitled to a deposit that it received.*

Indemnity (Part B, Section 9)

Governmental entities are generally not able to agree to the inclusion of the indemnity provision as specified in Sec. 9. The alternative and preferred approach was recognized by ICANN in amendments to Article 7.1(a) of the Registry Agreement, which provides specific text for intergovernmental organizations or governmental entities. For consistency, the proposed indemnity clause in Data Escrow Requirements should be amended in the same way. *Victoria Government (17 May 2013)*

ICANN should be required to indemnify the Registry Operator from all claims, damages, liabilities, costs, and expenses unless incurred due to willful omission or breach of the Registry Agreement. *NABP (17 May 2013); FairWinds Partners et al. (20 May 2013)*

The words "absolutely and forever" should be deleted. Indemnity should be limited to a two-year period subsequent to the termination of the Escrow Agreement. *KFH (21 May 2013)*

STC is concerned about the scope of this provision. *STC (12 June 2013)*

Analysis: *Registry Operators may request modifications to their data escrow agreement, including the indemnification provisions imposed by a particular escrow agent. ICANN will modify the specification to delete the requirements related to indemnification between Registry Operator and the escrow agent. ICANN will not be a party to the escrow agreements and therefore will not have any indemnification obligations thereunder. The term "absolutely and forever" is consistent with existing TLD escrow agreements.*

Specification 3--Format and Content for Registry Operator Monthly Reporting

Registrar State Columns

The registrar state columns should be removed. The AROS solution should provide this information in a more relevant and TLD specific manner and should be used instead. To avoid unnecessary changes

to the format, it would be acceptable for Registry Operators to be allowed to simply put “0” in the “pre-ramp-up” and “ramp-up” columns. *ARI Registry (20 May 2013)*

Zone File Access Passwords Column

The “zfa-passwords” column should be removed from the report. If a Registry Operator opts to use the CZDA to deliver the zone file, there is currently no way to determine this value for the report. ICANN should obtain the relevant information from the CZDA. To avoid unnecessary changes in format, it would be acceptable for Registry Operators to put “0” in the “zfa-passwords” column. *ARI Registry (20 May 2013)*

Total Nameservers Column

The source data for this report column is ambiguous. Host objects are registered, and those host objects act as nameservers. ARI questions whether this column refers to the number of host objects under sponsorship, the number of host objects under sponsorship that are acting as nameservers or the number of nameserver associations from domains under sponsorship. ICANN should revise the description of the total nameservers column to clarify the intent of the report column. ICANN should note that host objects may be shared across several TLDs on a shared registry platform; depending on the requirements, attributing a host object to a TLD may not be possible and therefore the provisions added for the Registry Functions Activity Report may also apply. *ARI Registry (20 May 2013)*

Analysis: *Regarding the registrar state and ZFA password columns, the Registry Operator is responsible for the contents of the monthly reports, and ICANN simply publishes what the Registry Operator provides. The AROS and CZDA systems provide the data for the Registry Operator to fulfill its reporting requirements. ICANN will add clarification language regarding the nameservers column.*

Specification 4--Registration Data Publication Services

Registration Data Directory Services (Section 1)

This provision raises significant concern regarding both the ambiguity of the term “commercially reasonable” and its ignorance of established ICANN policy making processes. Requiring the implementation of a new standard no later than 135 days after being requested to do so by ICANN is unreasonable and does not fully take into account the potential magnitude of the implementation efforts and the differing development capacities of Registry Operators. This provision also is not consistent with the Roadmap to Implement SAC 051, and does not recognize the initiation of a GNSO PDP to implement a new standard. The provision should be revised to address ARI Registry’s concerns and to make the implementation timeframe consistent with other provisions having a 180 day period (e.g. Part A, Section 3.1) *ARI Registry (20 May 2013)*

The newly added Section 1.4 makes the positive change that registry operators may provide more registration data than the minimum required by the specification; however, it forbids registry operators from offering greater transparency and accountability through such additional data outputs unless ICANN approves it. This condition is unjustified. If there is a good reason for it, ICANN should

spell that out, and should make this condition subject to a requirement that ICANN not unreasonably withhold such approval. *COA (11 June 2013)*

The entirety of Section 1.10 has been deleted, thus eliminating any obligation by registry operators to implement any new or revised model for gTLD data directory services that may be adopted by the ICANN Board after public comment based on the recommendations of the Expert Working Group. It is discouraging that ICANN is retreating so rapidly and completely from its initial promotion of the Expert Working Group as the linchpin to resolving the persistent problems plaguing Whois. Deletion of Section 1.10 contrasts starkly with the addition of a new paragraph in Section 1 requiring each registry operator to implement a new IETF-developed standard supporting access to domain name registration data with no indication that any action at all by the ICANN Board or any public comment will be involved. Section 1.10 should be reinstated, especially if this new paragraph is retained. *COA (11 June 2013)*

In Section 1.11, COA suggests again that the provision be expanded to require registry operators to provide links to any cross-registry registration data directory service operated by or on behalf of ICANN (such as the Internic service called for by the Whois Policy Review Team). *COA (11 June 2013)*

Analysis: *The revisions to Specification 4 reflect numerous discussions with members of the community, and balance ICANN's desire for implementing enhancements to registration data publication services and the Registry Operator's need for contractual certainty and reasonable implementation timelines. The new language inserted requiring the implementation of the new standard is consistent with language in the .com registry agreement, which is the largest gTLD based on domain names under registration.*

Zone File Access (Section 2)

The addition of the text "optionally through the CZDA provider" throughout Section 2 in no way addresses the ambiguity regarding the obligations of the Registry Operator in relation to Zone File Access. While ARI Registry expects the nature of this obligation to include ensuring AXFR access to the CZDA's nominated servers once per day per zone, ARI Registry requests documentation of the interface between Registry Operators and the CZDA, which would be consistent with the level of detail provided in other Specifications of the Agreement. ARI Registry recommends use of proposed text in its comments to form the basis of ICANN's efforts to document this interface (see ARI Registry comments text). ARI Registry also requests documentation of the mechanism by which the CZDA provider informs Registry Operators to reject and/or revoke access of users that violate this mechanism and recommends use of proposed text in its comments to form the basis of ICANN's efforts to document this mechanism. *ARI Registry (20 May 2013)*

Both for brand gTLDs and Generic gTLDs, Richemont requires that the obligation for the provision of information for the relevant file is limited so as to exclude any proprietary information contained within it. *Richemont (20 May 2013)*

ICANN has yet to provide information regarding the CZDA Provider. *Verisign (20 May 2013)*

Analysis: *It should be noted that the information in the DNS is public by the nature of the service and therefore including proprietary information should be carefully considered. Regarding CZDAP, ICANN is launching the beta of the CZDAP and additional details will be available shortly.*

Exceptional Access to Thick Registration Data (Section 3.2)

The change from two business days to three calendar days is not comparable and should be increased to five calendar days. ICANN's revision from a business day requirement to a 365-day capability requirement could potentially pose additional unanticipated costs for some Registry Operators. *Verisign (20 May 2013)*

Analysis: *ICANN adjusted the requirement to "as soon as commercially reasonable, but in no event later than five calendar days."*

Specification 5--Schedule of Reserved Names

Reservations for Registry Operations

ICANN has not provided the rationale for removing the Tagged Domain Names which was put in place to minimize conflicts for future changes to the IDN tag (xn--). *Verisign (20 May 2013)*

Section 3 is entirely new and was added without consultation with the IPC. It raises concerns and requires clarification. *IPC (11 June 2013)*

- IPC recommends that all names activated pursuant to Sec. 3.2 and allocated pursuant to Sec. 3.3 be checked before activation or allocation against the TMCH database, with notification to the Registry Operator of any identical match to a trademark (or a corresponding label) in the TMCH. *IPC (11 June 2013)*
- If the Registry Operator proceeds with activation or allocation of such a name, the owner of the identical trademark should receive notice (regardless of any expiration of the 90-day mandatory notification period), and under appropriate circumstances should have the opportunity to challenge the activation or allocation. A specific dispute resolution procedure should be available. The IPC is prepared to propose such a procedure upon ICANN's request. *IPC (11 June 2013)*

ARI Registry recommends rejection of the proposed revisions to Section 3.2 of Specification 5. *ARI Registry (20 May 2013)*

Analysis: *Generally, the changes made to Specification 5 were intended to provide greater specificity and certainty relating to the reservation of domain names by the Registry Operator. ICANN notes that the provision prohibiting Reserved LDH labels (R-LDH labels) or "tagged domain names" as described in RFC 5890 was not deleted but only moved to Specification 6.*

Country and Territory Names, Other Reserved Names (Section 4, Section 5)

In Section 5, the new language states that upon 10 calendar days' notice ICANN can require the Registry Operator to withhold additional names from registration (Section 5). The provision does not address how a Registry Operator is expected to resolve a situation where ICANN adds domain names to a list of domain names that are already registered. The same issue could occur if the Country and Territory Name List is updated (Section 4). Failure to address this problem now will result in Registry Operators assuming that such existing and registered domain names are not subject to any claw-back should ICANN decide to expand the list of reserved names in the future. *Verisign (20 May 2013)*

Analysis: *As specified in the lead-in paragraph to this Specification, the requirement only relates to initial registrations.*

.BRAND/Closed, Single-Registrant and Geographical Names

ICANN should allow the release of reserved geographic names and two-character labels for use by the Registry Operator in conjunction with the promotion or operation of the registry. *NABP (17 May 2013); FairWinds Partners et al. (20 May 2013)*

Use of two-character labels and country codes or country names as second level domain names may be valuable as portals for brand gTLDs. ICANN and the GAC should develop a streamlined process whereby such names can be more easily released for usage. It would be highly inefficient for the registries to individually reach agreement with the governments and country-code managers. As such the GAC and ICANN prior consent requirements should be removed. *Richemont (20 May 2013)*

The BC reiterates its request for an exception that allows single-registrant TLDs to register domains for their markets and operations based in countries and territories, without the requirement to obtain express authorization from governments for each country and territory name. The BC also reiterates its request that, if an exception is not possible, ICANN should implement a centralized mechanism where single-registrant TLDs can request authorization from all governments in a consolidated request. *BC (11 June 2013)*

Analysis: *See above analysis related to Section 2.6.*

International Olympic Committee et al (Section 5)

If ICANN intends this provision to give ICANN the limited right to reserve additional names of the IOC, International Red Cross and Red Crescent movement only, then the language should expressly be limited to that effect. *IPC (11 June 2013)*

Analysis: *This Section will be clarified to make clear that this provision relates only to the IOC, International Red Cross and Red Crescent.*

Specification 6--Registry Interoperability and Continuity Specifications

Proposed Amendment (Section 1.2)

Language is suggested to be inserted after 5732: “(if not supporting domain attributes per RFC 5731)”. This amendment would make clear that while RFC 5731 supports both host objects and domain attributes, leaving its choice to the registry, ICANN is not requiring all gTLD registries to only use host objects (defined in RFC 5732), but keeping this technical choice up to the registry, provided registry documents this choice to ICANN prior to deployment as specified in the last sentence of Section 1.2. *R. Kuhl (10 June 2013)*

Analysis: ICANN agrees and will clarify Specification 6.

Specification 7--Minimum Requirements for Rights Protection Mechanisms (RPMs)

Unclear Which RPMs Apply

Should this not refer just to those RPMs “specified in this Specification” and those independently developed (and not refer to “ICANN mandated”)? Spec. 7 also refers to the URS but not the UDRP. Does that mean UDRP will not apply to new gTLDs? If it will then this should be specified, as referring to application of RPMs “specified in this Specification” would seem to indicate otherwise. *UniForum (10 June 2013)*

Analysis: The RPMs specified in Specification 7 must be applied by Registry Operators. Registry Operators may enact supplemental, non-contradictory RPMs in addition to the Specification 7 RPMs at their discretion. UDRP will apply with respect to all gTLDs between registrars and registrants.

RPMs: Sunrise and Reservation of Certain Geographic Names

There should be a provision made for a Registry Operator to reserve geographic names significant in the area (e.g. names of cities, government or municipal departments, etc.) prior to the Sunrise phase and to subsequently register them to the appropriate entity. It will not be feasible to allow these names to be registered to members of the public during the Sunrise phase. *UniForum (10 June 2013)*

Closed Domains

Registry Operators of closed domains should be exempt from the Sunrise, Claims and URS processes as there is little likelihood of trademark infringement in the closed domains. *DISH (20 May 2013)*

A Registry Operator should not be required to implement a Sunrise Period or Claims Service and pay associated fees in cases where registration restrictions prevent unaffiliated third parties from registering within the gTLD. *FairWinds Partners et al. (20 May 2013)*

Other Trademark (TM) Validation Services

Specification 7 is unclear on whether other TM validation services can be used; this should be clarified. UniForum will meet its obligations under the TMCH but also wishes to make use of an alternative, voluntary, mark validation service for the four geographic TLDs it has applied for. Clarity is also required as to whether such services can be used in addition to or as a voluntary alternative to

the TM Clearinghouse. *UniForum (10 June 2013)*

Precedence for Certain Trademarks

There is pressure for UniForum to give precedence to holders of African trademarks during the .africa gTLD's Sunrise phase in the case of a contention. It is not clear from Spec.7 whether UniForum will be able to do this. *UniForum (10 June 2013)*

Precedence and Conflicts Between Agreement and TMCH Requirements Document

Clause 2 regarding conflicts between the Agreement and the TM Clearinghouse Requirements document is light on details. This sentence is of little assistance as there is little for the TM Clearinghouse Requirements document to conflict with. UniForum suggests that governing principles be clearly stated in the Agreement, not the TM Clearinghouse Requirements document. *UniForum (10 June 2013)*

It is important to retain the principles underlying rights protection in the Registry Agreement, which is the document signed by the parties. Therefore, Spec. 7 should set out the principles governing RPMs for new gTLDs, while the requirements document should deal with the particulars of implementation and compliance with such RPMs. For example, if as implied in the TMCH document that the TMCH will be the only provider of validation services, then this point should be stated in the main agreement and not in the requirements document. If only certain classes of rights in a name will be recognized in the sunrise period, this should also be specified in the main agreement. *UniForum (10 June 2013)*

Registration of Domain Names by Holders of Non-Trademark Rights During Sunrise

It is unclear under Spec. 7 whether UniForum will be able to allow holders of non-trademark rights to register corresponding domain names during the Sunrise phase. Such rights would be registered company or trust (foundation) names. It is suggested that Spec. 7 set out the IP rights that will be recognized during the Sunrise phase. *UniForum (10 June 2013)*

Analysis: ICANN is currently reviewing and revising the RPMs, and will take these comments into consideration before finalizing a draft that will be posted for public comment. ICANN is committed to allowing Registry Operators flexibility in the implementation of the RPMs for their TLD, but must balance that flexibility against ensuring that the RPM's minimum requirements are effectuated.

Dispute Resolution Policy (DRP)

UniForum intends to introduce its own DRP for the four geographic gTLDs it has applied for which will differ from the URS and UDRP in that it will afford protection to a wider range of rights to a name and will also deal with offensive registrations and abusive practices. UniForum requires certainty as to which will prevail where there is overlap between the URS and UDRP and its proposed DRP so as to prevent "forum shopping." If a complainant is unsuccessful under the dotAfrica DRP, UniForum would like if possible to prevent a further action being brought under the UDRP and for the dotAfrica DRP to have sole jurisdiction if that is possible. The agreement should either specify how the different DRPs would operate, or have sufficient scope for the parties to negotiate these aspects during the

contracting phase. *UniForum (10 June 2013)*

Analysis: *The RPMs specified in Specification 7 must be applied by Registry Operators. Registry Operators may enact supplemental, non-contradictory RPMs in addition to the Specification 7 RPMs at their discretion.*

Specification 8--Continued Operations Instrument

Access to Funds (Spec. 8 & Section 4.5)

ICANN has failed to address Verisign's concerns over the breadth of ICANN's access to the Continued Operations Instrument (COI) funds. ICANN's reference in its Report on Public Comments to the remedy of a dispute resolution procedure for an abuse is unpersuasive given ICANN's insistence that it be entitled to a seemingly unconditional release of funds and its attempt to insulate itself from a Registry Operator's claim of breach. *Verisign (20 May 2013)*

- The language allowing ICANN to draw down on the COI in the event of an emergency transition termination/expiration of the Registry Agreement for any reason is too broad and should be narrowed (i.e., termination for any reason should not be justification to access COI funds if there not is an urgent need to transition registry services). *Verisign (20 May 2013)*
- There is still no mechanism permitted in the COI for "checks and balances" on ICANN's right to access funds. At a minimum there must be an obligation on ICANN to provide the Registry Operator notice of its intent to withdraw funds and a commercially reasonable period for the Registry Operator to object or dispute such notice. *Verisign (20 May 2013)*

"Best Efforts" Clause

Large multi-national corporations do not generally agree to "best efforts" clauses, but can agree to "commercially reasonable" efforts language. *Steptoe (11 June 2013)*

Analysis: *As previously indicated, ICANN intends to reserve use of the COI for the maintenance and operation of the TLD in cases where the Registry Operator has failed to provide critical registry functions. Section 4.5 of the Registry Agreement was revised in response to prior public comments. Given the importance of the COI to registrants in the TLD, ICANN believes a "best efforts" commitment is appropriate.*

Specification 9--Registry Operator Code of Conduct

Names Reasonably Necessary for Management, Operations and Purpose of the TLD

ARI Registry recommends rejection of the proposed revisions to Section 1(b) of Specification 9. ARI Registry opposes the concept of a cap; it is arbitrary, limits flexibility and innovation, and does not recognize the diversity of new gTLD business models. *ARI Registry (20 May 2013)*

ARI Registry urges the following clarification for domain names registered in the Registry Operator's

own right that are reasonably necessary for the management, operations and purpose of the TLD:

- the Registry Operator must act as the Registered Name Holder as that term is defined in the then current ICANN RAA. *ARI Registry (20 May 2013)*
- the Registry Operator must activate these names and such activations will be considered Transactions for purpose of section 6.1 of the Agreement. *ARI Registry (20 May 2013)*
- the Registry Operator must either register such names through an ICANN accredited registrar or self-allocate such names and submit to and be responsible to ICANN for compliance with ICANN Consensus Policies and obligations in Secs. 3.7.7.1 through 3.7.7.12 of the then current RAA (or any other replacement clause setting out the terms of the registration between a registrar and a registered name holder). *ARI Registry (20 May 2013)*
- the Registry Operator may release these names for registration to another person or entity. *ARI Registry (20 May 2013)*

Analysis: ICANN considered these comments but believes it is preferable to maintain a limit on self-registered names. However, the registry will be able to register names through a registrar.

Rationale for Removal of Section 1(e)

ICANN's Summary of Changes does not explain the removal of Section 1(e) preventing Registry Operators from disclosing confidential registry data or information about its registry services or operations to any employee of any DNS service provider, except where equal access is provided. ICANN is asked to explain why this provision was removed. *Verisign (20 May 2013)*

Analysis: Section 1(e) was removed in response to comments that indicated that it was vague, impractical and did not serve the community interest to implement complicated and costly business processes, and it was unclear what information was to be subject to the requirement. In addition, these applicants advised that such a provision was impractical in the context of executives and board members of a company that operates both registry and registrar businesses.

Exemption to Registry Operator Code of Conduct (Section 6)

With regard to the operation of the brand gTLD exemption, it is unclear how ICANN will interpret the "transfer control or use" language which is critical to developing plans for using brand gTLD registries. The exemption must be broad enough to allow brand gTLDs to provide second-level domains to customers, affiliates, licensees, advertisers, dealers, etc. *Richemont (20 May 2013)*

ICANN still has not identified the process by which Applicants may seek to obtain a Code of Conduct exemption. *Verisign (20 May 2013)*

- ICANN's determination whether to grant an Applicant's request for a Code of Conduct Exemption should not be, as is set forth in this provision, "in ICANN's reasonable discretion." It should be pursuant to defined criteria that ensure exemptions are granted in a consistent and nondiscriminatory manner. *Verisign (20 May 2013)*
- It is unclear whether Registry Operators that have received an exemption to the Code of Conduct must use only ICANN-accredited registrars. *Verisign (20 May 2013)*

A clear, streamlined process should be established to grant exemptions to the Code of Conduct, provided that the Registry Operator does not sell, distribute, or transfer control of second-level domains to unaffiliated third parties. *FairWinds Partners et al. (20 May 2013)*

There is an apparent inconsistency between Sections 6(i) and 6(ii) of Specification 9. Therefore, see the proposed amended wording attached to comments. *J. Rawkins (21 May 2013)*

Analysis: *ICANN is developing a procedure for reviewing exemption requests.*

Specification 11--Public Interest Commitments

Registrar Accreditation Agreement (RAA) (Section 1)

A proposed change to Section 1 deletes the requirement that registry operators do business only with registrars that have signed up to the most recent version of the RAA, confining that rule only to the current situation involving the 2013 RAA. Either this reflects an unfounded belief that the 2013 RAA is the pinnacle of perfection for registrar accreditation, or it gives registries unjustified influence over future enhancements to the minimum standards registrars are required to meet. This change deprives ICANN of a powerful tool to encourage registrars to sign up to improved standards unless it can also persuade registries to narrow the spectrum of registrars with which they do business. The proposed deletion should not be made. *COA (11 June 2013)*

Analysis: *Following numerous discussions with members of the community, ICANN determined that implementation of ongoing requirement to conduct business with registrars that are party to the most recent form of RAA was both impractical and not fair to Registry Operators, as it would significantly impact their continued operations. ICANN views the existing requirement (i.e. implementation of the 2013 RAA) as a significant benefit to the community. When future forms of RAAs are developed, ICANN will work with the community to identify appropriate mechanisms to encourage registrars to transition to the latest form RAA, or utilize the amendment provisions of the 2013 RAA.*

Amendment or Withdrawal Process for PICs

Language added by many applicants giving the applicant sole discretion to modify or discontinue PICs for any substantial or compelling business need defeats the purpose of Spec. 11 which is meant to ensure that ICANN can enforce any relevant commitments made during the application process as part of the new Registry Agreement. BC recommends that ICANN develop a community participation process where registry operators may seek amendments or withdrawals to their PICs. The BC also encourages the GAC and ICANN to ensure that the community can hold registry operators to any relevant commitments that are important to protect consumer and business interests in these new gTLDs. *BC (11 June 2013)*

Analysis: *ICANN revised the PIC Specification in response to the GAC's Beijing Communiqué.*

PICs Dispute Resolution Procedure (DRP)

The PICs DRP continues to be poorly defined. Applicants who submit PIC specs should be permitted to define the third parties who would have standing to enforce the PIC spec against the applicant. In this way, the virtually unlimited pool of third parties who might challenge a PIC spec is limited to the community that the PIC spec is intended to address. *Verisign (20 May 2013)*

ICANN should not introduce a complex DRP for enforcement of PICs. ICANN can and should enforce PICs through its existing contract enforcement mechanisms. If needed to allow for such enforcement, it may be reasonable to work with the community to establish standardized commitments that ICANN is comfortable enforcing and that simultaneously serve to fulfill any requirements imposed in response to the GAC's recent advice on safeguards. *Google (20 May 2013)*

The proposed revision to Section 2 creates a potential ambiguity in relation to subsequent amendments to the PICDRP. The revised language could be construed as limiting ICANN's ability to implement material changes to the PICDRP. Such potential material changes to the PICDRP could be warranted and appropriately binding on Registry Operators if known at the time of execution of the Registry Agreement. *IPC (11 June 2013)*

Further amendments to Spec. 11 may be appropriate based upon any further refinement of the PICDRP. ICANN should also address the propriety of language included in some of the submitted PICs which purported to reserve to applicants the ability to discontinue compliance with the PICs at the applicants' sole discretion. *IPC (11 June 2013)*

Analysis: *ICANN has been in ongoing community discussions regarding the PICDRP and will provide additional details before the procedure is implemented.*

Generic gTLDs

Richemont would prefer that PICs are taken from a clear set of ICANN published statements with appropriate ICANN enforcement guidelines. Richemont does not wish to be challenged by third parties to the extent there is any ambiguity in respect of its PIC. *Richemont (20 May 2013)*

Brand gTLDs

For brand gTLDs, Richemont does not consider that Article 2, Section 2.16 or Specification 11 are required. *Richemont (20 May 2013)*

Analysis: *These provisions will apply to all new gTLD Registry Operators.*

Enforcement of Commitments

The plain language of the proposed changes continues to give ICANN enforcement rights, and, moreover, gives ICANN the right to impose any remedy against a Registry Operator (including termination). *Verisign (20 May 2013)*

Analysis: *It is envisioned that the PICDRP will be the primary enforcement mechanism for PICs. ICANN will implement the remedies recommended by the PICDRP panels, subject to the objection procedures provided in the PICDRP.*