Exhibit 1

DETERMINATION
OF THE BOARD ACCOUNTABILITY MECHANISMS COMMITTEE (BAMC)
RECONSIDERATION REQUEST 18-7
5 JUNE 2018

The Requestor, Afilias Domains No. 3 Ltd., seeks reconsideration of ICANN organization's response to the Requestor's request, pursuant to ICANN organization's Documentary Information Disclosure Policy (DIDP), for documents relating to the .WEB contention set (DIDP Request).[1] Specifically, the Requestor claims that, in declining to produce certain requested documents, ICANN organization violated its Commitments established in the Bylaws concerning accountability, transparency, and openness.[2]

I. Facts.

A. Background Facts.

The Requestor submitted an application for .WEB, which was placed in a contention set with other .WEB applicants. The Requestor was invited to, and did, participate in an auction to secure the right to operate .WEB. The Requestor did not prevail at the auction; another applicant, Nu Dot Co, LLC (NDC), secured the winning bid.

On 23 February 2018, the Requestor submitted a DIDP Request (First DIDP Request) to ICANN organization requesting documents related to the .WEB contention set.[3] The First DIDP Request requested the following ten categories of documents:

1. All documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information;
2. Ruby Glen's Notice of Independent Review, filed on 22 July 2016;
3. All documents filed in relation to the Independent Review Process between ICANN and Ruby Glen, initiated on 22 July 2016;

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[1] Request 18-7, § 3, at Pgs. 1-5.
[2] Request 18-7, § 6, at Pg. 6-11.
[3] 23 February 2018 DIDP Request No. 20180223-1, *available at* https://www.icann.org/en/system/files/files/didp-20180223-1-ali-request-23feb18-en.pdf.

4. All applications, and all documents submitted with the applications, for the rights to .WEB;
5. All documents discussing the importance of .WEB to bringing competition to the provision of registry services;
6. All documents concerning any investigation or discussion related to
    a. The .WEB contention set,
    b. NDC's application for the .WEB gTLD,
    c. Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and
    d. Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign;
7. Documents sufficient to show the current status of NDC's request to assign .WEB to Verisign;
8. Documents sufficient to show the current status of the delegation of .WEB;
9. All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including:
    a. Document productions to the DOJ,
    b. Communications with the DOJ,
    c. Submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions,
    d. Communications with Verisign or NDC relating to the investigation, and
    e. Internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board; and
10. All joint defense or common interest agreements between ICANN and Verisign and/or NDC relating to the DOJ investigation.[4]

On 24 March 2018, ICANN organization responded to the Requestor's First DIDP Request (DIDP Response). ICANN responded individually to each of the ten items (and their subparts) by providing links to the publicly availably documents; objecting to certain requests as vague, overbroad, or unrelated to ICANN's operational activities; or confirming that documents responsive to the items do not exist. With respect to certain requested materials that were in ICANN organization's possession and not already publicly available, ICANN organization explained that those documents would not be produced because they were subject to certain Defined Conditions of Nondisclosure (Nondisclosure Conditions) set forth in the DIDP. Notwithstanding the Nondisclosure Conditions, "ICANN organization … considered whether the

[4] *Id*.

public interest in disclosure of the information subject to these conditions … outweigh[ed] the harm that may be caused by such disclosure" and "determined that there [were] no current circumstances for which the public interest in disclosing the information outweigh[ed] the harm" of disclosure.[5] In response to Item 1, ICANN organization responded that it would contact relevant third parties to determine whether additional documentary information is appropriate for public disclosure.[6] With respect to requests that were vague, ICANN organization suggested the Requestor could amend its DIDP request to clarify.[7]

On 23 April 2018, the Requestor submitted Request 18-7 challenging ICANN organization's responses Items 1, 4, 5, 6, and 9 in the DIDP Response. At the same time, the Requestor submitted a Reply to the DIDP Response (DIDP Reply)[8] in which it revised Items 1, 4, 5, 6(a-b), and 9(a) as follows:

Request	Original Request	Amended Request
1	All documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information	Responses from Ruby Glen, NDC, and Verisign, indicating whether they consent to the public disclosure of their responses to ICANN's 16 September 2016 request for information and prompt disclosure of the documents received from Ruby Glen, NDC, and Verisign related to the 16 September 2016 letter
4	All applications, and all documents submitted with the applications, for the rights to .WEB	NDC's responses to Items 12 and 45 through 50 in its .WEB application, as well as any amendments, changes, revisions, supplements, or correspondence concerning those Items;
5	All documents discussing the importance of .WEB to bringing	Any documents, analyses, or studies that contain information regarding potential competition, substitution, and

[5] 24 March 2018 Response to DIDP Request No. 20180223-1, *available at* https://www.icann.org/en/system/files/files/didp-20180223-1-ali-response-24mar18-en.pdf.
[6] *Id*.
[7] *Id*.
[8] 23 April 2018 Reply to DIDP Request No. 20180223-1, *available at* https://www.icann.org/en/system/files/correspondence/ali-to-icann-board-23apr18-en.pdf.

	competition to the provision of registry services	interchangeability between or among .WEB and .COM, .NET, or other gTLDs
6(a-b)	All documents concerning any investigation or discussion related to a. The .WEB contention set, b. NDC's application for the .WEB gTLD	Documents related to the .WEB Investigation, including: 1. All documents reflecting NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012, 2. All documents concerning any investigation or discussion related to NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012, 3. Documents sufficient to show the date on which ICANN first learned that Verisign was going to or had in fact funded NDC's bids for the .WEB gTLD at the 28-28 July 2016 (*sic*) auction, and 4. Documents sufficient to show the date on which ICANN first learned that NDC did not intend to operate the .WEB registry itself, but rather intended to assign the rights it acquired related to .WEB to a third party.
9(a)	All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including: (a) Document productions to the DOJ	All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including: (a) Document productions to the DOJ, excluding those documents that ICANN has reasonably identified as already being in Afilias' possession.

The Requestor also offered to enter into a confidentiality agreement under which the Requestor would limit disclosure of any material produced by ICANN organization in response to Requests 1, 4, 6, and 9 designated as "highly confidential" to the Requestor's outside counsel.

The Requestor acknowledged in Request 18-7 that it had submitted the DIDP Reply and that Request 18-7 is premature. Specifically, the Requestor stated:

> Requestor acknowledges that, to the extent it can reach an agreement with ICANN pursuant to the DIDP Reply, this request for reconsideration may become moot in full or in part. Requestor nonetheless submits this request to preserve its rights to contest the DIDP Response should ICANN and Requestor fail to reach an agreement based on the DIDP Reply. Requestor believes that the Board Accountability Mechanisms Committee need not and should not decide this Reconsideration Request until after the ICANN Board has considered and responded to the proposed compromise set forth in the DIDP Reply. Requestor is prepared to discuss an appropriate "tolling" agreement that would allow Requestor and ICANN to attempt to reach an agreement concerning the DIDP Request and the DIDP Reply.[9]

On 27 April 2018, ICANN organization responded to the Requestor's DIDP Reply.[10] Regarding the Requestor's offer to enter into a confidentiality agreement, ICANN organization stated:

> The concept of a confidentiality agreement for the disclosure of documents through the DIDP runs afoul of the DIDP itself, which is to make public documents concerning ICANN organization's operations unless there is a compelling reason for confidentiality. (*See* https://www.icann.org/resources/pages/didp-2012-02-25-en.) Moreover, your proposal is asking ICANN organization to treat Afilias differently than other requestors, and to act in a manner that is contrary to what is set forth in the DIDP Process, which as you know would be in contravention of ICANN's Bylaws.[11]

With respect to the amended requests, ICANN organization offered, and the Requestor agreed, to treat them as a new DIDP request, with an effective submission date of 23 April 2018. ICANN organization confirmed that it will respond to the DIDP Reply in accordance with the

[9] Request 18-7, § 3, at Pg. 5.
[10] *See* Supplemental Response to DIDP Request No. 20180223-1, 27 Apr. 2018, *available at* https://www.icann.org/en/system/files/files/didp-20180223-1-ali-supp-response-redacted-27apr18-en.pdf.
[11] *Id.*

DIDP Process.[12] ICANN organization provided a response to the DIDP Reply on 23 May 2018.[13]

B. Relief Requested.

The Requestor asks the BAMC to "disclose the documents requested in the DIDP Request, as amended by the DIDP Reply."[14]

II. Issue Presented.

The issue is whether Request 18-7 is sufficiently stated or whether summary dismissal is appropriate.

III. The Relevant Standards for Reconsideration Requests.

Article 4, Section 4.2(a) and (c) of ICANN's Bylaws provide in relevant part that any entity may submit a request "for reconsideration or review of an ICANN action or inaction to the extent that it has been adversely affected by:

> (i) One or more Board or Staff actions or inactions that contradict ICANN's Mission, Commitments, Core Values and/or established ICANN policy(ies);
>
> (ii) One or more actions or inactions of the Board or Staff that have been taken or refused to be taken without consideration of material information, except where the Requestor could have submitted, but did not submit, the information for the Board's or Staff's consideration at the time of action or refusal to act; or
>
> (iii) One or more actions or inactions of the Board or Staff that are taken as a result of the Board's or staff's reliance on false or inaccurate relevant information."[15]

Pursuant to Article 4, Section 4.2(k) of the Bylaws, the BAMC reviews each reconsideration request upon its receipt to determine if it is sufficiently stated.[16] The BAMC

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[12] *Id.*
[13] *See* DIDP Response to Request No. 20180423-1, 23 May 2018, *available at* https://www.icann.org/en/system/files/files/didp-20180423-1-ali-response-23may18-en.pdf.
[14] Request 18-7, § 9, at Pg. 17.
[15] ICANN Bylaws, 22 July 2017, Art. 4, §§ 4.2(a), (c).
[16] *Id.* at § 4.2(k).

may summarily dismiss a reconsideration request if the BAMC determines the request: (i) does not meet the requirements for filing reconsideration requests under the Bylaws; or (ii) it is frivolous.[17] If a reconsideration request is not summarily dismissed, it shall be sent to the Ombudsman, who shall either recuse himself in accordance with Article 4, Section 4.2(l)(iii) of the Bylaws or shall review and consider the reconsideration request.[18] The Ombudsman shall submit to the BAMC his substantive evaluation of the reconsideration request within 15 days of the Ombudsman's receipt of the request.[19] The BAMC shall then promptly proceed to review and consider the reconsideration request.[20] The BAMC must make a nonbinding recommendation to the Board within 30 days following its receipt of the Ombudsman's evaluation (or 30 days following receipt of the reconsideration request for those matters for which the Ombudsman recuses himself), unless impractical, after which the Board will make a final decision on the merits of the request.[21] As noted above, this Determination is limited to evaluating Request 18-7 to determine if it is sufficiently stated.

IV. Analysis and Rationale.

In evaluating whether a reconsideration request is sufficiently stated, the following factors are considered: (1) is the reconsideration request timely; and (2) does the requestor meet the requirements for bringing a reconsideration request? We conclude that Request 18-7 is not sufficiently stated. Even though Request 18-7 was timely filed and identifies established ICANN policies that the Requestor claims ICANN organization violated, it does not demonstrate that the

[17] *Id.*
[18] *Id.* at § 4.2(l).
[19] *Id.* at § 4.2(l)(ii).
[20] Where the Ombudsman has recused himself from consideration of a reconsideration request, the BAMC shall review the request without involvement by the Ombudsman. *See id.* at § 4.2(l)(iii).
[21] ICANN Bylaws, 22 July 2017, Art. 4 §§ 4.2(q) and (r).

Requestor is materially or adversely affected by ICANN staff action or inaction. Accordingly, the BAMC will summarily dismiss Request 18-7.

A. Request 18-7 is Timely.

Request 18-7 was timely filed. Pursuant to ICANN's Bylaws, a reconsideration request challenging staff action must be filed "within 30 days after the date on which the Requestor became aware of, or reasonably should have become aware of, the challenged Staff action."[22] The Requestor challenges the 24 March 2018 response to the Requestor's DIDP Request, which the Requestor became aware of on 24 March 2018. Request 18-7 was submitted on 23 April 2018, 30 days after the Requestor became aware of the challenged action.

B. The Requestor Does Not Meet the Requirements Set Forth Under Article 4, Section 4.2 of the ICANN Bylaws for Bringing a Reconsideration Request.

While Request 18-7 sufficiently identifies established ICANN policies that it claims ICANN organization violated, the Requestor has not sufficiently stated that it has been materially or adversely affected by the challenged conduct. The Bylaws provide that "ICANN shall have in place a process by which any person or entity ***materially affected*** by an action or inaction of the ICANN Board or Staff may request … the review or reconsideration of that action or inaction by the Board."[23] The Bylaws also provide that the Requestor may submit a Reconsideration Request "to the extent that the Requestor has been ***adversely*** affected by" Board or Staff action or inaction.[24]

Here, although the Requestor states that it is challenging ICANN's DIDP Response, the Requestor makes clear that in reality, it is challenging ICANN's forthcoming response to the

[22] ICANN Bylaws, 22 July 2017, Art. 4 § 4.2(g)(i)(B).
[23] ICANN Bylaws, 22 July 2017, Art. 4 § 4.2(a).
[24] *Id*. at Art. 4§ 4.2(c).

requests as amended in the DIDP Reply, including the Requestor's offer to enter into a confidentiality agreement. Request 18-7 alleges that ICANN violated its Bylaws by refusing to produce documents in response to Requests 1, 4-6, and 9.[25] These are the exact Requests addressed in the Requestor's DIDP Reply, which was pending at the time the Requestor submitted Request 18-7.

As noted above, the Requestor even acknowledges that the DIDP Reply is pending, and states that "to the extent [the Requestor] can reach an agreement with ICANN pursuant to the DIDP Reply, this request for reconsideration may become moot in full or in part."[26] The Requestor submitted Request 18-7 only to "preserve its rights to contest the DIDP Response." The Requestor further requests that the BAMC wait to decide Request 18-7 at least until ICANN organization responds to the DIDP Reply.[27] The Requestor asks the Board to "disclose the documents requested in the DIDP Request, as amended by the DIDP Reply."[28] In other words, the Requestor asks the Board to disclose the documents requested in the DIDP Reply. Accordingly, given that at the time the Requestor submitted Request 18-7, ICANN organization had not yet responded to the DIDP Reply, the Requestor has not demonstrated that it has been materially or adversely affected by the DIDP Response.

The Reconsideration process is not intended to be a mechanism for parties to simply file a Reconsideration Request to preserve their right to contest a future action or inaction that may or may not materially affect the parties. To do so would undermine with the purpose of the Reconsideration process as set forth in Article 4, Section 4.2(a):

[25] Request 18-7, § 6, at Pg. 7.
[26] Request 18-7, § 3, at Pg. 5; § 8, at Pg. 17.
[27] Request 18-7, § 3, at Pg. 5.
[28] Request 18-7, § 9, at Pg. 17.

> ICANN shall have in place a process by which any person or entity materially affected by an action or inaction of the ICANN Board or Staff may request…the review or reconsideration of that action or inaction by the Board.[29]

Moreover, the Requestor's suggestion of a tolling agreement on Request 18-7 "that would allow Requestor and ICANN to attempt to reach an agreement concerning the DIDP Request and the DIDP Reply" does not change the fact that there is no material adverse impact on the Requestor given that it did file Request 18-7, to which ICANN organization has now responded.

ICANN organization provided a response to the DIDP Reply on 23 May 2018.[30] To the extent the Requestor wishes to seek reconsideration of that response, the Requestor has the option to submit a new reconsideration request.

V. Determination.

Based on the foregoing, the BAMC concludes that the Requestor does not meet the requirements for bringing a reconsideration request, and therefore summarily dismisses Request 18-7. If the Requestor believes that it has been treated unfairly in the process, it is free to ask the Ombudsman to review this matter.

A substantive review of the merits of the Requestor's claims is beyond the scope of this memorandum. The BAMC's conclusion is limited to only the preliminary assessment of whether the Requestor meets the requirements for bringing a reconsideration request. For the foregoing reasons, the BAMC concludes that Request 18-7 is not sufficiently stated and therefore is subject to summary dismissal. As a result, the BAMC hereby summarily dismisses Request 18-7.

[29] ICANN Bylaws, 22 July 2017, Art. 4, § 4.2(a).
[30] *See* DIDP Response to Request No. 20180423-1, 23 May 2018, *available at* https://www.icann.org/en/system/files/files/didp-20180423-1-ali-response-23may18-en.pdf.

Exhibit 2

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ARIF HYDER ALI

Contact Information Redacted

February 23, 2018

VIA E-MAIL

ICANN Board
c/o Cherine Chalaby, Chairman
Göran Marby, President and CEO
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Re: Request for Update on ICANN's Investigation of .WEB Contention Set and Request for Documents under ICANN's Documentary Information Disclosure Policy

Dear ICANN:

We write on behalf of our client, Afilias Domains No. 3 Ltd. ("Afilias"), regarding the .WEB contention set. As stated in past correspondence, Afilias has several concerns with the 27-28 July 2016 auction for .WEB, including (1) Nu Dot Co LLC's ("NDC") apparent change in financial position, ownership, or control after submitting its application to ICANN but prior to the auction for .WEB; (2) NDC's assignment of rights in its application for .WEB to Verisign, Inc. ("Verisign") prior to the auction in breach of the gTLD Applicant Guidebook ("AGB"); and (3) the serious competition issues raised by Verisign's acquisition of .WEB in violation of ICANN's Bylaws and the AGB.[1] As discussed below, we are writing to: (1) request an update on ICANN's investigation of the .WEB contention set; and (2) request documents under ICANN's Documentary Information Disclosure Policy ("DIDP").

[1] *See* Letter from M. Scott Hemphill to Akram Atallah (8 Aug. 2016), https://www.icann.org/en/system/files/correspondence/hemphill-to-atallah-08aug16-en.pdf; Letter from M. Scott Hemphill to Akram Atallah (9 Sep. 2016), https://www.icann.org/en/system/files/correspondence/hemphill-to-atallah-09sep16-en.pdf; Letter from John Kane to Christine A. Willett (7 Oct. 2016).

I. Request for Update on ICANN's Investigation of .WEB Contention Set

Pursuant to Afilias' concerns in late 2016, ICANN requested "additional information"[2] regarding the .WEB auction from Afilias, Ruby Glen LLC ("Ruby Glen"), NDC, and Verisign on 16 September 2016.[3] Afilias promptly responded to ICANN's request on 7 October 2016.[4] Since Afilias submitted its response to ICANN over sixteen months ago, it has received no further communications from ICANN in regards to the .WEB contention set. ICANN has failed to update Afilias regarding its investigations relating to .WEB.

ICANN is obligated by its Bylaws to maintain "open and transparent processes."[5] The principle of "[t]ransparency is one of the essential principles in ICANN's creation documents, and its name reverberates through its Articles [of Incorporation] and Bylaws."[6] Pursuant to its Bylaws, ICANN is required to (1) "[e]mploy open, transparent and bottom-up, multistakeholder transparent public development processes" [7] and (2) to "operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness."[8]

Therefore, pursuant to ICANN's transparency obligations,[9] we respectfully request that ICANN provide an update on the status of ICANN's investigation of the .WEB contention set, including: (1) the steps (if any) taken by ICANN to disqualify NDC's bid on the basis that NDC violated the rules applicable to its application; and (2) the steps (if any) taken by ICANN to assess competition issues arising out of delegation of .WEB to Verisign.

We further request that ICANN take no action in regards to .WEB until Afilias can review and respond to the documents provided as a result of the below DIDP request; and that ICANN confirm that it has not, and will not, enter into a registry agreement for .WEB with

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2 Letter from Christine A. Willett to John Kane (16 Sep. 2016), p.1.
3 *See* Letter from Christine A. Willett to John Kane (16 Sep. 2016).
4 *See* Letter from John Kane to Christine A. Willett (7 Oct. 2016).
5 ICANN Bylaws, Article 1, Section1.2(a).
6 *Dot Registry, LLC v. ICANN*, ICDR Case No. 01-14-0001-5004, Declaration of the Independent Review Panel (29 Jul. 2016), ¶ 101, https://www.icann.org/en/system/files/files/irp-dot-registry-final-declaration-redacted-29jul16-en.pdf.
7 ICANN Bylaws, Article 1, Section1.2(a)(iv).
8 ICANN Bylaws, Article 3, Section 3.1.
9 *See* ICANN Articles of Incorporation, Art. 2(III); ICANN Bylaws (22 Jul. 2017), Art. 1(1.2)(a), Art. 3(3.1), Art. 4(4.1).

NDC until, to the extent Afilias seeks review of any decisions relating to .WEB through ICANN's accountability mechanisms, such mechanisms are completed. We nonetheless emphasize that Afilias reserves all of its rights to pursue any and all rights or remedies available to it in any forum against ICANN, NDC, or Verisign in connection with the delegation of the .WEB gTLD.

II. Request for Documents Pursuant to the DIDP

Afilias further submits this letter to request documents from ICANN, pursuant to ICANN's DIDP, related to (1) ICANN's 30 September 2016 request for additional information sent to Ruby Glen, Afilias, NDC, and Verisign; and (2) any investigation by ICANN of NDC and Verisign in relation to .WEB.[10] The DIDP is "intended to ensure that information contained in documents concerning ICANN's operational activities, and within ICANN's possession, custody, or control, is made available to the public unless there is a compelling reason for confidentiality."[11] Pursuant to the DIDP, Afilias requests that ICANN provide the following documents:

1. All documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information;[12]

2. Ruby Glen's Notice of Independent Review, filed on 22 July 2016;[13]

3. All documents filed in relation to the Independent Review Process between ICANN and Ruby Glen, initiated on 22 July 2016;[14]

4. All applications, and all documents submitted with the applications, for the rights to .WEB;

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10 *See* Letter from Christine A. Willett to John Kane (16 Sep. 2016).

11 *See* ICANN DIDP, https://icann.org/resources/pages/didp-2012-02-25-en. In responding to a request submitted pursuant to the DIDP, ICANN adheres to its *Process for Responding to ICANN's Documentary Information Disclosure Policy (DIDP) Requests*.

12 Letter from Christine A. Willett to John Kane (16 Sep. 2016), p.1.

13 Complaint, *Ruby Glen, LLC v. ICANN*, 2:16-cv-05505, ¶ 53 (C.D. Ca. July 22, 2016).

14 Complaint, *Ruby Glen, LLC v. ICANN*, 2:16-cv-05505, ¶ 53 (C.D. Ca. July 22, 2016).

5. All documents discussing the importance of .WEB to bringing competition to the provision of registry services;

6. All documents concerning any investigation or discussion related to

    a. the .WEB contention set,

    b. NDC's application for the .WEB gTLD,

    c. Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and

    d. Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign;

7. Documents sufficient to show the current status of NDC's request to assign .WEB to Verisign;

8. Documents sufficient to show the current status of the delegation of .WEB;

9. All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including:

    a. document productions to the DOJ;

    b. communications with the DOJ;

    c. submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions;

    d. communications with Verisign or NDC relating to the investigation; and

    e. internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board; and

10. All joint defense or common interest agreements between ICANN and Verisign and/or NDC relating to the DOJ Investigation.

We reserve the right to request additional documents based on the provision of the above documents. Please promptly disclose the requested documents pursuant to the DIDP.

Sincerely,

Arif Hyder Ali

Partner

Exhibit 3

To: Arif Ali on behalf of Afilias Domains No. 3 Ltd.

Date: 24 March 2018

Re: Request No. 20180223-1

In your letter dated 23 February 2018 that you submitted on behalf of Afilias Domains No. 3 Ltd. (Afilias), among other things, you request: (1) an update on ICANN organization's investigation of the .WEB contention set; and (2) documentary information pursuant to the Internet Corporation for Assigned Names and Numbers' (ICANN's) Documentary Information Disclosure Policy (DIDP). For reference, a copy of your letter is attached to the email transmitting this Response.

As an initial matter, the DIDP is limited to requests for documentary information already in existence within ICANN organization that is not publicly available. It is not a mechanism for one to make information requests or requests for "updates" concerning ICANN organization's internal activities. As such, your request for "an update on ICANN's investigation of the .WEB contention set" is beyond the scope of the DIDP and will not be addressed in this Response. Moreover, ICANN organization is not required to create or compile summaries of any documented information in response to a DIDP Request. (*See* DIDP (https://www.icann.org/resources/pages/didp-2012-02-25-en).)

Items Requested

Your Request seeks the disclosure of documentary information relating to the .WEB applications and the .WEB contention set:

1. All documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information;
2. Ruby Glen's Notice of Independent Review, filed on 22 July 2016;
3. All documents filed in relation to the Independent Review Process between ICANN and Ruby Glen, initiated on 22 July 2016;
4. All applications, and all documents submitted with the applications, for the rights to .WEB;
5. All documents discussing the importance of .WEB to bringing competition to the provision of registry services;
6. All documents concerning any investigation or discussion related to
    a. the .WEB contention set,
    b. NDC's application for the .WEB gTLD,
    c. Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and
    d. Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign;
7. Documents sufficient to show the current status of NDC's request to assign .WEB to Verisign;

8. Documents sufficient to show the current status of the delegation of .WEB;
9. All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including:
    a. document productions to the DOJ;
    b. communications with the DOJ;
    c. submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions;
    d. communications with Verisign or NDC relating to the investigation; and
    e. internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board; and
10. All joint defense or common interest agreements between ICANN and Verisign and/or NDC relating to the DOJ Investigation.

Response

The New gTLD Program and String Contention

In 2012, ICANN opened the application window for the New Generic Top-Level Domain (gTLD) Program and created the new gTLD microsite (https://newgtlds.icann.org/en/), which provides detailed information about the Program. From the Program Status webpage of the new gTLD microsite (https://newgtlds.icann.org/en/program-status), people can access the public portions of each new gTLD application, including all of the .WEB applications, by clicking on "Current Application Status" and accessing the New gTLD Current Application Status webpage (https://gtldresult.icann.org/application-result/applicationstatus/viewstatus).

ICANN received seven applications for .WEB, which were placed into a contention set (*see* Applicant Guidebook (Guidebook), §1.1.2.10 (String Contention)). Module 4 of the Guidebook (String Contention Procedures) describes situations in which contention for applied-for new gTLDs occurs, and the methods available to applicants for resolving contention absent private resolution: "It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string contention among the applications within a contention set, if the contention has not been resolved by other means." (Guidebook, § 4.3 (Auction: Mechanisms of Last Resort).)

Should private resolution not occur, the contention set will proceed to an auction of last resort governed by the Auction Rules that all applicants agreed to by applying. (Guidebook, § 1.1.2.10 (String Contention)). In furtherance of ICANN's commitment to transparency, ICANN organization established the New gTLD Program Auctions webpage, which provides extensive detailed information about the auction process (https://newgtlds.icann.org/en/applicants/auctions.)

Resolution of .WEB/.WEBS Contention Set

Following the procedures set forth in the Guidebook, ICANN organization scheduled an auction of last resort for 27 July 2016 to resolve the .WEB/.WEBS contention set (Auction). (*See* https://newgtlds.icann.org/en/applicants/auctions/schedule-13mar18-en.pdf.)

On or about 22 June 2016, Ruby Glen LLC (Ruby Glen) asserted that changes had occurred in NU DOT CO LLC's (NDC's) application for .WEB, in particular to NDC's management and ownership, and asserted that the Auction should be postponed pending further investigation. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-icann-memorandum-point-authorities-support-motion-dismiss-first-amended-complaint-26oct16-en.pdf.)

ICANN organization investigated Ruby Glen's assertions regarding NDC's application. After completing its investigation, ICANN org sent a letter to the members of the contention set stating, among other things, that "in regards to potential changes of control of [NDC], we have investigated the matter, and to date we have found no basis to initiate the application change request process or postpone the auction." (*See* https://www.icann.org/en/system/files/correspondence/willett-to-web-webs-members-13jul16-en.pdf.)

Ruby Glen then invoked one of ICANN's accountability mechanisms by submitting a reconsideration request on an urgent basis (Request 16-9), seeking postponement of the Auction and requesting a more detailed investigation. (*See* https://www.icann.org/en/system/files/files/reconsideration-16-9-ruby-glen-radix-request-redacted-17jul16-en.pdf.) After carefully considering the information related to Request 16-9, on 21 July 2016 ICANN's Board Governance Committee (BGC) denied Request 16-9. (*See* https://www.icann.org/en/system/files/files/reconsideration-16-9-ruby-glen-radix-bgc-determination-21jul16-en.pdf.)

The next day Ruby Glen sued ICANN org. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-complaint-22jul16-en.pdf.) At the same time, Ruby Glen applied for a temporary restraining order (TRO Application), seeking to stop ICANN org from conducting the Auction at the scheduled time. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-ex-parte-application-tro-memo-points-authorities-22jul16-en.pdf.) The Court denied the TRO Application (*see* https://www.icann.org/en/system/files/files/litigation-ruby-glen-court-order-denying-plaintiff-ex-parte-application-tro-26jul16-en.pdf) and the Auction took place on 27 and 28 July 2016. NDC placed the winning bid. (*See* https://gtldresult.icann.org/application-result/applicationstatus/auctionresults.)

On 28 November 2016, the Court dismissed Ruby Glen's complaint and entered judgment in ICANN organization's favor. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-judgment-28nov16-en.pdf.) Ruby Glen appealed that decision, and the appeal is currently pending. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-notice-appeal-regarding-dismissal-20dec16-en.pdf.)

DIDP Process and Responses

The DIDP exemplifies ICANN's Commitments and Core Values supporting transparency and accountability by setting forth a procedure through which documents concerning ICANN organization's operations and within ICANN organization's possession, custody, or control that are not already publicly available are made available unless there is a compelling reason for confidentiality. (*See* https://www.icann.org/resources/pages/didp-2012-02-25-en.)

Consistent with its commitment to operating to the maximum extent feasible in an open and transparent manner, ICANN org has published process guidelines for responding to requests for documents submitted pursuant to the DIDP (DIDP Response Process). (*See* https://www.icann.org/en/system/files/files/didp-response-process-29oct13-en.pdf (DIDP Response Process).) The DIDP Response Process provides that, following the collection of potentially responsive documents, "[a] review is conducted as to whether any of the documents identified as responsive to the Request are subject to any of the Defined Conditions for Nondisclosure identified [on ICANN organization's website]." If ICANN organization concludes that a document falls within one of the Defined Conditions for Nondisclosure (Nondisclosure Conditions), "a review is conducted as to whether, under the particular circumstances, the public interest in disclosing the documentary information outweighs the harm that may be caused by such disclosure."

The DIDP was developed as the result of an independent review of standards of accountability and transparency within ICANN, which included extensive public comment and community input. (*See* https://www.icann.org/news/announcement-4-2007-03-29-en; https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en.) Following the completion of this review, ICANN organization sought public comment on the resulting recommendations, and summarized and posted publicly the community feedback. (*See* https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en.) Based on the community's feedback, ICANN organization proposed changes to its frameworks and principles to "outline, define and expand upon the organisation's accountability and transparency" (*see* https://www.icann.org/en/system/files/files/acct-trans-frameworks-principles-17oct07-en.pdf), and sought additional community input on the proposed changes before implementing them (*see* https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en).

Neither the DIDP nor ICANN's Commitments and Core Values supporting transparency and accountability obligates ICANN organization to make public every document in its possession. As noted above, the DIDP sets forth Nondisclosure Conditions for which other commitments or core values may compete or conflict with the transparency commitment. These Nondisclosure Conditions represent areas, vetted through public comment, that the community has agreed are presumed not to be appropriate for public disclosure. The public interest balancing test in turn allows ICANN organization to determine whether or not, under the specific circumstances, its commitment to transparency outweighs its other commitments and core values. Accordingly, ICANN organization may appropriately exercise its discretion, pursuant to the DIDP, in determining that certain documents are not appropriate for disclosure, without

contravening its commitment to transparency. As the Amazon EU S.à.r.l. Independent Review Process Panel noted, "notwithstanding ICANN's transparency commitment, both ICANN's By-Laws and its Publication Practices recognize that there are situations where non-public information, e.g., internal staff communications relevant to the deliberative processes of ICANN . . . may contain information that is appropriately protected against disclosure." (Amazon EU S.à.r.l. v. ICANN, Procedural Order (7 June 2017) (https://www.icann.org/en/system/files/files/irp-amazon-procedural-order-3-07jun17-en.pdf).)

ICANN's Bylaws address the need to balance competing interests such as transparency and confidentiality, noting that "in any situation where one Core Value must be balanced with another, potentially competing Core Value, the result of the balancing test must serve a policy developed through the bottom-up multistakeholder process or otherwise best serve ICANN's Mission." (ICANN Bylaws, 22 July 2017, Art. 1, Section 1.2(c) (https://www.icann.org/resources/pages/governance/bylaws-en/#article1).)

Afilias' DIDP Request

Item 1

Item 1 seeks "[a]ll documents received from Ruby Glen, NDC, and Verisign, Inc. (Verisign) in response to ICANN's 16 September 2016 request for additional information."

The documentary information received from NDC, Verisign, Afilias, and Ruby Glen in response to ICANN organization's 16 September 2016 request for information are subject to the following Nondisclosure Conditions:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

Notwithstanding the above, ICANN organization will continue to review potentially responsive materials and consult with relevant third parties, as needed, to determine if additional documentary information is appropriate for disclosure under the DIDP. If it is determined that certain additional documentary information is appropriate for public

disclosure, ICANN organization will supplement this DIDP Response and notify the Requestor of the supplement.

Items 2 and 3

Item 2 seeks Ruby Glen's Notice of Independent Review, filed on 22 July 2016; Item 3 seeks "[a]ll documents filed in relation to the Independent Review Process between ICANN and Ruby Glen, initiated on 22 July 2016."

ICANN organization understands that, on 22 July 2016, Ruby Glen filed certain materials with the International Centre for Dispute Resolution (ICDR) relating to the initiation of an Independent Review Process (IRP) against ICANN. Ruby Glen did not provide ICANN organization with these materials; nor has Ruby Glen, the ICDR, or any other entity ever provided ICANN organization with a Notice of or Request for Independent Review Process that Ruby Glen might have filed against ICANN. As such, ICANN organization does not have any responsive documentary information in response to Items 2 or 3. ICANN understands that Ruby Glen withdrew its request for IRP on 18 August 2016; and that the ICDR later closed the IRP.

Item 4

Item 4 seeks "[a]ll applications, and all documents submitted with the applications, for the rights to .WEB." Materials responsive to Item 4 are publicly available on ICANN's website. Specifically, ICANN organization posts the public portions of each gTLD application and the public portions of any documents submitted with an application on the New gTLD Current Application Status webpage. (*See* https://gtldresult.icann.org/application-result/applicationstatus/viewstatus.) The public portions of the .WEB applications can be accessed as follows:

- NU DOT CO LLC's .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1053;
- Charleston Road Registry Inc.'s .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/520;
- Web.com Group, Inc.'s .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1596;
- DotWeb Inc's .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1663;
- Ruby Glen, LLC's .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/692;
- Afilias Domains No. 3 Ltd's .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/292;
- Schlund Technologies GmbH's .WEB Application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/542.

As stated in the Guidebook (Guidebook, Module 2 (Evaluation Questions and Criteria) (https://newgtlds.icann.org/en/applicants/agb)), certain applicant information is not appropriate for public posting and ICANN organization informed applicants that the following types of information would not be publicly posted:

- Personally identifying information (*see* Applicant Questions 6, 7, 11);
- An applicant's Business ID, Tax ID, VAT registration number, or equivalent (*see* Application Question 10);
- Involvement of any individual identified in an application in civil or criminal legal proceedings, (*see* Application Question 11);
- Bank details related to wire transfer payment of the evaluation fee (*see* Application Question 12);
- For geographic names, letters of support or non-objection (*see* Application Question 21(b));
- Descriptions of the applicant's intended technical and operational approach for those registry functions that are internal to the infrastructure and operations of the registry (*see* Application Questions 30(b) – 44);
- Financial information (*see* Application Question 45-50).

The foregoing types of information contained in new gTLD applications and supporting materials are also subject to the following Nondisclosure Conditions:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Personnel, medical, contractual, remuneration, and similar records relating to an individual's personal information, when the disclosure of such information would or likely would constitute an invasion of personal privacy, as well as proceedings of internal appeal mechanisms and investigations.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

Item 5

Item 5 seeks "[a]ll documents discussing the importance of .WEB to bringing competition to the provision of registry services." Item 5 is vague, and does not appear

to concern ICANN's operational activities; as written, it is unclear what documents are being requested.

To the extent Item 5 seeks materials concerning ICANN organization's review of how the New gTLD Program has impacted competition, consumer choice and consumer trust, ICANN organization has established a Competition, Consumer Trust & Consumer Choice Review webpage (https://newgtlds.icann.org/en/reviews/cct), which includes documentary information concerning, among other things, the extent to which the introduction of new gTLDs has promoted competition.

To the extent Item 5 seeks materials that overlap with the materials responsive to Item 9(a) ("document productions to the DOJ" in response to the DOJ CID), ICANN organization incorporates and refers Requestor to the response to Item 9(a) below.

Should the Requestor wish to clarify or narrow the scope of Item 5, ICANN organization will consider the revised request. However, as currently written, Item 5 is so overbroad and vague that ICANN organization is not able to provide a further response at this time.

Item 6

Item 6 seeks "[a]ll documents concerning any investigation or discussion related to: (a) the .WEB contention set, (b) NDC's application for the .WEB gTLD, (c) Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and (d) Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign."

With regard to Items 6(a) and 6(b), these requests are exceedingly overbroad and vague; as written, it is unclear what documents are being requested. NDC (and all the applicants for .WEB) went through an extensive application process that included, among other things: the submission of the application and supporting materials; an administrative completeness check; comment period and a formal objection process; contention procedures and dispute resolution; an initial evaluation (which included string reviews and demonstrations of technical, operational, and financial capability, as well as reviews for DNS security issues); and background screening. As written, Items 6(a) and 6(b) seek "[a]ll documents" concerning every facet of the application process for each of the seven .WEB applications, which is not a reasonable request. As such, it is subject to the following Nondisclosure Condition:

- Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; (iii) complying with which is not feasible; or (iv) are made with an abusive or vexatious purpose or by a vexatious or querulous individual.

Should the Requestor wish to clarify or narrow the scope of Items 6(a) and 6(b), ICANN organization will consider the revised request. However, as currently written, Items 6(a) and 6(b) are so overbroad and vague that ICANN organization is not able to provide a

further response at this time. In addition, Items 6(a) and 6(b) potentially seek documents that are subject to the following Nondisclosure Conditions:

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

With regard to Items 6(c) and 6(d), these requests seek "[a]ll documents concerning any investigation or discussion related to: […] (c) Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and (d) Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign." Certain materials responsive to Items 6(c) and 6(d) are publicly available. Verisign issued a public statement regarding its agreement with NDC and its involvement in the auction. (*See* "Verisign Statement Regarding .Web Auction Results," available at https://investor.verisign.com/releasedetail.cfm?ReleaseID=981994.)

Any further documents responsive to Items 6(c) and 6(d) are subject to the following Nondisclosure Conditions:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents,

memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

To the extent Item 6 seeks materials that overlap with the materials responsive to Item 9(a) ("document productions to the DOJ" in response to the DOJ CID), ICANN organization incorporates and refers Requestor to the response to Item 9(a) below.

Notwithstanding the above, ICANN organization will continue to review potentially responsive materials and consult with relevant third parties, as needed, to determine if additional documentary information is appropriate for disclosure under the DIDP. If it is determined that certain additional documentary information is appropriate for public disclosure, ICANN organization will supplement this DIDP Response and notify the Requestor of the supplement.

Item 7

Item 7 seeks "[d]ocuments sufficient to show the current status of NDC's request to assign .WEB to Verisign." ICANN organization does not have any documentary information responsive to this request. That said, the current application status for each new gTLD application, including NDC's .WEB application, is publicly available on the New gTLD Current Application Status webpage. (*See* https://gtldresult.icann.org/application-result/applicationstatus/viewstatus; *see also* https://gtldresult.icann.org/applicationstatus/applicationdetails/1053.)

Item 8

Item 8 seeks "[d]ocuments sufficient to show the current status of the delegation of .WEB." Materials responsive to Item 8 are publicly available. Specifically, ICANN organization makes publicly available information concerning the current application status for each gTLD application, including NDC's .WEB application, on the New gTLD Current Application Status webpage. (*See* https://gtldresult.icann.org/application-result/applicationstatus/viewstatus; *see also* https://gtldresult.icann.org/applicationstatus/applicationdetails/1053.) As reflected on the foregoing webpages, .WEB is "in contracting."

Item 9

Item 9 seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including: (a) document productions to the DOJ; (b) communications with the DOJ; (c) submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions; (d) communications with Verisign or NDC relating to the investigation; and (e) internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board."

On 1 February 2017, DOJ issued a Civil Investigative Demand (CID) to ICANN in connection with DOJ's investigation of Verisign's proposed acquisition of NDC's contractual rights to operate the .WEB gTLD. ICANN provided DOJ with information responsive to the CID.

With regard to Item 9(a), the vast majority of the documents provided to DOJ are publicly available materials. Attachment A provides links to the publicly available documents that ICANN organization provided to DOJ in response to the CID. With respect to the non-public materials provided to DOJ, such materials are categorized as follows and are subject to various Nondisclosure Conditions:

- Confidential data reports, subject to the following Nondisclosure Conditions:
    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
    - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.
    - Confidential business information and/or internal policies and procedures.

- Trade secrets and commercial and financial information not publicly disclosed by ICANN.

- Correspondence from, to, or among ICANN organization relating to .WEB, subject to the following Nondisclosure Conditions:

  - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

  - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

  - Confidential business information and/or internal policies and procedures.

  - Trade secrets and commercial and financial information not publicly disclosed by ICANN.

  Certain of these documents comprise correspondence to or from the Requestor, which are undoubtedly already in the Requestor's possession, custody, or control. If the Requestor considers its correspondence with ICANN organization to be appropriate for public disclosure, ICANN organization can supplement this DIDP Response and make such documents publicly available.

- Auction forms from .WEB applicants, subject to the following Nondisclosure Conditions:

  - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

  - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

  - Confidential business information and/or internal policies and procedures.

  - Trade secrets and commercial and financial information not publicly disclosed by ICANN.

Again, certain of these documents comprise auction forms the Requestor submitted to ICANN organization, which are undoubtedly already in the Requestor's possession, custody, or control. If the Requestor considers its auction forms to be appropriate for public disclosure, ICANN organization can supplement this DIDP Response and make such documents publicly available.

- Self-Resolution notices regarding gTLDs other than .WEB, subject to the following Nondisclosure Conditions:
    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
    - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.
    - Confidential business information and/or internal policies and procedures.
    - Trade secrets and commercial and financial information not publicly disclosed by ICANN.
- Draft Board materials, draft announcements, and other internal documents, subject to the following Nondisclosure Conditions:
    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
    - Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
    - Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Confidential business information and/or internal policies and procedures.
- Information subject to the attorney–client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.
- Trade secrets and commercial and financial information not publicly disclosed by ICANN.

Item 9(b) seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including […] (b) communications with the DOJ." Documents responsive to Item 9(b) are subject to the following Nondisclosure Conditions:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

Item 9(c) seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including: […] (c) submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions." Documents responsive to Item 9(c) are subject to the following nondisclosure conditions:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Confidential business information and/or internal policies and procedures.

Item 9(d) seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ('DOJ') investigation including Verisign becoming the registry operator for .WEB, including […] (d) communications with Verisign or NDC relating to the investigation…." ICANN organization did not engage in written communications with Verisign or NDC concerning the substance of DOJ's investigation and therefore ICANN org does not have any documentary information responsive to this request.

Item 9(e) seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ('DOJ') investigation including Verisign becoming the registry operator for .WEB, including […] (e) internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board." Documents responsive to Item 9(e) are subject to the following Nondisclosure Conditions:

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Item 10

Item 10 seeks "[a]ll joint defense or common interest agreements between ICANN and Verisign and/or NDC relating to the DOJ Investigation." ICANN does not have any documentary information responsive to this request.

Public Interest in Disclosure of Information Subject to Nondisclosure Conditions

Notwithstanding the applicable Nondisclosure Conditions identified in this Response, ICANN organization has considered whether the public interest in disclosure of the information subject to these conditions at this point in time outweighs the harm that may be caused by such disclosure. ICANN org has determined that there are no current circumstances for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure. ICANN org will continue to review potentially responsive materials and consult with relevant third parties, as needed, to determine if additional documentary information is appropriate for disclosure under the DIDP. If it is determined that certain additional documentary information is

appropriate for public disclosure, ICANN org will supplement this DIDP Response and notify the Requestor of the supplement.

About DIDP

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see http://www.icann.org/en/about/transparency/didp. ICANN organization makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN organization continually strives to provide as much information to the community as is reasonable. ICANN organization encourages you to sign up for an account at ICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN organization's website that are of interest. If you have any further inquiries, please forward them to didp@icann.org.

ATTACHMENT A

DOCUMENT DESCRIPTION	LINK
App cant Gu debook	https://newgt ds. cann.org/en/app cants/agb/gu debook fu 04 un12 en.pdf
ICANN Auct on Ru es, Eva uat on Processes, Etc.	https://newgt ds. cann.org/en/program status/eva uat on pane s#overv ew
	https://newgt ds. cann.org/en/program status/odr
	https://newgt ds. cann.org/en/app cants/auct ons
Documents Perta n ng to .WEB App cat ons	https://newgt ds. cann.org/s tes/defau t/f es/drsp/03feb14/determ nat on 1 1 1033 22687 en.pdf
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Mater a s re February 27, 2014 Board Governance Comm ttee ("BGC") Meet ng	https://www. cann.org/resources/board mater a /m nutes bgc 2014 02 27 en
	https://www. cann.org/en/system/f es/f es/request annex v stapr nt 06feb14 en.pdf
	https://www. cann.org/en/system/f es/f es/sereboff to bgc 24feb14 en.pdf
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Mater a s re October 22, 2015 Regu ar Meet ng of the ICANN Board	https://www. cann.org/resources/board mater a /reso ut ons 2015 10 22 en
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	https://www. cann.org/en/system/f es/bm/br ef ng mater a s 2 22oct15 en.pdf
Mater a s re December 2, 2015 Spec a Meet ng of the ICANN Board	https://www. cann.org/resources/board mater a /reso ut ons 2015 12 02 en
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Mater a s re March 3, 2016 Regu ar Meet ng of the ICANN Board	https://www. cann.org/resources/board mater a /pre m report 2016 03 03 en
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	https://www. cann.org/en/system/f es/bm/br ef ng mater a s 2 redacted 03mar16 en.pdf
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	Court f ngs ava ab e at https://www.pacer.gov/f ndcase.htm
M sce aneous Mater a s Subm tted n Response to CID	N e sen ICANN G oba Consumer Research Apr 2015, ava ab e at: http://newgt ds. cann.org/en/rev ews/cct/g oba consumer survey 29may15 en.pdf
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	ICANN Econom c Study FAQs, ava ab e at https://newgt ds. cann.org/en/rev ews/cct/econom c study faqs 28sep15 en
	Compet t on, Consumer Trust and Consumer Cho ce Rev ew Team Draft Report Webs te Announcement, ava ab e at: https://www. cann.org/news/announcement 2 2017 03 07 en
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	New gTLD Reg strat ons of Brand TLD TM Str ngs 10 18 16, ava ab e at https://commun ty. cann.org/down oad/attachments/56135378/gTLD%20reg s trat ons.x sx?vers on=1&mod f cat onDate=1470903888000&ap =v2
	N e sen ICANN G oba Consumer Research Apr 2015, ava ab e at: http://newgt ds. cann.org/en/rev ews/cct/g oba consumer survey 29may15 en.pdf
	NTLDStats.com 30 May 2017 Park ng Def n t ons, ava ab e at https://commun ty. cann.org/down oad/attachments/56135378/nTLDStats%2 0park ng%20def n t ons.pdf?vers on=1&mod f cat onDate=1496176684000&a p =v2
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	Who s Reg strant Ident f cat on Study Pub c Comment Announcement, ava ab e at https://www. cann.org/news/announcement 2013 02 15 en
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	ICANN R ghts Protect on Mechan sms Rev ew Report, ava ab e at http://newgt ds. cann.org/en/rev ews/rpm/rpm rev ew 11sep15 en.pdf
	Consumer Awareness of New gTLDs H gh ghts and L nks from ex st ng research, ava ab e at https://www. cann.org/en/system/f es/f es/report comments new gt d draft rev ew 29 an16 en.pdf
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Exhibit 4

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ARIF HYDER ALI

Contact Information Redacted

April 23, 2018

VIA E-MAIL

ICANN Board of Directors
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Re: ICANN's Response to DIDP Request No. 20180223-1

Dear Members of the ICANN Board:

We write on behalf of our client, Afilias Domains No. 3 Limited ("**Afilias**"), regarding ICANN's 24 March 2018 response (the "**DIDP Response**") to Afilias' Request No. 20180223-1 (the "**DIDP Request**") pursuant to ICANN's Documentary Information Disclosure Policy ("**DIDP**").[1] Afilias objects to the DIDP Response as detailed below.

However, in order to achieve an efficient and mutually acceptable resolution of this dispute, Afilias writes to offer a proposed solution.[2] In part, ICANN refuses to produce certain information pursuant to Afilias' DIDP Request because ICANN deems such materials to be confidential. While Afilias has no means to verify ICANN's position, in the interests of resolving this issue, Afilias will agree to limit disclosure of any such material identified by ICANN to its outside counsel for review. In addition, to further facilitate documentary disclosure, Afilias amends several of its document requests, as set forth in **Section 02** below, in response to the articulated concerns in ICANN's DIDP Response.

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1 *See* DIDP Request 20180223-1 (23 Feb. 2018), https://www.icann.org/en/system/files/files/didp-20180223-1-ali-request-23feb18-en.pdf (hereinafter, "DIDP Request"); *see also* Response to DIDP Request 20180223-1 (24 Mar. 2018), https://www.icann.org/en/system/files/files/didp-20180223-1-ali-response-24mar18-en.pdf (hereinafter, "DIDP Response").

2 *See* ICANN Bylaws (22 Jul. 2017), Art. 4, https://www.icann.org/resources/pages/governance/bylaws-en (hereinafter, "ICANN Bylaws").

01. The Proposed Confidentiality Agreement Governing Requests 01, 04, 06, and 09(a-c, e)

ICANN has asserted that several of Afilias' document requests—specifically Requests 01,[3] 04,[4] 06,[5] and 09(a-c, e)[6]—seek documents that cannot be publically disclosed because they are subject to the DIDP's Nondisclosure Conditions.[7] Afilias agrees to limiting the disclosure of any material produced by ICANN pursuant to these requests, and identified by ICANN as "highly confidential," to Afilias' outside counsel. This agreement will protect the documents from public disclosure while permitting Afilias' attorneys to review documents relevant to Afilias' participation in the .WEB contention set.

Should ICANN find this proposal amenable, Afilias is willing to negotiate the specific terms of such a confidentiality agreement with ICANN's counsel in order to reach a speedy resolution of this matter.

02. The Amendments to Requests 01, 04, 05, 06(a-b), and 09(a) Pursuant to the DIDP Response

Afilias has further amended certain document requests—specifically Requests 01, 04, 05, 06(a-b), and 09(a)—in order to facilitate further documentary disclosure from ICANN. These amendments take into account ICANN's stated concerns regarding the scope and clarity of these requests, as articulated in the DIDP Response.[8] In making these amendments, Afilias reserves its right to ask for additional information, should the materials produced by ICANN pursuant to these amended requests prove inadequate or insufficient.

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[3] Request 01 seeks "[a]ll documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information." DIDP Request, p. 3.

[4] Request 04 seeks"[a]ll applications, and all documents submitted with the applications, for the rights to .WEB." *Id.*

[5] Request 06 seeks "[a]ll documents concerning any investigation or discussion related to: (a) the .WEB contention set, [and] (b) NDC's application for the .WEB gTLD, (c) Verisign's agreement with NDC to assign the rights to .WEB to Verisign, and (d) Verisign's involvement in the .WEB contention set, including all communications with NDC or Verisign." *Id.*, p. 4.

[6] Request 09 seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ('DOJ') investigation into Verisign becoming the registry operator for .WEB ('DOJ Investigation'), including: (a) document productions to the DOJ; (b) communications with the DOJ; (c) submissions to DOJ, including letters, presentations, interrogatory responses, or other submissions; … and (e) internal communications relating to the investigation, including all discussions by ICANN Staff and the ICANN Board." *Id.*

[7] DIDP Response, pp. 5, 7-15.

[8] *See id.* at pp. 8-9; Email to John Kane from Christine Willett (31 Mar. 2018).

02.01 Request 01: Documents Responsive to the 16 September 2016 Letter

The DIDP Response, and ICANN's subsequent actions, warrant an amendment to Request 01. The request seeks "[a]ll documents received from Ruby Glen, NDC, and Verisign in response to ICANN's 16 September 2016 request for additional information."[9] In its DIDP Response, ICANN refused to disclose the documents received from Ruby Glen, LLC ("**Ruby Glen**"), Nu Dot Co LLC ("**NDC**"), and Verisign, Inc. ("**Verisign**") in response to ICANN's 16 September 2016 letter requesting information from the aforementioned parties.[10] ICANN asserted that the documents are subject to the DIDP's Nondisclosure Conditions.[11]

However, ICANN also committed itself to "continue to review potentially responsive materials and consult with relevant third parties, as needed, to determine if additional documentary information is appropriate for disclosure under the DIDP."[12] In accordance with this commitment, on 31 March 2018, ICANN requested permission from Afilias to disclose its response to the 16 September 2016 letter.[13] ICANN's request indicated that it also asked Ruby Glen, NDC, and Verisign for permission to disclose their responses to the 16 September 2016 letter as well.[14]

Therefore, Afilias now requests the responses from Ruby Glen, NDC, and Verisign, indicating whether they consent to the public disclosure of their responses to ICANN's 16 September 2016 request for information. Afilias further reiterates its request for the prompt disclosure of the documents received from Ruby Glen, NDC, and Verisign related to the 16 September 2016 letter.[15]

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9 DIDP Request, p. 3.
10 Letter to John Kane from Christine Willett (16 Sep. 2016).
11 DIDP Response, p. 5.
12 *Id*.
13 Email to John Kane from Christine Willett (31 Mar. 2018). Afilias has given ICANN permission to disclose its own response to the 16 September 2016 letter.
14 *Id*.
15 As stated below, Afilias reserves its rights to contest any decision regarding the disclosure of these documents pursuant to the DIDP once it receives ICANN's response to this letter.

02.02 Request 04: Documents Related to the .WEB Applications

Given ICANN's stated concerns regarding the disclosure of documents related to the .WEB applications, Afilias is willing to further narrow Request 04, subject to its right to request additional information at a later date. The initial request sought "[a]ll applications, and all documents submitted with the applications, for the rights to .WEB."[16] Afilias' amended Request 04 narrows the scope of the request, and seeks only NDC's responses to Items 12 and 45 through 50 in its .WEB application, as well as any amendments, changes, revisions, supplements, or correspondence concerning those Items.

02.03 Request 05: Documents on the Importance of .WEB to Competition

Afilias' Request 05 seeks "[a]ll documents discussing the importance of .WEB to bringing competition to the provision of registry services."[17] Despite this straightforward language, ICANN asserts that Request 05 is "unclear," "overbroad," and "vague."[18] To assist ICANN, the request seeks any documents, analyses, or studies that contain information regarding potential competition, substitution, and interchangeability between or among .WEB and .COM, .NET, or other gTLDs.

02.04 Request 06(a-b): Documents Related to the .WEB Investigation

Afilias is willing to narrow Request 6(a-b), subject to Afilias' right to request additional information at a later date.[19] The initial request sought "[a]ll documents concerning any investigation or discussion related to: (a) the .WEB contention set, [and] (b) NDC's application for the .WEB gTLD."[20] The amended Request 6(a-b) now seeks the following documents:

1. all documents reflecting NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012;[21]

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16 DIDP Request, p. 3.
17 *Id.*, p. 4.
18 DIDP Response, p. 8.
19 ICANN determined that "these requests are exceedingly overbroad and vague." *Id.*
20 DIDP Request, p. 4. ICANN determined that "these requests are exceedingly overbroad and vague." *Id.*
21 *See* "New gTLD Application Submitted to ICANN by: NU DOT CO LLC," ICANN (13 June 2012), https://gtldresult.icann.org/applicationstatus/applicationdetails:downloadapplication/1053?t:ac=1053.

2. all documents concerning any investigation or discussion related to NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012;

3. documents sufficient to show the date on which ICANN first learned that Verisign was going to or had in fact funded NDC's bids for the .WEB gTLD at the 28-28 July 2016 auction; and

4. documents sufficient to show the date on which ICANN first learned that NDC did not intend to operate the .WEB registry itself, but rather intended to assign the rights it acquired related to .WEB to a third party.

02.05 Request 09(a): Documents related to the Department of Justice Investigation

Moreover, in its DIDP Response, ICANN stated that several documents responsive to Request 09(a)[22] were "in the Requestor's possession, custody, or control."[23] In order to further ease any burden on ICANN in responding to Afilias' document requests, Afilias amends Request 09(a) to exclude those documents that ICANN has reasonably identified as already being in Afilias' possession.

Afilias further reserves all of its rights and remedies in all available fora whether within or outside of the United States of America.

Sincerely,

Arif Hyder Ali
Partner

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[22] Request 09(a) includes "[a]ll documents relating to the Department of Justice, Antitrust's Division's ('DOJ') investigation into Verisign becoming the registry operator for .WEB ('DOJ Investigation'), including: (a) document productions to the DOJ." DIDP Response, p. 11.

[23] *Id.*, pp. 11-12.

Exhibit 5

To: Arif Ali on behalf of Afilias Domains No. 3 Ltd.

Date: 23 May 2018

Re: Request No. 20180423-1

On 23 February 2018, you submitted a letter on behalf of Afilias Domains No. 3 Ltd. (Afilias or Requestor) pursuant to the Internet Corporation for Assigned Names and Numbers' (ICANN's) Documentary Information Disclosure Policy (DIDP) requesting documents regarding the .WEB contention set (DIDP Request 20180223-1). ICANN organization responded to DIDP Request 20180223-1 on 24 March 2018. On 23 April 2018, Afilias submitted a letter in response to ICANN's DIDP Response 20180223-1 in which Afilias: (a) proposed a confidentiality agreement governing Item Nos. 1, 4, 6, and 9(a-c, e) in the DIDP Request 20180223-1; and (2) "amended" Item Nos. 1, 4, 5, 6(a-b), and 9(a) in DIDP Request 20180223-1. For reference, a copy of your 23 April 2018 letter is attached to the email transmitting this Response.

As explained in ICANN organization's 27 April 2018 response email to you, the concept of a confidentiality agreement for the disclosure of documents through the DIDP runs afoul of the DIDP itself, which is to make *public* documents concerning ICANN organization's operations unless there is a compelling reason for confidentiality. (*See* ICANN Documentary Information Disclosure Policy, available at https://www.icann.org/resources/pages/didp-2012-02-25-en.) Moreover, your proposal is asking ICANN organization to treat Afilias differently than other requestors, and to act in a manner that is contrary to what is set forth in the DIDP Process, which would be in contravention of ICANN's Bylaws. The DIDP is limited to requests for documentary information already in existence within ICANN organization that is not publicly available. The DIDP is not a mechanism for one to make information requests or requests to obtain litigation-style discovery.

As further indicated in ICANN's 27 April 2018 response email, ICANN's DIDP Response 20180223-1 indicated that Item Nos. 5 and 6(a)-(b) were overbroad and vague, and that Requestor could further clarify or narrow the scope of those Items if it wished to do so. Afilias' 23 April 2018 letter, however, goes far beyond those parameters and, in many instances, broadens and/or fundamentally changes the requests contained in DIDP Request 20180223-1. As such, and as indicated in ICANN's 27 April 2018 email, ICANN organization will treat these "amended" requests as a new DIDP Request, with an effective submission date of 23 April 2018, and ICANN organization will respond through and in accordance with the DIDP Process.

Items Requested

DIDP Request 20180423-1 seeks the disclosure of documentary information relating to the .WEB applications and the .WEB contention set as follows:

1. "All documents received from Ruby Glen, NDC, and Verisign, Inc. (Verisign) in response to ICANN's 16 September 2016 request for additional information" and "the responses from Ruby Glen, NDC, and

Verisign, indicating whether they consent to the public disclosure of their responses to ICANN's 16 September 2016 request for information";

4. "NDC's responses to Items 12 and 45 through 50 in its .WEB application, as well as any amendments, changes, revisions, supplements, or correspondence concerning those Items";
5. "[A]ny documents, analyses, or studies that contain information regarding potential competition, substitution, and interchangeability between or among .WEB and .COM, .NET, or other gTLDs";
6. The following documents:
    1. "[A]ll documents reflecting NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012";
    2. "[A]ll documents concerning any investigation or discussion related to NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012";
    3. "[D]ocuments sufficient to show the date on which ICANN first learned that Verisign was going to or had in fact funded NDC's bids for the .WEB gTLD at the 28-28 [*sic*] July 2016 auction"; and
    4. "[D]ocuments sufficient to show the date on which ICANN first learned that NDC did not intend to operate the .WEB registry itself, but rather intended to assign the rights it acquired related to .WEB to a third party."
9. All documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including:
    a. document productions to the DOJ, "exclud[ing] those documents that ICANN has reasonably identified as already being in Afilias' possession."

Response

The New gTLD Program and String Contention

In 2012, ICANN opened the application window for the New Generic Top-Level Domain (gTLD) Program and created the new gTLD microsite (https://newgtlds.icann.org/en/), which provides detailed information about the Program. From the Program Status webpage of the new gTLD microsite (https://newgtlds.icann.org/en/program-status), people can access the public portions of each new gTLD application, including all of the .WEB applications, by clicking on "Current Application Status" and accessing the New gTLD Current Application Status webpage (https://gtldresult.icann.org/application-result/applicationstatus/viewstatus).

ICANN received seven applications for .WEB, which were placed into a contention set (*see* Applicant Guidebook (Guidebook), §1.1.2.10 (String Contention)). Module 4 of the Guidebook (String Contention Procedures) describes situations in which contention for applied-for new gTLDs occurs, and the methods available to applicants for resolving contention absent private resolution: "It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string

contention among the applications within a contention set, if the contention has not been resolved by other means." (Guidebook, § 4.3 (Auction: Mechanisms of Last Resort).)

Should private resolution not occur, the contention set will proceed to an auction of last resort governed by the Auction Rules that all applicants agreed to by applying. (Guidebook, § 1.1.2.10 (String Contention)). In furtherance of ICANN's commitment to transparency, ICANN organization established the New gTLD Program Auctions webpage, which provides extensive detailed information about the auction process (https://newgtlds.icann.org/en/applicants/auctions.)

Resolution of .WEB/.WEBS Contention Set

Following the procedures set forth in the Guidebook, ICANN organization scheduled an auction of last resort for 27 July 2016 to resolve the .WEB/.WEBS contention set (Auction). (*See* https://newgtlds.icann.org/en/applicants/auctions/schedule-13mar18-en.pdf.)

On or about 22 June 2016, Ruby Glen LLC (Ruby Glen) asserted that changes had occurred in NU DOT CO LLC's (NDC's) application for .WEB, in particular to NDC's management and ownership, and asserted that the Auction should be postponed pending further investigation. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-icann-memorandum-point-authorities-support-motion-dismiss-first-amended-complaint-26oct16-en.pdf.)

ICANN organization investigated Ruby Glen's assertions regarding NDC's application. After completing its investigation, ICANN org sent a letter to the members of the contention set stating, among other things, that "in regards to potential changes of control of [NDC], we have investigated the matter, and to date we have found no basis to initiate the application change request process or postpone the auction." (*See* https://www.icann.org/en/system/files/correspondence/willett-to-web-webs-members-13jul16-en.pdf.)

Ruby Glen then invoked one of ICANN's accountability mechanisms by submitting a reconsideration request on an urgent basis (Request 16-9), seeking postponement of the Auction and requesting a more detailed investigation. (*See* https://www.icann.org/en/system/files/files/reconsideration-16-9-ruby-glen-radix-request-redacted-17jul16-en.pdf.) After carefully considering the information related to Request 16-9, on 21 July 2016 ICANN's Board Governance Committee (BGC) denied Request 16-9. (*See* https://www.icann.org/en/system/files/files/reconsideration-16-9-ruby-glen-radix-bgc-determination-21jul16-en.pdf.)

The next day Ruby Glen sued ICANN org. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-complaint-22jul16-en.pdf.) At the same time, Ruby Glen applied for a temporary restraining order (TRO Application), seeking to stop ICANN org from conducting the Auction at the scheduled time. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-ex-parte-application-tro-memo-points-authorities-22jul16-en.pdf.) The Court denied the TRO Application (*see* https://www.icann.org/en/system/files/files/litigation-ruby-glen-court-order-denying-plaintiff-ex-parte-application-tro-26jul16-en.pdf) and the Auction took

place on 27 and 28 July 2016. NDC placed the winning bid. (*See* https://gtldresult.icann.org/application-result/applicationstatus/auctionresults.)

On 28 November 2016, the Court dismissed Ruby Glen's complaint and entered judgment in ICANN organization's favor. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-judgment-28nov16-en.pdf.) Ruby Glen appealed that decision, and the appeal is currently pending. (*See* https://www.icann.org/en/system/files/files/litigation-ruby-glen-notice-appeal-regarding-dismissal-20dec16-en.pdf.)

DIDP Process and Responses

The DIDP exemplifies ICANN's Commitments and Core Values supporting transparency and accountability by setting forth a procedure through which documents concerning ICANN organization's operations and within ICANN organization's possession, custody, or control that are not already publicly available are made available unless there is a compelling reason for confidentiality. (*See* https://www.icann.org/resources/pages/didp-2012-02-25-en.)

Consistent with its commitment to operating to the maximum extent feasible in an open and transparent manner, ICANN org has published process guidelines for responding to requests for documents submitted pursuant to the DIDP (DIDP Response Process). (*See* https://www.icann.org/en/system/files/files/didp-response-process-29oct13-en.pdf (DIDP Response Process).) The DIDP Response Process provides that, following the collection of potentially responsive documents, "[a] review is conducted as to whether any of the documents identified as responsive to the Request are subject to any of the Defined Conditions for Nondisclosure identified [on ICANN organization's website]." If ICANN organization concludes that a document falls within one of the Defined Conditions for Nondisclosure (Nondisclosure Conditions), "a review is conducted as to whether, under the particular circumstances, the public interest in disclosing the documentary information outweighs the harm that may be caused by such disclosure."

The DIDP was developed as the result of an independent review of standards of accountability and transparency within ICANN, which included extensive public comment and community input. (*See* https://www.icann.org/news/announcement-4-2007-03-29-en; https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en.) Following the completion of this review, ICANN organization sought public comment on the resulting recommendations, and summarized and posted publicly the community feedback. (*See* https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en.) Based on the community's feedback, ICANN organization proposed changes to its frameworks and principles to "outline, define and expand upon the organisation's accountability and transparency" (*see* https://www.icann.org/en/system/files/files/acct-trans-frameworks-principles-17oct07-en.pdf), and sought additional community input on the proposed changes before implementing them (*see* https://www.icann.org/resources/pages/draft-mop-2007-2007-10-17-en).

Neither the DIDP nor ICANN's Commitments and Core Values supporting transparency and accountability obligates ICANN organization to make public every document in its possession. As noted above, the DIDP sets forth Nondisclosure Conditions for which

other commitments or core values may compete or conflict with the transparency commitment. These Nondisclosure Conditions represent areas, vetted through public comment, that the community has agreed are presumed not to be appropriate for public disclosure. The public interest balancing test in turn allows ICANN organization to determine whether or not, under the specific circumstances, its commitment to transparency outweighs its other commitments and core values. Accordingly, ICANN organization may appropriately exercise its discretion, pursuant to the DIDP, in determining that certain documents are not appropriate for disclosure, without contravening its commitment to transparency. As the Amazon EU S.à.r.l. Independent Review Process Panel noted, "notwithstanding ICANN's transparency commitment, both ICANN's By-Laws and its Publication Practices recognize that there are situations where non-public information, e.g., internal staff communications relevant to the deliberative processes of ICANN . . . may contain information that is appropriately protected against disclosure." (Amazon EU S.à.r.l. v. ICANN, Procedural Order (7 June 2017) (https://www.icann.org/en/system/files/files/irp-amazon-procedural-order-3-07jun17-en.pdf).)

ICANN's Bylaws address the need to balance competing interests such as transparency and confidentiality, noting that "in any situation where one Core Value must be balanced with another, potentially competing Core Value, the result of the balancing test must serve a policy developed through the bottom-up multistakeholder process or otherwise best serve ICANN's Mission." (ICANN Bylaws, 22 July 2017, Art. 1, Section 1.2(c) (https://www.icann.org/resources/pages/governance/bylaws-en/#article1).)

DIDP Request 20180423-1

Afilias seeks the disclosure of documentary information concerning the .WEB applications and contention set, as set forth in Item Nos. 1, 4, 5, 6, and 9(a) of DIDP Request 20180423-1.

Item 1

Item 1 seeks "[a]ll documents received from Ruby Glen, NDC, and Verisign, Inc. (Verisign) in response to ICANN's 16 September 2016 request for additional information" and "the responses from Ruby Glen, NDC, and Verisign, indicating whether they consent to the public disclosure of their responses to ICANN's 16 September 2016 request for information."

As indicated in ICANN's 27 April 2018 response email, and pursuant to ICANN's DIDP Response 20180223-1, ICANN organization consulted the relevant third parties and, with the exception of Afilias, all other parties indicated that their responses to ICANN's 16 September 2016 request for information should remain confidential.

The documentary information received from NDC, Verisign, and Ruby Glen in response to ICANN organization's 16 September 2016 request for information as well as their responses regarding the confidentiality of such information are subject to the following Nondisclosure Conditions:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

Item 4

Item 4 seeks "NDC's responses to Items 12 and 45 through 50 in its .WEB application, as well as any amendments, changes, revisions, supplements, or correspondence concerning those Items."

As you know, ICANN organization posts the public portions of each gTLD application and the public portions of any documents submitted with an application on the New gTLD Current Application Status webpage. (*See* https://gtldresult.icann.org/application-result/applicationstatus/viewstatus.) The public portions of the .WEB applications can be accessed through the links provided in DIDP Response 20180223-1. As stated in the Guidebook (Guidebook, Module 2 (Evaluation Questions and Criteria) (https://newgtlds.icann.org/en/applicants/agb)), certain applicant information is not appropriate for public posting and ICANN organization informed applicants that the following types of information would not be publicly posted:

  - Personally identifying information (*see* Application Questions 6, 7, 11);
  - An applicant's Business ID, Tax ID, VAT registration number, or equivalent (*see* Application Question 10);
  - Involvement of any individual identified in an application in civil or criminal legal proceedings, (*see* Application Question 11);
  - Bank details related to wire transfer payment of the evaluation fee (*see* Application Question 12);
  - For geographic names, letters of support or non-objection (*see* Application Question 21(b));
  - Descriptions of the applicant's intended technical and operational approach for those registry functions that are internal to the infrastructure and operations of the registry (*see* Application Questions 30(b) – 44);
  - Financial information (*see* Application Question 45-50).

The materials requested in Item 4 comprise bank details and financial information submitted in response to Application Questions 12 and 45 through 50. Consistent with ICANN organization's commitment to applicants that such information would remain

confidential, this information is not appropriate for disclosure under the DIDP and is subject to the following Nondisclosure Conditions:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Personnel, medical, contractual, remuneration, and similar records relating to an individual's personal information, when the disclosure of such information would or likely would constitute an invasion of personal privacy, as well as proceedings of internal appeal mechanisms and investigations.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

Item 5

Item 5 seeks "any documents, analyses, or studies that contain information regarding potential competition, substitution, and interchangeability between or among .WEB and .COM, .NET, or other gTLDs."

To the extent Item 5 seeks materials concerning ICANN organization's review of how the New gTLD Program has impacted competition, consumer choice and consumer trust, ICANN organization has established a Competition, Consumer Trust & Consumer Choice Review webpage (https://newgtlds.icann.org/en/reviews/cct), which includes documentary information concerning, among other things, the extent to which the introduction of new gTLDs has promoted competition.

To the extent Item 5 seeks materials that overlap with the materials responsive to Item 9(a) ("document productions to the DOJ" in response to the DOJ CID), ICANN organization incorporates and refers Requestor to the response to Item 9(a) below and in DIDP Response 20180223-1.

Any further documents responsive to Item 5, if any, are subject to the following Nondisclosure Conditions:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors,

and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Confidential business information and/or internal policies and procedures.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Item 6

Item 6 seeks "(1) all documents reflecting NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012; (2) all documents concerning any investigation or discussion related to NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012; (3) documents sufficient to show the date on which ICANN first learned that Verisign was going to or had in fact funded NDC's bids for the .WEB gTLD at the 28-28 July 2016 [*sic*] auction; and (4) documents sufficient to show the date on which ICANN first learned that NDC did not intend to operate the .WEB registry itself, but rather intended to assign the rights it acquired related to .WEB to a third party." As an initial matter, Item 6 and each of its subparts do not concern ICANN's operational activities and therefore are beyond the scope of the DIDP.

Item 6(1) requests "all documents reflecting NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012." Materials responsive to Item 6(1) are publicly available on ICANN's website. Specifically, ICANN organization posts the public portions of each gTLD application and the public portions of any documents submitted with an application on the New gTLD Current Application Status webpage. (*See* https://gtldresult.icann.org/application-result/applicationstatus/viewstatus.) The public portions of NDC's .WEB application identify, in response to Application Question 11, the names and position of all directors, officers, partners, and shareholders holding at least 15% of shares. This information is publicly available at https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1053.

ICANN organization is not aware of any changes to NDC's board structure since it submitted its .WEB application on 13 June 2012.

Any further documents responsive to Item 6(1), if any, are subject to the following Nondisclosure Conditions:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities

with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

Item 6(2) seeks "all documents concerning any investigation or discussion related to NDC's board structure and any changes thereto since NDC submitted its .WEB application on 13 June 2012." Materials responsive to Item 6(2) are publicly available on ICANN's Litigation and Reconsideration Request webpages. (*See* https://www.icann.org/resources/pages/governance/litigation-en; and https://www.icann.org/resources/pages/accountability/reconsideration-en.) Specifically, documents filed with respect to Reconsideration Request 16-9 (initiated by Ruby Glen and Radix FZC) and the Ruby Glen litigation contain information regarding ICANN's investigation of Ruby Glen's allegations of a change of control or ownership of NDC. (*See*, for example, https://www.icann.org/resources/pages/reconsideration-16-9-ruby-glen-radix-request-2016-07-18-en; https://www.icann.org/resources/pages/ruby-glen-v-icann-2016-07-23-en; https://www.icann.org/en/system/files/files/litigation-ruby-glen-declaration-willett-25jul16-en.pdf; and https://www.icann.org/en/system/files/files/litigation-ruby-glen-declaration-willett-exhibits-a-h-25jul16-en.pdf.)

Any further documents responsive to Item 6(2) are subject to the following Nondisclosure Conditions:

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which

ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

With regard to Items 6(3) and 6(4), these requests seek "documents sufficient to show the date on which ICANN first learned that Verisign was going to or had in fact funded NDC's bids for the .WEB gTLD at the 28-28 July 2016 [*sic*] auction"; and "documents sufficient to show the date on which ICANN first learned that NDC did not intend to operate the .WEB registry itself, but rather intended to assign the rights it acquired related to .WEB to a third party." As an initial matter, the DIDP is limited to requests for documents concerning ICANN organization's operations and within ICANN organization's possession, custody, or control that are not already publicly available. The DIDP is not a mechanism for one to make information requests or to obtain litigation-style discovery. As such, Items 6(3) and 6(4) fall outside the scope of the DIDP. (*See* ICANN Documentary Information Disclosure Policy, *available at* https://www.icann.org/resources/pages/didp-2012-02-25-en.)

Notwithstanding the above, certain materials related to Items 6(3) and 6(4) are publicly available. Verisign issued a public statement regarding its agreement with NDC. (*See* "Verisign Statement Regarding .Web Auction Results," available at https://investor.verisign.com/news-releases/news-release-details/verisign-statement-regarding-web-auction-results.)

Any further documents responsive to Items 6(3) and 6(4) are subject to the following nondisclosure conditions:

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to

compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Item 9(a)

Item 9(a) seeks "[a]ll documents relating to the Department of Justice, Antitrust Division's ("DOJ") investigation into Verisign becoming the registry operator for .WEB ("DOJ Investigation"), including: (a) document productions to the DOJ," "exclud[ing] those documents that ICANN has reasonably identified as already being in Afilias' possession." Item 9(a) in DIDP Request 20180423-1 is identical to Item 9(a) in the DIDP Request 20180223-1, except that it excludes documents in Afilias' possession. ICANN organization's response remains the same.

On 1 February 2017, DOJ issued a Civil Investigative Demand (CID) to ICANN in connection with DOJ's investigation of Verisign's proposed acquisition of NDC's contractual rights to operate the .WEB gTLD. ICANN provided DOJ with information responsive to the CID.

With regard to Item 9(a), the vast majority of the documents provided to DOJ are publicly available materials. DIDP Response 20180223-1 (Attachment A) provided links to the vast amount of publicly available documents that ICANN organization provided to DOJ in response to the CID, and that response and attachment are incorporated here by reference. With respect to the non-public materials provided to DOJ, such materials are categorized as follows and are subject to various Nondisclosure Conditions:

- Confidential data reports, subject to the following Nondisclosure Conditions:

    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

    - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.

- Trade secrets and commercial and financial information not publicly disclosed by ICANN.

- Correspondence from, to, or among ICANN organization relating to .WEB, subject to the following Nondisclosure Conditions:

    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

    - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

    - Confidential business information and/or internal policies and procedures.

    - Trade secrets and commercial and financial information not publicly disclosed by ICANN.

  Requestor recognizes that certain of these documents comprise correspondence to or from Requestor, which are already in Requestor's possession, custody, or control. In DIDP Response 20180223-1, ICANN organization indicated that, if Requestor considers its correspondence with ICANN organization to be appropriate for public disclosure, ICANN organization would supplement DIDP Response 20180223-1 and make such documents publicly available. In response, Requestor elected to exclude these documents from DIDP Request 20180423-1.

- Auction forms from .WEB applicants, subject to the following Nondisclosure Conditions:

    - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

    - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

    - Confidential business information and/or internal policies and procedures.

- Trade secrets and commercial and financial information not publicly disclosed by ICANN.

Requestor recognizes that certain of these documents comprise auction forms Requestor submitted to ICANN organization, which are already in Requestor's possession, custody or control. In DIDP Response 20180223-1, ICANN organization indicated that, if Requestor considers its auction forms to be appropriate for public disclosure, ICANN organization would supplement DIDP Response 20180223-1 and make such documents publicly available. In response, Requestor elected to exclude these documents from DIDP Request 20180423-1.

- Self-Resolution notices regarding gTLDs other than .WEB, subject to the following Nondisclosure Conditions:

  - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

  - Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

  - Confidential business information and/or internal policies and procedures.

  - Trade secrets and commercial and financial information not publicly disclosed by ICANN.

- Draft Board materials, draft announcements, and other internal documents, subject to the following Nondisclosure Conditions:

  - Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.

  - Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.

  - Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making

process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Confidential business information and/or internal policies and procedures.
- Information subject to the attorney–client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.
- Trade secrets and commercial and financial information not publicly disclosed by ICANN.

Public Interest in Disclosure of Information Subject to Nondisclosure Conditions

Notwithstanding the applicable Nondisclosure Conditions identified in this Response, ICANN organization has considered whether the public interest in disclosure of the information subject to these conditions at this point in time outweighs the harm that may be caused by such disclosure. ICANN organization has determined that there are no current circumstances for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure.

About DIDP

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see http://www.icann.org/en/about/transparency/didp. ICANN organization makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN organization continually strives to provide as much information to the community as is reasonable. ICANN organization encourages you to sign up for an account at ICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN organization's website that are of interest. If you have any further inquiries, please forward them to didp@icann.org.

Exhibit 6

CONTENTION SET STATUS

Download Initial String Contention Results (PDF)
Download Current Contention Set Images (ZIP)
Auction Results

web

Search Reset

You can enter date, eg. 2014-05-21, 21 May 2014 or 05/21/2014

FILTER RESULTS

Contention Set Status

Apply Filters

Reset All

This page reflects the current string contention sets as of the most recent update (**16 February 2018**) to this page. String contention sets will be updated from time to time to reflect any changes. Please note that the current status of string contention sets could change due to changes to application status as a result of withdrawals, evaluation results, dispute resolution proceedings, contention resolution processes, or the potential impact of ICANN accountability mechanisms. Except for the application statuses "Withdrawn" and "Delegated", application statuses are not final.

A change in application status or update to a contention set is intended to inform the applicants and the community of an application's current status. A change or update is not a definite indication that an application may proceed to another phase of the program. For more information including definitions of application statuses see the applicant advisory.

▸	Set Name	Set Number	Set Status	Number of Applications	Auction Date
▸	网站 (xn--5tzm5g) View Image	9	Resolved	2	
▸	CAM View Image	24	Resolved	3	
▸	GMBH View Image	30	Resolved	5	
▸	APP View Image	39	Resolved	13	25 February 2015 [Confirmed]
▸	MOVIE View Image	131	Resolved	8	
▸	WEBSITE View Image	133	Resolved	3	
▾	WEB / WEBS View Image	233	On Hold[1]	9	27 July 2016 [Confirmed]

539	WEBS	1-1033-22687 (Withdrawn)	Vistaprint Limited
632	WEB	1-1296-36138 (In Contracting)	NU DOT CO LLC
868	WEB	1-1681-58699 (Will Not Proceed)	Charleston Road Registry Inc.
946	WEB	1-1009-97005 (Withdrawn)	Web.com Group, Inc.
986	WEB	1-956-26846 (Will Not Proceed)	DotWeb Inc.
1218	WEB	1-1527-54849 (Will Not Proceed)	Ruby Glen, LLC
1360	WEB	1-1013-6638 (Will Not Proceed)	Afilias Domains No. 3 Limited,
1717	WEBS	1-1033-73917 (In Contracting)	Vistaprint Limited
1750	WEB	1-1013-77165 (Will Not Proceed)	Schlund Technologies GmbH

Displaying 1 - 7 of 7

Notes:

1. **On Hold:** One or more applications in the contention set may have a status of On Hold. Applications in the set cannot proceed to New gTLD Program Auctions until the set is no longer on hold.
2. Winning applicant results are preliminary until the winning price is received in full.
3. Per the 4 February 2018 Board resolution, the Board directed the President and CEO that the applications for .CORP, .HOME, and .MAIL should not proceed in the New gTLD Program. As the applications for the strings .CORP, .HOME, and .MAIL were not approved to proceed in the New gTLD Program, contention no longer exists, and the contention set status has been updated to "Resolved".

Exhibit 7

ICANN New gTLD Contention Set Resolution Auction

Final Results for WEB / WEBS

Winners:

String Won	Applicant	Application ID	Winning Price	Date of Auction
WEB	NU DOT CO LLC	1-1296-36138	$135,000,000	27-July-2016
WEBS	Vistaprint Limited	1-1033-73917	$1	27-July-2016

Applicants:

Applicant	Application ID	Position	Submitted Deposit (Participated in Auction)
Afilias Domains No. 3 Limited	1-1013-6638	A	Yes
Charleston Road Registry Inc.	1-1681-58699	A	Yes
DotWeb Inc.	1-956-26846	A	Yes
NU DOT CO LLC	1-1296-36138	A	Yes
Ruby Glen, LLC	1-1527-54849	A	Yes
Schlund Technologies GmbH	1-1013-77165	A	Yes
Vistaprint Limited	1-1033-73917	C	Yes
Web.com Group, Inc.	1-1009-97005	B	Yes

Round Information:

Round #	Start of Round Price	End of Round Price	Number of Eligible Bidders	Aggregate Demand	Enduring Applications
1	$1	$1,000,000	8	6	7
2	$1,000,000	$2,000,000	7	6	7
3	$2,000,000	$3,000,000	7	6	7
4	$3,000,000	$4,000,000	7	6	7
5	$4,000,000	$5,400,000	7	6	7
6	$5,400,000	$7,200,000	7	6	7
7	$7,200,000	$9,600,000	7	6	7
8	$9,600,000	$12,000,000	7	5	6
9	$12,000,000	$15,000,000	6	5	6
10	$15,000,000	$18,800,000	6	4	4
11	$18,800,000	$23,500,000	4	4	4
12	$23,500,000	$29,400,000	4	4	4
13	$29,400,000	$36,800,000	4	4	4
14	$36,800,000	$46,000,000	4	4	4
15	$46,000,000	$57,500,000	4	4	4

16	$57,500,000	$71,900,000	4	2	2
17	$71,900,000	$82,000,000	2	2	2
18	$82,000,000	$92,000,000	2	2	2
19	$92,000,000	$102,000,000	2	2	2
20	$102,000,000	$112,000,000	2	2	2
21	$112,000,000	$122,000,000	2	2	2
22	$122,000,000	$132,000,000	2	2	2
23	$132,000,000	$142,000,000	2	*	*

Notes:

- This was an Indirect Contention.
- Aggregate Demand: The number of Bids placed at the End of Round Price. The Aggregate Demand is available for all Rounds except the final Round.
- Enduring Application: An Application for which a Continue Bid has been submitted or which satisfies the condition of clause 34(c) of the Auction Rules (Version 2015-02-24), but which has not been deemed to be a Winning Application pursuant to clause 35(b). The number of Enduring Applications is available for all Rounds except the final Round.
- All prices are displayed in United States Dollars (USD) with a comma denoting the thousands separator.
- The results shown reflect the outcome of the Auction commenced on 27 July 2016 and do not necessarily reflect the final resolution of the Contention Set. Being declared the ultimate winner of the Contention String is contingent upon timely payment of the Winning Price per the Auction Rules and eligibility to sign a Registry Agreement as determined by ICANN.
- The Application in the “B” position was eliminated after Round 10, causing the Contention Set to divide and causing the Application of Vistaprint Limited to be deemed a Winning Application.
- The outcome of the Auction does not guarantee that Registry Agreements will be signed or that the TLDs will be delegated. These results do not constitute a waiver or amendment of any provision of the Applicant Guidebook, the Registry Agreement, the Bidder Agreement or the Auction Rules.

Exhibit 8

August 1, 2016

Verisign Statement Regarding .Web Auction Results

RESTON, Va.--(BUSINESS WIRE)-- VeriSign, Inc. (NASDAQ:VRSN), a global leader in domain names and internet security, today announced the following information pertaining to the .web top-level domain (TLD):

The Company entered into an agreement with Nu Dot Co LLC wherein the Company provided funds for Nu Dot Co's bid for the .web TLD. We are pleased that the Nu Dot Co bid was successful.

We anticipate that Nu Dot Co will execute the .web Registry Agreement with the Internet Corporation for Assigned Names and Numbers (ICANN) and will then seek to assign the Registry Agreement to Verisign upon consent from ICANN.

As the most experienced and reliable registry operator, Verisign is well-positioned to widely distribute .web. Our expertise, infrastructure, and partner relationships will enable us to quickly grow .web and establish it as an additional option for registrants worldwide in the growing TLD marketplace. Our track record of over 19 years of uninterrupted availability means that businesses and individuals using .web as their online identity can be confident of being reliably found online. And these users, along with our global distribution partners, will benefit from the many new domain name choices that .web will offer.

About Verisign
Verisign, a global leader in domain names and internet security, enables internet navigation for many of the world's most recognized domain names and provides protection for websites and enterprises around the world. Verisign ensures the security, stability and resiliency of key internet infrastructure and services, including the .com and .net domains and two of the internet's root servers, as well as performs the root zone maintainer functions for the core of the internet's Domain Name System (DNS). Verisign's Security Services include intelligence-driven Distributed Denial of Service Protection, iDefense Security Intelligence and Managed DNS. To learn more about what it means to be Powered by Verisign, please visit Verisign.com.

VRSNF

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View source version on businesswire.com: http://www.businesswire.com/news/home/20160801005586/en/

VeriSign, Inc.
Investor Relations:
Personal Data Redacted

or
Media Relations:
Personal Data Redacted

Source: VeriSign, Inc.

News Provided by Acquire Media

Exhibit 9

Afilias Plc
Contact Informat on Redacted

W Afilias.info

8 August 2016

Mr. Akram Atallah
President, Global Domains Division
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Re: .WEB Auction

Dear Akram:

Afilias Domains No. 3 Limited, a wholly-owned subsidiary of Afilias plc, is an applicant for the .WEB top-level domain under the ICANN new gTLD program. On 27-28 August 2016, ICANN conducted an auction (the "Auction") for the .WEB string per the rules and procedures set forth in the New gTLD Applicant Guidebook (the "Guidebook"). As announced by ICANN on 28 August 2016 (https://www.icann.org/news/announcement-2-2016-07-28-en), the successful bidder in the Auction was Nu Dot Co LLC ("NDC").

Subsequent to the conclusion of the auction, it has been publically disclosed that VeriSign, Inc. acquired rights in the NDC application for .WEB. VeriSign's press release, dated 1 August 2016, states *"The Company [i.e., VeriSign] entered into an agreement with Nu Dot Co LLC wherein the Company provided funds for Nu Dot Co's bid for the .web TLD. We are pleased that the Nu Dot Co bid was successful. We anticipate that Nu Dot Co will execute the .web Registry Agreement with the Internet Corporation for Assigned Names and Numbers (ICANN) and will then seek to assign the Registry Agreement to Verisign upon consent from ICANN."* (https://investor.verisign.com/releasedetail.cfm ?ReleaseID=981994)

Further, in its 10-Q for the quarter ended 30 June 2016, filed with the U.S. Securities and Exchange Commission on 28 July 2016, VeriSign states *"Subsequent to June 30, 2016, the Company incurred a commitment to pay approximately $130.0 million for the future assignment of contractual rights, which are subject to third-party consent. The payment is expected to occur during the third quarter of 2016.*

Paragraph 10 of the Terms and Conditions set forth in the Guidebook includes in part the following language: "Applicant may not resell, assign or transfer any of applicant's rights or obligations in connection with the application." We have not been able to review a copy of the agreement(s) between NDC and VeriSign with respect to this arrangement, but it appears likely, given the public statements of VeriSign, that DNC and VeriSign entered into an agreement in the form of an option or similar arrangement with respect to the rights and obligations of NDC regarding its .WEB application. An option to acquire a string won at auction, together with a promise to fund the auction, is exactly the type of transfer of rights and obligations in connection with an application that ICANN was attempting to stop by including this language in the Terms and Conditions. Otherwise, such language would have no real purpose. The language of paragraph 10 precludes not only a transfer of all rights or obligations in an application, but of <u>*any*</u> rights or obligations. There is no materiality threshold, and

Personal Data Redacted

Afilias℠

no procedure to seek consent or waiver of these terms. It is an absolute prohibition of this type of arrangement in clear and unambiguous terms.

The purposes of a prohibition on transferring rights and obligations in an application are obvious. ICANN and the community spent years engaged in a stakeholder driven process to develop the important processes and procedures by which one could submit an application for a new gTLD. These procedures were developed to endure a level playing field for gTLD applicants and to protect the integrity of the process. The application requirements and associated filing deadlines were clear and strictly enforced from the beginning. To allow third parties to circumvent the entire Guidebook process simply by buying rights in an application once filed renders the entire Guidebook and ICANN process mere folly and negatively impacts to a material degree the rights and expectations of applicants that have played by the rules.

There is no cure provided in the Guidebook for violations of paragraph 10 of the Terms and Conditions. The only reasonable and fair solution is to disqualify the NDC application and proceed to the next highest bidder in the auction to contract for the string, at the price at which the third highest bidder exited the auction.

Further, section 1.2.7 of the Guidebook provides:

> If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.
>
> ICANN reserves the right to require a re-evaluation of the application in the event of a material change. This could involve additional fees or evaluation in a subsequent application round.
>
> Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application.

Clearly, an agreement to provide at least $135 Million to an applicant constitutes a material change in that applicant's financial condition. Further, the type of option agreement that apparently exists between NDC and VeriSign likely constitutes a change in control of the applicant. A change in control can be effected by contract as well as by changes in equity ownership. It is our understanding that NDC never notified ICANN of these changes per the terms of the Guidebook. In the interest of fairness to the other .WEB auction participants, ICANN should exercise its right under paragraph 1.2.7 and deny NDC's application.

We request that ICANN promptly undertake an investigation of the matters set forth in this letter and take appropriate action against NDC and its .WEB application for violations of the Guidebook as we have requested.

In addition to this letter, we are filing a complaint with the ICANN Ombudsman with regard to this matter. We strongly urge ICANN to stay any further action in this matter with respect to NDC, including entering into a registry agreement for .WEB with NDC, or acting on any request of NDC or VeriSign to

Afilias[SM]

assign such agreement to VeriSign, until the Ombudsman has had an opportunity to investigate and report on this matter.

Regards,

M. Scott Hemphill
Vice President & General Counsel

cc: Steve Crocker, Chairman of the Board
Göran Marby, President and CEO

Exhibit 10

The Internet Corporation for Assigned Names and Numbers

ICANN

16 September 2016

Mr. John Kane
Vice President, Corporate Services
Afilias Domains No. 3 Limited
Contact Information Redacted

Dear Mr. John Kane:

In various fora, Ruby Glen LLC (Ruby Glen) and Afilias Domains No. 3 Limited (Afilias) have raised questions regarding, among other things, whether NU DOT CO LLC (NDC) should have participated in the 27-28 July 2016 auction for the .WEB contention set and whether NDC's application for the .WEB gTLD should be rejected. To help facilitate informed resolution of these questions, ICANN would find it useful to have additional information.

Accordingly, ICANN invites Ruby Glen, NDC, Afilias, and Verisign, Inc. (Verisign) to provide information and comment on the topics listed in the attached. Please endeavor to respond to all of the topics/questions for which you have information to do so. To allow ICANN to promptly evaluate these matters, please provide responses to globalsupport@icann.org no later than 7 October 2016.

Thank you for your cooperation and attention to this matter. Please do not hesitate to let me know if you have any questions.

Sincerely,

Christine A. Willett
Vice President, gTLD Operations

The Internet Corporation for Assigned Names and Numbers

ICANN

TOPICS ON WHICH RUBY GLEN, NU DOT CO LLC, AFILIAS, AND VERISIGN ARE INVITED TO COMMENT

Please note that all responses to these questions will be taken into consideration in ICANN's evaluation of the issues raised, but that does not mean that ICANN will adopt any particular response as definitive and authoritative.

Topics for Comment

1. Afilias and Ruby Glen have alleged that NDC failed promptly to notify ICANN of "changes in ownership and control of the applicant" [i.e., NDC], as contemplated by Section 1.2.7 of the gTLD Applicant Guidebook (Version 2012-06-04) (AGB). Please provide or describe any evidence of which you are aware regarding whether ownership or control of NDC changed after NDC applied for the .WEB gTLD.

2. In the *Ruby Glen, LLC v. ICANN* lawsuit, two NDC officers, JPersonal Data Redacted , provided declarations dated 25 July 2016 under penalty of perjury regarding ownership and control of NDC. What evidence, if any, is there that statements made in those declarations are false?

3. AGB Section 1.2.7 speaks of changes in ownership and control specifically "***of the applicant***." Please describe other NDC activities besides its having applied for the .WEB gTLD, and the activities relating to that application. Do you think that a change regarding only one of many activities of an applicant constitutes a change in ownership and control within the meaning of AGB Section 1.2.7? Please explain why or why not.

4. In his 8 August 2016, letter, Scott Hemphill stated: "A change in control can be effected by contract as well as by changes in equity ownership." Do you think that an applicant's making a contractual promise to conduct particular activities in which it is engaged in a particular manner constitutes a "change in control" of the applicant? Do you think that compliance with such a contractual promise constitutes such a change in control? Please give reasons.

5. Do you think that AGB Section 1.2.7 requires an applicant to disclose to ICANN all contractual commitments it makes to conduct its affairs in particular ways? If not, in what circumstances (if any) would disclosure be required?

6. In his 8 August 2016, letter, Scott Hemphill stated that "an agreement to provide at least $135 Million to an applicant constitutes a material change in that applicant's financial condition." In your view, does AGB Section 1.2.7 require applicants to notify ICANN of all

changes in their financial condition? If the requirement is limited by an (unstated) materiality test, how should materiality be determined?

7. Do you think that changes to an applicant's financial condition that do not negatively reflect on an applicant's qualifications to operate the gTLD should be deemed material? If so, why? Do you think that an applicant's obtaining a funding commitment from a third party to fund bidding at auction negatively affects that applicant's qualifications to operate the gTLD? Please explain why, describing your view of the relevance of (a) the funding commitment the applicant received and (b) the consideration the applicant gave to obtain that commitment (e.g., a promise to repay; a promise to use a particular backend provider; an option to receive some ownership interest in the applicant in the future; some promise about how the gTLD will be operated).

8. Do you have any knowledge or information that applicants in other circumstances have obtained post-application funding commitments (whether received through loans, contributions from affiliated companies, or otherwise) for their auction bidding or other operations? If so, please elaborate. Do you know if applicants have commonly notified ICANN of those funding commitments? If so, please explain. Should applicants be required to notify ICANN of those funding commitments? If so, in what circumstances?

9. Do you think that requiring applicants to disclose funding commitments (whether through loans, contributions from affiliated companies, or otherwise) they obtain for auction bids would help or harm the auction process? Would a requirement that applicants disclose their funding arrangements create problems for applicants (for example, making funding commitments harder to obtain)? To what extent, if any, do you think scrutinizing such arrangements (beyond determining whether they negatively reflect on an applicant's qualifications) would be within ICANN's proper mission? Would required disclosure of applicants' funding sources pose any threat to robust competition?

10. The final sentence of AGB Section 1.2.7 states that failures to notify ICANN of changes "may result in denial of the application." What standards do you think ICANN should follow in determining whether a particular failure to make a required notification should lead to denial of an application? If an applicant or related entities have multiple applications and it is discovered that the applicant or related entities have external funding commitments not disclosed to ICANN, should all of that applicant's or its related entities' applications be denied?

11. Afilias and Ruby Glen have also raised questions as to whether NDC violated the last sentence of AGB, Module 6, Paragraph 10, which states: "Applicant may not resell, assign, or

transfer any of the applicant's rights or obligations in connection with the application." Do you think the "rights or obligations" mentioned in that sentence are limited to those that flow from approval of the application (e.g., the right to enter a registry agreement), or do you think that they also include rights and obligations concerning the prosecution of the application (e.g., obligations to respond to additional inquiries from ICANN; rights to assist in pursuing the application by raising or addressing concerns)? In responding on this topic, please address the context established by the first two sentences of AGB Module 6, Paragraph 10.

12. Do you have knowledge or information that gTLD applicants in other circumstances have assigned others to handle aspects of the process by which applications are evaluated? If so, please describe with specifics what you know about this practice. For example, do applicants empower persons or companies with which they are working to take charge of handling various stages of the evaluation process? If so, do you think this violates AGB Module 6, Paragraph 10?

13. Specifically with regard to the auction process, what knowledge or information do you have regarding the extent to which applicants within contention sets have taken suggestions or direction from others regarding how to conduct bidding? How common is this practice? (It is noted that Clause 68 of the "Auction Rules for New gTLDs (Version 2014-11-03)" (Auction Rules) and Section 2.6 of the "New gTLD Auctions Bidder Agreement (Version 2014-04-03)" (Bidder Agreement) prohibit certain collusive activities between applicants; the immediately preceding two questions are directed to suggestions or directions not violating those prohibitions.) Clause 12 of the Auction Rules states in part "Before an Auction to resolve a given Contention Set, each Qualified Applicant may designate a party to bid on its behalf ('Designated Bidder')." Designated Bidders must execute Bidder Agreements with the Auction Manager reflecting their rights and obligations concerning the conduct of the auction. Do you think that designation of a Designated Bidder violates the last sentence of AGB Module 6, Paragraph 10?

14. Clause 12 of the Auction Rules states that a purpose for an applicant's selection of a Designated Bidder is to allow the Designated Bidder to bid on the applicant's behalf. Do you think that clause merely states a purpose for designation, or does it obligate the Designated Bidder to bid on behalf of only the applicant? What do you think the phrase "its behalf" means in the Auction Rules and Bidder Agreement? Do you think it indicates that the Designated Bidder acts in the stead of the applicant, or does it additionally indicate that the Designated Bidder must act in only the interest of the applicant? (In this regard, please discuss the wording of the seventh recital in the Bidder Agreement.) Where no Designated Bidder is designated, do you think the Auction Rules or the Bidder Agreement requires that

an applicant acting for itself as the Bidder act only in its own interest? If so, please explain why. As relevant to this topic 14, do you think there are any inconsistencies between the Auction Rules and the Bidder Agreement? If so, please explain those inconsistencies in detail.

15. Clause 13 of the Auction Rules states: "Before each Auction, each Bidder shall nominate up to two people ('Authorized Individuals') to bid on its behalf in the Auction." Authorized Individuals have certain rights and obligations in connection with the auction. Do you think that an applicant's nomination of an Authorized Individual violates the last sentence of AGB Module 6, Paragraph 10?

16. Do you think that an applicant's entry into a contract promising in exchange for a payment of money to make bids and otherwise participate in the auction in the manner directed by the other party to the contract constitutes "resell[ing], assign[ing], or transfer[ing] any of applicant's rights or obligations in connection with the application," as prohibited by AGB Module 6, Paragraph 10? Please explain why or why not.

17. Do you think that AGB Module 6, Paragraph 10 would be violated by a contractual promise by an applicant to request ICANN's consent to transfer to another party any registry agreement it receives as the result of its application? If so, under what circumstances? To the best of your knowledge and information, in the context of any other gTLD has an applicant agreed, before entry into a registry agreement, to seek ICANN's consent to transfer the agreement after it is entered?

18. Do you think that AGB Module 6, Paragraph 10 would be violated by a contractual promise by an applicant to seek to transfer to another party, but only upon consent of ICANN, any registry agreement it receives as the result of its application? If so, under what circumstances? To the best of your knowledge and information, in the context of any other gTLD has an applicant made such an agreement?

19. Do you think that AGB Module 6, Paragraph 10 means that a resale, assignment, or transfer contrary to its last sentence constitutes a violation that can result in forfeiture or denial of the application, or is its effect simply that any such attempted resale, assignment, or transfer of the application is ineffective? In your response, please address Restatement (Second) of Contracts §§ 317 and 322 (including comment b) and any other applicable legal principles.

20. In his 9 September 2016 letter, Scott Hemphill stated that NDC and Verisign's efforts to give Verisign control over the .WEB gTLD "must be sanctioned by ICANN by disqualifying NDC's bid and rejecting its application." Assuming that a resale, assignment, or transfer

contrary to the last sentence of AGB Module 6, Paragraph 10 can result in forfeiture or denial of the application (see topic 19 above), do you think that the application must be forfeited or denied in all cases? If ICANN has discretion to determine an appropriate remedy, what factors do you think should guide ICANN's discretion?

Exhibit 11

BYLAWS FOR INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS | A California Nonprofit Public-Benefit Corporation

As amended 22 July 2017

ARTICLE 1 MISSION, COMMITMENTS AND CORE VALUES

ARTICLE 2 POWERS

ARTICLE 3 TRANSPARENCY

ARTICLE 4 ACCOUNTABILITY AND REVIEW

ARTICLE 5 OMBUDSMAN

ARTICLE 6 EMPOWERED COMMUNITY

ARTICLE 7 BOARD OF DIRECTORS

ARTICLE 8 NOMINATING COMMITTEE

ARTICLE 9 ADDRESS SUPPORTING ORGANIZATION

ARTICLE 10 COUNTRY-CODE NAMES SUPPORTING ORGANIZATION

ARTICLE 11 GENERIC NAMES SUPPORTING ORGANIZATION

ARTICLE 12 ADVISORY COMMITTEES

ARTICLE 13 OTHER ADVISORY MECHANISMS

ARTICLE 14 BOARD AND TEMPORARY COMMITTEES

ARTICLE 15 OFFICERS

ARTICLE 16 POST-TRANSITION IANA (Internet Assigned Numbers Authority) ENTITY

ARTICLE 17 CUSTOMER STANDING COMMITTEE

ARTICLE 18 IANA (Internet Assigned Numbers Authority) NAMING FUNCTION REVIEWS

ARTICLE 19 IANA (Internet Assigned Numbers Authority) NAMING FUNCTION SEPARATION PROCESS

ARTICLE 20 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

ARTICLE 21 GENERAL PROVISIONS

ARTICLE 22 FISCAL AND STRATEGIC MATTERS, INSPECTION AND INDEPENDENT INVESTIGATION

ARTICLE 23 MEMBERS

ARTICLE 24 OFFICES AND SEAL

ARTICLE 25 AMENDMENTS

ARTICLE 26 SALE OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL OF ICANN (Internet Corporation for Assigned Names and Numbers)'S ASSETS

ARTICLE 27 TRANSITION ARTICLE

ANNEX A: GNSO (Generic Names Supporting Organization) POLICY DEVELOPMENT PROCESS

ANNEX A-1: GNSO (Generic Names Supporting Organization) EXPEDITED POLICY DEVELOPMENT PROCESS

ANNEX A-2: GNSO (Generic Names Supporting Organization) GUIDANCE PROCESS

ANNEX B: CCNSO POLICY-DEVELOPMENT PROCESS

ANNEX C: THE SCOPE OF THE CCNSO

ANNEX D: EC (Empowered Community) MECHANISM

ANNEX E: CARETAKER ICANN (Internet Corporation for Assigned Names and Numbers) BUDGET PRINCIPLES

ANNEX F: CARETAKER IANA (Internet Assigned Numbers Authority) BUDGET PRINCIPLES

ANNEX G-1

ANNEX G-2

ARTICLE 1 MISSION, COMMITMENTS AND CORE VALUES

Section 1.1. MISSION

(a) The mission of the Internet Corporation for Assigned Names and Numbers ("**ICANN (Internet Corporation for Assigned Names and Numbers)**") is to ensure the stable and secure operation of the Internet's unique identifier systems as described in this Section 1.1(a) (the "**Mission**"). Specifically, ICANN (Internet Corporation for Assigned Names and Numbers):

> (i) Coordinates the allocation and assignment of names in the root zone of the Domain Name (Domain Name) System ("**DNS (Domain Name**

System)") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("**gTLDs**"). In this role, ICANN (Internet Corporation for Assigned Names and Numbers)'s scope is to coordinate the development and implementation of policies:

- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS (Domain Name System) including, with respect to gTLD (generic Top Level Domain) registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
- That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.

The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD (generic Top Level Domain) registrars and registries shall be deemed to be within ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission.

(ii) Facilitates the coordination of the operation and evolution of the DNS (Domain Name System) root name server system.

(ii) Coordinates the allocation and assignment at the top-most level of Internet Protocol (Protocol) numbers and Autonomous System numbers. In service of its Mission, ICANN (Internet Corporation for Assigned Names and Numbers) (A) provides registration services and open access for global number registries as requested by the Internet Engineering Task Force ("**IETF (Internet Engineering Task Force)**") and the Regional Internet Registries ("**RIRs**") and (B) facilitates the development of global number registry policies by the affected community and other related tasks as agreed with the RIRs.

(iv) Collaborates with other bodies as appropriate to provide registries needed for the functioning of the Internet as specified by Internet protocol standards development organizations. In service of its Mission, ICANN (Internet Corporation for Assigned Names and Numbers)'s scope is to provide registration services and open access for registries in the public domain requested by Internet protocol development organizations.

(b) ICANN (Internet Corporation for Assigned Names and Numbers) shall not act outside its Mission.

(c) ICANN (Internet Corporation for Assigned Names and Numbers) shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that such services carry or provide, outside the express scope of Section 1.1(a). For the avoidance of doubt, ICANN (Internet Corporation for Assigned Names and Numbers) does not hold any governmentally authorized regulatory authority.

(d) For the avoidance of doubt and notwithstanding the foregoing:

(i) the foregoing prohibitions are not intended to limit ICANN (Internet Corporation for Assigned Names and Numbers)'s authority or ability to adopt or implement policies or procedures that take into account the use of domain names as natural-language identifiers;

(ii) Notwithstanding any provision of the Bylaws to the contrary, the terms and conditions of the documents listed in subsections (A) through (C) below, and ICANN (Internet Corporation for Assigned Names and Numbers)'s performance of its obligations or duties thereunder, may not be challenged by any party in any proceeding against, or process involving, ICANN (Internet Corporation for Assigned Names and Numbers) (including a request for reconsideration or an independent review process pursuant to Article 4) on the basis that such terms and conditions conflict with, or are in violation of, ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission or otherwise exceed the scope of ICANN (Internet Corporation for Assigned Names and Numbers)'s authority or powers pursuant to these Bylaws ("**Bylaws**") or ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation ("**Articles of Incorporation**"):

(A)

> (1) all registry agreements and registrar accreditation agreements between ICANN (Internet Corporation for Assigned Names and Numbers) and registry operators or registrars in force on 1 October 2016 [1], including, in each case, any terms or conditions therein that are not contained in the underlying form of registry agreement and registrar accreditation agreement;
>
> (2) any registry agreement or registrar accreditation agreement not encompassed by (1) above to the extent its terms do not vary materially from the form of registry agreement or registrar accreditation agreement that existed on 1 October 2016;

(B)any renewals of agreements described in subsection (A) pursuant to their terms and conditions for renewal; and

(C)ICANN (Internet Corporation for Assigned Names and Numbers)'s Five-Year Strategic Plan and Five-Year Operating Plan (Five-Year Operating Plan) existing on 10 March 2016.

(iii) Section 1.1(d)(ii) does not limit the ability of a party to any agreement described therein to challenge any provision of such agreement on any other basis, including the other party's interpretation of the provision, in any proceeding or process involving ICANN (Internet Corporation for Assigned Names and Numbers).

(iv) ICANN (Internet Corporation for Assigned Names and Numbers) shall have the ability to negotiate, enter into and enforce agreements, including public interest commitments, with any party in service of its Mission.

Section 1.2. COMMITMENTS AND CORE VALUES

In performing its Mission, ICANN (Internet Corporation for Assigned Names and Numbers) will act in a manner that complies with and reflects ICANN (Internet Corporation for Assigned Names and Numbers)'s Commitments and respects ICANN (Internet Corporation for Assigned Names and Numbers)'s Core Values, each as described below.

(a) **COMMITMENTS**

In performing its Mission, ICANN (Internet Corporation for Assigned Names and Numbers) must operate in a manner consistent with these Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law, through open and transparent processes that enable competition and open entry in Internet-related markets. Specifically, ICANN (Internet Corporation for Assigned Names and Numbers) commits to do the following (each, a "**Commitment**," and collectively, the "**Commitments**"):

(i) Preserve and enhance the administration of the DNS (Domain Name System) and the operational stability, reliability, security, global interoperability, resilience, and openness of the DNS (Domain Name System) and the Internet;

(ii) Maintain the capacity and ability to coordinate the DNS (Domain Name System) at the overall level and work for the maintenance of a single, interoperable Internet;

(iii) Respect the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN (Internet Corporation for Assigned Names and Numbers)'s activities to matters that are within ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission and require or significantly benefit from global coordination;

(iv) Employ open, transparent and bottom-up, multistakeholder policy development processes that are led by the private sector (including business stakeholders, civil society, the technical community, academia, and end users), while duly taking into account the public policy advice of governments and public authorities. These processes shall (A) seek input from the public, for whose benefit ICANN (Internet Corporation for Assigned Names and Numbers) in all events shall act, (B) promote well-informed decisions based on expert advice, and (C) ensure that those entities most affected can assist in the policy development process;

(v) Make decisions by applying documented policies consistently, neutrally, objectively, and fairly, without singling out any particular party for discriminatory treatment (i.e., making an unjustified prejudicial distinction between or among different parties); and

(vi) Remain accountable to the Internet community through mechanisms defined in these Bylaws that enhance ICANN (Internet Corporation for Assigned Names and Numbers)'s effectiveness.

(b) **CORE VALUES**

In performing its Mission, the following "**Core Values**" should also guide the decisions and actions of ICANN (Internet Corporation for Assigned Names and Numbers):

(i) To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of, other responsible entities that reflect the interests of affected parties and the roles of bodies internal to ICANN (Internet Corporation for Assigned Names and Numbers) and relevant external expert bodies;

(ii) Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of

policy development and decision-making to ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent;

(iii) Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment in the DNS (Domain Name System) market;

(iv) Introducing and promoting competition in the registration of domain names where practicable and beneficial to the public interest as identified through the bottom-up, multistakeholder policy development process;

(v) Operating with efficiency and excellence, in a fiscally responsible and accountable manner and, where practicable and not inconsistent with ICANN (Internet Corporation for Assigned Names and Numbers)'s other obligations under these Bylaws, at a speed that is responsive to the needs of the global Internet community;

(vi) While remaining rooted in the private sector (including business stakeholders, civil society, the technical community, academia, and end users), recognizing that governments and public authorities are responsible for public policy and duly taking into account the public policy advice of governments and public authorities;

(vii) Striving to achieve a reasonable balance between the interests of different stakeholders, while also avoiding capture; and

(viii) Subject to the limitations set forth in Section 27.2, within the scope of its Mission and other Core Values, respecting internationally recognized human rights as required by applicable law. This Core Value does not create, and shall not be interpreted to create, any obligation on ICANN (Internet Corporation for Assigned Names and Numbers) outside its Mission, or beyond obligations found in applicable law. This Core Value does not obligate ICANN (Internet Corporation for Assigned Names and Numbers) to enforce its human rights obligations, or the human rights obligations of other parties, against other parties.

(c) The Commitments and Core Values are intended to apply in the broadest possible range of circumstances. The Commitments reflect ICANN (Internet Corporation for Assigned Names and Numbers)'s fundamental compact with the global Internet community and are intended to apply consistently and comprehensively to ICANN (Internet Corporation for Assigned Names and

Numbers)'s activities. The specific way in which Core Values are applied, individually and collectively, to any given situation may depend on many factors that cannot be fully anticipated or enumerated. Situations may arise in which perfect fidelity to all Core Values simultaneously is not possible. Accordingly, in any situation where one Core Value must be balanced with another, potentially competing Core Value, the result of the balancing must serve a policy developed through the bottom-up multistakeholder process or otherwise best serve ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission.

ARTICLE 2 POWERS

Section 2.1. GENERAL POWERS

Except as otherwise provided in the Articles of Incorporation or these Bylaws, the powers of ICANN (Internet Corporation for Assigned Names and Numbers) shall be exercised by, and its property controlled and its business and affairs conducted by or under the direction of, the Board (as defined in Section 7.1). With respect to any matters that would fall within the provisions of Section 3.6(a)-(c), the Board may act only by a majority vote of all Directors. In all other matters, except as otherwise provided in these Bylaws or by law, the Board may act by majority vote of the Directors present at any annual, regular, or special meeting of the Board. Any references in these Bylaws to a vote of the Board shall mean the vote of only those Directors present at the meeting where a quorum is present unless otherwise specifically provided in these Bylaws by reference to "of all Directors."

Section 2.2. RESTRICTIONS

ICANN (Internet Corporation for Assigned Names and Numbers) shall not act as a Domain Name (Domain Name) System Registry or Registrar or Internet Protocol (Protocol) Address Registry in competition with entities affected by the policies of ICANN (Internet Corporation for Assigned Names and Numbers). Nothing in this Section 2.2 is intended to prevent ICANN (Internet Corporation for Assigned Names and Numbers) from taking whatever steps are necessary to protect the operational stability of the Internet in the event of financial failure of a Registry or Registrar or other emergency.

Section 2.3. NON-DISCRIMINATORY TREATMENT

ICANN (Internet Corporation for Assigned Names and Numbers) shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition.

ARTICLE 3 TRANSPARENCY

Section 3.1. OPEN AND TRANSPARENT

ICANN (Internet Corporation for Assigned Names and Numbers) and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness, including implementing procedures to (a) provide advance notice to facilitate stakeholder engagement in policy development decision-making and cross-community deliberations, (b) maintain responsive consultation procedures that provide detailed explanations of the basis for decisions (including how comments have influenced the development of policy considerations), and (c) encourage fact-based policy development work. ICANN (Internet Corporation for Assigned Names and Numbers) shall also implement procedures for the documentation and public disclosure of the rationale for decisions made by the Board and ICANN (Internet Corporation for Assigned Names and Numbers)'s constituent bodies (including the detailed explanations discussed above).

Section 3.2. WEBSITE

ICANN (Internet Corporation for Assigned Names and Numbers) shall maintain a publicly-accessible Internet World Wide Web site (the "**Website**"), which may include, among other things, (a) a calendar of scheduled meetings of the Board, the EC (Empowered Community) (as defined in Section 6.1(a)), Supporting Organizations (Supporting Organizations) (as defined in Section 11.1), and Advisory Committees (Advisory Committees) (as defined in Section 12.1); (b) a docket of all pending policy development matters, including their schedule and current status; (c) specific meeting notices and agendas as described below; (d) information on the ICANN (Internet Corporation for Assigned Names and Numbers) Budget (as defined in Section 22.4(a)(i)), the IANA (Internet Assigned Numbers Authority) Budget (as defined in Section 22.4(b)(i)), annual audit, financial contributors and the amount of their contributions, and related matters; (e) information about the availability of accountability mechanisms, including reconsideration, independent review, and Ombudsman activities, as well as information about the outcome of specific requests and complaints invoking these mechanisms; (f) announcements about ICANN (Internet Corporation for Assigned Names and Numbers) activities of interest to significant segments of the ICANN (Internet Corporation for Assigned Names and Numbers) community; (g) comments received from the community on policies being developed and other matters; (h) information about ICANN (Internet Corporation for Assigned Names and Numbers)'s physical meetings and public forums; and (i) other information of interest to the ICANN (Internet Corporation for Assigned Names and Numbers) community.

Section 3.3. MANAGER OF PUBLIC PARTICIPATION

There shall be a staff position designated as Manager of Public Participation, or such other title as shall be determined by the President, that shall be responsible, under the direction of the President, for coordinating the various aspects of public participation in ICANN (Internet Corporation for Assigned Names and Numbers), including the Website and various other means of communicating with and receiving input from the general community of Internet users.

Section 3.4. MEETING NOTICES AND AGENDAS

At least seven days in advance of each Board meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting shall be posted.

Section 3.5. MINUTES AND PRELIMINARY REPORTS

a. All minutes of meetings of the Board, the Advisory Committees (Advisory Committees) and Supporting Organizations (Supporting Organizations) (and any councils thereof) shall be approved promptly by the originating body and provided to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary ("**Secretary**") for posting on the Website. All proceedings of the EC (Empowered Community) Administration (as defined in Section 6.3) and the EC (Empowered Community) shall be provided to the Secretary for posting on the Website.

b. No later than 11:59 p.m. on the second business day after the conclusion of each meeting (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office), any resolutions passed by the Board at that meeting shall be made publicly available on the Website; provided, however, that any actions relating to personnel or employment matters, legal matters (to the extent the Board determines it is necessary or appropriate to protect the interests of ICANN (Internet Corporation for Assigned Names and Numbers)), matters that ICANN (Internet Corporation for Assigned Names and Numbers) is prohibited by law or contract from disclosing publicly, and other matters that the Board determines, by a three-quarters (3/4) vote of Directors present at the meeting and voting, are not appropriate for public distribution, shall not be included in the resolutions made publicly available. The Secretary shall send notice to the Board and the Chairs of the Supporting Organizations (Supporting Organizations) (as set forth in Article 9 through Article 11) and Advisory Committees (Advisory

Committees) (as set forth in Article 12) informing them that the resolutions have been posted.

c. No later than 11:59 p.m. on the seventh business days after the conclusion of each meeting (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office), any actions taken by the Board shall be made publicly available in a preliminary report on the Website, subject to the limitations on disclosure set forth in Section 3.5(b) above. For any matters that the Board determines not to disclose, the Board shall describe in general terms in the relevant preliminary report the reason for such nondisclosure.

d. No later than the day after the date on which they are formally approved by the Board (or, if such day is not a business day, as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office, then the next immediately following business day), the minutes of the Board shall be made publicly available on the Website; provided, however, that any minutes of the Board relating to personnel or employment matters, legal matters (to the extent the Board determines it is necessary or appropriate to protect the interests of ICANN (Internet Corporation for Assigned Names and Numbers)), matters that ICANN (Internet Corporation for Assigned Names and Numbers) is prohibited by law or contract from disclosing publicly, and other matters that the Board determines, by a three-quarters (3/4) vote of Directors present at the meeting and voting, are not appropriate for public distribution, shall not be included in the minutes made publicly available. For any matters that the Board determines not to disclose, the Board shall describe in general terms in the relevant minutes the reason for such nondisclosure.

Section 3.6. NOTICE AND COMMENT ON POLICY ACTIONS

(a) With respect to any policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges, ICANN (Internet Corporation for Assigned Names and Numbers) shall:

> (i) provide public notice on the Website explaining what policies are being considered for adoption and why, at least twenty-one days (and if practical, earlier) prior to any action by the Board;
>
> (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to

> those comments (such comment period to be aligned with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment practices), prior to any action by the Board; and
>
> (iii) in those cases where the policy action affects public policy concerns, to request the opinion of the Governmental Advisory Committee (Advisory Committee) ("**GAC (Governmental Advisory Committee)**" or "**Governmental Advisory Committee (Advisory Committee)**") and take duly into account any advice timely presented by the Governmental Advisory Committee (Advisory Committee) on its own initiative or at the Board's request.

(b) Where both practically feasible and consistent with the relevant policy development process, an in-person public forum shall also be held for discussion of any proposed policies as described in Section 3.6(a)(ii), prior to any final Board action.

(c) After taking action on any policy subject to this Section 3.6, the Board shall publish in the meeting minutes the rationale for any resolution adopted by the Board (including the possible material effects, if any, of its decision on the global public interest, including a discussion of the material impacts to the security, stability and resiliency of the DNS (Domain Name System), financial impacts or other issues that were considered by the Board in approving such resolutions), the vote of each Director voting on the resolution, and the separate statement of any Director desiring publication of such a statement.

(d) Where a Board resolution is consistent with GAC (Governmental Advisory Committee) Consensus (Consensus) Advice (as defined in Section 12.2(a)(x)), the Board shall make a determination whether the GAC (Governmental Advisory Committee) Consensus (Consensus) Advice was a material factor in the Board's adoption of such resolution, in which case the Board shall so indicate in such resolution approving the decision (a "**GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution**") and shall cite the applicable GAC (Governmental Advisory Committee) Consensus (Consensus) Advice. To the extent practical, the Board shall ensure that GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolutions only relate to the matters that were the subject of the applicable GAC (Governmental Advisory Committee) Consensus (Consensus) Advice and not matters unrelated to the applicable GAC (Governmental Advisory Committee) Consensus (Consensus) Advice. For the avoidance of doubt: (i) a GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution shall not have the effect of making any other Board resolutions in the same set or series so designated, unless other resolutions are specifically identified as such by the Board; and (ii) a

Board resolution approving an action consistent with GAC (Governmental Advisory Committee) Consensus (Consensus) Advice received during a standard engagement process in which input from all Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) has been requested shall not be considered a GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution based solely on that input, unless the GAC (Governmental Advisory Committee) Consensus (Consensus) Advice was a material factor in the Board's adoption of such resolution.

(e) GAC (Governmental Advisory Committee) Carve-out

(i) Where a Board resolution is consistent with GAC (Governmental Advisory Committee) Consensus (Consensus) Advice and the Board has determined that the GAC (Governmental Advisory Committee) Consensus (Consensus) Advice was a material factor in the Board's adoption of such resolution as described in the relevant GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution, the Governmental Advisory Committee (Advisory Committee) shall not participate as a decision-maker in the EC (Empowered Community)'s exercise of its right to challenge the Board's implementation of such GAC (Governmental Advisory Committee) Consensus (Consensus) Advice. In such cases, the Governmental Advisory Committee (Advisory Committee) may participate in the EC (Empowered Community) in an advisory capacity only with respect to the applicable processes described in Annex D, but its views will not count as support or an objection for purposes of the thresholds needed to convene a community forum or exercise any right of the EC (Empowered Community) ("**GAC (Governmental Advisory Committee) Carve-out**"). In the case of a Board Recall Process (as defined in Section 3.3 of Annex D), the GAC (Governmental Advisory Committee) Carve-out shall only apply if an IRP Panel has found that, in implementing GAC (Governmental Advisory Committee) Consensus (Consensus) Advice, the Board acted inconsistently with the Articles of Incorporation or these Bylaws.

(ii) When the GAC (Governmental Advisory Committee) Carve-out applies (A) any petition notice provided in accordance with Annex D or Approval Action Board Notice (as defined in Section 1.2 of Annex D) shall include a statement that cites the specific GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution and the line item or provision that implements such specific GAC (Governmental Advisory Committee) Consensus (Consensus) Board Resolution ("**GAC (Governmental Advisory Committee) Consensus (Consensus) Statement**"), (B) the Governmental Advisory Committee (Advisory Committee) shall not be

eligible to support or object to any petition pursuant to Annex D or Approval Action (as defined in Section 1.1 of Annex D), and (C) any EC (Empowered Community) Decision (as defined in Section 4.1(a) of Annex D) that requires the support of four or more Decisional Participants (as defined in Section 6.1(a)) pursuant to Annex D shall instead require the support of three or more Decisional Participants with no more than one Decisional Participant objecting.

(iii) For the avoidance of doubt, the GAC (Governmental Advisory Committee) Carve-out shall not apply to the exercise of the EC (Empowered Community)'s rights where a material factor in the Board's decision was advice of the Governmental Advisory Committee (Advisory Committee) that was not GAC (Governmental Advisory Committee) Consensus (Consensus) Advice.

Section 3.7. TRANSLATION OF DOCUMENTS

As appropriate and to the extent provided in the ICANN (Internet Corporation for Assigned Names and Numbers) Budget, ICANN (Internet Corporation for Assigned Names and Numbers) shall facilitate the translation of final published documents into various appropriate languages.

ARTICLE 4 ACCOUNTABILITY AND REVIEW

Section 4.1. PURPOSE

In carrying out its Mission, ICANN (Internet Corporation for Assigned Names and Numbers) shall be accountable to the community for operating in accordance with the Articles of Incorporation and these Bylaws, including the Mission set forth in Article 1 of these Bylaws. This Article 4 creates reconsideration and independent review processes for certain actions as set forth in these Bylaws and procedures for periodic review of ICANN (Internet Corporation for Assigned Names and Numbers)'s structure and operations, which are intended to reinforce the various accountability mechanisms otherwise set forth in these Bylaws, including the transparency provisions of Article 3 and the Board and other selection mechanisms set forth throughout these Bylaws.

Section 4.2. RECONSIDERATION

(a) ICANN (Internet Corporation for Assigned Names and Numbers) shall have in place a process by which any person or entity materially affected by an action or inaction of the ICANN (Internet Corporation for Assigned Names and Numbers)

Board or Staff may request ("**Requestor**") the review or reconsideration of that action or inaction by the Board. For purposes of these Bylaws, "**Staff**" includes employees and individual long-term paid contractors serving in locations where ICANN (Internet Corporation for Assigned Names and Numbers) does not have the mechanisms to employ such contractors directly.

(b) The EC (Empowered Community) may file a Reconsideration Request (as defined in Section 4.2(c)) if approved pursuant to Section 4.3 of Annex D ("**Community Reconsideration Request**") and if the matter relates to the exercise of the powers and rights of the EC (Empowered Community) of these Bylaws. The EC (Empowered Community) Administration shall act as the Requestor for such a Community Reconsideration Request and shall act on behalf of the EC (Empowered Community) for such Community Reconsideration Request as directed by the Decisional Participants, as further described in Section 4.3 of Annex D.

(c) A Requestor may submit a request for reconsideration or review of an ICANN (Internet Corporation for Assigned Names and Numbers) action or inaction ("**Reconsideration Request**") to the extent that the Requestor has been adversely affected by:

> (i) One or more Board or Staff actions or inactions that contradict ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission, Commitments, Core Values and/or established ICANN (Internet Corporation for Assigned Names and Numbers) policy(ies);
>
> (ii) One or more actions or inactions of the Board or Staff that have been taken or refused to be taken without consideration of material information, except where the Requestor could have submitted, but did not submit, the information for the Board's or Staff's consideration at the time of action or refusal to act; or
>
> (iii) One or more actions or inactions of the Board or Staff that are taken as a result of the Board's or staff's reliance on false or inaccurate relevant information.

(d) Notwithstanding any other provision in this Section 4.2, the scope of reconsideration shall exclude the following:

> (i) Disputes relating to country code top-level domain ("**ccTLD (Country Code Top Level Domain)**") delegations and re-delegations;

(ii) Disputes relating to Internet numbering resources; and

(iii) Disputes relating to protocol parameters.

(e) The Board has designated the Board Accountability Mechanisms Committee to review and consider Reconsideration Requests. The Board Accountability Mechanisms Committee shall have the authority to:

(i) Evaluate Reconsideration Requests;

(ii) Summarily dismiss insufficient or frivolous Reconsideration Requests;

(iii) Evaluate Reconsideration Requests for urgent consideration;

(iv) Conduct whatever factual investigation is deemed appropriate;

(v) Request additional written submissions from the affected party, or from other parties; and

(vi) Make a recommendation to the Board on the merits of the Reconsideration Request, if it has not been summarily dismissed.

(f) ICANN (Internet Corporation for Assigned Names and Numbers) shall absorb the normal administrative costs of the Reconsideration Request process. Except with respect to a Community Reconsideration Request, ICANN (Internet Corporation for Assigned Names and Numbers) reserves the right to recover from a party requesting review or reconsideration any costs that are deemed to be extraordinary in nature. When such extraordinary costs can be foreseen, that fact and the reasons why such costs are necessary and appropriate to evaluating the Reconsideration Request shall be communicated to the Requestor, who shall then have the option of withdrawing the request or agreeing to bear such costs.

(g) All Reconsideration Requests must be submitted by the Requestor to an email address designated by the Board Accountability Mechanisms Committee:

(i) For Reconsideration Requests that are not Community Reconsideration Requests, such Reconsideration Requests must be submitted:

(A)for requests challenging Board actions, within 30 days after the date on which information about the challenged Board action is first published in a resolution, unless the posting of the resolution is not accompanied by a

> rationale. In that instance, the request must be submitted within 30 days from the initial posting of the rationale;
>
> (B)for requests challenging Staff actions, within 30 days after the date on which the Requestor became aware of, or reasonably should have become aware of, the challenged Staff action; or
>
> (C)for requests challenging either Board or Staff inaction, within 30 days after the date on which the Requestor reasonably concluded, or reasonably should have concluded, that action would not be taken in a timely manner.
>
> (ii) For Community Reconsideration Requests, such Community Reconsideration Requests must be submitted in accordance with the timeframe set forth in Section 4.3 of Annex D.

(h) To properly initiate a Reconsideration Request, all Requestors must review, complete and follow the Reconsideration Request form posted on the Website at https://www.icann.org/resources/pages/accountability/reconsideration-en. Requestors must also acknowledge and agree to the terms and conditions set forth in the form when filing.

(i) Requestors shall not provide more than 25 pages (double-spaced, 12-point font) of argument in support of a Reconsideration Request, not including exhibits. Requestors may submit all documentary evidence necessary to demonstrate why the action or inaction should be reconsidered, without limitation.

(j) Reconsideration Requests from different Requestors may be considered in the same proceeding so long as: (i) the requests involve the same general action or inaction; and (ii) the Requestors are similarly affected by such action or inaction. In addition, consolidated filings may be appropriate if the alleged causal connection and the resulting harm is substantially the same for all of the Requestors. Every Requestor must be able to demonstrate that it has been materially harmed and adversely impacted by the action or inaction giving rise to the request.

(k) The Board Accountability Mechanisms Committee shall review each Reconsideration Request upon its receipt to determine if it is sufficiently stated. The Board Accountability Mechanisms Committee may summarily dismiss a Reconsideration Request if: (i) the Requestor fails to meet the requirements for bringing a Reconsideration Request; or (ii) it is frivolous. The Board Accountability Mechanisms Committee's summary dismissal of a Reconsideration Request shall be documented and promptly posted on the Website.

(l) For all Reconsideration Requests that are not summarily dismissed, except Reconsideration Requests described in Section 4.2(l)(iii) and Community Reconsideration Requests, the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.

> (i) The Ombudsman shall be entitled to seek any outside expert assistance as the Ombudsman deems reasonably necessary to perform this task to the extent it is within the budget allocated to this task.
>
> (ii) The Ombudsman shall submit to the Board Accountability Mechanisms Committee his or her substantive evaluation of the Reconsideration Request within 15 days of the Ombudsman's receipt of the Reconsideration Request. The Board Accountability Mechanisms Committee shall thereafter promptly proceed to review and consideration.
>
> (iii) For those Reconsideration Requests involving matters for which the Ombudsman has, in advance of the filing of the Reconsideration Request, taken a position while performing his or her role as the Ombudsman pursuant to Article 5 of these Bylaws, or involving the Ombudsman's conduct in some way, the Ombudsman shall recuse himself or herself and the Board Accountability Mechanisms Committee shall review the Reconsideration Request without involvement by the Ombudsman.

(m) The Board Accountability Mechanisms Committee may ask ICANN (Internet Corporation for Assigned Names and Numbers) Staff for its views on a Reconsideration Request, which comments shall be made publicly available on the Website.

(n) The Board Accountability Mechanisms Committee may request additional information or clarifications from the Requestor, and may elect to conduct a meeting with the Requestor by telephone, email or, if acceptable to the Requestor, in person. A Requestor may also ask for an opportunity to be heard. The Board Accountability Mechanisms Committee's decision on any such request is final. To the extent any information gathered in such a meeting is relevant to any recommendation by the Board Accountability Mechanisms Committee, it shall so state in its recommendation.

(o) The Board Accountability Mechanisms Committee may also request information relevant to the Reconsideration Request from third parties. To the extent any information gathered is relevant to any recommendation by the Board Accountability Mechanisms Committee, it shall so state in its recommendation.

Any information collected by ICANN (Internet Corporation for Assigned Names and Numbers) from third parties shall be provided to the Requestor.

(p) The Board Accountability Mechanisms Committee shall act on a Reconsideration Request on the basis of the public written record, including information submitted by the Requestor, by the ICANN (Internet Corporation for Assigned Names and Numbers) Staff, and by any third party.

(q) The Board Accountability Mechanisms Committee shall make a final recommendation to the Board with respect to a Reconsideration Request within 30 days following its receipt of the Ombudsman's evaluation (or 30 days following receipt of the Reconsideration Request involving those matters for which the Ombudsman recuses himself or herself or the receipt of the Community Reconsideration Request, if applicable), unless impractical, in which case it shall report to the Board the circumstances that prevented it from making a final recommendation and its best estimate of the time required to produce such a final recommendation. In any event, the Board Accountability Mechanisms Committee shall endeavor to produce its final recommendation to the Board within 90 days of receipt of the Reconsideration Request. The final recommendation of the Board Accountability Mechanisms Committee shall be documented and promptly (i.e., as soon as practicable) posted on the Website and shall address each of the arguments raised in the Reconsideration Request. The Requestor may file a 10-page (double-spaced, 12-point font) document, not including exhibits, in rebuttal to the Board Accountability Mechanisms Committee's recommendation within 15 days of receipt of the recommendation, which shall also be promptly (i.e., as soon as practicable) posted to the Website and provided to the Board for its evaluation; provided, that such rebuttal shall: (i) be limited to rebutting or contradicting the issues raised in the Board Accountability Mechanisms Committee's final recommendation; and (ii) not offer new evidence to support an argument made in the Requestor's original Reconsideration Request that the Requestor could have provided when the Requestor initially submitted the Reconsideration Request.

(r) The Board shall not be bound to follow the recommendations of the Board Accountability Mechanisms Committee. The final decision of the Board and its rationale shall be made public as part of the preliminary report and minutes of the Board meeting at which action is taken. The Board shall issue its decision on the recommendation of the Board Accountability Mechanisms Committee within 45 days of receipt of the Board Accountability Mechanisms Committee's recommendation or as soon thereafter as feasible. Any circumstances that delay the Board from acting within this timeframe must be identified and posted on the Website. In any event, the Board's final decision shall be made within 135 days of initial receipt of the Reconsideration Request by the Board Accountability Mechanisms Committee. The Board's decision on the recommendation shall be

posted on the Website in accordance with the Board's posting obligations as set forth in Article 3 of these Bylaws. If the Requestor so requests, the Board shall post both a recording and a transcript of the substantive Board discussion from the meeting at which the Board considered the Board Accountability Mechanisms Committee's recommendation. All briefing materials supplied to the Board shall be provided to the Requestor. The Board may redact such briefing materials and the recording and transcript on the basis that such information (i) relates to confidential personnel matters, (ii) is covered by attorney-client privilege, work product doctrine or other recognized legal privilege, (iii) is subject to a legal obligation that ICANN (Internet Corporation for Assigned Names and Numbers) maintain its confidentiality, (iv) would disclose trade secrets, or (v) would present a material risk of negative impact to the security, stability or resiliency of the Internet. In the case of any redaction, ICANN (Internet Corporation for Assigned Names and Numbers) will provide the Requestor a written rationale for such redaction. If a Requestor believes that a redaction was improper, the Requestor may use an appropriate accountability mechanism to challenge the scope of ICANN (Internet Corporation for Assigned Names and Numbers)'s redaction.

(s) If the Requestor believes that the Board action or inaction for which a Reconsideration Request is submitted is so urgent that the timing requirements of the process set forth in this Section 4.2 are too long, the Requestor may apply to the Board Accountability Mechanisms Committee for urgent consideration. Any request for urgent consideration must be made within two business days (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) of the posting of the resolution at issue. A request for urgent consideration must include a discussion of why the matter is urgent for reconsideration and must demonstrate a likelihood of success with the Reconsideration Request.

(t) The Board Accountability Mechanisms Committee shall respond to the request for urgent consideration within two business days after receipt of such request. If the Board Accountability Mechanisms Committee agrees to consider the matter with urgency, it will cause notice to be provided to the Requestor, who will have two business days after notification to complete the Reconsideration Request. The Board Accountability Mechanisms Committee shall issue a recommendation on the urgent Reconsideration Request within seven days of the completion of the filing of the Reconsideration Request, or as soon thereafter as feasible. If the Board Accountability Mechanisms Committee does not agree to consider the matter with urgency, the Requestor may still file a Reconsideration Request within the regular time frame set forth within these Bylaws.

(u) The Board Accountability Mechanisms Committee shall submit a report to the Board on an annual basis containing at least the following information for the

preceding calendar year:

> (i) the number and general nature of Reconsideration Requests received, including an identification if the Reconsideration Requests were acted upon, summarily dismissed, or remain pending;
>
> (ii) for any Reconsideration Requests that remained pending at the end of the calendar year, the average length of time for which such Reconsideration Requests have been pending, and a description of the reasons for any Reconsideration Request pending for more than ninety (90) days;
>
> (iii) an explanation of any other mechanisms available to ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is accountable to persons materially affected by its decisions; and
>
> (iv) whether or not, in the Board Accountability Mechanisms Committee's view, the criteria for which reconsideration may be requested should be revised, or another process should be adopted or modified, to ensure that all persons materially affected by ICANN (Internet Corporation for Assigned Names and Numbers) decisions have meaningful access to a review process that ensures fairness while limiting frivolous claims.

Section 4.3. INDEPENDENT REVIEW PROCESS FOR COVERED ACTIONS

(a) In addition to the reconsideration process described in Section 4.2, ICANN (Internet Corporation for Assigned Names and Numbers) shall have a separate process for independent third-party review of Disputes (defined in Section 4.3(b)(iii)) alleged by a Claimant (as defined in Section 4.3(b)(i)) to be within the scope of the Independent Review Process ("**IRP**"). The IRP is intended to hear and resolve Disputes for the following purposes ("**Purposes of the IRP**"):

> (i) Ensure that ICANN (Internet Corporation for Assigned Names and Numbers) does not exceed the scope of its Mission and otherwise complies with its Articles of Incorporation and Bylaws.
>
> (ii) Empower the global Internet community and Claimants to enforce compliance with the Articles of Incorporation and Bylaws through meaningful, affordable and accessible expert review of Covered Actions (as defined in Section 4.3(b)(i)).

(iii) Ensure that ICANN (Internet Corporation for Assigned Names and Numbers) is accountable to the global Internet community and Claimants.

(iv) Address claims that ICANN (Internet Corporation for Assigned Names and Numbers) has failed to enforce its rights under the IANA (Internet Assigned Numbers Authority) Naming Function Contract (as defined in Section 16.3(a)).

(v) Provide a mechanism by which direct customers of the IANA (Internet Assigned Numbers Authority) naming functions may seek resolution of PTI (as defined in Section 16.1) service complaints that are not resolved through mediation.

(vi) Reduce Disputes by creating precedent to guide and inform the Board, Officers (as defined in Section 15.1), Staff members, Supporting Organizations (Supporting Organizations), Advisory Committees (Advisory Committees), and the global Internet community in connection with policy development and implementation.

(vii) Secure the accessible, transparent, efficient, consistent, coherent, and just resolution of Disputes.

(viii) Lead to binding, final resolutions consistent with international arbitration norms that are enforceable in any court with proper jurisdiction.

(ix) Provide a mechanism for the resolution of Disputes, as an alternative to legal action in the civil courts of the United States or other jurisdictions.

This Section 4.3 shall be construed, implemented, and administered in a manner consistent with these Purposes of the IRP.

(b) The scope of the IRP is defined with reference to the following terms:

(i) A "**Claimant**" is any legal or natural person, group, or entity including, but not limited to the EC (Empowered Community), a Supporting Organization (Supporting Organization), or an Advisory Committee (Advisory Committee) that has been materially affected by a Dispute. To be materially affected by a Dispute, the Claimant must suffer an injury or harm that is directly and causally connected to the alleged violation.

(A)The EC (Empowered Community) is deemed to be materially affected by all Covered Actions. ICANN (Internet Corporation for Assigned Names

and Numbers) shall not assert any defenses of standing or capacity against the EC (Empowered Community) in any forum.

(B)ICANN (Internet Corporation for Assigned Names and Numbers) shall not object to the standing of the EC (Empowered Community), a Supporting Organization (Supporting Organization), or an Advisory Committee (Advisory Committee) to participate in an IRP, to compel an IRP, or to enforce an IRP decision on the basis that it is not a legal person with capacity to sue. No special pleading of a Claimant's capacity or of the legal existence of a person that is a Claimant shall be required in the IRP proceedings. No Claimant shall be allowed to proceed if the IRP Panel (as defined in Section 4.3(g)) concludes based on evidence submitted to it that the Claimant does not fairly or adequately represent the interests of those on whose behalf the Claimant purports to act.

(ii) "**Covered Actions**" are defined as any actions or failures to act by or within ICANN (Internet Corporation for Assigned Names and Numbers) committed by the Board, individual Directors, Officers, or Staff members that give rise to a Dispute.

(iii) "**Disputes**" are defined as:

(A)Claims that Covered Actions constituted an action or inaction that violated the Articles of Incorporation or Bylaws, including but not limited to any action or inaction that:

(1) exceeded the scope of the Mission;

(2) resulted from action taken in response to advice or input from any Advisory Committee (Advisory Committee) or Supporting Organization (Supporting Organization) that are claimed to be inconsistent with the Articles of Incorporation or Bylaws;

(3) resulted from decisions of process-specific expert panels that are claimed to be inconsistent with the Articles of Incorporation or Bylaws;

(4) resulted from a response to a DIDP (as defined in Section 22.7(d)) request that is claimed to be inconsistent with the Articles of Incorporation or Bylaws; or

(5) arose from claims involving rights of the EC (Empowered Community) as set forth in the Articles of Incorporation or Bylaws.

(B)Claims that ICANN (Internet Corporation for Assigned Names and Numbers), the Board, individual Directors, Officers or Staff members have not enforced ICANN (Internet Corporation for Assigned Names and Numbers)'s contractual rights with respect to the IANA (Internet Assigned Numbers Authority) Naming Function Contract, and

(C)Claims regarding PTI service complaints by direct customers of the IANA (Internet Assigned Numbers Authority) naming functions that are not resolved through mediation.

(c) Notwithstanding any other provision in this Section 4.3, the IRP's scope shall exclude all of the following:

> (i) EC (Empowered Community) challenges to the result(s) of a PDP (Policy Development Process), unless the Supporting Organization (Supporting Organization)(s) that approved the PDP (Policy Development Process) supports the EC (Empowered Community) bringing such a challenge;
>
> (ii) Claims relating to ccTLD (Country Code Top Level Domain) delegations and re-delegations;
>
> (iii) Claims relating to Internet numbering resources, and
>
> (iv) Claims relating to protocol parameters.

(d) An IRP shall commence with the Claimant's filing of a written statement of a Dispute (a "**Claim**") with the IRP Provider (described in Section 4.3(m) below). For the EC (Empowered Community) to commence an IRP ("**Community IRP**"), the EC (Empowered Community) shall first comply with the procedures set forth in Section 4.2 of Annex D.

(e) Cooperative Engagement Process

> (i) Except for Claims brought by the EC (Empowered Community) in accordance with this Section 4.3 and Section 4.2 of Annex D, prior to the filing of a Claim, the parties are strongly encouraged to participate in a non-binding Cooperative Engagement Process ("**CEP**") for the purpose of attempting to resolve and/or narrow the Dispute. CEPs shall be conducted pursuant to the CEP Rules to be developed with community involvement, adopted by the Board, and as amended from time to time.

(ii) The CEP is voluntary. However, except for Claims brought by the EC (Empowered Community) in accordance with this Section 4.3 and Section 4.2 of Annex D, if the Claimant does not participate in good faith in the CEP and ICANN (Internet Corporation for Assigned Names and Numbers) is the prevailing party in the IRP, the IRP Panel shall award to ICANN (Internet Corporation for Assigned Names and Numbers) all reasonable fees and costs incurred by ICANN (Internet Corporation for Assigned Names and Numbers) in the IRP, including legal fees.

(iii) Either party may terminate the CEP efforts if that party: (A) concludes in good faith that further efforts are unlikely to produce agreement; or (B) requests the inclusion of an independent dispute resolution facilitator ("**IRP Mediator**") after at least one CEP meeting.

(iv) Unless all parties agree on the selection of a particular IRP Mediator, any IRP Mediator appointed shall be selected from the members of the Standing Panel (described in Section 4.3(j) below) by its Chair, but such IRP Mediator shall not thereafter be eligible to serve as a panelist presiding over an IRP on the matter.

(f) ICANN (Internet Corporation for Assigned Names and Numbers) hereby waives any defenses that may be afforded under Section 5141 of the California Corporations Code ("**CCC**") against any Claimant, and shall not object to the standing of any such Claimant to participate in or to compel an IRP, or to enforce an IRP decision on the basis that such Claimant may not otherwise be able to assert that a Covered Action is ultra vires.

(g) Upon the filing of a Claim, an Independent Review Process Panel ("**IRP Panel**", described in Section 4.3(k) below) shall be selected in accordance with the Rules of Procedure (as defined in Section 4.3(n)(i)). Following the selection of an IRP Panel, that IRP Panel shall be charged with hearing and resolving the Dispute, considering the Claim and ICANN (Internet Corporation for Assigned Names and Numbers)'s written response ("**Response**") in compliance with the Articles of Incorporation and Bylaws, as understood in light of prior IRP Panel decisions decided under the same (or an equivalent prior) version of the provision of the Articles of Incorporation and Bylaws at issue, and norms of applicable law. If no Response is timely filed by ICANN (Internet Corporation for Assigned Names and Numbers), the IRP Panel may accept the Claim as unopposed and proceed to evaluate and decide the Claim pursuant to the procedures set forth in these Bylaws.

(h) After a Claim is referred to an IRP Panel, the parties are urged to participate in conciliation discussions for the purpose of attempting to narrow the issues that

are to be addressed by the IRP Panel.

(i) Each IRP Panel shall conduct an objective, de novo examination of the Dispute.

> (i) With respect to Covered Actions, the IRP Panel shall make findings of fact to determine whether the Covered Action constituted an action or inaction that violated the Articles of Incorporation or Bylaws.
>
> (ii) All Disputes shall be decided in compliance with the Articles of Incorporation and Bylaws, as understood in the context of the norms of applicable law and prior relevant IRP decisions.
>
> (iii) For Claims arising out of the Board's exercise of its fiduciary duties, the IRP Panel shall not replace the Board's reasonable judgment with its own so long as the Board's action or inaction is within the realm of reasonable business judgment.
>
> (iv) With respect to claims that ICANN (Internet Corporation for Assigned Names and Numbers) has not enforced its contractual rights with respect to the IANA (Internet Assigned Numbers Authority) Naming Function Contract, the standard of review shall be whether there was a material breach of ICANN (Internet Corporation for Assigned Names and Numbers)'s obligations under the IANA (Internet Assigned Numbers Authority) Naming Function Contract, where the alleged breach has resulted in material harm to the Claimant.
>
> (v) For avoidance of doubt, IRPs initiated through the mechanism contemplated at Section 4.3(a)(iv) above, shall be subject to a separate standard of review as defined in the IANA (Internet Assigned Numbers Authority) Naming Function Contract.

(j) Standing Panel

> (i) There shall be an omnibus standing panel of at least seven members (the "**Standing Panel**") each of whom shall possess significant relevant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration. Each member of the Standing Panel shall also have knowledge, developed over time, regarding the DNS (Domain Name System) and ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission, work, policies, practices, and procedures. Members of

the Standing Panel shall receive at a minimum, training provided by ICANN (Internet Corporation for Assigned Names and Numbers) on the workings and management of the Internet's unique identifiers and other appropriate training as recommended by the IRP Implementation Oversight Team (described in Section 4.3(n)(i)).

(ii) ICANN (Internet Corporation for Assigned Names and Numbers) shall, in consultation with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), initiate a four-step process to establish the Standing Panel to ensure the availability of a number of IRP panelists that is sufficient to allow for the timely resolution of Disputes consistent with the Purposes of the IRP.

(A)ICANN (Internet Corporation for Assigned Names and Numbers), in consultation with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), shall initiate a tender process for an organization to provide administrative support for the IRP Provider (as defined in Section 4.3(m)), beginning by consulting the "**IRP Implementation Oversight Team**" (described in Section 4.3(n)(i)) on a draft tender document.

(B)ICANN (Internet Corporation for Assigned Names and Numbers) shall issue a call for expressions of interest from potential panelists, and work with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) and the Board to identify and solicit applications from well-qualified candidates, and to conduct an initial review and vetting of applications.

(C)The Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) shall nominate a slate of proposed panel members from the well-qualified candidates identified per the process set forth in Section 4.3(j)(ii)(B).

(D)Final selection shall be subject to Board confirmation, which shall not be unreasonably withheld.

(iii) Appointments to the Standing Panel shall be made for a fixed term of five years with no removal except for specified cause in the nature of corruption, misuse of position, fraud or criminal activity. The recall process shall be developed by the IRP Implementation Oversight Team.

(iv) Reasonable efforts shall be taken to achieve cultural, linguistic, gender, and legal tradition diversity, and diversity by Geographic Region (as

defined in Section 7.5).

(k) IRP Panel

(i) A three-member IRP Panel shall be selected from the Standing Panel to hear a specific Dispute.

(ii) The Claimant and ICANN (Internet Corporation for Assigned Names and Numbers) shall each select one panelist from the Standing Panel, and the two panelists selected by the parties will select the third panelist from the Standing Panel. In the event that a Standing Panel is not in place when an IRP Panel must be convened for a given proceeding or is in place but does not have capacity due to other IRP commitments or the requisite diversity of skill and experience needed for a particular IRP proceeding, the Claimant and ICANN (Internet Corporation for Assigned Names and Numbers) shall each select a qualified panelist from outside the Standing Panel and the two panelists selected by the parties shall select the third panelist. In the event that no Standing Panel is in place when an IRP Panel must be convened and the two party-selected panelists cannot agree on the third panelist, the IRP Provider's rules shall apply to selection of the third panelist.

(iii) Assignment from the Standing Panel to IRP Panels shall take into consideration the Standing Panel members' individual experience and expertise in issues related to highly technical, civil society, business, diplomatic, and regulatory skills as needed by each specific proceeding, and such requests from the parties for any particular expertise.

(iv) Upon request of an IRP Panel, the IRP Panel shall have access to independent skilled technical experts at the expense of ICANN (Internet Corporation for Assigned Names and Numbers), although all substantive interactions between the IRP Panel and such experts shall be conducted on the record, except when public disclosure could materially and unduly harm participants, such as by exposing trade secrets or violating rights of personal privacy.

(v) IRP Panel decisions shall be made by a simple majority of the IRP Panel.

(l) All IRP proceedings shall be administered in English as the primary working language, with provision of translation services for Claimants if needed.

(m) IRP Provider

(i) All IRP proceedings shall be administered by a well-respected international dispute resolution provider ("**IRP Provider**"). The IRP Provider shall receive and distribute IRP Claims, Responses, and all other submissions arising from an IRP at the direction of the IRP Panel, and shall function independently from ICANN (Internet Corporation for Assigned Names and Numbers).

(n) Rules of Procedure

> (i) An IRP Implementation Oversight Team shall be established in consultation with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) and comprised of members of the global Internet community. The IRP Implementation Oversight Team, and once the Standing Panel is established the IRP Implementation Oversight Team in consultation with the Standing Panel, shall develop clear published rules for the IRP ("**Rules of Procedure**") that conform with international arbitration norms and are streamlined, easy to understand and apply fairly to all parties. Upon request, the IRP Implementation Oversight Team shall have assistance of counsel and other appropriate experts.
>
> (ii) The Rules of Procedure shall be informed by international arbitration norms and consistent with the Purposes of the IRP. Specialized Rules of Procedure may be designed for reviews of PTI service complaints that are asserted by direct customers of the IANA (Internet Assigned Numbers Authority) naming functions and are not resolved through mediation. The Rules of Procedure shall be published and subject to a period of public comment that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), and take effect upon approval by the Board, such approval not to be unreasonably withheld.
>
> (iii) The Standing Panel may recommend amendments to such Rules of Procedure as it deems appropriate to fulfill the Purposes of the IRP, however no such amendment shall be effective without approval by the Board after publication and a period of public comment that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers).
>
> (iv) The Rules of Procedure are intended to ensure fundamental fairness and due process and shall at a minimum address the following elements:

(A) The time within which a Claim must be filed after a Claimant becomes aware or reasonably should have become aware of the action or inaction giving rise to the Dispute;

(B)Issues relating to joinder, intervention, and consolidation of Claims;

(C)Rules governing written submissions, including the required elements of a Claim, other requirements or limits on content, time for filing, length of statements, number of supplemental statements, if any, permitted evidentiary support (factual and expert), including its length, both in support of a Claimant's Claim and in support of ICANN (Internet Corporation for Assigned Names and Numbers)'s Response;

(D)Availability and limitations on discovery methods;

(E)Whether hearings shall be permitted, and if so what form and structure such hearings would take;

(F)Procedures if ICANN (Internet Corporation for Assigned Names and Numbers) elects not to respond to an IRP; and

(G)The standards and rules governing appeals from IRP Panel decisions, including which IRP Panel decisions may be appealed.

(o) Subject to the requirements of this Section 4.3, each IRP Panel shall have the authority to:

> (i) Summarily dismiss Disputes that are brought without standing, lack substance, or are frivolous or vexatious;
>
> (ii) Request additional written submissions from the Claimant or from other parties;
>
> (iii) Declare whether a Covered Action constituted an action or inaction that violated the Articles of Incorporation or Bylaws, declare whether ICANN (Internet Corporation for Assigned Names and Numbers) failed to enforce ICANN (Internet Corporation for Assigned Names and Numbers)'s contractual rights with respect to the IANA (Internet Assigned Numbers Authority) Naming Function Contract or resolve PTI service complaints by direct customers of the IANA (Internet Assigned Numbers Authority) naming functions, as applicable;

(iv) Recommend that ICANN (Internet Corporation for Assigned Names and Numbers) stay any action or decision, or take necessary interim action, until such time as the opinion of the IRP Panel is considered;

(v) Consolidate Disputes if the facts and circumstances are sufficiently similar, and take such other actions as are necessary for the efficient resolution of Disputes;

(vi) Determine the timing for each IRP proceeding; and

(vii) Determine the shifting of IRP costs and expenses consistent with Section 4.3(r).

(p) A Claimant may request interim relief. Interim relief may include prospective relief, interlocutory relief, or declaratory or injunctive relief, and specifically may include a stay of the challenged ICANN (Internet Corporation for Assigned Names and Numbers) action or decision until such time as the opinion of the IRP Panel is considered as described in Section 4.3(o)(iv), in order to maintain the *status quo*. A single member of the Standing Panel ("**Emergency Panelist**") shall be selected to adjudicate requests for interim relief. In the event that no Standing Panel is in place when an Emergency Panelist must be selected, the IRP Provider's rules shall apply to the selection of the Emergency Panelist. Interim relief may only be provided if the Emergency Panelist determines that the Claimant has established all of the following factors:

(i) A harm for which there will be no adequate remedy in the absence of such relief;

(ii) Either: (A) likelihood of success on the merits; or (B) sufficiently serious questions related to the merits; and

(iii) A balance of hardships tipping decidedly toward the party seeking relief.

(q) Conflicts of Interest

(i) Standing Panel members must be independent of ICANN (Internet Corporation for Assigned Names and Numbers) and its Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), and so must adhere to the following criteria:

> (A)Upon consideration for the Standing Panel and on an ongoing basis, Panelists shall have an affirmative obligation to disclose any material relationship with ICANN (Internet Corporation for Assigned Names and Numbers), a Supporting Organization (Supporting Organization), an Advisory Committee (Advisory Committee), or any other participant in an IRP proceeding.
>
> (B)Additional independence requirements to be developed by the IRP Implementation Oversight Team, including term limits and restrictions on post-term appointment to other ICANN (Internet Corporation for Assigned Names and Numbers) positions.
>
> (ii) The IRP Provider shall disclose any material relationship with ICANN (Internet Corporation for Assigned Names and Numbers), a Supporting Organization (Supporting Organization), an Advisory Committee (Advisory Committee), or any other participant in an IRP proceeding.

(r) ICANN (Internet Corporation for Assigned Names and Numbers) shall bear all the administrative costs of maintaining the IRP mechanism, including compensation of Standing Panel members. Except as otherwise provided in Section 4.3(e)(ii), each party to an IRP proceeding shall bear its own legal expenses, except that ICANN (Internet Corporation for Assigned Names and Numbers) shall bear all costs associated with a Community IRP, including the costs of all legal counsel and technical experts. Nevertheless, except with respect to a Community IRP, the IRP Panel may shift and provide for the losing party to pay administrative costs and/or fees of the prevailing party in the event it identifies the losing party's Claim or defense as frivolous or abusive.

(s) An IRP Panel should complete an IRP proceeding expeditiously, issuing an early scheduling order and its written decision no later than six months after the filing of the Claim, except as otherwise permitted under the Rules of Procedure. The preceding sentence does not provide the basis for a Covered Action.

(t) Each IRP Panel shall make its decision based solely on the documentation, supporting materials, and arguments submitted by the parties, and in its decision shall specifically designate the prevailing party as to each part of a Claim.

(u) All IRP Panel proceedings shall be conducted on the record, and documents filed in connection with IRP Panel proceedings shall be posted on the Website, except for settlement negotiation or other proceedings that could materially and unduly harm participants if conducted publicly. The Rules of Procedure, and all Claims, petitions, and decisions shall promptly be posted on the Website when they become available. Each IRP Panel may, in its discretion, grant a party's

request to keep certain information confidential, such as trade secrets, but only if such confidentiality does not materially interfere with the transparency of the IRP proceeding.

(v) Subject to this Section 4.3, all IRP decisions shall be written and made public, and shall reflect a well-reasoned application of how the Dispute was resolved in compliance with the Articles of Incorporation and Bylaws, as understood in light of prior IRP decisions decided under the same (or an equivalent prior) version of the provision of the Articles of Incorporation and Bylaws at issue, and norms of applicable law.

(w) Subject to any limitations established through the Rules of Procedure, an IRP Panel decision may be appealed to the full Standing Panel sitting en banc within sixty (60) days of issuance of such decision.

(x) The IRP is intended as a final, binding arbitration process.

> (i) IRP Panel decisions are binding final decisions to the extent allowed by law unless timely and properly appealed to the en banc Standing Panel. En banc Standing Panel decisions are binding final decisions to the extent allowed by law.
>
> (ii) IRP Panel decisions and decisions of an en banc Standing Panel upon an appeal are intended to be enforceable in any court with jurisdiction over ICANN (Internet Corporation for Assigned Names and Numbers) without a *de novo* review of the decision of the IRP Panel or en banc Standing Panel, as applicable, with respect to factual findings or conclusions of law.
>
> (iii) ICANN (Internet Corporation for Assigned Names and Numbers) intends, agrees, and consents to be bound by all IRP Panel decisions of Disputes of Covered Actions as a final, binding arbitration.
>
> (A)Where feasible, the Board shall consider its response to IRP Panel decisions at the Board's next meeting, and shall affirm or reject compliance with the decision on the public record based on an expressed rationale. The decision of the IRP Panel, or en banc Standing Panel, shall be final regardless of such Board action, to the fullest extent allowed by law.
>
> (B)If an IRP Panel decision in a Community IRP is in favor of the EC (Empowered Community), the Board shall comply within 30 days of such IRP Panel decision.

(C)If the Board rejects an IRP Panel decision without undertaking an appeal to the en banc Standing Panel or rejects an en banc Standing Panel decision upon appeal, the Claimant or the EC (Empowered Community) may seek enforcement in a court of competent jurisdiction. In the case of the EC (Empowered Community), the EC (Empowered Community) Administration may convene as soon as possible following such rejection and consider whether to authorize commencement of such an action.

(iv) By submitting a Claim to the IRP Panel, a Claimant thereby agrees that the IRP decision is intended to be a final, binding arbitration decision with respect to such Claimant. Any Claimant that does not consent to the IRP being a final, binding arbitration may initiate a non-binding IRP if ICANN (Internet Corporation for Assigned Names and Numbers) agrees; provided that such a non-binding IRP decision is not intended to be and shall not be enforceable.

(y) ICANN (Internet Corporation for Assigned Names and Numbers) shall seek to establish means by which community, non-profit Claimants and other Claimants that would otherwise be excluded from utilizing the IRP process may meaningfully participate in and have access to the IRP process.

Section 4.4. PERIODIC REVIEW OF ICANN (Internet Corporation for Assigned Names and Numbers) STRUCTURE AND OPERATIONS

(a) The Board shall cause a periodic review of the performance and operation of each Supporting Organization (Supporting Organization), each Supporting Organization (Supporting Organization) Council, each Advisory Committee (Advisory Committee) (other than the Governmental Advisory Committee (Advisory Committee)), and the Nominating Committee (as defined in Section 8.1) by an entity or entities independent of the organization under review. The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (i) whether that organization, council or committee has a continuing purpose in the ICANN (Internet Corporation for Assigned Names and Numbers) structure, (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness and (iii) whether that organization, council or committee is accountable to its constituencies, stakeholder groups, organizations and other stakeholders.

These periodic reviews shall be conducted no less frequently than every five years, based on feasibility as determined by the Board. Each five-year cycle will

be computed from the moment of the reception by the Board of the final report of the relevant review Working Group.

The results of such reviews shall be posted on the Website for public review and comment, and shall be considered by the Board no later than the second scheduled meeting of the Board after such results have been posted for 30 days. The consideration by the Board includes the ability to revise the structure or operation of the parts of ICANN (Internet Corporation for Assigned Names and Numbers) being reviewed by a two-thirds vote of all Directors, subject to any rights of the EC (Empowered Community) under the Articles of Incorporation and these Bylaws.

(b) The Governmental Advisory Committee (Advisory Committee) shall provide its own review mechanisms.

Section 4.5. ANNUAL REVIEW

ICANN (Internet Corporation for Assigned Names and Numbers) will produce an annual report on the state of the accountability and transparency reviews, which will discuss the status of the implementation of all review processes required bySection 4.6 and the status of ICANN (Internet Corporation for Assigned Names and Numbers)'s implementation of the recommendations set forth in the final reports issued by the review teams to the Board following the conclusion of such review ("**Annual Review Implementation Report**"). The Annual Review Implementation Report will be posted on the Website for public review and comment. Each Annual Review Implementation Report will be considered by the Board and serve as an input to the continuing process of implementing the recommendations from the review teams set forth in the final reports of such review teams required in Section 4.6.

Section 4.6. SPECIFIC REVIEWS

(a) Review Teams and Reports

> (i) Review teams will be established for each applicable review, which will include both a limited number of members and an open number of observers. The chairs of the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) participating in the applicable review shall select a group of up to 21 review team members from among the prospective members nominated by the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), balanced for diversity and skill. In addition, the Board may designate one Director or Liaison to serve as a

member of the review team. Specific guidance on the selection process is provided within the operating standards developed for the conduct of reviews under this Section 4.6 (the "**Operating Standards**"). The Operating Standards shall be developed through community consultation, including public comment opportunities as necessary that comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers). The Operating Standards must be aligned with the following guidelines:

(A)Each Supporting Organization (Supporting Organization) and Advisory Committee (Advisory Committee) participating in the applicable review may nominate up to seven prospective members for the review team;

(B)Any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) nominating at least one, two or three prospective review team members shall be entitled to have those one, two or three nominees selected as members to the review team, so long as the nominees meet any applicable criteria for service on the team; and

(C)If any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) has not nominated at least three prospective review team members, the Chairs of the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) shall be responsible for the determination of whether all 21 SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) member seats shall be filled and, if so, how the seats should be allocated from among those nominated.

(ii) Members and liaisons of review teams shall disclose to ICANN (Internet Corporation for Assigned Names and Numbers) and their applicable review team any conflicts of interest with a specific matter or issue under review in accordance with the most recent Board-approved practices and Operating Standards. The applicable review team may exclude from the discussion of a specific complaint or issue any member deemed by the majority of review team members to have a conflict of interest. Further details on the conflict of interest practices are included in the Operating Standards.

(iii) Review team decision-making practices shall be specified in the Operating Standards, with the expectation that review teams shall try to operate on a consensus basis. In the event a consensus cannot be found among the members of a review team, a majority vote of the members may be taken.

(iv) Review teams may also solicit and select independent experts to render advice as requested by the review team. ICANN (Internet Corporation for Assigned Names and Numbers) shall pay the reasonable fees and expenses of such experts for each review contemplated by this Section 4.6 to the extent such fees and costs are consistent with the budget assigned for such review. Guidelines on how review teams are to work with and consider independent expert advice are specified in the Operating Standards.

(v) Each review team may recommend that the applicable type of review should no longer be conducted or should be amended.

(vi) Confidential Disclosure to Review Teams

(A) To facilitate transparency and openness regarding ICANN (Internet Corporation for Assigned Names and Numbers)'s deliberations and operations, the review teams, or a subset thereof, shall have access to ICANN (Internet Corporation for Assigned Names and Numbers) internal information and documents pursuant to the Confidential Disclosure Framework set forth in the Operating Standards (the "**Confidential Disclosure Framework**"). The Confidential Disclosure Framework must be aligned with the following guidelines:

(1) ICANN (Internet Corporation for Assigned Names and Numbers) must provide a justification for any refusal to reveal requested information. ICANN (Internet Corporation for Assigned Names and Numbers)'s refusal can be appealed to the Ombudsman and/or the ICANN (Internet Corporation for Assigned Names and Numbers) Board for a ruling on the disclosure request.

(2) ICANN (Internet Corporation for Assigned Names and Numbers) may designate certain documents and information as "for review team members only" or for a subset of the review team members based on conflict of interest. ICANN (Internet Corporation for Assigned Names and Numbers)'s designation of documents may also be appealed to the Ombudsman and/or the ICANN (Internet Corporation for Assigned Names and Numbers) Board.

(3) ICANN (Internet Corporation for Assigned Names and Numbers) may require review team members to sign a non-disclosure agreement before accessing documents.

(vii) Reports

(A) Each report of the review team shall describe the degree of consensus or agreement reached by the review team on each recommendation contained in such report. Any member of a review team not in favor of a recommendation of its review team (whether as a result of voting against a matter or objecting to the consensus position) may record a minority dissent to such recommendation, which shall be included in the report of the review team. The review team shall attempt to prioritize each of its recommendations and provide a rationale for such prioritization.

(B) At least one draft report of the review team shall be posted on the Website for public review and comment. The review team must consider the public comments received in response to any posted draft report and shall amend the report as the review team deems appropriate and in the public interest before submitting its final report to the Board. The final report should include an explanation of how public comments were considered as well as a summary of changes made in response to public comments.

(C) Each final report of a review team shall be published for public comment in advance of the Board's consideration. Within six months of receipt of a final report, the Board shall consider such final report and the public comments on the final report, and determine whether to approve the recommendations in the final report. If the Board does not approve any or all of the recommendations, the written rationale supporting the Board's decision shall include an explanation for the decision on each recommendation that was not approved. The Board shall promptly direct implementation of the recommendations that were approved.

(b) Accountability and Transparency Review

(i) The Board shall cause a periodic review of ICANN (Internet Corporation for Assigned Names and Numbers)'s execution of its commitment to maintain and improve robust mechanisms for public input, accountability, and transparency so as to ensure that the outcomes of its decision-making reflect the public interest and are accountable to the Internet community ("**Accountability and Transparency Review**").

(ii) The issues that the review team for the Accountability and Transparency Review (the "**Accountability and Transparency Review Team**") may assess include, but are not limited to, the following:

(A) assessing and improving Board governance which shall include an ongoing evaluation of Board performance, the Board selection process, the extent to which the Board's composition and allocation structure meets ICANN (Internet Corporation for Assigned Names and Numbers)'s present and future needs, and the appeal mechanisms for Board decisions contained in these Bylaws;

(B) assessing the role and effectiveness of the GAC (Governmental Advisory Committee)'s interaction with the Board and with the broader ICANN (Internet Corporation for Assigned Names and Numbers) community, and making recommendations for improvement to ensure effective consideration by ICANN (Internet Corporation for Assigned Names and Numbers) of GAC (Governmental Advisory Committee) input on the public policy aspects of the technical coordination of the DNS (Domain Name System);

(C) assessing and improving the processes by which ICANN (Internet Corporation for Assigned Names and Numbers) receives public input (including adequate explanation of decisions taken and the rationale thereof);

(D) assessing the extent to which ICANN (Internet Corporation for Assigned Names and Numbers)'s decisions are supported and accepted by the Internet community;

(E) assessing the policy development process to facilitate enhanced cross community deliberations, and effective and timely policy development; and

(F) assessing and improving the Independent Review Process.

(iii) The Accountability and Transparency Review Team shall also assess the extent to which prior Accountability and Transparency Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(iv) The Accountability and Transparency Review Team may recommend to the Board the termination or amendment of other periodic reviews required by this Section 4.6, and may recommend to the Board the creation of additional periodic reviews.

(v) The Accountability and Transparency Review Team should issue its final report within one year of convening its first meeting.

(vi) The Accountability and Transparency Review shall be conducted no less frequently than every five years measured from the date the previous Accountability and Transparency Review Team was convened.

(c) Security (Security – Security, Stability and Resiliency (SSR)), Stability (Security, Stability and Resiliency), and Resiliency (Security Stability & Resiliency (SSR)) Review

(i) The Board shall cause a periodic review of ICANN (Internet Corporation for Assigned Names and Numbers)'s execution of its commitment to enhance the operational stability, reliability, resiliency, security, and global interoperability of the systems and processes, both internal and external, that directly affect and/or are affected by the Internet's system of unique identifiers that ICANN (Internet Corporation for Assigned Names and Numbers) coordinates ("**SSR Review**").

(ii) The issues that the review team for the SSR Review ("**SSR Review Team**") may assess are the following:

(A) security, operational stability and resiliency matters, both physical and network, relating to the coordination of the Internet's system of unique identifiers;

(B) conformance with appropriate security contingency planning framework for the Internet's system of unique identifiers; and

(C) maintaining clear and globally interoperable security processes for those portions of the Internet's system of unique identifiers that ICANN (Internet Corporation for Assigned Names and Numbers) coordinates.

(iii) The SSR Review Team shall also assess the extent to which ICANN (Internet Corporation for Assigned Names and Numbers) has successfully implemented its security efforts, the effectiveness of the security efforts to deal with actual and potential challenges and threats to the security and stability of the DNS (Domain Name System), and the extent to which the security efforts are sufficiently robust to meet future challenges and threats to the security, stability and resiliency of the DNS (Domain Name System), consistent with ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission.

(iv) The SSR Review Team shall also assess the extent to which prior SSR Review recommendations have been implemented and the extent to which

implementation of such recommendations has resulted in the intended effect.

(v) The SSR Review shall be conducted no less frequently than every five years, measured from the date the previous SSR Review Team was convened.

(d) Competition, Consumer Trust and Consumer Choice Review

(i) ICANN (Internet Corporation for Assigned Names and Numbers) will ensure that it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns, and rights protection prior to, or concurrent with, authorizing an increase in the number of new top-level domains in the root zone of the DNS (Domain Name System) pursuant to an application process initiated on or after the date of these Bylaws ("**New gTLD (generic Top Level Domain) Round**").

(ii) After a New gTLD (generic Top Level Domain) Round has been in operation for one year, the Board shall cause a competition, consumer trust and consumer choice review as specified in this Section 4.6(d) ("**CCT (Competition, Consumer Choice & Consumer Trust) Review**").

(iii) The review team for the CCT (Competition, Consumer Choice & Consumer Trust) Review ("**CCT (Competition, Consumer Choice & Consumer Trust) Review Team**") will examine (A) the extent to which the expansion of gTLDs has promoted competition, consumer trust and consumer choice and (B) the effectiveness of the New gTLD (generic Top Level Domain) Round's application and evaluation process and safeguards put in place to mitigate issues arising from the New gTLD (generic Top Level Domain) Round.

(iv) For each of its recommendations, the CCT (Competition, Consumer Choice & Consumer Trust) Review Team should indicate whether the recommendation, if accepted by the Board, must be implemented before opening subsequent rounds of new generic top-level domain applications periods.

(v) The CCT (Competition, Consumer Choice & Consumer Trust) Review Team shall also assess the extent to which prior CCT (Competition, Consumer Choice & Consumer Trust) Review recommendations have

been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(e) Registration Directory Service Review

(i) Subject to applicable laws, ICANN (Internet Corporation for Assigned Names and Numbers) shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.

(ii) The Board shall cause a periodic review to assess the effectiveness of the then current gTLD (generic Top Level Domain) registry directory service and whether its implementation meets the legitimate needs of law enforcement, promoting consumer trust and safeguarding registrant data ("**Directory Service Review**").

(iii) The review team for the Directory Service Review ("**Directory Service Review Team**") will consider the Organisation for Economic Co-operation and Development ("**OECD (Organization for Economic Co-operation and Development)**") Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD (Organization for Economic Co-operation and Development) in 1980 and amended in 2013 and as may be amended from time to time.

(iv) The Directory Service Review Team shall assess the extent to which prior Directory Service Review recommendations have been implemented and the extent to which implementation of such recommendations has resulted in the intended effect.

(v) The Directory Service Review shall be conducted no less frequently than every five years, measured from the date the previous Directory Service Review Team was convened, except that the first Directory Service Review to be conducted after 1 October 2016 shall be deemed to be timely if the applicable Directory Service Review Team is convened on or before 31 October 2016.

Section 4.7. COMMUNITY MEDIATION

(a) If the Board refuses or fails to comply with a duly authorized and valid EC (Empowered Community) Decision under these Bylaws, the EC (Empowered Community) Administration representative of any Decisional Participant who supported the exercise by the EC (Empowered Community) of its rights in the applicable EC (Empowered Community) Decision during the applicable decision period may request that the EC (Empowered Community) initiate a mediation process pursuant to this Section 4.7. The Board shall be deemed to have refused or failed to comply with a duly authorized and valid EC (Empowered Community) Decision if the Board has not complied with the EC (Empowered Community) Decision within 30 days of being notified of the relevant EC (Empowered Community) Decision.

(b) If a Mediation Initiation Notice (as defined in Section 4.1(a) of Annex D) is delivered to the Secretary pursuant to and in compliance with Section 4.1(a) of Annex D, as soon as reasonably practicable thereafter, the EC (Empowered Community) Administration shall designate individuals to represent the EC (Empowered Community) in the mediation ("**Mediation Administration**") and the Board shall designate representatives for the mediation ("**Board Mediation Representatives**"). Members of the EC (Empowered Community) Administration and the Board can designate themselves as representatives. ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post the Mediation Initiation Notice on the Website.

(c) There shall be a single mediator who shall be selected by the agreement of the Mediation Administration and Board Mediation Representatives. The Mediation Administration shall propose a slate of at least five potential mediators, and the Board Mediation Representatives shall select a mediator from the slate or request a new slate until a mutually-agreed mediator is selected. The Board Mediation Representatives may recommend potential mediators for inclusion on the slates selected by the Mediation Administration. The Mediation Administration shall not unreasonably decline to include mediators recommended by the Board Mediation Representatives on proposed slates and the Board Mediation Representatives shall not unreasonably withhold consent to the selection of a mediator on slates proposed by the Mediation Administration.

(d) The mediator shall be a licensed attorney with general knowledge of contract law and general knowledge of the DNS (Domain Name System) and ICANN (Internet Corporation for Assigned Names and Numbers). The mediator may not have any ongoing business relationship with ICANN (Internet Corporation for Assigned Names and Numbers), any Supporting Organization (Supporting Organization) (or constituent thereof), any Advisory Committee (Advisory Committee) (or constituent thereof), the EC (Empowered Community) Administration or the EC (Empowered Community). The mediator must confirm in

writing that he or she is not, directly or indirectly, and will not become during the term of the mediation, an employee, partner, executive officer, director, consultant or advisor of ICANN (Internet Corporation for Assigned Names and Numbers), any Supporting Organization (Supporting Organization) (or constituent thereof), any Advisory Committee (Advisory Committee) (or constituent thereof), the EC (Empowered Community) Administration or the EC (Empowered Community).

(e) The mediator shall conduct the mediation in accordance with these Bylaws, the laws of California and the rules and procedures of a well-respected international dispute resolution provider, which may be the IRP Provider. The arbitration will be conducted in the English language consistent with the provisions relevant for mediation under the IRP Rules of Procedure and will occur in Los Angeles County, California, unless another location is mutually-agreed between the Mediation Administration and Board Mediation Representatives.

(f) The Mediation Administration and the Board Mediation Representatives shall discuss the dispute in good faith and attempt, with the mediator's assistance, to reach an amicable resolution of the dispute.

(g) ICANN (Internet Corporation for Assigned Names and Numbers) shall bear all costs of the mediator.

(h) If the Mediation Administration and the Board Mediation Representatives have engaged in good faith participation in the mediation but have not resolved the dispute for any reason, the Mediation Administration or the Board Mediation Representatives may terminate the mediation at any time by declaring an impasse.

(i) If a resolution to the dispute is reached by the Mediation Administration and the Board Mediation Representatives, the Mediation Administration and the Board Mediation Representatives shall document such resolution including recommendations ("**Mediation Resolution**" and the date of such resolution, the "**Mediation Resolution Date**"). ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post the Mediation Resolution on the Website (in no event later than 14 days after mediation efforts are completed) and the EC (Empowered Community) Administration shall promptly notify the Decisional Participants of the Mediation Resolution.

(j) The EC (Empowered Community) shall be deemed to have accepted the Mediation Resolution if it has not delivered an EC (Empowered Community) Community IRP Initiation Notice (as defined in Section 4.2(e) of Annex D) pursuant to and in compliance with Section 4.2 of Annex D within eighty (80) days following the Mediation Resolution Date.

ARTICLE 5 OMBUDSMAN

Section 5.1. OFFICE OF OMBUDSMAN

(a) ICANN (Internet Corporation for Assigned Names and Numbers) shall maintain an Office of Ombudsman ("**Office of Ombudsman**"), to be managed by an ombudsman ("**Ombudsman**") and to include such staff support as the Board determines is appropriate and feasible. The Ombudsman shall be a full-time position, with salary and benefits appropriate to the function, as determined by the Board.

(b) The Ombudsman shall be appointed by the Board for an initial term of two years, subject to renewal by the Board.

(c) The Ombudsman shall be subject to dismissal by the Board only upon a three-fourths (3/4) vote of the entire Board.

(d) The annual budget for the Office of Ombudsman shall be established by the Board as part of the annual ICANN (Internet Corporation for Assigned Names and Numbers) Budget process. The Ombudsman shall submit a proposed budget to the President, and the President shall include that budget submission in its entirety and without change in the general ICANN (Internet Corporation for Assigned Names and Numbers) Budget recommended by the ICANN (Internet Corporation for Assigned Names and Numbers) President to the Board. Nothing in this Section 5.1 shall prevent the President from offering separate views on the substance, size, or other features of the Ombudsman's proposed budget to the Board.

Section 5.2. CHARTER

The charter of the Ombudsman shall be to act as a neutral dispute resolution practitioner for those matters for which the provisions of the Independent Review Process set forth in Section 4.3 have not been invoked. The principal function of the Ombudsman shall be to provide an independent internal evaluation of complaints by members of the ICANN (Internet Corporation for Assigned Names and Numbers) community who believe that the ICANN (Internet Corporation for Assigned Names and Numbers) staff, Board or an ICANN (Internet Corporation for Assigned Names and Numbers) constituent body has treated them unfairly. The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible resolve complaints about unfair or inappropriate treatment by ICANN (Internet Corporation for Assigned Names and Numbers) staff, the Board, or ICANN (Internet Corporation for Assigned Names and Numbers) constituent bodies, clarifying the issues and using conflict

resolution tools such as negotiation, facilitation, and "shuttle diplomacy" to achieve these results. With respect to the Reconsideration Request Process set forth in Section 4.2 , the Ombudsman shall serve the function expressly provided for in Section 4.2 .

Section 5.3. OPERATIONS

The Office of Ombudsman shall:

(a) facilitate the fair, impartial, and timely resolution of problems and complaints that affected members of the ICANN (Internet Corporation for Assigned Names and Numbers) community (excluding employees and vendors/suppliers of ICANN (Internet Corporation for Assigned Names and Numbers)) may have with specific actions or failures to act by the Board or ICANN (Internet Corporation for Assigned Names and Numbers) staff which have not otherwise become the subject of either a Reconsideration Request or Independent Review Process;

(b) perform the functions set forth in Section 4.2 relating to review and consideration of Reconsideration Requests;

(c) exercise discretion to accept or decline to act on a complaint or question, including by the development of procedures to dispose of complaints that are insufficiently concrete, substantive, or related to ICANN (Internet Corporation for Assigned Names and Numbers)'s interactions with the community so as to be inappropriate subject matters for the Ombudsman to act on. In addition, and without limiting the foregoing, the Ombudsman shall have no authority to act in any way with respect to internal administrative matters, personnel matters, issues relating to membership on the Board, or issues related to vendor/supplier relations;

(d) have the right to have access to (but not to publish if otherwise confidential) all necessary information and records from ICANN (Internet Corporation for Assigned Names and Numbers) staff and constituent bodies to enable an informed evaluation of the complaint and to assist in dispute resolution where feasible (subject only to such confidentiality obligations as are imposed by the complainant or any generally applicable confidentiality policies adopted by ICANN (Internet Corporation for Assigned Names and Numbers));

(e) heighten awareness of the Ombudsman program and functions through routine interaction with the ICANN (Internet Corporation for Assigned Names and Numbers) community and online availability;

(f) maintain neutrality and independence, and have no bias or personal stake in an outcome; and

(g) comply with all ICANN (Internet Corporation for Assigned Names and Numbers) conflicts of interest and confidentiality policies.

Section 5.4. INTERACTION WITH ICANN (Internet Corporation for Assigned Names and Numbers) AND OUTSIDE ENTITIES

(a) No ICANN (Internet Corporation for Assigned Names and Numbers) employee, Board member, or other participant in Supporting Organizations (Supporting Organizations) or Advisory Committees (Advisory Committees) shall prevent or impede the Ombudsman's contact with the ICANN (Internet Corporation for Assigned Names and Numbers) community (including employees of ICANN (Internet Corporation for Assigned Names and Numbers)). ICANN (Internet Corporation for Assigned Names and Numbers) employees and Board members shall direct members of the ICANN (Internet Corporation for Assigned Names and Numbers) community who voice problems, concerns, or complaints about ICANN (Internet Corporation for Assigned Names and Numbers) to the Ombudsman, who shall advise complainants about the various options available for review of such problems, concerns, or complaints.

(b) ICANN (Internet Corporation for Assigned Names and Numbers) staff and other ICANN (Internet Corporation for Assigned Names and Numbers) participants shall observe and respect determinations made by the Office of Ombudsman concerning confidentiality of any complaints received by that Office.

(c) Contact with the Ombudsman shall not constitute notice to ICANN (Internet Corporation for Assigned Names and Numbers) of any particular action or cause of action.

(d) The Ombudsman shall be specifically authorized to make such reports to the Board as he or she deems appropriate with respect to any particular matter and its resolution or the inability to resolve it. Absent a determination by the Ombudsman, in his or her sole discretion, that it would be inappropriate, such reports shall be posted on the Website.

(e) The Ombudsman shall not take any actions not authorized in these Bylaws, and in particular shall not institute, join, or support in any way any legal actions challenging ICANN (Internet Corporation for Assigned Names and Numbers) structure, procedures, processes, or any conduct by the ICANN (Internet

Corporation for Assigned Names and Numbers) Board, staff, or constituent bodies.

Section 5.5. ANNUAL REPORT

The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. Such annual report should include a description of any trends or common elements of complaints received during the period in question, as well as recommendations for steps that could be taken to minimize future complaints. The annual report shall be posted on the Website.

ARTICLE 6 EMPOWERED COMMUNITY

Section 6.1. COMPOSITION AND ORGANIZATION OF THE EMPOWERED COMMUNITY

(a) The Empowered Community ("**EC (Empowered Community)**") shall be a nonprofit association formed under the laws of the State of California consisting of the ASO (Address Supporting Organization), the ccNSO (Country Code Names Supporting Organization) (as defined in Section 10.1), the GNSO (Generic Names Supporting Organization) (as defined in Section 11.1), the ALAC (At-Large Advisory Committee) (as defined in Section 12.2(d)(i)) and the GAC (Governmental Advisory Committee) (each a "**Decisional Participant**" or "associate," and collectively, the "**Decisional Participants**").

(b) This Article 6 shall constitute the articles of association of the EC (Empowered Community) and shall be considered the formational "governing document" (as defined in Section 18008 of the CCC) of the EC (Empowered Community), and the terms contained herein and in these Bylaws relating to the EC (Empowered Community) shall be the EC (Empowered Community)'s "governing principles" (as defined in Section 18010 of the CCC), which may only be amended as set forth in Section 25.2 . Where necessary for purposes of interpretation of these Bylaws, an "associate" shall be deemed to be a "member" of the EC (Empowered Community) as defined in Section 18015 of the CCC. Any change in the number and/or identity of Decisional Participants for any reason (including the resignation of any Decisional Participant or the addition of new Decisional Participants as a result of the creation of additional Supporting Organizations (Supporting Organizations) or Advisory Committees (Advisory Committees)), and any corresponding changes in the voting thresholds for exercise of the EC (Empowered Community)'s rights described in Annex D of these Bylaws, will only be effective following the completion of the process for amending Fundamental Bylaws described in Section 25.2 and Annex D. The EC (Empowered

Community) may not be dissolved except upon the completion of the process for amending Fundamental Bylaws described in Section 25.2 and Annex D.

(c) The sole purpose of the EC (Empowered Community) is to exercise its rights and perform its obligations under ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation and these Bylaws, and the EC (Empowered Community) shall have no other powers or rights except as expressly provided therein. The EC (Empowered Community) may only act as provided in these Bylaws. Any act of the EC (Empowered Community) that is not in accordance with these Bylaws shall not be effective.

(d) The EC (Empowered Community) shall not acquire, hold, manage, encumber or transfer any interest in real or personal property, nor have any directors, officers or employees. The EC (Empowered Community) shall not merge with or into another entity nor shall it dissolve, except with the approval of the Board and as part of a Fundamental Bylaw Amendment (as defined in Section 25.2(b)).

(e) Decisional Participants shall not transfer their right to be an associate of the EC (Empowered Community). Any attempted transfer by any Decisional Participant of its right to be an associate of the EC (Empowered Community) shall be void ab initio.

(f) The location and street address of the EC (Empowered Community) shall be the principal office of ICANN (Internet Corporation for Assigned Names and Numbers).

(g) Each Decisional Participant shall, except as otherwise provided in Annex D, adopt procedures for exercising the rights of such Decisional Participant pursuant to the procedures set forth in Annex D, including (i) who can submit a petition to such Decisional Participant, (ii) the process for an individual to submit a petition to such Decisional Participant, including whether a petition must be accompanied by a rationale, (iii) how the Decisional Participant determines whether to accept or reject a petition, (iv) how the Decisional Participant determines whether an issue subject to a petition has been resolved, (v) how the Decisional Participant determines whether to support or object to actions supported by another Decisional Participant, and (vi) the process for the Decisional Participant to notify its constituents of relevant matters.

Section 6.2. POWERS AND ACKNOWLEDGMENTS

(a) Pursuant to and in compliance with the terms and conditions of these Bylaws, the EC (Empowered Community) shall have the powers and rights, as set forth more fully elsewhere in these Bylaws, to:

(i) Appoint and remove individual Directors (other than the President);

(ii) Recall the entire Board;

(iii) Reject ICANN (Internet Corporation for Assigned Names and Numbers) Budgets, IANA (Internet Assigned Numbers Authority) Budgets, Operating Plans (as defined in Section 22.5(a)(i)) and Strategic Plans (as defined in Section 22.5(b)(i));

(iv) Reject Standard Bylaw Amendments (as defined in Section 25.1(a));

(v) Approve Fundamental Bylaw Amendments, Articles Amendments (as defined in Section 25.2(b)), and Asset Sales (as defined in Article 26(a));

(vi) Reject PTI Governance Actions (as defined in Section 16.2(d));,

(vii) Require the ICANN (Internet Corporation for Assigned Names and Numbers) Board to re-review its rejection of IFR Recommendation Decisions (as defined in Section 18.6(d)), Special IFR Recommendation Decisions (as defined in Section 18.12(e)), SCWG Creation Decisions (as defined in Section 19.1(d)) and SCWG Recommendation Decisions (as defined in Section 19.4(d));

(viii) Initiate a Community Reconsideration Request, mediation or a Community IRP; and

(ix) Take necessary and appropriate action to enforce its powers and rights, including through the community mechanism contained in Annex D or an action filed in a court of competent jurisdiction.

(b) The EC (Empowered Community) may pursue an action in any court with jurisdiction over ICANN (Internet Corporation for Assigned Names and Numbers) to enforce the EC (Empowered Community)'s rights under these Bylaws. ICANN (Internet Corporation for Assigned Names and Numbers) acknowledges the EC (Empowered Community)'s legal personhood and shall not raise the EC (Empowered Community)'s legal personhood as a defense in any proceeding between ICANN (Internet Corporation for Assigned Names and Numbers) and the EC (Empowered Community). ICANN (Internet Corporation for Assigned Names and Numbers) shall not assert as a defense that prior filing or completion of a Reconsideration Request or an IRP Claim was a prerequisite to an action in court regarding the EC (Empowered Community)'s power to appoint or remove an individual Director or recall the Board (except to the extent an IRP Panel award is applicable pursuant to Section 3.6(e)).

(c) By nominating a Director for designation by the EC (Empowered Community) or exercising the community mechanism contained in Annex D with respect to any rights granted to the EC (Empowered Community) pursuant to these Bylaws, the EC (Empowered Community) and each of its Decisional Participants agrees and consents to the terms of these Bylaws and intends to be legally bound hereby.

Section 6.3. EC (Empowered Community) ADMINISTRATION

(a) The Decisional Participants shall act through their respective chairs or such other persons as may be designated by the Decisional Participants (collectively, such persons are the "**EC (Empowered Community) Administration**"). Each Decisional Participant shall deliver annually a written certification from its chair or co-chairs to the Secretary designating the individual who shall represent the Decisional Participant on the EC (Empowered Community) Administration.

(b) In representing a Decisional Participant on the EC (Empowered Community) Administration, the representative individual shall act solely as directed by the represented Decisional Participant and in accordance with processes developed by such Decisional Participant in accordance with Section 6.1(g).

(c) In representing the EC (Empowered Community) Administration, the individuals serving thereon shall act as required for the EC (Empowered Community) to follow the applicable procedures in Annex D, and to implement EC (Empowered Community) decisions made in accordance with such procedures.

(d) All communications and notices required or permitted to be given under these Bylaws by a Decisional Participant shall be provided by the Decisional Participant's representative on the EC (Empowered Community) Administration. All communications and notices required or permitted to be given under these Bylaws by the EC (Empowered Community) shall be provided by any member of the EC (Empowered Community) Administration. Where a particular Bylaws notice provision does not require notice to the Secretary, the EC (Empowered Community) and the Decisional Participants shall provide a copy of the notice to the Secretary in accordance with Section 21.5, and ICANN (Internet Corporation for Assigned Names and Numbers) shall post it on the Website.

(e) ICANN (Internet Corporation for Assigned Names and Numbers) shall be entitled to rely on notices from a Decisional Participant's representative or an individual serving on the EC (Empowered Community) Administration delivered in accordance with Section 21.5 as evidence that the actions set forth therein have been approved by or are the actions of the Decisional Participant, the EC (Empowered Community) or the EC (Empowered Community) Administration, as

applicable, pursuant to and in compliance with the requirements of these Bylaws (including Annex D) .

(f) No person participating in the EC (Empowered Community), the EC (Empowered Community) Administration or a Decisional Participant shall be liable for any debt, obligation or liability of ICANN (Internet Corporation for Assigned Names and Numbers) or the EC (Empowered Community), other than in the case of a fraudulent act committed by such person.

Section 6.4. CONSENT TO BOARD-INITIATED REMOVAL OF DIRECTOR WITHOUT CAUSE

In the event the EC (Empowered Community) Administration receives from the Secretary a valid notice as described in Section 7.11(a)(i)(B), indicating that the Board has voted to remove a Director without cause pursuant to Section 7.11(a)(i)(B), the EC (Empowered Community) shall without deliberation consent to such removal, and the EC (Empowered Community) Administration shall provide notice to the Secretary of such consent.

ARTICLE 7 BOARD OF DIRECTORS

Section 7.1. COMPOSITION OF THE BOARD

The ICANN (Internet Corporation for Assigned Names and Numbers) Board of Directors ("**Board**") shall consist of sixteen voting directors ("**Directors**"). In addition, four non-voting liaisons ("**Liaisons**") shall be appointed for the purposes set forth in Section 7.9. Only Directors shall be included in determining the existence of quorums, and in establishing the validity of votes taken by the Board.

Section 7.2. DIRECTORS AND THEIR SELECTION; ELECTION OF CHAIR AND VICE-CHAIR

(a) As of the effective date of the amendment and restatement of these Bylaws on 1 October 2016, the EC (Empowered Community) shall be the sole designator of ICANN (Internet Corporation for Assigned Names and Numbers) and shall designate, within the meaning of Section 5220 of the CCC, all Directors except for the President ex officio. The EC (Empowered Community) shall notify promptly the Secretary in writing of the following designations:

> (i) Eight Directors nominated by the Nominating Committee to be designated as Directors by the EC (Empowered Community). These seats on the Board are referred to in these Bylaws as Seats 1 through 8.

(ii) Two Directors nominated by the ASO (Address Supporting Organization) to be designated as Directors by the EC (Empowered Community). These seats on the Board are referred to in these Bylaws as Seat 9 and Seat 10.

(iii) Two Directors nominated by the ccNSO (Country Code Names Supporting Organization) to be designated as Directors by the EC (Empowered Community). These seats on the Board are referred to in these Bylaws as Seat 11 and Seat 12.

(iv) Two Directors nominated by the GNSO (Generic Names Supporting Organization) to be designated as Directors by the EC (Empowered Community). These seats on the Board are referred to in these Bylaws as Seat 13 and Seat 14.

(v) One Director nominated by the At-Large Community to be designated as Directors by the EC (Empowered Community). This seat on the Board is referred to in these Bylaws as Seat 15.

In addition to the Directors designated by the EC (Empowered Community), the President shall serve ex officio as a Director. The seat held by the President on the Board is referred to in these Bylaws as Seat 16.

(b) In carrying out its responsibilities to nominate the Directors for Seats 1 through 8 for designation by the EC (Empowered Community), the Nominating Committee shall ensure that the Board is composed of Directors who, in the aggregate, display diversity in geography, culture, skills, experience, and perspective, by applying the criteria set forth in Section 7.3, Section 7.4 and Section 7.5. At no time when it makes its nomination shall the Nominating Committee nominate a Director to fill any vacancy or expired term whose designation would cause the total number of Directors (not including the President) from countries in any one Geographic Region to exceed five; and the Nominating Committee shall ensure when it makes its nominations that the Board includes at least one Director who is from a country in each ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region ("**Diversity Calculation**"). For purposes of this Section 7.2(b), if any candidate for director maintains citizenship of more than one country, or has been domiciled for more than five years in a country of which the candidate does not maintain citizenship ("**Domicile**"), that candidate may be deemed to be from either country and must select in his or her Statement of Interest the country of citizenship or Domicile that he or she wants the Nominating Committee to use for Diversity Calculation purposes. For purposes of this Section 7.2(b), a person can only have one

Domicile, which shall be determined by where the candidate has a permanent residence and place of habitation.

(c) In carrying out their responsibilities to nominate Directors for Seats 9 through 15 for designation by the EC (Empowered Community), the Supporting Organizations (Supporting Organizations) and the At-Large Community shall seek to ensure that the Board is composed of Directors who, in the aggregate, display diversity in geography, culture, skills, experience, and perspective, by applying the criteria set forth in Section 7.3, Section 7.4 and Section 7.5. The Supporting Organizations (Supporting Organizations) shall ensure that, at any given time, no two Directors nominated by a Supporting Organization (Supporting Organization) are citizens from the same country or of countries located in the same Geographic Region. For purposes of this Section 7.2(c), if any candidate for Director maintains citizenship or Domicile of more than one country, that candidate may be deemed to be from either country and must select in his or her Statement of Interest the country of citizenship or Domicile that he or she wants the Supporting Organization (Supporting Organization) or the At-Large Community, as applicable, to use for nomination purposes. For purposes of this Section 7.2(c), a person can only have one Domicile, which shall be determined by where the candidate has a permanent residence and place of habitation.

(d) The Board shall annually elect a Chair and a Vice-Chair from among the Directors, not to include the President.

(e) The EC (Empowered Community) shall designate each person nominated as a Director by the Nominating Committee, the ASO (Address Supporting Organization), the ccNSO (Country Code Names Supporting Organization), the GNSO (Generic Names Supporting Organization) and the At-Large Community in accordance with this Section 7.2.

(f) As a condition to sitting on the Board, each Director other than the President ex officio shall sign a pre-service letter pursuant to which such Director:

> (i) acknowledges and agrees to the EC (Empowered Community)'s right to remove the Director at any time and for any reason following the processes set forth in these Bylaws;
>
> (ii) acknowledges and agrees that serving as a Director shall not establish any employment or other relationship (whether to ICANN (Internet Corporation for Assigned Names and Numbers), the EC (Empowered Community), any body entitled to nominate a Director, or any of their agents) that provides any due process rights related to termination of service as a Director; and

> (iii) conditionally and irrevocably resigns as a Director automatically effective upon communication to the Director or, in the case of Board recall, communication to the Board of a final determination of removal following the processes set forth in these Bylaws.

Section 7.3.CRITERIA FOR NOMINATION OF DIRECTORS

Directors shall be:

(a) Accomplished persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and a demonstrated capacity for thoughtful group decision-making;

(b) Persons with an understanding of ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission and the potential impact of ICANN (Internet Corporation for Assigned Names and Numbers) decisions on the global Internet community, and committed to the success of ICANN (Internet Corporation for Assigned Names and Numbers);

(c) Persons who will produce the broadest cultural and geographic diversity on the Board consistent with meeting the other criteria set forth in this Section 7.3;

(d) Persons who, in the aggregate, have personal familiarity with the operation of gTLD (generic Top Level Domain) registries and registrars; with ccTLD (Country Code Top Level Domain) registries; with IP (Internet Protocol or Intellectual Property) address registries; with Internet technical standards and protocols; with policy-development procedures, legal traditions, and the public interest; and with the broad range of business, individual, academic, and non-commercial users of the Internet; and

(e) Persons who are able to work and communicate in written and spoken English.

Section 7.4. ADDITIONAL QUALIFICATIONS

(a) Notwithstanding anything herein to the contrary, no official of a national government or a multinational entity established by treaty or other agreement between national governments may serve as a Director. As used herein, the term "official" means a person (i) who holds an elective governmental office or (ii) who is employed by such government or multinational entity and whose primary function with such government or entity is to develop or influence governmental or public policies.

(b) No person who serves in any capacity (including as a liaison) on any Supporting Organization (Supporting Organization) Council shall simultaneously serve as a Director or Liaison to the Board. If such a person is identified by, or presents themselves to, the Supporting Organization (Supporting Organization) Council or the At-Large Community for consideration for nomination to serve as a Director, the person shall not thereafter participate in any discussion of, or vote by, the Supporting Organization (Supporting Organization) Council or the committee designated by the At-Large Community relating to the nomination of Directors by the Council or At-Large Community, until the Council or committee(s) specified by the At-Large Community has nominated the full complement of Directors it is responsible for nominating. In the event that a person serving in any capacity on a Supporting Organization (Supporting Organization) Council is considered for nomination to serve as a Director, the constituency group or other group or entity that selected the person may select a replacement for purposes of the Council's nomination process. In the event that a person serving in any capacity on the At-Large Advisory Committee (Advisory Committee) is identified as or accepts a nomination to be considered for nomination by the At-Large Community as a Director, the Regional At-Large Organization or other group or entity that selected the person may select a replacement for purposes of the At-Large Community's nomination process.

(c) Persons serving in any capacity on the Nominating Committee shall be ineligible for nomination or designation to positions on the Board as provided by Section 8.8.

(d) No person who serves on the EC (Empowered Community) Administration while serving in that capacity shall be considered for nomination or designated to the Board, nor serve simultaneously on the EC (Empowered Community) Administration and as a Director or Liaison to the Board.

Section 7.5. INTERNATIONAL REPRESENTATION

In order to ensure broad international representation on the Board, the nomination of Directors by the Nominating Committee, each Supporting Organization (Supporting Organization) and the At-Large Community shall comply with all applicable diversity provisions of these Bylaws or of any memorandum of understanding referred to in these Bylaws concerning the Supporting Organization (Supporting Organization). One intent of these diversity provisions is to ensure that at all times each Geographic Region shall have at least one Director, and at all times no Geographic Region shall have more than five Directors on the Board (not including the President). As used in these Bylaws, each of the following is considered to be a "**Geographic Region**": (a) Europe; (b) Asia/Australia/Pacific; (c) Latin America/Caribbean islands; (d) Africa;

and (e) North America. The specific countries included in each Geographic Region shall be determined by the Board, and this Section 7.5 shall be reviewed by the Board from time to time (and in any event at least once every three years) to determine whether any change is appropriate, taking account of the evolution of the Internet.

Section 7.6. DIRECTORS' CONFLICTS OF INTEREST

The Board, through the Board Governance Committee, shall require a statement from each Director not less frequently than once a year setting forth all business and other affiliations that relate in any way to the business and other affiliations of ICANN (Internet Corporation for Assigned Names and Numbers). Each Director shall be responsible for disclosing to ICANN (Internet Corporation for Assigned Names and Numbers) any matter that could reasonably be considered to make such Director an "interested director" within the meaning of Section 5233 of the CCC. In addition, each Director shall disclose to ICANN (Internet Corporation for Assigned Names and Numbers) any relationship or other factor that could reasonably be considered to cause the Director to be considered to be an "interested person" within the meaning of Section 5227 of the CCC. The Board shall adopt policies specifically addressing Director, Officer, EC (Empowered Community) and Supporting Organization (Supporting Organization) conflicts of interest. No Director shall vote on any matter in which he or she has a material and direct financial interest that would be affected by the outcome of the vote.

Section 7.7. DUTIES OF DIRECTORS

Directors shall serve as individuals who have the duty to act in what they reasonably believe are the best interests of ICANN (Internet Corporation for Assigned Names and Numbers) and not as representatives of the EC (Empowered Community), the Nominating Committee, Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) that nominated them, as applicable, their employers, or any other organizations or constituencies.

Section 7.8. TERMS OF DIRECTORS

(a) The regular term of office of Director Seats 1 through 15 shall begin as follows:

> (i) The regular terms of Seats 1 through 3 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2003;

(ii) The regular terms of Seats 4 through 6 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2004;

(iii) The regular terms of Seats 7 and 8 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2005;

(iv) The terms of Seats 9 and 12 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2015;

(v) The terms of Seats 10 and 13 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2013; and

(vi) The terms of Seats 11, 14 and 15 shall begin at the conclusion of each ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting every third year after 2014.

(b) Each Director holding any of Seats 1 through 15, including a Director nominated and designated to fill a vacancy, shall hold office for a term that lasts until the next term for that Seat commences and until a successor has been designated and qualified or until that Director resigns or is removed in accordance with these Bylaws. For the avoidance of doubt, the new governance provisions effective as of the amendment and restatement of these Bylaws on 1 October 2016 shall not have the effect of shortening or terminating the terms of any Directors serving at the time of the amendment and restatement.

(c) At least two months before the commencement of each annual meeting, the Nominating Committee shall give the EC (Empowered Community) Administration (with a copy to the Decisional Participants and Secretary) written notice of its nomination of Directors for seats with terms beginning at the conclusion of the annual meeting, and the EC (Empowered Community) Administration shall promptly provide the Secretary (with a copy to the Decisional Participants) with written notice of the designation of those Directors. All such notices shall be posted promptly to the Website.

(d) At least six months before the date specified for the commencement of the term as specified in Section 7.8(a)(iv) through Section 7.8(a)(vi) above, any Supporting Organization (Supporting Organization) or the At-Large Community entitled to nominate a Director for a Seat with a term beginning that year shall give the EC (Empowered Community) Administration (with a copy to the

Secretary and the Decisional Participants) written notice of its nomination of Directors for seats with terms beginning at the conclusion of the annual meeting, and the EC (Empowered Community) Administration shall promptly provide the Secretary (with a copy to the Decisional Participants) with written notice of the designation of those Directors. All such notices shall be posted promptly to the Website.

(e) No Director may serve more than three consecutive terms. For these purposes, a person designated to fill a vacancy in a term shall not be deemed to have served that term.

(f) The term as Director of the person holding the office of President shall be for as long as, and only for as long as, such person holds the office of President.

Section 7.9. NON-VOTING LIAISONS

(a) The non-voting Liaisons shall include:

> (i) One appointed by the Governmental Advisory Committee (Advisory Committee);
>
> (ii) One appointed by the Root Server System Advisory Committee (Advisory Committee) established by Section 12.2(c);
>
> (iii) One appointed by the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) established by Section 12.2(b); and
>
> (iv) One appointed by the Internet Engineering Task Force.

(b) The Liaisons shall serve terms that begin at the conclusion of each annual meeting. At least one month before the commencement of each annual meeting, each body entitled to appoint a Liaison shall give the Secretary written notice of its appointment.

(c) Each Liaison may be reappointed, and shall remain in that position until a successor has been appointed or until the Liaison resigns or is removed in accordance with these Bylaws.

(d) The Liaisons shall be entitled to attend Board meetings, participate in Board discussions and deliberations, and have access (under conditions established by the Board) to materials provided to Directors for use in Board discussions, deliberations and meetings, but shall otherwise not have any of the rights and

privileges of Directors. Liaisons shall be entitled (under conditions established by the Board) to use any materials provided to them pursuant to this Section 7.9(d) for the purpose of consulting with their respective committee or organization.

Section 7.10. RESIGNATION OF A DIRECTOR OR NON-VOTING LIAISON

Subject to Section 5226 of the CCC, any Director or Liaison may resign at any time by giving written notice thereof to the Chair of the Board, the President, the Secretary, or the Board. Such resignation shall take effect at the time specified, and, unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.11. REMOVAL OF A DIRECTOR OR NON-VOTING LIAISON

(a) Directors

> (i) Any Director designated by the EC (Empowered Community) may be removed without cause:
>
> (A) by the EC (Empowered Community) pursuant to and in compliance with procedures in Section 3.1 or Section 3.2 of Annex D, as applicable, or
>
> (B) following notice to that Director, by a three-fourths (3/4) majority vote of all Directors; provided, however, that (x) each vote to remove a Director shall be a separate vote on the sole question of the removal of that particular Director; and (y) such removal shall not be effective until the Secretary has provided notice to the EC (Empowered Community) Administration of the Board's removal vote and the requirements of Section 6.4 have been met.
>
> (ii) The Board may remove any Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Sections 5230 through 5239 of the CCC, and in the case of such removal, the Secretary shall promptly notify the EC (Empowered Community) Administration in writing, with a copy to the body that nominated such Director, and shall promptly post such notification to the Website. The vacancies created by such removal shall be filled in accordance with Section 7.12(a).

> (iii) All Directors (other than the President) may be removed at the same time by the EC (Empowered Community) by the EC (Empowered Community) Administration delivering an EC (Empowered Community) Board Recall Notice to the Secretary pursuant to and in compliance with Section 3.3 of Annex D. The vacancies created by such removal shall be filled by the EC (Empowered Community) in accordance with Section 7.12(b).

(b) With the exception of the Liaison appointed by the Governmental Advisory Committee (Advisory Committee), any Liaison may be removed following notice to that Liaison and to the organization which selected that Liaison, by a three-fourths (3/4) majority vote of all Directors if the selecting organization fails to promptly remove that Liaison following such notice. The vacancies created by such removal shall be filled in accordance with Section 7.12. The Board may request the Governmental Advisory Committee (Advisory Committee) to consider the replacement of the Governmental Advisory Committee (Advisory Committee) Liaison if the Board, by a three-fourths (3/4) majority vote of all Directors, determines that such an action is appropriate.

Section 7.12. VACANCIES

(a) This Section 7.12(a) shall apply to Board vacancies other than those occurring by recall of all Directors (other than the President). A vacancy or vacancies in the Board shall be deemed to exist in the case of the death, resignation, or removal of any Director or Interim Director (as defined in Section 7.12(b)), or if the authorized number of Directors is increased. Vacancies occurring in Seats 1 through 15 shall be filled by the EC (Empowered Community) after nomination as provided in Section 7.2 and Articles 8 through 12. A vacancy in Seat 16 shall be filled as provided in Article 15. A Director designated by the EC (Empowered Community) to fill a vacancy on the Board shall serve for the unexpired term of his or her predecessor in office and until a successor has been designated and qualified. No reduction of the authorized number of Directors shall have the effect of removing a Director prior to the expiration of the Director's term of office.

(b) This Section 7.12(b) shall apply to Board vacancies occurring when all Directors (other than the President) are recalled as provided by Section 7.11(a)(iii). Concurrently with delivery of any EC (Empowered Community) Board Recall Notice (as defined in Section 3.3(f) of Annex D), the EC (Empowered Community) Administration shall provide written notice of the EC (Empowered Community)'s designation of individuals to fill such vacancies (each such individual, an **"Interim Director"**) to the Decisional Participants and to the Secretary, who shall cause such notice to be promptly posted to the Website. An Interim Director must meet

the criteria specified in Section 7.3, Section 7.4 and Section 7.5, as applicable. An Interim Director shall hold office until the EC (Empowered Community) designates the Interim Director's successor in accordance with Section 7.12(a), and the successor's designation shall occur within 120 days of the Interim Director's designation. For avoidance of doubt, persons designated as Interim Directors may be eligible for designation as Directors as well.

(c) The organizations selecting the Liaisons identified in Section 7.9 are responsible for determining the existence of, and filling, any vacancies in those positions. Such organizations shall give the Secretary written notice of their appointments to fill any such vacancies, subject to the requirements set forth in Section 7.4, as applicable.

Section 7.13. ANNUAL MEETINGS

Annual meetings of ICANN (Internet Corporation for Assigned Names and Numbers) shall be held for the purpose of electing Officers and for the transaction of such other business as may come before the meeting. Each annual meeting of ICANN (Internet Corporation for Assigned Names and Numbers) shall be held at the principal office of ICANN (Internet Corporation for Assigned Names and Numbers), or any other appropriate place of the Board's time and choosing, provided such annual meeting is held within 14 months of the immediately preceding annual meeting. If the Board determines that it is practical, the annual meeting should be distributed in real-time and archived video and audio formats on the Internet.

Section 7.14. REGULAR MEETINGS

Regular meetings of the Board shall be held on dates to be determined by the Board. In the absence of other designation, regular meetings shall be held at the principal office of ICANN (Internet Corporation for Assigned Names and Numbers).

Section 7.15. SPECIAL MEETINGS

Special meetings of the Board may be called by or at the request of one-quarter (1/4) of the Directors, by the Chair of the Board or the President. A call for a special meeting shall be made by the Secretary. Special meetings shall be held at the principal office of ICANN (Internet Corporation for Assigned Names and Numbers) unless otherwise specified in the notice of the meeting.

Section 7.16. NOTICE OF MEETINGS

Notice of time and place of all meetings shall be delivered personally or by telephone or by electronic mail to each Director and Liaison, or sent by first-class mail (air mail for addresses outside the United States) or facsimile, charges prepaid, addressed to each Director and Liaison at the Director's or Liaison's address as it is shown on the records of ICANN (Internet Corporation for Assigned Names and Numbers). In case the notice is mailed, it shall be deposited in the United States mail at least fourteen (14) days before the time of the holding of the meeting. In case the notice is delivered personally or by telephone or facsimile or electronic mail it shall be delivered personally or by telephone or facsimile or electronic mail at least forty-eight (48) hours before the time of the holding of the meeting. Notwithstanding anything in this Section 7.16 to the contrary, notice of a meeting need not be given to any Director or Liaison who signed a waiver of notice or a Director who signed a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 7.17. QUORUM

At all annual, regular, and special meetings of the Board, a majority of the total number of Directors then in office shall constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board, unless otherwise provided herein or by law. If a quorum shall not be present at any meeting of the Board, the Directors present thereat may adjourn the meeting from time to time to another place, time or date. If the meeting is adjourned for more than twenty-four (24) hours, notice shall be given to those Directors not at the meeting at the time of the adjournment.

Section 7.18. ACTIONS BY TELEPHONE MEETING OR BY OTHER COMMUNICATIONS EQUIPMENT

Directors and Liaisons may participate in a meeting of the Board or Board Committee (as defined in Section 14.1) through use of (a) conference telephone or similar communications equipment, provided that all Directors participating in such a meeting can speak to and hear one another or (b) electronic video screen communication or other communication equipment; provided that (i) all Directors participating in such a meeting can speak to and hear one another, (ii) all Directors are provided the means of fully participating in all matters before the Board or Board Committee, and (iii) ICANN (Internet Corporation for Assigned Names and Numbers) adopts and implements means of verifying that (A) a

person participating in such a meeting is a Director or other person entitled to participate in the meeting and (B) all actions of, or votes by, the Board or Board Committee are taken or cast only by Directors and not persons who are not Directors. Participation in a meeting pursuant to this Section 7.18 constitutes presence in person at such meeting. ICANN (Internet Corporation for Assigned Names and Numbers) shall make available at the place of any meeting of the Board the telecommunications equipment necessary to permit Directors and Liaisons to participate by telephone.

Section 7.19. ACTION WITHOUT MEETING

Any action required or permitted to be taken by the Board or a Committee of the Board may be taken without a meeting if all of the Directors entitled to vote thereat shall individually or collectively consent in writing to such action. Such written consent shall have the same force and effect as the unanimous vote of such Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 7.20. ELECTRONIC MAIL

If permitted by applicable law, communication by electronic mail shall be considered equivalent to any communication otherwise required to be in writing. ICANN (Internet Corporation for Assigned Names and Numbers) shall take such steps as it deems appropriate under the circumstances to assure itself that communications by electronic mail are authentic.

Section 7.21. BOARD RIGHTS OF INSPECTION

(a) Every Director shall have the right at any reasonable time to inspect and copy all books, records and documents of every kind, and to inspect the physical properties of ICANN (Internet Corporation for Assigned Names and Numbers).

(b) ICANN (Internet Corporation for Assigned Names and Numbers) shall establish reasonable procedures to protect against the inappropriate disclosure of confidential information.

Section 7.22. COMPENSATION

(a) Except for the President of ICANN (Internet Corporation for Assigned Names and Numbers), who serves ex officio as a Director, each of the Directors shall be entitled to receive compensation for his or her services as a Director. The President shall receive only his or her compensation for service as President and shall not receive additional compensation for service as a Director.

(b) If the Board determines to offer a compensation arrangement to one or more Directors (other than the President) for services to ICANN (Internet Corporation for Assigned Names and Numbers) as Directors, the Board shall follow the process that is calculated to pay an amount for service as a Director that is not an excess benefit under the standards set forth in Section 4958 of the Internal Revenue Code of 1986, as amended (the "**Code**").

(c) As part of the process, the Board shall retain an Independent Valuation Expert (as defined in Section 7.22(g)(i)) to consult with and to advise the Board regarding Director compensation arrangements and to issue to the Board a Reasoned Written Opinion (as defined in Section 7.22(g)(ii)) from such expert regarding the ranges of Reasonable Compensation (as defined in Section 7.22(g)(iii)) for any such services by a Director. The expert's opinion shall address all relevant factors affecting the level of compensation to be paid a Director, including offices held on the Board, attendance at Board and Board Committee meetings, the nature of service on the Board and on Board Committees, and appropriate data as to comparability regarding director compensation arrangements for U.S.-based, nonprofit, tax-exempt organizations possessing a global employee base.

(d) After having reviewed the Independent Valuation Expert's Reasoned Written Opinion, the Board shall meet with the expert to discuss the expert's opinion and to ask questions of the expert regarding the expert's opinion, the comparability data obtained and relied upon, and the conclusions reached by the expert.

(e) The Board shall adequately document the basis for any determination the Board makes regarding a Director compensation arrangement concurrently with making that determination.

(f) In addition to authorizing payment of compensation for services as Directors as set forth in this Section 7.22, the Board may also authorize the reimbursement of actual and necessary reasonable expenses incurred by any Director and by Liaisons performing their duties as Directors or Liaisons.

(g) As used in this Section 7.22, the following terms shall have the following meanings:

> (i) An "**Independent Valuation Expert**" means a person retained by ICANN (Internet Corporation for Assigned Names and Numbers) to value compensation arrangements that: (A) holds itself out to the public as a compensation consultant; (B) performs valuations regarding compensation arrangements on a regular basis, with a majority of its compensation consulting services performed for persons other than ICANN (Internet

Corporation for Assigned Names and Numbers); (C) is qualified to make valuations of the type of services involved in any engagement by and for ICANN (Internet Corporation for Assigned Names and Numbers); (D) issues to ICANN (Internet Corporation for Assigned Names and Numbers) a Reasoned Written Opinion regarding a particular compensation arrangement; and (E) includes in its Reasoned Written Opinion a certification that it meets the requirements set forth in (A) through (D) of this definition.

(ii) A "**Reasoned Written Opinion**" means a written opinion of a valuation expert who meets the requirements of Section 7.22(g)(i)(A) through (D). To be reasoned, the opinion must be based upon a full disclosure by ICANN (Internet Corporation for Assigned Names and Numbers) to the valuation expert of the factual situation regarding the compensation arrangement that is the subject of the opinion, the opinion must articulate the applicable valuation standards relevant in valuing such compensation arrangement, the opinion must apply those standards to such compensation arrangement, and the opinion must arrive at a conclusion regarding whether the compensation arrangement is within the range of Reasonable Compensation for the services covered by the arrangement. A written opinion is reasoned even though it reaches a conclusion that is subsequently determined to be incorrect so long as the opinion addresses itself to the facts and the applicable standards. However, a written opinion is not reasoned if it does nothing more than recite the facts and express a conclusion.

(iii) "**Reasonable Compensation**" shall have the meaning set forth in §53.4958-4(b)(1)(ii) of the Regulations issued under §4958 of the Code.

(h) Each of the Liaisons, with the exception of the Governmental Advisory Committee (Advisory Committee) Liaison, shall be entitled to receive compensation for his or her services as a Liaison. If the Board determines to offer a compensation arrangement to one or more Liaisons, the Board shall approve that arrangement by a required three-fourths (3/4) vote.

Section 7.23. PRESUMPTION OF ASSENT

A Director present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent or abstention is entered in the minutes of the meeting, or unless such Director files a written dissent or abstention to such action with the person acting as the secretary of the meeting before the adjournment thereof, or forwards such dissent or abstention by registered mail to the Secretary immediately after the

adjournment of the meeting. Such right to dissent or abstain shall not apply to a Director who voted in favor of such action.

Section 7.24 INTERIM BOARD

Except in circumstances in which urgent decisions are needed to protect the security, stability or resilience of the DNS (Domain Name System) or to the extent necessary to comply with its fiduciary obligations under applicable law, a Board that consists of a majority or more of Interim Directors (an "**Interim Board**") shall (a) consult with the chairs of the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) before making major decisions and (b) consult through a community forum (in a manner consistent with the process for a Rejection Action Community Forum pursuant to Section 2.3 of Annex D) prior to taking any action that would, if implemented, materially change ICANN (Internet Corporation for Assigned Names and Numbers)'s strategy, policies or management, including replacement of the then-serving President. Interim Directors shall be entitled to compensation as provided in this Article 7.

Section 7.25 COMMUNICATION OF DESIGNATION

Upon its receipt of nominations as provided in Articles 7 through 12, the EC (Empowered Community) Administration, on behalf of the EC (Empowered Community), shall promptly notify the Secretary of the EC (Empowered Community)'s designation of individuals to fill seats on the Board. ICANN (Internet Corporation for Assigned Names and Numbers) shall post all such designations promptly to the Website.

ARTICLE 8 NOMINATING COMMITTEE

Section 8.1. DESCRIPTION

There shall be a Nominating Committee of ICANN (Internet Corporation for Assigned Names and Numbers) ("**Nominating Committee**"), responsible for nominating all Directors except the President and those Directors nominated by Decisional Participants; for nominating two directors of PTI (in accordance with the articles of incorporation and bylaws of PTI); and for such other selections as are set forth in these Bylaws. Notification of the Nominating Committee's Director nominations shall be given by the Nominating Committee Chair in writing to the EC (Empowered Community) Administration, with a copy to the Secretary, and the EC (Empowered Community) shall promptly act on it as provided in Section 7.25. Notification of the Nominating Committee's PTI director nomination shall be given to the Secretary.

Section 8.2. COMPOSITION

The Nominating Committee shall be composed of the following persons:

(a) A non-voting Chair, appointed by the Board;

(b) A non-voting Chair-Elect, appointed by the Board as a non-voting advisor;

(c) A non-voting liaison appointed by the Root Server System Advisory Committee (Advisory Committee) established by Section 12.2(c);

(d) A non-voting liaison appointed by the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) established by Section 12.2(b);

(e) A non-voting liaison appointed by the Governmental Advisory Committee (Advisory Committee);

(f) Five voting delegates selected by the At-Large Advisory Committee (Advisory Committee) established by Section 12.2(d);

(g) Voting delegates to the Nominating Committee shall be selected from the Generic Names Supporting Organization (Supporting Organization) established by Article 11, as follows:

> (i) One delegate from the Registries Stakeholder Group;
>
> (ii) One delegate from the Registrars Stakeholder Group;
>
> (iii) Two delegates from the Business Constituency, one representing small business users and one representing large business users;
>
> (iv) One delegate from the Internet Service Providers and Connectivity Providers Constituency (as defined in Section 11.5(a)(iii));
>
> (v) One delegate from the Intellectual Property Constituency; and
>
> (vi) One delegate from consumer and civil society groups, selected by the Non-Commercial Users Constituency.

(h) One voting delegate each selected by the following entities:

(i) The Council of the Country Code Names Supporting Organization (Supporting Organization) established by Section 10.3;

(ii) The Council of the Address Supporting Organization (Supporting Organization) established by Section 9.2; and

(iii) The Internet Engineering Task Force.

(i) A non-voting Associate Chair, who may be appointed by the Chair, at his or her sole discretion, to serve during all or part of the term of the Chair. The Associate Chair may not be a person who is otherwise a member of the same Nominating Committee. The Associate Chair shall assist the Chair in carrying out the duties of the Chair, but shall not serve, temporarily or otherwise, in the place of the Chair.

Section 8.3. TERMS

(a) Each voting delegate shall serve a one-year term. A delegate may serve at most two successive one-year terms, after which at least two years must elapse before the individual is eligible to serve another term.

(b) The regular term of each voting delegate shall begin at the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting and shall end at the conclusion of the immediately following ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting.

(c) Non-voting liaisons shall serve during the term designated by the entity that appoints them. The Chair, the Chair-Elect, and any Associate Chair shall serve as such until the conclusion of the next ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting.

(d) It is anticipated that upon the conclusion of the term of the Chair-Elect, the Chair-Elect will be appointed by the Board to the position of Chair. However, the Board retains the discretion to appoint any other person to the position of Chair. At the time of appointing a Chair-Elect, if the Board determines that the person identified to serve as Chair shall be appointed as Chair for a successive term, the Chair-Elect position shall remain vacant for the term designated by the Board.

(e) Vacancies in the positions of delegate, non-voting liaison, Chair or Chair-Elect shall be filled by the entity entitled to select the delegate, non-voting liaison, Chair or Chair-Elect involved. For any term that the Chair-Elect position is vacant pursuant to Section 8.3(d), or until any other vacancy in the position of Chair-Elect can be filled, a non-voting advisor to the Chair may be appointed by the Board from among persons with prior service on the Board or a Nominating

Committee, including the immediately previous Chair of the Nominating Committee. A vacancy in the position of Associate Chair may be filled by the Chair in accordance with the criteria established by Section 8.2(i).

(f) The existence of any vacancies shall not affect the obligation of the Nominating Committee to carry out the responsibilities assigned to it in these Bylaws.

Section 8.4. CRITERIA FOR SELECTION OF NOMINATING COMMITTEE DELEGATES

Delegates to the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee shall be:

(a) Accomplished persons of integrity, objectivity, and intelligence, with reputations for sound judgment and open minds, and with experience and competence with collegial large group decision-making;

(b) Persons with wide contacts, broad experience in the Internet community, and a commitment to the success of ICANN (Internet Corporation for Assigned Names and Numbers);

(c) Persons whom the selecting body is confident will consult widely and accept input in carrying out their responsibilities;

(d) Persons who are neutral and objective, without any fixed personal commitments to particular individuals, organizations, or commercial objectives in carrying out their Nominating Committee responsibilities;

(e) Persons with an understanding of ICANN (Internet Corporation for Assigned Names and Numbers)'s mission and the potential impact of ICANN (Internet Corporation for Assigned Names and Numbers)'s activities on the broader Internet community who are willing to serve as volunteers, without compensation other than the reimbursement of certain expenses; and

(f) Persons who are able to work and communicate in written and spoken English.

Section 8.5. DIVERSITY

In carrying out its responsibilities to nominate Directors to fill Seats 1 through 8 (and selections to any other ICANN (Internet Corporation for Assigned Names and Numbers) bodies as the Nominating Committee is responsible for under these Bylaws), the Nominating Committee shall take into account the continuing

membership of the Board (and such other bodies), and seek to ensure that the persons it nominates to serve as Director and selects shall, to the extent feasible and consistent with the other criteria required to be applied by Section 8.4, be guided by Section 1.2(b)(ii).

Section 8.6. ADMINISTRATIVE AND OPERATIONAL SUPPORT

ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for the Nominating Committee to carry out its responsibilities.

Section 8.7. PROCEDURES

The Nominating Committee shall adopt such operating procedures as it deems necessary, which shall be published on the Website.

Section 8.8. INELIGIBILITY FOR SELECTION BY NOMINATING COMMITTEE

No person who serves on the Nominating Committee in any capacity shall be eligible for nomination by any means to any position on the Board or any other ICANN (Internet Corporation for Assigned Names and Numbers) body having one or more membership positions that the Nominating Committee is responsible for filling, until the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting that coincides with, or is after, the conclusion of that person's service on the Nominating Committee.

Section 8.9. INELIGIBILITY FOR SERVICE ON NOMINATING COMMITTEE

No person who is an employee of or paid consultant to ICANN (Internet Corporation for Assigned Names and Numbers) (including the Ombudsman) shall simultaneously serve in any of the Nominating Committee positions described in Section 8.2.

ARTICLE 9 ADDRESS SUPPORTING ORGANIZATION

Section 9.1. DESCRIPTION

(a) The Address Supporting Organization (Supporting Organization) ("**Address Supporting Organization (Supporting Organization)**" or "**ASO (Address**

Supporting Organization)") shall advise the Board with respect to policy issues relating to the operation, assignment, and management of Internet addresses.

(b) The ASO (Address Supporting Organization) shall be the entity established by the Memorandum of Understanding entered on 21 October 2004 between ICANN (Internet Corporation for Assigned Names and Numbers) and the Number Resource Organization ("**NRO (Number Resource Organization)**"), an organization of the existing RIRs.

Section 9.2. ADDRESS COUNCIL

(a) The ASO (Address Supporting Organization) shall have an Address Council, consisting of the members of the NRO (Number Resource Organization) Number Council.

(b) The Address Council shall nominate individuals to fill Seats 9 and 10 on the Board. Notification of the Address Council's nominations shall be given by the Address Council in writing to the EC (Empowered Community) Administration, with a copy to the Secretary, and the EC (Empowered Community) shall promptly act on it as provided in Section 7.25.

ARTICLE 10 COUNTRY-CODE NAMES SUPPORTING ORGANIZATION

Section 10.1. DESCRIPTION

There shall be a policy-development body known as the Country-Code Names Supporting Organization (Supporting Organization) ("**ccNSO (Country Code Names Supporting Organization)**"), which shall be responsible for:

(a) developing and recommending to the Board global policies relating to country-code top-level domains;

(b) Nurturing consensus across the ccNSO (Country Code Names Supporting Organization)'s community, including the name-related activities of ccTLDs;

(c) Coordinating with other ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organizations (Supporting Organizations), committees, and constituencies under ICANN (Internet Corporation for Assigned Names and Numbers);

(d) Nominating individuals to fill Seats 11 and 12 on the Board; and

(e) Other responsibilities of the ccNSO (Country Code Names Supporting Organization) as set forth in these Bylaws.

Policies that apply to ccNSO (Country Code Names Supporting Organization) members by virtue of their membership are only those policies developed according to Section 10.4(j) and Section 10.4(k). However, the ccNSO (Country Code Names Supporting Organization) may also engage in other activities authorized by its members. Adherence to the results of these activities will be voluntary and such activities may include: seeking to develop voluntary best practices for ccTLD (Country Code Top Level Domain) managers, assisting in skills building within the global community of ccTLD (Country Code Top Level Domain) managers, and enhancing operational and technical cooperation among ccTLD (Country Code Top Level Domain) managers.

Section 10.2. ORGANIZATION

The ccNSO (Country Code Names Supporting Organization) shall consist of (a) ccTLD (Country Code Top Level Domain) managers that have agreed in writing to be members of the ccNSO (Country Code Names Supporting Organization) (see Section 10.4(b)) and (b) a ccNSO (Country Code Names Supporting Organization) Council responsible for managing the policy-development process of the ccNSO (Country Code Names Supporting Organization).

Section 10.3. ccNSO (Country Code Names Supporting Organization) COUNCIL

(a) The ccNSO (Country Code Names Supporting Organization) Council shall consist of three ccNSO (Country Code Names Supporting Organization) Council members selected by the ccNSO (Country Code Names Supporting Organization) members within each of ICANN (Internet Corporation for Assigned Names and Numbers)'s Geographic Regions in the manner described in Section 10.4(g) through Section 10.4(i); (ii) three ccNSO (Country Code Names Supporting Organization) Council members selected by the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee; (iii) liaisons as described in Section 10.3(b); and (iv) observers as described in Section 10.3(c).

(b) There shall also be one liaison to the ccNSO (Country Code Names Supporting Organization) Council from each of the following organizations, to the extent they choose to appoint such a liaison: (i) the Governmental Advisory Committee (Advisory Committee); (ii) the At-Large Advisory Committee (Advisory Committee); and (iii) each of the Regional Organizations described in Section 10.5. These liaisons shall not be members of or entitled to vote on the ccNSO

(Country Code Names Supporting Organization) Council, but otherwise shall be entitled to participate on equal footing with members of the ccNSO (Country Code Names Supporting Organization) Council. Appointments of liaisons shall be made by providing written notice to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, with a notification copy to the ccNSO (Country Code Names Supporting Organization) Council Chair, and shall be for the term designated by the appointing organization as stated in the written notice. The appointing organization may recall from office or replace its liaison at any time by providing written notice of the recall or replacement to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, with a notification copy to the ccNSO (Country Code Names Supporting Organization) Council Chair.

(c) The ccNSO (Country Code Names Supporting Organization) Council may agree with the Council of any other ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organization (Supporting Organization) to exchange observers. Such observers shall not be members of or entitled to vote on the ccNSO (Country Code Names Supporting Organization) Council, but otherwise shall be entitled to participate on equal footing with members of the ccNSO (Country Code Names Supporting Organization) Council. The appointing Council may designate its observer (or revoke or change the designation of its observer) on the ccNSO (Country Code Names Supporting Organization) Council at any time by providing written notice to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, with a notification copy to the ccNSO (Country Code Names Supporting Organization) Council Chair.

(d) (i) the regular term of each ccNSO (Country Code Names Supporting Organization) Council member shall begin at the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting and shall end at the conclusion of the third ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting thereafter; (ii) the regular terms of the three ccNSO (Country Code Names Supporting Organization) Council members selected by the ccNSO (Country Code Names Supporting Organization) members within each ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region shall be staggered so that one member's term begins in a year divisible by three, a second member's term begins in the first year following a year divisible by three, and the third member's term begins in the second year following a year divisible by three; and (iii) the regular terms of the three ccNSO (Country Code Names Supporting Organization) Council members selected by the Nominating Committee shall be staggered in the same manner. Each ccNSO (Country Code Names Supporting Organization) Council member shall hold office during his or her regular term and until a successor has been

selected and qualified or until that member resigns or is removed in accordance with these Bylaws.

(e) A ccNSO (Country Code Names Supporting Organization) Council member may resign at any time by giving written notice to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, with a notification copy to the ccNSO (Country Code Names Supporting Organization) Council Chair.

(f) ccNSO (Country Code Names Supporting Organization) Council members may be removed for not attending three consecutive meetings of the ccNSO (Country Code Names Supporting Organization) Council without sufficient cause or for grossly inappropriate behavior, both as determined by at least a 66% vote of all of the members of the ccNSO (Country Code Names Supporting Organization) Council.

(g) A vacancy on the ccNSO (Country Code Names Supporting Organization) Council shall be deemed to exist in the case of the death, resignation, or removal of any ccNSO (Country Code Names Supporting Organization) Council member. Vacancies in the positions of the three members selected by the Nominating Committee shall be filled for the unexpired term involved by the Nominating Committee giving the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary written notice of its selection, with a notification copy to the ccNSO (Country Code Names Supporting Organization) Council Chair. Vacancies in the positions of the ccNSO (Country Code Names Supporting Organization) Council members selected by ccNSO (Country Code Names Supporting Organization) members shall be filled for the unexpired term by the procedure described in Section 10.4(g) through (i).

(h) The role of the ccNSO (Country Code Names Supporting Organization) Council is to administer and coordinate the affairs of the ccNSO (Country Code Names Supporting Organization) (including coordinating meetings, including an annual meeting, of ccNSO (Country Code Names Supporting Organization) members as described in Section 10.4(f)) and to manage the development of policy recommendations in accordance with Section 10.6(a). The ccNSO (Country Code Names Supporting Organization) Council shall also undertake such other roles as the members of the ccNSO (Country Code Names Supporting Organization) shall decide from time to time.

(i) The ccNSO (Country Code Names Supporting Organization) Council shall nominate individuals to fill Seats 11 and 12 on the Board by written ballot or by action at a meeting; any such nomination must have affirmative votes of a majority of all the members of the ccNSO (Country Code Names Supporting Organization) Council then in office. Notification of the ccNSO (Country Code

Names Supporting Organization) Council's nominations shall be given by the ccNSO (Country Code Names Supporting Organization) Council Chair in writing to the EC (Empowered Community) Administration, with a copy to the Secretary, and the EC (Empowered Community) shall promptly act on it as provided in Section 7.25.

(j) The ccNSO (Country Code Names Supporting Organization) Council shall select from among its members the ccNSO (Country Code Names Supporting Organization) Council Chair and such Vice Chair(s) as it deems appropriate. Selections of the ccNSO (Country Code Names Supporting Organization) Council Chair and Vice Chair(s) shall be by written ballot or by action at a meeting; any such selection must have affirmative votes of a majority of all the members of the ccNSO (Country Code Names Supporting Organization) Council then in office. The term of office of the ccNSO (Country Code Names Supporting Organization) Council Chair and any Vice Chair(s) shall be as specified by the ccNSO (Country Code Names Supporting Organization) Council at or before the time the selection is made. The ccNSO (Country Code Names Supporting Organization) Council Chair or any Vice Chair(s) may be recalled from office by the same procedure as used for selection.

(k) The ccNSO (Country Code Names Supporting Organization) Council, subject to direction by the ccNSO (Country Code Names Supporting Organization) members, shall adopt such rules and procedures for the ccNSO (Country Code Names Supporting Organization) as it deems necessary, provided they are consistent with these Bylaws. Rules for ccNSO (Country Code Names Supporting Organization) membership and operating procedures adopted by the ccNSO (Country Code Names Supporting Organization) Council shall be published on the Website.

(l) Except as provided by Section 10.3(i) and Section 10.3(j), the ccNSO (Country Code Names Supporting Organization) Council shall act at meetings. The ccNSO (Country Code Names Supporting Organization) Council shall meet regularly on a schedule it determines, but not fewer than four times each calendar year. At the discretion of the ccNSO (Country Code Names Supporting Organization) Council, meetings may be held in person or by other means, provided that all ccNSO (Country Code Names Supporting Organization) Council members are permitted to participate by at least one means described in Section 10.3(n). Except where determined by a majority vote of the members of the ccNSO (Country Code Names Supporting Organization) Council present that a closed session is appropriate, physical meetings shall be open to attendance by all interested persons. To the extent practicable, ccNSO (Country Code Names Supporting Organization) Council meetings should be held in conjunction with meetings of

the Board, or of one or more of ICANN (Internet Corporation for Assigned Names and Numbers)'s other Supporting Organizations (Supporting Organizations).

(m) Notice of time and place (and information about means of participation other than personal attendance) of all meetings of the ccNSO (Country Code Names Supporting Organization) Council shall be provided to each ccNSO (Country Code Names Supporting Organization) Council member, liaison, and observer by e-mail, telephone, facsimile, or a paper notice delivered personally or by postal mail. In case the notice is sent by postal mail, it shall be sent at least 21 days before the day of the meeting. In case the notice is delivered personally or by telephone, facsimile, or e-mail it shall be provided at least seven days before the day of the meeting. At least seven days in advance of each ccNSO (Country Code Names Supporting Organization) Council meeting (or if not practicable, as far in advance as is practicable), a notice of such meeting and, to the extent known, an agenda for the meeting shall be posted.

(n) Members of the ccNSO (Country Code Names Supporting Organization) Council may participate in a meeting of the ccNSO (Country Code Names Supporting Organization) Council through personal attendance or use of electronic communication (such as telephone or video conference), provided that (i) all ccNSO (Country Code Names Supporting Organization) Council members participating in the meeting can speak to and hear one another, (ii) all ccNSO (Country Code Names Supporting Organization) Council members participating in the meeting are provided the means of fully participating in all matters before the ccNSO (Country Code Names Supporting Organization) Council, and (iii)there is a reasonable means of verifying the identity of ccNSO (Country Code Names Supporting Organization) Council members participating in the meeting and their votes. A majority of the ccNSO (Country Code Names Supporting Organization) Council members (i.e. those entitled to vote) then in office shall constitute a quorum for the transaction of business, and actions by a majority vote of the ccNSO (Country Code Names Supporting Organization) Council members present at any meeting at which there is a quorum shall be actions of the ccNSO (Country Code Names Supporting Organization) Council, unless otherwise provided in these Bylaws. The ccNSO (Country Code Names Supporting Organization) Council shall transmit minutes of its meetings to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, who shall cause those minutes to be posted to the Website as soon as practicable following the meeting, and no later than 21 days following the meeting.

Section 10.4. MEMBERSHIP

(a) The ccNSO (Country Code Names Supporting Organization) shall have a membership consisting of ccTLD (Country Code Top Level Domain) managers.

Any ccTLD (Country Code Top Level Domain) manager that meets the membership qualifications stated in Section 10.4(b) shall be entitled to be members of the ccNSO (Country Code Names Supporting Organization). For purposes of this Article 10, a ccTLD (Country Code Top Level Domain) manager is the organization or entity responsible for managing an ISO (International Organization for Standardization) 3166 country-code top-level domain, or under any later variant, for that country-code top-level domain.

(b) Any ccTLD (Country Code Top Level Domain) manager may become a ccNSO (Country Code Names Supporting Organization) member by submitting an application to a person designated by the ccNSO (Country Code Names Supporting Organization) Council to receive applications. The application shall be in writing in a form designated by the ccNSO (Country Code Names Supporting Organization) Council. The application shall include the ccTLD (Country Code Top Level Domain) manager's recognition of the role of the ccNSO (Country Code Names Supporting Organization) within the ICANN (Internet Corporation for Assigned Names and Numbers) structure as well as the ccTLD (Country Code Top Level Domain) manager's agreement, for the duration of its membership in the ccNSO (Country Code Names Supporting Organization), (i) to adhere to rules of the ccNSO (Country Code Names Supporting Organization), including membership rules, (ii) to abide by policies developed and recommended by the ccNSO (Country Code Names Supporting Organization) and adopted by the Board in the manner described by Section 10.4(j) and Section 10.4(k), and (ii) to pay ccNSO (Country Code Names Supporting Organization) membership fees established by the ccNSO (Country Code Names Supporting Organization) Council under Section 10.7(c). A ccNSO (Country Code Names Supporting Organization) member may resign from membership at any time by giving written notice to a person designated by the ccNSO (Country Code Names Supporting Organization) Council to receive notices of resignation. Upon resignation the ccTLD (Country Code Top Level Domain) manager ceases to agree to (A)adhere to rules of the ccNSO (Country Code Names Supporting Organization), including membership rules, (B) to abide by policies developed and recommended by the ccNSO (Country Code Names Supporting Organization) and adopted by the Board in the manner described by Section 10.4(j) and Section 10.4(k), and (C) to pay ccNSO (Country Code Names Supporting Organization) membership fees established by the ccNSO (Country Code Names Supporting Organization) Council under Section 10.7(c). In the absence of designation by the ccNSO (Country Code Names Supporting Organization) Council of a person to receive applications and notices of resignation, they shall be sent to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary, who shall notify the ccNSO (Country Code Names Supporting Organization) Council of receipt of any such applications and notices.

(c) Neither membership in the ccNSO (Country Code Names Supporting Organization) nor membership in any Regional Organization described in Section 10.5 shall be a condition for access to or registration in the IANA (Internet Assigned Numbers Authority) database. Any individual relationship a ccTLD (Country Code Top Level Domain) manager has with ICANN (Internet Corporation for Assigned Names and Numbers) or the ccTLD (Country Code Top Level Domain) manager's receipt of IANA (Internet Assigned Numbers Authority) services is not in any way contingent upon membership in the ccNSO (Country Code Names Supporting Organization).

(d) The Geographic Regions of ccTLDs shall be as described in Section 7.5. For purposes of this Article 10, managers of ccTLDs within a Geographic Region that are members of the ccNSO (Country Code Names Supporting Organization) are referred to as ccNSO (Country Code Names Supporting Organization) members "within" the Geographic Region, regardless of the physical location of the ccTLD (Country Code Top Level Domain) manager. In cases where the Geographic Region of a ccNSO (Country Code Names Supporting Organization) member is unclear, the ccTLD (Country Code Top Level Domain) member should self-select according to procedures adopted by the ccNSO (Country Code Names Supporting Organization) Council.

(e) Each ccTLD (Country Code Top Level Domain) manager may designate in writing a person, organization, or entity to represent the ccTLD (Country Code Top Level Domain) manager. In the absence of such a designation, the ccTLD (Country Code Top Level Domain) manager shall be represented by the person, organization, or entity listed as the administrative contact in the IANA (Internet Assigned Numbers Authority) database.

(f) There shall be an annual meeting of ccNSO (Country Code Names Supporting Organization) members, which shall be coordinated by the ccNSO (Country Code Names Supporting Organization) Council. Annual meetings should be open for all to attend, and a reasonable opportunity shall be provided for ccTLD (Country Code Top Level Domain) managers that are not members of the ccNSO (Country Code Names Supporting Organization) as well as other non-members of the ccNSO (Country Code Names Supporting Organization) to address the meeting. To the extent practicable, annual meetings of the ccNSO (Country Code Names Supporting Organization) members shall be held in person and should be held in conjunction with meetings of the Board, or of one or more of ICANN (Internet Corporation for Assigned Names and Numbers)'s other Supporting Organizations (Supporting Organizations).

(g) The ccNSO (Country Code Names Supporting Organization) Council members selected by the ccNSO (Country Code Names Supporting

Organization) members from each Geographic Region (see Section 10.3(a)(i)) shall be selected through nomination, and if necessary election, by the ccNSO (Country Code Names Supporting Organization) members within that Geographic Region. At least 90 days before the end of the regular term of any ccNSO (Country Code Names Supporting Organization)-member-selected member of the ccNSO (Country Code Names Supporting Organization) Council, or upon the occurrence of a vacancy in the seat of such a ccNSO (Country Code Names Supporting Organization) Council member, the ccNSO (Country Code Names Supporting Organization) Council shall establish a nomination and election schedule, which shall be sent to all ccNSO (Country Code Names Supporting Organization) members within the Geographic Region and posted on the Website.

(h) Any ccNSO (Country Code Names Supporting Organization) member may nominate an individual to serve as a ccNSO (Country Code Names Supporting Organization) Council member representing the ccNSO (Country Code Names Supporting Organization) member's Geographic Region. Nominations must be seconded by another ccNSO (Country Code Names Supporting Organization) member from the same Geographic Region. By accepting their nomination, individuals nominated to the ccNSO (Country Code Names Supporting Organization) Council agree to support the policies committed to by ccNSO (Country Code Names Supporting Organization) members.

(i) If at the close of nominations there are no more candidates nominated (with seconds and acceptances) in a particular Geographic Region than there are seats on the ccNSO (Country Code Names Supporting Organization) Council available for that Geographic Region, then the nominated candidates shall be selected to serve on the ccNSO (Country Code Names Supporting Organization) Council. Otherwise, an election by written ballot (which may be by e-mail) shall be held to select the ccNSO (Country Code Names Supporting Organization) Council members from among those nominated (with seconds and acceptances), with ccNSO (Country Code Names Supporting Organization) members from the Geographic Region being entitled to vote in the election through their designated representatives. In such an election, a majority of all ccNSO (Country Code Names Supporting Organization) members in the Geographic Region entitled to vote shall constitute a quorum, and the selected candidate must receive the votes of a majority of those cast by ccNSO (Country Code Names Supporting Organization) members within the Geographic Region. The ccNSO (Country Code Names Supporting Organization) Council Chair shall provide the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary prompt written notice of the selection of ccNSO (Country Code Names Supporting Organization) Council members under this paragraph.

(j) Subject to Section 10.4(k), ICANN (Internet Corporation for Assigned Names and Numbers) policies shall apply to ccNSO (Country Code Names Supporting Organization) members by virtue of their membership to the extent, and only to the extent, that the policies (i) only address issues that are within scope of the ccNSO (Country Code Names Supporting Organization) according to Section 10.6(a) and Annex C; (ii) have been developed through the ccPDP as described in Section 10.6, and (iii) have been recommended as such by the ccNSO (Country Code Names Supporting Organization) to the Board, and (iv) are adopted by the Board as policies, provided that such policies do not conflict with the law applicable to the ccTLD (Country Code Top Level Domain) manager which shall, at all times, remain paramount. In addition, such policies shall apply to ICANN (Internet Corporation for Assigned Names and Numbers) in its activities concerning ccTLDs.

(k) A ccNSO (Country Code Names Supporting Organization) member shall not be bound if it provides a declaration to the ccNSO (Country Code Names Supporting Organization) Council stating that (i) implementation of the policy would require the member to breach custom, religion, or public policy (not embodied in the applicable law described in Section 10.4(j)), and (ii) failure to implement the policy would not impair DNS (Domain Name System) operations or interoperability, giving detailed reasons supporting its statements. After investigation, the ccNSO (Country Code Names Supporting Organization) Council will provide a response to the ccNSO (Country Code Names Supporting Organization) member's declaration. If there is a ccNSO (Country Code Names Supporting Organization) Council consensus disagreeing with the declaration, which may be demonstrated by a vote of 14 or more members of the ccNSO (Country Code Names Supporting Organization) Council, the response shall state the ccNSO (Country Code Names Supporting Organization) Council's disagreement with the declaration and the reasons for disagreement. Otherwise, the response shall state the ccNSO (Country Code Names Supporting Organization) Council's agreement with the declaration. If the ccNSO (Country Code Names Supporting Organization) Council disagrees, the ccNSO (Country Code Names Supporting Organization) Council shall review the situation after a six-month period. At the end of that period, the ccNSO (Country Code Names Supporting Organization) Council shall make findings as to (A) whether the ccNSO (Country Code Names Supporting Organization) members' implementation of the policy would require the member to breach custom, religion, or public policy (not embodied in the applicable law described in Section 10.4(j)) and (B) whether failure to implement the policy would impair DNS (Domain Name System) operations or interoperability. In making any findings disagreeing with the declaration, the ccNSO (Country Code Names Supporting Organization) Council shall proceed by consensus, which may be demonstrated

by a vote of 14 or more members of the ccNSO (Country Code Names Supporting Organization) Council.

Section 10.5. REGIONAL ORGANIZATIONS

The ccNSO (Country Code Names Supporting Organization) Council may designate a Regional Organization for each ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region, provided that the Regional Organization is open to full membership by all ccNSO (Country Code Names Supporting Organization) members within the Geographic Region. Decisions to designate or de-designate a Regional Organization shall require a 66% vote of all of the members of the ccNSO (Country Code Names Supporting Organization) Council and shall be subject to review according to procedures established by the Board.

Section 10.6. ccNSO (Country Code Names Supporting Organization) POLICY-DEVELOPMENT PROCESS AND SCOPE

(a) The scope of the ccNSO (Country Code Names Supporting Organization)'s policy-development role shall be as stated in Annex C to these Bylaws; any modifications to the scope shall be recommended to the Board by the ccNSO (Country Code Names Supporting Organization) by use of the procedures of the ccPDP, and shall be subject to approval by the Board.

(b) In developing global policies within the scope of the ccNSO (Country Code Names Supporting Organization) and recommending them to the Board, the ccNSO (Country Code Names Supporting Organization) shall follow the ccNSO (Country Code Names Supporting Organization) Policy-Development Process ("**ccPDP**"). The ccPDP shall be as stated in Annex B to these Bylaws; modifications shall be recommended to the Board by the ccNSO (Country Code Names Supporting Organization) by use of the procedures of the ccPDP, and shall be subject to approval by the Board.

Section 10.7. STAFF SUPPORT AND FUNDING

(a) Upon request of the ccNSO (Country Code Names Supporting Organization) Council, a member of the ICANN (Internet Corporation for Assigned Names and Numbers) staff may be assigned to support the ccNSO (Country Code Names Supporting Organization) and shall be designated as the ccNSO (Country Code Names Supporting Organization) Staff Manager. Alternatively, the ccNSO (Country Code Names Supporting Organization) Council may designate, at ccNSO (Country Code Names Supporting Organization) expense, another person

to serve as ccNSO (Country Code Names Supporting Organization) Staff Manager. The work of the ccNSO (Country Code Names Supporting Organization) Staff Manager on substantive matters shall be assigned by the Chair of the ccNSO (Country Code Names Supporting Organization) Council, and may include the duties of ccPDP Issue Manager.

(b) Upon request of the ccNSO (Country Code Names Supporting Organization) Council, ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for the ccNSO (Country Code Names Supporting Organization) to carry out its responsibilities. Such support shall not include an obligation for ICANN (Internet Corporation for Assigned Names and Numbers) to fund travel expenses incurred by ccNSO (Country Code Names Supporting Organization) participants for travel to any meeting of the ccNSO (Country Code Names Supporting Organization) or for any other purpose. The ccNSO (Country Code Names Supporting Organization) Council may make provision, at ccNSO (Country Code Names Supporting Organization) expense, for administrative and operational support in addition or as an alternative to support provided by ICANN (Internet Corporation for Assigned Names and Numbers).

(c) The ccNSO (Country Code Names Supporting Organization) Council shall establish fees to be paid by ccNSO (Country Code Names Supporting Organization) members to defray ccNSO (Country Code Names Supporting Organization) expenses as described in Section 10.7(a) and Section 10.7(b), as approved by the ccNSO (Country Code Names Supporting Organization) members.

(d) Written notices given to the Secretary under this Article 10 shall be permanently retained, and shall be made available for review by the ccNSO (Country Code Names Supporting Organization) Council on request. The Secretary shall also maintain the roll of members of the ccNSO (Country Code Names Supporting Organization), which shall include the name of each ccTLD (Country Code Top Level Domain) manager's designated representative, and which shall be posted on the Website.

ARTICLE 11 GENERIC NAMES SUPPORTING ORGANIZATION

Section 11.1. DESCRIPTION

There shall be a policy-development body known as the Generic Names Supporting Organization (Supporting Organization) (the "**Generic Names Supporting Organization (Supporting Organization)**" or "**GNSO (Generic**

Names Supporting Organization)", and collectively with the ASO (Address Supporting Organization) and ccNSO (Country Code Names Supporting Organization), the "**Supporting Organizations (Supporting Organizations)**")), which shall be responsible for developing and recommending to the Board substantive policies relating to generic top-level domains and other responsibilities of the GNSO (Generic Names Supporting Organization) as set forth in these Bylaws.

Section 11.2. ORGANIZATION

The GNSO (Generic Names Supporting Organization) shall consist of:

(a) A number of Constituencies, where applicable, organized within the Stakeholder Groups as described in Section 11.5;

(b) Four Stakeholder Groups organized within Houses as described in Section 11.5;

(c) Two Houses within the GNSO (Generic Names Supporting Organization) Council as described in Section 11.3(h);

(d) A GNSO (Generic Names Supporting Organization) Council responsible for managing the policy development process of the GNSO (Generic Names Supporting Organization), as described in Section 11.3; and

(e) Except as otherwise defined in these Bylaws, the four Stakeholder Groups and the Constituencies will be responsible for defining their own charters with the approval of their members and of the Board.

Section 11.3. GNSO (Generic Names Supporting Organization) COUNCIL

(a) Subject to Section 11.5, the GNSO (Generic Names Supporting Organization) Council shall consist of:

> (i) three representatives selected from the Registries Stakeholder Group;
>
> (ii) three representatives selected from the Registrars Stakeholder Group;
>
> (iii) six representatives selected from the Commercial Stakeholder Group;
>
> (iv) six representatives selected from the Non-Commercial Stakeholder Group; and

> (v) three representatives selected by the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee, one of which shall be non-voting, but otherwise entitled to participate on equal footing with other members of the GNSO (Generic Names Supporting Organization) Council including, e.g. the making and seconding of motions and of serving as Chair if elected. One Nominating Committee appointee voting representative shall be assigned to each House (as described in Section 11.3(h)) by the Nominating Committee.

No individual representative may hold more than one seat on the GNSO (Generic Names Supporting Organization) Council at the same time.

Stakeholder Groups should, in their charters, ensure their representation on the GNSO (Generic Names Supporting Organization) Council is as diverse as possible and practicable, including considerations of geography, GNSO (Generic Names Supporting Organization) Constituency, sector, ability and gender.

There may also be liaisons to the GNSO (Generic Names Supporting Organization) Council from other ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organizations (Supporting Organizations) and/or Advisory Committees (Advisory Committees), from time to time. The appointing organization shall designate, revoke, or change its liaison on the GNSO (Generic Names Supporting Organization) Council by providing written notice to the Chair of the GNSO (Generic Names Supporting Organization) Council and to the ICANN (Internet Corporation for Assigned Names and Numbers) Secretary. Liaisons shall not be members of or entitled to vote, to make or second motions, or to serve as an officer on the GNSO (Generic Names Supporting Organization) Council, but otherwise liaisons shall be entitled to participate on equal footing with members of the GNSO (Generic Names Supporting Organization) Council.

(b) The regular term of each GNSO (Generic Names Supporting Organization) Council member shall begin at the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting and shall end at the conclusion of the second ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting thereafter. The regular term of two representatives selected from Stakeholder Groups with three Council seats shall begin in even-numbered years and the regular term of the other representative selected from that Stakeholder Group shall begin in odd-numbered years. The regular term of three representatives selected from Stakeholder Groups with six Council seats shall begin in even-numbered years and the regular term of the other three representatives selected from that Stakeholder Group shall begin in odd-numbered years. The regular term of one of the three members selected by the

Nominating Committee shall begin in even-numbered years and the regular term of the other two of the three members selected by the Nominating Committee shall begin in odd-numbered years. Each GNSO (Generic Names Supporting Organization) Council member shall hold office during his or her regular term and until a successor has been selected and qualified or until that member resigns or is removed in accordance with these Bylaws.

Except in a "special circumstance," such as, but not limited to, meeting geographic or other diversity requirements defined in the Stakeholder Group charters, where no alternative representative is available to serve, no Council member may be selected to serve more than two consecutive terms, in such a special circumstance a Council member may serve one additional term. For these purposes, a person selected to fill a vacancy in a term shall not be deemed to have served that term. A former Council member who has served two consecutive terms must remain out of office for one full term prior to serving any subsequent term as Council member. A "special circumstance" is defined in the GNSO (Generic Names Supporting Organization) Operating Procedures.

(c) A vacancy on the GNSO (Generic Names Supporting Organization) Council shall be deemed to exist in the case of the death, resignation, or removal of any member. Vacancies shall be filled for the unexpired term by the appropriate Nominating Committee or Stakeholder Group that selected the member holding the position before the vacancy occurred by giving the GNSO (Generic Names Supporting Organization) Secretariat written notice of its selection. Procedures for handling Stakeholder Group-appointed GNSO (Generic Names Supporting Organization) Council member vacancies, resignations, and removals are prescribed in the applicable Stakeholder Group Charter.

A GNSO (Generic Names Supporting Organization) Council member selected by the Nominating Committee may be removed for cause: (i) stated by a three-fourths (3/4) vote of all members of the applicable House to which the Nominating Committee appointee is assigned; or (ii) stated by a three-fourths (3/4) vote of all members of each House in the case of the non-voting Nominating Committee appointee (see Section 11.3(h)). Such removal shall be subject to reversal by the ICANN (Internet Corporation for Assigned Names and Numbers) Board on appeal by the affected GNSO (Generic Names Supporting Organization) Council member.

(d) The GNSO (Generic Names Supporting Organization) Council is responsible for managing the policy development process of the GNSO (Generic Names Supporting Organization). It shall adopt such procedures (the "**GNSO (Generic Names Supporting Organization) Operating Procedures**") as it sees fit to carry out that responsibility, provided that such procedures are approved by a

majority vote of each House. The GNSO (Generic Names Supporting Organization) Operating Procedures shall be effective upon the expiration of a twenty-one (21) day public comment period, and shall be subject to Board oversight and review. Until any modifications are recommended by the GNSO (Generic Names Supporting Organization) Council, the applicable procedures shall be as set forth in Section 11.6.

(e) No more than one officer, director or employee of any particular corporation or other organization (including its subsidiaries and affiliates) shall serve on the GNSO (Generic Names Supporting Organization) Council at any given time.

(f) The GNSO (Generic Names Supporting Organization) shall nominate by written ballot or by action at a meeting individuals to fill Seats 13 and 14 on the Board. Each of the two voting Houses of the GNSO (Generic Names Supporting Organization), as described in Section 11.3(h), shall make a nomination to fill one of two Board seats, as outlined below; any such nomination must have affirmative votes compromising sixty percent (60%) of all the respective voting House members:

> (i) the Contracted Parties House (as described in Section 11.3(h)(i)) shall select a representative to fill Seat 13; and
>
> (ii) the Non-Contracted Parties House (as described in Section 11.3(h)(ii)) shall select a representative to fill Seat 14.

Election procedures are defined in the GNSO (Generic Names Supporting Organization) Operating Procedures.

Notification of the Board seat nominations shall be given by the GNSO (Generic Names Supporting Organization) Chair in writing to the EC (Empowered Community) Administration, with a copy to the Secretary, and the EC (Empowered Community) shall promptly act on it as provided in Section 7.25.

(g) The GNSO (Generic Names Supporting Organization) Council shall select the GNSO (Generic Names Supporting Organization) Chair for a term the GNSO (Generic Names Supporting Organization) Council specifies, but not longer than one year. Each House (as described in Section 11.3(h)) shall select a Vice-Chair, who will be a Vice-Chair of the whole of the GNSO (Generic Names Supporting Organization) Council, for a term the GNSO (Generic Names Supporting Organization) Council specifies, but not longer than one year. The procedures for selecting the Chair and any other officers are contained in the GNSO (Generic Names Supporting Organization) Operating Procedures. In the event that the

GNSO (Generic Names Supporting Organization) Council has not elected a GNSO (Generic Names Supporting Organization) Chair by the end of the previous Chair's term, the Vice-Chairs will serve as Interim GNSO (Generic Names Supporting Organization) Co-Chairs until a successful election can be held.

(h) Except as otherwise required in these Bylaws, for voting purposes, the GNSO (Generic Names Supporting Organization) Council (see Section 11.3(a)) shall be organized into a bicameral House structure as described below:

> (i) the Contracted Parties House includes the Registries Stakeholder Group (three members), the Registrars Stakeholder Group (three members), and one voting member appointed by the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee for a total of seven voting members; and
>
> (ii) the Non Contracted Parties House includes the Commercial Stakeholder Group (six members), the Non-Commercial Stakeholder Group (six members), and one voting member appointed by the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee to that House for a total of thirteen voting members.

Except as otherwise specified in these Bylaws, each member of a voting House is entitled to cast one vote in each separate matter before the GNSO (Generic Names Supporting Organization) Council.

(i) Except as otherwise specified in these Bylaws, Annex A, Annex A-1 or Annex A-2 hereto, or the GNSO (Generic Names Supporting Organization) Operating Procedures, the default threshold to pass a GNSO (Generic Names Supporting Organization) Council motion or other voting action requires a simple majority vote of each House. The voting thresholds described below shall apply to the following GNSO (Generic Names Supporting Organization) actions:

> (i) Create an Issues Report: requires an affirmative vote of more than one-fourth (1/4) vote of each House or majority of one House.
>
> (ii) Initiate a Policy Development Process ("**PDP (Policy Development Process)**") Within Scope (as described in Annex A): requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.

(iii) Initiate a PDP (Policy Development Process) Not Within Scope: requires an affirmative vote of GNSO (Generic Names Supporting Organization) Supermajority (as defined in Section 11.3(i)(xix)).

(iv) Approve a PDP (Policy Development Process) Team Charter for a PDP (Policy Development Process) Within Scope: requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.

(v) Approve a PDP (Policy Development Process) Team Charter for a PDP (Policy Development Process) Not Within Scope: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(vi) Changes to an Approved PDP (Policy Development Process) Team Charter: For any PDP (Policy Development Process) Team Charter approved under (iv) or (v) above, the GNSO (Generic Names Supporting Organization) Council may approve an amendment to the Charter through a simple majority vote of each House.

(vii) Terminate a PDP (Policy Development Process): Once initiated, and prior to the publication of a Final Report, the GNSO (Generic Names Supporting Organization) Council may terminate a PDP (Policy Development Process) only for significant cause, upon a motion that passes with a GNSO (Generic Names Supporting Organization) Supermajority Vote in favor of termination.

(viii) Approve a PDP (Policy Development Process) Recommendation Without a GNSO (Generic Names Supporting Organization) Supermajority: requires an affirmative vote of a majority of each House and further requires that one GNSO (Generic Names Supporting Organization) Council member representative of at least 3 of the 4 Stakeholder Groups supports the Recommendation.

(ix) Approve a PDP (Policy Development Process) Recommendation With a GNSO (Generic Names Supporting Organization) Supermajority: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority,

(x) Approve a PDP (Policy Development Process) Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN (Internet Corporation for Assigned Names and Numbers) contract provision specifies that "a two-thirds vote of the council" demonstrates the presence

of a consensus, the GNSO (Generic Names Supporting Organization) Supermajority vote threshold will have to be met or exceeded.

(xi) Modification of Approved PDP (Policy Development Process) Recommendation: Prior to Final Approval by the Board, an Approved PDP (Policy Development Process) Recommendation may be modified or amended by the GNSO (Generic Names Supporting Organization) Council with a GNSO (Generic Names Supporting Organization) Supermajority vote.

(xii) Initiation of an Expedited Policy Development Process ("**EPDP**"): requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(xiii) Approve an EPDP Team Charter: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(xiv) Approval of EPDP Recommendations: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(xv) Approve an EPDP Recommendation Imposing New Obligations on Certain Contracting Parties: where an ICANN (Internet Corporation for Assigned Names and Numbers) contract provision specifies that "a two-thirds vote of the council" demonstrates the presence of a consensus, the GNSO (Generic Names Supporting Organization) Supermajority vote threshold will have to be met or exceeded.

(xvi) Initiation of a GNSO (Generic Names Supporting Organization) Guidance Process ("**GGP**"): requires an affirmative vote of more than one-third (1/3) of each House or more than two-thirds (2/3) of one House.

(xvii) Rejection of Initiation of a GGP Requested by the Board: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(xviii) Approval of GGP Recommendations: requires an affirmative vote of a GNSO (Generic Names Supporting Organization) Supermajority.

(xix) A "**GNSO (Generic Names Supporting Organization) Supermajority**" shall mean: (A) two-thirds (2/3) of the Council members of each House, or (B) three-fourths (3/4) of the Council members of one House and a majority of the Council members of the other House.

Section 11.4. STAFF SUPPORT AND FUNDING

(a) A member of the ICANN (Internet Corporation for Assigned Names and Numbers) staff shall be assigned to support the GNSO (Generic Names Supporting Organization), whose work on substantive matters shall be assigned by the Chair of the GNSO (Generic Names Supporting Organization) Council, and shall be designated as the GNSO (Generic Names Supporting Organization) Staff Manager ("**Staff Manager**").

(b) ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for the GNSO (Generic Names Supporting Organization) to carry out its responsibilities. Such support shall not include an obligation for ICANN (Internet Corporation for Assigned Names and Numbers) to fund travel expenses incurred by GNSO (Generic Names Supporting Organization) participants for travel to any meeting of the GNSO (Generic Names Supporting Organization) or for any other purpose. ICANN (Internet Corporation for Assigned Names and Numbers) may, at its discretion, fund travel expenses for GNSO (Generic Names Supporting Organization) participants under any travel support procedures or guidelines that it may adopt from time to time.

Section 11.5. STAKEHOLDER GROUPS

(a) The following "**Stakeholder Groups**" are hereby recognized as representative of a specific group of one or more "**Constituencies**" or interest groups:

> (i) Registries Stakeholder Group representing all gTLD (generic Top Level Domain) registries under contract to ICANN (Internet Corporation for Assigned Names and Numbers);
>
> (ii) Registrars Stakeholder Group representing all registrars accredited by and under contract to ICANN (Internet Corporation for Assigned Names and Numbers);
>
> (iii) Commercial Stakeholder Group representing the full range of large and small commercial entities of the Internet ("**Commercial Stakeholder Group**"), which includes the Business Constituency ("**Business Constituency**"), Intellectual Property Constituency ("**Intellectual Property Constituency**") and the Internet Service Providers and Connectivity Providers Constituency ("**Internet Service Providers and Connectivity Providers Constituency**"); and
>
> (iv) Non-Commercial Stakeholder Group representing the full range of non-commercial entities of the Internet.

(b) Each Stakeholder Group is assigned a specific number of GNSO (Generic Names Supporting Organization) Council seats in accordance with Section 11.3(a).

(c) Each Stakeholder Group identified in Section 11.3(a) and each of its associated Constituencies, where applicable, shall maintain recognition with the ICANN (Internet Corporation for Assigned Names and Numbers) Board. Recognition is granted by the Board based upon the extent to which, in fact, the entity represents the global interests of the stakeholder communities it purports to represent and operates to the maximum extent feasible in an open and transparent manner consistent with procedures designed to ensure fairness. Stakeholder Group and Constituency Charters may be reviewed periodically as prescribed by the Board.

(d) Any group of individuals or entities may petition the Board for recognition as a new or separate Constituency in the Non-Contracted Parties House. Any such petition shall contain:

> (i) A detailed explanation of why the addition of such a Constituency will improve the ability of the GNSO (Generic Names Supporting Organization) to carry out its policy-development responsibilities;
>
> (ii) A detailed explanation of why the proposed new Constituency adequately represents, on a global basis, the stakeholders it seeks to represent;
>
> (iii) A recommendation for organizational placement within a particular Stakeholder Group; and
>
> (iv) A proposed charter that adheres to the principles and procedures contained in these Bylaws.

Any petition for the recognition of a new Constituency and the associated charter shall be posted for public comment.

(e) The Board may create new Constituencies as described in Section 11.5(c) in response to such a petition, or on its own motion, if the Board determines that such action would serve the purposes of ICANN (Internet Corporation for Assigned Names and Numbers). In the event the Board is considering acting on its own motion it shall post a detailed explanation of why such action is necessary or desirable, set a reasonable time for public comment, and not make a final

decision on whether to create such new Constituency until after reviewing all comments received. Whenever the Board posts a petition or recommendation for a new Constituency for public comment, the Board shall notify the GNSO (Generic Names Supporting Organization) Council and the appropriate Stakeholder Group affected and shall consider any response to that notification prior to taking action.

Section 11.6. POLICY DEVELOPMENT PROCESS

The policy-development procedures to be followed by the GNSO (Generic Names Supporting Organization) shall be as stated in Annex A to these Bylaws. These procedures may be supplemented or revised in the manner stated in Section 11.3(d).

ARTICLE 12 ADVISORY COMMITTEES

Section 12.1. GENERAL

The Board may create one or more "**Advisory Committees (Advisory Committees)**" in addition to those set forth in this Article 12. Advisory Committee (Advisory Committee) membership may consist of Directors only, Directors and non-directors, or non-directors only, and may also include non-voting or alternate members. Advisory Committees (Advisory Committees) shall have no legal authority to act for ICANN (Internet Corporation for Assigned Names and Numbers), but shall report their findings and recommendations to the Board.

Section 12.2. SPECIFIC ADVISORY COMMITTEES

There shall be at least the following Advisory Committees (Advisory Committees):

(a) Governmental Advisory Committee (Advisory Committee)

> (i) The Governmental Advisory Committee (Advisory Committee) should consider and provide advice on the activities of ICANN (Internet Corporation for Assigned Names and Numbers) as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN (Internet Corporation for Assigned Names and Numbers)'s policies and various laws and international agreements or where they may affect public policy issues.
>
> (ii) Membership in the Governmental Advisory Committee (Advisory Committee) shall be open to all national governments. Membership shall also be open to Distinct Economies as recognized in international fora, and

multinational governmental organizations and treaty organizations, on the invitation of the Governmental Advisory Committee (Advisory Committee) through its Chair.

(iii) The Governmental Advisory Committee (Advisory Committee) may adopt its own charter and internal operating principles or procedures to guide its operations, to be published on the Website.

(iv) The chair of the Governmental Advisory Committee (Advisory Committee) shall be elected by the members of the Governmental Advisory Committee (Advisory Committee) pursuant to procedures adopted by such members.

(v) Each member of the Governmental Advisory Committee (Advisory Committee) shall appoint one accredited representative to the Governmental Advisory Committee (Advisory Committee). The accredited representative of a member must hold a formal official position with the member's public administration. The term "official" includes a holder of an elected governmental office, or a person who is employed by such government, public authority, or multinational governmental or treaty organization and whose primary function with such government, public authority, or organization is to develop or influence governmental or public policies.

(vi) The Governmental Advisory Committee (Advisory Committee) shall annually appoint one Liaison to the Board, without limitation on reappointment, and shall annually appoint one non-voting liaison to the ICANN (Internet Corporation for Assigned Names and Numbers) Nominating Committee.

(vii) The Governmental Advisory Committee (Advisory Committee) may designate a non-voting liaison to each of the Supporting Organization (Supporting Organization) Councils and Advisory Committees (Advisory Committees), to the extent the Governmental Advisory Committee (Advisory Committee) deems it appropriate and useful to do so.

(viii) The Board shall notify the Chair of the Governmental Advisory Committee (Advisory Committee) in a timely manner of any proposal raising public policy issues on which it or any of the Supporting Organizations (Supporting Organizations) or Advisory Committees (Advisory Committees) seeks public comment, and shall take duly into account any timely response to that notification prior to taking action.

(ix) The Governmental Advisory Committee (Advisory Committee) may put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.

(x) The advice of the Governmental Advisory Committee (Advisory Committee) on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the Board determines to take an action that is not consistent with Governmental Advisory Committee (Advisory Committee) advice, it shall so inform the Governmental Advisory Committee (Advisory Committee) and state the reasons why it decided not to follow that advice. Any Governmental Advisory Committee (Advisory Committee) advice approved by a full Governmental Advisory Committee (Advisory Committee) consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection ("**GAC (Governmental Advisory Committee) Consensus (Consensus) Advice**"), may only be rejected by a vote of no less than 60% of the Board, and the Governmental Advisory Committee (Advisory Committee) and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee (Advisory Committee) will state whether any advice it gives to the Board is GAC (Governmental Advisory Committee) Consensus (Consensus) Advice.

(xi) If GAC (Governmental Advisory Committee) Consensus (Consensus) Advice is rejected by the Board pursuant to Section 12.2(a)(x) and if no such mutually acceptable solution can be found, the Board will state in its final decision the reasons why the Governmental Advisory Committee (Advisory Committee) advice was not followed, and such statement will be without prejudice to the rights or obligations of Governmental Advisory Committee (Advisory Committee) members with regard to public policy issues falling within their responsibilities.

(b) Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee)

(i) The role of the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) ("**Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee)**" or "**SSAC (Security and Stability Advisory Committee)**") is to advise the ICANN (Internet

Corporation for Assigned Names and Numbers) community and Board on matters relating to the security and integrity of the Internet's naming and address allocation systems. It shall have the following responsibilities:

(A) To communicate on security matters with the Internet technical community and the operators and managers of critical DNS (Domain Name System) infrastructure services, to include the root name server operator community, the top-level domain registries and registrars, the operators of the reverse delegation trees such as in-addr.arpa and ip6.arpa, and others as events and developments dictate. The SSAC (Security and Stability Advisory Committee) shall gather and articulate requirements to offer to those engaged in technical revision of the protocols related to DNS (Domain Name System) and address allocation and those engaged in operations planning.

(B) To engage in ongoing threat assessment and risk analysis of the Internet naming and address allocation services to assess where the principal threats to stability and security lie, and to advise the ICANN (Internet Corporation for Assigned Names and Numbers) community accordingly. The SSAC (Security and Stability Advisory Committee) shall recommend any necessary audit activity to assess the current status of DNS (Domain Name System) and address allocation security in relation to identified risks and threats.

(C) To communicate with those who have direct responsibility for Internet naming and address allocation security matters (IETF (Internet Engineering Task Force), RSSAC (Root Server System Advisory Committee) (as defined in Section 12.2(c)(i)), RIRs, name registries, etc.), to ensure that its advice on security risks, issues, and priorities is properly synchronized with existing standardization, deployment, operational, and coordination activities. The SSAC (Security and Stability Advisory Committee) shall monitor these activities and inform the ICANN (Internet Corporation for Assigned Names and Numbers) community and Board on their progress, as appropriate.

(D) To report periodically to the Board on its activities.

(E) To make policy recommendations to the ICANN (Internet Corporation for Assigned Names and Numbers) community and Board.

(ii) The SSAC (Security and Stability Advisory Committee)'s chair and members shall be appointed by the Board. SSAC (Security and Stability Advisory Committee) membership appointment shall be for a three-year

term, commencing on 1 January and ending the second year thereafter on 31 December. The chair and members may be re-appointed, and there are no limits to the number of terms the chair or members may serve. The SSAC (Security and Stability Advisory Committee) chair may provide recommendations to the Board regarding appointments to the SSAC (Security and Stability Advisory Committee). The SSAC (Security and Stability Advisory Committee) chair shall stagger appointment recommendations so that approximately one-third (1/3) of the membership of the SSAC (Security and Stability Advisory Committee) is considered for appointment or re-appointment each year. The Board shall also have the power to remove SSAC (Security and Stability Advisory Committee) appointees as recommended by or in consultation with the SSAC (Security and Stability Advisory Committee).

(iii) The SSAC (Security and Stability Advisory Committee) shall annually appoint a Liaison to the Board according to Section 7.9.

(c) Root Server System Advisory Committee (Advisory Committee)

(i) The role of the Root Server System Advisory Committee (Advisory Committee) ("**Root Server System Advisory Committee (Advisory Committee)**" or "**RSSAC (Root Server System Advisory Committee)**") is to advise the ICANN (Internet Corporation for Assigned Names and Numbers) community and Board on matters relating to the operation, administration, security, and integrity of the Internet's Root Server System. It shall have the following responsibilities:

(A) Communicate on matters relating to the operation of the Root Servers (Root Servers) and their multiple instances with the Internet technical community and the ICANN (Internet Corporation for Assigned Names and Numbers) community. The RSSAC (Root Server System Advisory Committee) shall gather and articulate requirements to offer to those engaged in technical revision of the protocols and best common practices related to the operation of DNS (Domain Name System) servers.

(B) Communicate on matters relating to the administration of the Root Zone (Root Zone) with those who have direct responsibility for that administration. These matters include the processes and procedures for the production of the Root Zone (Root Zone) File.

(C) Engage in ongoing threat assessment and risk analysis of the Root Server System and recommend any necessary audit activity to assess the

current status of root servers and the root zone.

(D) Respond to requests for information or opinions from the Board.

(E) Report periodically to the Board on its activities.

(F) Make policy recommendations to the ICANN (Internet Corporation for Assigned Names and Numbers) community and Board.

(ii) The RSSAC (Root Server System Advisory Committee) shall be led by two co-chairs. The RSSAC (Root Server System Advisory Committee)'s chairs and members shall be appointed by the Board.

(A) RSSAC (Root Server System Advisory Committee) membership appointment shall be for a three-year term, commencing on 1 January and ending the second year thereafter on 31 December. Members may be re-appointed, and there are no limits to the number of terms the members may serve. The RSSAC (Root Server System Advisory Committee) chairs shall provide recommendations to the Board regarding appointments to the RSSAC (Root Server System Advisory Committee). If the Board declines to appoint a person nominated by the RSSAC (Root Server System Advisory Committee), then it will provide the rationale for its decision. The RSSAC (Root Server System Advisory Committee) chairs shall stagger appointment recommendations so that approximately one-third (1/3) of the membership of the RSSAC (Root Server System Advisory Committee) is considered for appointment or re-appointment each year. The Board shall also have the power to remove RSSAC (Root Server System Advisory Committee) appointees as recommended by or in consultation with the RSSAC (Root Server System Advisory Committee).

(B) The RSSAC (Root Server System Advisory Committee) shall recommend the appointment of the chairs to the Board following a nomination process that it devises and documents.

(iii) The RSSAC (Root Server System Advisory Committee) shall annually appoint a Liaison to the Board according to Section 7.9.

(d) At-Large Advisory Committee (Advisory Committee)

(i) The At-Large Advisory Committee (Advisory Committee) ("**At-Large Advisory Committee (Advisory Committee)**" or "**ALAC (At-Large Advisory Committee)**") is the primary organizational home within ICANN (Internet Corporation for Assigned Names and Numbers) for individual

Internet users. The role of the ALAC (At-Large Advisory Committee) shall be to consider and provide advice on the activities of ICANN (Internet Corporation for Assigned Names and Numbers), insofar as they relate to the interests of individual Internet users. This includes policies created through ICANN (Internet Corporation for Assigned Names and Numbers)'s Supporting Organizations (Supporting Organizations), as well as the many other issues for which community input and advice is appropriate. The ALAC (At-Large Advisory Committee), which plays an important role in ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability mechanisms, also coordinates some of ICANN (Internet Corporation for Assigned Names and Numbers)'s outreach to individual Internet users.

(ii) The ALAC (At-Large Advisory Committee) shall consist of (A) two members selected by each of the Regional At-Large Organizations ("**RALOs**") established according to Section 12.2(d)(vii), and (B) five members selected by the Nominating Committee. The five members selected by the Nominating Committee shall include one citizen of a country within each of the five Geographic Regions established according to Section 7.5.

(iii) The regular terms of members of the ALAC (At-Large Advisory Committee) shall be as follows:

(A) The term of one member selected by each RALO shall begin at the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting in an even-numbered year.

(B) The term of the other member selected by each RALO shall begin at the conclusion of an ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting in an odd-numbered year.

(C) The terms of three of the members selected by the Nominating Committee shall begin at the conclusion of an annual meeting in an odd-numbered year and the terms of the other two members selected by the Nominating Committee shall begin at the conclusion of an annual meeting in an even-numbered year.

(D) The regular term of each member shall end at the conclusion of the second ICANN (Internet Corporation for Assigned Names and Numbers) annual meeting after the term began.

(iv) The Chair of the ALAC (At-Large Advisory Committee) shall be elected by the members of the ALAC (At-Large Advisory Committee) pursuant to procedures adopted by the ALAC (At-Large Advisory Committee).

(v) The ALAC (At-Large Advisory Committee) shall, after consultation with each RALO, annually appoint five voting delegates (no two of whom shall be citizens of countries in the same Geographic Region) to the Nominating Committee.

(vi) The At-Large Advisory Committee (Advisory Committee) may designate non-voting liaisons to each of the ccNSO (Country Code Names Supporting Organization) Council and the GNSO (Generic Names Supporting Organization) Council.

(vii) There shall be one RALO for each Geographic Region established according to Section 7.5. Each RALO shall serve as the main forum and coordination point for public input to ICANN (Internet Corporation for Assigned Names and Numbers) in its Geographic Region and shall be a non-profit organization certified by ICANN (Internet Corporation for Assigned Names and Numbers) according to criteria and standards established by the Board based on recommendations of the At-Large Advisory Committee (Advisory Committee). An organization shall become the recognized RALO for its Geographic Region upon entering a Memorandum of Understanding with ICANN (Internet Corporation for Assigned Names and Numbers) addressing the respective roles and responsibilities of ICANN (Internet Corporation for Assigned Names and Numbers) and the RALO regarding the process for selecting ALAC (At-Large Advisory Committee) members and requirements of openness, participatory opportunities, transparency, accountability, and diversity in the RALO's structure and procedures, as well as criteria and standards for the RALO's constituent At-Large Structures ("**At-Large Structures**").

(viii) Each RALO shall be comprised of self-supporting At-Large Structures within its Geographic Region that have been certified to meet the requirements of the RALO's Memorandum of Understanding with ICANN (Internet Corporation for Assigned Names and Numbers) according to Section 12.2(d)(ix). If so provided by its Memorandum of Understanding with ICANN (Internet Corporation for Assigned Names and Numbers), a RALO may also include individual Internet users who are citizens or residents of countries within the RALO's Geographic Region.

(ix) Membership in the At-Large Community

(A) The criteria and standards for the certification of At-Large Structures within each Geographic Region shall be established by the Board based on recommendations from the ALAC (At-Large Advisory Committee) and shall be stated in the Memorandum of Understanding between ICANN (Internet Corporation for Assigned Names and Numbers) and the RALO for each Geographic Region.

(B) The criteria and standards for the certification of At-Large Structures shall be established in such a way that participation by individual Internet users who are citizens or residents of countries within the Geographic Region of the RALO will predominate in the operation of each At-Large Structure within the RALO, while not necessarily excluding additional participation, compatible with the interests of the individual Internet users within the region, by others.

(C) Each RALO's Memorandum of Understanding shall also include provisions designed to allow, to the greatest extent possible, every individual Internet user who is a citizen of a country within the RALO's Geographic Region to participate in at least one of the RALO's At-Large Structures.

(D) To the extent compatible with these objectives, the criteria and standards should also afford to each RALO the type of structure that best fits the customs and character of its Geographic Region.

(E) Once the criteria and standards have been established as provided in this Section 12.2(d)(ix), the ALAC (At-Large Advisory Committee), with the advice and participation of the RALO where the applicant is based, shall be responsible for certifying organizations as meeting the criteria and standards for At-Large Structure accreditation.

(F) Decisions to certify or decertify an At-Large Structure shall be made as decided by the ALAC (At-Large Advisory Committee) in its rules of procedure, save always that any changes made to the rules of procedure in respect of an At-Large Structure applications shall be subject to review by the RALOs and by the Board.

(G) Decisions as to whether to accredit, not to accredit, or disaccredit an At-Large Structure shall be subject to review according to procedures established by the Board.

(H) On an ongoing basis, the ALAC (At-Large Advisory Committee) may also give advice as to whether a prospective At-Large Structure meets the

applicable criteria and standards.

(x) The ALAC (At-Large Advisory Committee) is also responsible, working in conjunction with the RALOs, for coordinating the following activities:

(A) Nominating individuals to fill Seat 15 on the Board. Notification of the At-Large Community's nomination shall be given by the ALAC (At-Large Advisory Committee) Chair in writing to the EC (Empowered Community) Administration, with a copy to the Secretary, and the EC (Empowered Community) shall promptly act on it as provided in Section 7.25.

(B) Keeping the community of individual Internet users informed about the significant news from ICANN (Internet Corporation for Assigned Names and Numbers);

(C) Distributing (through posting or otherwise) an updated agenda, news about ICANN (Internet Corporation for Assigned Names and Numbers), and information about items in the ICANN (Internet Corporation for Assigned Names and Numbers) policy-development process;

(D) Promoting outreach activities in the community of individual Internet users;

(E) Developing and maintaining on-going information and education programs, regarding ICANN (Internet Corporation for Assigned Names and Numbers) and its work;

(F) Establishing an outreach strategy about ICANN (Internet Corporation for Assigned Names and Numbers) issues in each RALO's Geographic Region;

(G) Participating in the ICANN (Internet Corporation for Assigned Names and Numbers) policy development processes and providing input and advice that accurately reflects the views of individual Internet users;

(H) Making public, and analyzing, ICANN (Internet Corporation for Assigned Names and Numbers)'s proposed policies and its decisions and their (potential) regional impact and (potential) effect on individuals in the region;

(I) Offering Internet-based mechanisms that enable discussions among members of At-Large Structures; and

> (xi) Establishing mechanisms and processes that enable two-way communication between members of At-Large Structures and those involved in ICANN (Internet Corporation for Assigned Names and Numbers) decision-making, so interested individuals can share their views on pending ICANN (Internet Corporation for Assigned Names and Numbers) issues.

Section 12.3. PROCEDURES

Each Advisory Committee (Advisory Committee) shall determine its own rules of procedure and quorum requirements; provided that each Advisory Committee (Advisory Committee) shall ensure that the advice provided to the Board by such Advisory Committee (Advisory Committee) is communicated in a clear and unambiguous written statement, including the rationale for such advice. The Board will respond in a timely manner to formal advice from all Advisory Committees (Advisory Committees) explaining what action it took and the rationale for doing so.

Section 12.4. TERM OF OFFICE

The chair and each member of an Advisory Committee (Advisory Committee) shall serve until his or her successor is appointed, or until such Advisory Committee (Advisory Committee) is sooner terminated, or until he or she is removed, resigns, or otherwise ceases to qualify as a member of the Advisory Committee (Advisory Committee).

Section 12.5. VACANCIES

Vacancies on any Advisory Committee (Advisory Committee) shall be filled in the same manner as provided in the case of original appointments.

Section 12.6. COMPENSATION

Advisory Committee (Advisory Committee) members shall receive no compensation for their services as a member of such Advisory Committee (Advisory Committee). The Board may, however, authorize the reimbursement of actual and necessary expenses incurred by Advisory Committee (Advisory Committee) members, including Directors, performing their duties as Advisory Committee (Advisory Committee) members.

ARTICLE 13 OTHER ADVISORY MECHANISMS

Section 13.1. EXTERNAL EXPERT ADVICE

(a) Purpose. The purpose of seeking external expert advice is to allow the policy-development process within ICANN (Internet Corporation for Assigned Names and Numbers) to take advantage of existing expertise that resides in the public or private sector but outside of ICANN (Internet Corporation for Assigned Names and Numbers). In those cases where there are relevant public bodies with expertise, or where access to private expertise could be helpful, the Board and constituent bodies should be encouraged to seek advice from such expert bodies or individuals.

(b) Types of Expert Advisory Panels

> (i) On its own initiative or at the suggestion of any ICANN (Internet Corporation for Assigned Names and Numbers) body, the Board may appoint, or authorize the President to appoint, Expert Advisory Panels consisting of public or private sector individuals or entities. If the advice sought from such Panels concerns issues of public policy, the provisions of Section 13.1(c) shall apply.
>
> (ii) In addition, in accordance with Section 13.1(c), the Board may refer issues of public policy pertinent to matters within ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission to a multinational governmental or treaty organization.

(c) Process for Seeking Advice: Public Policy Matters

> (i) The Governmental Advisory Committee (Advisory Committee) may at any time recommend that the Board seek advice concerning one or more issues of public policy from an external source, as set out above.
>
> (ii) In the event that the Board determines, upon such a recommendation or otherwise, that external advice should be sought concerning one or more issues of public policy, the Board shall, as appropriate, consult with the Governmental Advisory Committee (Advisory Committee) regarding the appropriate source from which to seek the advice and the arrangements, including definition of scope and process, for requesting and obtaining that advice.
>
> (iii) The Board shall, as appropriate, transmit any request for advice from a multinational governmental or treaty organization, including specific terms of reference, to the Governmental Advisory Committee (Advisory

> Committee), with the suggestion that the request be transmitted by the Governmental Advisory Committee (Advisory Committee) to the multinational governmental or treaty organization.

(d) Process for Seeking and Advice: Other Matters. Any reference of issues not concerning public policy to an Expert Advisory Panel by the Board or President in accordance with Section 13.1(b)(i) shall be made pursuant to terms of reference describing the issues on which input and advice is sought and the procedures and schedule to be followed.

(e) Receipt of Expert Advice and its Effect. External advice pursuant to this Section 13.1 shall be provided in written form. Such advice is advisory and not binding, and is intended to augment the information available to the Board or other ICANN (Internet Corporation for Assigned Names and Numbers) body in carrying out its responsibilities.

(f) Opportunity to Comment. The Governmental Advisory Committee (Advisory Committee), in addition to the Supporting Organizations (Supporting Organizations) and other Advisory Committees (Advisory Committees), shall have an opportunity to comment upon any external advice received prior to any decision by the Board.

Section 13.2. TECHNICAL LIAISON GROUP

(a) Purpose. The quality of ICANN (Internet Corporation for Assigned Names and Numbers)'s work depends on access to complete and authoritative information concerning the technical standards that underlie ICANN (Internet Corporation for Assigned Names and Numbers)'s activities. ICANN (Internet Corporation for Assigned Names and Numbers)'s relationship to the organizations that produce these standards is therefore particularly important. The Technical Liaison Group ("**TLG**") shall connect the Board with appropriate sources of technical advice on specific matters pertinent to ICANN (Internet Corporation for Assigned Names and Numbers)'s activities.

(b) TLG Organizations. The TLG shall consist of four organizations: the European Telecommunications Standards Institute (ETSI (European Telecommunications Standards Institute)), the International Telecommunications Union's Telecommunication Standardization Sector (ITU (International Telecommunication Union)-T), the World Wide Web Consortium (W3C (World Wide Web Consortium)), and the Internet Architecture Board ("**IAB (Internet Architecture Board)**").

(c) Role. The role of the TLG organizations shall be to channel technical information and guidance to the Board and to other ICANN (Internet Corporation for Assigned Names and Numbers) entities. This role has both a responsive component and an active "watchdog" component, which involve the following responsibilities:

> (i) In response to a request for information, to connect the Board or other ICANN (Internet Corporation for Assigned Names and Numbers) body with appropriate sources of technical expertise. This component of the TLG role covers circumstances in which ICANN (Internet Corporation for Assigned Names and Numbers) seeks an authoritative answer to a specific technical question. Where information is requested regarding a particular technical standard for which a TLG organization is responsible, that request shall be directed to that TLG organization.
>
> (ii) As an ongoing "watchdog" activity, to advise the Board of the relevance and progress of technical developments in the areas covered by each organization's scope that could affect Board decisions or other ICANN (Internet Corporation for Assigned Names and Numbers) actions, and to draw attention to global technical standards issues that affect policy development within the scope of ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission. This component of the TLG role covers circumstances in which ICANN (Internet Corporation for Assigned Names and Numbers) is unaware of a new development, and would therefore otherwise not realize that a question should be asked.

(d) TLG Procedures. The TLG shall not have officers or hold meetings, nor shall it provide policy advice to the Board as a committee (although TLG organizations may individually be asked by the Board to do so as the need arises in areas relevant to their individual charters). Neither shall the TLG debate or otherwise coordinate technical issues across the TLG organizations; establish or attempt to establish unified positions; or create or attempt to create additional layers or structures within the TLG for the development of technical standards or for any other purpose.

(e) Technical Work with the IETF (Internet Engineering Task Force). The TLG shall have no involvement with ICANN (Internet Corporation for Assigned Names and Numbers)'s work for the Internet Engineering Task Force (IETF (Internet Engineering Task Force)), Internet Research Task Force, or the Internet Architecture Board (IAB (Internet Architecture Board)), as described in the IETF (Internet Engineering Task Force)-ICANN (Internet Corporation for Assigned Names and Numbers) Memorandum of Understanding Concerning the Technical

Work of the Internet Assigned Numbers Authority ratified by the Board on 10 March 2000 and any supplemental agreements thereto.

(f) Individual Technical Experts. Each TLG organization shall designate two individual technical experts who are familiar with the technical standards issues that are relevant to ICANN (Internet Corporation for Assigned Names and Numbers)'s activities. These 8 experts shall be available as necessary to determine, through an exchange of e-mail messages, where to direct a technical question from ICANN (Internet Corporation for Assigned Names and Numbers) when ICANN (Internet Corporation for Assigned Names and Numbers) does not ask a specific TLG organization directly.

ARTICLE 14 BOARD AND TEMPORARY COMMITTEES

Section 14.1. BOARD COMMITTEES

The Board may establish one or more committees of the Board (each, a "**Board Committee**"), which shall continue to exist until otherwise determined by the Board. Only Directors may be appointed to a Committee of the Board; provided, that a Liaison may be appointed as a liaison to a Committee of the Board consistent with their non-voting capacity. If a person appointed to a Committee of the Board ceases to be a Director, such person shall also cease to be a member of any Committee of the Board. Each Committee of the Board shall consist of two or more Directors. The Board may designate one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee. Committee members may be removed from a committee at any time by a two-thirds (2/3) majority vote of all Directors; provided, however, that in no event shall a Director be removed from a committee unless such removal is approved by not less than a majority of all Directors.

Section 14.2. POWERS OF BOARD COMMITTEES

(a) The Board may delegate to Committees of the Board all legal authority of the Board except with respect to:

> (i) The filling of vacancies on the Board or on any committee;
>
> (ii) The amendment or repeal of Bylaws or the Articles of Incorporation or the adoption of new Bylaws or Articles of Incorporation;
>
> (iii) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

(iv) The appointment of committees of the Board or the members thereof;

(v) The approval of any self-dealing transaction, as such transactions are defined in Section 5233(a) of the CCC;

(vi) The approval of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget or IANA (Internet Assigned Numbers Authority) Budget required by Section 22.4 or the Operating Plan or Strategic Plan required by Section 22.5; or

(vii) The compensation of any Officer described in Article 15.

(b) The Board shall have the power to prescribe the manner in which proceedings of any Committee of the Board shall be conducted. In the absence of any such prescription, such committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless these Bylaws, the Board or such committee shall otherwise provide, the regular and special meetings of committees shall be governed by the provisions of Article 7 applicable to meetings and actions of the Board. Each committee shall keep regular minutes of its proceedings and shall report the same to the Board from time to time, as the Board may require.

Section 14.3. TEMPORARY COMMITTEES

The Board may establish such temporary committees as it sees fit, with membership, duties, and responsibilities as set forth in the resolutions or charters adopted by the Board in establishing such committees.

ARTICLE 15 OFFICERS

Section 15.1. OFFICERS

The officers of ICANN (Internet Corporation for Assigned Names and Numbers) (each, an "**Officer**") shall be a President (who shall serve as Chief Executive Officer), a Secretary, and a Chief Financial Officer. ICANN (Internet Corporation for Assigned Names and Numbers) may also have, at the discretion of the Board, any additional officers that it deems appropriate. Any person, other than the President, may hold more than one office, except that no member of the Board (other than the President) shall simultaneously serve as an officer of ICANN (Internet Corporation for Assigned Names and Numbers).

Section 15.2. ELECTION OF OFFICERS

The officers of ICANN (Internet Corporation for Assigned Names and Numbers) shall be elected annually by the Board, pursuant to the recommendation of the President or, in the case of the President, of the Chair of the Board. Each such officer shall hold his or her office until he or she resigns, is removed, is otherwise disqualified to serve, or his or her successor is elected.

Section 15.3. REMOVAL OF OFFICERS

Any Officer may be removed, either with or without cause, by a two-thirds (2/3) majority vote of all Directors. Should any vacancy occur in any office as a result of death, resignation, removal, disqualification, or any other cause, the Board may delegate the powers and duties of such office to any Officer or to any Director until such time as a successor for the office has been elected.

Section 15.4. PRESIDENT

The President shall be the Chief Executive Officer (CEO) of ICANN (Internet Corporation for Assigned Names and Numbers) in charge of all of its activities and business. All other officers and staff shall report to the President or his or her delegate, unless stated otherwise in these Bylaws. The President shall serve as an ex officio Director, and shall have all the same rights and privileges of any Director. The President shall be empowered to call special meetings of the Board as set forth herein, and shall discharge all other duties as may be required by these Bylaws and from time to time may be assigned by the Board.

Section 15.5. SECRETARY

The Secretary shall keep or cause to be kept the minutes of the Board in one or more books provided for that purpose, shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, and in general shall perform all duties as from time to time may be prescribed by the President or the Board.

Section 15.6. CHIEF FINANCIAL OFFICER

The Chief Financial Officer ("**CFO**") shall be the chief financial officer of ICANN (Internet Corporation for Assigned Names and Numbers). If required by the Board, the CFO shall give a bond for the faithful discharge of his or her duties in such form and with such surety or sureties as the Board shall determine. The CFO shall have charge and custody of all the funds of ICANN (Internet Corporation for Assigned Names and Numbers) and shall keep or cause to be kept, in books belonging to ICANN (Internet Corporation for Assigned Names and Numbers), full and accurate amounts of all receipts and disbursements, and shall

deposit all money and other valuable effects in the name of ICANN (Internet Corporation for Assigned Names and Numbers) in such depositories as may be designated for that purpose by the Board. The CFO shall disburse the funds of ICANN (Internet Corporation for Assigned Names and Numbers) as may be ordered by the Board or the President and, whenever requested by them, shall deliver to the Board and the President an account of all his or her transactions as CFO and of the financial condition of ICANN (Internet Corporation for Assigned Names and Numbers). The CFO shall be responsible for ICANN (Internet Corporation for Assigned Names and Numbers)'s financial planning and forecasting and shall assist the President in the preparation of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget, the IANA (Internet Assigned Numbers Authority) Budget and Operating Plan. The CFO shall coordinate and oversee ICANN (Internet Corporation for Assigned Names and Numbers)'s funding, including any audits or other reviews of ICANN (Internet Corporation for Assigned Names and Numbers) or its Supporting Organizations (Supporting Organizations). The CFO shall be responsible for all other matters relating to the financial operation of ICANN (Internet Corporation for Assigned Names and Numbers).

Section 15.7. ADDITIONAL OFFICERS

In addition to the officers described above, any additional or assistant officers who are elected or appointed by the Board shall perform such duties as may be assigned to them by the President or the Board.

Section 15.8. COMPENSATION AND EXPENSES

The compensation of any Officer of ICANN (Internet Corporation for Assigned Names and Numbers) shall be approved by the Board. Expenses incurred in connection with performance of their officer duties may be reimbursed to Officers upon approval of the President (in the case of Officers other than the President), by another Officer designated by the Board (in the case of the President), or the Board.

Section 15.9. CONFLICTS OF INTEREST

The Board, through the Board Governance Committee, shall establish a policy requiring a statement from each Officer not less frequently than once a year setting forth all business and other affiliations that relate in any way to the business and other affiliations of ICANN (Internet Corporation for Assigned Names and Numbers).

ARTICLE 16 POST-TRANSITION IANA (Internet Assigned Numbers Authority) ENTITY

Section 16.1. DESCRIPTION

ICANN (Internet Corporation for Assigned Names and Numbers) shall maintain as a separate legal entity a California nonprofit public benefit corporation (["**PTI**"]) for the purpose of providing IANA (Internet Assigned Numbers Authority) services, including providing IANA (Internet Assigned Numbers Authority) naming function services pursuant to the IANA (Internet Assigned Numbers Authority) Naming Function Contract, as well as other services as determined by ICANN (Internet Corporation for Assigned Names and Numbers) in coordination with the direct and indirect customers of the IANA (Internet Assigned Numbers Authority) functions. ICANN (Internet Corporation for Assigned Names and Numbers) shall at all times be the sole member of PTI as that term is defined in Section 5056 of the CCC ("**Member**"). For the purposes of these Bylaws, the "IANA (Internet Assigned Numbers Authority) naming function" does not include the Internet Protocol (Protocol) numbers and Autonomous System numbers services (as contemplated by Section 1.1(a)(iii)), the protocol ports and parameters services and the root zone maintainer function.

Section 16.2. PTI Governance

(a) ICANN (Internet Corporation for Assigned Names and Numbers), in its capacity as the sole Member of PTI, shall elect the directors of PTI in accordance with the articles of incorporation and bylaws of PTI and have all other powers of a sole Member under the CCC except as otherwise provided in these Bylaws.

(b) No amendment or modification of the articles of incorporation of PTI shall be effective unless approved by the EC (Empowered Community) (pursuant to the procedures applicable to Articles Amendments described in Section 25.2, as if such Article Amendment referenced therein refers to an amendment of PTI's articles of incorporation).

(c) ICANN (Internet Corporation for Assigned Names and Numbers) shall not amend or modify the bylaws of PTI in a manner that would effect any of the matters set forth in clauses (i) through (xiv) below (a "**PTI Bylaw Amendment**") if such PTI Bylaw Amendment has been rejected by the EC (Empowered Community) pursuant to the procedures described in Section 16.2(e):

> (i) any change to the corporate form of PTI to an entity that is not a California nonprofit public benefit corporation organized under the CCC or

any successor statute;

(ii) any change in the corporate mission of PTI that is materially inconsistent with ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission as set forth in these Bylaws;

(iii) any change to the status of PTI as a corporation with members;

(iv) any change in the rights of ICANN (Internet Corporation for Assigned Names and Numbers) as the sole Member of PTI, including voting, classes of membership, rights, privileges, preferences, restrictions and conditions;

(v) any change that would grant rights to any person or entity (other than ICANN (Internet Corporation for Assigned Names and Numbers)) with respect to PTI as designators or otherwise to: (A) elect or designate directors of PTI; or (B) approve any amendments to the articles of incorporation or bylaws of PTI;

(vi) any change in the number of directors of the board of directors of PTI (the "**PTI Board**");

(vii) any changes in the allocation of directors on the PTI Board between independent directors and employees of ICANN (Internet Corporation for Assigned Names and Numbers) or employees of PTI or to the definition of "independent" (as used in PTI's bylaws) for purposes of determining whether a director of PTI is independent;

(viii) the creation of any committee of the PTI Board with the power to exercise the authority of the PTI Board;

(ix) any change in the procedures for nominating independent PTI directors;

(x) the creation of classes of PTI directors or PTI directors with different terms or voting rights;

(xi) any change in PTI Board quorum requirements or voting requirements;

(xii) any change to the powers and responsibilities of the PTI Board or the PTI officers;

(xiii) any change to the rights to exculpation and indemnification that is adverse to the exculpated or indemnified party, including with respect to

> advancement of expenses and insurance, provided to directors, officers, employees or other agents of PTI; or
>
> (xiv) any change to the requirements to amend the articles of incorporation or bylaws of PTI.

(d) ICANN (Internet Corporation for Assigned Names and Numbers) shall not take any of the following actions (together with the PTI Bylaw Amendments, "**PTI Governance Actions**") if such PTI Governance Action has been rejected by the EC (Empowered Community) pursuant to the procedures described in Section 16.2(e).

> (i) Any resignation by ICANN (Internet Corporation for Assigned Names and Numbers) as sole Member of PTI or any transfer, disposition, cession, expulsion, suspension or termination by ICANN (Internet Corporation for Assigned Names and Numbers) of its membership in PTI or any transfer, disposition, cession, expulsion, suspension or termination by ICANN (Internet Corporation for Assigned Names and Numbers) of any right arising from its membership in PTI.
>
> (ii) Any sale, transfer or other disposition of PTI's assets, other than (A) in the ordinary course of PTI's business, (B) in connection with an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process (as defined in Section 19.1(a)) that has been approved in accordance with Article 19 or (C) the disposition of obsolete, damaged, redundant or unused assets.
>
> (iii) Any merger, consolidation, sale or reorganization of PTI.
>
> (iv) Any dissolution, liquidation or winding-up of the business and affairs of PTI or the commencement of any other voluntary bankruptcy proceeding of PTI.

(e) Promptly after the Board approves a PTI Governance Action (a "**PTI Governance Action Approval**"), the Secretary shall provide a notice of the Board's decision to the EC (Empowered Community) Administration and the Decisional Participants ("**Board Notice**"), which Board Notice shall enclose a copy of the PTI Governance Action that is the subject of the PTI Governance Action Approval. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC

(Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(i) A PTI Governance Action shall become effective upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice (as defined in Section 2.2(c)(i) of Annex D) is not timely delivered by the Rejection Action Petitioning Decisional Participant (as defined in Section 2.2(c)(i) of Annex D) to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice (as defined in Section 2.2(c)(ii) of Annex D) is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the PTI Governance Action that is the subject of the PTI Governance Action Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Period (as defined in Section 2.2(b) of Annex D) relating to such PTI Governance Action Approval and the effectiveness of such PTI Governance Action shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;

(B)(1) A Rejection Action Supported Petition (as defined in Section 2.2(d)(i) of Annex D) is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the PTI Governance Action that is the subject of the PTI Governance Action Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period (as defined in Section 2.2(d)(i) of Annex D) relating to such PTI Governance Action Approval and the effectiveness of such PTI Governance Action shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; and

(C)(1) An EC (Empowered Community) Rejection Notice (as defined in Section 2.4(b) of Annex D) is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the

Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the PTI Governance Action that is the subject of the PTI Governance Action Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Decision Period (as defined in Section 2.4(a) of Annex D) relating to such PTI Governance Action Approval and the effectiveness of such PTI Governance Action shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(ii) A PTI Governance Action that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(iii) Following receipt of an EC (Empowered Community) Rejection Notice relating to a PTI Governance Action, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the PTI Governance Action in determining whether or not to develop a new PTI Governance Action and the substance of such new PTI Governance Action, which shall be subject to the procedures of this Section 16.2.

Section 16.3. IANA (Internet Assigned Numbers Authority) NAMING FUNCTION CONTRACT

(a) On or prior to 1 October 2016, ICANN (Internet Corporation for Assigned Names and Numbers) shall enter into a contract with PTI for the performance of the IANA (Internet Assigned Numbers Authority) naming function (as it may be amended or modified, the "**IANA (Internet Assigned Numbers Authority) Naming Function Contract**") and a related statement of work (the "**IANA (Internet Assigned Numbers Authority) Naming Function SOW**"). Except as to implement any modification, waiver or amendment to the IANA (Internet Assigned Numbers Authority) Naming Function Contract or IANA (Internet Assigned Numbers Authority) Naming Function SOW related to an IFR Recommendation or Special IFR Recommendation approved pursuant to Section 18.6 or an SCWG Recommendation approved pursuant to Section 19.4 (which, for the avoidance of doubt, shall not be subject to this Section 16.3(a)), ICANN (Internet Corporation for Assigned Names and Numbers) shall not agree to modify, amend or waive any Material Terms (as defined below) of the IANA (Internet Assigned Numbers Authority) Naming Function Contract or the IANA (Internet Assigned Numbers Authority) Naming Function SOW if a majority of

each of the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) Councils reject the proposed modification, amendment or waiver. The following are the "**Material Terms**" of the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW:

> (i) The parties to the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW;
>
> (ii) The initial term and renewal provisions of the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW;
>
> (iii) The manner in which the IANA (Internet Assigned Numbers Authority) Naming Function Contract or IANA (Internet Assigned Numbers Authority) Naming Function SOW may be terminated;
>
> (iv) The mechanisms that are available to enforce the IANA (Internet Assigned Numbers Authority) Naming Function Contract or IANA (Internet Assigned Numbers Authority) Naming Function SOW;
>
> (v) The role and responsibilities of the CSC (as defined in Section 17.1), escalation mechanisms and/or the IFR (as defined in Section 18.1);
>
> (vi) The IANA (Internet Assigned Numbers Authority) Naming Function Contract's provisions requiring that fees charged by PTI be based on direct costs and resources incurred by PTI;
>
> (vii) The IANA (Internet Assigned Numbers Authority) Naming Function Contract's prohibition against subcontracting;
>
> (viii)The availability of the IRP as a point of escalation for claims of PTI's failure to meet defined service level expectations;
>
> (ix) The IANA (Internet Assigned Numbers Authority) Naming Function Contract's audit requirements; and
>
> (x) The requirements related to ICANN (Internet Corporation for Assigned Names and Numbers) funding of PTI.

(b) ICANN (Internet Corporation for Assigned Names and Numbers) shall enforce its rights under the IANA (Internet Assigned Numbers Authority) Naming Function

Contract and the IANA (Internet Assigned Numbers Authority) Naming Function SOW.

ARTICLE 17 CUSTOMER STANDING COMMITTEE

Section 17.1. DESCRIPTION

ICANN (Internet Corporation for Assigned Names and Numbers) shall establish a Customer Standing Committee ("**CSC**") to monitor PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW.

The mission of the CSC is to ensure continued satisfactory performance of the IANA (Internet Assigned Numbers Authority) naming function for the direct customers of the naming services. The direct customers of the naming services are top-level domain registry operators as well as root server operators and other non-root zone functions.

The CSC will achieve this mission through regular monitoring of the performance of the IANA (Internet Assigned Numbers Authority) naming function against the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW and through mechanisms to engage with PTI to remedy identified areas of concern.

The CSC is not authorized to initiate a change in PTI through a Special IFR (as defined in Section 18.1), but may escalate a failure to correct an identified deficiency to the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization), which might then decide to take further action using consultation and escalation processes, which may include a Special IFR. The ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) may address matters escalated by the CSC, pursuant to their operating rules and procedures.

Section 17.2. COMPOSITION, APPOINTMENT, TERM AND REMOVAL

(a) The CSC shall consist of:

> (i) Two individuals representing gTLD (generic Top Level Domain) registry operators appointed by the Registries Stakeholder Group;
>
> (ii) Two individuals representing ccTLD (Country Code Top Level Domain) registry operators appointed by the ccNSO (Country Code Names

> Supporting Organization); and
>
> (iii) One individual liaison appointed by PTI,
>
> each appointed in accordance with the rules and procedures of the appointing organization; provided that such individuals should have direct experience and knowledge of the IANA (Internet Assigned Numbers Authority) naming function.

(b) If so determined by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization), the CSC may, but is not required to, include one additional member: an individual representing top-level domain registry operators that are not considered a ccTLD (Country Code Top Level Domain) or gTLD (generic Top Level Domain), who shall be appointed by the ccNSO (Country Code Names Supporting Organization) and the GNSO (Generic Names Supporting Organization). Such representative shall be required to submit a letter of support from the registry operator it represents.

(c) Each of the following organizations may also appoint one liaison to the CSC in accordance with the rules and procedures of the appointing organization: (i) GNSO (Generic Names Supporting Organization) (from the Registrars Stakeholder Group or the Non-Contracted Parties House), (ii) ALAC (At-Large Advisory Committee), (iii) either the NRO (Number Resource Organization) or ASO (Address Supporting Organization) (as determined by the ASO (Address Supporting Organization)), (iv) GAC (Governmental Advisory Committee), (v) RSSAC (Root Server System Advisory Committee), (vi) SSAC (Security and Stability Advisory Committee) and (vii) any other Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) established under these Bylaws.

(d) The GNSO (Generic Names Supporting Organization) and ccNSO (Country Code Names Supporting Organization) shall approve the initial proposed members and liaisons of the CSC, and thereafter, the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) shall approve each annual slate of members and liaisons being recommended for a new term.

(e) The CSC members and liaisons shall select from among the CSC members who will serve as the CSC's liaison to the IFRT (as defined in Section 18.1) and any Separation Cross-Community Working Group ("**SCWG**").

(f) Any CSC member or liaison may be removed and replaced at any time and for any reason or no reason by the organization that appointed such member or liaison.

(g) In addition, the Chair of the CSC may recommend that a CSC member or liaison be removed by the organization that appointed such member or liaison, upon any of the following: (i) (A) for not attending without sufficient cause a minimum of nine CSC meetings in a one-year period (or at least 75% of all CSC meetings in a one-year period if less than nine meetings were held in such one-year period) or (B) if such member or liaison has been absent for more than two consecutive meetings without sufficient cause; or (ii) for grossly inappropriate behavior.

(h) A vacancy on the CSC shall be deemed to exist in the event of the death, resignation or removal of any CSC member or liaison. Vacancies shall be filled by the organization(s) that appointed such CSC member or liaison. The appointing organization(s) shall provide written notice to the Secretary of its appointment to fill a vacancy, with a notification copy to the Chair of the CSC. The organization(s) responsible for filling such vacancy shall use its reasonable efforts to fill such vacancy within one month after the occurrence of such vacancy.

Section 17.3.CSC CHARTER; PERIODIC REVIEW

(a) The CSC shall act in accordance with its charter (the "**CSC Charter**").

(b) The effectiveness of the CSC shall be reviewed two years after the first meeting of the CSC; and then every three years thereafter. The method of review will be determined by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) and the findings of the review will be published on the Website.

(c) The CSC Charter shall be reviewed by a committee of representatives from the ccNSO (Country Code Names Supporting Organization) and the Registries Stakeholder Group selected by such organizations. This review shall commence one year after the first meeting of the CSC. Thereafter, the CSC Charter shall be reviewed by such committee of representatives from the ccNSO (Country Code Names Supporting Organization) and the Registries Stakeholder Group selected by such organizations at the request of the CSC, ccNSO (Country Code Names Supporting Organization), GNSO (Generic Names Supporting Organization), the Board and/or the PTI Board and/or by an IFRT in connection with an IFR.

(d) Amendments to the CSC Charter shall not be effective unless ratified by the vote of a simple majority of each of the ccNSO (Country Code Names Supporting

Organization) and GNSO (Generic Names Supporting Organization) Councils pursuant to each such organizations' procedures. Prior to any action by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization), any recommended changes to the CSC Charter shall be subject to a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers). Notwithstanding the foregoing, to the extent any provision of an amendment to the CSC Charter conflicts with the terms of the Bylaws, the terms of the Bylaws shall control.

Section 17.4. ADMINISTRATIVE AND OPERATIONAL SUPPORT

ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for the CSC to carry out its responsibilities, including providing and facilitating remote participation in all meetings of the CSC.

ARTICLE 18 IANA (Internet Assigned Numbers Authority) NAMING FUNCTION REVIEWS

Section 18.1. IANA (Internet Assigned Numbers Authority) NAMING FUNCTION REVIEW

The Board, or an appropriate committee thereof, shall cause periodic and/or special reviews (each such review, an "**IFR**") of PTI's performance of the IANA (Internet Assigned Numbers Authority) naming function against the contractual requirements set forth in the IANA (Internet Assigned Numbers Authority) Naming Function Contract and the IANA (Internet Assigned Numbers Authority) Naming Function SOW to be carried out by an IANA (Internet Assigned Numbers Authority) Function Review Team ("**IFRT**") established in accordance with Article 18, as follows:

(a) Regularly scheduled periodic IFRs, to be conducted pursuant to Section 18.2 below ("**Periodic IFRs**"); and

(b) IFRs that are not Periodic IFRs, to be conducted pursuant to Section 18.12 below ("**Special IFRs**").

Section 18.2. FREQUENCY OF PERIODIC IFRS

(a) The first Periodic IFR shall be convened no later than [1 October 2018].

(b) Periodic IFRs after the first Periodic IFR shall be convened no less frequently than every five years, measured from the date the previous IFRT for a Periodic IFR was convened.

(c) In the event a Special IFR is ongoing at the time a Periodic IFR is required to be convened under this Section 18.2, the Board shall cause the convening of the Periodic IFR to be delayed if such delay is approved by the vote of (i) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO (Country Code Names Supporting Organization) Council's members) and (ii) a GNSO (Generic Names Supporting Organization) Supermajority. Any decision by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) to delay a Periodic IFR must identify the period of delay, which should generally not exceed 12 months after the completion of the Special IFR.

Section 18.3. IFR RESPONSIBILITIES

For each Periodic IFR, the IFRT shall:

(a) Review and evaluate the performance of PTI against the requirements set forth in the IANA (Internet Assigned Numbers Authority) Naming Function Contract in relation to the needs of its direct customers and the expectations of the broader ICANN (Internet Corporation for Assigned Names and Numbers) community, and determine whether to make any recommendations with respect to PTI's performance;

(b) Review and evaluate the performance of PTI against the requirements set forth in the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW;

(c) Review the IANA (Internet Assigned Numbers Authority) Naming Function SOW and determine whether to recommend any amendments to the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW to account for the needs of the direct customers of the naming services and/or the community at large;

(d) Review and evaluate the openness and transparency procedures of PTI and any oversight structures for PTI's performance, including reporting requirements and budget transparency;

(e) Review and evaluate the performance and effectiveness of the EC (Empowered Community) with respect to actions taken by the EC (Empowered Community), if any, pursuant to Section 16.2, Section 18.6, Section 18.12, Section 19.1, Section 19.4, Section 22.4(b) and Annex D;

(f) Review and evaluate the performance of the IANA (Internet Assigned Numbers Authority) naming function according to established service level expectations during the IFR period being reviewed and compared to the immediately preceding Periodic IFR period;

(g) Review and evaluate whether there are any systemic issues that are impacting PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW;

(h) Initiate public comment periods and other processes for community input on PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW (such public comment periods shall comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers));

(i) Consider input from the CSC and the community on PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW;

(j) Identify process or other areas for improvement in the performance of the IANA (Internet Assigned Numbers Authority) naming function under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW and the performance of the CSC and the EC (Empowered Community) as it relates to oversight of PTI; and

(k) Consider and assess any changes implemented since the immediately preceding IFR and their implications for the performance of PTI under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW.

Section 18.4. IFR REQUIRED INPUTS

In conducting an IFR, the IFRT shall review and analyze the following information:

(a) Reports provided by PTI pursuant to the IANA (Internet Assigned Numbers Authority) Naming Function Contract and/or IANA (Internet Assigned Numbers

Authority) Naming Function SOW during the IFR period being reviewed, any portion of which may be redacted pursuant to the Confidential Disclosure Framework set forth in the Operating Standards in accordance with Section 4.6(a)(vi);

(b) Reports provided by the CSC in accordance with the CSC Charter during the IFR period being reviewed;

(c) Community inputs through public consultation procedures as reasonably determined by the IFRT, including, among other things, public comment periods, input provided at in-person sessions during ICANN (Internet Corporation for Assigned Names and Numbers) meetings, responses to public surveys related to PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW, and public inputs during meetings of the IFRT;

(d) Recommendations for technical, process and/or other improvements relating to the mandate of the IFR provided by the CSC or the community; and

(e) Results of any site visit conducted by the IFRT, which shall be conducted in consultation with ICANN (Internet Corporation for Assigned Names and Numbers) (i) upon reasonable notice, (ii) in a manner so as to not affect PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract or the IANA (Internet Assigned Numbers Authority) Naming Function SOW and (iii) pursuant to procedures and requirements reasonably developed by ICANN (Internet Corporation for Assigned Names and Numbers) and reasonably acceptable to the IFRT. Any such site visit shall be limited to matters reasonably related to the IFRT's responsibilities pursuant to Section 18.3.

Section 18.5. IFR RESULTS AND RECOMMENDATIONS

(a) The results of the IFR are not limited and could include a variety of recommendations or no recommendation; provided, however, that any recommendations must directly relate to the matters discussed in Section 18.3 and comply with this Section 18.5.

(b) Any IFRT recommendations should identify improvements that are supported by data and associated analysis about existing deficiencies and how they could be addressed. Each recommendation of the IFRT shall include proposed remedial procedures and describe how those procedures are expected to address such issues. The IFRT's report shall also propose timelines for implementing the IFRT's recommendations. The IFRT shall attempt to prioritize each of its recommendations and provide a rationale for such prioritization.

(c) In any case where a recommendation of an IFRT focuses on a service specific to gTLD (generic Top Level Domain) registry operators, no such recommendation shall be made by the IFRT in any report to the community (including any report to the Board) if opposition to such recommendation is expressed by any IFRT member appointed by the Registries Stakeholder Group. In any case where a recommendation of an IFRT focuses on a service specific to ccTLD (Country Code Top Level Domain) registry operators, no such recommendation shall be made by the IFRT in any report to the community (including any report to the Board) if opposition to such recommendation is expressed by any IFRT member appointed by the ccNSO (Country Code Names Supporting Organization).

(d) Notwithstanding anything herein to the contrary, the IFRT shall not have the authority to review or make recommendations relating to policy or contracting issues that are not included in the IANA (Internet Assigned Numbers Authority) Naming Function Contract or the IANA (Internet Assigned Numbers Authority) Naming Function SOW, including, without limitation, policy development, adoption processes or contract enforcement measures between contracted registries and ICANN (Internet Corporation for Assigned Names and Numbers).

Section 18.6.Recommendations to Amend the IANA (Internet Assigned Numbers Authority) Naming Function contract, iana naming function SOW or CSC charter

(a) The IFRT may recommend, among other things to the extent reasonably related to the IFR responsibilities set forth in Section 18.3, amendments to the IANA (Internet Assigned Numbers Authority) Naming Function Contract, IANA (Internet Assigned Numbers Authority) Naming Function SOW and/or the CSC Charter. The IFRT shall, at a minimum, take the following steps before an amendment to either the IANA (Internet Assigned Numbers Authority) Naming Function Contract, IANA (Internet Assigned Numbers Authority) Naming Function SOW or CSC Charter is proposed:

> (i) Consult with the Board (such consultation to be conducted in parallel with other processes set forth in this Section 18.6(a)) and PTI;
>
> (ii) Consult with the CSC;
>
> (iii) Conduct a public input session for ccTLD (Country Code Top Level Domain) and gTLD (generic Top Level Domain) registry operators; and
>
> (iv) Seek public comment on the amendments that are under consideration by the IFRT through a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers).

(b) A recommendation of an IFRT for a Periodic IFR that would amend the IANA (Internet Assigned Numbers Authority) Naming Function Contract or IANA (Internet Assigned Numbers Authority) Naming Function SOW shall only become effective if, with respect to each such recommendation (each, an "**IFR Recommendation**"), each of the following occurs:

> (i) The IFR Recommendation has been approved by the vote of (A) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO (Country Code Names Supporting Organization) Council's members) and (B) a GNSO (Generic Names Supporting Organization) Supermajority;
>
> (ii) After a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), the Board has approved the IFR Recommendation; and
>
> (iii) The EC (Empowered Community) has not rejected the Board's approval of the IFR Recommendation pursuant to and in compliance with Section 18.6(d).

(c) If the Board (x) rejects an IFR Recommendation that was approved by the ccNSO (Country Code Names Supporting Organization) Council and GNSO (Generic Names Supporting Organization) Council pursuant to Section 18.6(b)(i) or (y) does not resolve to either accept or reject an IFR Recommendation within 45 days of the later of (1) the date that the condition in Section 18.6(b)(i) is satisfied or (2) the expiration of the public comment period contemplated by Section 18.6(b)(ii), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the applicable IFR Recommendation. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

> (i) ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a Rejection Action Community Forum (as defined in Section

2.3(a) of Annex D), which Rejection Action Community Forum shall be conducted in accordance with Section 2.3 of Annex D, to discuss the Board Notice; provided, that, for purposes of Section 2.3 of Annex D, (A) the Board Notice shall be treated as the Rejection Action Supported Petition, (B) the EC (Empowered Community) Administration shall be treated as the Rejection Action Petitioning Decisional Participant (and there shall be no Rejection Action Supporting Decisional Participants (as defined in Section 2.2(d)(i) of Annex D) and (C) the Rejection Action Community Forum Period shall expire on the 21st day after the date the Secretary provides the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

(ii) No later than 45 days after the conclusion of such Rejection Action Community Forum Period, the Board shall resolve to either uphold its rejection of the IFR Recommendation or approve the IFR Recommendation (either, a "**Post-Forum IFR Recommendation Decision**").

(A)If the Board resolves to approve the IFR Recommendation, such IFR Recommendation will be subject to Section 18.6(d).

(B)For the avoidance of doubt, the Board shall not be obligated to change its decision on the IFR Recommendation as a result of the Rejection Action Community Forum.

(C)The Board's Post-Forum IFR Recommendation Decision shall be posted on the Website in accordance with the Board's posting obligations as set forth in Article 3.

(d) Promptly after the Board approves an IFR Recommendation (an "**IFR Recommendation Decision**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the IFR Recommendation that is the subject of the IFR Recommendation Decision. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(i) An IFR Recommendation Decision shall become final upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Period relating to such IFR Recommendation Decision;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such IFR Recommendation Decision; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Decision Period relating to such IFR Recommendation Decision.

(ii) An IFR Recommendation Decision that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(e) For the avoidance of doubt, Section 18.6(d) shall not apply when the Board acts in a manner that is consistent with an IFR Recommendation unless such IFR Recommendation relates to an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process as described in Article 19.

(f) Timelines for implementing any amendments to the IANA (Internet Assigned Numbers Authority) Naming Function Contract or IANA (Internet Assigned Numbers Authority) Naming Function SOW shall be reasonably agreed between the IFRT, ICANN (Internet Corporation for Assigned Names and Numbers) and PTI.

(g) A recommendation of an IFRT that would amend the CSC Charter shall only become effective if approved pursuant to Section 17.3(d).

Section 18.7. COMPOSITION OF IFR TEAMS

Each IFRT shall consist of the following members and liaisons to be appointed in accordance with the rules and procedures of the appointing organization:

(a) Two representatives appointed by the ccNSO (Country Code Names Supporting Organization) from its ccTLD (Country Code Top Level Domain) registry operator representatives;

(b) One non-ccNSO (Country Code Names Supporting Organization) ccTLD (Country Code Top Level Domain) representative who is associated with a ccTLD (Country Code Top Level Domain) registry operator that is not a representative of the ccNSO (Country Code Names Supporting Organization), appointed by the ccNSO (Country Code Names Supporting Organization); it is strongly recommended that the ccNSO (Country Code Names Supporting Organization) consult with the regional ccTLD (Country Code Top Level Domain) organizations (i.e., AfTLD, APTLD (Council of the Asia Pacific country code Top Level Domains), LACTLD (Latin American and Caribbean ccTLDs), and CENTR (Council of European National Top level domain Registries)) in making its appointment;

(c) Two representatives appointed by the Registries Stakeholder Group;

(d) One representative appointed by the Registrars Stakeholder Group;

(e) One representative appointed by the Commercial Stakeholder Group;

(f) One representative appointed by the Non-Commercial Stakeholder Group;

(g) One representative appointed by the GAC (Governmental Advisory Committee);

(h) One representative appointed by the SSAC (Security and Stability Advisory Committee);

(i) One representative appointed by the RSSAC (Root Server System Advisory Committee);

(j) One representative appointed by the ALAC (At-Large Advisory Committee);

(k) One liaison appointed by the CSC;

(l) One liaison who may be appointed by the ASO (Address Supporting Organization); and

(m) One liaison who may be appointed by the IAB (Internet Architecture Board).

(n) The IFRT shall also include an unlimited number of non-member, non-liaison participants.

(o) The IFRT shall not be a standing body. A new IFRT shall be constituted for each IFR and the IFRT shall automatically dissolve following the end of the process for approving such IFRT's IFR Recommendations pursuant to Section 18.6.

Section 18.8. MEMBERSHIP; ELECTION OF CO-CHAIRS, AND LIAISONS

(a) All candidates for appointment to the IFRT as a member or liaison shall submit an expression of interest to the organization that would appoint such candidate as a member or liaison to the IFRT, which shall state: (i) why the candidate is interested in becoming involved in the IFRT, (ii) what particular skills the candidate would bring to the IFRT, (iii) the candidate's knowledge of the IANA (Internet Assigned Numbers Authority) functions, (iv) the candidate's understanding of the purpose of the IFRT, and (v) that the candidate understands the time necessary to participate in the IFR process and can commit to the role.

(b) Members, liaisons and participants of the IFRT shall disclose to ICANN (Internet Corporation for Assigned Names and Numbers) and the IFRT any conflicts of interest with a specific complaint or issue under review. The IFRT may exclude from the discussion of a specific complaint or issue any member deemed by the majority of IFRT members to have a conflict of interest. The co-chairs of the IFRT shall record any such conflict of interest in the minutes of the IFRT.

(c) To the extent reasonably possible, the appointing organizations for the IFRT members and liaisons shall work together to achieve an IFRT that is balanced for diversity (including functional, geographic and cultural) and skill, and should seek to broaden the number of individuals participating across the various reviews;

provided, that the IFRT should include members from each ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region, and the ccNSO (Country Code Names Supporting Organization) and Registries Stakeholder Group shall not appoint multiple members who are citizens of countries from the same ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region.

(d) The IFRT shall be led by two co-chairs: one appointed by the GNSO (Generic Names Supporting Organization) from one of the members appointed pursuant to clauses (c)-(f) of Section 18.7 and one appointed by the ccNSO (Country Code Names Supporting Organization) from one of the members appointed pursuant to clauses (a)-(b) of Section 18.7.

(e) The PTI Board shall select a PTI staff member to serve as a point of contact to facilitate formal lines of communication between the IFRT and PTI. The Board shall select an ICANN (Internet Corporation for Assigned Names and Numbers) staff member to serve as a point of contact to facilitate formal lines of communication between the IFRT and ICANN (Internet Corporation for Assigned Names and Numbers).

(f) Liaisons to the IFRT are not members of or entitled to vote on any matters before the IFRT, but otherwise are entitled to participate on equal footing with members of the IFRT.

(g) Other participants are entitled to participate in the IFRT, but are not entitled to vote.

(h) Removal and Replacement of IFRT Members and Liaisons

> (i) The IFRT members and liaisons may be removed from the IFRT by their respective appointing organization at any time upon such organization providing written notice to the Secretary and the co-chairs of the IFRT.
>
> (ii) A vacancy on the IFRT shall be deemed to exist in the event of the death, resignation or removal of any IFRT member or liaison. Vacancies shall be filled by the organization that appointed such IFRT member or liaison. The appointing organization shall provide written notice to the Secretary of its appointment to fill a vacancy, with a notification copy to the IFRT co-chairs. The organization responsible for filling such vacancy shall use its reasonable efforts to fill such vacancy within one month after the occurrence of such vacancy.

Section 18.9. MEETINGS

(a) All actions of the IFRT shall be taken by consensus of the IFRT, which is where a small minority may disagree, but most agree. If consensus cannot be reached with respect to a particular issue, actions by the majority of all of the members of the IFRT shall be the action of the IFRT.

(b) Any members of the IFRT not in favor of an action (whether as a result of voting against a matter or objecting to the consensus position) may record a minority dissent to such action, which shall be included in the IFRT minutes and/or report, as applicable.

(c) IFRT meetings, deliberations and other working procedures shall be open to the public and conducted in a transparent manner to the fullest extent possible.

(d) The IFRT shall transmit minutes of its meetings to the Secretary, who shall cause those minutes to be posted to the Website as soon as practicable following each IFRT meeting. Recordings and transcripts of meetings, as well as mailing lists, shall also be posted to the Website.

Section 18.10. COMMUNITY REVIEWS AND REPORTS

(a) The IFRT shall seek community input as to the issues relevant to the IFR through one or more public comment periods that shall comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers) and through discussions during ICANN (Internet Corporation for Assigned Names and Numbers)'s public meetings in developing and finalizing its recommendations and any report.

(b) The IFRT shall provide a draft report of its findings and recommendations to the community for public comment. The public comment period is required to comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers).

(c) After completion of the IFR, the IFRT shall submit its final report containing its findings and recommendations to the Board. ICANN (Internet Corporation for Assigned Names and Numbers) shall thereafter promptly post the IFRT's final report on the Website.

Section 18.11. ADMINISTRATIVE AND OPERATIONAL SUPPORT

ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for each IFRT to carry out its responsibilities, including providing and facilitating remote participation in all meetings of the IFRT.

Section 18.12. SPECIAL IFRS

(a) A Special IFR may be initiated outside of the cycle for the Periodic IFRs to address any deficiency, problem or other issue that has adversely affected PTI's performance under the IANA (Internet Assigned Numbers Authority) Naming Function Contract and IANA (Internet Assigned Numbers Authority) Naming Function SOW (a "**PTI Performance Issue**"), following the satisfaction of each of the following conditions:

> (i) The Remedial Action Procedures of the CSC set forth in the IANA (Internet Assigned Numbers Authority) Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such procedures shall have been reviewed by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) according to each organization's respective operating procedures;
>
> (ii) The IANA (Internet Assigned Numbers Authority) Problem Resolution Process set forth in the IANA (Internet Assigned Numbers Authority) Naming Function Contract shall have been followed and failed to correct the PTI Performance Issue and the outcome of such process shall have been reviewed by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) according to each organization's respective operating procedures;
>
> (iii) The ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) shall have considered the outcomes of the processes set forth in the preceding clauses (i) and (ii) and shall have conducted meaningful consultation with the other Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) with respect to the PTI Performance Issue and whether or not to initiate a Special IFR; and
>
> (iv) After a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), if a public comment period is requested by the ccNSO (Country Code Names Supporting Organization) and the GNSO (Generic Names Supporting Organization), a Special IFR shall have

been approved by the vote of (A) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or if such procedures do not define a supermajority, two-thirds (2/3) of the Council members) and (B) a GNSO (Generic Names Supporting Organization) Supermajority.

(b) Each Special IFR shall be conducted by an IFRT and shall follow the same procedures and requirements applicable to Periodic IFRs as set forth in this Section 18, except that:

(i) The scope of the Special IFR and the related inputs that are required to be reviewed by the IFRT shall be focused primarily on the PTI Performance Issue, its implications for overall IANA (Internet Assigned Numbers Authority) naming function performance by PTI and how to resolve the PTI Performance Issue;

(ii) The IFRT shall review and analyze the information that is relevant to the scope of the Special IFR; and

(iii) Each recommendation of the IFRT relating to the Special IFR, including but not limited to any recommendation to initiate an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process, must be related to remediating the PTI Performance Issue or other issue with PTI's performance that is related to the IFRT responsibilities set forth in Section 18.3, shall include proposed remedial procedures and describe how those procedures are expected to address the PTI Performance Issue or other relevant issue with PTI's performance.

(c) A recommendation of an IFRT for a Special IFR shall only become effective if, with respect to each such recommendation (each, a "**Special IFR Recommendation**"), each of the following occurs:

(i) The Special IFR Recommendation has been approved by the vote of (A) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO (Country Code Names Supporting Organization) Council's members) and (B) a GNSO (Generic Names Supporting Organization) Supermajority;

(ii) After a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), the Board has approved the Special IFR Recommendation; and

(iii) The EC (Empowered Community) has not rejected the Board's approval of the Special IFR Recommendation pursuant to and in compliance with Section 18.12(e).

(d) If the Board (x) rejects a Special IFR Recommendation that was approved by the ccNSO (Country Code Names Supporting Organization) Council and GNSO (Generic Names Supporting Organization) Council pursuant to Section 18.12(c)(i) or (y) does not resolve to either accept or reject a Special IFR Recommendation within 45 days of the later of (1) the date that the condition in Section 18.12(c)(i) is satisfied or (2) the expiration of the public comment period contemplated by Section 18.12(c)(ii), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the applicable Special IFR Recommendation. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

(i) ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a Rejection Action Community Forum, which Rejection Action Community Forum shall be conducted in accordance with Section 2.3 of Annex D, to discuss the Board Notice; provided, that, for purposes of Section 2.3 of Annex D, (A) the Board Notice shall be treated as the Rejection Action Supported Petition, (B) the EC (Empowered Community) Administration shall be treated as the Rejection Action Petitioning Decisional Participant (and there shall be no Rejection Action Supporting Decisional Participants) and (C) the Rejection Action Community Forum Period shall expire on the 21st day after the date the Secretary provides the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

(ii) No later than 45 days after the conclusion of such Rejection Action Community Forum Period, the Board shall resolve to either uphold its rejection of the Special IFR Recommendation or approve the Special IFR

Recommendation (either, a "**Post-Forum Special IFR Recommendation Decision**").

(A)If the Board resolves to approve the Special IFR Recommendation, such Special IFR Recommendation will be subject to Section 18.6(d).

(B)For the avoidance of doubt, the Board shall not be obligated to change its decision on the Special IFR Recommendation as a result of the Rejection Action Community Forum.

(C)The Board's Post-Forum Special IFR Recommendation Decision shall be posted on the Website in accordance with the Board's posting obligations as set forth in Article 3.

(e) Promptly after the Board approves a Special IFR Recommendation (a "**Special IFR Recommendation Decision**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the Special IFR Recommendation that is the subject of the Special IFR Recommendation Decision. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(i) A Special IFR Recommendation Decision shall become final upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the Special IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Period relating to such Special IFR Recommendation Decision;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary

> pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the Special IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such Special IFR Recommendation Decision; and
>
> (C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the Special IFR Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Decision Period relating to such Special IFR Recommendation Decision.
>
> (ii) A Special IFR Recommendation Decision that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(f) For the avoidance of doubt, Section 18.12(e) shall not apply when the Board acts in a manner that is consistent with a Special IFR Recommendation unless such Special IFR Recommendation relates to an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process as described in Article 19.

Section 18.13. PROPOSED SEPARATION PROCESS

The IFRT conducting either a Special IFR or Periodic IFR may, upon conclusion of a Special IFR or Periodic IFR, as applicable, determine that an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process is necessary and, if so, it shall recommend the creation of an SCWG pursuant to Article 19.

ARTICLE 19IANA (Internet Assigned Numbers Authority) NAMING FUNCTION SEPARATION PROCESS

Section 19.1. ESTABLISHING AN SCWG

(a) An "**IANA (Internet Assigned Numbers Authority) Naming Function Separation Process**" is the process initiated in accordance with this Article 19

pursuant to which PTI may cease to perform the IANA (Internet Assigned Numbers Authority) naming function including, without limitation, the initiation of a request for proposal to select an operator to perform the IANA (Internet Assigned Numbers Authority) naming function instead of PTI ("**IANA (Internet Assigned Numbers Authority) Naming Function RFP**"), the selection of an IANA (Internet Assigned Numbers Authority) naming function operator other than PTI, termination or non-renewal of the IANA (Internet Assigned Numbers Authority) Naming Function Contract, and/or divestiture, or other reorganization of PTI by ICANN (Internet Corporation for Assigned Names and Numbers).

(b) The Board shall establish an SCWG if each of the following occurs:

(i) The IFRT conducting either a Special IFR or Periodic IFR, upon conclusion of a Special IFR or Periodic IFR, as applicable, has recommended that an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process is necessary and has recommended the creation of an SCWG (an "**SCWG Creation Recommendation**");

(ii) The SCWG Creation Recommendation has been approved by the vote of (A) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO (Country Code Names Supporting Organization) Council's members) and (B) a GNSO (Generic Names Supporting Organization) Supermajority;

(iii) After a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), the Board has approved the SCWG Creation Recommendation. A determination by the Board to not approve an SCWG Creation Recommendation, where such creation has been approved by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) Councils pursuant to Section 19.1(b)(ii), shall require a vote of at least two-thirds (2/3) of the Board and the Board shall follow the same consultation procedures set forth in Section 9 of Annex A of these Bylaws that relate to Board rejection of a PDP (Policy Development Process) recommendation that is supported by a GNSO (Generic Names Supporting Organization) Supermajority; and

(iv) The EC (Empowered Community) has not rejected the Board's approval of the SCWG Creation Recommendation pursuant to and in compliance with Section 19.1(d).

(c) If the Board (x) rejects an SCWG Creation Recommendation that was approved by the ccNSO (Country Code Names Supporting Organization) Council and GNSO (Generic Names Supporting Organization) Council pursuant to Section 19.1(b)(ii) or (y) does not resolve to either accept or reject an SCWG Creation Recommendation within 45 days of the later of (1) the date that the condition in Section 19.1(b)(ii) is satisfied or (2) the expiration of the public comment period contemplated by Section 19.1(b)(iii), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the applicable SCWG Creation Recommendation. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

(i) ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a Rejection Action Community Forum, which Rejection Action Community Forum shall be conducted in accordance with Section 2.3 of Annex D, to discuss the Board Notice; provided, that, for purposes of Section 2.3 of Annex D, (A) the Board Notice shall be treated as the Rejection Action Supported Petition, (B) the EC (Empowered Community) Administration shall be treated as the Rejection Action Petitioning Decisional Participant (and there shall be no Rejection Action Supporting Decisional Participants) and (C) the Rejection Action Community Forum Period shall expire on the 21st day after the date the Secretary provides the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

(ii) No later than 45 days after the conclusion of such Rejection Action Community Forum Period, the Board shall resolve to either uphold its rejection of the SCWG Creation Recommendation or approve the SCWG Creation Recommendation (either, a "**Post-Forum SCWG Creation Recommendation Decision**").

(A)If the Board resolves to approve the SCWG Creation Recommendation, such SCWG Creation Recommendation will be subject to Section 19.1(d).

(B)For the avoidance of doubt, the Board shall not be obligated to change its decision on the SCWG Creation Recommendation as a result of the Rejection Action Community Forum.

(C)The Board's Post-Forum SCWG Creation Recommendation Decision shall be posted on the Website in accordance with the Board's posting obligations as set forth in Article 3.

(d) Promptly after the Board approves an SCWG Creation Recommendation (an "**SCWG Creation Decision**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the SCWG Creation Decision. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(i) An SCWG Creation Decision shall become final upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the SCWG Creation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Period relating to such SCWG Creation Decision;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the SCWG Creation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such SCWG Creation Decision; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC

(Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the SCWG Creation Decision shall be final as of the date immediately following the expiration of the Rejection Action Decision Period relating to such SCWG Creation Decision.

(ii) An SCWG Creation Decision that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

Section 19.2. SCWG RESPONSIBILITIES

The responsibilities of the SCWG shall be as follows:

(a) The SCWG shall determine how to resolve the PTI Performance Issue(s) which the IFRT that conducted the Special IFR or Periodic IFR, as applicable, identified as triggering formation of this SCWG.

(b) If the SCWG recommends the issuance of an IANA (Internet Assigned Numbers Authority) Naming Function RFP, the SCWG shall:

(i) Develop IANA (Internet Assigned Numbers Authority) Naming Function RFP guidelines and requirements for the performance of the IANA (Internet Assigned Numbers Authority) naming function, in a manner consistent with ICANN (Internet Corporation for Assigned Names and Numbers)'s publicly available procurement guidelines (as in effect immediately prior to the formation of the SCWG); and

(ii) Solicit input from ICANN (Internet Corporation for Assigned Names and Numbers) as well as the global Internet community (through community consultation, including public comment opportunities as necessary that comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers)) on requirements to plan and participate in the IANA (Internet Assigned Numbers Authority) Naming Function RFP process.

(c) If an SCWG Recommendation (as defined in Section 19.4(b)) to issue the IANA (Internet Assigned Numbers Authority) Naming Function RFP is approved pursuant to Section 19.4(b) and the EC (Empowered Community) does not reject the relevant SCWG Recommendation Decision pursuant to Section 19.4(d), the SCWG, in consultation with ICANN (Internet Corporation for Assigned Names and Numbers), shall:

(i) Issue the IANA (Internet Assigned Numbers Authority) Naming Function RFP;

(ii) Review responses from interested candidates to the IANA (Internet Assigned Numbers Authority) Naming Function RFP, which may be received from PTI and/or any other entity or person; and

(iii) Recommend the entity that ICANN (Internet Corporation for Assigned Names and Numbers) should contract with to perform the IANA (Internet Assigned Numbers Authority) naming function.

(d) If the SCWG recommends an IANA (Internet Assigned Numbers Authority) Naming Function Separation Process other than the issuance of an IANA (Internet Assigned Numbers Authority) Naming Function RFP, the SCWG shall develop recommendations to be followed with respect to that process and its implementation consistent with the terms of this Article 19. The SCWG shall monitor and manage the implementation of such IANA (Internet Assigned Numbers Authority) Naming Function Separation Process.

Section 19.3. COMMUNITY REVIEWS AND REPORTS

(a) The SCWG shall seek community input through one or more public comment periods (such public comment period shall comply with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers)) and may recommend discussions during ICANN (Internet Corporation for Assigned Names and Numbers)'s public meetings in developing and finalizing its recommendations and any report.

(b) The SCWG shall provide a draft report of its findings and recommendations to the community after convening of the SCWG, which such draft report will be posted for public comment on the Website. The SCWG may post additional drafts of its report for public comment until it has reached its final report.

(c) After completion of its review, the SCWG shall submit its final report containing its findings and recommendations to the Board. ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post the SCWG's final report on the Website.

Section 19.4. SCWG RECOMMENDATIONS

(a) The recommendations of the SCWG are not limited and could include a variety of recommendations or a recommendation that no action is required;

provided, however, that any recommendations must directly relate to the matters discussed in Section 19.2 and comply with this Section 19.4.

(b) ICANN (Internet Corporation for Assigned Names and Numbers) shall not implement an SCWG recommendation (including an SCWG recommendation to issue an IANA (Internet Assigned Numbers Authority) Naming Function RFP) unless, with respect to each such recommendation (each, an "**SCWG Recommendation**"), each of the following occurs:

> (i) The SCWG Recommendation has been approved by the vote of (A) a supermajority of the ccNSO (Country Code Names Supporting Organization) Council (pursuant to the ccNSO (Country Code Names Supporting Organization)'s procedures or, if such procedures do not define a supermajority, two-thirds (2/3) of the ccNSO (Country Code Names Supporting Organization) Council's members) and (B) a GNSO (Generic Names Supporting Organization) Supermajority;
>
> (ii) After a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), the Board has approved the SCWG Recommendation. A determination by the Board to not approve an SCWG Recommendation, where such SCWG Recommendation has been approved by the ccNSO (Country Code Names Supporting Organization) and GNSO (Generic Names Supporting Organization) Councils pursuant to Section 19.4(b)(i), shall require a vote of at least two-thirds (2/3) of the Board and the Board shall follow the same consultation procedures set forth in Section 9 of Annex A of these Bylaws that relate to Board rejection of a PDP (Policy Development Process) recommendation that is supported by a GNSO (Generic Names Supporting Organization) Supermajority; and
>
> (iii) The EC (Empowered Community) has not rejected the Board's approval of the SCWG Recommendation pursuant to and in compliance with Section 19.4(d).

(c) If the Board (x) rejects an SCWG Recommendation that was approved by the ccNSO (Country Code Names Supporting Organization) Council and GNSO (Generic Names Supporting Organization) Council pursuant to Section 19.4(b)(i) or (y) does not resolve to either accept or reject an SCWG Recommendation within 45 days of the later of (1) the date that the condition in Section 19.4(b)(i) is satisfied or (2) the expiration of the public comment period contemplated by Section 19.4(b)(ii), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which

Board Notice shall enclose a copy of the applicable SCWG Recommendation. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.

> (i) ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a Rejection Action Community Forum, which Rejection Action Community Forum shall be conducted in accordance with Section 2.3 of Annex D, to discuss the Board Notice; provided, that, for purposes of Section 2.3 of Annex D, (A) the Board Notice shall be treated as the Rejection Action Supported Petition, (B) the EC (Empowered Community) Administration shall be treated as the Rejection Action Petitioning Decisional Participant (and there shall be no Rejection Action Supporting Decisional Participants) and (C) the Rejection Action Community Forum Period shall expire on the 21st day after the date the Secretary provides the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants.
>
> (ii) No later than 45 days after the conclusion of such Rejection Action Community Forum Period, the Board shall resolve to either uphold its rejection of the SCWG Recommendation or approve the SCWG Recommendation (either, a "**Post-Forum SCWG Recommendation Decision**").

(A)If the Board resolves to approve the SCWG Recommendation, such SCWG Recommendation will be subject to Section 19.4(d).

(B)For the avoidance of doubt, the Board shall not be obligated to change its decision on the SCWG Recommendation as a result of the Rejection Action Community Forum.

(C)The Board's Post-Forum SCWG Recommendation Decision shall be posted on the Website in accordance with the Board's posting obligations as set forth in Article 3.

(d) Promptly after the Board approves an SCWG Recommendation (an "**SCWG Recommendation Decision**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the SCWG Recommendation that is

the subject of the SCWG Recommendation Decision. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

> (i) An SCWG Recommendation Decision shall become final upon the earliest to occur of the following:
>
> (A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the SCWG Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Period relating to such SCWG Recommendation Decision;
>
> (B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the SCWG Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such SCWG Recommendation Decision; and
>
> (C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the SCWG Recommendation Decision shall be final as of the date immediately following the expiration of the Rejection Action Decision Period relating to such SCWG Recommendation Decision.

(ii) An SCWG Recommendation Decision that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(e) ICANN (Internet Corporation for Assigned Names and Numbers) shall absorb the costs relating to recommendations made by the SCWG, including, without limitation, costs related to the process of selecting or potentially selecting a new operator for the IANA (Internet Assigned Numbers Authority) naming function and the operating costs of the successor operator that are necessary for the successor operator's performance of the IANA (Internet Assigned Numbers Authority) naming function as ICANN (Internet Corporation for Assigned Names and Numbers)'s independent contractor. ICANN (Internet Corporation for Assigned Names and Numbers) shall not be authorized to raise fees from any TLD (Top Level Domain) registry operators to cover the costs associated with implementation of any SCWG Recommendations that specifically relate to the transition to a successor operator. For avoidance of doubt, this restriction shall not apply to collecting appropriate fees necessary to maintain the ongoing performance of the IANA (Internet Assigned Numbers Authority) naming function, including those relating to the operating costs of the successor operator.

(f) In the event that (i) an SCWG Recommendation that selects an entity (other than PTI) as a new operator of the IANA (Internet Assigned Numbers Authority) naming function is approved pursuant to Section 19.4(b) and (ii) the EC (Empowered Community) does not reject the relevant SCWG Recommendation Decision pursuant to Section 19.4(d), ICANN (Internet Corporation for Assigned Names and Numbers) shall enter into a contract with the new operator on substantially the same terms recommended by the SCWG and approved as part of such SCWG Recommendation.

(g) As promptly as practical following an SCWG Recommendation Decision becoming final in accordance with this Section 19.4, ICANN (Internet Corporation for Assigned Names and Numbers) shall take all steps reasonably necessary to effect such SCWG Recommendation Decision as soon as practicable.

Section 19.5. SCWG COMPOSITION

(a) Each SCWG shall consist of the following members and liaisons to be appointed in accordance with the rules and procedures of the appointing organization:

(i) Two representatives appointed by the ccNSO (Country Code Names Supporting Organization) from its ccTLD (Country Code Top Level Domain) registry operator representatives;

(ii) One non-ccNSO (Country Code Names Supporting Organization) ccTLD (Country Code Top Level Domain) representative who is associated with a ccTLD (Country Code Top Level Domain) registry operator that is not a representative of the ccNSO (Country Code Names Supporting Organization), appointed by the ccNSO (Country Code Names Supporting Organization); it is strongly recommended that the ccNSO (Country Code Names Supporting Organization) consult with the regional ccTLD (Country Code Top Level Domain) organizations (i.e., AfTLD, APTLD (Council of the Asia Pacific country code Top Level Domains), LACTLD (Latin American and Caribbean ccTLDs) and CENTR (Council of European National Top level domain Registries)) in making its appointment;

(iii) Three representatives appointed by the Registries Stakeholder Group;

(iv) One representative appointed by the Registrars Stakeholder Group;

(v) One representative appointed by the Commercial Stakeholder Group;

(vi) One representative appointed by the Non-Commercial Stakeholder Group;

(vii) One representative appointed by the GAC (Governmental Advisory Committee);

(viii) One representative appointed by the SSAC (Security and Stability Advisory Committee);

(ix) One representative appointed by the RSSAC (Root Server System Advisory Committee);

(x) One representative appointed by the ALAC (At-Large Advisory Committee);

(xi) One liaison appointed by the CSC;

(xii) One liaison appointed by the IFRT that conducted the Special IFR or Periodic IFR, as applicable, that recommended the creation of the SCWG, who shall be named in the IFRT's recommendation to convene the Special IFR;

(xiii) One liaison who may be appointed by the ASO (Address Supporting Organization);

(xiv) One liaison who may be appointed by the IAB (Internet Architecture Board); and

(xv) One liaison who may be appointed by the Board.

(xvi) The SCWG may also include an unlimited number of non-member, non-liaison participants.

(b) All candidates for appointment to the SCWG as a member or liaison shall submit an expression of interest to the organization that would appoint such candidate as a member or liaison, which shall state (i) why the candidate is interested in becoming involved in the SCWG, (ii) what particular skills the candidate would bring to the SCWG, (iii) the candidate's knowledge of the IANA (Internet Assigned Numbers Authority) naming function, (iv) the candidate's understanding of the purpose of the SCWG, and (v)that the candidate understands the time necessary to participate in the SCWG process and can commit to the role.

(c) Members and liaisons of the SCWG shall disclose to ICANN (Internet Corporation for Assigned Names and Numbers) and the SCWG any conflicts of interest with a specific complaint or issue under review. The SCWG may exclude from the discussion of a specific complaint or issue any member, liaison or participant deemed by the majority of SCWG members to have a conflict of interest. The co-chairs of the SCWG shall record any such conflict of interest in the minutes of the SCWG.

(d) To the extent reasonably possible, the appointing organizations for SCWG members and liaisons shall work together to:

(i) achieve an SCWG that is balanced for diversity (including functional, geographic and cultural) and skill, and should seek to broaden the number of individuals participating across the various reviews; provided, that the SCWG should include members from each ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region, and the ccNSO (Country Code Names Supporting Organization) and Registries Stakeholder Group shall not appoint multiple members who are citizens of countries from the same ICANN (Internet Corporation for Assigned Names and Numbers) Geographic Region;

(ii) ensure that the SCWG is comprised of individuals who are different from those individuals who comprised the IFRT that conducted the Special IFR or Periodic IFR, as applicable, that recommended the creation of the SCWG, other than the liaison to the IFRT appointed by the CSC; and

(iii) seek to appoint as representatives of the SCWG as many individuals as practicable with experience managing or participating in RFP processes.

(e) ICANN (Internet Corporation for Assigned Names and Numbers) shall select an ICANN (Internet Corporation for Assigned Names and Numbers) staff member and a PTI staff member to serve as points of contact to facilitate formal lines of communication between the SCWG and ICANN (Internet Corporation for Assigned Names and Numbers) and the SCWG and PTI. Communications between the SCWG and the ICANN (Internet Corporation for Assigned Names and Numbers) and PTI points of contact shall be communicated by the SCWG co-chairs.

(f) The SCWG shall not be a standing body. Each SCWG shall be constituted when and as required under these Bylaws and shall dissolve following the end of the process for approving such SCWG's SCWG Recommendations pursuant to Section 19.4(d).

Section 19.6. ELECTION OF CO-CHAIRS AND LIAISONS

(a) The SCWG shall be led by two co-chairs: one appointed by the GNSO (Generic Names Supporting Organization) from one of the members appointed pursuant to clauses (iii)-(vi) of Section 19.5(a) and one appointed by the ccNSO (Country Code Names Supporting Organization) from one of the members appointed pursuant to clauses (i)-(ii) of Section 19.5(a).

(b) Liaisons to the SCWG shall not be members of or entitled to vote on any matters before the SCWG, but otherwise shall be entitled to participate on equal footing with SCWG members.

(c) Removal and Replacement of SCWG Members and Liaisons

(i) The SCWG members and liaisons may be removed from the SCWG by their respective appointing organization at any time upon such organization providing written notice to the Secretary and the co-chairs of the SCWG.

(ii) A vacancy on the SCWG shall be deemed to exist in the event of the death, resignation or removal of any SCWG member or liaison. Vacancies

> shall be filled by the organization that appointed such SCWG member or liaison. The appointing organization shall provide written notice to the Secretary of its appointment to fill a vacancy, with a notification copy to the SCWG co-chairs. The organization responsible for filling such vacancy shall use its reasonable efforts to fill such vacancy within one month after the occurrence of such vacancy.

Section 19.7. MEETINGS

(a) The SCWG shall act by consensus, which is where a small minority may disagree, but most agree.

(b) Any members of the SCWG not in favor of an action may record a minority dissent to such action, which shall be included in the SCWG minutes and/or report, as applicable.

(c) SCWG meetings and other working procedures shall be open to the public and conducted in a transparent manner to the fullest extent possible.

(d) The SCWG shall transmit minutes of its meetings to the Secretary, who shall cause those minutes to be posted to the Website as soon as practicable following each SCWG meeting, and no later than five business days following the meeting.

(e) Except as otherwise provided in these Bylaws, the SCWG shall follow the guidelines and procedures applicable to ICANN (Internet Corporation for Assigned Names and Numbers) Cross Community Working Groups that will be publicly available and may be amended from time to time.

Section 19.8. ADMINISTRATIVE SUPPORT

ICANN (Internet Corporation for Assigned Names and Numbers) shall provide administrative and operational support necessary for the SCWG to carry out its responsibilities, including providing and facilitating remote participation in all meetings of the SCWG.

Section 19.9. CONFLICTING PROVISIONS

In the event any SCWG Recommendation that is approved in accordance with this Article 19 requires ICANN (Internet Corporation for Assigned Names and Numbers) to take any action that is inconsistent with a provision of the Bylaws (including any action taken in implementing such SCWG Recommendation), the requirements of such provision of these Bylaws shall not apply to the extent of that inconsistency.

ARTICLE 20 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

Section 20.1. INDEMNIFICATION GENERALLY

ICANN (Internet Corporation for Assigned Names and Numbers) shall, to the maximum extent permitted by the CCC, indemnify each of its agents against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that any such person is or was an agent of ICANN (Internet Corporation for Assigned Names and Numbers), provided that the indemnified person's acts were done in good faith and in a manner that the indemnified person reasonably believed to be in ICANN (Internet Corporation for Assigned Names and Numbers)'s best interests and not criminal. For purposes of this Article 20, an "agent" of ICANN (Internet Corporation for Assigned Names and Numbers) includes any person who is or was a Director, Officer, employee, or any other agent of ICANN (Internet Corporation for Assigned Names and Numbers) (including a member of the EC (Empowered Community), the EC (Empowered Community) Administration, any Supporting Organization (Supporting Organization), any Advisory Committee (Advisory Committee), the Nominating Committee, any other ICANN (Internet Corporation for Assigned Names and Numbers) committee, or the Technical Liaison Group) acting within the scope of his or her responsibility; or is or was serving at the request of ICANN (Internet Corporation for Assigned Names and Numbers) as a Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise. The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of ICANN (Internet Corporation for Assigned Names and Numbers) against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not ICANN (Internet Corporation for Assigned Names and Numbers) would have the power to indemnify the agent against that liability under the provisions of this Article 20.

Section 20.2. INDEMNIFICATION WITH RESPECT TO DIRECTOR REMOVAL

If a Director initiates any proceeding in connection with his or her removal or recall pursuant to the Bylaws, to which a person who is a member of the leadership council (or equivalent body) of a Decisional Participant or representative of a Decisional Participant in the EC (Empowered Community) Administration is a party or is threatened to be made a party (as a party or witness) (a "**Director Removal Proceeding**"), ICANN (Internet Corporation for

Assigned Names and Numbers) shall, to the maximum extent permitted by the CCC, indemnify any such person, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by such person in connection with such Director Removal Proceeding, for actions taken by such person in his or her representative capacity within his or her Decisional Participant pursuant to the processes and procedures set forth in these Bylaws, provided that all such actions were taken by such person in good faith and in a manner that such person reasonably believed to be in ICANN (Internet Corporation for Assigned Names and Numbers)'s best interests and not criminal. The actual and reasonable legal fees of a single firm of counsel and other expenses actually and reasonably incurred by such person in defending against a Director Removal Proceeding shall be paid by ICANN (Internet Corporation for Assigned Names and Numbers) in advance of the final disposition of such Director Removal Proceeding, provided, however, that such expenses shall be advanced only upon delivery to the Secretary of an undertaking (which shall be in writing and in a form provided by the Secretary) by such person to repay the amount of such expenses if it shall ultimately be determined that such person is not entitled to be indemnified by ICANN (Internet Corporation for Assigned Names and Numbers). ICANN (Internet Corporation for Assigned Names and Numbers) shall not be obligated to indemnify such person against any settlement of a Director Removal Proceeding, unless such settlement is approved in advance by the Board in its reasonable discretion. Notwithstanding Section 20.1, the indemnification provided in this Section 20.2 shall be ICANN (Internet Corporation for Assigned Names and Numbers)'s sole indemnification obligation with respect to the subject matter set forth in this Section 20.2.

ARTICLE 21 GENERAL PROVISIONS

Section 21.1. CONTRACTS

The Board may authorize any Officer or Officers, agent or agents, to enter into any contract or execute or deliver any instrument in the name of and on behalf of ICANN (Internet Corporation for Assigned Names and Numbers), and such authority may be general or confined to specific instances. In the absence of a contrary Board authorization, contracts and instruments may only be executed by the following Officers: President, any Vice President, or the CFO. Unless authorized or ratified by the Board, no other Officer, agent, or employee shall have any power or authority to bind ICANN (Internet Corporation for Assigned Names and Numbers) or to render it liable for any debts or obligations.

Section 21.2. DEPOSITS

All funds of ICANN (Internet Corporation for Assigned Names and Numbers) not otherwise employed shall be deposited from time to time to the credit of ICANN (Internet Corporation for Assigned Names and Numbers) in such banks, trust companies, or other depositories as the Board, or the President under its delegation, may select.

Section 21.3. CHECKS

All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of ICANN (Internet Corporation for Assigned Names and Numbers) shall be signed by such Officer or Officers, agent or agents, of ICANN (Internet Corporation for Assigned Names and Numbers) and in such a manner as shall from time to time be determined by resolution of the Board.

Section 21.4. LOANS

No loans shall be made by or to ICANN (Internet Corporation for Assigned Names and Numbers) and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances; provided, however, that no loans shall be made by ICANN (Internet Corporation for Assigned Names and Numbers) to its Directors or Officers.

Section 21.5. NOTICES

All notices to be given to the EC (Empowered Community) Administration, the Decisional Participants, or the Secretary pursuant to any provision of these Bylaws shall be given either (a) in writing at the address of the appropriate party as set forth below or (b) via electronic mail as provided below, unless that party has given a notice of change of postal or email address, as provided in this Section 21.5. Any change in the contact information for notice below will be given by the party within 30 days of such change. Any notice required by these Bylaws 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 electronic mail, upon confirmation of receipt by the recipient's email server, provided that such notice via electronic mail shall be followed by a copy sent by regular postal mail service within three days. In the event other means of notice become practically achievable, such as notice via a secure website, the EC (Empowered Community) Administration, the Decisional Participants, and ICANN (Internet Corporation for Assigned Names and Numbers) will work together to implement such notice means.

If to ICANN (Internet Corporation for Assigned Names and Numbers), addressed to:

Internet Corporation for Assigned Names and Numbers

12025 Waterfront Drive, Suite 300

Los Angeles, CA 90094-2536

USA

Email: [___]

Attention: Secretary

If to a Decisional Participant or the EC (Empowered Community) Administration, addressed to the contact information available at [insert Website reference].

ARTICLE 22 FISCAL AND STRATEGIC MATTERS, INSPECTION AND INDEPENDENT INVESTIGATION

Section 22.1. ACCOUNTING

The fiscal year end of ICANN (Internet Corporation for Assigned Names and Numbers) shall be determined by the Board.

Section 22.2. AUDIT

At the end of the fiscal year, the books of ICANN (Internet Corporation for Assigned Names and Numbers) shall be closed and audited by certified public accountants. The appointment of the fiscal auditors shall be the responsibility of the Board.

Section 22.3. ANNUAL REPORT AND ANNUAL STATEMENT

The Board shall publish, at least annually, a report describing its activities, including an audited financial statement, a description of any payments made by ICANN (Internet Corporation for Assigned Names and Numbers) to Directors (including reimbursements of expenses) and a description of ICANN (Internet Corporation for Assigned Names and Numbers)'s progress towards the obligations imposed under the Bylaws as revised on 1 October 2016 and the Operating Plan and Strategic Plan. ICANN (Internet Corporation for Assigned Names and Numbers) shall cause the annual report and the annual statement of

certain transactions as required by the CCC to be prepared and sent to each member of the Board and to such other persons as the Board may designate, no later than one hundred twenty (120) days after the close of ICANN (Internet Corporation for Assigned Names and Numbers)'s fiscal year.

Section 22.4. BUDGETS

(a) ICANN (Internet Corporation for Assigned Names and Numbers) Budget

> (i) In furtherance of its Commitment to transparent and accountable budgeting processes, at least forty-five (45) days prior to the commencement of each fiscal year, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall prepare and submit to the Board a proposed annual operating plan and budget of ICANN (Internet Corporation for Assigned Names and Numbers) for the next fiscal year (the "**ICANN (Internet Corporation for Assigned Names and Numbers) Budget**"), which shall be posted on the Website. The ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall identify anticipated revenue sources and levels and shall, to the extent practical, identify anticipated material expense items by line item.
>
> (ii) Prior to approval of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall consult with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) during the ICANN (Internet Corporation for Assigned Names and Numbers) Budget development process, and comply with the requirements of this Section 22.4(a).
>
> (iii) Prior to approval of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget by the Board, a draft of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall be posted on the Website and shall be subject to public comment.
>
> (iv) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to post a revised draft of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget and may direct ICANN (Internet Corporation for Assigned Names and Numbers) Staff to conduct one or more additional public comment periods of lengths determined by the Board, in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(v) Promptly after the Board approves an ICANN (Internet Corporation for Assigned Names and Numbers) Budget (an "**ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget that is the subject of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(vi) An ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall become effective upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the ICANN (Internet Corporation for Assigned Names and Numbers) Budget that is the subject of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval shall be in full force and effect as of the 28th day following the Rejection Action Board Notification Date (as defined in Section 2.2(a) of Annex D) relating to such ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval and the effectiveness of such ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the ICANN (Internet

Corporation for Assigned Names and Numbers) Budget that is the subject of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval and the effectiveness of such ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the ICANN (Internet Corporation for Assigned Names and Numbers) Budget that is the subject of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Decision Period relating to such ICANN (Internet Corporation for Assigned Names and Numbers) Budget Approval and the effectiveness of such ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(vii) An ICANN (Internet Corporation for Assigned Names and Numbers) Budget that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(viii) Following receipt of an EC (Empowered Community) Rejection Notice relating to an ICANN (Internet Corporation for Assigned Names and Numbers) Budget, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the ICANN (Internet Corporation for Assigned Names and Numbers) Budget in determining the substance of such new ICANN (Internet Corporation for Assigned Names and Numbers) Budget, which shall be subject to the procedures of this Section 22.4(a).

(ix) If an ICANN (Internet Corporation for Assigned Names and Numbers) Budget has not come into full force and effect pursuant to this Section 22.4(a) on or prior to the first date of any fiscal year of ICANN (Internet Corporation for Assigned Names and Numbers), the Board shall adopt a temporary budget in accordance with Annex E hereto ("**Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget**"), which Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall be effective until such time as an ICANN (Internet Corporation for Assigned Names and Numbers) Budget has been effectively approved by the Board and not rejected by the EC (Empowered Community) pursuant to this Section 22.4(a).

(b) IANA (Internet Assigned Numbers Authority) Budget

(i) At least 45 days prior to the commencement of each fiscal year, ICANN (Internet Corporation for Assigned Names and Numbers) shall prepare and submit to the Board a proposed annual operating plan and budget of PTI and the IANA (Internet Assigned Numbers Authority) department, which budget shall include itemization of the direct costs for ICANN (Internet Corporation for Assigned Names and Numbers)'s IANA (Internet Assigned Numbers Authority) department, all costs for PTI, direct costs for shared resources between ICANN (Internet Corporation for Assigned Names and Numbers) and PTI and support functions provided by ICANN (Internet Corporation for Assigned Names and Numbers) to PTI and ICANN (Internet Corporation for Assigned Names and Numbers)'s IANA (Internet Assigned Numbers Authority) department for the next fiscal year (the "**IANA (Internet Assigned Numbers Authority) Budget**"), which shall be posted on the Website. Separately and in addition to the general ICANN (Internet Corporation for Assigned Names and Numbers) planning process, ICANN (Internet Corporation for Assigned Names and Numbers) shall require PTI to prepare and submit to the PTI Board a proposed annual operating plan and budget for PTI's performance of the IANA (Internet Assigned Numbers Authority) functions for the next fiscal year ("**PTI Budget**"). ICANN (Internet Corporation for Assigned Names and Numbers) shall require PTI to consult with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), as well as the Registries Stakeholder Group, the IAB (Internet Architecture Board) and RIRs, during the PTI Budget development process, and shall seek public comment on the draft PTI Budget prior to approval of the PTI Budget by PTI. ICANN (Internet Corporation for Assigned Names and Numbers) shall require PTI to submit the PTI Budget to ICANN (Internet Corporation for Assigned Names and Numbers) as an input prior to and for the purpose

of being included in the proposed Operating Plan (as defined in Section 22.5(a)) and ICANN (Internet Corporation for Assigned Names and Numbers) Budget.

(ii) Prior to approval of the IANA (Internet Assigned Numbers Authority) Budget by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall consult with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees), as well as the Registries Stakeholder Group, IAB (Internet Architecture Board) and RIRs, during the IANA (Internet Assigned Numbers Authority) Budget development process, and comply with the requirements of this Section 22.4(b).

(iii) Prior to approval of the IANA (Internet Assigned Numbers Authority) Budget by the Board, a draft of the IANA (Internet Assigned Numbers Authority) Budget shall be posted on the Website and shall be subject to public comment.

(iv) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to post a revised draft of the IANA (Internet Assigned Numbers Authority) Budget and may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to conduct one or more additional public comment periods of lengths determined by the Board, in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(v) Promptly after the Board approves an IANA (Internet Assigned Numbers Authority) Budget (an "**IANA (Internet Assigned Numbers Authority) Budget Approval**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the IANA (Internet Assigned Numbers Authority) Budget that is the subject of the IANA (Internet Assigned Numbers Authority) Budget Approval. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(vi) An IANA (Internet Assigned Numbers Authority) Budget shall become effective upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the IANA (Internet Assigned Numbers Authority) Budget that is the subject of the IANA (Internet Assigned Numbers Authority) Budget Approval shall be in full force and effect as of the 28th day following the Rejection Action Board Notification Date relating to such IANA (Internet Assigned Numbers Authority) Budget Approval and the effectiveness of such IANA (Internet Assigned Numbers Authority) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the IANA (Internet Assigned Numbers Authority) Budget that is the subject of the IANA (Internet Assigned Numbers Authority) Budget Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such IANA (Internet Assigned Numbers Authority) Budget Approval and the effectiveness of such IANA (Internet Assigned Numbers Authority) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the IANA (Internet Assigned Numbers Authority) Budget that is the subject of the IANA (Internet Assigned Numbers Authority) Budget Approval shall be in full force and effect as of the date immediately following the expiration of

the Rejection Action Decision Period relating to such IANA (Internet Assigned Numbers Authority) Budget Approval and the effectiveness of such IANA (Internet Assigned Numbers Authority) Budget shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(vii) An IANA (Internet Assigned Numbers Authority) Budget that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(viii) Following receipt of an EC (Empowered Community) Rejection Notice relating to an IANA (Internet Assigned Numbers Authority) Budget, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the IANA (Internet Assigned Numbers Authority) Budget in determining the substance of such new IANA (Internet Assigned Numbers Authority) Budget, which shall be subject to the procedures of this Section 22.4(b).

(ix) If an IANA (Internet Assigned Numbers Authority) Budget has not come into full force and effect pursuant to this Section 22.4(b) on or prior to the first date of any fiscal year of ICANN (Internet Corporation for Assigned Names and Numbers), the Board shall adopt a temporary budget in accordance with Annex F hereto ("**Caretaker IANA (Internet Assigned Numbers Authority) Budget**"), which Caretaker IANA (Internet Assigned Numbers Authority) Budget shall be effective until such time as an IANA (Internet Assigned Numbers Authority) Budget has been effectively approved by the Board and not rejected by the EC (Empowered Community) pursuant to this Section 22.4(b).

(c) If an IANA (Internet Assigned Numbers Authority) Budget does not receive an EC (Empowered Community) Rejection Notice but an ICANN (Internet Corporation for Assigned Names and Numbers) Budget receives an EC (Empowered Community) Rejection Notice, any subsequent revised ICANN (Internet Corporation for Assigned Names and Numbers) Budget shall not alter the expenditures allocated for the IANA (Internet Assigned Numbers Authority) Budget.

(d) If an ICANN (Internet Corporation for Assigned Names and Numbers) Budget does not receive an EC (Empowered Community) Rejection Notice but an IANA

(Internet Assigned Numbers Authority) Budget receives an EC (Empowered Community) Rejection Notice, any subsequent revised IANA (Internet Assigned Numbers Authority) Budget shall, once approved, be deemed to automatically modify the ICANN (Internet Corporation for Assigned Names and Numbers) Budget in a manner determined by the Board without any further right of the EC (Empowered Community) to reject the ICANN (Internet Corporation for Assigned Names and Numbers) Budget.

(e) Under all circumstances, the Board will have the ability to make out-of-budget funding decisions for unforeseen expenses necessary to maintaining ICANN (Internet Corporation for Assigned Names and Numbers)'s Mission or to fulfilling ICANN (Internet Corporation for Assigned Names and Numbers)'s pre-existing legal obligations and protecting ICANN (Internet Corporation for Assigned Names and Numbers) from harm or waste.

(f) To maintain ongoing operational excellence and financial stability of the IANA (Internet Assigned Numbers Authority) functions (so long as they are performed by ICANN (Internet Corporation for Assigned Names and Numbers) or pursuant to contract with ICANN (Internet Corporation for Assigned Names and Numbers)) and PTI, ICANN (Internet Corporation for Assigned Names and Numbers) shall be required to plan for and allocate funds to ICANN (Internet Corporation for Assigned Names and Numbers)'s performance of the IANA (Internet Assigned Numbers Authority) functions and to PTI, as applicable, that are sufficient to cover future expenses and contingencies to ensure that the performance of those IANA (Internet Assigned Numbers Authority) functions and PTI in the future are not interrupted due to lack of funding.

(g) The ICANN (Internet Corporation for Assigned Names and Numbers) Budget and the IANA (Internet Assigned Numbers Authority) Budget shall be published on the Website.

Section 22.5. PLANS

(a) Operating Plan

> (i) At least 45 days prior to the commencement of each fiscal year, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall prepare and submit to the Board a proposed operating plan of ICANN (Internet Corporation for Assigned Names and Numbers) for the next five fiscal years (the "**Operating Plan**"), which shall be posted on the Website.
>
> (ii) Prior to approval of the Operating Plan by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall consult with the

Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) during the Operating Plan development process, and comply with the requirements of this Section 22.5(a).

(iii) Prior to approval of the Operating Plan by the Board, a draft of the Operating Plan shall be posted on the Website and shall be subject to public comment.

(iv) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to post a revised draft of the Operating Plan and may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to conduct one or more additional public comment periods of lengths determined by the Board, in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(v) Promptly after the Board approves an Operating Plan (an "**Operating Plan Approval**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the Operating Plan that is the subject of the Operating Plan Approval. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and comply with the procedures and requirements specified in Article 2 of Annex D.

(vi) An Operating Plan shall become effective upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the Operating Plan that is the subject of the Operating Plan Approval shall be in full force and effect as of the 28th day following the Rejection Action Board Notification Date relating

to such Operating Plan Approval and the effectiveness of such Operating Plan shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the Operating Plan that is the subject of the Operating Plan Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such Operating Plan Approval and the effectiveness of such Operating Plan shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the Operating Plan that is the subject of the Operating Plan Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Decision Period relating to such Operating Plan Approval and the effectiveness of such Operating Plan shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(vii) An Operating Plan that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(viii) Following receipt of an EC (Empowered Community) Rejection Notice relating to an Operating Plan, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the Operating Plan in

determining the substance of such new Operating Plan, which shall be subject to the procedures of this Section 22.5(a).

(b) Strategic Plan

(i) At least 45 days prior to the commencement of each five fiscal year period, with the first such period covering fiscal years 2021 through 2025, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall prepare and submit to the Board a proposed strategic plan of ICANN (Internet Corporation for Assigned Names and Numbers) for the next five fiscal years (the "**Strategic Plan**"), which shall be posted on the Website.

(ii) Prior to approval of the Strategic Plan by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) staff shall consult with the Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees) during the Strategic Plan development process, and comply with the requirements of this Section 22.5(b).

(iii) Prior to approval of the Strategic Plan by the Board, a draft of the Strategic Plan shall be posted on the Website and shall be subject to public comment.

(iv) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to submit a revised draft of the Strategic Plan and may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to conduct one or more additional public comment periods of lengths determined by the Board, in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(v) Promptly after the Board approves a Strategic Plan (a "**Strategic Plan Approval**"), the Secretary shall provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall enclose a copy of the Strategic Plan that is the subject of the Strategic Plan Approval. ICANN (Internet Corporation for Assigned Names and Numbers) shall post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website promptly following the delivery of the Board Notice to the EC (Empowered Community) Administration and the Decisional Participants. The EC (Empowered Community) Administration shall promptly commence and

comply with the procedures and requirements specified in Article 2 of Annex D.

(vi) A Strategic Plan shall become effective upon the earliest to occur of the following:

(A)(1) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the Strategic Plan that is the subject of the Strategic Plan Approval shall be in full force and effect as of the 28th day following the Rejection Action Board Notification Date relating to such Strategic Plan Approval and the effectiveness of such Strategic Plan shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;

(B)(1) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the Strategic Plan that is the subject of the Strategic Plan Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such Strategic Plan Approval and the effectiveness of such Strategic Plan shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; and

(C)(1) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (2) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the Strategic Plan that is the subject of the Strategic Plan Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Decision Period relating to such Strategic Plan Approval and the effectiveness of such Strategic Plan shall not be subject to further

challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(vii) A Strategic Plan that has been rejected by the EC (Empowered Community) pursuant to and in compliance with Article 2 of Annex D shall have no force and effect, and shall be void ab initio.

(viii) Following receipt of an EC (Empowered Community) Rejection Notice relating to a Strategic Plan, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the Strategic Plan in determining the substance of such new Strategic Plan, which shall be subject to the procedures of this Section 22.5(b).

Section 22.6. FEES AND CHARGES

The Board may set fees and charges for the services and benefits provided by ICANN (Internet Corporation for Assigned Names and Numbers), with the goal of fully recovering the reasonable costs of the operation of ICANN (Internet Corporation for Assigned Names and Numbers) and establishing reasonable reserves for future expenses and contingencies reasonably related to the legitimate activities of ICANN (Internet Corporation for Assigned Names and Numbers). Such fees and charges shall be fair and equitable, shall be published for public comment prior to adoption, and once adopted shall be published on the Website in a sufficiently detailed manner so as to be readily accessible.

Section 22.7. INSPECTION

(a) A Decisional Participant (the "**Inspecting Decisional Participant**") may request to inspect the accounting books and records of ICANN (Internet Corporation for Assigned Names and Numbers), as interpreted pursuant to the provisions of Section 6333 of the CCC, and the minutes of the Board or any Board Committee for a purpose reasonably related to such Inspecting Decisional Participant's interest as a Decisional Participant in the EC (Empowered Community). The Inspecting Decisional Participant shall make such a request by providing written notice from the chair of the Inspecting Decisional Participant to the Secretary stating the nature of the documents the Inspecting Decisional Participant seeks to inspect ("**Inspection Request**"). Any Inspection Request must be limited to the accounting books and records of ICANN (Internet Corporation for Assigned Names and Numbers) relevant to the operation of ICANN (Internet Corporation for Assigned Names and Numbers) as a whole, and

shall not extend to the underlying sources of such accounting books or records or to documents only relevant to a small or isolated aspect of ICANN (Internet Corporation for Assigned Names and Numbers)'s operations or that relate to the minutiae of ICANN (Internet Corporation for Assigned Names and Numbers)'s financial records or details of its management and administration (the "**Permitted Scope**"). Unless ICANN (Internet Corporation for Assigned Names and Numbers) declines such request (as provided below), ICANN (Internet Corporation for Assigned Names and Numbers) shall make the records requested under an Inspection Request available for inspection by such Inspecting Decisional Participant within 30 days of the date the Inspection Request is received by the Secretary or as soon as reasonably practicable thereafter. All materials and information made available by ICANN (Internet Corporation for Assigned Names and Numbers) for inspection pursuant to an Inspection Request may only be used by the Inspecting Decisional Participant for purposes reasonably related to such Inspecting Decisional Participant's interest as a Decisional Participant in the EC (Empowered Community). ICANN (Internet Corporation for Assigned Names and Numbers) shall post all Inspection Requests to the Website.

(b) ICANN (Internet Corporation for Assigned Names and Numbers) may decline an Inspection Request on the basis that such Inspection Request (i) is motivated by a Decisional Participant's financial, commercial or political interests, or those of one or more of its constituents, (ii) relates to documents that are not reasonably related to the purpose specified in the Inspection Request or the Inspecting Decisional Participant's interest as a Decisional Participant in the EC (Empowered Community), (iii) requests identical records provided in a prior request of such Decisional Participant, (iv) is not within the Permitted Scope, (v) relates to personnel records, (vi) relates to documents or communications covered by attorney-client privilege, work product doctrine or other legal privilege or (vii) relates to documents or communications that ICANN (Internet Corporation for Assigned Names and Numbers) may not make available under applicable law because such documents or communications contain confidential information that ICANN (Internet Corporation for Assigned Names and Numbers) is required to protect. If an Inspection Request is overly broad, ICANN (Internet Corporation for Assigned Names and Numbers) may request a revised Inspection Request from the Inspecting Decisional Participant.

(c) Any such inspections shall be conducted at the times and locations reasonably determined by ICANN (Internet Corporation for Assigned Names and Numbers) and shall not be conducted in a manner that unreasonably interferes with ICANN (Internet Corporation for Assigned Names and Numbers)'s operations. All such inspections shall be subject to reasonable procedures established by ICANN (Internet Corporation for Assigned Names and Numbers), including, without limitation, the number of individuals authorized to conduct any

such inspection on behalf of the Inspecting Decisional Participant. ICANN (Internet Corporation for Assigned Names and Numbers) may require the inspectors to sign a non-disclosure agreement. The Inspecting Decisional Participant may, at its own cost, copy or otherwise reproduce or make a record of materials inspected. ICANN (Internet Corporation for Assigned Names and Numbers) may redact or determine not to provide requested materials on the same basis that such information is of a category or type described in Section 22.7(b), in which case ICANN (Internet Corporation for Assigned Names and Numbers) will provide the Inspecting Decisional Participant a written rationale for such redactions or determination.

(d) The inspection rights provided to the Decisional Participants pursuant to this Section 22.7 are granted to the Decisional Participants and are not granted or available to any other person or entity. Notwithstanding the foregoing, nothing in this Section 22.7 shall be construed as limiting the accessibility of ICANN (Internet Corporation for Assigned Names and Numbers)'s document information disclosure policy ("**DIDP**").

(e) If the Inspecting Decisional Participant believes that ICANN (Internet Corporation for Assigned Names and Numbers) has violated the provisions of this Section 22.7, the Inspecting Decisional Participant may seek one or more of the following remedies: (i) appeal such matter to the Ombudsman and/or the Board for a ruling on the matter, (ii) initiate the Reconsideration Request process in accordance with Section 4.2, (iii) initiate the Independent Review Process in accordance with Section 4.3, or (iv) petition the EC (Empowered Community) to initiate (A) a Community IRP pursuant to Section 4.2 of Annex D or (B) a Board Recall Process pursuant to Section 3.3 of Annex D. Any determination by the Ombudsman is not binding on ICANN (Internet Corporation for Assigned Names and Numbers) staff, but may be submitted by the Inspecting Decisional Participant when appealing to the Board for a determination, if necessary.

Section 22.8. INDEPENDENT INVESTIGATION

If three or more Decisional Participants deliver to the Secretary a joint written certification from the respective chairs of each such Decisional Participant that the constituents of such Decisional Participants have, pursuant to the internal procedures of such Decisional Participants, determined that there is a credible allegation that ICANN (Internet Corporation for Assigned Names and Numbers) has committed fraud or that there has been a gross mismanagement of ICANN (Internet Corporation for Assigned Names and Numbers)'s resources, ICANN (Internet Corporation for Assigned Names and Numbers) shall retain a third-party, independent firm to investigate such alleged fraudulent activity or gross mismanagement. ICANN (Internet Corporation for Assigned Names and

Numbers) shall post all such certifications to the Website. The independent firm shall issue a report to the Board. The Board shall consider the recommendations and findings set forth in such report. Such report shall be posted on the Website, which may be in a redacted form as determined by the Board, in order to preserve attorney-client privilege, work product doctrine or other legal privilege or where such information is confidential, in which case ICANN (Internet Corporation for Assigned Names and Numbers) will provide the Decisional Participants that submitted the certification a written rationale for such redactions.

ARTICLE 23 MEMBERS

ICANN (Internet Corporation for Assigned Names and Numbers) shall not have members, as contemplated by Section 5310 of the CCC, notwithstanding the use of the term "member" in these Bylaws, in any ICANN (Internet Corporation for Assigned Names and Numbers) document, or in any action of the Board or staff. For the avoidance of doubt, the EC (Empowered Community) is not a member of ICANN (Internet Corporation for Assigned Names and Numbers).

ARTICLE 24 OFFICES AND SEAL

Section 24.1. OFFICES

The principal office for the transaction of the business of ICANN (Internet Corporation for Assigned Names and Numbers) shall be in the County of Los Angeles, State of California, United States of America. ICANN (Internet Corporation for Assigned Names and Numbers) may also have an additional office or offices within or outside the United States of America as it may from time to time establish.

Section 24.2. SEAL

The Board may adopt a corporate seal and use the same by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE 25 AMENDMENTS

Section 25.1. AMENDMENTS TO THE STANDARD BYLAWS

(a) Except as otherwise provided in the Articles of Incorporation or these Bylaws, these Bylaws may be altered, amended, or repealed and new Bylaws adopted only upon approval by a two-thirds vote of all Directors and in compliance with the terms of this Section 25.1 (a "**Standard Bylaw Amendment**").

(b) Prior to approval of a Standard Bylaw Amendment by the Board, a draft of the Standard Bylaw Amendment shall be posted on the Website and shall be subject to public comment in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(c) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to post a revised draft of the Standard Bylaw Amendment and may conduct one or more additional public comment periods in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(d) Within seven days after the Board's approval of a Standard Bylaw Amendment ("**Standard Bylaw Amendment Approval**"), the Secretary shall (i) provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall contain the form of the approved amendment and the Board's rationale for adopting such amendment, and (ii) post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website. The steps contemplated in Article 2 of Annex D shall then be followed.

(e) A Standard Bylaw Amendment shall become effective upon the earliest to occur of the following:

> (i) (A) A Rejection Action Petition Notice is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D or (B) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(c) of Annex D, in which case the Standard Bylaw Amendment that is the subject of the Standard Bylaw Amendment Approval shall be in full force and effect as of the 30th day following the Rejection Action Board Notification Date relating to such Standard Bylaw Amendment Approval and the effectiveness of such Standard Bylaw Amendment shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D;
>
> (ii) (A) A Rejection Action Supported Petition is not timely delivered by the Rejection Action Petitioning Decisional Participant to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D or (B) a Rejection Process Termination Notice is delivered by the EC (Empowered

> Community) Administration to the Secretary pursuant to and in compliance with Section 2.2(d) of Annex D, in which case the Standard Bylaw Amendment that is the subject of the Standard Bylaw Amendment Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Petition Support Period relating to such Standard Bylaw Amendment and the effectiveness of such Standard Bylaw Amendment shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D; or
>
> (iii) (A) An EC (Empowered Community) Rejection Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4 of Annex D or (B) a Rejection Process Termination Notice is delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and in compliance with Section 2.4(c) of Annex D, in which case the Standard Bylaw Amendment that is the subject of the Standard Bylaw Amendment Approval shall be in full force and effect as of the date immediately following the expiration of the Rejection Action Decision Period relating to such Standard Bylaw Amendment and the effectiveness of such Standard Bylaw Amendment shall not be subject to further challenge by the EC (Empowered Community) pursuant to the EC (Empowered Community)'s rejection right as described in Article 2 of Annex D.

(f) If an EC (Empowered Community) Rejection Notice is timely delivered by the EC (Empowered Community) Administration to the Secretary pursuant to and compliance with Section 2.4 of Annex D, the Standard Bylaw Amendment contained in the Board Notice shall be deemed to have been rejected by the EC (Empowered Community). A Standard Bylaw Amendment that has been rejected by the EC (Empowered Community) shall be null and void and shall not become part of these Bylaws, notwithstanding its approval by the Board.

(g) The Secretary shall promptly inform the Board of the receipt and substance of any Rejection Action Petition, Rejection Action Supported Petition or EC (Empowered Community) Rejection Notice delivered by the Rejection Action Petitioning Decisional Participant or the EC (Empowered Community) Administration, as applicable, to the Secretary hereunder.

(h) Following receipt of an EC (Empowered Community) Rejection Notice pertaining to a Standard Bylaw Amendment, ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the Standard Bylaw

Amendment in determining whether or not to develop a new Standard Bylaw Amendment and the substance of such new Standard Bylaw Amendment, which shall be subject to the procedures of this Section 25.1.

Section 25.2. AMENDMENTS TO THE FUNDAMENTAL BYLAWS AND ARTICLES OF INCORPORATION

(a) Article 1; Sections 4.2, 4.3 and 4.7; Article 6; Sections 7.1 through 7.5, inclusive, and Sections 7.8, 7.11, 7.12, 7.17, 7.24 and 7.25; those portions of Sections 8.1, 9.2(b), 10.3(i), 11.3(f) and 12.2(d)(x)(A) relating to the provision to the EC (Empowered Community) of nominations of Directors by the nominating body, Articles 16, 17, 18 and 19, Sections 22.4, 22.5, 22.7 and 22.8, Article 26, Section 27.1; Annexes D, E and F; and this Article 25 are each a "**Fundamental Bylaw**" and, collectively, are the "**Fundamental Bylaws**".

(b) Notwithstanding any other provision of these Bylaws, a Fundamental Bylaw or the Articles of Incorporation may be altered, amended, or repealed (a "**Fundamental Bylaw Amendment**" or an "**Articles Amendment**"), only upon approval by a three-fourths vote of all Directors and the approval of the EC (Empowered Community) as set forth in this Section 25.2.

(c) Prior to approval of a Fundamental Bylaw Amendment, or an Articles Amendment by the Board, a draft of the Fundamental Bylaw Amendment or Articles Amendment, as applicable, shall be posted on the Website and shall be subject to public comment in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(d) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to submit a revised draft of the Fundamental Bylaw Amendment or Articles Amendment, as applicable, and may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to conduct one or more additional public comment periods in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(e) Within seven days after the Board's approval of a Fundamental Bylaw Amendment or Articles Amendment, as applicable, the Secretary shall (i) provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall contain the form of the approved amendment and (ii) post the Board Notice, along with a copy of the notification(s) sent to the EC (Empowered Community) Administration and the Decisional Participants, on the Website. The steps contemplated in Article 1 of Annex D shall then be followed.

(f) If the EC (Empowered Community) Administration timely delivers an EC (Empowered Community) Approval Notice (as defined in Section 1.4(b) of Annex D), the Fundamental Bylaw Amendment or Articles Amendment, as applicable, set forth in the Board Notice shall be deemed approved by the EC (Empowered Community), and, as applicable, (i) such Fundamental Bylaw Amendment shall be in full force and effect as part of these Bylaws as of the date immediately following the Secretary's receipt of the EC (Empowered Community) Approval Notice; or (ii) the Secretary shall cause such Articles Amendment promptly to be certified by the appropriate officers of ICANN (Internet Corporation for Assigned Names and Numbers) and filed with the California Secretary of State. In the event of such approval, neither the Fundamental Bylaw Amendment nor the Articles Amendment shall be subject to any further review or approval of the EC (Empowered Community). The Secretary shall promptly inform the Board of the receipt of an EC (Empowered Community) Approval Notice.

(g) If an EC (Empowered Community) Approval Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary, the Fundamental Bylaw Amendment or Articles Amendment, as applicable, set forth in the Board Notice shall be deemed not approved by the EC (Empowered Community), shall be null and void, and, notwithstanding its approval by the Board, the Fundamental Bylaw Amendment shall not be part of these Bylaws and the Articles Amendment shall not be filed with the Secretary of State.

(h) If a Fundamental Bylaw Amendment or Articles Amendment, as applicable, is not approved by the EC (Empowered Community), ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the concerns raised by the EC (Empowered Community) in determining whether or not to develop a new Fundamental Bylaws Amendment or Articles Amendment, as applicable, and the substance thereof, which shall be subject to the procedures of this Section 25.2.

Section 25.3. AMENDMENTS RESULTING FROM A POLICY DEVELOPMENT PROCESS

The Board shall not combine an amendment of these Bylaws that was the result of a policy development process of a Supporting Organization (Supporting Organization) (a "**PDP (Policy Development Process) Amendment**") with any other amendment. The Board shall indicate in the applicable Board Notice whether such amendment is a PDP (Policy Development Process) Amendment.

Section 25.4. OTHER AMENDMENTS

For the avoidance of doubt, these Bylaws can only be amended as set forth in this Article 25. Neither the EC (Empowered Community), the Decisional Participants, the Supporting Organizations (Supporting Organizations), the Advisory Committees (Advisory Committees) nor any other entity or person shall have the power to directly propose amendments to these Bylaws.

ARTICLE 26 SALE OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL OF ICANN (Internet Corporation for Assigned Names and Numbers)'S ASSETS

(a) ICANN (Internet Corporation for Assigned Names and Numbers) may consummate a transaction or series of transactions that would result in the sale or disposition of all or substantially all of ICANN (Internet Corporation for Assigned Names and Numbers)'s assets (an "**Asset Sale**") only upon approval by a three-fourths vote of all Directors and the approval of the EC (Empowered Community) as set forth in this Article 26.

(b) Prior to approval of an Asset Sale by the Board, a draft of the definitive Asset Sale agreement (an "**Asset Sale Agreement**"), shall be posted on the Website and shall be subject to public comment in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(c) After reviewing the comments submitted during the public comment period, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to submit a revised draft of the Asset Sale Agreement, as applicable, and may direct ICANN (Internet Corporation for Assigned Names and Numbers) staff to conduct one or more additional public comment periods in accordance with ICANN (Internet Corporation for Assigned Names and Numbers)'s public comment processes.

(d) Within seven days after the Board's approval of an Asset Sale the Secretary shall (i) provide a Board Notice to the EC (Empowered Community) Administration and the Decisional Participants, which Board Notice shall contain the form of the Asset Sale Agreement and (ii) post the Board Notice on the Website. The steps contemplated in Article 1 of Annex D shall then be followed.

(e) If the EC (Empowered Community) Administration timely delivers an EC (Empowered Community) Approval Notice for the Asset Sale pursuant to and in compliance with the procedures and requirements of Section 1.4(b) of Annex D, the Asset Sale set forth in the Board Notice shall be deemed approved by the EC (Empowered Community), and the Asset Sale may be consummated by ICANN (Internet Corporation for Assigned Names and Numbers), but only under the terms set forth in the Asset Sale Agreement. In the event of such approval, the

Asset Sale shall not be subject to any further review or approval of the EC (Empowered Community). The Secretary shall promptly inform the Board of the receipt of an EC (Empowered Community) Approval Notice.

(f) If an EC (Empowered Community) Approval Notice is not timely delivered by the EC (Empowered Community) Administration to the Secretary, the Asset Sale set forth in the Board Notice shall be deemed not approved by the EC (Empowered Community), shall be null and void, and, notwithstanding its approval by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) shall not consummate the Asset Sale.

(g) If an Asset Sale is not approved by the EC (Empowered Community), ICANN (Internet Corporation for Assigned Names and Numbers) staff and the Board shall consider the concerns raised by the EC (Empowered Community) in determining whether or not to consider a new Asset Sale, and the substance thereof, which shall be subject to the procedures of this Article 26.

ARTICLE 27 TRANSITION ARTICLE

Section 27.1. WORK STREAM 2

(a) The Cross-Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability ("**CCWG-Accountability**") was established pursuant to a charter dated 3 November 2014 ("**CCWG-Accountability Charter**"). The CCWG-Accountability Charter was subsequently adopted by the GNSO (Generic Names Supporting Organization), ALAC (At-Large Advisory Committee), ccNSO (Country Code Names Supporting Organization), GAC (Governmental Advisory Committee), ASO (Address Supporting Organization) and SSAC (Security and Stability Advisory Committee) ("**CCWG Chartering Organizations**"). The CCWG-Accountability Charter as in effect on 3 November 2014 shall remain in effect throughout Work Stream 2 (as defined therein).

(b) The CCWG-Accountability recommended in its Supplemental Final Proposal on Work Stream 1 Recommendations to the Board, dated 23 February 2016 ("**CCWG-Accountability Final Report**") that the below matters be reviewed and developed following the adoption date of these Bylaws ("**Work Stream 2 Matters**"), in each case, to the extent set forth in the CCWG-Accountability Final Report:

> (i) Improvements to ICANN (Internet Corporation for Assigned Names and Numbers)'s standards for diversity at all levels;

(ii) ICANN (Internet Corporation for Assigned Names and Numbers) staff accountability;

(iii) Supporting Organization (Supporting Organization) and Advisory Committee (Advisory Committee) accountability, including but not limited to improved processes for accountability, transparency, and participation that are helpful to prevent capture;

(iv) Improvements to ICANN (Internet Corporation for Assigned Names and Numbers)'s transparency, focusing on enhancements to ICANN (Internet Corporation for Assigned Names and Numbers)'s existing DIDP, transparency of ICANN (Internet Corporation for Assigned Names and Numbers)'s interactions with governments, improvements to ICANN (Internet Corporation for Assigned Names and Numbers)'s whistleblower policy and transparency of Board deliberations;

(v) Developing and clarifying the FOI-HR (as defined in Section 27.2);

(vi) Addressing jurisdiction-related questions, including how choice of jurisdiction and applicable laws for dispute settlement impact ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability;

(vii) Considering enhancements to the Ombudsman's role and function;

(viii) Guidelines for standards of conduct presumed to be in good faith associated with exercising removal of individual Directors; and

(ix) Reviewing the CEP (as set forth in Section 4.3).

(c) As provided in the CCWG-Accountability Charter and the Board's 2014.10.16.16 resolution, the Board shall consider consensus-based recommendations from the CCWG-Accountability on Work Stream 2 Matters ("**Work Stream 2 Recommendations**") with the same process and criteria it committed to using to consider the CCWG-Accountability recommendations in the CCWG-Accountability Final Report (**"Work Stream 1 Recommendations"**). For the avoidance of doubt, that process and criteria includes:

(i) All Work Stream 2 Recommendations must further the following principles:

(A)Support and enhance the multistakeholder model;

(B)Maintain the security, stability and resiliency of the DNS (Domain Name System);

(C)Meet the needs and expectations of the global customers and partners of the IANA (Internet Assigned Numbers Authority) services;

(D)Maintain the openness of the Internet; and

(E)Not result in ICANN (Internet Corporation for Assigned Names and Numbers) becoming a government-led or an inter-governmental organization.

(ii) If the Board determines, by a vote of a two-thirds majority of the Board, that it is not in the global public interest to implement a Work Stream 2 Recommendation, it must initiate a dialogue with the CCWG-Accountability.

(iii) The Board shall provide detailed rationale to accompany the initiation of dialogue. The Board and the CCWG-Accountability shall mutually agree upon the method (e.g., by teleconference, email or otherwise) by which the dialogue will occur. Discussions shall be held in good faith and in a timely and efficient manner in an effort to find a mutually acceptable solution.

(iv) The CCWG-Accountability shall have an opportunity to address the Board's concerns and report back to the Board on further deliberations regarding the Board's concerns. The CCWG-Accountability shall discuss the Board's concerns within 30 days of the Board's initiation of the dialogue.

If a Work Stream 2 Recommendation is modified by the CCWG-Accountability, the CCWG-Accountability shall submit the modified Work Stream 2 Recommendation to the Board for further consideration along with detailed rationale on how the modification addresses the concerns raised by the Board.

(v) If, after the CCWG-Accountability modifies a Work Stream 2 Recommendation, the Board still believes it is not in the global public interest to implement the Work Stream 2 Recommendation, the Board may, by a vote of a two-thirds majority of the Board, send the matter back to the CCWG-Accountability for further consideration. The Board shall provide detailed rationale to accompany its action. If the Board determines not to accept a modified version of a Work Stream 2 Recommendation, unless required by its fiduciary obligations, the Board shall not establish an alternative solution on the issue addressed by the Work Stream 2

> Recommendation until such time as the CCWG-Accountability and the Board reach agreement.

(d) ICANN (Internet Corporation for Assigned Names and Numbers) shall provide adequate support for work on Work Stream 2 Matters, within budgeting processes and limitations reasonably acceptable to the CCWG-Accountability.

(e) The Work Stream 2 Matters specifically referenced in Section 27.1(b) shall be the only matters subject to this Section 27.1 and any other accountability enhancements should be developed through ICANN (Internet Corporation for Assigned Names and Numbers)'s other procedures.

(f) The outcomes of each Work Stream 2 Matter are not limited and could include a variety of recommendations or no recommendation; provided, however, that any resulting recommendations must directly relate to the matters discussed in Section 27.1(b).

Section 27.2. HUMAN RIGHTS

(a) The Core Value set forth in Section 1.2(b)(viii) shall have no force or effect unless and until a framework of interpretation for human rights ("**FOI-HR**") is (i) approved for submission to the Board by the CCWG-Accountability as a consensus recommendation in Work Stream 2, with the CCWG Chartering Organizations having the role described in the CCWG-Accountability Charter, and (ii) approved by the Board, in each case, using the same process and criteria as for Work Stream 1 Recommendations.>

(b) No person or entity shall be entitled to invoke the reconsideration process provided in Section 4.2, or the independent review process provided in Section 4.3, based solely on the inclusion of the Core Value set forth in Section 1.2(b)(viii) (i) until after the FOI-HR contemplated by Section 27.2(a) is in place or (ii) for actions of ICANN (Internet Corporation for Assigned Names and Numbers) or the Board that occurred prior to the effectiveness of the FOI-HR.

Section 27.3. EXISTING GROUPS AND TASK FORCES

Notwithstanding the adoption or effectiveness of these Bylaws, task forces and other groups in existence prior to the date of these Bylaws shall continue unchanged in membership, scope, and operation unless and until changes are made by ICANN (Internet Corporation for Assigned Names and Numbers) in compliance with the Bylaws.

Section 27.4. CONTRACTS WITH ICANN (Internet Corporation for Assigned Names and Numbers)

Notwithstanding the adoption or effectiveness of these Bylaws, all agreements, including employment and consulting agreements, entered into by ICANN (Internet Corporation for Assigned Names and Numbers) shall continue in effect according to their terms.

Annex A: GNSO (Generic Names Supporting Organization) Policy Development Process

The following process shall govern the GNSO (Generic Names Supporting Organization) policy development process ("**PDP (Policy Development Process)**") until such time as modifications are recommended to and approved by the Board. The role of the GNSO (Generic Names Supporting Organization) is outlined in Article 11 of these Bylaws. If the GNSO (Generic Names Supporting Organization) is conducting activities that are not intended to result in a Consensus (Consensus) Policy, the Council may act through other processes.

Section 1. **Required Elements of a Policy Development Process**

The following elements are required at a minimum to form Consensus (Consensus) Policies as defined within ICANN (Internet Corporation for Assigned Names and Numbers) contracts, and any other policies for which the GNSO (Generic Names Supporting Organization) Council requests application of this Annex A:

a. Final Issue Report requested by the Board, the GNSO (Generic Names Supporting Organization) Council ("Council") or Advisory Committee (Advisory Committee), which should include at a minimum a) the proposed issue raised for consideration, b) the identity of the party submitting the issue, and c) how that party is affected by the issue;

b. Formal initiation of the Policy Development Process by the Council;

c. Formation of a Working Group or other designated work method;

d. Initial Report produced by a Working Group or other designated work method;

e. Final Report produced by a Working Group, or other designated work method, and forwarded to the Council for deliberation;

f. Council approval of PDP (Policy Development Process) Recommendations contained in the Final Report, by the required thresholds;

g. PDP (Policy Development Process) Recommendations and Final Report shall be forwarded to the Board through a Recommendations Report approved by the Council; and

h. Board approval of PDP (Policy Development Process) Recommendations.

Section 2. **Policy Development Process Manual**

The GNSO (Generic Names Supporting Organization) shall maintain a Policy Development Process Manual ("**PDP (Policy Development Process) Manual**") within the operating procedures of the GNSO (Generic Names Supporting Organization) maintained by the GNSO (Generic Names Supporting Organization) Council. The PDP (Policy Development Process) Manual shall contain specific additional guidance on completion of all elements of a PDP (Policy Development Process), including those elements that are not otherwise defined in these Bylaws. The PDP (Policy Development Process) Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Section 11.3(d).

Section 3. **Requesting an Issue Report**

Board Request. The Board may request an Issue Report by instructing the GNSO (Generic Names Supporting Organization) Council ("Council") to begin the process outlined the PDP (Policy Development Process) Manual. In the event the Board makes a request for an Issue Report, the Board should provide a mechanism by which the GNSO (Generic Names Supporting Organization) Council can consult with the Board to provide information on the scope, timing, and priority of the request for an Issue Report.

Council Request. The GNSO (Generic Names Supporting Organization) Council may request an Issue Report by a vote of at least one-fourth (1/4) of the members of the Council of each House or a majority of one House.

Advisory Committee (Advisory Committee) Request. An Advisory Committee (Advisory Committee) may raise an issue for policy development by action of such committee to request an Issue Report, and transmission of that request to the Staff Manager and GNSO (Generic Names Supporting Organization) Council.

Section 4. **Creation of an Issue Report**

Within forty-five (45) calendar days after receipt of either (i) an instruction from the Board; (ii) a properly supported motion from the GNSO (Generic Names Supporting Organization) Council; or (iii) a properly supported motion from an Advisory Committee (Advisory Committee), the Staff Manager will create a report (a "**Preliminary Issue Report**"). In the event the Staff Manager determines that more time is necessary to create the Preliminary Issue Report, the Staff Manager may request an extension of time for completion of the Preliminary Issue Report.

The following elements should be considered in the Issue Report:

a. The proposed issue raised for consideration;

b. The identity of the party submitting the request for the Issue Report;

c. How that party is affected by the issue, if known;

d. Support for the issue to initiate the PDP (Policy Development Process), if known;

e. The opinion of the ICANN (Internet Corporation for Assigned Names and Numbers) General Counsel regarding whether the issue proposed for consideration within the Policy Development Process is properly within the scope of the Mission, policy process and more specifically the role of the GNSO (Generic Names Supporting Organization) as set forth in the Bylaws.

f. The opinion of ICANN (Internet Corporation for Assigned Names and Numbers) Staff as to whether the Council should initiate the PDP (Policy Development Process) on the issue.

Upon completion of the Preliminary Issue Report, the Preliminary Issue Report shall be posted on the Website for a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers).

The Staff Manager is responsible for drafting a summary and analysis of the public comments received on the Preliminary Issue Report and producing a Final Issue Report based upon the comments received. The Staff Manager should forward the Final Issue Report, along with any summary and analysis of the public comments received, to the Chair of the GNSO (Generic Names Supporting Organization) Council for consideration for initiation of a PDP (Policy Development Process).

Section 5. **Initiation of the PDP (Policy Development Process)**

The Council may initiate the PDP (Policy Development Process) as follows:

Board Request: If the Board requested an Issue Report, the Council, within the timeframe set forth in the PDP (Policy Development Process) Manual, shall initiate a PDP (Policy Development Process). No vote is required for such action.

GNSO (Generic Names Supporting Organization) Council or Advisory Committee (Advisory Committee) Requests: The Council may only initiate the PDP (Policy Development Process) by a vote of the Council. Initiation of a PDP (Policy Development Process) requires a vote as set forth in Section 11.3(i)(ii) and Section 11.3(i)(iii) in favor of initiating the PDP (Policy Development Process).

Section 6. **Reports**

An Initial Report should be delivered to the GNSO (Generic Names Supporting Organization) Council and posted for a public comment period that complies with the designated practice for public comment periods within ICANN (Internet Corporation for Assigned Names and Numbers), which time may be extended in accordance with the PDP (Policy Development Process) Manual. Following the review of the comments received and, if required, additional deliberations, a Final Report shall be produced for transmission to the Council.

Section 7. **Council Deliberation**

Upon receipt of a Final Report, whether as the result of a working group or otherwise, the Council chair will (i) distribute the Final Report to all Council members; and (ii) call for Council deliberation on the matter in accordance with the PDP (Policy Development Process) Manual.

The Council approval process is set forth in Section 11.3(i)(iv) through Section 11.3(vii), as supplemented by the PDP (Policy Development Process) Manual.

Section 8. **Preparation of the Board Report**

If the PDP (Policy Development Process) recommendations contained in the Final Report are approved by the GNSO (Generic Names Supporting Organization) Council, a Recommendations Report shall be approved by the GNSO (Generic Names Supporting Organization) Council for delivery to the Board.

Section 9. **Board Approval Processes**

The Board will meet to discuss the GNSO (Generic Names Supporting Organization) Council recommendation as soon as feasible, but preferably not

later than the second meeting after receipt of the Board Report from the Staff Manager. Board deliberation on the PDP (Policy Development Process) Recommendations contained within the Recommendations Report shall proceed as follows:

a. Any PDP (Policy Development Process) Recommendations approved by a GNSO (Generic Names Supporting Organization) Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers). If the GNSO (Generic Names Supporting Organization) Council recommendation was approved by less than a GNSO (Generic Names Supporting Organization) Supermajority Vote, a majority vote of the Board will be sufficient to determine that such policy is not in the best interests of the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers).

b. In the event that the Board determines, in accordance with paragraph a above, that the policy recommended by a GNSO (Generic Names Supporting Organization) Supermajority Vote or less than a GNSO (Generic Names Supporting Organization) Supermajority vote is not in the best interests of the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers) (the Corporation), the Board shall (i) articulate the reasons for its determination in a report to the Council (the "**Board Statement**"); and (ii) submit the Board Statement to the Council.

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

d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "**Supplemental Recommendation**") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO (Generic Names Supporting Organization) Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such policy is not in the interests of the ICANN (Internet Corporation for Assigned Names and Numbers)

community or ICANN (Internet Corporation for Assigned Names and Numbers). For any Supplemental Recommendation approved by less than a GNSO (Generic Names Supporting Organization) Supermajority Vote, a majority vote of the Board shall be sufficient to determine that the policy in the Supplemental Recommendation is not in the best interest of the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers).

Section 10. **Implementation of Approved Policies**

Upon a final decision of the Board adopting the policy, the Board shall, as appropriate, give authorization or direction to ICANN (Internet Corporation for Assigned Names and Numbers) staff to work with the GNSO (Generic Names Supporting Organization) Council to create an implementation plan based upon the implementation recommendations identified in the Final Report, and to implement the policy. The GNSO (Generic Names Supporting Organization) Council may, but is not required to, direct the creation of an implementation review team to assist in implementation of the policy.

Section 11. **Maintenance of Records**

Throughout the PDP (Policy Development Process), from policy suggestion to a final decision by the Board, ICANN (Internet Corporation for Assigned Names and Numbers) will maintain on the Website, a status web page detailing the progress of each PDP (Policy Development Process) issue. Such status page will outline the completed and upcoming steps in the PDP (Policy Development Process) process, and contain links to key resources (e.g. Reports, Comments Fora, WG (Working Group) Discussions, etc.).

Section 12. **Additional Definitions**

"**Comment Site**", "**Comment Forum**", "**Comments For a**" and "**Website**" refer to one or more websites designated by ICANN (Internet Corporation for Assigned Names and Numbers) on which notifications and comments regarding the PDP (Policy Development Process) will be posted.

"**Supermajority Vote**" means a vote of more than sixty-six (66) percent of the members present at a meeting of the applicable body, with the exception of the GNSO (Generic Names Supporting Organization) Council.

"**Staff Manager**" means an ICANN (Internet Corporation for Assigned Names and Numbers) staff person(s) who manages the PDP (Policy Development Process).

"**GNSO (Generic Names Supporting Organization) Supermajority Vote**" shall have the meaning set forth in the Bylaws.

Section 13. **Applicability**

The procedures of this Annex A shall be applicable to all requests for Issue Reports and PDPs initiated after 8 December 2011. For all ongoing PDPs initiated prior to 8 December 2011, the Council shall determine the feasibility of transitioning to the procedures set forth in this Annex A for all remaining steps within the PDP (Policy Development Process). If the Council determines that any ongoing PDP (Policy Development Process) cannot be feasibly transitioned to these updated procedures, the PDP (Policy Development Process) shall be concluded according to the procedures set forth in Annex A in force on 7 December 2011.

Annex A-1: GNSO (Generic Names Supporting Organization) Expedited Policy Development Process

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

The role of the GNSO (Generic Names Supporting Organization) is outlined in Article 11 of these Bylaws. Provided the Council believes and documents via Council vote that the above-listed criteria are met, an EPDP may be initiated to recommend an amendment to an existing Consensus (Consensus) Policy;

however, in all cases where the GNSO (Generic Names Supporting Organization) is conducting policy-making activities that do not meet the above criteria as documented in a Council vote, the Council should act through a Policy Development Process (see Annex A).

Section 1. **Required Elements of a GNSO (Generic Names Supporting Organization) Expedited Policy Development Process**

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

a. Formal initiation of the GNSO (Generic Names Supporting Organization) Expedited Policy Development Process by the GNSO (Generic Names Supporting Organization) Council, including an EPDP scoping document;

b. Formation of an EPDP Team or other designated work method;

c. Initial Report produced by an EPDP Team or other designated work method;

d. Final EPDP Policy Recommendation(s) Report produced by an EPDP Team, or other designated work method, and forwarded to the Council for deliberation;

e. GNSO (Generic Names Supporting Organization) Council approval of EPDP Policy Recommendations contained in the Final EPDP Policy Recommendation(s) Report, by the required thresholds;

f. EPDP Recommendations and Final EPDP Recommendation(s) Report forwarded to the Board through a Recommendations Report approved by the Council; and

g. Board approval of EPDP Recommendation(s).

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

The GNSO (Generic Names Supporting Organization) shall include a specific section(s) on the EPDP process as part of its maintenance of the GNSO (Generic Names Supporting Organization) Policy Development Process Manual (PDP (Policy Development Process) Manual), described in Annex 5 of the GNSO (Generic Names Supporting Organization) Operating Procedures. The EPDP Manual shall contain specific additional guidance on completion of all elements of

an EPDP, including those elements that are not otherwise defined in these Bylaws. The E PDP (Policy Development Process) Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Section 11.3(d) .

Section 3. **Initiation of the EPDP**

The Council may initiate an EPDP as follows:

The Council may only initiate the EPDP by a vote of the Council. Initiation of an EPDP requires an affirmative Supermajority vote of the Council (as defined in Section 11.3(i)(xii) of these Bylaws) in favor of initiating the EPDP.

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

1. Name of Council Member / SG (Stakeholder Group) / C;
2. Origin of issue (e.g. previously completed PDP (Policy Development Process));
3. Scope of the effort (detailed description of the issue or question that the EPDP is expected to address);
4. Description of how this issue meets the criteria for an EPDP, i.e. how the EPDP will address either: (1) a narrowly defined policy issue that was identified and scoped after either the adoption of a GNSO (Generic Names Supporting Organization) policy recommendation by the Board or the implementation of such an adopted recommendation, or (2) new or additional policy recommendations on a specific GNSO (Generic Names Supporting Organization) policy issue that had been scoped previously as part of a PDP (Policy Development Process) that was not completed or other similar effort, including relevant supporting information in either case;
5. If not provided as part of item 4, the opinion of the ICANN (Internet Corporation for Assigned Names and Numbers) General Counsel as to whether the issue proposed for consideration is properly within the scope of the Mission, policy process and more specifically the role of the GNSO (Generic Names Supporting Organization);
6. Proposed EPDP mechanism (e.g. WG (Working Group), DT (Drafting Team), individual volunteers);
7. Method of operation, if different from GNSO (Generic Names Supporting Organization) Working Group Guidelines;

8. Decision-making methodology for EPDP mechanism, if different from GNSO (Generic Names Supporting Organization) Working Group Guidelines;

9. Target completion date.

Section 4. **Council Deliberation**

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

Approval of EPDP Recommendation(s) requires an affirmative vote of the Council meeting the thresholds set forth in Section 11.3(i)(xiv) and (xv), as supplemented by the PDP (Policy Development Process) Manual.

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

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

Section 6. **Board Approval Processes**

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

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

the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers).

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

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

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

Section 7. **Implementation of Approved Policies**

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

Section 8. **Maintenance of Records**

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

Section 9. **Applicability**

The procedures of this Annex A-1 shall be applicable from 28 September 2015 onwards.

Annex A-2: GNSO (Generic Names Supporting Organization) Guidance Process

The following process shall govern the GNSO (Generic Names Supporting Organization) guidance process ("**GGP**") until such time as modifications are recommended to and approved by the Board . The role of the GNSO (Generic Names Supporting Organization) is outlined in Article 11 of these Bylaws. If the GNSO (Generic Names Supporting Organization) is conducting activities that are intended to result in a Consensus (Consensus) Policy, the Council should act through a Policy Development Process (see Annex A).

Section 1. **Required Elements of a GNSO (Generic Names Supporting Organization) Guidance Process**

The following elements are required at a minimum to develop GNSO (Generic Names Supporting Organization) guidance:

1. Formal initiation of the GNSO (Generic Names Supporting Organization) Guidance Process by the Council, including a GGP scoping document;
2. Identification of the types of expertise needed on the GGP Team;
3. Recruiting and formation of a GGP Team or other designated work method;
4. Proposed GNSO (Generic Names Supporting Organization) Guidance Recommendation(s) Report produced by a GGP Team or other designated work method;

5. Final GNSO (Generic Names Supporting Organization) Guidance Recommendation(s) Report produced by a GGP Team, or other designated work method, and forwarded to the Council for deliberation;

6. Council approval of GGP Recommendations contained in the Final Recommendation(s) Report, by the required thresholds;

7. GGP Recommendations and Final Recommendation(s) Report shall be forwarded to the Board through a Recommendations Report approved by the Council; and

8. Board approval of GGP Recommendation(s).

Section 2. **GNSO (Generic Names Supporting Organization) Guidance Process Manual**

The GNSO (Generic Names Supporting Organization) shall maintain a GNSO (Generic Names Supporting Organization) Guidance Process (GGP Manual) within the operating procedures of the GNSO (Generic Names Supporting Organization) maintained by the GNSO (Generic Names Supporting Organization) Council. The GGP Manual shall contain specific additional guidance on completion of all elements of a GGP, including those elements that are not otherwise defined in these Bylaws. The GGP Manual and any amendments thereto are subject to a twenty-one (21) day public comment period at minimum, as well as Board oversight and review, as specified at Section 11.3(d).

Section 3. **Initiation of the GGP**

The Council may initiate a GGP as follows:

The Council may only initiate the GGP by a vote of the Council or at the formal request of the ICANN (Internet Corporation for Assigned Names and Numbers) Board. Initiation of a GGP requires a vote as set forth in Section 11.3(i)(xvi) in favor of initiating the GGP. In the case of a GGP requested by the Board, a GGP will automatically be initiated unless the GNSO (Generic Names Supporting Organization) Council votes against the initiation of a GGP as set forth in Section 11.3(i)(xvii).

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

1. Name of Council Member / SG (Stakeholder Group) / C

2. Origin of issue (e.g., board request)

3. Scope of the effort (detailed description of the issue or question that the GGP is expected to address)

4. Proposed GGP mechanism (e.g. WG (Working Group), DT (Drafting Team), individual volunteers)

5. Method of operation, if different from GNSO (Generic Names Supporting Organization) Working Group Guidelines

6. Decision-making methodology for GGP mechanism, if different from GNSO (Generic Names Supporting Organization) Working Group Guidelines

7. Desired completion date and rationale

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

Section 4. **Council Deliberation**

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

The Council approval process is set forth in Section 11.3(xviii) as supplemented by the GGP Manual.

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

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

Section 6. **Board Approval Processes**

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

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

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

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

d. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its recommendation, and communicate that conclusion (the "Supplemental Recommendation") to the Board, including an explanation for the then-current recommendation. In the event that the Council is able to reach a GNSO (Generic Names Supporting Organization) Supermajority Vote on the Supplemental Recommendation, the Board shall adopt the recommendation unless more than two-thirds (2/3) of the Board determines that such guidance is not in the interests of the ICANN (Internet Corporation for Assigned Names and Numbers) community or ICANN (Internet Corporation for Assigned Names and Numbers).

Section 7. **Implementation of Approved GNSO (Generic Names Supporting Organization) Guidance**

Upon a final decision of the Board adopting the guidance, the Board shall, as appropriate, give authorization or direction to ICANN (Internet Corporation for Assigned Names and Numbers) staff to implement the GNSO (Generic Names Supporting Organization) Guidance. If deemed necessary, the Board may direct ICANN (Internet Corporation for Assigned Names and Numbers) Staff to work

with the GNSO (Generic Names Supporting Organization) Council to create a guidance implementation plan, if deemed necessary, based upon the guidance recommendations identified in the Final Recommendation(s) Report.

Section 8. **Maintenance of Records**

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

Section 9. **Additional Definitions**

"**Comment Site**", "**Comment Forum**", "**Comments Fora**" and "**Website**" refer to one or more websites designated by ICANN (Internet Corporation for Assigned Names and Numbers) on which notifications and comments regarding the GGP will be posted.

"**GGP Staff Manager**" means an ICANN (Internet Corporation for Assigned Names and Numbers) staff person(s) who manages the GGP.

Annex B: ccNSO (Country Code Names Supporting Organization) Policy-Development Process (ccPDP)

The following process shall govern the ccNSO (Country Code Names Supporting Organization) policy-development process ("**PDP (Policy Development Process)**").

1. Request for an Issue Report

An Issue Report may be requested by any of the following:

a. *Council.* The ccNSO (Country Code Names Supporting Organization) Council (in this Annex B, the "**Council**") may call for the creation of an Issue Report by an affirmative vote of at least seven of the members of the Council present at any meeting or voting by e-mail.

b. *Board.* The Board may call for the creation of an Issue Report by requesting the Council to begin the policy-development process.

c. *Regional Organization.* One or more of the Regional Organizations representing ccTLDs in the ICANN (Internet Corporation for Assigned

Names and Numbers) recognized Regions may call for creation of an Issue Report by requesting the Council to begin the policy-development process.

d. *ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee).* An ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organization (Supporting Organization) or an ICANN (Internet Corporation for Assigned Names and Numbers) Advisory Committee (Advisory Committee) may call for creation of an Issue Report by requesting the Council to begin the policy-development process.

e. *Members of the ccNSO (Country Code Names Supporting Organization).* The members of the ccNSO (Country Code Names Supporting Organization) may call for the creation of an Issue Report by an affirmative vote of at least ten members of the ccNSO (Country Code Names Supporting Organization) present at any meeting or voting by e-mail.

Any request for an Issue Report must be in writing and must set out the issue upon which an Issue Report is requested in sufficient detail to enable the Issue Report to be prepared. It shall be open to the Council to request further information or undertake further research or investigation for the purpose of determining whether or not the requested Issue Report should be created.

2. Creation of the Issue Report and Initiation Threshold

Within seven days after an affirmative vote as outlined in Item 1(a) above or the receipt of a request as outlined in Items 1 (b), (c), or (d) above the Council shall appoint an Issue Manager. The Issue Manager may be a staff member of ICANN (Internet Corporation for Assigned Names and Numbers) (in which case the costs of the Issue Manager shall be borne by ICANN (Internet Corporation for Assigned Names and Numbers)) or such other person or persons selected by the Council (in which case the ccNSO (Country Code Names Supporting Organization) shall be responsible for the costs of the Issue Manager).

Within fifteen (15) calendar days after appointment (or such other time as the Council shall, in consultation with the Issue Manager, deem to be appropriate), the Issue Manager shall create an Issue Report. Each Issue Report shall contain at least the following:

a. The proposed issue raised for consideration;

b. The identity of the party submitting the issue;

c. How that party is affected by the issue;

d. Support for the issue to initiate the PDP (Policy Development Process);

e. A recommendation from the Issue Manager as to whether the Council should move to initiate the PDP (Policy Development Process) for this issue (the "**Manager Recommendation**"). Each Manager Recommendation shall include, and be supported by, an opinion of the ICANN (Internet Corporation for Assigned Names and Numbers) General Counsel regarding whether the issue is properly within the scope of the ICANN (Internet Corporation for Assigned Names and Numbers) policy process and within the scope of the ccNSO (Country Code Names Supporting Organization). In coming to his or her opinion, the General Counsel shall examine whether:
1) The issue is within the scope of the Mission;

2) Analysis of the relevant factors according to Section 10.6(b) and Annex C affirmatively demonstrates that the issue is within the scope of the ccNSO (Country Code Names Supporting Organization);

In the event that the General Counsel reaches an opinion in the affirmative with respect to points 1 and 2 above then the General Counsel shall also consider whether the issue:

3) Implicates or affects an existing ICANN (Internet Corporation for Assigned Names and Numbers) policy;

4) Is likely to have lasting value or applicability, albeit with the need for occasional updates, and to establish a guide or framework for future decision-making.

In all events, consideration of revisions to the ccPDP (this Annex B) or to the scope of the ccNSO (Country Code Names Supporting Organization) (Annex C) shall be within the scope of ICANN (Internet Corporation for Assigned Names and Numbers) and the ccNSO (Country Code Names Supporting Organization).

In the event that General Counsel is of the opinion the issue is not properly within the scope of the ccNSO (Country Code Names Supporting Organization) Scope, the Issue Manager shall inform the Council of this opinion. If after an analysis of the relevant factors according to Section 10.6 and Annex C a majority of 10 or more Council members is of the opinion the issue is within scope the Chair of the ccNSO (Country Code Names Supporting Organization) shall inform the Issue Manager

accordingly. General Counsel and the ccNSO (Country Code Names Supporting Organization) Council shall engage in a dialogue according to agreed rules and procedures to resolve the matter. In the event no agreement is reached between General Counsel and the Council as to whether the issue is within or outside Scope of the ccNSO (Country Code Names Supporting Organization) then by a vote of 15 or more members the Council may decide the issue is within scope. The Chair of the ccNSO (Country Code Names Supporting Organization) shall inform General Counsel and the Issue Manager accordingly. The Issue Manager shall then proceed with a recommendation whether or not the Council should move to initiate the PDP (Policy Development Process) including both the opinion and analysis of General Counsel and Council in the Issues Report.

f. In the event that the Manager Recommendation is in favor of initiating the PDP (Policy Development Process), a proposed time line for conducting each of the stages of PDP (Policy Development Process) outlined herein ("**PDP (Policy Development Process) Time Line**").

g. g. If possible, the issue report shall indicate whether the resulting output is likely to result in a policy to be approved by the Board. In some circumstances, it will not be possible to do this until substantive discussions on the issue have taken place. In these cases, the issue report should indicate this uncertainty. Upon completion of the Issue Report, the Issue Manager shall distribute it to the full Council for a vote on whether to initiate the PDP (Policy Development Process).

3. Initiation of PDP (Policy Development Process)

The Council shall decide whether to initiate the PDP (Policy Development Process) as follows:

a. Within 21 days after receipt of an Issue Report from the Issue Manager, the Council shall vote on whether to initiate the PDP (Policy Development Process). Such vote should be taken at a meeting held in any manner deemed appropriate by the Council, including in person or by conference call, but if a meeting is not feasible the vote may occur by e-mail.

b. A vote of ten or more Council members in favor of initiating the PDP (Policy Development Process) shall be required to initiate the PDP (Policy Development Process) provided that the Issue Report states that the issue is properly within the scope of the Mission and the ccNSO (Country Code Names Supporting Organization) Scope.

4. Decision Whether to Appoint Task Force; Establishment of Time Line

At the meeting of the Council where the PDP (Policy Development Process) has been initiated (or, where the Council employs a vote by e-mail, in that vote) pursuant to Item 3 above, the Council shall decide, by a majority vote of members present at the meeting (or voting by e-mail), whether or not to appoint a task force to address the issue. If the Council votes:

a. In favor of convening a task force, it shall do so in accordance with Item 7 below.

b. Against convening a task force, then it shall collect information on the policy issue in accordance with Item 8 below.

The Council shall also, by a majority vote of members present at the meeting or voting by e-mail, approve or amend and approve the PDP (Policy Development Process) Time Line set out in the Issue Report.

5. Composition and Selection of Task Forces

a. Upon voting to appoint a task force, the Council shall invite each of the Regional Organizations (see Section 10.5) to appoint two individuals to participate in the task force (the "**Representatives**"). Additionally, the Council may appoint up to three advisors (the "**Advisors**") from outside the ccNSO (Country Code Names Supporting Organization) and, following formal request for GAC (Governmental Advisory Committee) participation in the Task Force, accept up to two Representatives from the Governmental Advisory Committee (Advisory Committee) to sit on the task force. The Council may increase the number of Representatives that may sit on a task force in its discretion in circumstances that it deems necessary or appropriate.

b. Any Regional Organization wishing to appoint Representatives to the task force must provide the names of the Representatives to the Issue Manager within ten (10) calendar days after such request so that they are included on the task force. Such Representatives need not be members of the Council, but each must be an individual who has an interest, and ideally knowledge and expertise, in the subject matter, coupled with the ability to devote a substantial amount of time to the task force's activities.

c. The Council may also pursue other actions that it deems appropriate to assist in the PDP (Policy Development Process), including appointing a particular individual or organization to gather information on the issue or scheduling meetings for deliberation or briefing. All such information shall be submitted to the Issue Manager in accordance with the PDP (Policy Development Process) Time Line.

6. Public Notification of Initiation of the PDP (Policy Development Process) and Comment Period

After initiation of the PDP (Policy Development Process), ICANN (Internet Corporation for Assigned Names and Numbers) shall post a notification of such action to the Website and to the other ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees). A comment period (in accordance with the PDP (Policy Development Process) Time Line, and ordinarily at least 21 days long) shall be commenced for the issue. Comments shall be accepted from ccTLD (Country Code Top Level Domain) managers, other Supporting Organizations (Supporting Organizations), Advisory Committees (Advisory Committees), and from the public. The Issue Manager, or some other designated Council representative shall review the comments and incorporate them into a report (the "**Comment Report**") to be included in either the Preliminary Task Force Report or the Initial Report, as applicable.

7. Task Forces

a. *Role of Task Force.* If a task force is created, its role shall be responsible for (i) gathering information documenting the positions of the ccNSO (Country Code Names Supporting Organization) members within the Geographic Regions and other parties and groups; and (ii) otherwise obtaining relevant information that shall enable the Task Force Report to be as complete and informative as possible to facilitate the Council's meaningful and informed deliberation.

The task force shall not have any formal decision-making authority. Rather, the role of the task force shall be to gather information that shall document the positions of various parties or groups as specifically and comprehensively as possible, thereby enabling the Council to have a meaningful and informed deliberation on the issue.

b. *Task Force Charter or Terms of Reference.* The Council, with the assistance of the Issue Manager, shall develop a charter or terms of reference for the task force (the "**Charter**") within the time designated in the PDP (Policy Development Process) Time Line. Such Charter shall include:

1. The issue to be addressed by the task force, as such issue was articulated for the vote before the Council that initiated the PDP (Policy Development Process);

2. The specific time line that the task force must adhere to, as set forth below, unless the Council determines that there is a compelling reason to extend the timeline; and

3. Any specific instructions from the Council for the task force, including whether or not the task force should solicit the advice of outside advisors on the issue.

The task force shall prepare its report and otherwise conduct its activities in accordance with the Charter. Any request to deviate from the Charter must be formally presented to the Council and may only be undertaken by the task force upon a vote of a majority of the Council members present at a meeting or voting by e-mail. The quorum requirements of Section 10.3(n) shall apply to Council actions under this Item 7(b).

c. *Appointment of Task Force Chair.* The Issue Manager shall convene the first meeting of the task force within the time designated in the PDP (Policy Development Process) Time Line. At the initial meeting, the task force members shall, among other things, vote to appoint a task force chair. The chair shall be responsible for organizing the activities of the task force, including compiling the Task Force Report. The chair of a task force need not be a member of the Council.

d. *Collection of Information*.

1. *Regional Organization Statements.* The Representatives shall each be responsible for soliciting the position of the Regional Organization for their Geographic Region, at a minimum, and may solicit other comments, as each Representative deems appropriate, including the comments of the ccNSO (Country Code Names Supporting Organization) members in that region that are not members of the Regional Organization, regarding the issue under consideration. The position of the Regional Organization and any other comments gathered by the Representatives should be submitted in a formal statement to the task force chair (each, a "**Regional Statement**") within the time designated in the PDP (Policy Development Process) Time Line. Every Regional Statement shall include at least the following:

(i) If a Supermajority Vote (as defined by the Regional Organization) was reached, a clear statement of the Regional Organization's position on the issue;

(ii) If a Supermajority Vote was not reached, a clear statement of all positions espoused by the members of the Regional Organization;

(iii) A clear statement of how the Regional Organization arrived at its position(s). Specifically, the statement should detail specific meetings, teleconferences, or other means of deliberating an issue, and a list of all members who participated or otherwise submitted their views;

(iv) A statement of the position on the issue of any ccNSO (Country Code Names Supporting Organization) members that are not members of the Regional Organization;

(v) An analysis of how the issue would affect the Region, including any financial impact on the Region; and

(vi) An analysis of the period of time that would likely be necessary to implement the policy.

2. Outside Advisors. The task force may, in its discretion, solicit the opinions of outside advisors, experts, or other members of the public. Such opinions should be set forth in a report prepared by such outside advisors, and (i) clearly labeled as coming from outside advisors; (ii) accompanied by a detailed statement of the advisors' (a) qualifications and relevant experience and (b) potential conflicts of interest. These reports should be submitted in a formal statement to the task force chair within the time designated in the PDP (Policy Development Process) Time Line.

e. *Task Force Report.* The chair of the task force, working with the Issue Manager, shall compile the Regional Statements, the Comment Report, and other information or reports, as applicable, into a single document ("**Preliminary Task Force Report**") and distribute the Preliminary Task Force Report to the full task force within the time designated in the PDP (Policy Development Process) Time Line. The task force shall have a final task force meeting to consider the issues and try and reach a Supermajority Vote. After the final task force meeting, the chair of the task force and the Issue Manager shall create the final task force report (the "**Task Force Report**") and post it on the Website and to the other ICANN (Internet Corporation for Assigned Names and Numbers) Supporting Organizations (Supporting Organizations) and Advisory Committees (Advisory Committees). Each Task Force Report must include:

1. A clear statement of any Supermajority Vote (being 66% of the task force) position of the task force on the issue;

2. If a Supermajority Vote was not reached, a clear statement of all positions espoused by task force members submitted within the time line for submission of constituency reports. Each statement should clearly indicate (i) the reasons underlying the position and (ii) the Regional Organizations that held the position;

3. An analysis of how the issue would affect each Region, including any financial impact on the Region;

4. An analysis of the period of time that would likely be necessary to implement the policy; and

5. The advice of any outside advisors appointed to the task force by the Council, accompanied by a detailed statement of the advisors' (i) qualifications and relevant experience and (ii) potential conflicts of interest.

8. Procedure if No Task Force is Formed

a. If the Council decides not to convene a task force, each Regional Organization shall, within the time designated in the PDP (Policy Development Process) Time Line, appoint a representative to solicit the Region's views on the issue. Each such representative shall be asked to submit a Regional Statement to the Issue Manager within the time designated in the PDP (Policy Development Process) Time Line.

b. The Council may, in its discretion, take other steps to assist in the PDP (Policy Development Process), including, for example, appointing a particular individual or organization, to gather information on the issue or scheduling meetings for deliberation or briefing. All such information shall be submitted to the Issue Manager within the time designated in the PDP (Policy Development Process) Time Line.

c. The Council shall formally request the Chair of the GAC (Governmental Advisory Committee) to offer opinion or advice.

d. The Issue Manager shall take all Regional Statements, the Comment Report, and other information and compile (and post on the Website) an Initial Report within the time designated in the PDP (Policy Development Process) Time Line. Thereafter, the Issue Manager shall, in accordance with Item 9 below, create a Final Report.

9. Comments to the Task Force Report or Initial Report

a. A comment period (in accordance with the PDP (Policy Development Process) Time Line, and ordinarily at least 21 days long) shall be opened for comments on the Task Force Report or Initial Report. Comments shall be accepted from ccTLD (Country Code Top Level Domain) managers, other Supporting Organizations (Supporting Organizations), Advisory Committees (Advisory Committees), and from the public. All comments shall include the author's name, relevant experience, and interest in the issue.

b. At the end of the comment period, the Issue Manager shall review the comments received and may, in the Issue Manager's reasonable

discretion, add appropriate comments to the Task Force Report or Initial Report, to prepare the "**Final Report**". The Issue Manager shall not be obligated to include all comments made during the comment period, nor shall the Issue Manager be obligated to include all comments submitted by any one individual or organization.

c. The Issue Manager shall prepare the Final Report and submit it to the Council chair within the time designated in the PDP (Policy Development Process) Time Line.

10. Council Deliberation

a. Upon receipt of a Final Report, whether as the result of a task force or otherwise, the Council chair shall (i) distribute the Final Report to all Council members; (ii) call for a Council meeting within the time designated in the PDP (Policy Development Process) Time Line wherein the Council shall work towards achieving a recommendation to present to the Board; and (iii) formally send to the GAC (Governmental Advisory Committee) Chair an invitation to the GAC (Governmental Advisory Committee) to offer opinion or advice. Such meeting may be held in any manner deemed appropriate by the Council, including in person or by conference call. The Issue Manager shall be present at the meeting.

b. The Council may commence its deliberation on the issue prior to the formal meeting, including via in-person meetings, conference calls, e-mail discussions, or any other means the Council may choose.

c. The Council may, if it so chooses, solicit the opinions of outside advisors at its final meeting. The opinions of these advisors, if relied upon by the Council, shall be (i) embodied in the Council's report to the Board, (ii) specifically identified as coming from an outside advisor; and (iii) accompanied by a detailed statement of the advisor's (a) qualifications and relevant experience and (b) potential conflicts of interest.

11. Recommendation of the Council

In considering whether to make a recommendation on the issue (a "**Council Recommendation**"), the Council shall seek to act by consensus. If a minority opposes a consensus position, that minority shall prepare and circulate to the Council a statement explaining its reasons for opposition. If the Council's discussion of the statement does not result in consensus, then a recommendation supported by 14 or more of the Council members shall be deemed to reflect the view of the Council, and shall be conveyed to the Members as the Council's Recommendation. Notwithstanding the foregoing, as outlined below, all

viewpoints expressed by Council members during the PDP (Policy Development Process) must be included in the Members Report.

12. Council Report to the Members

In the event that a Council Recommendation is adopted pursuant to Item 11 then the Issue Manager shall, within seven days after the Council meeting, incorporate the Council's Recommendation together with any other viewpoints of the Council members into a Members Report to be approved by the Council and then to be submitted to the Members (the "**Members Report**"). The Members Report must contain at least the following:

a. A clear statement of the Council's recommendation;

b. The Final Report submitted to the Council; and

c. A copy of the minutes of the Council's deliberation on the policy issue (see Item 10), including all the opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.

13. Members Vote

Following the submission of the Members Report and within the time designated by the PDP (Policy Development Process) Time Line, the ccNSO (Country Code Names Supporting Organization) members shall be given an opportunity to vote on the Council Recommendation. The vote of members shall be electronic and members' votes shall be lodged over such a period of time as designated in the PDP (Policy Development Process) Time Line (at least 21 days long).

In the event that at least 50% of the ccNSO (Country Code Names Supporting Organization) members lodge votes within the voting period, the resulting vote will be employed without further process. In the event that fewer than 50% of the ccNSO (Country Code Names Supporting Organization) members lodge votes in the first round of voting, the first round will not be employed and the results of a final, second round of voting, conducted after at least thirty days notice to the ccNSO (Country Code Names Supporting Organization) members, will be employed if at least 50% of the ccNSO (Country Code Names Supporting Organization) members lodge votes. In the event that more than 66% of the votes received at the end of the voting period shall be in favor of the Council Recommendation, then the recommendation shall be conveyed to the Board in accordance with Item 14 below as the ccNSO (Country Code Names Supporting Organization) Recommendation.

14. Board Report

The Issue Manager shall within seven days after a ccNSO (Country Code Names Supporting Organization) Recommendation being made in accordance with Item 13 incorporate the ccNSO (Country Code Names Supporting Organization) Recommendation into a report to be approved by the Council and then to be submitted to the Board (the "**Board Report**"). The Board Report must contain at least the following:

a. A clear statement of the ccNSO (Country Code Names Supporting Organization) recommendation;

b. The Final Report submitted to the Council; and

c. the Members' Report.

15. Board Vote

a. The Board shall meet to discuss the ccNSO (Country Code Names Supporting Organization) Recommendation as soon as feasible after receipt of the Board Report from the Issue Manager, taking into account procedures for Board consideration.

b. The Board shall adopt the ccNSO (Country Code Names Supporting Organization) Recommendation unless by a vote of more than 66% the Board determines that such policy is not in the best interest of the ICANN (Internet Corporation for Assigned Names and Numbers) community or of ICANN (Internet Corporation for Assigned Names and Numbers).

1. In the event that the Board determines not to act in accordance with the ccNSO (Country Code Names Supporting Organization) Recommendation, the Board shall (i) state its reasons for its determination not to act in accordance with the ccNSO (Country Code Names Supporting Organization) Recommendation in a report to the Council (the "**Board Statement**"); and (ii) submit the Board Statement to the Council.

2. The Council shall discuss the Board Statement with the Board within thirty days after the Board Statement is submitted to the Council. The Board shall determine the method (e.g., by teleconference, e-mail, or otherwise) by which the Council and Board shall discuss the Board Statement. The discussions shall be held in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

3. At the conclusion of the Council and Board discussions, the Council shall meet to affirm or modify its Council Recommendation. A recommendation supported by 14 or more of the Council members shall be deemed to

reflect the view of the Council (the Council's "**Supplemental Recommendation**"). That Supplemental Recommendation shall be conveyed to the Members in a Supplemental Members Report, including an explanation for the Supplemental Recommendation. Members shall be given an opportunity to vote on the Supplemental Recommendation under the same conditions outlined in Item 13 . In the event that more than 66% of the votes cast by ccNSO (Country Code Names Supporting Organization) Members during the voting period are in favor of the Supplemental Recommendation then that recommendation shall be conveyed to Board as the ccNSO (Country Code Names Supporting Organization) Supplemental Recommendation and the Board shall adopt the recommendation unless by a vote of more than 66% of the Board determines that acceptance of such policy would constitute a breach of the fiduciary duties of the Board to the Company.

4. In the event that the Board does not accept the ccNSO (Country Code Names Supporting Organization) Supplemental Recommendation, it shall state its reasons for doing so in its final decision ("**Supplemental Board Statement**").

5. In the event the Board determines not to accept a ccNSO (Country Code Names Supporting Organization) Supplemental Recommendation, then the Board shall not be entitled to set policy on the issue addressed by the recommendation and the status quo shall be preserved until such time as the ccNSO (Country Code Names Supporting Organization) shall, under the ccPDP, make a recommendation on the issue that is deemed acceptable by the Board.

16. Implementation of the Policy

Upon adoption by the Board of a ccNSO (Country Code Names Supporting Organization) Recommendation or ccNSO (Country Code Names Supporting Organization) Supplemental Recommendation, the Board shall, as appropriate, direct or authorize ICANN (Internet Corporation for Assigned Names and Numbers) staff to implement the policy.

17. Maintenance of Records

With respect to each ccPDP for which an Issue Report is requested (see Item 1), ICANN (Internet Corporation for Assigned Names and Numbers) shall maintain on the Website a status web page detailing the progress of each ccPDP, which shall provide a list of relevant dates for the ccPDP and shall also link to the following documents, to the extent they have been prepared pursuant to the ccPDP:

a. Issue Report;

b. PDP (Policy Development Process) Time Line;

c. Comment Report;

d. Regional Statement(s);

e. Preliminary Task Force Report;

f. Task Force Report;

g. Initial Report;

h. Final Report;

i. Members' Report;

j. Board Report;

k. Board Statement;

l. Supplemental Members' Report; and

m. Supplemental Board Statement.

In addition, ICANN (Internet Corporation for Assigned Names and Numbers) shall post on the Website comments received in electronic written form specifically suggesting that a ccPDP be initiated.

Annex C: The Scope of the ccNSO (Country Code Names Supporting Organization)

This annex describes the scope and the principles and method of analysis to be used in any further development of the scope of the ccNSO (Country Code Names Supporting Organization)'s policy-development role. As provided in Section 10.6(b) of the Bylaws, that scope shall be defined according to the procedures of the ccPDP.

The scope of the ccNSO (Country Code Names Supporting Organization)'s authority and responsibilities must recognize the complex relation between ICANN (Internet Corporation for Assigned Names and Numbers) and ccTLD (Country Code Top Level Domain) managers/registries with regard to policy issues. This annex shall assist the ccNSO (Country Code Names Supporting Organization), the ccNSO (Country Code Names Supporting Organization) Council, and the Board and staff in delineating relevant global policy issues.

Policy areas

The ccNSO (Country Code Names Supporting Organization)'s policy role should be based on an analysis of the following functional model of the DNS (Domain Name System):

1. Data is registered/maintained to generate a zone file,
2. A zone file is in turn used in TLD (Top Level Domain) name servers.

Within a **TLD (Top Level Domain)** two functions have to be performed (these are addressed in greater detail below):

1. Entering data into a database ("**Data Entry Function**") and
2. Maintaining and ensuring upkeep of name-servers for the TLD (Top Level Domain) ("**Name Server Function**").

These two core functions must be performed at the ccTLD (Country Code Top Level Domain) registry level as well as at a higher level (IANA (Internet Assigned Numbers Authority) function and root servers) and at lower levels of the DNS (Domain Name System) hierarchy. This mechanism, as RFC (Request for Comments) 1591 points out, is recursive:

There are no requirements on sub domains of top-level domains beyond the requirements on higher-level domains themselves. That is, the requirements in this memo are applied recursively. In particular, all sub domains shall be allowed to operate their own domain name servers, providing in them whatever information the sub domain manager sees fit (as long as it is true and correct).

The Core Functions

1. Data Entry Function (DEF):

Looking at a more detailed level, the first function (entering and maintaining data in a database) should be fully defined by a naming policy. This naming policy must specify the rules and conditions:

a. under which data will be collected and entered into a database or data changed (at the TLD (Top Level Domain) level among others, data to reflect a transfer from registrant to registrant or changing registrar) in the database.

b. for making certain data generally and publicly available (be it, for example, through Whois or nameservers).

2. The Name-Server Function (NSF (National Science Foundation (USA)))

The name-server function involves essential interoperability and stability issues at the heart of the domain name system. The importance of this function extends to nameservers at the ccTLD (Country Code Top Level Domain) level, but also to the root servers (and root-server system) and nameservers at lower levels.

On its own merit and because of interoperability and stability considerations, properly functioning nameservers are of utmost importance to the individual, as well as to the local and the global Internet communities.

With regard to the nameserver function, therefore, policies need to be defined and established. Most parties involved, including the majority of ccTLD (Country Code Top Level Domain) registries, have accepted the need for common policies in this area by adhering to the relevant RFCs, among others RFC (Request for Comments) 1591.

Respective Roles with Regard to Policy, Responsibilities, and Accountabilities

It is in the interest of ICANN (Internet Corporation for Assigned Names and Numbers) and ccTLD (Country Code Top Level Domain) managers to ensure the stable and proper functioning of the domain name system. ICANN (Internet Corporation for Assigned Names and Numbers) and the ccTLD (Country Code Top Level Domain) registries each have a distinctive role to play in this regard that can be defined by the relevant policies. The scope of the ccNSO (Country Code Names Supporting Organization) cannot be established without reaching a common understanding of the allocation of authority between ICANN (Internet Corporation for Assigned Names and Numbers) and ccTLD (Country Code Top Level Domain) registries.

Three roles can be distinguished as to which responsibility must be assigned on any given issue:

- Policy role: i.e. the ability and power to define a policy;
- Executive role: i.e. the ability and power to act upon and implement the policy; and
- Accountability role: i.e. the ability and power to hold the responsible entity accountable for exercising its power.

Firstly, responsibility presupposes a policy and this delineates the policy role. Depending on the issue that needs to be addressed those who are involved in defining and setting the policy need to be determined and defined. Secondly, this

presupposes an executive role defining the power to implement and act within the boundaries of a policy. Finally, as a counter-balance to the executive role, the accountability role needs to defined and determined.

The information below offers an aid to:

1. delineate and identify specific policy areas;

2. define and determine roles with regard to these specific policy areas.

This annex defines the scope of the ccNSO (Country Code Names Supporting Organization) with regard to developing policies. The scope is limited to the policy role of the ccNSO (Country Code Names Supporting Organization) policy-development process for functions and levels explicitly stated below. It is anticipated that the accuracy of the assignments of policy, executive, and accountability roles shown below will be considered during a scope-definition ccPDP process.

Name Server Function (as to ccTLDs)

Level 1: Root Name Servers
Policy role: IETF (Internet Engineering Task Force), RSSAC (Root Server System Advisory Committee) (ICANN (Internet Corporation for Assigned Names and Numbers))
Executive role: Root Server System Operators
Accountability role: RSSAC (Root Server System Advisory Committee) (ICANN (Internet Corporation for Assigned Names and Numbers))

Level 2: ccTLD (Country Code Top Level Domain) Registry Name Servers in respect to interoperability
Policy role: ccNSO (Country Code Names Supporting Organization) Policy Development Process (ICANN (Internet Corporation for Assigned Names and Numbers)), for best practices a ccNSO (Country Code Names Supporting Organization) process can be organized
Executive role: ccTLD (Country Code Top Level Domain) Manager
Accountability role: part ICANN (Internet Corporation for Assigned Names and Numbers) (IANA (Internet Assigned Numbers Authority)), part Local Internet Community, including local government

Level 3: User's Name Servers
Policy role: ccTLD (Country Code Top Level Domain) Manager, IETF (Internet Engineering Task Force) (RFC (Request for Comments))
Executive role: Registrant (Registrant)
Accountability role: ccTLD (Country Code Top Level Domain) Manager

Data Entry Function (as to ccTLDs)

Level 1: Root Level Registry
Policy role: ccNSO (Country Code Names Supporting Organization) Policy Development Process (ICANN (Internet Corporation for Assigned Names and Numbers))
Executive role: ICANN (Internet Corporation for Assigned Names and Numbers) (IANA (Internet Assigned Numbers Authority))
Accountability role: ICANN (Internet Corporation for Assigned Names and Numbers) community, ccTLD (Country Code Top Level Domain) Managers, (national authorities in some cases)

Level 2: ccTLD (Country Code Top Level Domain) Registry
Policy role: Local Internet Community, including local government, and/or ccTLD (Country Code Top Level Domain) Manager according to local structure
Executive role: ccTLD (Country Code Top Level Domain) Manager
Accountability role: Local Internet Community, including national authorities in some cases

Level 3: Second and Lower Levels
Policy role: Registrant (Registrant)
Executive role: Registrant (Registrant)
Accountability role: Registrant (Registrant), users of lower-level domain names

ANNEX D: EC (Empowered Community) MECHANISM

ARTICLE 1 PROCEDURE FOR EXERCISE OF EC (Empowered Community)'S RIGHTS TO APPROVE APPROVAL ACTIONS

Section 1.1. APPROVAL ACTIONS

The processes set forth in this Article 1 shall govern the escalation procedures for the EC (Empowered Community)'s exercise of its right to approve the following (each, an "**Approval Action**") under the Bylaws:

a. Fundamental Bylaw Amendments, as contemplated by Section 25.2 of the Bylaws;

b. Articles Amendments, as contemplated by Section 25.2 of the Bylaws; and

c. Asset Sales, as contemplated by Article 26 of the Bylaws.

Section 1.2. APPROVAL PROCESS

Following the delivery of a Board Notice for an Approval Action ("**Approval Action Board Notice**") by the Secretary to the EC (Empowered Community) Administration and the Decisional Participants (which delivery date shall be referred to herein as the "**Approval Action Board Notification Date**"), the Decisional Participants shall thereafter promptly inform their constituents of the delivery of the Approval Action Board Notice. Any Approval Action Board Notice relating to a Fundamental Bylaw Amendment or Articles Amendment shall include a statement, if applicable, that the Fundamental Bylaw Amendment or Articles Amendment, as applicable, is based solely on the outcome of a PDP (Policy Development Process), citing the specific PDP (Policy Development Process) and the provision in the Fundamental Bylaw Amendment or Articles Amendment subject to the Approval Action Board Notice that implements such PDP (Policy Development Process) (as applicable, a "**PDP (Policy Development Process) Fundamental Bylaw Statement**" or "**PDP (Policy Development Process) Articles Statement**") and the name of the Supporting Organization (Supporting Organization) that is a Decisional Participant that undertook the PDP (Policy Development Process) relating to the Fundamental Bylaw Amendment or Articles Amendment, as applicable (as applicable, the "**Fundamental Bylaw Amendment PDP (Policy Development Process) Decisional Participant**" or "**Articles Amendment PDP (Policy Development Process) Decisional Participant**"). The process set forth in this Section 1.2 of this Annex D as it relates to a particular Approval Action is referred to herein as the "**Approval Process.**"

Section 1.3. APPROVAL ACTION COMMUNITY FORUM

a. ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested parties may discuss the Approval Action (an "**Approval Action Community Forum**").

b. If the EC (Empowered Community) Administration requests a publicly-available conference call by providing a notice to the Secretary, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Approval Action Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

c. The Approval Action Community Forum shall be convened and concluded during the period beginning upon the Approval Action Board Notification Date and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s

principal office) on the 30th day after the Approval Action Board Notification Date ("**Approval Action Community Forum Period**"). If the EC (Empowered Community) Administration requests that the Approval Action Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the Approval Action Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the EC (Empowered Community) Administration. If the Approval Action Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 30th day after the Approval Action Board Notification Date, the Approval Action Community Forum Period for the Approval Action shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

d. The Approval Action Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects, and/or, only if the Approval Action Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the Approval Action Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of such Approval Action Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

e. The EC (Empowered Community) Administration shall manage and moderate the Approval Action Community Forum in a fair and neutral manner.

f. ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and

questions on the Approval Action prior to the convening of and during the Approval Action Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

g. ICANN (Internet Corporation for Assigned Names and Numbers) staff and Directors representing the Board are expected to attend the Approval Action Community Forum in order to address any questions or concerns regarding the Approval Action.

h. For the avoidance of doubt, the Approval Action Community Forum is not a decisional body.

i. During the Approval Action Community Forum Period, an additional one or two Community Forums may be held at the discretion of the Board or the EC (Empowered Community) Administration. If the Board decides to hold an additional one or two Approval Action Community Forums, it shall provide a rationale for such decision, which rationale ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

j. ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Approval Action Community Forum and shall promptly post on the Website a public record of the Approval Action Community Forum as well as all written submissions of ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Approval Action Community Forum.

Section 1.4. DECISION WHETHER TO APPROVE AN APPROVAL ACTION

(a) Following the expiration of the Approval Action Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Approval Action Community Forum Period (such period, the "**Approval Action Decision Period**"), with respect to each Approval Action, each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Approval Action, (ii) objects to such Approval Action or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to such Approval Action), and each Decisional Participant

shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to the expiration of the Approval Action Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Approval Action Decision Period).

(b) The EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Approval Action Decision Period, deliver a written notice ("**EC (Empowered Community) Approval Notice**") to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of this Article 1 of this Annex D, the EC (Empowered Community) has approved the Approval Action if:

> (i) The Approval Action does not relate to a Fundamental Bylaw Amendment or Articles Amendment and is (A) supported by three or more Decisional Participants and (B) not objected to by more than one Decisional Participant;
>
> (ii) The Approval Action relates to a Fundamental Bylaw Amendment and is (A) supported by three or more Decisional Participants (including the Fundamental Bylaw Amendment PDP (Policy Development Process) Decisional Participant if the Board Notice included a PDP (Policy Development Process) Fundamental Bylaw Statement) and (B) not objected to by more than one Decisional Participant; or
>
> (iii) The Approval Action relates to an Articles Amendment and is (A) supported by three or more Decisional Participants (including the Articles Amendment PDP (Policy Development Process) Decisional Participant if the Board Notice included a PDP (Policy Development Process) Articles Statement) and (B) not objected to by more than one Decisional Participant.

(c) If the Approval Action does not obtain the support required by Section 1.4(b)(i), (ii) or (iii) of this Annex D, as applicable, the Approval Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Approval Action Decision Period, deliver to the Secretary a notice certifying that the Approval Process has been terminated with respect to the Approval Action ("**Approval Process Termination Notice**").

(d) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Approval Action Board Notice, (ii) EC (Empowered Community) Approval Notice, (iii) Approval Process Termination Notice, (iv) written explanation provided by the EC (Empowered Community) Administration related to any of the foregoing, and (v) other notices the Secretary receives under this Article 1.

ARTICLE 2 PROCEDURE FOR EXERCISE OF EC (Empowered Community)'S RIGHTS TO REJECT SPECIFIED ACTIONS

Section 2.1. Rejection Actions

The processes set forth in this Article 2 shall govern the escalation procedures for the EC (Empowered Community)'s exercise of its right to reject the following (each, a "**Rejection Action**") under the Bylaws:

a. PTI Governance Actions, as contemplated by Section 16.2(d) of the Bylaws;

b. IFR Recommendation Decisions, as contemplated by Section 18.6(d) of the Bylaws;

c. Special IFR Recommendation Decisions, as contemplated by Section 18.12(e) of the Bylaws;

d. SCWG Creation Decisions, as contemplated by Section 19.1(d) of the Bylaws;

e. SCWG Recommendation Decisions, as contemplated by Section 19.4(d) of the Bylaws;

f. ICANN (Internet Corporation for Assigned Names and Numbers) Budgets, as contemplated by Section 22.4(a)(v) of the Bylaws;

g. IANA (Internet Assigned Numbers Authority) Budgets, as contemplated by Section 22.4(b)(v) of the Bylaws;

h. Operating Plans, as contemplated by Section 22.5(a)(v) of the Bylaws;

i. Strategic Plans, as contemplated by Section 22.5(b)(v) of the Bylaws; and

j. Standard Bylaw Amendments, as contemplated by Section 25.1(e) of the Bylaws.

Section 2.2. PETITION PROCESS FOR SPECIFIED ACTIONS

(a) Following the delivery of a Board Notice for a Rejection Action ("**Rejection Action Board Notice**") by the Secretary to the EC (Empowered Community) Administration and Decisional Participants (which delivery date shall be referred to herein as the "**Rejection Action Board Notification Date**"), the Decisional Participants shall thereafter promptly inform their constituents of the delivery of the Rejection Action Board Notice. The process set forth in this Section 2.2 of this Annex D as it relates to a particular Rejection Action is referred to herein as the "**Rejection Process**."

(b) During the period beginning on the Rejection Action Board Notification Date and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the date that is the 21st day after the Rejection Action Board Notification Date (as it relates to a particular Rejection Action, the "**Rejection Action Petition Period**"), subject to the procedures and requirements developed by the applicable Decisional Participant, an individual may submit a petition to a Decisional Participant, seeking to reject the Rejection Action and initiate the Rejection Process (a "**Rejection Action Petition**").

(c) A Decisional Participant that has received a Rejection Action Petition shall either accept or reject such Rejection Action Petition; provided that a Decisional Participant may only accept such Rejection Action Petition if it was received by such Decisional Participant during the Rejection Action Petition Period.

> (i) If, in accordance with the requirements of Section 2.2(c) of this Annex D, a Decisional Participant accepts a Rejection Action Petition during the Rejection Action Petition Period, the Decisional Participant shall promptly provide to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary written notice ("**Rejection Action Petition Notice**") of such acceptance (such Decisional Participant, the "**Rejection Action Petitioning Decisional Participant**"), and ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post such Rejection Action Petition Notice on the Website. The Rejection Action Petition Notice shall also include:
>
> (A) the rationale upon which rejection of the Rejection Action is sought. Where the Rejection Action Petition Notice relates to an ICANN (Internet Corporation for Assigned Names and Numbers) Budget, an IANA (Internet Assigned Numbers Authority) Budget, an Operating Plan or a Strategic Plan, the Rejection Action Petition Notice shall not be valid and shall not be accepted by the EC (Empowered Community) Administration unless the rationale set forth in the Rejection Action Petition Notice is based on one or more significant issues that were specifically raised in the applicable public

comment period(s) relating to perceived inconsistencies with the Mission, purpose and role set forth in ICANN (Internet Corporation for Assigned Names and Numbers)'s Articles of Incorporation and Bylaws, the global public interest, the needs of ICANN (Internet Corporation for Assigned Names and Numbers)'s stakeholders, financial stability, or other matter of concern to the community; and

(B) where the Rejection Action Petition Notice relates to a Standard Bylaw Amendment, a statement, if applicable, that the Standard Bylaw Amendment is based solely on the outcome of a PDP (Policy Development Process), citing the specific PDP (Policy Development Process) and the provision in the Standard Bylaw Amendment subject to the Board Notice that implements such PDP (Policy Development Process) ("**PDP (Policy Development Process) Standard Bylaw Statement**") and the name of the Supporting Organization (Supporting Organization) that is a Decisional Participant that undertook the PDP (Policy Development Process) relating to the Standard Bylaw Amendment ("**Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant**").

The Rejection Process shall thereafter continue pursuant to Section 2.2(d) of this Annex D.

(ii) If the EC (Empowered Community) Administration has not received a Rejection Action Petition Notice pursuant to Section 2.2(c)(i) of this Annex D during the Rejection Action Petition Period, the Rejection Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Rejection Action Petition Period, deliver to the Secretary a notice certifying that the Rejection Process has been terminated with respect to the Rejection Action contained in the Approval Notice ("**Rejection Process Termination Notice**"). ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post such Rejection Process Termination Notice on the Website.

(d) Following the delivery of a Rejection Action Petition Notice to the EC (Empowered Community) Administration pursuant to Section 2.2(c)(i) of this Annex D, the Rejection Action Petitioning Decisional Participant shall contact the EC (Empowered Community) Administration and the other Decisional Participants to determine whether any other Decisional Participants support the Rejection Action Petition. The Rejection Action Petitioning Decisional Participant shall forward such communication to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website.

(i) If the Rejection Action Petitioning Decisional Participant obtains the support of at least one other Decisional Participant (a "**Rejection Action Supporting Decisional Participant**") during the period beginning upon the expiration of the Rejection Action Petition Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 7th day after the expiration of the Rejection Action Petition Period (the "**Rejection Action Petition Support Period**"), the Rejection Action Petitioning Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary ("**Rejection Action Supported Petition**") within twenty-four (24) hours of receiving the support of at least one Rejection Action Supporting Decisional Participant, and ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post such Rejection Action Supported Petition on the Website. Each Rejection Action Supporting Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary within twenty-four (24) hours of providing support to the Rejection Action Petition, and ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post each such notice on the Website. Such Rejection Action Supported Petition shall include:

(A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Rejection Action Petitioning Decisional Participant who shall act as a liaison with respect to the Rejection Action Supported Petition;

(C) a statement as to whether or not the Rejection Action Petitioning Decisional Participant and/or the Rejection Action Supporting Decisional Participant requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the Rejection Action Community Forum (as defined in Section 2.3 of this Annex D) for the community to discuss the Rejection Action Supported Petition;

(D) a statement as to whether the Rejection Action Petitioning Decisional Participant and the Rejection Action Supporting Decisional Participant have determined to hold the Rejection Action Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, taking into account the limitation on holding such a Rejection Action Community Forum when the Rejection Action Supported Petition relates to an ICANN (Internet Corporation for Assigned Names and

Numbers) Budget or IANA (Internet Assigned Numbers Authority) Budget as described in Section 2.3(c) of this Annex D; and

(E) a PDP (Policy Development Process) Standard Bylaw Statement, if applicable.

The Rejection Process shall thereafter continue for such Rejection Action Supported Petition pursuant to Section 2.3 of this Annex D. The foregoing process may result in more than one Rejection Action Supported Petition relating to the same Rejection Action.

(ii) The Rejection Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Rejection Action Petition Support Period, deliver to the Secretary a Rejection Process Termination Notice, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website, if:

(A) no Rejection Action Petitioning Decisional Participant is able to obtain the support of at least one other Decisional Participant for its Rejection Action Petition during the Rejection Action Petition Support Period; or

(B) where the Rejection Action Supported Petition includes a PDP (Policy Development Process) Standard Bylaw Statement, the Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant is not (x) the Rejection Action Petitioning Decisional Participant or (y) one of the Rejection Action Supporting Decisional Participants.

Section 2.3. REJECTION ACTION COMMUNITY FORUM

a. If the EC (Empowered Community) Administration receives a Rejection Action Supported Petition under Section 2.2(d) of this Annex D during the Rejection Action Petition Support Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested parties may discuss the Rejection Action Supported Petition ("**Rejection Action Community Forum**"). If the EC (Empowered Community) Administration receives more than one Rejection Action Supported Petition relating to the same Rejection Action, all such Rejection Action Supported Petitions shall be discussed at the same Rejection Action Community Forum.

b. If a publicly-available conference call has been requested in a Rejection Action Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Rejection Action Community Forum relating to that Rejection Action Supported Petition, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website. If a conference call has been requested in relation to more than one Rejection Action Supported Petition relating to the same Rejection Action, all such Rejection Action Supported Petitions shall be discussed during the same conference call.

c. The Rejection Action Community Forum shall be convened and concluded during the period beginning upon the expiration of the Rejection Action Petition Support Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Rejection Action Petition Support Period ("**Rejection Action Community Forum Period**") unless all Rejection Action Supported Petitions relating to the same Rejection Action requested that the Rejection Action Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the Rejection Action Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting (except as otherwise provided below with respect to a Rejection Action Supported Petition relating to an ICANN (Internet Corporation for Assigned Names and Numbers) Budget or IANA (Internet Assigned Numbers Authority) Budget) on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Rejection Action Petitioning Decisional Participant(s) and the Rejection Action Supporting Decisional Participant(s). If the Rejection Action Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Rejection Action Petition Support Period, the Rejection Action Community Forum Period shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting. Notwithstanding the

foregoing and notwithstanding any statement in the Rejection Action Supported Petition, a Rejection Action Community Forum to discuss a Rejection Action Supported Petition relating to an ICANN (Internet Corporation for Assigned Names and Numbers) Budget or IANA (Internet Assigned Numbers Authority) Budget may only be held at a scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting if such Rejection Action Community Forum occurs during the Rejection Action Community Forum Period, without any extension of such Rejection Action Community Forum Period.

d. The Rejection Action Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects, and/or, only if the Rejection Action Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the Rejection Action Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of such Rejection Action Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

e. The EC (Empowered Community) Administration shall manage and moderate the Rejection Action Community Forum in a fair and neutral manner.

f. ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the Rejection Action Supported Petition prior to the convening of and during the Rejection Action Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

g. ICANN (Internet Corporation for Assigned Names and Numbers) staff (including the CFO when the Rejection Action Supported Petition relates to an ICANN (Internet Corporation for Assigned Names and Numbers) Budget, IANA (Internet Assigned Numbers Authority) Budget or Operating Plan) and Directors representing the Board are expected to attend the

Rejection Action Community Forum in order to address the concerns raised in the Rejection Action Supported Petition.

h. If the Rejection Action Petitioning Decisional Participant and each of the Rejection Action Supporting Decisional Participants for an applicable Rejection Action Supported Petition agree before, during or after the Rejection Action Community Forum that the issue raised in such Rejection Action Supported Petition has been resolved, such Rejection Action Supported Petition shall be deemed withdrawn and the Rejection Process with respect to such Rejection Action Supported Petition will be terminated. If all Rejection Action Supported Petitions relating to a Rejection Action are withdrawn, the Rejection Process will automatically be terminated. If a Rejection Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the Rejection Action Supported Petition, deliver to the Secretary a Rejection Process Termination Notice. For the avoidance of doubt, the Rejection Action Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Rejection Action Petitioning Decisional Participant and the Rejection Action Supporting Decisional Participant(s).

i. During the Rejection Action Community Forum Period, an additional one or two Rejection Action Community Forums may be held at the discretion of a Rejection Action Petitioning Decisional Participant and a related Rejection Action Supporting Decisional Participant, or the EC (Empowered Community) Administration.

j. ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Rejection Action Community Forum and shall promptly post on the Website a public record of the Rejection Action Community Forum as well as all written submissions of ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Rejection Action Community Forum.

Section 2.4. DECISION WHETHER TO REJECT A REJECTION ACTION

(a) Following the expiration of the Rejection Action Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Rejection Action Community Forum Period (such period, the "**Rejection Action Decision Period**"), with

respect to each Rejection Action Supported Petition, each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Rejection Action Supported Petition and has determined to reject the Rejection Action, (ii) objects to such Rejection Action Supported Petition or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to such Rejection Action Supported Petition), and each Decisional Participant shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to expiration of the Rejection Action Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Rejection Action Decision Period).

(b) The EC (Empowered Community) Administration, within twenty-four (24) hours of the expiration of the Rejection Action Decision Period, shall promptly deliver a written notice ("**EC (Empowered Community) Rejection Notice**") to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of this Article 2 of Annex D, the EC (Empowered Community) has resolved to reject the Rejection Action if (after accounting for any adjustments to the below as required by the GAC (Governmental Advisory Committee) Carve-out pursuant to Section 3.6(e) of the Bylaws if the Rejection Action Supported Petition included a GAC (Governmental Advisory Committee) Consensus (Consensus) Statement):

> (i) A Rejection Action Supported Petition relating to a Rejection Action other than a Standard Bylaw Amendment is (A) supported by four or more Decisional Participants and (B) not objected to by more than one Decisional Participant; or
>
> (ii) A Rejection Action Supported Petition relating to a Standard Bylaw Amendment that is (A) supported by three or more Decisional Participants (including the Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant if the Rejection Action Supported Petition included a PDP (Policy Development Process) Standard Bylaw Statement) and (B) not objected to by more than one Decisional Participant.

(c) If no Rejection Action Supported Petition obtains the support required by Section 2.4(b)(i) or (ii) of this Annex D, as applicable, the Rejection Process will automatically be terminated and the EC (Empowered Community) Administration

shall, within twenty-four (24) hours of the expiration of the Rejection Action Decision Period, deliver to the Secretary a Rejection Process Termination Notice.

(d) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Rejection Action Board Notice, (ii) Rejection Action Petition, (iii) Rejection Action Petition Notice, (iv) Rejection Action Supported Petition, (v) EC (Empowered Community) Rejection Notice and the written explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to reject the Rejection Action, (vi) Rejection Process Termination Notice, and (vii) other notices the Secretary receives under this Article 2.

ARTICLE 3 PROCEDURE FOR EXERCISE OF EC (Empowered Community)'S RIGHTS TO REMOVE DIRECTORS AND RECALL THE BOARD

Section 3.1. NOMINATING COMMITTEE DIRECTOR REMOVAL PROCESS

(a) Subject to the procedures and requirements developed by the applicable Decisional Participant, an individual may submit a petition to a Decisional Participant seeking to remove a Director holding Seats 1 through 8 and initiate the Nominating Committee Director Removal Process ("**Nominating Committee Director Removal Petition**"). Each Nominating Committee Director Removal Petition shall set forth the rationale upon which such individual seeks to remove such Director. The process set forth in this Section 3.1 of Annex D is referred to herein as the "**Nominating Committee Director Removal Process**."

(b) During the period beginning on the date that the Decisional Participant received the Nominating Committee Director Removal Petition (such date of receipt, the "**Nominating Committee Director Removal Petition Date**") and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the date that is the 21st day after the Nominating Committee Director Removal Petition Date (as it relates to a particular Director, the "**Nominating Committee Director Removal Petition Period**"), the Decisional Participant that has received a Nominating Committee Director Removal Petition ("**Nominating Committee Director Removal Petitioned Decisional Participant**") shall either accept or reject such Nominating Committee Director Removal Petition; provided that a Nominating Committee Director Removal Petitioned Decisional Participant shall not accept a Nominating Committee Director Removal Petition if, during the same term, the Director who is the subject of such Nominating Committee Director Removal Petition had previously been subject to a Nominating Committee

Director Removal Petition that led to a Nominating Committee Director Removal Community Forum (as discussed in Section 3.1(e) of this Annex D).

(c) During the Nominating Committee Director Removal Petition Period, the Nominating Committee Director Removal Petitioned Decisional Participant shall invite the Director subject to the Nominating Committee Director Removal Petition and the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director) to a dialogue with the individual(s) bringing the Nominating Committee Director Removal Petition and the Nominating Committee Director Removal Petitioned Decisional Participant's representative on the EC (Empowered Community) Administration. The Nominating Committee Director Removal Petition may not be accepted unless this invitation has been extended upon reasonable notice and accommodation to the affected Director's availability. If the invitation is accepted by either the Director who is the subject of the Nominating Committee Director Removal Petition or the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director), the Nominating Committee Director Removal Petitioned Decisional Participant shall not accept the Nominating Committee Director Removal Petition until the dialogue has occurred or there have been reasonable efforts to have the dialogue.

> (i) If, in accordance with Section 3.1(b) of this Annex D, a Nominating Committee Director Removal Petitioned Decisional Participant accepts a Nominating Committee Director Removal Petition during the Nominating Committee Director Removal Petition Period (such Decisional Participant, the "**Nominating Committee Director Removal Petitioning Decisional Participant**"), the Nominating Committee Director Removal Petitioning Decisional Participant shall, within twenty-four (24) hours of its acceptance of the Nominating Committee Director Removal Petition, provide written notice ("**Nominating Committee Director Removal Petition Notice**") of such acceptance to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary. The Nominating Committee Director Removal Petition Notice shall include the rationale upon which removal of the affected Director is sought. The Nominating Committee Director Removal Process shall thereafter continue pursuant to Section 3.1(d) of this Annex D.
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> (ii) If the EC (Empowered Community) Administration has not received a Nominating Committee Director Removal Petition Notice pursuant to Section 3.1(c)(i) of this Annex D during the Nominating Committee Director Removal Petition Period, the Nominating Committee Director Removal Process shall automatically be terminated with respect to the applicable Nominating Committee Director Removal Petition and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the

> expiration of the Nominating Committee Director Removal Petition Period, deliver to the Secretary a notice certifying that the Nominating Committee Director Removal Process has been terminated with respect to the applicable Nominating Committee Director Removal Petition ("**Nominating Committee Director Removal Process Termination Notice**").

(d) Following the delivery of a Nominating Committee Director Removal Petition Notice to the EC (Empowered Community) Administration by a Nominating Committee Director Removal Petitioning Decisional Participant pursuant to Section 3.1(c)(i) of this Annex D, the Nominating Committee Director Removal Petitioning Decisional Participant shall contact the EC (Empowered Community) Administration and the other Decisional Participants to determine whether any other Decisional Participants support the Nominating Committee Director Removal Petition. The Nominating Committee Director Removal Petitioning Decisional Participant shall forward such communication to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website.

> (i) If the Nominating Committee Director Removal Petitioning Decisional Participant obtains the support of at least one other Decisional Participant (a "**Nominating Committee Director Removal Supporting Decisional Participant**") during the period beginning upon the expiration of the Nominating Committee Director Removal Petition Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 7th day after the expiration of the Nominating Committee Director Removal Petition Period (the "**Nominating Committee Director Removal Petition Support Period**"), the Nominating Committee Director Removal Petitioning Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary ("**Nominating Committee Director Removal Supported Petition**") within twenty-four (24) hours of receiving the support of at least one Nominating Committee Director Removal Supporting Decisional Participant. Each Nominating Committee Director Removal Supporting Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary within twenty-four (24) hours of providing support to the Nominating Committee Director Removal Petition. Such Nominating Committee Director Removal Supported Petition shall include:
>
> (A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Nominating Committee Director Removal Petitioning Decisional Participant who shall act as a liaison with respect to the Nominating Committee Director Removal Supported Petition;

(C) a statement as to whether or not the Nominating Committee Director Removal Petitioning Decisional Participant and/or the Nominating Committee Director Removal Supporting Decisional Participant requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the Nominating Committee Director Removal Community Forum (as defined in Section 3.1(e) of this Annex D) for the community to discuss the Nominating Committee Director Removal Supported Petition; and

(D) a statement as to whether the Nominating Committee Director Removal Petitioning Decisional Participant and the Nominating Committee Director Removal Supporting Decisional Participant have determined to hold the Nominating Committee Director Removal Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

The Nominating Committee Director Removal Process shall thereafter continue for such Nominating Committee Director Removal Petition pursuant to Section 3.1(e) of this Annex D.

(ii) The Nominating Committee Director Removal Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Nominating Committee Director Removal Petition Support Period, deliver to the Secretary a Nominating Committee Director Removal Process Termination Notice if the Nominating Committee Director Removal Petitioning Decisional Participant is unable to obtain the support of at least one other Decisional Participant for its Nominating Committee Director Removal Petition during the Nominating Committee Director Removal Petition Support Period.

(e) If the EC (Empowered Community) Administration receives a Nominating Committee Director Removal Supported Petition under Section 3.1(d) of this Annex D during the Nominating Committee Director Removal Petition Support Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested parties may discuss the

Nominating Committee Director Removal Supported Petition ("**Nominating Committee Director Removal Community Forum**").

(i) If a publicly-available conference call has been requested in a Nominating Committee Director Removal Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Nominating Committee Director Removal Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website. The date and time of any such conference call shall be determined after consultation with the Director who is the subject of the Nominating Committee Director Removal Supported Petition regarding his or her availability.

(ii) The Nominating Committee Director Removal Community Forum shall be convened and concluded during the period beginning upon the expiration of the Nominating Committee Director Removal Petition Support Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Nominating Committee Director Removal Petition Support Period ("**Nominating Committee Director Removal Community Forum Period**") unless the Nominating Committee Director Removal Supported Petition requested that the Nominating Committee Director Removal Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the Nominating Committee Director Removal Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Nominating Committee Director Removal Petitioning Decisional Participant and the Nominating Committee Director Removal Supporting Decisional Participant(s); provided, that, the date and time of any Nominating Committee Director Removal Community Forum shall be determined after consultation with the Director who is the subject of the Nominating Committee Director Removal Supported Petition regarding his or her availability. If the Nominating Committee Director Removal Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as

calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Nominating Committee Director Removal Petition Support Period, the Nominating Committee Director Removal Community Forum Period shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

(iii) The Nominating Committee Director Removal Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects, and/or, only if the Nominating Committee Director Removal Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the Nominating Committee Director Removal Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of the Nominating Committee Director Removal Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(iv) The EC (Empowered Community) Administration shall manage and moderate the Nominating Committee Director Removal Community Forum in a fair and neutral manner; provided that no individual from the Nominating Committee Director Removal Petitioning Decisional Participant or the Nominating Committee Director Removal Supporting Decisional Participant, nor the individual who initiated the Nominating Committee Director Removal Petition, shall be permitted to participate in the management or moderation of the Nominating Committee Director Removal Community Forum.

(v) The Director subject to the Nominating Committee Director Removal Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the Nominating Committee Director Removal Supported Petition prior to the convening of and during the Nominating Committee Director Removal Community Forum. Any written materials delivered to the EC (Empowered Community)

Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

(vi) The Director who is the subject of the Nominating Committee Director Removal Supported Petition and the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director) are expected to attend the Nominating Committee Director Removal Community Forum in order to address the issues raised in the Nominating Committee Director Removal Supported Petition.

(vii) If the Nominating Committee Director Removal Petitioning Decisional Participant and each of the Nominating Committee Director Removal Supporting Decisional Participants for an applicable Nominating Committee Director Removal Supported Petition agree before, during or after the Nominating Committee Director Removal Community Forum that the issue raised in such Nominating Committee Director Removal Supported Petition has been resolved, such Nominating Committee Director Removal Supported Petition shall be deemed withdrawn and the Nominating Committee Director Removal Process with respect to such Nominating Committee Director Removal Supported Petition will be terminated. If a Nominating Committee Director Removal Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the Nominating Committee Director Removal Supported Petition, deliver to the Secretary a Nominating Committee Director Removal Process Termination Notice. For the avoidance of doubt, the Nominating Committee Director Removal Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Nominating Committee Director Removal Petitioning Decisional Participant and the Nominating Committee Director Removal Supporting Decisional Participant(s).

(viii) During the Nominating Committee Director Removal Community Forum Period, an additional one or two Nominating Committee Director Removal Community Forums may be held at the discretion of a Nominating Committee Director Removal Petitioning Decisional Participant and a related Nominating Committee Director Removal Supporting Decisional Participant, or the EC (Empowered Community) Administration.

(ix) ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Nominating Committee Director Removal Community Forum and shall promptly post on the Website a public record

> of the Nominating Committee Director Removal Community Forum as well as all written submissions of the Director who is the subject of the Nominating Committee Director Removal Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Nominating Committee Director Removal Community Forum.

(f) Following the expiration of the Nominating Committee Director Removal Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Nominating Committee Director Removal Community Forum Period (such period, the "**Nominating Committee Director Removal Decision Period**"), each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Nominating Committee Director Removal Supported Petition, (ii) objects to such Nominating Committee Director Removal Supported Petition or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to the Nominating Committee Director Removal Supported Petition), and each Decisional Participant shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to the expiration of the Nominating Committee Director Removal Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Nominating Committee Director Removal Decision Period).

(g) The EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Nominating Committee Director Removal Decision Period, deliver a written notice ("**Nominating Committee Director Removal Notice**") to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of Section 3.1 of this Annex D, the EC (Empowered Community) has approved of the removal of the Director who is subject to the Nominating Committee Director Removal Process if the Nominating Committee Director Removal Supported Petition is (i) supported by three or more Decisional Participants and (ii) not objected to by more than one Decisional Participant.

(h) Upon the Secretary's receipt of a Nominating Committee Director Removal Notice, the Director subject to such Nominating Committee Director Removal Notice shall be effectively removed from office and shall no longer be a Director

and such Director's vacancy shall be filled in accordance with Section 7.12 of the Bylaws.

(i) If the Nominating Committee Director Removal Supported Petition does not obtain the support required by Section 3.1(g) of this Annex D, the Nominating Committee Director Removal Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Nominating Committee Director Removal Decision Period, deliver to the Secretary a Nominating Committee Director Removal Process Termination Notice. The Director who was subject to the Nominating Committee Director Removal Process shall remain on the Board and not be subject to the Nominating Committee Director Removal Process for the remainder of the Director's current term.

(j) If neither a Nominating Committee Director Removal Notice nor a Nominating Committee Director Removal Process Termination Notice are received by the Secretary prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Nominating Committee Director Removal Community Forum Period, the Nominating Committee Director Removal Process shall automatically terminate and the Director who was subject to the Nominating Committee Director Removal Process shall remain on the Board and shall not be subject to the Nominating Committee Director Removal Process for the remainder of the Director's current term.

(k) Notwithstanding anything in this Section 3.1 to the contrary, if, for any reason, including due to resignation, death or disability, a Director who is the subject of a Nominating Committee Director Removal Process ceases to be a Director, the Nominating Committee Director Removal Process for such Director shall automatically terminate without any further action of ICANN (Internet Corporation for Assigned Names and Numbers) or the EC (Empowered Community) Administration.

(l) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Nominating Committee Director Removal Petition, (ii) Nominating Committee Director Removal Petition Notice, (iii) Nominating Committee Director Removal Supported Petition, (iv) Nominating Committee Director Removal Notice and the written explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to remove the relevant Director, (v) Nominating Committee Director Removal Process Termination Notice, and (vi) other notices the Secretary receives under this Section 3.1.

Section 3.2. SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) DIRECTOR REMOVAL PROCESS

(a) Subject to the procedures and requirements developed by the applicable Decisional Participant, an individual may submit a petition to the ASO (Address Supporting Organization), ccNSO (Country Code Names Supporting Organization), GNSO (Generic Names Supporting Organization) or At-Large Community (as applicable, the "**Applicable Decisional Participant**") seeking to remove a Director who was nominated by that Supporting Organization (Supporting Organization) or the At-Large Community in accordance with Section 7.2(a) of the Bylaws, and initiate the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition**"). The process set forth in this Section 3.2 of this Annex D is referred to herein as the "**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process.**"

(b) During the period beginning on the date that the Applicable Decisional Participant received the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition (such date of receipt, the "**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Date**") and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the date that is the 21st day after the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Date (as it relates to a particular Director, the "**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period**"), the Applicable Decisional Participant shall either accept or reject such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition pursuant to the internal procedures of the Applicable Decisional Participant for the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition; provided that the Applicable Decisional Participant shall not accept an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition if, during the same term, the Director who is the subject of such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition had previously been subject

to an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition that led to an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum (as defined in Section 3.2(d) of this Annex D).

(c) During the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, the Applicable Decisional Participant shall invite the Director subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition and the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director) to a dialogue with the individual(s) bringing the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition and the Applicable Decisional Participant's representative on the EC (Empowered Community) Administration. The SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition may not be accepted unless this invitation has been extended upon reasonable notice and accommodation to the affected Director's availability. If the invitation is accepted by either the Director who is the subject of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition or the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director), the Applicable Decisional Participant shall not accept the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition until the dialogue has occurred or there have been reasonable efforts to have the dialogue.

> (i) If, in accordance with Section 3.2(b), the Applicable Decisional Participant accepts an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition during the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, the Applicable Decisional Participant shall, within twenty-four (24) hours of the Applicable Decisional Participant's acceptance of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition, provide written notice ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice**") of such acceptance to the EC (Empowered Community) Administration, the other Decisional

Participants and the Secretary. Such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice shall include:

(A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Applicable Decisional Participant who shall act as a liaison with respect to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice;

(C) a statement as to whether or not the Applicable Decisional Participant requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum (as defined in Section 3.2(d) of this Annex D) for the community to discuss the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition; and

(D) a statement as to whether the Applicable Decisional Participant has determined to hold the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

The SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process shall thereafter continue for such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition pursuant to Section 3.2(d) of this Annex D.

(ii) If the EC (Empowered Community) Administration has not received an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice pursuant to Section 3.2(c)(i) during the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process shall automatically be terminated with respect to the applicable SO (Supporting Organization)/AC (Advisory Committee; or

> Administrative Contact (of a domain registration)) Director Removal Petition and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, deliver to the Secretary a notice certifying that the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process has been terminated with respect to the applicable SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process Termination Notice**").

(d) If the EC (Empowered Community) Administration receives an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice under Section 3.2(c) of this Annex D during the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested parties may discuss the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum**").

> (i) If a publicly-available conference call has been requested in an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website. The date and time of any such conference call shall be determined after consultation with the Director who is the subject of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice regarding his or her availability.

(ii) The SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum shall be convened and concluded during the period beginning upon the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum Period**") unless the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice requested that the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Applicable Decisional Participant; provided, that the date and time of any SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum shall be determined after consultation with the Director who is the subject of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice regarding his or her availability. If the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Period, the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum Period shall expire at 11:59 p.m., local time of

the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

(iii) The SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects, and/or, only if the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(iv) The EC (Empowered Community) Administration shall manage and moderate the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum in a fair and neutral manner; provided that no individual from the Applicable Decisional Participant, nor the individual who initiated the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition, shall be permitted to participate in the management or moderation of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum.

(v) The Director subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice, ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the SO (Supporting

Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice prior to the convening of and during the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

(vi) The Director who is the subject of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice and the Chair of the Board (or the Vice Chair of the Board if the Chair is the affected Director) are expected to attend the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum in order to address the issues raised in the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice.

(vii) If the Applicable Decisional Participant agrees before, during or after the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum that the issue raised in such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice has been resolved, such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice shall be deemed withdrawn and the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process with respect to such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice will be terminated. If an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice, deliver to the Secretary an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process Termination Notice. For the avoidance of doubt, the SO (Supporting Organization)/AC (Advisory Committee; or

Administrative Contact (of a domain registration)) Director Removal Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Applicable Decisional Participant.

(viii) During the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum Period, an additional one or two SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forums may be held at the discretion of the Applicable Decisional Participant or the EC (Empowered Community) Administration.

(ix) ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum and shall promptly post on the Website a public record of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum as well as all written submissions of the Director who is the subject of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice, ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum.

(e) Following the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Community Forum Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the request of the EC (Empowered Community) Administration, issue a request for comments and recommendations from the community, which shall be delivered to the Secretary for prompt posting on the Website along with a means for comments and recommendations to be submitted to ICANN (Internet Corporation for Assigned Names and Numbers) on behalf of the EC (Empowered Community) Administration. This comment period shall remain open until 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 7th day after the request for comments and recommendations was posted on the Website (the "**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal**

Comment Period"). ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website all comments and recommendations received by ICANN (Internet Corporation for Assigned Names and Numbers) during the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Comment Period.

(f) Following the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Comment Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Comment Period (such period, the "**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Decision Period**"), the Applicable Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether the Applicable Decisional Participant has support for the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice within the Applicable Decisional Participant of a three-quarters majority as determined pursuant to the internal procedures of the Applicable Decisional Participant ("**SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice**"). The Applicable Decisional Participant shall, within twenty-four (24) hours of obtaining such support, deliver the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice to the EC (Empowered Community) Administration, the other Decisional Participants and Secretary, and ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the Applicable Decisional Participant, concurrently post on the Website an explanation provided by the Applicable Decisional Participant as to why the Applicable Decisional Participant has chosen to remove the affected Director. Upon the Secretary's receipt of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice from the EC (Empowered Community) Administration, the Director subject to such SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice shall be effectively removed from office and shall no longer be a Director and such Director's vacancy shall be filled in accordance with Section 7.12 of the Bylaws.

(g) If the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition

Notice does not obtain the support required by Section 3.2(f) of this Annex D, the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the failure to obtain such support, deliver to the Secretary an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process Termination Notice. The Director who was subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process shall remain on the Board and shall not be subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process for the remainder of the Director's current term.

(h) If neither an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice nor an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process Termination Notice are received by the Secretary prior to the expiration of the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Decision Period, the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process shall automatically terminate and the Director who was subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process shall remain on the Board and shall not be subject to the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process for the remainder of the Director's current term.

(i) Notwithstanding anything in this Section 3.2 to the contrary, if, for any reason, including due to resignation, death or disability, a Director who is the subject of an SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process ceases to be a Director, the SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process for such Director shall automatically terminate without any further action of ICANN (Internet Corporation for Assigned Names and Numbers) or the EC (Empowered Community) Administration.

(j) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director

Removal Petition, (ii) SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Petition Notice, (iii) SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice and the written explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to remove the relevant Director, (iv) SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Process Termination Notice, and (v) other notices the Secretary receives under this Section 3.2.

Section 3.3. BOARD RECALL PROCESS

(a) Subject to the procedures and requirements developed by the applicable Decisional Participant, an individual may submit a petition to a Decisional Participant seeking to remove all Directors (other than the President) at the same time and initiate the Board Recall Process ("**Board Recall Petition**"), provided that a Board Recall Petition cannot be submitted solely on the basis of a matter decided by a Community IRP if (i) such Community IRP was initiated in connection with the Board's implementation of GAC (Governmental Advisory Committee) Consensus (Consensus) Advice and (ii) the EC (Empowered Community) did not prevail in such Community IRP. Each Board Recall Petition shall include a rationale setting forth the reasons why such individual seeks to recall the Board. The process set forth in this Section 3.3 of this Annex D is referred to herein as the "**Board Recall Process**."

(b) A Decisional Participant that has received a Board Recall Petition shall either accept or reject such Board Recall Petition during the period beginning on the date the Decisional Participant received the Board Recall Petition ("**Board Recall Petition Date**") and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the date that is the 21st day after the Board Recall Petition Date (the "**Board Recall Petition Period**").

> (i) If, in accordance with Section 3.3(b) of this Annex D, a Decisional Participant accepts a Board Recall Petition during the Board Recall Petition Period (such Decisional Participant, the "**Board Recall Petitioning Decisional Participant**"), the Board Recall Petitioning Decisional Participant shall, within twenty-four (24) hours of the expiration of its acceptance of the Board Recall Petition, provide written notice ("**Board Recall Petition Notice**") of such acceptance to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary. The Board Recall Petition Notice shall include the rationale upon

which removal of the Board is sought. The Board Recall Process shall thereafter continue pursuant to Section 3.3(c) of this Annex D.

(ii) If the EC (Empowered Community) Administration has not received a Board Recall Petition Notice pursuant to Section 3.3(b)(i) of this Annex D during the Board Recall Petition Period, the Board Recall Process shall automatically be terminated with respect to the Board Recall Petition and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Board Recall Petition Period, deliver to the Secretary a notice certifying that the Board Recall Process has been terminated with respect to the Board Recall Petition ("**Board Recall Process Termination Notice**").

(c) Following the delivery of a Board Recall Petition Notice to the EC (Empowered Community) Administration by a Board Recall Petitioning Decisional Participant pursuant to Section 3.3(b)(i) of this Annex D, the Board Recall Petitioning Decisional Participant shall contact the EC (Empowered Community) Administration and the other Decisional Participants to determine whether any other Decisional Participants support the Board Recall Petition. The Board Recall Petitioning Decisional Participant shall forward such communication to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website.

(i) If the Board Recall Petitioning Decisional Participant obtains the support of at least two other Decisional Participants (each, a "**Board Recall Supporting Decisional Participant**") during the period beginning upon the expiration of the Board Recall Petition Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 7th day after the expiration of the Board Recall Petition Period (the "**Board Recall Petition Support Period**"), the Board Recall Petitioning Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary ("**Board Recall Supported Petition**") within twenty-four hours of receiving the support of at least two Board Recall Supporting Decisional Participants. Each Board Recall Supporting Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary within twenty-four (24) hours of providing support to the Board Recall Petition. Such Board Recall Supported Petition shall include:

(A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Board Recall Petitioning Decisional Participant who shall act as a liaison with respect to the Board Recall Supported Petition;

(C) a statement as to whether or not the Board Recall Petitioning Decisional Participant and/or the Board Recall Supporting Decisional Participants requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the Board Recall Community Forum (as defined in Section 3.3(d) of this Annex D) for the community to discuss the Board Recall Supported Petition; and

(D) a statement as to whether the Board Recall Petitioning Decisional Participant and the Board Recall Supporting Decisional Participants have determined to hold the Board Recall Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

The Board Recall Process shall thereafter continue for such Board Recall Supported Petition pursuant to Section 3.3(d) of this Annex D.

(ii) The Board Recall Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Board Recall Petition Support Period, deliver to the Secretary a Board Recall Process Termination Notice if the Board Recall Petitioning Decisional Participant is unable to obtain the support of at least two other Decisional Participants for its Board Recall Petition during the Board Recall Petition Support Period.

(d) If the EC (Empowered Community) Administration receives a Board Recall Supported Petition under Section 3.3(c) of this Annex D during the Board Recall Petition Support Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested parties may discuss the Board Recall Supported Petition ("**Board Recall Community Forum**").

(i) If a publicly-available conference call has been requested in a Board Recall Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Board Recall Community Forum, and inform the Decisional Participants of the date, time

and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website. The date and time of any such conference call shall be determined after consultation with the Board regarding the availability of the Directors.

(ii) The Board Recall Community Forum shall be convened and concluded during the period beginning upon the expiration of the Board Recall Petition Support Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Board Recall Petition Support Period ("**Board Recall Community Forum Period**") unless the Board Recall Supported Petition requested that the Board Recall Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the Board Recall Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Board Recall Petitioning Decisional Participant and the Board Recall Supporting Decisional Participants; provided, that, the date and time of any Board Recall Community Forum shall be determined after consultation with the Board regarding the availability of the Directors. If the Board Recall Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Board Recall Petition Support Period, the Board Recall Community Forum Period shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

(iii) The Board Recall Community Forum shall have at least one face-to-face meeting and may also be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects. If the Board Recall Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of

the date, time and participation methods of the Board Recall Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(iv) The EC (Empowered Community) Administration shall manage and moderate the Board Recall Community Forum in a fair and neutral manner; provided that no individual from the Board Recall Petitioning Decisional Participant or a Board Recall Supporting Decisional Participant, nor the individual who initiated the Board Recall Petition, shall be permitted to participate in the management or moderation of the Board Recall Community Forum.

(v) ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the Board Recall Supported Petition prior to the convening of and during the Board Recall Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

(vi) ICANN (Internet Corporation for Assigned Names and Numbers) staff and the full Board are expected to attend the Board Recall Community Forum in order to address the issues raised in the Board Recall Supported Petition.

(vii) If the Board Recall Petitioning Decisional Participant and each of the Board Recall Supporting Decisional Participants for the Board Recall Supported Petition agree before, during or after the Board Recall Community Forum that the issue raised in such Board Recall Supported Petition has been resolved, such Board Recall Supported Petition shall be deemed withdrawn and the Board Recall Process with respect to such Board Recall Supported Petition will be terminated. If a Board Recall Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the Board Recall Supported Petition, deliver to the Secretary a Board Recall Process Termination Notice. For the avoidance of doubt, the Board Recall Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Board Recall Petitioning Decisional Participant and the Board Recall Supporting Decisional Participants.

(viii) During the Board Recall Community Forum Period, an additional one or two Board Recall Community Forums may be held at the discretion of the Board Recall Petitioning Decisional Participant and the Board Recall Supporting Decisional Participants, or the EC (Empowered Community) Administration.

(ix) ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Board Recall Community Forum and shall promptly post on the Website a public record of the Board Recall Community Forum as well as all written submissions of ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Board Recall Community Forum.

(e) Following the expiration of the Board Recall Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Board Recall Community Forum Period (such period, the "**Board Recall Decision Period**"), each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Board Recall Supported Petition, (ii) objects to such Board Recall Supported Petition or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to such Board Recall Supported Petition), and each Decisional Participant shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to expiration of the Board Recall Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Board Recall Decision Period).

(f) The EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Board Recall Decision Period, deliver a written notice ("**EC (Empowered Community) Board Recall Notice**") to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of this Section 3.3 of this Annex D, the EC (Empowered Community) has resolved to remove all Directors (other than the President) if (after accounting for any adjustments to the below as required by the GAC (Governmental Advisory Committee) Carve-out pursuant to Section 3.6(e) of the Bylaws if an IRP Panel found that, in implementing GAC (Governmental Advisory

Committee) Consensus (Consensus) Advice, the Board acted inconsistently with the Articles or Bylaws) a Board Recall Supported Petition (i) is supported by four or more Decisional Participants, and (ii) is not objected to by more than one Decisional Participant.

(g) Upon the Secretary's receipt of an EC (Empowered Community) Board Recall Notice, all Directors (other than the President) shall be effectively removed from office and shall no longer be Directors and such vacancies shall be filled in accordance with Section 7.12 of the Bylaws.

(h) If the Board Recall Supported Petition does not obtain the support required by Section 3.3(f) of this Annex D, the Board Recall Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Board Recall Decision Period, deliver to the Secretary a Board Recall Process Termination Notice. All Directors shall remain on the Board.

(i) If neither an EC (Empowered Community) Board Recall Notice nor a Board Recall Process Termination Notice are received by the Secretary prior to the expiration of the Board Recall Decision Period, the Board Recall Process shall automatically terminate and all Directors shall remain on the Board.

(j) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Board Recall Petition, (ii) Board Recall Petition Notice, (iii) Board Recall Supported Petition, (iv) EC (Empowered Community) Board Recall Notice and the written explanation provided by the EC (Empowered Community) Administration as to why the EC (Empowered Community) has chosen to recall the Board, (v) Board Recall Process Termination Notice, and (vi) other notices the Secretary receives under this Section 3.3.

Article 4 PROCEDURE FOR EXERCISE OF EC (Empowered Community)'S RIGHTS TO INITIATE MEDIATION, A COMMUNITY IRP OR RECONSIDERATION REQUEST

Section 4.1. MEDIATION INITIATION

(a) If the Board refuses or fails to comply with a decision by the EC (Empowered Community) delivered to the Secretary pursuant to an EC (Empowered Community) Approval Notice, EC (Empowered Community) Rejection Notice, Nominating Committee Director Removal Notice, SO (Supporting Organization)/AC (Advisory Committee; or Administrative Contact (of a domain registration)) Director Removal Notice or EC (Empowered Community) Board Recall Notice pursuant to and in compliance with Article 1, Article 2 or Article 3 of

this Annex D, or rejects or otherwise does not take action that is consistent with a final IFR Recommendation, Special IFR Recommendation, SCWG Creation Recommendation or SCWG Recommendation, as applicable (each, an "**EC (Empowered Community) Decision**"), the EC (Empowered Community) Administration representative of any Decisional Participant who supported the exercise by the EC (Empowered Community) of its rights in the applicable EC (Empowered Community) Decision during the applicable decision period may request that the EC (Empowered Community) initiate mediation with the Board in relation to that EC (Empowered Community) Decision as contemplated by Section 4.7 of the Bylaws, by delivering a notice to the EC (Empowered Community) Administration, the Decisional Participants and the Secretary requesting the initiation of a mediation ("**Mediation Initiation Notice**"). ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any Mediation Initiation Notice.

(b) As soon as practicable after receiving a Mediation Initiation Notice, the EC (Empowered Community) Administration and the Secretary shall initiate mediation, which shall proceed in accordance with Section 4.7 of the Bylaws.

Section 4.2. COMMUNITY IRP

(a) After completion of a mediation under Section 4.7 of the Bylaws, the EC (Empowered Community) Administration representative of any Decisional Participant who supported the exercise by the EC (Empowered Community) of its rights in the applicable EC (Empowered Community) Decision during the applicable decision period may request that the EC (Empowered Community) initiate a Community IRP (a "**Community IRP Petitioning Decisional Participant**"), as contemplated by Section 4.3 of the Bylaws, by delivering a notice to the EC (Empowered Community) Administration and the Decisional Participants requesting the initiation of a Community IRP ("**Community IRP Petition**"). The Community IRP Petitioning Decisional Participant shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. The process set forth in this Section 4.2 of this Annex D as it relates to a particular Community IRP Petition is referred to herein as the "**Community IRP Initiation Process**."

(b) Following the delivery of a Community IRP Petition to the EC (Empowered Community) Administration by a Community IRP Petitioning Decisional Participant pursuant to Section 4.2(a) of this Annex D (which delivery date shall be referred to herein as the "**Community IRP Notification Date**"), the Community IRP Petitioning Decisional Participant shall contact the EC (Empowered Community) Administration and the other Decisional Participants to determine whether any other Decisional Participants support the Community IRP

Petition. The Community IRP Petitioning Decisional Participant shall forward such communication to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website.

(i) If the Community IRP Petitioning Decisional Participant obtains the support of at least one other Decisional Participant (a "**Community IRP Supporting Decisional Participant**") during the period beginning on the Community IRP Notification Date and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the Community IRP Notification Date (the "**Community IRP Petition Support Period**"), the Community IRP Petitioning Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary ("**Community IRP Supported Petition**") within twenty-four (24) hours of receiving the support of at least one Community IRP Supporting Decisional Participant. Each Community IRP Supporting Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary within twenty-four (24) hours of providing support to the Community IRP Petition. Such Community IRP Supported Petition shall include:

(A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Community IRP Petitioning Decisional Participant who shall act as a liaison with respect to the Community IRP Supported Petition;

(C) a statement as to whether or not the Community IRP Petitioning Decisional Participant and/or the Community IRP Supporting Decisional Participant requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the Community IRP Community Forum (as defined in Section 4.2(c) of this Annex D) for the community to discuss the Community IRP Supported Petition;

(D) a statement as to whether the Community IRP Petitioning Decisional Participant and the Community IRP Supporting Decisional Participant have determined to hold the Community IRP Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting;

(E) where the Community IRP Supported Petition relates to a Fundamental Bylaw Amendment, a PDP (Policy Development Process) Fundamental Bylaw Statement if applicable and, if so, the name of the Fundamental Bylaw Amendment PDP (Policy Development Process) Decisional Participant;

(F)where the Community IRP Supported Petition relates to an Articles Amendment, a PDP (Policy Development Process) Articles Statement if applicable and, if so, the name of the Articles Amendment PDP (Policy Development Process) Decisional Participant;

(G)where the Community IRP Supported Petition relates to a Standard Bylaw Amendment, a PDP (Policy Development Process) Standard Bylaw Statement if applicable and, if so, the name of the Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant; and

(H) where the Community IRP Supported Petition relates to a policy recommendation of a cross community working group chartered by more than one Supporting Organization (Supporting Organization) ("**CCWG Policy Recommendation**"), a statement citing the specific CCWG Policy Recommendation and related provision in the Community IRP Supported Petition ("**CCWG Policy Recommendation Statement**"), and, if so, the name of any Supporting Organization (Supporting Organization) that is a Decisional Participant that approved the CCWG Policy Recommendation ("**CCWG Policy Recommendation Decisional Participant**").

The Community IRP Initiation Process shall thereafter continue for such Community IRP Supported Petition pursuant to Section 4.2(c) of this Annex D.

(ii) The Community IRP Initiation Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Community IRP Petition Support Period, deliver to the Secretary a notice certifying that the Community IRP Initiation Process has been terminated with respect to the Community IRP included in the Community IRP Petition ("**Community IRP Termination Notice**") if:

(A) no Community IRP Petitioning Decisional Participant is able to obtain the support of at least one other Decisional Participant for its Community IRP Petition during the Community IRP Petition Support Period;

(B) where the Community IRP Supported Petition includes a PDP (Policy Development Process) Fundamental Bylaw Statement, the Fundamental Bylaw Amendment PDP (Policy Development Process) Decisional Participant is not (x) the Community IRP Petitioning Decisional Participant or (y) one of the Community IRP Supporting Decisional Participants;

(C)where the Community IRP Supported Petition includes a PDP (Policy Development Process) Articles Statement, the Articles Amendment PDP (Policy Development Process) Decisional Participant is not (x) the Community IRP Petitioning Decisional Participant or (y) one of the Community IRP Supporting Decisional Participants;

(D)where the Community IRP Supported Petition includes a PDP (Policy Development Process) Standard Bylaw Statement, the Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant is not (x) the Community IRP Petitioning Decisional Participant or (y) one of the Community IRP Supporting Decisional Participants; or

(E) where the Community IRP Supported Petition includes a CCWG Policy Recommendation Statement, the CCWG Policy Recommendation Decisional Participant is not (x) the Community IRP Petitioning Decisional Participant or (y) one of the Community IRP Supporting Decisional Participants.

(c) If the EC (Empowered Community) Administration receives a Community IRP Supported Petition under Section 4.2(b) of this Annex D during the Community IRP Petition Support Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested third parties may discuss the Community IRP Supported Petition ("**Community IRP Community Forum**").

(i) If a publicly-available conference call has been requested in a Community IRP Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Community IRP Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(ii) The Community IRP Community Forum shall be convened and concluded during the period beginning on the expiration of the Community IRP Petition Support Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 30th day after the expiration of the Community IRP Petition Support Period ("**Community IRP Community Forum Period**") unless the Community IRP Supported Petition requested that the Community IRP Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the Community IRP Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Community IRP Petitioning Decisional Participant and the Community IRP Supporting Decisional Participant(s). If the Community IRP Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 30th day after the expiration of the Community IRP Petition Support Period, the Community IRP Community Forum Period shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

(iii) The Community IRP Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects and/or, only if the Community IRP Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the Community IRP Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of such Community IRP Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(iv) The EC (Empowered Community) Administration shall manage and moderate the Community IRP Community Forum in a fair and neutral

manner.

(v) ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the Community IRP Supported Petition prior to the convening of and during the Community IRP Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

(vi) ICANN (Internet Corporation for Assigned Names and Numbers) staff and Directors representing the Board are expected to attend the Community IRP Community Forum in order to discuss the Community IRP Supported Petition.

(vii) If the Community IRP Petitioning Decisional Participant and each of the Community IRP Supporting Decisional Participants for the Community IRP Supported Petition agree before, during or after a Community IRP Community Forum that the issue raised in such Community IRP Supported Petition has been resolved, such Community IRP Supported Petition shall be deemed withdrawn and the Community IRP Initiation Process with respect to such Community IRP Supported Petition will be terminated. If a Community IRP Initiation Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the Community IRP Supported Petition, deliver to the Secretary a Community IRP Termination Notice. For the avoidance of doubt, the Community IRP Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Community IRP Petitioning Decisional Participant and the Community IRP Supporting Decisional Participant(s).

(viii) During the Community IRP Community Forum Period, an additional one or two Community IRP Community Forums may be held at the discretion of a Community IRP Petitioning Decisional Participant and a related Community IRP Supporting Decisional Participant, or the EC (Empowered Community) Administration.

(ix) ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Community IRP Community Forum and

> shall promptly post on the Website a public record of the Community IRP Community Forum as well as all written submissions of ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Community IRP Community Forum.

(d) Following the expiration of the Community IRP Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Community IRP Community Forum Period (such period, the "**Community IRP Decision Period**"), each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Community IRP Supported Petition, (ii) objects to such Community IRP Supported Petition or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to the Community IRP Supported Petition), and each Decisional Participant shall forward such notice to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to the expiration of the Community IRP Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Community IRP Decision Period).

(e) The EC (Empowered Community) Administration, within twenty-four (24) hours of the expiration of the Community IRP Decision Period, shall promptly deliver a written notice ("**EC (Empowered Community) Community IRP Initiation Notice**") to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of this Section 4.2 of this Annex D, the EC (Empowered Community) has resolved to accept the Community IRP Supported Petition if:

> (i) A Community IRP Supported Petition that does not include a PDP (Policy Development Process) Fundamental Bylaw Statement, a PDP (Policy Development Process) Articles Statement, a PDP (Policy Development Process) Standard Bylaw Statement or a CCWG Policy Recommendation Statement (A) is supported by three or more Decisional Participants, and (B) is not objected to by more than one Decisional Participant;

(ii) A Community IRP Supported Petition that (A) includes a PDP (Policy Development Process) Fundamental Bylaw Statement, (B) is supported by three or more Decisional Participants (including the Fundamental Bylaw Amendment PDP (Policy Development Process) Decisional Participant), and (C) is not objected to by more than one Decisional Participant;

(iii) A Community IRP Supported Petition that (A) includes a PDP (Policy Development Process) Articles Statement, (B) is supported by three or more Decisional Participants (including the Articles Amendment PDP (Policy Development Process) Decisional Participant), and (C) is not objected to by more than one Decisional Participant;

(iv) A Community IRP Supported Petition that (A) includes a PDP (Policy Development Process) Standard Bylaw Statement, (B) is supported by three or more Decisional Participants (including the Standard Bylaw Amendment PDP (Policy Development Process) Decisional Participant), and (C) is not objected to by more than one Decisional Participant; or

(v) A Community IRP Supported Petition that (A) includes a CCWG Policy Recommendation Statement, (B) is supported by three or more Decisional Participants (including the CCWG Policy Recommendation Decisional Participant), and (C) is not objected to by more than one Decisional Participant.

(f) If the Community IRP Supported Petition does not obtain the support required by Section 4.2(e) of this Annex D, the Community IRP Initiation Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Community IRP Decision Period, deliver to the Secretary a Community IRP Termination Notice.

(g) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Community IRP Petition, (ii) Community IRP Supported Petition, (iii) EC (Empowered Community) Community IRP Initiation Notice, (iv) Community IRP Termination Notice, (v) written explanation provided by the EC (Empowered Community) Administration related to any of the foregoing, and (vi) other notices the Secretary receives under this Section 4.2.

Section 4.3. COMMUNITY RECONSIDERATION REQUEST

(a) Any Decisional Participant may request that the EC (Empowered Community) initiate a Reconsideration Request (a "**Community Reconsideration Petitioning Decisional Participant**"), as contemplated by Section 4.2(b) of the Bylaws, by delivering a notice to the EC (Empowered Community) Administration and the

other Decisional Participants, with a copy to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website, requesting the review or reconsideration of an action or inaction of the ICANN (Internet Corporation for Assigned Names and Numbers) Board or staff ("**Community Reconsideration Petition**"). A Community Reconsideration Petition must be delivered within 30 days after the occurrence of any of the conditions set forth in Section 4.2(g)(i)(A), (B) or (C) of the Bylaws. In that instance, the Community Reconsideration Petition must be delivered within 30 days from the initial posting of the rationale. The process set forth in this Section 4.3 of this Annex D as it relates to a particular Community Reconsideration Petition is referred to herein as the "**Community Reconsideration Initiation Process.**"

(b) Following the delivery of a Community Reconsideration Petition to the EC (Empowered Community) Administration by a Community Reconsideration Petitioning Decisional Participant pursuant to Section 4.3(a) of this Annex D (which delivery date shall be referred to herein as the "**Community Reconsideration Notification Date**"), the Community Reconsideration Petitioning Decisional Participant shall contact the EC (Empowered Community) Administration and the other Decisional Participants to determine whether any other Decisional Participants support the Community Reconsideration Petition. The Community Reconsideration Petitioning Decisional Participant shall forward such communication to the Secretary for ICANN (Internet Corporation for Assigned Names and Numbers) to promptly post on the Website.

> (i) If the Community Reconsideration Petitioning Decisional Participant obtains the support of at least one other Decisional Participant (a "**Community Reconsideration Supporting Decisional Participant**") during the period beginning on the Community Reconsideration Notification Date and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the Community Reconsideration Notification Date (the "**Community Reconsideration Petition Support Period**"), the Community Reconsideration Petitioning Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary ("**Community Reconsideration Supported Petition**") within twenty-four (24) hours of receiving the support of at least one Community Reconsideration Supporting Decisional Participant. Each Community Reconsideration Supporting Decisional Participant shall provide a written notice to the EC (Empowered Community) Administration, the other Decisional Participants and the Secretary within twenty-four (24) hours of providing support to the

Community Reconsideration Petition. Such Community Reconsideration Supported Petition shall include:

(A) a supporting rationale in reasonable detail;

(B) contact information for at least one representative who has been designated by the Community Reconsideration Petitioning Decisional Participant who shall act as a liaison with respect to the Community Reconsideration Supported Petition;

(C) a statement as to whether or not the Community Reconsideration Petitioning Decisional Participant and/or the Community Reconsideration Supporting Decisional Participant requests that ICANN (Internet Corporation for Assigned Names and Numbers) organize a publicly-available conference call prior to the Community Reconsideration Community Forum (as defined in Section 4.3(c) of this Annex D) for the community to discuss the Community Reconsideration Supported Petition; and

(D) a statement as to whether the Community Reconsideration Petitioning Decisional Participant and the Community Reconsideration Supporting Decisional Participant have determined to hold the Community Reconsideration Community Forum during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

The Community Reconsideration Initiation Process shall thereafter continue for such Community Reconsideration Supported Petition pursuant to Section 4.3(c) of this Annex D.

(ii) The Community Reconsideration Initiation Process shall automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Community Reconsideration Petition Support Period, deliver to the Secretary a notice certifying that the Community Reconsideration Initiation Process has been terminated with respect to the Reconsideration Request included in the Community Reconsideration Petition ("**Community Reconsideration Termination Notice**") if the Community Reconsideration Petitioning Decisional Participant is unable to obtain the support of at least one other Decisional Participant for its Community Reconsideration Petition during the Community Reconsideration Petition Support Period.

(c) If the EC (Empowered Community) Administration receives a Community Reconsideration Supported Petition under Section 4.3(b) of this Annex D during

the Community Reconsideration Petition Support Period, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, convene a forum at which the Decisional Participants and interested third parties may discuss the Community Reconsideration Supported Petition ("**Community Reconsideration Community Forum**").

> (i) If a publicly-available conference call has been requested in a Community Reconsideration Supported Petition, ICANN (Internet Corporation for Assigned Names and Numbers) shall, at the direction of the EC (Empowered Community) Administration, schedule such call prior to any Community Reconsideration Community Forum, and inform the Decisional Participants of the date, time and participation methods of such conference call, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.
>
> (ii) The Community Reconsideration Community Forum shall be convened and concluded during the period beginning on the expiration of the Community Reconsideration Petition Support Period and ending at 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 30th day after the expiration of the Community Reconsideration Petition Support Period ("**Community Reconsideration Forum Period**") unless the Community Reconsideration Supported Petition requested that the Community Reconsideration Community Forum be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, in which case the Community Reconsideration Community Forum shall be held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the date and at the time determined by ICANN (Internet Corporation for Assigned Names and Numbers), taking into account any date and/or time requested by the Community Reconsideration Petitioning Decisional Participant and the Community Reconsideration Supporting Decisional Participant(s). If the Community Reconsideration Community Forum is held during the next scheduled ICANN (Internet Corporation for Assigned Names and Numbers) public meeting and that public meeting is held after 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 30th day after the expiration of the Community Reconsideration Petition Support Period, the Community Reconsideration Community Forum Period shall expire at 11:59 p.m., local time of the city hosting such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting on the official last day of

such ICANN (Internet Corporation for Assigned Names and Numbers) public meeting.

(iii) The Community Reconsideration Community Forum shall be conducted via remote participation methods such as teleconference, web-based meeting room and/or such other form of remote participation as the EC (Empowered Community) Administration selects and/or, only if the Community Reconsideration Community Forum is held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, face-to-face meetings. If the Community Reconsideration Community Forum will not be held during an ICANN (Internet Corporation for Assigned Names and Numbers) public meeting, the EC (Empowered Community) Administration shall promptly inform ICANN (Internet Corporation for Assigned Names and Numbers) of the date, time and participation methods of such Community Reconsideration Community Forum, which ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post on the Website.

(iv) The EC (Empowered Community) Administration shall manage and moderate the Community Reconsideration Community Forum in a fair and neutral manner.

(v) ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) may deliver to the EC (Empowered Community) Administration in writing its views and questions on the Community Reconsideration Supported Petition prior to the convening of and during the Community Reconsideration Community Forum. Any written materials delivered to the EC (Empowered Community) Administration shall also be delivered to the Secretary for prompt posting on the Website in a manner deemed appropriate by ICANN (Internet Corporation for Assigned Names and Numbers).

(vi) ICANN (Internet Corporation for Assigned Names and Numbers) staff and Directors representing the Board are expected to attend the Community Reconsideration Community Forum in order to discuss the Community Reconsideration Supported Petition.

(vii) If the Community Reconsideration Petitioning Decisional Participant and each of the Community Reconsideration Supporting Decisional Participants for a Community Reconsideration Supported Petition agree before, during or after the Community Reconsideration Community Forum

that the issue raised in such Community Reconsideration Supported Petition has been resolved, such Community Reconsideration Supported Petition shall be deemed withdrawn and the Community Reconsideration Initiation Process with respect to such Community Reconsideration Supported Petition will be terminated. If a Community Reconsideration Initiation Process is terminated, the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the resolution of the issue raised in the Community Reconsideration Supported Petition, deliver to the Secretary a Community Reconsideration Termination Notice. For the avoidance of doubt, the Community Reconsideration Community Forum is not a decisional body and the foregoing resolution process shall be handled pursuant to the internal procedures of the Community Reconsideration Petitioning Decisional Participant and the Community Reconsideration Supporting Decisional Participant(s).

(viii) During the Community Reconsideration Community Forum Period, an additional one or two Community Reconsideration Community Forums may be held at the discretion of a Community Reconsideration Petitioning Decisional Participant and a related Community Reconsideration Supporting Decisional Participant, or the EC (Empowered Community) Administration.

(ix) ICANN (Internet Corporation for Assigned Names and Numbers) will provide support services for the Community Reconsideration Community Forum and shall promptly post on the Website a public record of the Community Reconsideration Community Forum as well as all written submissions of ICANN (Internet Corporation for Assigned Names and Numbers) and any Supporting Organization (Supporting Organization) or Advisory Committee (Advisory Committee) (including Decisional Participants) related to the Community Reconsideration Community Forum.

(d) Following the expiration of the Community Reconsideration Community Forum Period, at any time or date prior to 11:59 p.m. (as calculated by local time at the location of ICANN (Internet Corporation for Assigned Names and Numbers)'s principal office) on the 21st day after the expiration of the Community Reconsideration Community Forum Period (such period, the "**Community Reconsideration Decision Period**"), each Decisional Participant shall inform the EC (Empowered Community) Administration in writing as to whether such Decisional Participant (i) supports such Community Reconsideration Supported Petition, (ii) objects to such Community Reconsideration Supported Petition or (iii) has determined to abstain from the matter (which shall not count as supporting or objecting to the Community Reconsideration Supported Petition), and each Decisional Participant shall forward such notice to the Secretary for ICANN

(Internet Corporation for Assigned Names and Numbers) to promptly post on the Website. If a Decisional Participant does not inform the EC (Empowered Community) Administration of any of the foregoing prior to the expiration of the Community Reconsideration Decision Period, the Decisional Participant shall be deemed to have abstained from the matter (even if such Decisional Participant informs the EC (Empowered Community) Administration of its support or objection following the expiration of the Community Reconsideration Decision Period).

(e) If (i) three or more Decisional Participants support the Community Reconsideration Supported Petition and (ii) no more than one Decisional Participant objects to the Community Reconsideration Supported Petition, then the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Community Reconsideration Decision Period, deliver a notice to the Secretary certifying that, pursuant to and in compliance with the procedures and requirements of this Section 4.3 of this Annex D, the EC (Empowered Community) has resolved to accept the Community Reconsideration Supported Petition ("**EC (Empowered Community) Reconsideration Initiation Notice**"). The Reconsideration Request shall then proceed in accordance with Section 4.2 of the Bylaws.

(f) If the Community Reconsideration Supported Petition does not obtain the support required by Section 4.3(e) of this Annex D, the Community Reconsideration Initiation Process will automatically be terminated and the EC (Empowered Community) Administration shall, within twenty-four (24) hours of the expiration of the Community Reconsideration Decision Period, deliver to the Secretary a Community Reconsideration Termination Notice.

(g) ICANN (Internet Corporation for Assigned Names and Numbers) shall promptly post to the Website any (i) Community Reconsideration Petition, (ii) Community Reconsideration Supported Petition, (iii) EC (Empowered Community) Reconsideration Initiation Notice, (iv) Community Reconsideration Termination Notice, (v) written explanation provided by the EC (Empowered Community) Administration related to any of the foregoing, and (vi) other notices the Secretary receives under this Section 4.3.

Annex E: Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles

1. Principles

The caretaker ICANN (Internet Corporation for Assigned Names and Numbers) budget (the "**Caretaker ICANN (Internet Corporation for Assigned Names and**

Numbers) Budget") is defined as an annual operating plan and budget that is established by the CFO in accordance with the following principles (the "**Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles**"):

a. It is based on then-current ICANN (Internet Corporation for Assigned Names and Numbers) operations;

b. It allows ICANN (Internet Corporation for Assigned Names and Numbers) to "take good care" and not expose itself to additional enterprise risk(s) as a result of the rejection of an ICANN (Internet Corporation for Assigned Names and Numbers) Budget by the EC (Empowered Community) pursuant to the Bylaws;

c. It allows ICANN (Internet Corporation for Assigned Names and Numbers) to react to emergency situations in a fashion that preserves the continuation of its operations;

d. It allows ICANN (Internet Corporation for Assigned Names and Numbers) to abide by its existing obligations (including Articles of Incorporation, Bylaws, and contracts, as well as those imposed under law);

e. It enables ICANN (Internet Corporation for Assigned Names and Numbers) to avoid waste of its resources during the rejection period (i.e., the period between when an ICANN (Internet Corporation for Assigned Names and Numbers) Budget is rejected by the EC (Empowered Community) pursuant to the Bylaws and when an ICANN (Internet Corporation for Assigned Names and Numbers) Budget becomes effective in accordance with the Bylaws) or immediately thereafter, by being able to continue activities during the rejection period that would otherwise need to be restarted at a materially incremental cost; and

f. Notwithstanding any other principle listed above, it prevents ICANN (Internet Corporation for Assigned Names and Numbers) from initiating activities that remains subject to community consideration (or for which that community consideration has not concluded) with respect to the applicable ICANN (Internet Corporation for Assigned Names and Numbers) Budget, including without limitation, preventing implementation of any expenditure or undertaking any action that was the subject of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget that was rejected by the EC (Empowered

Community) that triggered the need for the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget.

1. Examples

Below is a non-exhaustive list of examples, to assist with the interpretation of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles, of what a Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget would logically include:

i. the functioning of the EC (Empowered Community), the Decisional Participants, and any Supporting Organizations (Supporting Organizations) or Advisory Committees (Advisory Committees) that are not Decisional Participants;

ii. the functioning of all redress mechanisms, including without limitation the office of the Ombudsman, the IRP, and mediation;

iii. employment of staff (i.e., employees and individual long term paid contractors serving in locations where ICANN (Internet Corporation for Assigned Names and Numbers) does not have the mechanisms to employ such contractors) across all locations, including all related compensation, benefits, social security, pension, and other employment costs;

iv. hiring staff (i.e., employees and individual long term paid contractors serving in locations where ICANN (Internet Corporation for Assigned Names and Numbers) does not have the mechanisms to employ such contractors) in the normal course of business;

v. necessary or time-sensitive travel costs for staff (i.e., employees and individual long term paid contractors serving in locations where ICANN (Internet Corporation for Assigned Names and Numbers) does not have the mechanisms to employ such contractors) or vendors as needed in the normal course of business;

vi. operating all existing ICANN (Internet Corporation for Assigned Names and Numbers) offices, and continuing to assume obligations relative to rent, utilities, maintenance, and similar matters;

vii. contracting with vendors as needed in the normal course of business;

viii. conducting ICANN (Internet Corporation for Assigned Names and Numbers) meetings and ICANN (Internet Corporation for Assigned Names and Numbers) intercessional meetings previously contemplated; and

ix. participating in engagement activities in furtherance of the approved Strategic Plan.

b. Below is a non-limitative list of examples, to assist with the interpretation of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles, of what a Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget would logically exclude:

i. hiring staff (i.e., employees and individual long term paid contractors serving in locations where ICANN (Internet Corporation for Assigned Names and Numbers) does not have the mechanisms to employ such contractors) or entering into new agreements in relation to activities that are the subject of the rejection of the ICANN (Internet Corporation for Assigned Names and Numbers) Budget by the EC (Empowered Community) pursuant to the Bylaws, unless excluding these actions would violate any of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles;

ii. in the normal course of business, travel not deemed indispensable during the rejection period, unless the lack of travel would violate any of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles;

iii. entering into new agreements in relation to opening or operating new ICANN (Internet Corporation for Assigned Names and Numbers) locations/offices, unless the lack of commitment would violate any of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles;

iv. entering into new agreements with governments (or their affiliates), unless the lack of commitment would violate any of the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget Principles; and

v. the proposed expenditure that was the basis for the rejection by the EC (Empowered Community) that triggered the need for the Caretaker ICANN (Internet Corporation for Assigned Names and Numbers) Budget.

Annex F: Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles

1. Principles

The caretaker IANA (Internet Assigned Numbers Authority) Budget (the "**Caretaker IANA (Internet Assigned Numbers Authority) Budget**") is defined as an annual operating plan and budget that is established by the CFO in

accordance with the following principles (the "**Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles**"):

a. It is based on then-current operations of the IANA (Internet Assigned Numbers Authority) functions;

b. It allows ICANN (Internet Corporation for Assigned Names and Numbers), in its responsibility to fund the operations of the IANA (Internet Assigned Numbers Authority) functions, to "take good care" and not expose itself to additional enterprise risk(s) as a result of the rejection of an IANA (Internet Assigned Numbers Authority) Budget by the EC (Empowered Community) pursuant to the Bylaws;

c. It allows ICANN (Internet Corporation for Assigned Names and Numbers), in its responsibility to fund the operations of the IANA (Internet Assigned Numbers Authority) functions, to react to emergency situations in a fashion that preserves the continuation of its operations;

d. It allows ICANN (Internet Corporation for Assigned Names and Numbers), in its responsibility to fund the operations of the IANA (Internet Assigned Numbers Authority) functions, to abide by its existing obligations (including Articles of Incorporation, Bylaws, and contracts, as well as those imposed under law);

e. It allows ICANN (Internet Corporation for Assigned Names and Numbers), in its responsibility to fund the operations of the IANA (Internet Assigned Numbers Authority) functions, to avoid waste of its resources during the rejection period (i.e., the period between when an IANA (Internet Assigned Numbers Authority) Budget is rejected by the EC (Empowered Community) pursuant to the Bylaws and when an IANA (Internet Assigned Numbers Authority) Budget becomes effective in accordance with the Bylaws) or immediately thereafter, by being able to continue activities during the rejection period that would have otherwise need to be restarted at an incremental cost; and

f. Notwithstanding any other principle listed above, it prevents ICANN (Internet Corporation for Assigned Names and Numbers), in its responsibility to fund the operations of the IANA (Internet Assigned Numbers Authority) functions, from initiating activities that remain subject to community consideration (or for which that community consultation has not concluded) with respect to the applicable IANA (Internet Assigned Numbers Authority) Budget, including without limitation, preventing implementation of any expenditure or

undertaking any action that was the subject of the IANA (Internet Assigned Numbers Authority) Budget that was rejected by the EC (Empowered Community) that triggered the need for the Caretaker IANA (Internet Assigned Numbers Authority) Budget.

1. Examples

    a. Below is a non-exhaustive list of examples, to assist with the interpretation of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles, of what a Caretaker IANA (Internet Assigned Numbers Authority) Budget would logically include:

i. employment of staff (i.e., employees and individual long term paid contractors serving in locations where the entity or entities performing the IANA (Internet Assigned Numbers Authority) functions does not have the mechanisms to employ such contractors) across all locations, including all related compensation, benefits, social security, pension, and other employment costs;

ii. hiring staff (i.e., employees and individual long term paid contractors serving in locations where the entity or entities performing the IANA (Internet Assigned Numbers Authority) functions does not have the mechanisms to employ such contractors) in the normal course of business;

iii. necessary or time-sensitive travel costs for staff (i.e., employees and individual long term paid contractors serving in locations where the entity or entities performing the IANA (Internet Assigned Numbers Authority) functions does not have the mechanisms to employ such contractors) or vendors as needed in the normal course of business;

iv. operating all existing offices used in the performance of the IANA (Internet Assigned Numbers Authority) functions, and continuing to assume obligations relative to rent, utilities, maintenance, and similar matters;

v. contracting with vendors as needed in the normal course of business;

vi. participating in meetings and conferences previously contemplated;

vii. participating in engagement activities with ICANN (Internet Corporation for Assigned Names and Numbers)'s Customer Standing Committee or the customers of the IANA (Internet Assigned Numbers Authority) functions;

viii. fulfilling obligations (including financial obligations under agreements and memoranda of understanding to which ICANN (Internet Corporation for Assigned

Names and Numbers) or its affiliates is a party that relate to the IANA (Internet Assigned Numbers Authority) functions; and

ix. participating in engagement activities in furtherance of the approved Strategic Plan.

b. Below is a non-limitative list of examples, to assist with the interpretation of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles, of what a Caretaker IANA (Internet Assigned Numbers Authority) Budget would logically exclude:

i. hiring staff (i.e., employees and individual long term paid contractors serving in locations where the entity or entities performing the IANA (Internet Assigned Numbers Authority) functions does not have the mechanisms to employ such contractors) or entering into new agreements in relation to activities that are the subject of the rejection of the IANA (Internet Assigned Numbers Authority) Budget by the EC (Empowered Community) pursuant to the Bylaws, unless excluding these actions would violate any of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles;

ii. in the normal course of business, travel not deemed indispensable during the rejection period, unless the lack of travel would violate any of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles;

iii. entering into new agreements in relation to opening or operating new locations/offices where the IANA (Internet Assigned Numbers Authority) functions shall be performed, unless the lack of commitment would violate any of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles;

iv. entering into new agreements with governments (or their affiliates), unless the lack of commitment would violate any of the Caretaker IANA (Internet Assigned Numbers Authority) Budget Principles; and

v. the proposed expenditure that was the basis for the rejection by the EC (Empowered Community) that triggered the need for the Caretaker IANA (Internet Assigned Numbers Authority) Budget.

ANNEX G-1

The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD (generic Top Level Domain) registrars are:

- issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar

services, registry services, or the DNS (Domain Name System);

- functional and performance specifications for the provision of registrar services;
- registrar policies reasonably necessary to implement Consensus (Consensus) Policies relating to a gTLD (generic Top Level Domain) registry;
- resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names); or
- restrictions on cross-ownership of registry operators and registrars or resellers and regulations and restrictions with respect to registrar and registry operations and the use of registry and registrar data in the event that a registry operator and a registrar or reseller are affiliated.

Examples of the above include, without limitation:

- principles for allocation of registered names in a TLD (Top Level Domain) (e.g., first-come/first-served, timely renewal, holding period after expiration);
- prohibitions on warehousing of or speculation in domain names by registries or registrars;
- reservation of registered names in a TLD (Top Level Domain) 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 (Domain Name System) or the Internet (e.g., establishment of reservations of names from registration);
- maintenance of and access to accurate and up-to-date information concerning registered names and name servers;
- 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 among continuing registrars of the registered names sponsored in a TLD (Top Level Domain) by a registrar losing accreditation; and
- the transfer of registration data upon a change in registrar sponsoring one or more registered names.

ANNEX G-2

The topics, issues, policies, procedures and principles referenced in Section 1.1(a)(i) with respect to gTLD (generic Top Level Domain) registries are:

- issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet or DNS (Domain Name System);
- functional and performance specifications for the provision of registry services;
- security and stability of the registry database for a TLD (Top Level Domain);
- registry policies reasonably necessary to implement Consensus (Consensus) Policies relating to registry operations or registrars;
- resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or
- 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.

Examples of the above include, without limitation:

- principles for allocation of registered names in a TLD (Top Level Domain) (e.g., first-come/first-served, timely renewal, holding period after expiration);
- prohibitions on warehousing of or speculation in domain names by registries or registrars;
- reservation of registered names in the TLD (Top Level Domain) 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 (Domain Name System) or the Internet (e.g., establishment of reservations of names from registration);
- 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 (Top Level Domain) affected by such a suspension or termination.

[1] When "1 October 2016" is used, that signals that the date that will be used is the effective date of the Bylaws.

You Tube (http://www.youtube.com/icannnews)

Twitter (https://www.twitter.com/icann)

LinkedIn (https://www.linkedin.com/company/icann)

Flickr (http://www.flickr.com/photos/icann/)

Facebook (https://www.facebook.com/icannorg)

RSS Feeds (/en/news/rss)

Community Wiki (https://community.icann.org)

ICANN Blog (/news/blog)

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Who We Are

- Get Started (/get-started)
- Learning (/en/about/learning)
- Participate (/en/about/participate)
- Groups (https://www.icann.org/resources/pages/groups-2012-02-06-en)
- Board (/resources/pages/board-of-directors-2014-03-19-en)
- President's Corner (/presidents-corner)
- Staff (/organization)
- Careers (https://www.icann.org/careers)
- Newsletter (/en/news/newsletter)
- Public Responsibility (https://www.icann.org/dprd)

Contact Us

- Locations (https://forms.icann.org/en/about/aoc-review/contact)
- Global Support (/resources/pages/customer-support-2015-06-22-en)
- Security Team (/about/staff/security)
- PGP Keys (/en/contact/pgp-keys)
- Certificate Authority (/contact/certificate-authority)
- Registry Liaison (/resources/pages/contact-f2-2012-02-25-en)
- Specific Reviews (https://forms.icann.org/en/about/aoc-review/contact)
- Organizational Reviews (http://forms.icann.org/en/groups/reviews/contact)
- Complaints Office (https://www.icann.org/complaints-office)
- Request a Speaker (http://forms.icann.org/en/contact/speakers)
- For Journalists (/en/news/press)

Accountability & Transparency

- Accountability Mechanisms (/en/news/in-focus/accountability/mechanisms)
- Independent Review Process (/resources/pages/irp-2012-02-25-en)
- Request for Reconsideration (/groups/board/governance/reconsideration)
- Ombudsman (/help/ombudsman)
- Empowered Community (/ec)

Governance

- Documents (/en/about/governance)
- Agreements (/en/about/agreements)
- Specific Reviews (/resources/reviews/aoc)
- Annual Report (/about/annual-report)
- Financials (/en/about/financials)
- Document Disclosure (/en/about/transparency)
- Planning (/en/about/planning)
- KPI Dashboard (/progress)
- RFPs (/en/news/rfps)
- Litigation (/en/news/litigation)
- Correspondence (/en/news/correspondence)

Help

- Dispute Resolution (/en/help/dispute-resolution)
- Domain Name Dispute Resolution (/en/help/dndr)
- Name Collision (/en/help/name-collision)
- Registrar Problems (/en/news/announcements/announcement-06mar07-en.htm)
- WHOIS (http://whois.icann.org/)

Exhibit 12

ICANN (Internet Corporation for Assigned Names and Numbers) Documentary Information Disclosure Policy

NOTE: With the exception of personal email addresses, phone numbers and mailing addresses, DIDP Requests are otherwise posted in full on ICANN (Internet Corporation for Assigned Names and Numbers)'s website, unless there are exceptional circumstances requiring further redacted.

ICANN (Internet Corporation for Assigned Names and Numbers)'s Documentary Information Disclosure Policy (DIDP) is intended to ensure that information contained in documents concerning ICANN (Internet Corporation for Assigned Names and Numbers)'s operational activities, and within ICANN (Internet Corporation for Assigned Names and Numbers)'s possession, custody, or control, is made available to the public unless there is a compelling reason for confidentiality.

A principal element of ICANN (Internet Corporation for Assigned Names and Numbers)'s approach to transparency and information disclosure is the identification of a comprehensive set of materials that ICANN (Internet Corporation for Assigned Names and Numbers) makes available on its website as a matter of course.

Specifically, ICANN (Internet Corporation for Assigned Names and Numbers) has:

- Identified many of the categories of documents that are already made public as a matter of due course
- Developed a time frame for responding to requests for information not already publicly available
- Identified specific conditions for nondisclosure of information

- Described the mechanism under which requestors may appeal a denial of disclosure

Public Documents

ICANN (Internet Corporation for Assigned Names and Numbers) posts on its website at www.icann.org, numerous categories of documents in due course. A list of those categories follows:

- Annual Reports – http://www.icann.org/en/about/annual-report (/en/about/annual-report)
- Articles of Incorporation – http://www.icann.org/en/about/governance/articles (/en/about/governance/articles)
- Board Meeting Transcripts, Minutes and Resolutions – http://www.icann.org/en/groups/board/meetings (/en/groups/board/meetings)
- Budget – http://www.icann.org/en/about/financials (/en/about/financials)
- Bylaws (current) – http://www.icann.org/en/about/governance/bylaws (/en/about/governance/bylaws)
- Bylaws (archives) – http://www.icann.org/en/about/governance/bylaws/archive (/en/about/governance/bylaws/archive)
- Correspondence – http://www.icann.org/correspondence/ (/correspondence/)
- Financial Information – http://www.icann.org/en/about/financials (/en/about/financials)
- Litigation documents – http://www.icann.org/en/news/litigation (/en/news/litigation)
- Major agreements – http://www.icann.org/en/about/agreements (/en/about/agreements)
- Monthly Registry reports – http://www.icann.org/en/resources/registries/reports (/en/resources/registries/reports)
- Operating Plan – http://www.icann.org/en/about/planning (/en/about/planning)
- Policy documents – http://www.icann.org/en/general/policy.html (/en/general/policy.html)
- Speeches, Presentations & Publications – http://www.icann.org/presentations (/presentations)
- Strategic Plan – http://www.icann.org/en/about/planning (/en/about/planning)
- Material information relating to the Address Supporting Organization (Supporting Organization) (ASO (Address Supporting Organization)) –

http://aso.icann.org/docs (http://aso.icann.org/docs/) including ASO (Address Supporting Organization) policy documents, Regional Internet Registry (RIR (Regional Internet Registry)) policy documents, guidelines and procedures, meeting agendas and minutes, presentations, routing statistics, and information regarding the RIRs

- Material information relating to the Generic Supporting Organization (Supporting Organization) (GNSO (Generic Names Supporting Organization)) – http://gnso.icann.org (http://gnso.icann.org) – including correspondence and presentations, council resolutions, requests for comments, draft documents, policies, reference documents (see http://gnso.icann.org/reference-documents.htm (http://gnso.icann.org/reference-documents.htm)), and council administration documents (see http://gnso.icann.org/council/docs.shtml (http://gnso.icann.org/council/docs.shtml)).

- Material information relating to the country code Names Supporting Organization (Supporting Organization) (ccNSO (Country Code Names Supporting Organization)) – http://ccnso.icann.org (http://ccnso.icann.org) – including meeting agendas, minutes, reports, and presentations

- Material information relating to the At Large Advisory Committee (Advisory Committee) (ALAC (At-Large Advisory Committee)) – http://atlarge.icann.org (http://atlarge.icann.org) – including correspondence, statements, and meeting minutes

- Material information relating to the Governmental Advisory Committee (Advisory Committee) (GAC (Governmental Advisory Committee)) – http://gac.icann.org/web/index.shtml (http://gac.icann.org/web/index.shtml) – including operating principles, gTLD (generic Top Level Domain) principles, ccTLD (Country Code Top Level Domain) principles, principles regarding gTLD (generic Top Level Domain) Whois issues, communiqués, and meeting transcripts, and agendas

- Material information relating to the Root Server Advisory Committee (Advisory Committee) (RSSAC (Root Server System Advisory Committee)) – http://www.icann.org/en/groups/rssac (/en/groups/rssac) – including meeting minutes and information surrounding ongoing projects

- Material information relating to the Security (Security – Security, Stability and Resiliency (SSR)) and Stability (Security, Stability and Resiliency) Advisory Committee (Advisory Committee) (SSAC (Security and Stability Advisory Committee)) – http://www.icann.org/en/groups/ssac (/en/groups/ssac) – including its charter, various presentations, work plans, reports, and advisories

Responding to Information Requests

If a member of the public requests information not already publicly available, ICANN (Internet Corporation for Assigned Names and Numbers) will respond, to the extent feasible, to reasonable requests within 30 calendar days of receipt of the request. If

that time frame will not be met, ICANN (Internet Corporation for Assigned Names and Numbers) will inform the requester in writing as to when a response will be provided, setting forth the reasons necessary for the extension of time to respond. If ICANN (Internet Corporation for Assigned Names and Numbers) denies the information request, it will provide a written statement to the requestor identifying the reasons for the denial.

Defined Conditions for Nondisclosure

ICANN (Internet Corporation for Assigned Names and Numbers) has identified the following set of conditions for the nondisclosure of information:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN (Internet Corporation for Assigned Names and Numbers)'s relationship with that party.
- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN (Internet Corporation for Assigned Names and Numbers)'s deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN (Internet Corporation for Assigned Names and Numbers) Directors, ICANN (Internet Corporation for Assigned Names and Numbers) Directors' Advisors, ICANN (Internet Corporation for Assigned Names and Numbers) staff, ICANN (Internet Corporation for Assigned Names and Numbers) consultants, ICANN (Internet Corporation for Assigned Names and Numbers) contractors, and ICANN (Internet Corporation for Assigned Names and Numbers) agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN (Internet Corporation for Assigned Names and Numbers), its constituents, and/or other entities with which ICANN (Internet Corporation for Assigned Names and Numbers) cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN (Internet Corporation for Assigned Names and Numbers), its constituents, and/or other entities with which ICANN (Internet Corporation for Assigned Names and Numbers) cooperates by inhibiting the candid exchange of ideas and communications.
- Personnel, medical, contractual, remuneration, and similar records relating to an individual's personal information, when the disclosure of such information would or likely would constitute an invasion of personal privacy, as well as proceedings of internal appeal mechanisms and investigations.
- Information provided to ICANN (Internet Corporation for Assigned Names and Numbers) by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive

position of such party or was provided to ICANN (Internet Corporation for Assigned Names and Numbers) pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

- Confidential business information and/or internal policies and procedures.
- Information that, if disclosed, would or would be likely to endanger the life, health, or safety of any individual or materially prejudice the administration of justice.
- Information subject to the attorney– client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.
- Information that relates in any way to the security and stability of the Internet, including the operation of the L Root or any changes, modifications, or additions to the root zone.
- Trade secrets and commercial and financial information not publicly disclosed by ICANN (Internet Corporation for Assigned Names and Numbers).
- Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; (iii) complying with which is not feasible; or (iv) are made with an abusive or vexatious purpose or by a vexatious or querulous individual.

Information that falls within any of the conditions set forth above may still be made public if ICANN (Internet Corporation for Assigned Names and Numbers) determines, under the particular circumstances, that the public interest in disclosing the information outweighs the harm that may be caused by such disclosure. Further, ICANN (Internet Corporation for Assigned Names and Numbers) reserves the right to deny disclosure of information under conditions not designated above if ICANN (Internet Corporation for Assigned Names and Numbers) determines that the harm in disclosing the information outweighs the public interest in disclosing the information.

ICANN (Internet Corporation for Assigned Names and Numbers) shall not be required to create or compile summaries of any documented information, and shall not be required to respond to requests seeking information that is already publicly available.

Appeal of Denials

To the extent a requestor chooses to appeal a denial of information from ICANN (Internet Corporation for Assigned Names and Numbers), the requestor may follow the Reconsideration Request procedures or Independent Review procedures, to the extent either is applicable, as set forth in Article IV, Sections 2 and 3 of the ICANN (Internet Corporation for Assigned Names and Numbers) Bylaws, which can be found at http://www.icann.org/en/about/governance/bylaws (/en/about/governance/bylaws).

DIDP Requests and Responses

Request submitted under the DIDP and ICANN (Internet Corporation for Assigned Names and Numbers) responses are available here: http://www.icann.org/en/about/transparency (/en/about/transparency)

Guidelines for the Posting of Board Briefing Materials

The posting of Board Briefing Materials on the Board Meeting Minutes page (at http://www.icann.org/en/groups/board/meetings (/en/groups/board/meetings)) is guided by the application of the DIDP. The Guidelines for the Posting of Board Briefing Materials are available at http://www.icann.org/en/groups/board/documents/briefing-materials-guidelines-21mar11-en.htm (/en/groups/board/documents/briefing-materials-guidelines-21mar11-en.htm).

To submit a request, send an email to didp@icann.org (mailto:didp@icann.org)

You Tube (http://www youtube com/icann) Twitter (https://www twitter com/icann) Linked n (https://www linkedin com/company/icann) Flickr (http://www flickr com/photos/icann) Facebook (https://www facebook com/icannorg) RSS Feeds (/en/news/rss)

Community Wiki (https://community icann org)

CANN Blog (/news/blog)

Who We Are

Get Started (/get-started)

Learning (/en/about/learning)

Participate (/en/about/participate)

Groups (https://www.icann.org/resources/pages/groups-2012-02-06-en)

Board (/resources/pages/board-of-directors-2014-03-19-en)

President's Corner (/presidents-corner)

Staff (/organization)

Careers (https://www.icann.org/careers)

Newsletter (/en/news/newsletter)

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Exhibit 13

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IANA STEWARDSHIP
& ACCOUNTABILITY (/STEWARDSHIP-ACCOUNTABILITY)

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

As approved by the ICANN (Internet Corporation for Assigned Names and Numbers) Board on 9 August 2016, and filed with the California Secretary of State on 3 October 2016

> The undersigned certify that:

1. They are the president and the secretary, respectively, of Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation.

2. The Articles of Incorporation of this corporation are amended and restated to read as follows:
    I. The name of this corporation is Internet Corporation for Assigned Names and Numbers (the "**Corporation**").

    II. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable and public purposes. The Corporation is organized, and will be operated, exclusively for charitable, educational, and scientific purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "**Code**"), or the corresponding provision of any future

United States tax code. Any reference in these Articles to the Code shall include the corresponding provisions of any future United States tax code. In furtherance of the foregoing purposes, and in recognition of the fact that the Internet is an international network of networks, owned by no single nation, individual or organization, the Corporation shall, except as limited by Article IV hereof, pursue the charitable and public purposes of lessening the burdens of government and promoting the global public interest in the operational stability of the Internet by carrying out the mission set forth in the bylaws of the Corporation ("**Bylaws**"). Such global public interest may be determined from time to time. Any determination of such global public interest shall be made by the multistakeholder community through an inclusive bottom-up multistakeholder community process.

III. The Corporation shall operate in a manner consistent with these Articles and its Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law and through open and transparent processes that enable competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations.

IV. Notwithstanding any other provision of these Articles:

a. The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from United States income tax under § 501(c)(3) of the Code or (ii) by a corporation, contributions to which are deductible under § 170 (c)(2) of the Code.

b. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall be empowered to make the election under § 501 (h) of the Code.

c. The Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

d. No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its directors, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II hereof.

V. To the full extent permitted by the California Nonprofit Public Benefit Corporation Law or any other applicable laws presently or hereafter in effect, no director of the Corporation shall be personally liable to the Corporation for or with respect to any acts or omissions in the performance of his or her duties as a director of the Corporation. Any repeal or modification of this Article V shall not adversely affect any right or protection of a director of the Corporation existing immediately prior to such repeal or modification.

VI. Upon the dissolution of the Corporation, the Corporation's assets shall be distributed for one or more of the exempt purposes set forth in Article II hereof and, if possible, to a § 501(c)(3) organization organized and operated exclusively to lessen the burdens of government and promote the global public interest in the operational stability of the Internet, or shall be distributed to a governmental entity for such purposes, or for such other charitable and public purposes that lessen the burdens of government by providing for the operational stability of the Internet. Any assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as such court shall determine, that are organized and operated exclusively for such purposes, unless no such corporation exists, and in such case any assets not disposed of shall be distributed to a § 501(c)(3) corporation chosen by such court.

VII. Any amendment to these Articles shall require (a) the affirmative vote of at least three-fourths of the directors of the Corporation, and (b) approval in writing by the Empowered Community, a California nonprofit association established by the Bylaws (the "**Empowered Community**"), following procedures set forth in Article 25.2 of the Bylaws.

VIII. Any transaction or series of transactions that would result in the sale or disposition of all or substantially all of ICANN (Internet Corporation for Assigned Names and Numbers)'s assets shall require (a) the affirmative vote of at least three-fourths of the directors of the Corporation, and (b) approval in writing by the Empowered Community prior to the consummation of the transaction, following procedures set forth in Article 26 of the Bylaws.

3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the board of directors.

4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: 30 September 2016

_____

Göran Marby, President

_____

John Jeffrey, Secretary

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Domain Name Dispute Resolution (/en/help/dndr)

Name Collision (/en/help/name-collision)

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Exhibit 14

United States Senate
WASHINGTON, DC 20510

August 12, 2016

Personal Data Redacted
Personal Data Redacted
Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20230

Dear Personal Data Redacted

The National Telecommunications and Information Administration (NTIA) in the Department of Commerce (DOC) is considering whether to relinquish its oversight of the process for registering Internet domain names. As part of its oversight responsibility, the NTIA oversees the Internet Corporation for Assigned Names and Numbers (ICANN), which reviews and approves requests to register, delete, or modify top-level domain names, and Verisign, Inc. which administers the changes that ICANN approves by making the necessary additions, deletions, or modifications to the authoritative root zone file—i.e., the list of domain names and corresponding IP addresses.[1] Verisign's responsibilities in managing the authoritative root zone file are governed by Cooperative Agreement No. NCR 92-18742 with the United States Government.[2]

In addition to administering the authoritative root zone file, Verisign exercises exclusive control of the registry for .com domain names. Verisign's right to manage the .com registry and, in particular, the fee Verisign charges for registering .com domain names are governed by the .com Registry Agreement between Verisign and ICANN[3] as well Amendment 32 to the Cooperative Agreement between NTIA and Verisign.[4] Both the .com Registry Agreement and the Cooperative Agreement contain an important provision that limits Verisign's ability to increase prices in the .com Top Level Domain (TLD). Neither the Cooperative Agreement nor the .com Registry Agreement are scheduled to expire until November 30, 2018. Yet despite the fact that both agreements are nowhere near expiration, ICANN, Verisign, and the NTIA are working to, in effect, amend both agreements to provide a six-year extension to Verisign—to 2024—to manage the .com registry in conjunction with the proposed plan to transition domain name

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[1] National Telecommunications and Information Administration. Verisign Cooperative Agreement No. NCR-9218742. Web. < https://www.ntia.doc.gov/page/verisign-cooperative-agreement >.
[2] National Telecommunications and Information Administration. Verisign Cooperative Agreement No. NCR-9218742. Web. < https://www.ntia.doc.gov/page/verisign-cooperative-agreement >.
[3] Atallah, Akram. "Root Zone Management Transition Update: Preservation of Security, Stability and Resiliency." The Internet Corporation for Assigned Names and Numbers, 28 June 2016. Web. <https://www.icann.org/news/blog/root-zone-management-transition-update-preservation-of-security-stability-and-resiliency>.
[4] National Telecommunications and Information Administration. Verisign Amendment 32 to Cooperative Agreement No. NCR-9218742. Web. <https://www.ntia.doc.gov/files/ntia/publications/amendment_32_11292012.pdf>

oversight responsibility from the NTIA to ICANN. According to the NTIA, the "root zone management aspects of the IANA functions contract [between the NTIA and ICANN] are 'inextricably intertwined' with the Cooperative Agreement."[5] The proposed amendment to the .com Registry Agreement is currently on ICANN's website for public comment, which is set to close on August 12, 2016 and will be followed by the release of an ICANN staff report on August 26, 2016. [6]

If the .com Registry Agreement is extended to 2024 and the NTIA subsequently relinquishes its oversight of the process for registering Internet domain names, it appears that the Department of Justice (DOJ) may be prevented from having meaningful input into the prices that Verisign charges for registering a domain name within the .com domain for an extended period. We therefore write to urge the DOJ to conduct a thorough competition review of the agreement before any oversight transition is undertaken and any agreement extension is approved.

As background, Verisign has had exclusive control of the .com registry since acquiring Network Solutions on March 7, 2000 for $21 billion.[7] As part of this acquisition, Verisign obtained the exclusive right to control and profit from the operation of the .com registry, which Network Solutions had maintained since entering into a Cooperative Agreement with the United States Government in 1993.[8] Because of Verisign's exclusive control of the .com registry—a responsibility that benefitted an arrangement between ICANN and the NTIA—American businesses and consumers with an interest in registering or renewing a .com domain name have had no meaningful competitive alternatives within the .com registry marketplace.

In effect, Verisign's government-approved control of the .com registry allows it to operate as a monopoly—a fact that has not gone unnoticed in the financial services industry and the stock market. For example, in 2013, financial research and publishing company, StreetAuthority, declared that Verisign "had a virtual monopoly on Internet domains" that gives it "unrivaled power" in "the fastest-growing industry in the world—the Internet."[9] Personal Data Redacted Personal Data Redacted of The Colony Group similarly observed in 2009 that Verisign "holds a legal monopoly on the DNS industry" that "adds to the appeal of [Verisign's] business model" because "[v]irtually every business requires a unique web site for competitive reasons."[10] More recently, on June 29, 2016, Seeking Alpha published an analysis stating that "VeriSign's

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[5] Atallah, Akram. "Root Zone Management Transition Update: Preservation of Security, Stability and Resiliency." The Internet Corporation for Assigned Names and Numbers, 28 June 2016. Web. <https://www.icann.org/news/blog/root-zone-management-transition-update-preservation-of-security-stability-and-resiliency>.

[6] Papac, Krista. "Public Comment on Proposed Amendment to .COM Registry Agreement." The Internet Corporation for Assigned Names and Numbers, 30 June 2016. Web. <https://www.icann.org/public-comments/com-amendment-2016-06-30-en>.

[7] VeriSign, Inc. Verisign Acquires Network Solutions to Form World's Largest Provider of Internet Trust Services. N.p., 7 Mar. 2000. Web. <https://investor.verisign.com/secfiling.cfm?filingid=950103-00-362&cik=>.

[8] National Science Foundation. Network Information Services Manger(s) for NSFNET and the NREN: INTERNIC Registration Services Cooperative Agreement No. NCR-9218743. 1 Jan. 1993. Web. <http://archive.icann.org/en/nsi/coopagmt-01jan93.htm>.

[9] StreetAuthority. "Profit From A 'Monopoly On The Internet' With 100% Upside." Editorial. NASDAQ.com, 6 Nov. 2013. Web. <http://www.nasdaq.com/article/profit-from-a-monopoly-on-the-internet-with-100-upside-cm297233>. Personal Data Redacted

[10] Interview. VeriSign Is Highest Conviction Holding - Here's Why. Seeking Alpha, 29 Dec. 2009. Web. <http://seekingalpha.com/article/180092-verisign-is-Personal Data Redacted-highest-conviction-holding-heres-why>.

exclusive contract with the Internet Corporation for Assigned Names and Numbers (ICANN) gives the company a significant barrier to entry for competitors"[11] and characterizing Verisign as a "regulated monopoly."

To put Verisign's unique position into perspective, the fourth quarter of 2015 closed with approximately 314 million domain name registrations across *all* TLDs.[12] The .com and .net TLDs, both exclusively operated and controlled by Verisign, accounted for approximately 139.8 million domain names in the fourth quarter of 2015. Simply put, 44.5 percent of all registrants across the entire Internet pay Verisign to secure or renew a .com or .net domain name. Verisign's exclusive control of .com and .net allowed the company to end 2015 with cash, cash equivalents, and marketable securities of $1.9 billion, an increase of $491 million compared to 2014.[13]

Verisign has achieved a 61.5 percent operating margin[14] despite the Government's imposition of a mandatory price cap on registration fees. When ICANN and Verisign last negotiated the renewal of the .com registry agreement in 2012, the parties reached an agreement that not only would have extended Verisign's exclusive control of the .com registry for six years but would have also enabled Verisign to increase the cost of registration fees by as much as seven percent per year in four out of six years of the agreement. This agreement, which, in effect, pre-authorized rate increases without any showing of justification or reasonableness, understandably raised concerns among the public that led the DOJ, along with the DOC, to initiate a competition review. This review resulted in a mandatory $7.85 price cap until the end of the .com registry agreement in 2018.

In light of ICANN and Verisign's history, the unique nature of the .com registration market, and its susceptibility to anti-competitive outcomes that could harm businesses and consumers, the public would be well served by continuing and active oversight. As Personal Data Redacted Personal Data Redacted explained in a 2008 letter to the NTIA:

> We also concluded that existing gTLDs likely would not become a competitive threat to .com registrations because the network effects that make .com registrations so valuable to consumers will be difficult for other TLDs to overcome. Due to a first-mover advantage and high brand awareness, .com registrations account for the overwhelming majority of gTLD registrations. As a result, when users do not know the TLD in which a domain is registered, they most often simply append '.com' to a product or a company name when attempting to find the desired website. This phenomenon creates a strong preference for .com. Accordingly there will continue to be a need for Section 7.3 of the .com registry agreement [which sets price conditions for domain name registrations and registry services] to replace the discipline that market

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[11] Better Investor Co. "Verisign: Time To Make Some Real Money." Seeking Alpha, 29 June 2016. Web. <http://seekingalpha.com/article/3985169-verisign-time-make-real-money>.
[12] The Domain Name Industry Brief. Rep. no. Volume 1- Issue 13. Verisign, Apr. 2016. Web. <http://www.verisign.com/assets/domain-name-report-april2016.pdf>.
[13] VeriSign, Inc. Verisign Reports Fourth Quarter and Full Year 2015 Results. N.p., 11 Feb. 2016. Web. <https://investor.verisign.com/releasedetail.cfm?releaseid=954588>.
[14] VeriSign, Inc. Verisign Reports Fourth Quarter and Full Year 2015 Results. N.p., 11 Feb. 2016. Web. <https://investor.verisign.com/releasedetail.cfm?releaseid=954588>.

> competition does not provide in this setting, as well as continuing DOC oversight of the .com registry under the Cooperative Agreement [between Verisign and the United States Government], which precludes VeriSign from amending or renewing the .com agreement without DOC approval.[15]

Given these concerns, it appears that American businesses, consumers, and all those who rely upon a .com domain for communication and commerce will be ill-served by a process that precludes the DOJ from considering the appropriateness of Verisign receiving an extension of its critical monopoly control over .com for another six years. It is especially imperative to conduct the review before the proposed transition of oversight responsibility is executed because it is unclear whether or not the Government will retain the authority to conduct such a review in 2024 if the transition is completed. A robust and formal competition review would allow the Government, policy-makers and, most importantly, the public, to assess Verisign's pricing practices since the last review and to determine whether the current price cap is artificially high as some have suggested in the past. For example, in 2012, the Internet Commerce Association suggested that Verisign's price cap be reduced to $5.86.[16]

A competition review is also timely and necessary in light of Verisign's recent efforts to increase its presence in the global domain marketplace. According to reports, Verisign has used a subsidiary, Nu Dot Co LLC, to place a successful $135 million bid to secure the exclusive right to operate the new .web registry.[17] There is a strong belief within the domain name industry that Verisign's bid to secure the .web registry may have been undertaken to protect its position in the .com market from additional competition.[18] [19]

The DOJ has a responsibility to ensure that there is adequate competition in the domain registry market. We therefore respectfully request that you respond to the following questions no later than 5:00 pm on August 15, 2016:

(1) Has the DOJ conducted a competition review of Verisign's .com Registry Agreement with ICANN to assist the NTIA in determining whether the agreement should be extended to 2024? If so, please provide a complete copy and summary of the review.

(2) If not, will the DOJ conduct a competition review of the .com Registry Agreement before the agreement is extended and the NTIA transfers its oversight authority to ICANN? Please explain.

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[15] Personal Data Redacted Antitrust Division, Department of Justice, "Re: ICANN's Draft RFP for New GTLDs." Letter to Personal Data Redacted for Communications and Information, National Telecommunications and Information Administration. 3 Dec. 2008. Web. <https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf>.

[16] Personal Data Redacted "ICA To DOC: Slash .Com Pricing by $2+, and Tie Future Price Hikes to CPI." Internet Commerce Association, 27 Nov. 2012. Web. <http://www.internetcommerce.org/SlashDotComPricing/>.

[17] Personal Data Redacted "Verisign Confirms It Did Fund $135 Million .web Bid." Domain Incite. N.p., 1 July 2016. Web. <http://domainincite.com/20833-verisign-confirms-it-did-fund-135-million-web-bid>.

[18] Personal Data Redacted "Why Verisign Paid $135 Million for the .web Top Level Domain." Domain Name Wire, 29 July 2016. Web. <http://domainnamewire.com/2016/07/29/verisign-paid-135-million-web-top-level-domain/>.

[19] Personal Data Redacted "Thoughts About Verisign's $135 Million Dollar .Web Acquisition & What It Means For Domainers." The Domains, 31 July 2016. Web. <http://www.thedomains.com/2016/07/31/thoughts-verisigns-135-million-dollar-web-acquisition-means-domainers/>.

Please contact Personal Data Redacted
Personal Data Redacted of our staffs if there are any questions regarding this request.

Sincerely,

Personal Data Redacted

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Exhibit 15

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Verisign likely $135 million winner of .web gTLD

Personal Data Redacted August 1, 2016, 08 51 12 (UTC , Domain Registries

Verisign has emerged as the likely winner of the .web gTLD auction, which closed on Thursday with a staggering $135 million winning bid.

The shell company Nu Dot Co LLC was the prevailing applicant in the auction, which ran for 23 rounds over two days.

Just hours after the auction closed, Domain Name Wire scooped that Verisign had quietly informed investors that it has committed to pay $130 million for undisclosed "contractual rights".

In its Securities and Exchange Commission quarterly report, filed after the markets closed on Thursday, Verisign said:

> Subsequent to June 30, 2016, the Company incurred a commitment to pay approximately $130.0 million for the future assignment of contractual rights, which are subject to third-party consent. The payment is expected to occur during the third quarter of 2016.

There seems to be little doubt that the payment is to be made to NDC (or one of its shell company parents) in exchange for control of the .web Registry Agreement.

The "third-party consent" is likely a reference to ICANN, which must approve RA reassignments.

We speculated on July 14 that Verisign would turn out to be NDC's secret sugar daddy, which seems to have been correct.

Rival .web applicant Donuts had sued ICANN for an emergency temporary restraining order, claiming it had not done enough to uncover the identity of NDC's true backers, but was rebuffed on multiple grounds by a California judge.

Donuts, and other applicants, had wanted the contention set settled privately, but NDC was the only hold-out.

Had it been settled with a private auction, and the $135 million price tag had been reached, each of the seven losing applicants

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would have walked away with somewhere in the region of $18.5 million in their pockets.

This draws the battle lines for some potentially interesting legal fallout.

It remains to be seen if Donuts will drop its suit against ICANN or instead add Verisign in as a defendant with new allegations.

There's also the possibility of action from Neustar, which is currently NDC's named back-end provider.

Assuming Verisign plans to switch .web to its own back-end, Neustar may be able to make similar claims to those leveled by Verisign against XYZ.com.

Overall, Verisign controlling .web is sad news for the new gTLD industry, in my view.

.web has been seen, over the years, as the string that is both most sufficiently generic, sufficiently catchy, sufficiently short and of sufficient semantic value to provide a real challenge to .com.

I've cooled on .web since I launched DI six years ago. Knowing what we now know about how many new gTLD domains actually sell, and how they have to be priced to achieve volume, I was unable to see how even a valuation of $50 million was anything other than a long-term (five years or more) ROI play.

Evidently, most of the applicants agreed. According to ICANN's log of the auction (pdf) only two applicants — NDC and another (Google?) — submitted bids in excess of $57.5 million.

But for Verisign, .web would have been a risk in somebody else's hands.

I don't think the company cares about making .web a profitable TLD, it instead is chiefly concerned with being able to control the impact it has on .com's mind-share monopoly.

Verisign makes about a billion dollars a year in revenue, with analyst-baffling operating margins around 60%, and that's largely because it runs .com.

In 2015, its cash flow was $651 million.

So Verisign has dropped a couple of months' cash to secure .web — chickenfeed if the real goal is .com's continued hegemony.

In the hands of a rival new gTLD company's marketing machine, in six months we might have been seeing (naive) headlines along the lines of "Forget .com, .web is here!".

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As he ar icle men ions so few of he fellows keep on par icipa ing in CANN issues including he so-called "nex - gen" read more

Vrikson Acos a
Where is he link o sign? read more

Bob
n any organiza ion when he mo her ship s ar s missing grow h arge s he underlying divisions suffer The Fellowship read more

Rubens Kuhl
The original proposi ion is no signed read more

Snoopy
They clearly need o reduce s aff read more

Richard Funden
No signed bu 194 signa ures? How does ha work? Sounds like i is signed 194 imes read more

Rubens Kuhl
One needs o answer WHO S query wi h required fields plus op ional fields of he example TLD domain no he domain yo read more

May
Hey domain ools s op hro ling *my* access o your whois records can only do a few lookups per day unless pay Yo read more

Myron
g lds suck so bad ha 's all i have o say hanks for lis ening read more

A new gTLD kills i self off for he second ime

CANN blocks 1 5 million domains including some hree-le er names

Three ways CANN could gu Whois

Ramchandani promo ed o Radix CEO

GoDaddy and DomainTools scrap over Whois access

Big changes a DomainTools as privacy law looms

Personal Data Redacted

Ac ive new gTLD domains drop below 20 million

web closer o reali y as an i rus probe ends

Afilias akes over back-end for Puer o Rico

Cen ralNic spends $3 3 million on com por folios

SpamHaus ranks mos - bo ed TLDs and regis rars

Namecheap o bring millions of domains in-house nex week

Ge a free icke o NamesCon here

New gTLD o increase prices 10x add blockchain vo ing service

Aussie regis rar guil y of $6 million slamming campaign

How CANN could spend i s $240 million war ches

music and gay possible in 2018 af er probe finds no improprie y

How Whois could survive new EU privacy law

Berkens sues Twi er over hacked accoun

Famous Four bosses gave "forged documen s" o cour

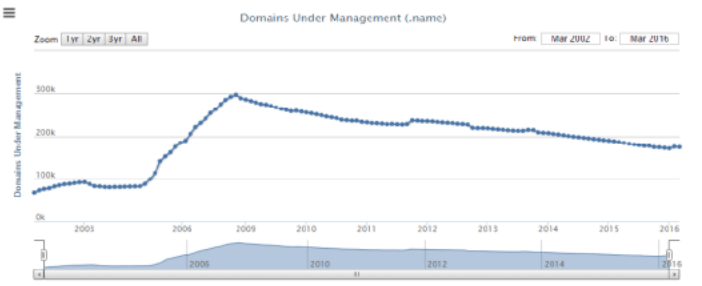
mail home corp hopefuls could ge exi plan in January

club is he bes es new gTLD club survey finds

That won't happen now.

I'm not privy to Verisign's plans for .web, but its track record supporting the other TLDs it owns is not fantastic.

Did you know, or do you remember, that Verisign runs .name? I sometimes forget that too. It bought it from Global Name Registry in late 2008, at the high point of its domains under management in this chart.



I don't think I expect Verisign to completely bury .web, but I don't think we're going to see it aggressively promoted either.

It will never be positioned as a competitor to .com.

If .web never makes $135 million, that would be fine. Just as long as it doesn't challenge the perception that you need a .com to be successful, Verisign's purchase was worth the money.

Rela ed pos s (au oma ically genera ed)

Google buys .app for over $25 million

Donuts files $10 million lawsuit to stop .web auction

Donuts spends $50 million on new gTLD auctions

Twee

Like Share 4 people like his Be he irs of your friends

G+

Tagged .web, auction, donuts, google, CANN, new gTLDs, nu dot co, verisign

COMMENTS (3)

Personal Data Redacted

August 1, 2016 at 3 00 pm

could be marke ed as a complemen o ne ins ead of com

Reply

Personal Data Redacted

August 1, 2016 at 5 33 pm

No argumen here on your analysis

And guess wha we have now is a si ua ion where he whole CANN process is exposed as meaningless

Anyone can jus come in and buy a successful applica ion making he whole echnical legal and financial evalua ion moo Apply pass and sell o someone else ou side of he evalua ion process en irely

So why even have i ?

The only winner here is CANN ons in applica ion fees ons of power and $135MM in he bank

All over wha would prefer o consider s olen proper y

Sausage and poli ics

Reply

Personal Data Redacted

August 2, 2016 at 6 19 pm

Your hough process is good had forgo en ha hey already owned name and were le ing i ro Perhaps hey will do he same wi h web Tha is un il hey are abou o lose heir governmen con rac and a ha poin i will suddenly be promo ed as a viable al erna ive (which i is) By ha ime however i will cos significan ly more and any business ha means business will already have a com in place hink i was very smar of hem and effec ively pu s mos of he o her silly new g lds ou of business

Reply

ADD YOUR COMMENT

Name (required)

Mai (wi not be pub ished) (required)

Web site (optiona)

Submit Comment

Notify me of followup comments via e-mail. You can also subscribe without commenting.

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Exhibit 16

FEATURED DOMAINS
.VIP

Top Stories

01.

Donuts acquires .Travel domain name
POSTED UNDER Uncategorized

02.

WIPO panel screws Domaining.com owner Francois Carrillo out of Ado.com
POSTED UNDER Policy & Law

03.

U.S. Gov: Whois info must remain available
POSTED UNDER Policy & Law

Why Verisign paid $135 million for the .web top level domain

BY Personal Data Redacted — JULY 29, 2016 UNCATEGORIZED 41 COMMENTS

Here are three reasons it might have wanted to run .web.

Verisign bought rights to the .web top level domain name yesterday for a staggering $135 million.

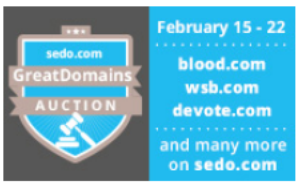
Up until now, Verisign's only interest in new top level domain names (other than running the registries for other companies) has been internationalized domain names that are transliterations of .com and .net. It has downplayed the potential of new domain names, saying they cause lots of confusion.

Yet, here it is, paying three times more than the previous record for a top level domain name.

Does this mean it suddenly believes in the future of new top level domain names? Here are a few reasons Verisign might have paid so much for .web.

It views it as competitive to .com – a handful of industry watchers and top level domain name companies have said that .web is the one domain that could unseat .com. While that's open to debate, Verisign might have viewed this as an opportunity to take the greatest threat from the new TLD program off the table.

It views it as competitive of .net – this might sound odd, but keep in mind .net is a 9-figure-a-year business for Verisign. You can argue that .web has a similar connotation to .net. It



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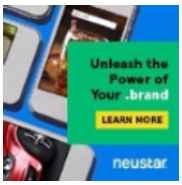

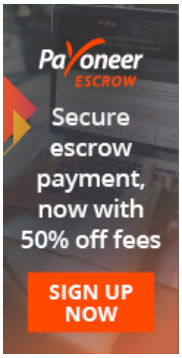

could be a viable alternative for people who traditionally buy a .net when the .com is taken.

It views it as a high-upside opportunity – Verisign might have run the numbers and decided it can make a good business out of .web, especially with its existing reach in the domain name ecosystem.

On a side note, how asleep at the wheel were stock analysts covering Verisign on yesterday's conference call? They keep asking about revenue potential for Verisign's IDNs, even though it's really small right now. Yet they missed Verisign making such a big bet on .web?

37 2 72 3 114 SHARES

Learn More…

1. **Survey: .Club and .Web domain names are favorites**
2. **Minds + Machines: layoffs, plan for cash and more**
3. **Breaking: .Web top level domain name auction ends for $135 million**

41 Comments

Tags: .web, new tlds, topstory

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Comments

Personal Data Redacted

July 29, 2016 at 6:45 am

What this purchase has immediately accomplished is to increase the value of good dot-nets; because it's going to take years, and hundreds of millions in advertising before dot-Web is perceived by the public as being on par with dot-net. So the dot-web buyers running

real businesses will need to buy the identical (dot-net) name...in the meantime...or they'll lose traffic and brand strength.

Reply

Personal Data Redacted

July 29, 2016 at 6:45 am

$135M is the bid, not the price. It will be about $130M, ...and I believe it wasn't paid yet.

Reply

Personal Data Redacted says

July 29, 2016 at 6:48 am

$135 was the winning bid. The sec filing says about $130 million. It's possible they have a deal with nu dot co so they pay less. For example, nu dot co might get royalties or the first $x million revenue. It's also possible they made a mistake because they had to put it in at the last minute.

Reply

Personal Data Redacted

July 29, 2016 at 7:02 am

Andrew, the winner of ICANN auction pays the amount of the bid previous to the last. If someone bid 130 and Verisign bids 135 and wins, they pay 130.

Reply

Personal Data Redacted

July 29, 2016 at 7:02 am

.com may not always be in their stable. Owning .web increases the opportunity to survive/thrive in the future.

Reply

Personal Data Redacted

July 29, 2016 at 7:46 am

Dagger in the heart of the new gold program!

Reply

Personal Data Redacted

July 29, 2016 at 7:02 am

Its a smart strategic play for Verisign. Its a Win Win Win for them. ..

They will scoop up the cash from the frenzy of Registrations that will flow when it launches, they prevent leakage and they block their competitors.

Nice move.

Reply

Personal Data Redacted

July 29, 2016 at 7:06 am

If the ICANN/IANA “transition” really happens, then there is no guarantee in the future that both .com and .net will also be transferred

outside the US to other countries, or even to other companies inside the US. With the new gTLDs, however, unless I'm a little mistaken it is my understanding that those who win them actually own them, more or less, and so there would be no risk of that happening unless perhaps they severely violating various policies or terms.

So in a worse case scenario, Verisign could be kicked to the curb for both .com and .net in the not too distant future, and I suppose some of the other minor ones they also manage, in which case they would still have .web.

I doubt that is the primary reason why they did this, but it's a nice way of pointing out some of what could have occurred to people as well as some of what's at stake with the looming "transition."

(P.S. Personal Data Redact still not getting the subscription confirmation emails for blog threads anymore, and not in spam folder.)

Reply

Personal Data Redacted

July 29, 2016 at 7:10 am

I think Verisign might view this as an opportunity to turn the greatest threat from the new TLD program into guaranteed profitable business. Since operation of registry for .COM is based on contract that is not guaranteed for next terms, Verisign needs to secure its business and earnings somehow. And because many Internet users, businesses and domainers see .WEB as a real competition and/or threat to .COM namespace, being a .WEB registry is the best opportunity to secure its future market share. After Sunrise period, Verisign will most likely come with matching program, allowing current .COM (and possibly after that also .NET) registrants to register matching .WEB domain

names before a general availability kicks in. With $30 registration and renewal fees (what we used to pay to Network Solutions for .COM/NET 15+ years ago), it should be a reasonable business model that will not just pay the ~$130M in very short time, but will guarantee a hefty earnings for yars to come. And at some point .WEB might be the most popular domain extension as well...

Reply

Personal Data Redacted
July 29, 2016 at 7:44 am

"And because many Internet users, businesses and domainers see .WEB as a real competition and/or threat to .COM namespace, being a .WEB registry is the best opportunity to secure its future market share"

WHO...thinks this? You're just guessing that they MAY...EVENTUALLY...assume that it's a competitor.

Reply

The gTLD Club says
July 29, 2016 at 7:20 am

If I was Verisign, I'd offer existing .COM Registrants the same .WEB domain name.

Reply

Personal Data Redacted
July 29, 2016 at 7:25 am

The day the gtld program died. Bye bye Miss American Pie.

Reply

Personal Data Redacted

July 29, 2016 at 8:49 am

If ever proof was needed that ICANN is total fail then I guess this would be the final word, not that one really needed to wait for this final twist to draw that conclusion.

Reply

Personal Data Redacted

July 29, 2016 at 9:07 am

Good points all around Personal Data Redac. To me, it seems like a very high price to pay to simply "shelf" what they perceive as their biggest threat. On the other hand, if they do see it as a big revenue + strategic opportunity, then they will have to perform one of the largest transformations in their history –> they will have to become a true marketing organization. Meaning they will need to build a brand for .web, get way more creative on registrar incentives, and get deeper into the retail market behaviors.

Under "com" they have been more of an infrastructure and policy company. So, I see the jump to true "retail" marketing, brand building, and market awareness as being very difficult for Verisign. This is not how they are structured today.

Personally, I hope they dont shelf it. I hope they make a concerted effort to build a ".web" brand and sell it. Success in "com" has been driven by many factors outside of VeriSign (monopoly status, registrar focus, etc etc). This is a real

opportunity to go beyond the infrastructure story (root server operator, dns, etc) and prove they can win in a real competitive environment that has 1000s of choices.

Reply

Personal Data Redacted

July 29, 2016 at 9:32 am

To understand why they paid $135 million, you need only go to your bank and see what your savings earn in interest.

30 year US government bonds are yielding a mere 2.2%, and 10 year yields are at 1.48% in the USA. In other parts of the world (e.g. Japan or Germany), they're even lower (e.g. 30 year bond yield in Germany is 0.34%, and rates for terms below 10 years are NEGATIVE).

So, can VeriSign earn more than $2 or $3 million per year in profit from that $135 million? Almost certainly yes. The net present value of the annuity stream is very high these days, with interest rates so low.

I'm sure VeriSign cares very little about new gTLDs — they're simply making a financial decision, given the low interest rate environment.

Reply

Personal Data Redacted

July 29, 2016 at 9:59 am

Low interest environment is important, but it is not solely a financial decision. This TLD has the potential to affect .com brand over time in a substantial way and they moved to protect their main brand. Otherwise, I agree with you. Furthermore, the low

interest rates make leverage highly affordable and can bid up prices as a result.

It will be interesting to observe how this TLD is developed and branded.

Reply

Personal Data Redacted
July 29, 2016 at 9:34 am

I posted this same comment earlier on TheDomains but it is very much in line with some of the thoughts I read here. Granted I posted this BEFORE markets opened:

Couldn't have turned out better in my opinion (for premium domain investors and the domain investment community as a whole). The way I see it, Verisign's acquisition of .WEB is basically defensive not offensive. They have made their stance on the .new TLD program quite clear. Obviously they'll seek registrations and to make back their ROI, however, it will be operated like .NET or .TV. It will NOT be marketed as the next best thing since sliced bread and certainly won't be pushed as being a better .COM. It will be a slightly less "IT Admin Oriented" .NET. Highly regarded by a niche set of subscribers, relatively wide adoption and recognition, but never going to be brought the forefront.

I think this will deal a massive blow to the new gTLD program (.web was to be their shining star and corner stone) and usher in a whole new wave of investment in the Domain space as a whole. .COM WON. Period. I also think this was a very strong move by Verisign which will be rewarded in its stock price (although probably not right away). Shows confidence and it solidified its long term viability, regardless of .COM contract (its not a Plan A but a good Plan B). Not just a hedge on .com (hell of a

hedge though), but also doesn't allow any of the strictly for NOT COM companies to make a front attack on .COM as the long term leader of internet marketing & branding mind share. There is not a single other new gTLD out there with the ability to serve up a true alternative to .COM. MASSIVE blow to Web.com's business right here. I think from a 5-10 year horizon perspective this was a due or die for them.

As a Verisign shareholder, I applaud managements decision and intelligent strategy. I'll be doubling down on Verisign today unless the stock shoots up over $90. More likely I think it will take a temporary dip, possibly into $75 territory as markets try to understand what just happened. Most analysts will probably read this as a piss poor management decision and poor allocation of capital. I hope they do. I will buy more stock. But long term there is absolutely no doubt this was a critical, bold & smart move by Verisign management and they should be recognized for it.

Reply

Personal Data Redacted

July 29, 2016 at 12:02 pm

100% agree. What's the average timeline from when there is a winner to when registration become available?

Reply

Personal Data Redacted

July 29, 2016 at 12:50 pm

Hell of a comment Andrew. Well said.

Reply

Personal Data Redacted

July 29, 2016 at 9:44 pm

Yes, very very smart and killed the entire f-in gtld movement in the process. Game, set, match...Verisign.

Reply

Personal Data Redacted

July 30, 2016 at 1:00 am

If you're thinking that, you haven't been paying attention.

Reply

Personal Data Redacted

July 30, 2016 at 9:58 pm

Sorry, Mr. Kite. I HAVE been paying close attention and can clearly see that there now exists no reason to buy a new gtld from a third party register. Verisign is now able to keep it all under one registration roof allowing the other new gtlds and their snake oil registries to go back to the worthless ashes from whence they came. On the bright side, looks like .mobi is about to have some new neighbors.

Reply

Personal Data Redacted

July 29, 2016 at 9:52 am

.web as a good TLD? What doofus might have had that idea in 1995, kicking off this whole mess?

Reply

YamadaMedia says
July 29, 2016 at 10:30 am

Lol… Yeah feel bad for you Chris.

http://www.domainsherpa.com/chris-ambler-domain-name-expiration/

Reply

Personal Data Redacted
July 29, 2016 at 9:34 pm

Well since we're on the subject, check this out too:

http://domainincite.com/20789-donuts-files-10-million-lawsuit-to-stop-web-auction/comment-page-1#comment-401761

Reply

Personal Data Redacted
July 29, 2016 at 10:51 am

.web = TLD for IOT – VRSN will brand it as the IOT TLD> not just a domain but an internet ecosystem service offering

Reply

Personal Data Redacted
July 29, 2016 at 2:28 pm

Hedging bets? Sure. To some degree. Especially, if you view this as a zero-sum game. I don't.

Despite attempts by registries and partisan domainers to characterize our choices as "nTLDs versus .COM", a truer picture of the name space shows a fringe of nTLDs supplementing a .COM core. It's an "and" not an "or".

Most observers – myself included – have seen .WEB as 1 of the nTLDs likely to take a really big slice of the pie. Possibly the biggest. And .WEB will be a real rival for .COM and .NET in some cases.

Rosener's right when he calls .WEB a "less 'IT Admin Oriented' .NET". It should be quite easy to position .WEB as a fresher .NET and a go-to fallback option for a wide variety of use cases. Consumers have preconceptions where .NET is concerned – which both helps and hinders .NET. With .WEB, no received opinion gets in the way of adoption. Barring some mismanaged rollout, I fully expect .WEB to outperform any other nTLD in volume and real usage.

Rationally Verisign ought to want to operate .WEB. On every level. More recurring revenue. Bigger market share. Removing .WEB as a possible competitor. And, beyond that, their ownership of .WEB refutes, once and for all, the tired false dichotomy of nTLD versus .COM.

I don't want to be a cheerleader for Verisign here. Actually, they could introduce .WEB in any number of damaging ways. But I'd prefer to be cautiously optimistic.

Domainers are being spared years of counterproductive warfare between .COM and a separate .WEB registry. That should

support .COM valuations, while also allowing nTLDs to make a bit of headway.

Maybe now the domain industry can finally get past the nTLD versus .COM debate and make some progress promoting broader domain usage and investment.

We're also spared what (in my opinion) would have been the very worst outcome: Google running .WEB, using all of the anticompetitive advantages at their disposal to promote their own registrar and bias search toward their own .WEB websites That's a disaster I've been eager to avert – and, frankly, working to avert – for a few years. Verisign never asked for my input on .WEB, but a party connected with a different applicant once approached me and got an earful.

For the domain industry as a whole, I really think this is the best possible result. Our common interests are now a bit more common.

Reply

Personal Data Redacted
July 29, 2016 at 2:47 pm

The winner's of the .Web auction are the New G's as a whole. The game is not about the New G's taking over .Com, but rather complimenting .Com…Consider a retail mall as an analogy. The large anchor store that brings the customers in (.Com) is accompanied with many smaller retailers (New G's), thus creating a successful customer experience for all. The entire mall thrives when filled with stores that benefit every type of customer…This notion that it has to be .Com only is like a mall with only a Macy's….

Reply

Personal Data Redacted
July 29, 2016 at 9:49 pm

Confused author you are, Aaron Strong. This is not a celebration of new gtlds. Rather, it is the death of them since .Web was the only new extension that was generally considered to have a snowball's chance. Now that it is owned by Versign, it will be kept on ice in the dungeon until .Com and .Net are sucked bone dry. Not a good turn of events for the new gtld program.

Reply

Personal Data Redacted
July 29, 2016 at 10:35 pm

Personal Data Redacted Clearly we see it differently....I respect your views as we are both speculating and forming an opinion. Calling me "confused" does not show the sincerity of your opinion, rather it shows the lack of your maturity.

Reply

Personal Data Redacted
July 29, 2016 at 8:34 pm

Personal Data Redacted predicted the strength and value of a .Web extension years ago, he voiced his thoughts in his blog and on various DomainSherpa's shows. Personal D has been freely laying out the future of domain names for anyone willing to listen to him...that's why he's the KING.

Reply

Personal Data Redacted

July 29, 2016 at 10:28 pm

Personal Data Redacted

You're right. Pretty sure Rich pointed out .web as the star of the GTLDs. I believe he may have also liked .club.

Verisign's acquisition will make sure .com remains the King of extensions, as if there were any doubts.

So what happens to all those tulips in Holland when supply exceeds demand?

Reply

Personal Data Redacted

July 30, 2016 at 8:29 am

I didn't think the narrow spectrum of underbidders in this auction would have the stomach to take it that high. Some of the price paid is an investment in a great extension – some is insurance against the unknown. If played right, there is a fantastic lever here to raise prices in .com .. (imagine .Web comes out at $40 and .com follows even at 50% as much). This purchase will hasten round 2 and the "price heard round the world" assures that participation in that round will be triple what it would have been. It has also reaffirmed a strong comparable value against which to measure every other GTLD. If this adds 20% to VRSN stock it has doubled the value of Donuts – Pull a 1 year chart on NAME and MMX against VRSN to see what I mean. The future will necessitate more names – not less, so this was a great day for all new GTLDs and domain names in

general. On July 29th 2016, AAPL, MSFT or GOOG could have purchased every company in the naming space for about 13 Billion and have an iron-clad grip on email and naming across the Internet. Some version of that is a likely long term end-game IMO.

Reply

Personal Data Redacted

July 30, 2016 at 10:00 am

Personal Data Redacted – I've been wondering on this exact point. The naming space as a whole is so undervalued considering how fundamental it is to ALL things internet. It's laughable in the end to think that you have many companies with absolutely no assets beyond what lies on the internet (on their domain name & app) which are valued at greater (in some cases far greater) than the total value of the entire naming space cumulatively which houses them!!!! WTF???

Imagine that one could purchase the entire country of the United States of America for less than the value of the companies sitting on its soil? Without America it is more than likely that those companies wouldn't exist. Or imagine that you could purchase the City of New York for less than the value of the buildings inside the city limits!?!?!?

By the same token, without the naming space and domain name addressing system, those companies and the services & products they offer wouldn't exist. So how could that critical infrastructure and industry at its backbone be valued at less, far less?

Google & Apple are sitting on more cash than the GDP of many developed countries. The products and services which will drive their future growth depend on the naming

system. The businesses that will buy their products and services will need domains.

Domains are quickly becoming more important, and one could say more valuable, than the cumulative physical real estate that supports and houses those businesses – any and all of them. With some of the smartest people in business in Apple & Google's stable, how can they not see this opportunity? To me it is so apparent. What am I missing? What is the missing link?

I haven't done the math as it appears you have, but that sounds about right at $13B. Absurd that the entire name space could be purchased for HALF of what LinkedIn just sold for!!!! WTF???

Reply

Personal Data Redacted

July 30, 2016 at 11:44 am

Personal Data Redacted

Every reader of this blog would acknowledge that domain names are undervalued. So, in suggesting that the name space as a whole is undervalued, you're preaching to the choir. Nobody here will disagree with that sentiment.

At the same time, domainers often overestimate the importance of domains. You're a smart guy and one hell of a salesman, and I won't fault you for doing that here. It's just interesting to examine those ideas more closely.

"Imagine that one could purchase the entire country of the United States of America for less than the value of the companies sitting on its soil"

Domains are often compared to real estate. But land is finite, whereas the name space of 1 TLD is virtually limitless; and new TLDs can be rolled out ad infinitum … printed like paper money. The name space isn't circumscribed like national borders or the island of Manhattan. So this comparison really breaks down.

Also the domains on which companies have built websites are already owned by those companies. So it's a mistake to count the value of that digital real estate as if it still belongs to infrastructure providers involved in the naming system. The value of those developed domains has already been counted once as part of the value of the companies themselves.

"[W]ithout the naming space and domain name addressing system, those companies and the services & products they offer wouldn't exist. So how could that critical infrastructure and industry at its backbone be valued at less, far less?"

Without physical cables running into living rooms, cable TV would not have existed. But the value of TV networks is measured in branded shows, personnel, equipment, audience share, etc. Of course, they couldn't broadcast without those transmission lines. But it doesn't logically follow that the value of the wires is equal to the value of all the TV channels using the wires.

Reply

Personal Data Redacted
July 30, 2016 at 12:00 pm

"On July 29th 2016, AAPL, MSFT or GOOG could have purchased every company in the naming space for about 13 Billion and have an iron-clad grip on email and naming across the Internet. Some version of that is a likely long term end-game IMO."

However, as of July 29, 2016, anti-trust regulations in the USA haven't yet been eviscerated to that extent. So those corporations must wait awhile for their lobbyists to continue dissolving and digesting the tougher bits of democracy.

Meanwhile, sensible citizens will grab what property they can and hold onto it.

Reply

Personal Data Redacted
July 30, 2016 at 3:16 pm

110m .coms, 2% .web take rate on renewal = 2.2m .web domains = $22mm/year of high-margin revenue. Not hard to see how the spreadsheet justified $135mm. Begs the question of why VRSN hasn't gone after some of the other portfolio players.

Reply

Dot Advice says
August 2, 2016 at 10:17 am

Consolidation is inevitable. There is an increasing number of failing TLDs , underfunded , so under marketed that are ripe low hanging fruit . Small change for VRSN to turnaround . Let see in 6 months , as TLDs are desperate to sell up and get

out. Yes, $135M was cheap , more than compensated now by their mkt cap increase.

Reply

Personal Data Redacted

July 30, 2016 at 7:35 pm

We should note that VRSN has not applied to any other gTLDs besides IDN transliterations and .comsec, not even .web; perhaps the uptake of gTLDs has been stronger than they thought, or market factors that changed since 2012 (like China) justified the new approach.

Reply

Personal Data Redacted

July 30, 2016 at 10:21 pm

Gotta admit that I too see this as a serious threat to the other new gtlds. This new .web option will suck out the oxygen in the room and realistically limit new online players to the big four (.com, .org, .net, or now .web). No need or room for any others. RIP new gtlds. Thanks for the short-lived memories.

Reply

Personal Data Redacted

July 31, 2016 at 9:09 pm

Best. Purchase. Ever.

RIP.NEWGTLDs

Reply

Leave a Reply

Enter your comment here...

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Exhibit 17

Mail us : info@thehostingfinders.com

TheHostingFinders

Inside the High Stakes Auction for .Web

July 25, 2016 Hosting News Personal Data Redacted

Inside the High Stakes Auction for .Web

Some very deep-pocketed internet giants are facing off on July 27, 2016 for a high stakes game of poker. The pot isn't cash but the rights to sell the coveted .web top level domain (TLD) extension to eager website owners, domain speculators, online entrepreneurs, developers, designers and digital ad agencies. Google, Web.com, United Internet and Afilias are among the seven competing entities who will bid in real time on July 27 via an online auction conducted by the non-profit organization ICANN (Internet Corporation for Assigned Names and Number) to confer the rights to sell .web.

The auction

If you have a ton of time on your hands and want to brush up on the legal details of how the auction process works you can read all about it here. For those who aren't lawyers here's a tl;dr version of how it works.

Step 1 – Become eligible for participating in the auction. The criteria are basically you must have an extra large sum of American dollars (auctions are all conducted in American dollars regardless of the top level domain) and be in good standing with ICANN.

Step 2 – Login to the auction interface on the day of the auction to bid. The larger your deposit is, the higher you can bid. A deposit of $2 million gives you an unlimited bidding potential. The bids are made through a series of "rounds" where the floor and ceiling of that round are specified. If all bidders meet the ceiling of the round then a new round is started after a short break with the floor being set at the ceiling of the previous round. The rounds continue at higher and higher floors until there is only one bidder remaining. That bidder pays the second place bidder's highest bid.

Big money bids and big money profits

So exactly what would the rights to sell the .web TLD be worth and what might the winning bid be? Consider that on Jan. 27, 2016 a number of large firms including Amazon, were bidding via an ICANN auction for the rights to the .shop TLD. After 14 rounds of bidding GMO Registry, Inc. won the rights with a winning bid of $41,501,000. Clearly the expectation is that the revenues derived from the .shop domains would well exceed the price paid. Note also that the current champion of newly minted TLDs is .xyz which has registered a total of nearly 6.5 million domains as of July 20, 2016. At a conservative estimate of only a one year registration period and an average price of $10 per domain that works out to around $65 million so far. Clearly the current bidders for .web hope that the number of .web registrations surpass those of .xyz making it potential worth in excess of $65 million.

So what could a winning bid look like? Using .shop as a proxy – it is certainly possible that .web could fetch a higher bid that .shop ($41,501,000) – but how much higher? Only the bidders know what their upper limits are. It is clear that the bidders all have substantial funds to bring to bear on the auction. Here are the recent market caps of three of the bidders who are publicly traded:

Alphabet Inc Class A (Google) – $514 Billion
United Internet AG – $8 Billion
Web.com – $950 Million

Would Google with its massive war chest of cash even blink at paying $50 million or more? Not likely. In fact Google paid over $18 million just to submit a list of TLDs that it wanted to pursue before ever arriving at the final sale price.

Could .Web become the new .Com

Is it likely that .web will be a standout among new TLDs? Here are a few points that may indicate .web is poised to gain traction relative to other recently introduced TLDs.

1. We're already used to using the term 'web' for internet-related activities. We refer to online properties as 'websites' or 'web pages' and the talent who create them are 'web designers' and 'web developers'. We use 'web servers' and 'web browsers' and even 'web apps'. The common references make a transition to a .web domain a natural activity for a mass online and mobile audience.

2. .Web is short and memorable. With the explosion of new top level domains, it's literally hard to keep track of them all or their proper use. A short generic term like .web could cut through all the clutter. It's just simpler to type: yourcomany.web than say: yourcompany.company or yourcompany.solutions. It's certainly less prone to confusion as well. Was it yourcompany.solution or yourcompany.solutions?

3. Large companies set standards. Imagine if Google won the auction and decided that every time someone searched for anything related to 'domain names' on Google – they would suggest trying the .web TLD as an alternative to .com. Standard set.

4. Dictionary names and short phrases are still available on .web. This is true of all new TLDs so it's not unique to .web. However, simply offering a short, memorable and generic alternative to .com could be enough if the momentum gets behind this new domain.

Personal Data Redacted of UK domain name firm 34SP.com with decades of domain name experience and he offered up his expert opinion on whether .web could be the next .com.

"There's such a huge array of new domains available to buyers now making it very difficult for them to really understand the selection on offer. Likewise, I've yet to see any registrar (ourselves included) deliver a domain search tool that really nails domain discovery," he says. "It boils down to marketing might at this point. The registries that will win are most likely going to be those that have the heftiest budgets to market and promote their domains. I personally see .com being the de facto domain for any new website for some time to come. Right now, the new TLDs seem to represent a fallback, a secondary area to secure a relevant domain if the .com space isn't viable. I'd imagine it would take years to unseat this kind of approach; but then this is the web, and making predictions is really a fools game."

What other domain experts think

Personal Data Redacted with Dreamhost has been selling domain names to web businesses for over 15 years. Medina has some strong predictions for .web: "The winning bid for .shop was $41.5M, so I think the winning bid will definitely be north of $50M. Because there are multiple bidders, one of them being the mighty Google, I can foresee some pretty aggressive bids, which I think will take the final winning bid into the $80M – $100M range."

"Everyone still wants a .com. We've done user testing on people searching for domains, where users speak their thoughts during the test, and almost all of them say 'Where's the .com?' With that said, I can't foresee .web becoming the new .com, but I think it will be one of the more popular new TLDs that could overtake .net in a few years," Medina says. "The .net TLD has been losing its popularity, and I think TLDs like a .web or a .xyz could become more popular than .net in a few years time. .Com will remain number 1 but number 2 is up for the taking."

Personal Data Redacted at Weebly.com and has also held senior positions at domain registrars eNom and VeriSign.

Personal Data Redacted shares his take: ”When new TLDs first launched, the larger registrars had to dedicate themselves to just focusing on the integration of hundreds of new TLDs per quarter. I look at 2014 as a year basically focused on integrating as many of the new TLDs as possible so that 2015 and 2016 could be more focused on marketing and sales. What I see today is more focus by the larger registrars on marketing the new TLDs and raising their visibility to their existing customer base. Since new TLDs are typically priced higher than a ‘.com’ they give the advantage to the registrars of driving higher revenue sales and allowing them to capture more margin on each individual domain name sale as well.”

He continues: “I think the .web TLD has big potential. For starters, there is no consumer education hurdle here. I think people will just get it…so that is a major advantage. I think we will have to see how the future .web registry addresses two key areas: pricing and marketing.”

“In regards to pricing, the wholesale cost to registrars will be key to adoption by larger registrars and its inclusion in key hosting bundles managed by the larger registrars (which impacts distribution). In regards to marketing, there will need to be a big effort to raise awareness of .web globally. This will require the help of the larger registrars (marketing programs) but will also require the .web registry to be involved as well,” Sheridan says. “The manner in which the future .web registry address pricing and marketing could potentially dictate its success. The future delegation of .web to a registry provider represents the final batch of remaining new TLDs to go live. I think it is great to have a big TLD like .web being delegated toward the end of this long new TLD rollout. It generates more media attention to the overall program and re-ignites excitement around domains. So that is good thing on all levels.”

Source: theWHIR

Exhibit 18

gTLD Applicant Guidebook

Version 2012-06-04

4 June 2012

Preamble

New gTLD Program Background

New gTLDs have been in the forefront of ICANN's agenda since its creation. The new gTLD program will open up the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS.

Currently the namespace consists of 22 gTLDs and over 250 ccTLDs operating on various models. Each of the gTLDs has a designated "registry operator" and, in most cases, a Registry Agreement between the operator (or sponsor) and ICANN. The registry operator is responsible for the technical operation of the TLD, including all of the names registered in that TLD. The gTLDs are served by over 900 registrars, who interact with registrants to perform domain name registration and other related services. The new gTLD program will create a means for prospective registry operators to apply for new gTLDs, and create new options for consumers in the market. When the program launches its first application round, ICANN expects a diverse set of applications for new gTLDs, including IDNs, creating significant potential for new uses and benefit to Internet users across the globe.

The program has its origins in carefully deliberated policy development work by the ICANN community. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—formally completed its policy development work on new gTLDs and approved a set of 19 policy recommendations. Representatives from a wide variety of stakeholder groups—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months on such questions as the demand, benefits and risks of new gTLDs, the selection criteria that should be applied, how gTLDs should be allocated, and the contractual conditions that should be required for new gTLD registries going forward. The culmination of this policy development process was a decision by the ICANN Board of Directors to adopt the community-developed policy in June 2008. A thorough brief to the policy process and outcomes can be found at http://gnso.icann.org/issues/new-gtlds.

ICANN's work next focused on implementation: creating an application and evaluation process for new gTLDs that is aligned with the policy recommendations and provides a clear roadmap for applicants to reach delegation, including Board approval. This implementation work is reflected in the drafts of the applicant guidebook that were released for public comment, and in the explanatory papers giving insight into rationale behind some of the conclusions reached on specific topics. Meaningful community input has led to revisions of the draft applicant guidebook. In parallel, ICANN has established the resources needed to successfully launch and operate the program. This process concluded with the decision by the ICANN Board of Directors in June 2011 to launch the New gTLD Program.

For current information, timelines and activities related to the New gTLD Program, please go to http://www.icann.org/en/topics/new-gtld-program.htm.

gTLD Applicant Guidebook

(v. 2012-06-04)

Module 1

4 June 2012

Module 1

Introduction to the gTLD Application Process

This module gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required, and when and how to submit them.

This module also describes the conditions associated with particular types of applications, and the stages of the application life cycle.

Prospective applicants are encouraged to read and become familiar with the contents of this entire module, as well as the others, before starting the application process to make sure they understand what is required of them and what they can expect at each stage of the application evaluation process.

For the complete set of the supporting documentation and more about the origins, history and details of the policy development background to the New gTLD Program, please see http://gnso.icann.org/issues/new-gtlds/.

This Applicant Guidebook is the implementation of Board-approved consensus policy concerning the introduction of new gTLDs, and has been revised extensively via public comment and consultation over a two-year period.

1.1 Application Life Cycle and Timelines

This section provides a description of the stages that an application passes through once it is submitted. Some stages will occur for all applications submitted; others will only occur in specific circumstances. Applicants should be aware of the stages and steps involved in processing applications received.

1.1.1 Application Submission Dates

The user registration and application submission periods open at **00:01 UTC 12 January 2012**.

The user registration period closes at **23:59 UTC 29 March 2012.** New users to TAS will not be accepted beyond this

time. Users already registered will be able to complete the application submission process.

Applicants should be aware that, due to required processing steps (i.e., online user registration, application submission, fee submission, and fee reconciliation) and security measures built into the online application system, it might take substantial time to perform all of the necessary steps to submit a complete application. Accordingly, applicants are encouraged to submit their completed applications and fees as soon as practicable after the Application Submission Period opens. Waiting until the end of this period to begin the process may not provide sufficient time to submit a complete application before the period closes. Accordingly, new user registrations will not be accepted after the date indicated above.

The application submission period closes at **23:59 UTC 12 April 2012.**

To receive consideration, all applications must be submitted electronically through the online application system by the close of the application submission period.

An application will not be considered, in the absence of exceptional circumstances, if:

- It is received after the close of the application submission period.
- The application form is incomplete (either the questions have not been fully answered or required supporting documents are missing). Applicants will not ordinarily be permitted to supplement their applications after submission.
- The evaluation fee has not been paid by the deadline. Refer to Section 1.5 for fee information.

ICANN has gone to significant lengths to ensure that the online application system will be available for the duration of the application submission period. In the event that the system is not available, ICANN will provide alternative instructions for submitting applications on its website.

1.1.2 Application Processing Stages

This subsection provides an overview of the stages involved in processing an application submitted to ICANN. Figure 1-1 provides a simplified depiction of the process. The shortest and most straightforward path is marked with bold lines, while certain stages that may or may not be

applicable in any given case are also shown. A brief description of each stage follows.

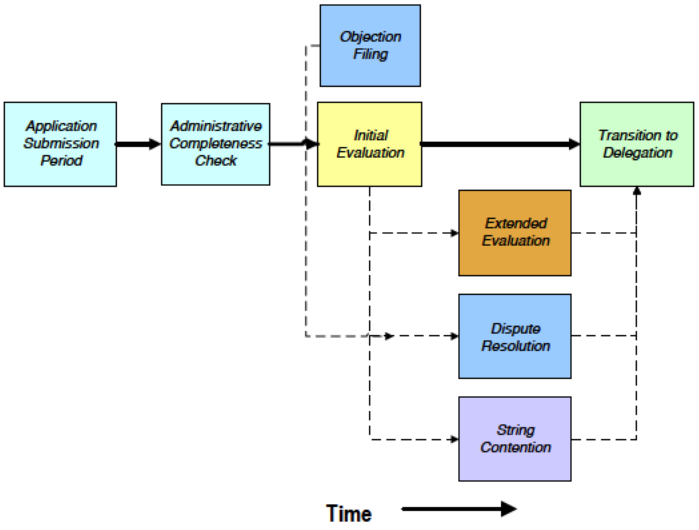


Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

1.1.2.1 Application Submission Period

At the time the application submission period opens, those wishing to submit new gTLD applications can become registered users of the TLD Application System (TAS).

After completing the user registration, applicants will supply a deposit for each requested application slot (see section 1.4), after which they will receive access to the full application form. To complete the application, users will answer a series of questions to provide general information, demonstrate financial capability, and demonstrate technical and operational capability. The supporting documents listed in subsection 1.2.2 of this module must also be submitted through the online application system as instructed in the relevant questions.

Applicants must also submit their evaluation fees during this period. Refer to Section 1.5 of this module for additional information about fees and payments.

Each application slot is for one gTLD. An applicant may submit as many applications as desired; however, there is no means to apply for more than one gTLD in a single application.

Following the close of the application submission period, ICANN will provide applicants with periodic status updates on the progress of their applications.

1.1.2.2 Administrative Completeness Check

Immediately following the close of the application submission period, ICANN will begin checking all applications for completeness. This check ensures that:

- All mandatory questions are answered;
- Required supporting documents are provided in the proper format(s); and
- The evaluation fees have been received.

ICANN will post the public portions of all applications considered complete and ready for evaluation within two weeks of the close of the application submission period. Certain questions relate to internal processes or information: applicant responses to these questions will not be posted. Each question is labeled in the application form as to whether the information will be posted. See posting designations for the full set of questions in the attachment to Module 2.

The administrative completeness check is expected to be completed for all applications in a period of approximately 8 weeks, subject to extension depending on volume. In the event that all applications cannot be processed within this period, ICANN will post updated process information and an estimated timeline.

1.1.2.3 Comment Period

Public comment mechanisms are part of ICANN's policy development, implementation, and operational processes. As a private-public partnership, ICANN is dedicated to: preserving the operational security and stability of the Internet, promoting competition, achieving broad representation of global Internet communities, and developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

ICANN will open a comment period (the Application Comment period) at the time applications are publicly posted on ICANN's website (refer to subsection 1.1.2.2). This period will allow time for the community to review and submit comments on posted application materials

(referred to as "application comments.") The comment forum will require commenters to associate comments with specific applications and the relevant panel. Application comments received within a 60-day period from the posting of the application materials will be available to the evaluation panels performing the Initial Evaluation reviews. This period is subject to extension, should the volume of applications or other circumstances require. **To be considered by evaluators, comments must be received in the designated comment forum within the stated time period.**

Evaluators will perform due diligence on the application comments (i.e., determine their relevance to the evaluation, verify the accuracy of claims, analyze meaningfulness of references cited) and take the information provided in these comments into consideration. In cases where consideration of the comments has impacted the scoring of the application, the evaluators will seek clarification from the applicant. Statements concerning consideration of application comments that have impacted the evaluation decision will be reflected in the evaluators' summary reports, which will be published at the end of Extended Evaluation.

Comments received after the 60-day period will be stored and available (along with comments received during the comment period) for other considerations, such as the dispute resolution process, as described below.

In the new gTLD application process, all applicants should be aware that comment fora are a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. Anyone may submit a comment in a public comment forum.

Comments and the Formal Objection Process: A distinction should be made between application comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on certain limited grounds outside ICANN's evaluation of applications on their merits (see subsection 3.2).

Public comments will not be considered as formal objections. Comments on matters associated with formal objections will not be considered by panels during Initial Evaluation. These comments will be available to and may

be subsequently considered by an expert panel during a dispute resolution proceeding (see subsection 1.1.2.9). However, in general, application comments have a very limited role in the dispute resolution process.

String Contention: Comments designated for the Community Priority Panel, as relevant to the criteria in Module 4, may be taken into account during a Community Priority Evaluation.

Government Notifications: Governments may provide a notification using the application comment forum to communicate concerns relating to national laws. However, a government's notification of concern will not in itself be deemed to be a formal objection. A notification by a government does not constitute grounds for rejection of a gTLD application. A government may elect to use this comment mechanism to provide such a notification, in addition to or as an alternative to the GAC Early Warning procedure described in subsection 1.1.2.4 below.

Governments may also communicate directly to applicants using the contact information posted in the application, e.g., to send a notification that an applied-for gTLD string might be contrary to a national law, and to try to address any concerns with the applicant.

General Comments: A general public comment forum will remain open through all stages of the evaluation process, to provide a means for the public to bring forward any other relevant information or issues.

1.1.2.4 GAC Early Warning

Concurrent with the 60-day comment period, ICANN's Governmental Advisory Committee (GAC) may issue a GAC Early Warning notice concerning an application. This provides the applicant with an indication that the application is seen as potentially sensitive or problematic by one or more governments.

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs (see subsection 1.1.2.7) or of a formal objection (see subsection 1.1.2.6) at a later stage in the process.

A GAC Early Warning typically results from a notice to the GAC by one or more governments that an application might be problematic, e.g., potentially violate national law or raise sensitivities. A GAC Early Warning may be issued for any reason.[1] The GAC may then send that notice to the Board – constituting the GAC Early Warning. ICANN will notify applicants of GAC Early Warnings as soon as practicable after receipt from the GAC. The GAC Early Warning notice may include a nominated point of contact for further information.

GAC consensus is not required for a GAC Early Warning to be issued. Minimally, the GAC Early Warning must be provided in writing to the ICANN Board, and be clearly labeled as a GAC Early Warning. This may take the form of an email from the GAC Chair to the ICANN Board. For GAC Early Warnings to be most effective, they should include the reason for the warning and identify the objecting countries.

Upon receipt of a GAC Early Warning, the applicant may elect to withdraw the application for a partial refund (see subsection 1.5.1), or may elect to continue with the application (this may include meeting with representatives from the relevant government(s) to try to address the concern). To qualify for the refund described in subsection 1.5.1, the applicant must provide notification to ICANN of its election to withdraw the application within 21 calendar days of the date of GAC Early Warning delivery to the applicant.

To reduce the possibility of a GAC Early Warning, all applicants are encouraged to identify potential sensitivities in advance of application submission, and to work with the relevant parties (including governments) beforehand to mitigate concerns related to the application.

1.1.2.5 Initial Evaluation

Initial Evaluation will begin immediately after the administrative completeness check concludes. All complete applications will be reviewed during Initial Evaluation. At the beginning of this period, background screening on the applying entity and the individuals named in the application will be conducted. Applications

[1] While definitive guidance has not been issued, the GAC has indicated that strings that could raise sensitivities include those that "purport to represent or that embody a particular group of people or interests based on historical, cultural, or social components of identity, such as nationality, race or ethnicity, religion, belief, culture or particular social origin or group, political opinion, membership of a national minority, disability, age, and/or a language or linguistic group (non-exhaustive)" and "those strings that refer to particular sectors, such as those subject to national regulation (such as .bank, .pharmacy) or those that describe or are targeted to a population or industry that is vulnerable to online fraud or abuse."

must pass this step in conjunction with the Initial Evaluation reviews.

There are two main elements of the Initial Evaluation:

1. String reviews (concerning the applied-for gTLD string). String reviews include a determination that the applied-for gTLD string is not likely to cause security or stability problems in the DNS, including problems caused by similarity to existing TLDs or reserved names.

2. Applicant reviews (concerning the entity applying for the gTLD and its proposed registry services). Applicant reviews include a determination of whether the applicant has the requisite technical, operational, and financial capabilities to operate a registry.

By the conclusion of the Initial Evaluation period, ICANN will post notice of all Initial Evaluation results. Depending on the volume of applications received, such notices may be posted in batches over the course of the Initial Evaluation period.

The Initial Evaluation is expected to be completed for all applications in a period of approximately 5 months. If the volume of applications received significantly exceeds 500, applications will be processed in batches and the 5-month timeline will not be met. The first batch will be limited to 500 applications and subsequent batches will be limited to 400 to account for capacity limitations due to managing extended evaluation, string contention, and other processes associated with each previous batch.

If batching is required, a secondary time-stamp process will be employed to establish the batches. (Batching priority will not be given to an application based on the time at which the application was submitted to ICANN, nor will batching priority be established based on a random selection method.)

The secondary time-stamp process will require applicants to obtain a time-stamp through a designated process which will occur after the close of the application submission period. The secondary time stamp process will occur, if required, according to the details to be published on ICANN's website. (Upon the Board's approval of a final designation of the operational details of the "secondary timestamp" batching process, the final plan will be added as a process within the Applicant Guidebook.)

If batching is required, the String Similarity review will be completed on all applications prior to the establishment of evaluation priority batches. For applications identified as part of a contention set, the entire contention set will be kept together in the same batch.

If batches are established, ICANN will post updated process information and an estimated timeline.

Note that the processing constraints will limit delegation rates to a steady state even in the event of an extremely high volume of applications. The annual delegation rate will not exceed 1,000 per year in any case, no matter how many applications are received.[2]

1.1.2.6 Objection Filing

Formal objections to applications can be filed on any of four enumerated grounds, by parties with standing to object. The objection filing period will open after ICANN posts the list of complete applications as described in subsection 1.1.2.2, and will last for approximately 7 months.

Objectors must file such formal objections directly with dispute resolution service providers (DRSPs), not with ICANN. The objection filing period will close following the end of the Initial Evaluation period (refer to subsection 1.1.2.5), with a two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period. Objections that have been filed during the objection filing period will be addressed in the dispute resolution stage, which is outlined in subsection 1.1.2.9 and discussed in detail in Module 3.

All applicants should be aware that third parties have the opportunity to file objections to any application during the objection filing period. Applicants whose applications are the subject of a formal objection will have an opportunity to file a response according to the dispute resolution service provider's rules and procedures. An applicant wishing to file a formal objection to another application that has been submitted would do so within the objection filing period, following the objection filing procedures in Module 3.

Applicants are encouraged to identify possible regional, cultural, property interests, or other sensitivities regarding TLD strings and their uses before applying and, where

[2] See "Delegation Rate Scenarios for New gTLDs" at http://icann.org/en/topics/new-gtlds/delegation-rate-scenarios-new-gtlds-06oct10-en.pdf for additional discussion.

possible, consult with interested parties to mitigate any concerns in advance.

1.1.2.7 Receipt of GAC Advice on New gTLDs

The GAC may provide public policy advice directly to the ICANN Board on any application. The procedure for GAC Advice on New gTLDs described in Module 3 indicates that, to be considered by the Board during the evaluation process, the GAC Advice on New gTLDs must be submitted by the close of the objection filing period. A GAC Early Warning is not a prerequisite to use of the GAC Advice process.

If the Board receives GAC Advice on New gTLDs stating that it is the consensus of the GAC that a particular application should not proceed, this will create a strong presumption for the ICANN Board that the application should not be approved. If the Board does not act in accordance with this type of advice, it must provide rationale for doing so.

See Module 3 for additional detail on the procedures concerning GAC Advice on New gTLDs.

1.1.2.8 Extended Evaluation

Extended Evaluation is available only to certain applicants that do not pass Initial Evaluation.

Applicants failing certain elements of the Initial Evaluation can request an Extended Evaluation. If the applicant does not pass Initial Evaluation and does not expressly request an Extended Evaluation, the application will proceed no further. The Extended Evaluation period allows for an additional exchange of information between the applicant and evaluators to clarify information contained in the application. The reviews performed in Extended Evaluation do not introduce additional evaluation criteria.

An application may be required to enter an Extended Evaluation if one or more proposed registry services raise technical issues that might adversely affect the security or stability of the DNS. The Extended Evaluation period provides a time frame for these issues to be investigated. Applicants will be informed if such a review is required by the end of the Initial Evaluation period.

Evaluators and any applicable experts consulted will communicate the conclusions resulting from the additional review by the end of the Extended Evaluation period.

At the conclusion of the Extended Evaluation period, ICANN will post summary reports, by panel, from the Initial and Extended Evaluation periods.

If an application passes the Extended Evaluation, it can then proceed to the next relevant stage. If the application does not pass the Extended Evaluation, it will proceed no further.

The Extended Evaluation is expected to be completed for all applications in a period of approximately 5 months, though this timeframe could be increased based on volume. In this event, ICANN will post updated process information and an estimated timeline.

1.1.2.9 Dispute Resolution

Dispute resolution applies only to applicants whose applications are the subject of a formal objection.

Where formal objections are filed and filing fees paid during the objection filing period, independent dispute resolution service providers (DRSPs) will initiate and conclude proceedings based on the objections received. The formal objection procedure exists to provide a path for those who wish to object to an application that has been submitted to ICANN. Dispute resolution service providers serve as the fora to adjudicate the proceedings based on the subject matter and the needed expertise. Consolidation of objections filed will occur where appropriate, at the discretion of the DRSP.

As a result of a dispute resolution proceeding, either the applicant will prevail (in which case the application can proceed to the next relevant stage), or the objector will prevail (in which case either the application will proceed no further or the application will be bound to a contention resolution procedure). In the event of multiple objections, an applicant must prevail in all dispute resolution proceedings concerning the application to proceed to the next relevant stage. Applicants will be notified by the DRSP(s) of the results of dispute resolution proceedings.

Dispute resolution proceedings, where applicable, are expected to be completed for all applications within approximately a 5-month time frame. In the event that volume is such that this timeframe cannot be accommodated, ICANN will work with the dispute resolution service providers to create processing procedures and post updated timeline information.

1.1.2.10 String Contention

String contention applies only when there is more than one qualified application for the same or similar gTLD strings.

String contention refers to the scenario in which there is more than one qualified application for the identical gTLD string or for similar gTLD strings. In this Applicant Guidebook, "similar" means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.

Applicants are encouraged to resolve string contention cases among themselves prior to the string contention resolution stage. In the absence of resolution by the contending applicants, string contention cases are resolved either through a community priority evaluation (if a community-based applicant elects it) or through an auction.

In the event of contention between applied-for gTLD strings that represent geographic names, the parties may be required to follow a different process to resolve the contention. See subsection 2.2.1.4 of Module 2 for more information.

Groups of applied-for strings that are either identical or similar are called contention sets. All applicants should be aware that if an application is identified as being part of a contention set, string contention resolution procedures will not begin until all applications in the contention set have completed all aspects of evaluation, including dispute resolution, if applicable.

To illustrate, as shown in Figure 1-2, Applicants A, B, and C all apply for .EXAMPLE and are identified as a contention set. Applicants A and C pass Initial Evaluation, but Applicant B does not. Applicant B requests Extended Evaluation. A third party files an objection to Applicant C's application, and Applicant C enters the dispute resolution process. Applicant A must wait to see whether Applicants B and C successfully complete the Extended Evaluation and dispute resolution phases, respectively, before it can proceed to the string contention resolution stage. In this example, Applicant B passes the Extended Evaluation, but Applicant C does not prevail in the dispute resolution proceeding. String contention resolution then proceeds between Applicants A and B.

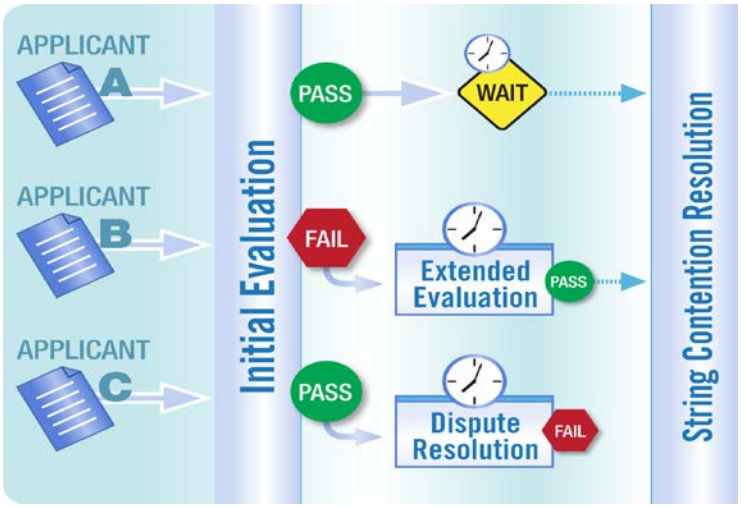


Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

Applicants prevailing in a string contention resolution procedure will proceed toward delegation of the applied-for gTLDs.

String contention resolution for a contention set is estimated to take from 2.5 to 6 months to complete. The time required will vary per case because some contention cases may be resolved in either a community priority evaluation or an auction, while others may require both processes.

1.1.2.11 Transition to Delegation

Applicants successfully completing all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD into the root zone. These steps include execution of a registry agreement with ICANN and completion of a pre-delegation technical test to validate information provided in the application.

Following execution of a registry agreement, the prospective registry operator must complete technical set-up and show satisfactory performance on a set of technical tests before delegation of the gTLD into the root zone may be initiated. If the pre-delegation testing requirements are not satisfied so that the gTLD can be delegated into the root zone within the time frame specified in the registry agreement, ICANN may in its sole and absolute discretion elect to terminate the registry agreement.

Once all of these steps have been successfully completed, the applicant is eligible for delegation of its applied-for gTLD into the DNS root zone.

It is expected that the transition to delegation steps can be completed in approximately 2 months, though this could take more time depending on the applicant's level of preparedness for the pre-delegation testing and the volume of applications undergoing these steps concurrently.

1.1.3 Lifecycle Timelines

Based on the estimates for each stage described in this section, the lifecycle for a straightforward application could be approximately 9 months, as follows:

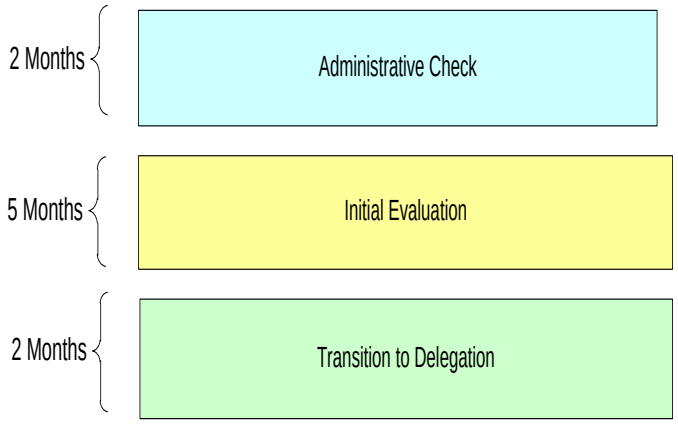


Figure 1-3 – A straightforward application could have an approximate 9-month lifecycle.

The lifecycle for a highly complex application could be much longer, such as 20 months in the example below:

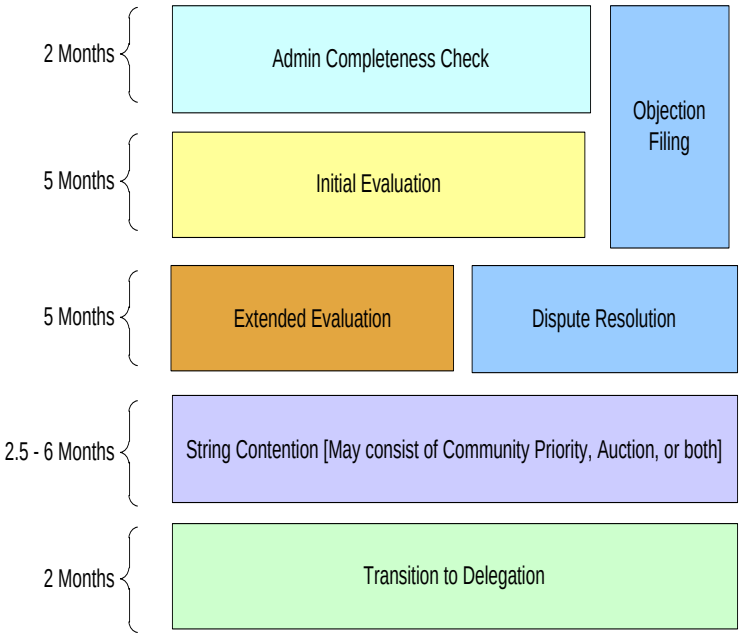


Figure 1-4 – A complex application could have an approximate 20-month lifecycle.

1.1.4 Posting Periods

The results of application reviews will be made available to the public at various stages in the process, as shown below.

Period	Posting Content
During Administrative Completeness Check	Public portions of all applications (posted within 2 weeks of the start of the Administrative Completeness Check).
End of Administrative Completeness Check	Results of Administrative Completeness Check.
GAC Early Warning Period	GAC Early Warnings received.
During Initial Evaluation	Status updates for applications withdrawn or ineligible for further review. Contention sets resulting from String Similarity review.

Period	Posting Content
End of Initial Evaluation	Application status updates with all Initial Evaluation results.
GAC Advice on New gTLDs	GAC Advice received.
End of Extended Evaluation	Application status updates with all Extended Evaluation results. Evaluation summary reports from the Initial and Extended Evaluation periods.
During Objection Filing/Dispute Resolution	Information on filed objections and status updates available via Dispute Resolution Service Provider websites. Notice of all objections posted by ICANN after close of objection filing period.
During Contention Resolution (Community Priority Evaluation)	Results of each Community Priority Evaluation posted as completed.
During Contention Resolution (Auction)	Results from each auction posted as completed.
Transition to Delegation	Registry Agreements posted when executed. Pre-delegation testing status updated.

1.1.5 Sample Application Scenarios

The following scenarios briefly show a variety of ways in which an application may proceed through the evaluation process. The table that follows exemplifies various processes and outcomes. This is not intended to be an exhaustive list of possibilities. There are other possible combinations of paths an application could follow.

Estimated time frames for each scenario are also included, based on current knowledge. Actual time frames may vary depending on several factors, including the total number

of applications received by ICANN during the application submission period. It should be emphasized that most applications are expected to pass through the process in the shortest period of time, i.e., they will not go through extended evaluation, dispute resolution, or string contention resolution processes. Although most of the scenarios below are for processes extending beyond nine months, it is expected that most applications will complete the process within the nine-month timeframe.

Scenario Number	Initial Evaluation	Extended Evaluation	Objection(s) Filed	String Contention	Approved for Delegation Steps	Estimated Elapsed Time
1	Pass	N/A	None	No	Yes	9 months
2	Fail	Pass	None	No	Yes	14 months
3	Pass	N/A	None	Yes	Yes	11.5 – 15 months
4	Pass	N/A	Applicant prevails	No	Yes	14 months
5	Pass	N/A	Objector prevails	N/A	No	12 months
6	Fail	Quit	N/A	N/A	No	7 months
7	Fail	Fail	N/A	N/A	No	12 months
8	Fail	Pass	Applicant prevails	Yes	Yes	16.5 – 20 months
9	Fail	Pass	Applicant prevails	Yes	No	14.5 – 18 months

Scenario 1 – Pass Initial Evaluation, No Objection, No Contention – In the most straightforward case, the application passes Initial Evaluation and there is no need for an Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. As there is no contention for the applied-for gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD. Most applications are expected to complete the process within this timeframe.

Scenario 2 – Extended Evaluation, No Objection, No Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. As with Scenario 1, no objections are filed

during the objection period, so there is no dispute to resolve. As there is no contention for the gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 3 – Pass Initial Evaluation, No Objection, Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the application prevails in the contention resolution, so the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 4 – Pass Initial Evaluation, Win Objection, No Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing (refer to Module 3, Objection Procedures). The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. The applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 5 – Pass Initial Evaluation, Lose Objection – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, multiple objections are filed by one or more objectors with standing for one or more of the four enumerated objection grounds. Each objection is heard by a dispute resolution service provider panel. In this case, the panels find in favor of the applicant for most of the objections, but one finds in favor of the objector. As one of the objections has been upheld, the application does not proceed.

Scenario 6 – Fail Initial Evaluation, Applicant Withdraws – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant decides to withdraw the application rather than continuing with Extended Evaluation. The application does not proceed.

Scenario 7 – Fail Initial Evaluation, Fail Extended Evaluation -- In this case, the application fails one or more aspects of the Initial Evaluation. The applicant requests Extended Evaluation for the appropriate elements. However, the

application fails Extended Evaluation also. The application does not proceed.

Scenario 8 – Extended Evaluation, Win Objection, Pass Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the applicant prevails over other applications in the contention resolution procedure, the applicant can enter into a registry agreement, and the application can proceed toward delegation of the applied-for gTLD.

Scenario 9 – Extended Evaluation, Objection, Fail Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider that finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, another applicant prevails in the contention resolution procedure, and the application does not proceed.

Transition to Delegation – After an application has successfully completed Initial Evaluation, and other stages as applicable, the applicant is required to complete a set of steps leading to delegation of the gTLD, including execution of a registry agreement with ICANN, and completion of pre-delegation testing. Refer to Module 5 for a description of the steps required in this stage.

1.1.6 Subsequent Application Rounds

ICANN's goal is to launch subsequent gTLD application rounds as quickly as possible. The exact timing will be based on experiences gained and changes required after this round is completed. The goal is for the next application round to begin within one year of the close of the application submission period for the initial round.

ICANN has committed to reviewing the effects of the New gTLD Program on the operations of the root zone system after the first application round, and will defer the delegations in a second application round until it is determined that the delegations resulting from the first round did not jeopardize root zone system security or stability.

It is the policy of ICANN that there be subsequent application rounds, and that a systemized manner of applying for gTLDs be developed in the long term.

1.2 Information for All Applicants

1.2.1 Eligibility

Established corporations, organizations, or institutions in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered. Applications from or on behalf of yet-to-be-formed legal entities, or applications presupposing the future formation of a legal entity (for example, a pending Joint Venture) will not be considered.

ICANN has designed the New gTLD Program with multiple stakeholder protection mechanisms. Background screening, features of the gTLD Registry Agreement, data and financial escrow mechanisms are all intended to provide registrant and user protections.

The application form requires applicants to provide information on the legal establishment of the applying entity, as well as the identification of directors, officers, partners, and major shareholders of that entity. The names and positions of individuals included in the application will be published as part of the application; other information collected about the individuals will not be published.

Background screening at both the entity level and the individual level will be conducted for all applications to confirm eligibility. This inquiry is conducted on the basis of the information provided in questions 1-11 of the application form. ICANN may take into account information received from any source if it is relevant to the criteria in this section. If requested by ICANN, all applicants will be required to obtain and deliver to ICANN and ICANN's background screening vendor any consents or agreements of the entities and/or individuals named in questions 1-11 of the application form necessary to conduct background screening activities.

ICANN will perform background screening in only two areas: (1) General business diligence and criminal history; and (2) History of cybersquatting behavior. The criteria used for criminal history are aligned with the "crimes of trust" standard sometimes used in the banking and finance industry.

In the absence of exceptional circumstances, applications from any entity with or including any individual with convictions or decisions of the types listed in (a) – (m) below will be automatically disqualified from the program.

a. within the past ten years, has been convicted of any crime related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that ICANN deems as the substantive equivalent of any of these;

b. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of the funds of others;

c. within the past ten years has been convicted of any willful tax-related fraud or willful evasion of tax liabilities;

d. within the past ten years has been convicted of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or representative;

e. has ever been convicted of any crime involving the use of computers, telephony systems, telecommunications or the Internet to facilitate the commission of crimes;

f. has ever been convicted of any crime involving the use of a weapon, force, or the threat of force;

g. has ever been convicted of any violent or sexual offense victimizing children, the

elderly, or individuals with disabilities;

h. has ever been convicted of the illegal sale, manufacture, or distribution of pharmaceutical drugs, or been convicted or successfully extradited for any offense described in Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[3];

i. has ever been convicted or successfully extradited for any offense described in the United Nations Convention against Transnational Organized Crime (all Protocols)[4,5];

j. has been convicted, within the respective timeframes, of aiding, abetting, facilitating, enabling, conspiring to commit, or failing to report any of the listed crimes above (i.e., within the past 10 years for crimes listed in (a) - (d) above, or ever for the crimes listed in (e) – (i) above);

k. has entered a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents), within the respective timeframes listed above for any of the listed crimes (i.e., within the past 10 years for crimes listed in (a) – (d) above, or ever for the crimes listed in (e) – (i) above);

l. is the subject of a disqualification imposed by ICANN and in effect at the time the application is considered;

m. has been involved in a pattern of adverse, final decisions indicating that the applicant

[3] http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html

[4] http://www.unodc.org/unodc/en/treaties/CTOC/index.html

[5] It is recognized that not all countries have signed on to the UN conventions referenced above. These conventions are being used solely for identification of a list of crimes for which background screening will be performed. It is not necessarily required that an applicant would have been convicted pursuant to the UN convention but merely convicted of a crime listed under these conventions, to trigger these criteria.

or individual named in the application was engaged in cybersquatting as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), the Anti-Cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or other equivalent legislation. Three or more such decisions with one occurring in the last four years will generally be considered to constitute a pattern.

n. fails to provide ICANN with the identifying information necessary to confirm identity at the time of application or to resolve questions of identity during the background screening process;

o. fails to provide a good faith effort to disclose all relevant information relating to items (a) – (m).

Background screening is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to deny an otherwise qualified application based on any information identified during the background screening process. For example, a final and legally binding decision obtained by a national law enforcement or consumer protection authority finding that the applicant was engaged in fraudulent and deceptive commercial practices as defined in the Organization for Economic Co-operation and Development (OECD) Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders[6] may cause an application to be rejected. ICANN may also contact the applicant with additional questions based on information obtained in the background screening process.

All applicants are required to provide complete and detailed explanations regarding any of the above events as part of the application. Background screening information will not be made publicly available by ICANN.

Registrar Cross-Ownership -- ICANN-accredited registrars are eligible to apply for a gTLD. However, all gTLD registries

[6] http://www.oecd.org/document/56/0,3746,en_2649_34267_2515000_1_1_1_1,00.html

are required to abide by a Code of Conduct addressing, *inter alia*, non-discriminatory access for all authorized registrars. ICANN reserves the right to refer any application to the appropriate competition authority relative to any cross-ownership issues.

Legal Compliance -- ICANN must comply with all U.S. laws, rules, and regulations. One such set of regulations is the economic and trade sanctions program administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury. These sanctions have been imposed on certain countries, as well as individuals and entities that appear on OFAC's List of Specially Designated Nationals and Blocked Persons (the SDN List). ICANN is prohibited from providing most goods or services to residents of sanctioned countries or their governmental entities or to SDNs without an applicable U.S. government authorization or exemption. ICANN generally will not seek a license to provide goods or services to an individual or entity on the SDN List. In the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs, but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license.

1.2.2 Required Documents

All applicants should be prepared to submit the following documents, which are required to accompany each application:

1. **Proof of legal establishment –** Documentation of the applicant's establishment as a specific type of entity in accordance with the applicable laws of its jurisdiction.
2. **Financial statements –** Applicants must provide audited or independently certified financial statements for the most recently completed fiscal year for the applicant. In some cases, unaudited financial statements may be provided.

As indicated in the relevant questions, supporting documentation should be submitted in the original language. English translations are not required.

All documents must be valid at the time of submission. Refer to the Evaluation Criteria, attached to Module 2, for additional details on the requirements for these documents.

Some types of supporting documentation are required only in certain cases:

1. ***Community endorsement –*** If an applicant has designated its application as community-based (see section 1.2.3), it will be asked to submit a written endorsement of its application by one or more established institutions representing the community it has named. An applicant may submit written endorsements from multiple institutions. If applicable, this will be submitted in the section of the application concerning the community-based designation.

   At least one such endorsement is required for a complete application. The form and content of the endorsement are at the discretion of the party providing the endorsement; however, the letter must identify the applied-for gTLD string and the applying entity, include an express statement of support for the application, and supply the contact information of the entity providing the endorsement.

   Written endorsements from individuals need not be submitted with the application, but may be submitted in the application comment forum.

2. ***Government support or non-objection*** – If an applicant has applied for a gTLD string that is a geographic name (as defined in this Guidebook), the applicant is required to submit documentation of support for or non-objection to its application from the relevant governments or public authorities. Refer to subsection 2.2.1.4 for more information on the requirements for geographic names. If applicable, this will be submitted in the geographic names section of the application.

3. ***Documentation of third-party funding commitments –*** If an applicant lists funding from third parties in its application, it must provide evidence of commitment by the party committing the funds. If applicable, this will be submitted in the financial section of the application.

1.2.3 Community-Based Designation

All applicants are required to designate whether their application is **community-based**.

1.2.3.1 Definitions

For purposes of this Applicant Guidebook, a **community-based gTLD** is a gTLD that is operated for the benefit of a clearly delineated community. Designation or non-

designation of an application as community-based is entirely at the discretion of the applicant. Any applicant may designate its application as community-based; however, each applicant making this designation is asked to substantiate its status as representative of the community it names in the application by submission of written endorsements in support of the application. Additional information may be requested in the event of a community priority evaluation (refer to section 4.2 of Module 4). An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a clearly delineated community.
2. Have applied for a gTLD string strongly and specifically related to the community named in the application.
3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD, including appropriate security verification procedures, commensurate with the community-based purpose it has named.
4. Have its application endorsed in writing by one or more established institutions representing the community it has named.

For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as a **standard application.** A standard gTLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. A standard applicant may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designated the application as community-based.

1.2.3.2 Implications of Application Designation

Applicants should understand how their designation as community-based or standard will affect application processing at particular stages, and, if the application is successful, execution of the registry agreement and subsequent obligations as a gTLD registry operator, as described in the following paragraphs.

Objection / Dispute Resolution – All applicants should understand that a formal objection may be filed against any application on community grounds, even if the applicant has not designated itself as community-based or

declared the gTLD to be aimed at a particular community. Refer to Module 3, Objection Procedures.

String Contention – Resolution of string contention may include one or more components, depending on the composition of the contention set and the elections made by community-based applicants.

- A **settlement between the parties** can occur at any time after contention is identified. The parties will be encouraged to meet with an objective to settle the contention. Applicants in contention always have the opportunity to resolve the contention voluntarily, resulting in the withdrawal of one or more applications, before reaching the contention resolution stage.

- A **community priority evaluation** will take place only if a community-based applicant in a contention set elects this option. All community-based applicants in a contention set will be offered this option in the event that there is contention remaining after the applications have successfully completed all previous evaluation stages.

- An **auction** will result for cases of contention not resolved by community priority evaluation or agreement between the parties. Auction occurs as a contention resolution means of last resort. If a community priority evaluation occurs but does not produce a clear winner, an auction will take place to resolve the contention.

Refer to Module 4, String Contention Procedures, for detailed discussions of contention resolution procedures.

Contract Execution and Post-Delegation – A community-based applicant will be subject to certain post-delegation contractual obligations to operate the gTLD in a manner consistent with the restrictions associated with its community-based designation. Material changes to the contract, including changes to the community-based nature of the gTLD and any associated provisions, may only be made with ICANN's approval. The determination of whether to approve changes requested by the applicant will be at ICANN's discretion. Proposed criteria for approving such changes are the subject of policy discussions.

Community-based applications are intended to be a narrow category, for applications where there are

unambiguous associations among the applicant, the community served, and the applied-for gTLD string. Evaluation of an applicant's designation as community-based will occur only in the event of a contention situation that results in a community priority evaluation. However, any applicant designating its application as community-based will, if the application is approved, be bound by the registry agreement to implement the community-based restrictions it has specified in the application. This is true even if there are no contending applicants.

1.2.3.3 Changes to Application Designation

An applicant may not change its designation as standard or community-based once it has submitted a gTLD application for processing.

1.2.4 Notice concerning Technical Acceptance Issues with New gTLDs

All applicants should be aware that approval of an application and entry into a registry agreement with ICANN do not guarantee that a new gTLD will immediately function throughout the Internet. Past experience indicates that network operators may not immediately fully support new top-level domains, even when these domains have been delegated in the DNS root zone, since third-party software modification may be required and may not happen immediately.

Similarly, software applications sometimes attempt to validate domain names and may not recognize new or unknown top-level domains. ICANN has no authority or ability to require that software accept new top-level domains, although it does prominently publicize which top-level domains are valid and has developed a basic tool to assist application providers in the use of current root-zone data.

ICANN encourages applicants to familiarize themselves with these issues and account for them in their startup and launch plans. Successful applicants may find themselves expending considerable efforts working with providers to achieve acceptance of their new top-level domains.

Applicants should review http://www.icann.org/en/topics/TLD-acceptance/ for background. IDN applicants should also review the material concerning experiences with IDN test strings in the root zone (see http://idn.icann.org/).

1.2.5 Notice concerning TLD Delegations

ICANN is only able to create TLDs as delegations in the DNS root zone, expressed using NS records with any corresponding DS records and glue records. There is no policy enabling ICANN to place TLDs as other DNS record types (such as A, MX, or DNAME records) in the root zone.

1.2.6 Terms and Conditions

All applicants must agree to a standard set of Terms and Conditions for the application process. The Terms and Conditions are available in Module 6 of this guidebook.

1.2.7 Notice of Changes to Information

If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.

ICANN reserves the right to require a re-evaluation of the application in the event of a material change. This could involve additional fees or evaluation in a subsequent application round.

Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application.

1.2.8 Voluntary Designation for High Security Zones

An ICANN stakeholder group has considered development of a possible special designation for "High Security Zone Top Level Domains" ("HSTLDs"). The group's Final Report can be found at http://www.icann.org/en/topics/new-gtlds/hstld-final-report-11mar11-en.pdf.

The Final Report may be used to inform further work. ICANN will support independent efforts toward developing voluntary high-security TLD designations, which may be available to gTLD applicants wishing to pursue such designations.

1.2.9 Security and Stability

Root Zone Stability: There has been significant study, analysis, and consultation in preparation for launch of the

New gTLD Program, indicating that the addition of gTLDs to the root zone will not negatively impact the security or stability of the DNS.

It is estimated that 200-300 TLDs will be delegated annually, and determined that in no case will more than 1000 new gTLDs be added to the root zone in a year. The delegation rate analysis, consultations with the technical community, and anticipated normal operational upgrade cycles all lead to the conclusion that the new gTLD delegations will have no significant impact on the stability of the root system. Modeling and reporting will continue during, and after, the first application round so that root-scaling discussions can continue and the delegation rates can be managed as the program goes forward.

All applicants should be aware that delegation of any new gTLDs is conditional on the continued absence of significant negative impact on the security or stability of the DNS and the root zone system (including the process for delegating TLDs in the root zone). In the event that there is a reported impact in this regard and processing of applications is delayed, the applicants will be notified in an orderly and timely manner.

1.2.10 Resources for Applicant Assistance

A variety of support resources are available to gTLD applicants. Financial assistance will be available to a limited number of eligible applicants. To request financial assistance, applicants must submit a separate financial assistance application in addition to the gTLD application form.

To be eligible for consideration, all financial assistance applications must be received by **23:59 UTC 12 April 2012.** Financial assistance applications will be evaluated and scored against pre-established criteria.

In addition, ICANN maintains a webpage as an informational resource for applicants seeking assistance, and organizations offering support.

See http://newgtlds.icann.org/applicants/candidate-support for details on these resources.

1.2.11 Updates to the Applicant Guidebook

As approved by the ICANN Board of Directors, this Guidebook forms the basis of the New gTLD Program. ICANN reserves the right to make reasonable updates and

changes to the Applicant Guidebook at any time, including as the possible result of new technical standards, reference documents, or policies that might be adopted during the course of the application process. Any such updates or revisions will be posted on ICANN's website.

1.3 Information for Internationalized Domain Name Applicants

Some applied-for gTLD strings are expected to be Internationalized Domain Names (IDNs). IDNs are domain names including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-). As described below, IDNs require the insertion of A-labels into the DNS root zone.

1.3.1 IDN-Specific Requirements

An applicant for an IDN string must provide information indicating compliance with the IDNA protocol and other technical requirements. The IDNA protocol and its documentation can be found at http://icann.org/en/topics/idn/rfcs.htm.

Applicants must provide applied-for gTLD strings in the form of both a **U-label** (the IDN TLD in local characters) and an **A-label**.

An A-label is the ASCII form of an IDN label. Every IDN A-label begins with the IDNA ACE prefix, "xn--", followed by a string that is a valid output of the Punycode algorithm, making a maximum of 63 total ASCII characters in length. The prefix and string together must conform to all requirements for a label that can be stored in the DNS including conformance to the LDH (host name) rule described in RFC 1034, RFC 1123, and elsewhere.

A U-label is the Unicode form of an IDN label, which a user expects to see displayed in applications.

For example, using the current IDN test string in Cyrillic script, the U-label is <**испытание**> and the A-label is <**xn--80akhbyknj4f>.** An A-label must be capable of being produced by conversion from a U-label and a U-label must be capable of being produced by conversion from an A-label.

Applicants for IDN gTLDs will also be required to provide the following at the time of the application:

1. Meaning or restatement of string in English. The applicant will provide a short description of what the string would mean or represent in English.
2. Language of label (ISO 639-1). The applicant will specify the language of the applied-for gTLD string, both according to the ISO codes for the representation of names of languages, and in English.
3. Script of label (ISO 15924). The applicant will specify the script of the applied-for gTLD string, both according to the ISO codes for the representation of names of scripts, and in English.
4. Unicode code points. The applicant will list all the code points contained in the U-label according to its Unicode form.
5. Applicants must further demonstrate that they have made reasonable efforts to ensure that the encoded IDN string does not cause any rendering or operational problems. For example, problems have been identified in strings with characters of mixed right-to-left and left-to-right directionality when numerals are adjacent to the path separator (i.e., the dot).[7]

   If an applicant is applying for a string with known issues, it should document steps that will be taken to mitigate these issues in applications. While it is not possible to ensure that all rendering problems are avoided, it is important that as many as possible are identified early and that the potential registry operator is aware of these issues. Applicants can become familiar with these issues by understanding the IDNA protocol (see http://www.icann.org/en/topics/idn/rfcs.htm), and by active participation in the IDN wiki (see http://idn.icann.org/) where some rendering problems are demonstrated.
6. **[Optional]** - Representation of label in phonetic alphabet. The applicant may choose to provide its applied-for gTLD string notated according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/). Note that this information will not be evaluated or scored. The information, if provided, will be used as a guide to ICANN in responding to inquiries or speaking of the application in public presentations.

[7] See examples at http://stupid.domain.name/node/683

1.3.2 IDN Tables

An IDN table provides the list of characters eligible for registration in domain names according to the registry's policy. It identifies any multiple characters that are considered equivalent for domain name registration purposes ("variant characters"). Variant characters occur where two or more characters can be used interchangeably.

Examples of IDN tables can be found in the Internet Assigned Numbers Authority (IANA) IDN Repository at http://www.iana.org/procedures/idn-repository.html.

In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string (the "top level tables"). IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second or lower levels.

Each applicant is responsible for developing its IDN Tables, including specification of any variant characters. Tables must comply with ICANN's IDN Guidelines[8] and any updates thereto, including:

- Complying with IDN technical standards.
- Employing an inclusion-based approach (i.e., code points not explicitly permitted by the registry are prohibited).
- Defining variant characters.
- Excluding code points not permissible under the guidelines, e.g., line-drawing symbols, pictographic dingbats, structural punctuation marks.
- Developing tables and registration policies in collaboration with relevant stakeholders to address common issues.
- Depositing IDN tables with the IANA Repository for IDN Practices (once the TLD is delegated).

An applicant's IDN tables should help guard against user confusion in the deployment of IDN gTLDs. Applicants are strongly urged to consider specific linguistic and writing system issues that may cause problems when characters are used in domain names, as part of their work of defining variant characters.

[8] *See* http://www.icann.org/en/topics/idn/implementation-guidelines.htm

To avoid user confusion due to differing practices across TLD registries, it is recommended that applicants cooperate with TLD operators that offer domain name registration with the same or visually similar characters.

As an example, languages or scripts are often shared across geographic boundaries. In some cases, this can cause confusion among the users of the corresponding language or script communities. Visual confusion can also exist in some instances between different scripts (for example, Greek, Cyrillic and Latin).

Applicants will be asked to describe the process used in developing the IDN tables submitted. ICANN may compare an applicant's IDN table with IDN tables for the same languages or scripts that already exist in the IANA repository or have been otherwise submitted to ICANN. If there are inconsistencies that have not been explained in the application, ICANN may ask the applicant to detail the rationale for differences. For applicants that wish to conduct and review such comparisons prior to submitting a table to ICANN, a table comparison tool will be available.

ICANN will accept the applicant's IDN tables based on the factors above.

Once the applied-for string has been delegated as a TLD in the root zone, the applicant is required to submit IDN tables for lodging in the IANA Repository of IDN Practices. For additional information, see existing tables at http://iana.org/domains/idn-tables/, and submission guidelines at http://iana.org/procedures/idn-repository.html.

1.3.3 IDN Variant TLDs

A variant TLD string results from the substitution of one or more characters in the applied-for gTLD string with variant characters based on the applicant's top level tables.

Each application contains one applied-for gTLD string. The applicant may also declare any variant strings for the TLD in its application. However, no variant gTLD strings will be delegated through the New gTLD Program until variant management solutions are developed and implemented.[9] Declaring variant strings is informative only and will not imply any right or claim to the declared variant strings.

[9] The ICANN Board directed that work be pursued on variant management in its resolution on 25 Sep 2010, http://www.icann.org/en/minutes/resolutions-25sep10-en.htm#2.5.

When a variant delegation process is established, applicants may be required to submit additional information such as implementation details for the variant TLD management mechanism, and may need to participate in a subsequent evaluation process, which could contain additional fees and review steps.

The following scenarios are possible during the gTLD evaluation process:

a. Applicant declares variant strings to the applied-for gTLD string in its application. If the application is successful, the applied-for gTLD string will be delegated to the applicant. The declared variant strings are noted for future reference. These declared variant strings will not be delegated to the applicant along with the applied-for gTLD string, nor will the applicant have any right or claim to the declared variant strings.

   Variant strings listed in successful gTLD applications will be tagged to the specific application and added to a "Declared Variants List" that will be available on ICANN's website. A list of pending (i.e., declared) variant strings from the IDN ccTLD Fast Track is available at http://icann.org/en/topics/idn/fast-track/string-evaluation-completion-en.htm.

   ICANN may perform independent analysis on the declared variant strings, and will not necessarily include all strings listed by the applicant on the Declared Variants List.

b. Multiple applicants apply for strings that are identified by ICANN as variants of one another. These applications will be placed in a contention set and will follow the contention resolution procedures in Module 4.

c. Applicant submits an application for a gTLD string and does not indicate variants to the applied-for gTLD string. ICANN will not identify variant strings unless scenario (b) above occurs.

Each variant string declared in the application must also conform to the string requirements in section 2.2.1.3.2.

Variant strings declared in the application will be reviewed for consistency with the top-level tables submitted in the application. Should any declared variant strings not be

based on use of variant characters according to the submitted top-level tables, the applicant will be notified and the declared string will no longer be considered part of the application.

Declaration of variant strings in an application does not provide the applicant any right or reservation to a particular string. Variant strings on the Declared Variants List may be subject to subsequent additional review per a process and criteria to be defined.

It should be noted that while variants for second and lower-level registrations are defined freely by the local communities without any ICANN validation, there may be specific rules and validation criteria specified for variant strings to be allowed at the top level. It is expected that the variant information provided by applicants in the first application round will contribute to a better understanding of the issues and assist in determining appropriate review steps and fee levels going forward.

1.4 Submitting an Application

Applicants may complete the application form and submit supporting documents using ICANN's TLD Application System (TAS). To access the system, each applicant must first register as a TAS user.

As TAS users, applicants will be able to provide responses in open text boxes and submit required supporting documents as attachments. Restrictions on the size of attachments as well as the file formats are included in the instructions on the TAS site.

Except where expressly provided within the question, all application materials must be submitted in English.

ICANN will not accept application forms or supporting materials submitted through other means than TAS (that is, hard copy, fax, email), unless such submission is in accordance with specific instructions from ICANN to applicants.

1.4.1 Accessing the TLD Application System

The TAS site will be accessible from the New gTLD webpage (http://www.icann.org/en/topics/new-gtld-program.htm), and will be highlighted in communications regarding the opening of the application submission period. Users of TAS will be expected to agree to a standard set of terms of use

including user rights, obligations, and restrictions in relation to the use of the system.

1.4.1.1 User Registration

TAS user registration (creating a TAS user profile) requires submission of preliminary information, which will be used to validate the identity of the parties involved in the application. An overview of the information collected in the user registration process is below:

No.	Questions
1	Full legal name of Applicant
2	Principal business address
3	Phone number of Applicant
4	Fax number of Applicant
5	Website or URL, if applicable
6	Primary Contact: Name, Title, Address, Phone, Fax, Email
7	Secondary Contact: Name, Title, Address, Phone, Fax, Email
8	Proof of legal establishment
9	Trading, subsidiary, or joint venture information
10	Business ID, Tax ID, VAT registration number, or equivalent of Applicant
11	Applicant background: previous convictions, cybersquatting activities
12	Deposit payment confirmation and payer information

A subset of identifying information will be collected from the entity performing the user registration, in addition to the applicant information listed above. The registered user could be, for example, an agent, representative, or

employee who would be completing the application on behalf of the applicant.

The registration process will require the user to request the desired number of application slots. For example, a user intending to submit five gTLD applications would complete five application slot requests, and the system would assign the user a unique ID number for each of the five applications.

Users will also be required to submit a deposit of USD 5,000 per application slot. This deposit amount will be credited against the evaluation fee for each application. The deposit requirement is in place to help reduce the risk of frivolous access to the online application system.

After completing the registration, TAS users will receive access enabling them to enter the rest of the application information into the system. Application slots will be populated with the registration information provided by the applicant, which may not ordinarily be changed once slots have been assigned.

No new user registrations will be accepted after **23:59 UTC 29 March 2012.**

ICANN will take commercially reasonable steps to protect all applicant data submitted from unauthorized access, but cannot warrant against the malicious acts of third parties who may, through system corruption or other means, gain unauthorized access to such data.

1.4.1.2 Application Form

Having obtained the requested application slots, the applicant will complete the remaining application questions. An overview of the areas and questions contained in the form is shown here:

No.	Application and String Information
12	Payment confirmation for remaining evaluation fee amount
13	Applied-for gTLD string
14	IDN string information, if applicable
15	IDN tables, if applicable

16	Mitigation of IDN operational or rendering problems, if applicable
17	Representation of string in International Phonetic Alphabet (Optional)
18	Mission/purpose of the TLD
19	Is the application for a community-based TLD?
20	If community based, describe elements of community and proposed policies
21	Is the application for a geographic name? If geographic, documents of support required
22	Measures for protection of geographic names at second level
23	Registry Services: name and full description of all registry services to be provided
	Technical and Operational Questions (External)
24	Shared registration system (SRS) performance
25	EPP
26	Whois
27	Registration life cycle
28	Abuse prevention & mitigation
29	Rights protection mechanisms
30(a)	Security
	Technical and Operational Questions (Internal)
30(b)	Security
31	Technical overview of proposed registry
32	Architecture

33	Database capabilities
34	Geographic diversity
35	DNS service compliance
36	IPv6 reachability
37	Data backup policies and procedures
38	Escrow
39	Registry continuity
40	Registry transition
41	Failover testing
42	Monitoring and fault escalation processes
43	DNSSEC
44	IDNs (Optional)
	Financial Questions
45	Financial statements
46	Projections template: costs and funding
47	Costs: setup and operating
48	Funding and revenue
49	Contingency planning: barriers, funds, volumes
50	Continuity: continued operations instrument

1.4.2 Customer Service during the Application Process

Assistance will be available to applicants throughout the application process via the Applicant Service Center (ASC). The ASC will be staffed with customer service agents

to answer questions relating to the New gTLD Program, the application process, and TAS.

1.4.3 Backup Application Process

If the online application system is not available, ICANN will provide alternative instructions for submitting applications.

1.5 Fees and Payments

This section describes the fees to be paid by the applicant. Payment instructions are also included here.

1.5.1 gTLD Evaluation Fee

The gTLD evaluation fee is required from all applicants. This fee is in the amount of USD 185,000. The evaluation fee is payable in the form of a 5,000 deposit submitted at the time the user requests an application slot within TAS, and a payment of the remaining 180,000 submitted with the full application. ICANN will not begin its evaluation of an application unless it has received the full gTLD evaluation fee by **23:59 UTC 12 April 2012**.

The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.

The gTLD evaluation fee covers all required reviews in Initial Evaluation and, in most cases, any required reviews in Extended Evaluation. If an extended Registry Services review takes place, an additional fee will be incurred for this review (see section 1.5.2). There is no additional fee to the applicant for Extended Evaluation for geographic names, technical and operational, or financial reviews.

Refunds -- In certain cases, refunds of a portion of the evaluation fee may be available for applications that are withdrawn before the evaluation process is complete. An applicant may request a refund at any time until it has executed a registry agreement with ICANN. The amount of the refund will depend on the point in the process at which the withdrawal is requested, as follows:

Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
Within 21 calendar days of a GAC Early	80%	USD 148,000

Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
Warning		
After posting of applications until posting of Initial Evaluation results	70%	USD 130,000
After posting Initial Evaluation results	35%	USD 65,000
After the applicant has completed Dispute Resolution, Extended Evaluation, or String Contention Resolution(s)	20%	USD 37,000
After the applicant has entered into a registry agreement with ICANN		None

Thus, any applicant that has not been successful is eligible for at least a 20% refund of the evaluation fee if it withdraws its application.

An applicant that wishes to withdraw an application must initiate the process through TAS. Withdrawal of an application is final and irrevocable. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN, or any unpaid evaluation fees, will be deducted from the amount paid. Any refund paid will be in full satisfaction of ICANN's obligations to the applicant. The applicant will have no entitlement to any additional amounts, including for interest or currency exchange rate changes.

Note on 2000 proof-of-concept round applicants --
Participants in ICANN's proof-of-concept application process in 2000 may be eligible for a credit toward the evaluation fee. The credit is in the amount of USD 86,000 and is subject to:

- submission of documentary proof by the applicant that it is the same entity, a successor in interest to the same entity, or an affiliate of the same entity that applied previously;
- a confirmation that the applicant was not awarded any TLD string pursuant to the 2000 proof–of-concept application round and that the applicant has no legal claims arising from the 2000 proof-of-concept process; and
- submission of an application, which may be modified from the application originally submitted in 2000, for the same TLD string that such entity applied for in the 2000 proof-of-concept application round.

Each participant in the 2000 proof-of-concept application process is eligible for at most one credit. A maximum of one credit may be claimed for any new gTLD application submitted according to the process in this guidebook. Eligibility for this credit is determined by ICANN.

1.5.2 Fees Required in Some Cases

Applicants may be required to pay additional fees in certain cases where specialized process steps are applicable. Those possible additional fees[10] include:

- ***Registry Services Review Fee –*** If applicable, this fee is payable for additional costs incurred in referring an application to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review. Applicants will be notified if such a fee is due. The fee for a three-member RSTEP review team is anticipated to be USD 50,000. In some cases, five-member panels might be required, or there might be increased scrutiny at a greater cost. The amount of the fee will cover the cost of the RSTEP review. In the event that reviews of proposed registry services can be consolidated across multiple applications or applicants, ICANN will apportion the fees in an equitable manner. In every case, the applicant will be advised of the cost before initiation of the review. Refer to subsection 2.2.3 of Module 2 on Registry Services review.

[10] The estimated fee amounts provided in this section 1.5.2 will be updated upon engagement of panel service providers and establishment of fees.

- ***Dispute Resolution Filing Fee –*** This amount must accompany any filing of a formal objection and any response that an applicant files to an objection. This fee is payable directly to the applicable dispute resolution service provider in accordance with the provider's payment instructions. ICANN estimates that filing fees could range from approximately USD 1,000 to USD 5,000 (or more) per party per proceeding. Refer to the appropriate provider for the relevant amount. Refer to Module 3 for dispute resolution procedures.

- ***Advance Payment of Costs –*** In the event of a formal objection, this amount is payable directly to the applicable dispute resolution service provider in accordance with that provider's procedures and schedule of costs. Ordinarily, both parties in the dispute resolution proceeding will be required to submit an advance payment of costs in an estimated amount to cover the entire cost of the proceeding. This may be either an hourly fee based on the estimated number of hours the panelists will spend on the case (including review of submissions, facilitation of a hearing, if allowed, and preparation of a decision), or a fixed amount. In cases where disputes are consolidated and there are more than two parties involved, the advance payment will occur according to the dispute resolution service provider's rules.

  The prevailing party in a dispute resolution proceeding will have its advance payment refunded, while the non-prevailing party will not receive a refund and thus will bear the cost of the proceeding. In cases where disputes are consolidated and there are more than two parties involved, the refund of fees will occur according to the dispute resolution service provider's rules.

  ICANN estimates that adjudication fees for a proceeding involving a fixed amount could range from USD 2,000 to USD 8,000 (or more) per proceeding. ICANN further estimates that an hourly rate based proceeding with a one-member panel could range from USD 32,000 to USD 56,000 (or more) and with a three-member panel it could range from USD 70,000 to USD 122,000 (or more). These estimates may be lower if the panel does not call for written submissions beyond the objection and response, and does not allow a hearing. Please

refer to the appropriate provider for the relevant amounts or fee structures.

- ***Community Priority Evaluation Fee –*** In the event that the applicant participates in a community priority evaluation, this fee is payable as a deposit in an amount to cover the cost of the panel's review of that application (currently estimated at USD 10,000). The deposit is payable to the provider appointed to handle community priority evaluations. Applicants will be notified if such a fee is due. Refer to Section 4.2 of Module 4 for circumstances in which a community priority evaluation may take place. An applicant who scores at or above the threshold for the community priority evaluation will have its deposit refunded.

ICANN will notify the applicants of due dates for payment in respect of additional fees (if applicable). This list does not include fees (annual registry fees) that will be payable to ICANN following execution of a registry agreement.

1.5.3 Payment Methods

Payments to ICANN should be submitted by **wire transfer**. Instructions for making a payment by wire transfer will be available in TAS.[11]

Payments to Dispute Resolution Service Providers should be submitted in accordance with the provider's instructions.

1.5.4 Requesting a Remittance Form

The TAS interface allows applicants to request issuance of a remittance form for any of the fees payable to ICANN. This service is for the convenience of applicants that require an invoice to process payments.

1.6 Questions about this Applicant Guidebook

For assistance and questions an applicant may have in the process of completing the application form, applicants should use the customer support resources available via the ASC. Applicants who are unsure of the information being sought in a question or the parameters for acceptable documentation are encouraged to communicate these questions through the appropriate

[11] Wire transfer is the preferred method of payment as it offers a globally accessible and dependable means for international transfer of funds. This enables ICANN to receive the fee and begin processing applications as quickly as possible.

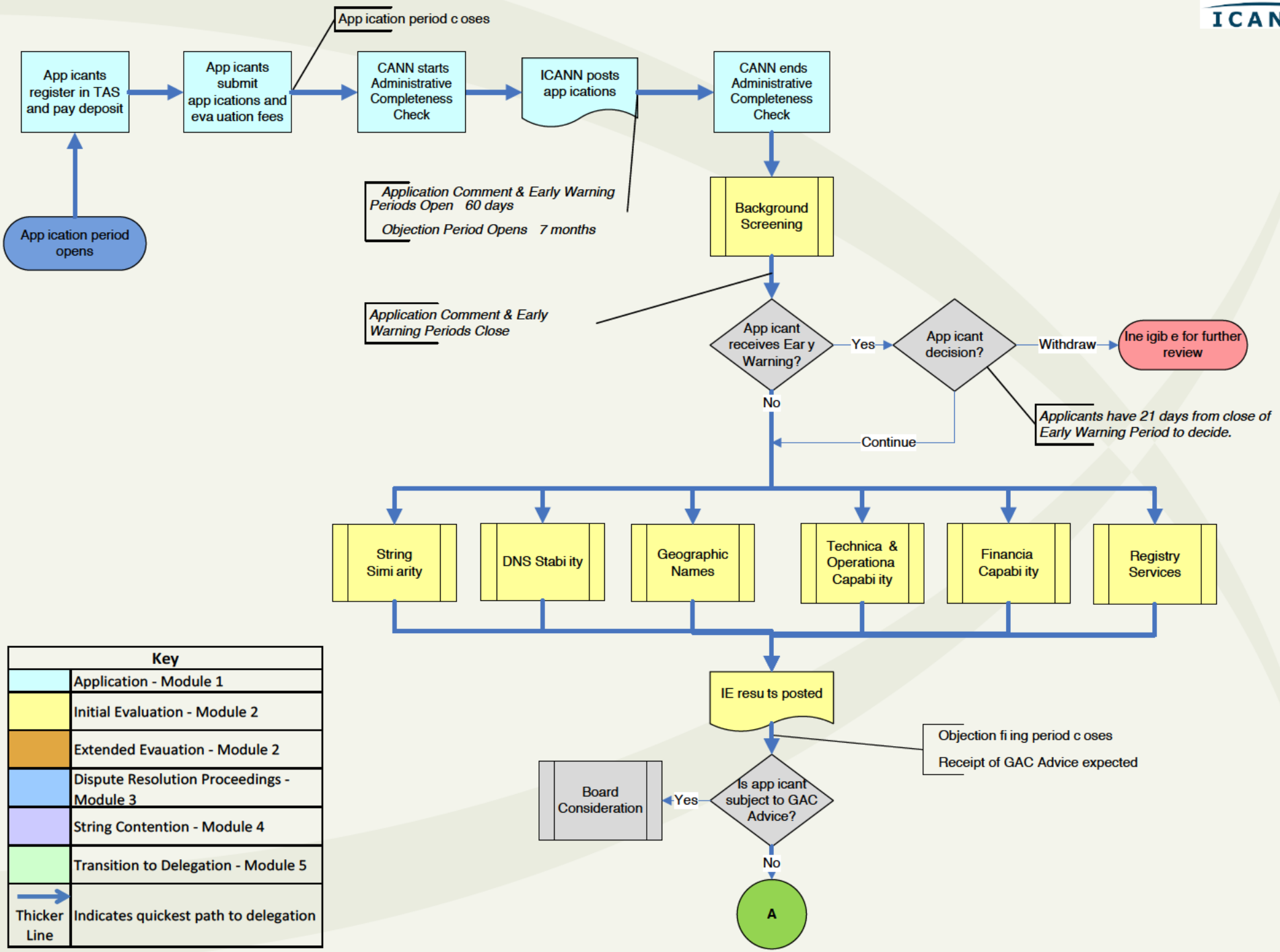
support channels before the application is submitted. This helps avoid the need for exchanges with evaluators to clarify information, which extends the timeframe associated with processing the application.

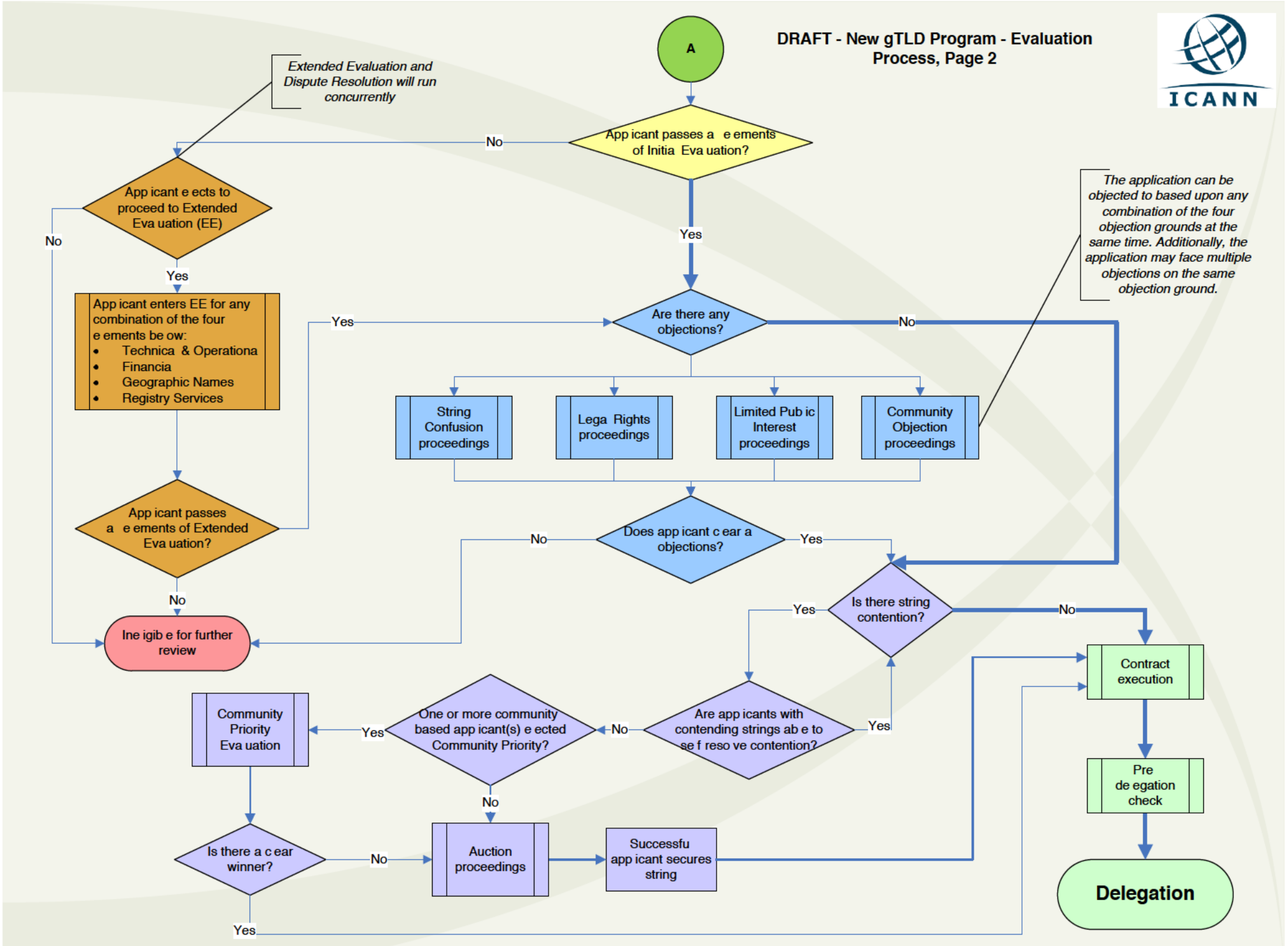
Currently, questions may be submitted via <newgtld@icann.org>. To provide all applicants equitable access to information, ICANN will make all questions and answers publicly available.

All requests to ICANN for information about the process or issues surrounding preparation of an application must be submitted to the ASC. ICANN will not grant requests from applicants for personal or telephone consultations regarding the preparation of an application. Applicants that contact ICANN for clarification about aspects of the application will be referred to the ASC.

Answers to inquiries will only provide clarification about the application forms and procedures. ICANN will not provide consulting, financial, or legal advice.

DRAFT - New gTLD Program - Evaluation Process




DRAFT - New gTLD Program - Evaluation Process, Page 2
ICANN
A
Extended Evaluation and Dispute Resolution will run concurrently
App icant passes a e ements of Initia Eva uation?
No
Yes
App icant e ects to proceed to Extended Eva uation (EE)
No
Yes
App icant enters EE for any combination of the four e ements be ow:
Technica & Operationa
Financia
Geographic Names
Registry Services
App icant passes a e ements of Extended Eva uation?
Yes
No
Ine igib e for further review
Are there any objections?
Yes
No
The application can be objected to based upon any combination of the four objection grounds at the same time. Additionally, the application may face multiple objections on the same objection ground.
String Confusion proceedings
Lega Rights proceedings
Limited Pub ic Interest proceedings
Community Objection proceedings
Does app icant c ear a objections?
No
Yes
Is there string contention?
Yes
No
Are app icants with contending strings ab e to se f reso ve contention?
Yes
No
One or more community based app icant(s) e ected Community Priority?
Yes
No
Community Priority Eva uation
Is there a c ear winner?
No
Yes
Auction proceedings
Successfu app icant secures string
Contract execution
Pre de egation check
Delegation

gTLD Applicant Guidebook

(v. 2012-06-04)

Module 2

4 June 2012

Module 2

Evaluation Procedures

This module describes the evaluation procedures and criteria used to determine whether applied-for gTLDs are approved for delegation. All applicants will undergo an Initial Evaluation and those that do not pass all elements may request Extended Evaluation.

The first, required evaluation is the **Initial Evaluation**, during which ICANN assesses an applied-for gTLD string, an applicant's qualifications, and its proposed registry services.

The following assessments are performed in the **Initial Evaluation**:

- String Reviews
  - String similarity
  - Reserved names
  - DNS stability
  - Geographic names
- Applicant Reviews
  - Demonstration of technical and operational capability
  - Demonstration of financial capability
  - Registry services reviews for DNS stability issues

An application must pass all these reviews to pass the Initial Evaluation. Failure to pass any one of these reviews will result in a failure to pass the Initial Evaluation.

Extended Evaluation may be applicable in cases in which an applicant does not pass the Initial Evaluation. See Section 2.3 below.

2.1 Background Screening

Background screening will be conducted in two areas:

(a) General business diligence and criminal history; and

(b) History of cybersquatting behavior.

The application must pass both background screening areas to be eligible to proceed. Background screening results are evaluated according to the criteria described in section 1.2.1. Due to the potential sensitive nature of the material, applicant background screening reports will not be published.

The following sections describe the process ICANN will use to perform background screening.

2.1.1 General business diligence and criminal history

Applying entities that are publicly traded corporations listed and in good standing on any of the world's largest 25 stock exchanges (as listed by the World Federation of Exchanges) will be deemed to have passed the general business diligence and criminal history screening. The largest 25 will be based on the domestic market capitalization reported at the end of the most recent calendar year prior to launching each round.[1]

Before an entity is listed on an exchange, it must undergo significant due diligence including an investigation by the exchange, regulators, and investment banks. As a publicly listed corporation, an entity is subject to ongoing scrutiny from shareholders, analysts, regulators, and exchanges. All exchanges require monitoring and disclosure of material information about directors, officers, and other key personnel, including criminal behavior. In totality, these requirements meet or exceed the screening ICANN will perform.

For applicants not listed on one of these exchanges, ICANN will submit identifying information for the entity, officers, directors, and major shareholders to an international background screening service. The service provider(s) will use the criteria listed in section 1.2.1 and return results that match these criteria. Only publicly available information will be used in this inquiry.

ICANN is in discussions with INTERPOL to identify ways in which both organizations can collaborate in background screenings of individuals, entities and their identity documents consistent with both organizations' rules and regulations. Note that the applicant is expected to disclose potential problems in meeting the criteria in the application, and provide any clarification or explanation at the time of application submission. Results returned from

[1] See http://www.world-exchanges.org/statistics/annual/2010/equity-markets/domestic-market-capitalization

the background screening process will be matched with the disclosures provided by the applicant and those cases will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will generally pass this portion of the background screening.

2.1.2 History of cybersquatting

ICANN will screen applicants against UDRP cases and legal databases as financially feasible for data that may indicate a pattern of cybersquatting behavior pursuant to the criteria listed in section 1.2.1.

The applicant is required to make specific declarations regarding these activities in the application. Results returned during the screening process will be matched with the disclosures provided by the applicant and those instances will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will generally pass this portion of the background screening.

2.2 Initial Evaluation

The Initial Evaluation consists of two types of review. Each type is composed of several elements.

String review: The first review focuses on the applied-for gTLD string to test:

- Whether the applied-for gTLD string is so similar to other strings that it would create a probability of user confusion;
- Whether the applied-for gTLD string might adversely affect DNS security or stability; and
- Whether evidence of requisite government approval is provided in the case of certain geographic names.

Applicant review: The second review focuses on the applicant to test:

- Whether the applicant has the requisite technical, operational, and financial capability to operate a registry; and
- Whether the registry services offered by the applicant might adversely affect DNS security or stability.

2.2.1 String Reviews

In the Initial Evaluation, ICANN reviews every applied-for gTLD string. Those reviews are described in greater detail in the following subsections.

2.2.1.1 String Similarity Review

This review involves a preliminary comparison of each applied-for gTLD string against existing TLDs, Reserved Names (see subsection 2.2.1.2), and other applied-for strings. The objective of this review is to prevent user confusion and loss of confidence in the DNS resulting from delegation of many similar strings.

Note: In this Applicant Guidebook, "similar" means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.

The visual similarity check that occurs during Initial Evaluation is intended to augment the objection and dispute resolution process (see Module 3, Dispute Resolution Procedures) that addresses all types of similarity.

This similarity review will be conducted by an independent String Similarity Panel.

2.2.1.1.1 Reviews Performed

The String Similarity Panel's task is to identify visual string similarities that would create a probability of user confusion.

The panel performs this task of assessing similarities that would lead to user confusion in four sets of circumstances, when comparing:

- Applied-for gTLD strings against existing TLDs and reserved names;
- Applied-for gTLD strings against other applied-for gTLD strings;
- Applied-for gTLD strings against strings requested as IDN ccTLDs; and
- Applied-for 2-character IDN gTLD strings against:
    - Every other single character.
    - Any other 2-character ASCII string (to protect possible future ccTLD delegations).

Similarity to Existing TLDs or Reserved Names – This review involves cross-checking between each applied-for string and the lists of existing TLD strings and Reserved Names to determine whether two strings are so similar to one another that they create a probability of user confusion.

In the simple case in which an applied-for gTLD string is identical to an existing TLD or reserved name, the online application system will not allow the application to be submitted.

Testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. For example, protocols treat equivalent labels as alternative forms of the same label, just as "foo" and "Foo" are treated as alternative forms of the same label (RFC 3490).

All TLDs currently in the root zone can be found at http://iana.org/domains/root/db/.

IDN tables that have been submitted to ICANN are available at http://www.iana.org/domains/idn-tables/.

Similarity to Other Applied-for gTLD Strings (String Contention Sets) – All applied-for gTLD strings will be reviewed against one another to identify any similar strings. In performing this review, the String Similarity Panel will create contention sets that may be used in later stages of evaluation.

A contention set contains at least two applied-for strings identical or similar to one another. Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution.

ICANN will notify applicants who are part of a contention set as soon as the String Similarity review is completed. (This provides a longer period for contending applicants to reach their own resolution before reaching the contention resolution stage.) These contention sets will also be published on ICANN's website.

Similarity to TLD strings requested as IDN ccTLDs -- Applied-for gTLD strings will also be reviewed for similarity to TLD strings requested in the IDN ccTLD Fast Track process (see http://www.icann.org/en/topics/idn/fast-track/). Should a conflict with a prospective fast-track IDN ccTLD be identified, ICANN will take the following approach to resolving the conflict.

If one of the applications has completed its respective process before the other is lodged, that TLD will be delegated. A gTLD application that has successfully completed all relevant evaluation stages, including dispute resolution and string contention, if applicable, and is eligible for entry into a registry agreement will be considered complete, and therefore would not be disqualified by a newly-filed IDN ccTLD request. Similarly, an IDN ccTLD request that has completed evaluation (i.e., is validated) will be considered complete and therefore would not be disqualified by a newly-filed gTLD application.

In the case where neither application has completed its respective process, where the gTLD application does not have the required approval from the relevant government or public authority, a validated request for an IDN ccTLD will prevail and the gTLD application will not be approved. The term "validated" is defined in the IDN ccTLD Fast Track Process Implementation, which can be found at http://www.icann.org/en/topics/idn.

In the case where a gTLD applicant has obtained the support or non-objection of the relevant government or public authority, but is eliminated due to contention with a string requested in the IDN ccTLD Fast Track process, a full refund of the evaluation fee is available to the applicant if the gTLD application was submitted prior to the publication of the ccTLD request.

Review of 2-character IDN strings — In addition to the above reviews, an applied-for gTLD string that is a 2-character IDN string is reviewed by the String Similarity Panel for visual similarity to:

a) Any one-character label (in any script), and

b) Any possible two-character ASCII combination.

An applied-for gTLD string that is found to be too similar to a) or b) above will not pass this review.

2.2.1.1.2 *Review Methodology*

The String Similarity Panel is informed in part by an algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs and reserved names. The score will provide one objective measure for consideration by the panel, as part of the process of identifying strings likely to result in user confusion. In general, applicants should expect that a higher visual similarity score suggests a higher probability

that the application will not pass the String Similarity review. However, it should be noted that the score is only indicative and that the final determination of similarity is entirely up to the Panel's judgment.

The algorithm, user guidelines, and additional background information are available to applicants for testing and informational purposes.[2] Applicants will have the ability to test their strings and obtain algorithmic results through the application system prior to submission of an application.

The algorithm supports the common characters in Arabic, Chinese, Cyrillic, Devanagari, Greek, Japanese, Korean, and Latin scripts. It can also compare strings in different scripts to each other.

The panel will also take into account variant characters, as defined in any relevant language table, in its determinations. For example, strings that are not visually similar but are determined to be variant TLD strings based on an IDN table would be placed in a contention set. Variant TLD strings that are listed as part of the application will also be subject to the string similarity analysis.[3]

The panel will examine all the algorithm data and perform its own review of similarities between strings and whether they rise to the level of string confusion. In cases of strings in scripts not yet supported by the algorithm, the panel's assessment process is entirely manual.

The panel will use a common standard to test for whether string confusion exists, as follows:

Standard for String Confusion – String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

2.2.1.1.3 Outcomes of the String Similarity Review

An application that fails the String Similarity review due to similarity to an existing TLD will not pass the Initial Evaluation,

[2] *See* http://icann.sword-group.com/algorithm/

[3] In the case where an applicant has listed Declared Variants in its application (see subsection 1.3.3), the panel will perform an analysis of the listed strings to confirm that the strings are variants according to the applicant's IDN table. This analysis may include comparison of applicant IDN tables with other existing tables for the same language or script, and forwarding any questions to the applicant.

and no further reviews will be available. Where an application does not pass the String Similarity review, the applicant will be notified as soon as the review is completed.

An application for a string that is found too similar to another applied-for gTLD string will be placed in a contention set.

An application that passes the String Similarity review is still subject to objection by an existing TLD operator or by another gTLD applicant in the current application round. That process requires that a string confusion objection be filed by an objector having the standing to make such an objection. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

An applicant may file a formal objection against another gTLD application on string confusion grounds. Such an objection may, if successful, change the configuration of the preliminary contention sets in that the two applied-for gTLD strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

2.2.1.2 Reserved Names and Other Unavailable Strings

Certain names are not available as gTLD strings, as detailed in this section.

2.2.1.2.1 Reserved Names

All applied-for gTLD strings are compared with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

Top-Level Reserved Names List

AFRINIC	*IANA-SERVERS*	*NRO*
ALAC	*ICANN*	*RFC-EDITOR*
APNIC	*IESG*	*RIPE*
ARIN	*IETF*	*ROOT-SERVERS*
ASO	*INTERNIC*	*RSSAC*
CCNSO	*INVALID*	*SSAC*
*EXAMPLE**	*IRTF*	*TEST**
GAC	*ISTF*	*TLD*

GNSO	*LACNIC*	*WHOIS*
GTLD-SERVERS	*LOCAL*	*WWW*
IAB	*LOCALHOST*	
IANA	*NIC*	
*Note that in addition to the above strings, ICANN will reserve translations of the terms "test" and "example" in multiple languages. The remainder of the strings are reserved only in the form included above.		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the Reserved Name and will not allow the application to be submitted.

In addition, applied-for gTLD strings are reviewed during the String Similarity review to determine whether they are similar to a Reserved Name. An application for a gTLD string that is identified as too similar to a Reserved Name will not pass this review.

2.2.1.2.2 Declared Variants

Names appearing on the Declared Variants List (see section 1.3.3) will be posted on ICANN's website and will be treated essentially the same as Reserved Names, until such time as variant management solutions are developed and variant TLDs are delegated. That is, an application for a gTLD string that is identical or similar to a string on the Declared Variants List will not pass this review.

2.2.1.2.3 Strings Ineligible for Delegation

The following names are prohibited from delegation as gTLDs in the initial application round. Future application rounds may differ according to consideration of further policy advice.

These names are not being placed on the Top-Level Reserved Names List, and thus are not part of the string similarity review conducted for names on that list. Refer to subsection 2.2.1.1: where applied-for gTLD strings are reviewed for similarity to existing TLDs and reserved names, the strings listed in this section are not reserved names and accordingly are not incorporated into this review.

Applications for names appearing on the list included in this section will not be approved.

International Olympic Committee		
OLYMPIC	OLYMPIAD	OLYMPIQUE
OLYMPIADE	OLYMPISCH	OLÍMPICO
OLIMPÍADA	أوليمبي	أوليمبياد
奥林匹克	奥林匹亚	奥林匹克
奧林匹亞	Ολυμπιακοί	Ολυμπιάδα
올림픽	올림피아드	Олимпийский
Олимпиада		

International Red Cross and Red Crescent Movement		
REDCROSS	REDCRESCENT	REDCRYSTAL
REDLIONANDSUN	MAGENDDAVIDADOM	REDSTAROFDAVID
CROIXROUGE	CROIX-ROUGE	CROISSANTROUGE
CROISSANT-ROUGE	CRISTALROUGE	CRISTAL-ROUGE
מגן דוד אדום	CRUZROJA	MEDIALUNAROJA
CRISTALROJO	Красный Крест	Красный Полумесяц
Красный Кристалл	الصليب ألأحمر	الهلال ألأحمر
البلورة الحمراء	الكريستالة الحمراء	紅十字
红十字	紅新月	红新月
紅水晶	红水晶	

2.2.1.3 DNS Stability Review

This review determines whether an applied-for gTLD string might cause instability to the DNS. In all cases, this will involve a review for conformance with technical and other requirements for gTLD strings (labels). In some exceptional cases, an extended review may be necessary to investigate possible technical stability problems with the applied-for gTLD string.

Note: All applicants should recognize issues surrounding invalid TLD queries at the root level of the DNS.

Any new TLD registry operator may experience unanticipated queries, and some TLDs may experience a non-trivial load of unanticipated queries. For more information, see the Security and Stability Advisory Committee (SSAC)'s report on this topic at http://www.icann.org/en/committees/security/sac045.pdf. Some publicly available statistics are also available at http://stats.l.root-servers.org/.

ICANN will take steps to alert applicants of the issues raised in SAC045, and encourage the applicant to prepare to minimize the possibility of operational difficulties that would pose a stability or availability problem for its registrants and users. However, this notice is merely an advisory to applicants and is not part of the evaluation, unless the string raises significant security or stability issues as described in the following section.

2.2.1.3.1 DNS Stability: String Review Procedure

New gTLD labels must not adversely affect the security or stability of the DNS. During the Initial Evaluation period, ICANN will conduct a preliminary review on the set of applied-for gTLD strings to:

- ensure that applied-for gTLD strings comply with the requirements provided in section 2.2.1.3.2, and
- determine whether any strings raise significant security or stability issues that may require further review.

There is a very low probability that extended analysis will be necessary for a string that fully complies with the string requirements in subsection 2.2.1.3.2 of this module. However, the string review process provides an additional safeguard if unanticipated security or stability issues arise concerning an applied-for gTLD string.

In such a case, the DNS Stability Panel will perform an extended review of the applied-for gTLD string during the Initial Evaluation period. The panel will determine whether the string fails to comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will report on its findings.

If the panel determines that the string complies with relevant standards and does not create the conditions

described above, the application will pass the DNS Stability review.

If the panel determines that the string does not comply with relevant technical standards, or that it creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application will not pass the Initial Evaluation, and no further reviews are available. In the case where a string is determined likely to cause security or stability problems in the DNS, the applicant will be notified as soon as the DNS Stability review is completed.

2.2.1.3.2 String Requirements

ICANN will review each applied-for gTLD string to ensure that it complies with the requirements outlined in the following paragraphs.

If an applied-for gTLD string is found to violate any of these rules, the application will not pass the DNS Stability review. No further reviews are available.

Part I -- Technical Requirements for all Labels (Strings) – The technical requirements for top-level domain labels follow.

1.1 The ASCII label (i.e., the label as transmitted on the wire) must be valid as specified in technical standards *Domain Names: Implementation and Specification* (RFC 1035), and *Clarifications to the DNS Specification* (RFC 2181) and any updates thereto. This includes the following:

1.1.1 The label must have no more than 63 characters.

1.1.2 Upper and lower case characters are treated as identical.

1.2 The ASCII label must be a valid host name, as specified in the technical standards *DOD Internet Host Table Specification* (RFC 952), *Requirements for Internet Hosts — Application and Support* (RFC 1123), and *Application Techniques for Checking and Transformation of Names (RFC 3696), Internationalized Domain Names in Applications (IDNA)(RFCs 5890-5894), and any updates thereto.* This includes the following:

1.2.1 The ASCII label must consist entirely of letters (alphabetic characters a-z), or

1.2.2 The label must be a valid IDNA A-label (further restricted as described in Part II below).

Part II -- Requirements for Internationalized Domain Names – These requirements apply only to prospective top-level domains that contain non-ASCII characters. Applicants for these internationalized top-level domain labels are expected to be familiar with the Internet Engineering Task Force (IETF) IDNA standards, Unicode standards, and the terminology associated with Internationalized Domain Names.

2.1 The label must be an A-label as defined in IDNA, converted from (and convertible to) a U-label that is consistent with the definition in IDNA, and further restricted by the following, non-exhaustive, list of limitations:

2.1.1 Must be a valid A-label according to IDNA.

2.1.2 The derived property value of all codepoints used in the U-label, as defined by IDNA, must be PVALID or CONTEXT (accompanied by unambiguous contextual rules).[4]

2.1.3 The general category of all codepoints, as defined by IDNA, must be one of (Ll, Lo, Lm, Mn, Mc).

2.1.4 The U-label must be fully compliant with Normalization Form C, as described in *Unicode Standard Annex #15: Unicode Normalization Forms.* See also examples in http://unicode.org/faq/normalization.html.

2.1.5 The U-label must consist entirely of characters with the same directional property, or fulfill the requirements of the Bidi rule per RFC 5893.

2.2 The label must meet the relevant criteria of the ICANN *Guidelines for the Implementation of Internationalised Domain Names*. See http://www.icann.org/en/topics/idn/implementatio

[4] It is expected that conversion tools for IDNA will be available before the Application Submission period begins, and that labels will be checked for validity under IDNA. In this case, labels valid under the previous version of the protocol (IDNA2003) but not under IDNA will not meet this element of the requirements. Labels that are valid under both versions of the protocol will meet this element of the requirements. Labels valid under IDNA but not under IDNA2003 may meet the requirements; however, applicants are strongly advised to note that the duration of the transition period between the two protocols cannot presently be estimated nor guaranteed in any specific timeframe. The development of support for IDNA in the broader software applications environment will occur gradually. During that time, TLD labels that are valid under IDNA, but not under IDNA2003, will have limited functionality.

n-guidelines.htm. This includes the following, non-exhaustive, list of limitations:

2.2.1 All code points in a single label must be taken from the same script as determined by the Unicode Standard Annex #24: Unicode Script Property (See http://www.unicode.org/reports/tr24/).

2.2.2 Exceptions to 2.2.1 are permissible for languages with established orthographies and conventions that require the commingled use of multiple scripts. However, even with this exception, visually confusable characters from different scripts will not be allowed to co-exist in a single set of permissible code points unless a corresponding policy and character table are clearly defined.

Part III - Policy Requirements for Generic Top-Level Domains – These requirements apply to all prospective top-level domain strings applied for as gTLDs.

3.1 Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.

3.2 Applied-for gTLD strings in IDN scripts must be composed of two or more visually distinct characters in the script, as appropriate.[5] Note, however, that a two-character IDN string will not be approved if:

3.2.1 It is visually similar to any one-character label (in any script); or

3.2.2 It is visually similar to any possible two-character ASCII combination.

See the String Similarity review in subsection 2.2.1.1 for additional information on this requirement.

[5] Note that the Joint ccNSO-GNSO IDN Working Group (JIG) has made recommendations that this section be revised to allow for single-character IDN gTLD labels. See the JIG Final Report at http://gnso.icann.org/drafts/jig-final-report-30mar11-en.pdf. Implementation models for these recommendations are being developed for community discussion.

2.2.1.4 Geographic Names Review

Applications for gTLD strings must ensure that appropriate consideration is given to the interests of governments or public authorities in geographic names. The requirements and procedure ICANN will follow in the evaluation process are described in the following paragraphs. Applicants should review these requirements even if they do not believe their intended gTLD string is a geographic name. All applied-for gTLD strings will be reviewed according to the requirements in this section, regardless of whether the application indicates it is for a geographic name.

2.2.1.4.1 Treatment of Country or Territory Names[6]

Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to be a country or territory name if:

i. it is an alpha-3 code listed in the ISO 3166-1 standard.

ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.

iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.

iv. it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.

v. it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.

vi. it is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or

[6] Country and territory names are excluded from the process based on advice from the Governmental Advisory Committee in recent communiqués providing interpretation of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographic strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short–form name, for example, "RepublicCzech" or "IslandsCayman."

vii. it is a name by which a country is commonly known, as demonstrated by evidence that the country is recognized by that name by an intergovernmental or treaty organization.

2.2.1.4.2 Geographic Names Requiring Government Support

The following types of applied-for strings are considered geographic names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

1. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard.

2. An application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.

   City names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.

   An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:

   (a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and

(b) The applied-for string is a city name as listed on official city documents.[7]

3. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.

4. An application for a string listed as a UNESCO region[8] or appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.[9]

   In the case of an application for a string appearing on either of the lists above, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written statement of objection to the application from relevant governments in the region and/or public authorities associated with the continent or the region.

   Where the 60% rule is applied, and there are common regions on both lists, the regional composition contained in the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" takes precedence.

An applied-for gTLD string that falls into any of 1 through 4 listed above is considered to represent a geographic name. In the event of any doubt, it is in the applicant's interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

Strings that include but do not match a geographic name (as defined in this section) will not be considered geographic names as defined by section 2.2.1.4.2, and therefore will not require documentation of government support in the evaluation process.

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[7] City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

[8] *See* http://www.unesco.org/new/en/unesco/worldwide/.

[9] *See* http://unstats.un.org/unsd/methods/m49/m49regin.htm.

For each application, the Geographic Names Panel will determine which governments are relevant based on the inputs of the applicant, governments, and its own research and analysis. In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from all the relevant governments or public authorities. It is anticipated that this may apply to the case of a sub-national place name.

It is the applicant's responsibility to:

- identify whether its applied-for gTLD string falls into any of the above categories; and
- identify and consult with the relevant governments or public authorities; and
- identify which level of government support is required.

Note: the level of government and which administrative agency is responsible for the filing of letters of support or non-objection is a matter for each national administration to determine. Applicants should consult within the relevant jurisdiction to determine the appropriate level of support.

The requirement to include documentation of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to subsection 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community.

2.2.1.4.3 Documentation Requirements

The documentation of support or non-objection should include a signed letter from the relevant government or public authority. Understanding that this will differ across the respective jurisdictions, the letter could be signed by the minister with the portfolio responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister or President of the relevant jurisdiction; or a senior representative of the agency or department responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister. To assist the applicant in determining who the relevant government or public authority may be for a potential geographic name, the applicant may wish to consult with the relevant

Governmental Advisory Committee (GAC) representative.[10]

The letter must clearly express the government's or public authority's support for or non-objection to the applicant's application and demonstrate the government's or public authority's understanding of the string being requested and its intended use.

The letter should also demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available, i.e., entry into a registry agreement with ICANN requiring compliance with consensus policies and payment of fees. (See Module 5 for a discussion of the obligations of a gTLD registry operator.)

A sample letter of support is available as an attachment to this module.

Applicants and governments may conduct discussions concerning government support for an application at any time. Applicants are encouraged to begin such discussions at the earliest possible stage, and enable governments to follow the processes that may be necessary to consider, approve, and generate a letter of support or non-objection.

It is important to note that a government or public authority is under no obligation to provide documentation of support or non-objection in response to a request by an applicant.

It is also possible that a government may withdraw its support for an application at a later time, including after the new gTLD has been delegated, if the registry operator has deviated from the conditions of original support or non-objection. Applicants should be aware that ICANN has committed to governments that, in the event of a dispute between a government (or public authority) and a registry operator that submitted documentation of support from that government or public authority, **ICANN will comply with a legally binding order** from a court in the jurisdiction of the government or public authority that has given support to an application.

2.2.1.4.4 Review Procedure for Geographic Names

A Geographic Names Panel (GNP) will determine whether each applied-for gTLD string represents a geographic

[10] *See* https://gacweb.icann.org/display/gacweb/GAC+Members

name, and verify the relevance and authenticity of the supporting documentation where necessary.

The GNP will review all applications received, not only those where the applicant has noted its applied-for gTLD string as a geographic name. For any application where the GNP determines that the applied-for gTLD string is a country or territory name (as defined in this module), the application will not pass the Geographic Names review and will be denied. No additional reviews will be available.

For any application where the GNP determines that the applied-for gTLD string is not a geographic name requiring government support (as described in this module), the application will pass the Geographic Names review with no additional steps required.

For any application where the GNP determines that the applied-for gTLD string is a geographic name requiring government support, the GNP will confirm that the applicant has provided the required documentation from the relevant governments or public authorities, and that the communication from the government or public authority is legitimate and contains the required content. ICANN may confirm the authenticity of the communication by consulting with the relevant diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact within their administration for communications.

The GNP may communicate with the signing entity of the letter to confirm their intent and their understanding of the terms on which the support for an application is given.

In cases where an applicant has not provided the required documentation, the applicant will be contacted and notified of the requirement, and given a limited time frame to provide the documentation. If the applicant is able to provide the documentation before the close of the Initial Evaluation period, and the documentation is found to meet the requirements, the applicant will pass the Geographic Names review. If not, the applicant will have additional time to obtain the required documentation; however, if the applicant has not produced the required documentation by the required date (at least 90 calendar days from the date of notice), the application will be considered incomplete and will be ineligible for further review. The applicant may reapply in subsequent application rounds, if desired, subject to the fees and requirements of the specific application rounds.

If there is more than one application for a string representing a certain geographic name as described in this section, and the applications have requisite government approvals, the applications will be suspended pending resolution by the applicants. If the applicants have not reached a resolution by either the date of the end of the application round (as announced by ICANN), or the date on which ICANN opens a subsequent application round, whichever comes first, the applications will be rejected and applicable refunds will be available to applicants according to the conditions described in section 1.5.

However, in the event that a contention set is composed of multiple applications with documentation of support from the same government or public authority, the applications will proceed through the contention resolution procedures described in Module 4 when requested by the government or public authority providing the documentation.

If an application for a string representing a geographic name is in a contention set with applications for similar strings that have not been identified as geographical names, the string contention will be resolved using the string contention procedures described in Module 4.

2.2.2 Applicant Reviews

Concurrent with the applied-for gTLD string reviews described in subsection 2.2.1, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections.

2.2.2.1 Technical/Operational Review

In its application, the applicant will respond to a set of questions (see questions 24 – 44 in the Application Form) intended to gather information about the applicant's technical capabilities and its plans for operation of the proposed gTLD.

Applicants are not required to have deployed an actual gTLD registry to pass the Technical/Operational review. It will be necessary, however, for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of a gTLD registry operation. Subsequently, each applicant that passes the technical evaluation and all other steps will be required to complete

a pre-delegation technical test prior to delegation of the new gTLD. Refer to Module 5, Transition to Delegation, for additional information.

2.2.2.2 Financial Review

In its application, the applicant will respond to a set of questions (see questions 45-50 in the Application Form) intended to gather information about the applicant's financial capabilities for operation of a gTLD registry and its financial planning in preparation for long-term stability of the new gTLD.

Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans identifying system hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment. That is, the evaluation criteria scale with the applicant plans to provide flexibility.

2.2.2.3 Evaluation Methodology

Dedicated technical and financial evaluation panels will conduct the technical/operational and financial reviews, according to the established criteria and scoring mechanism included as an attachment to this module. These reviews are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the Application Form.

The evaluators may request clarification or additional information during the Initial Evaluation period. For each application, clarifying questions will be consolidated and sent to the applicant from each of the panels. The applicant will thus have an opportunity to clarify or supplement the application in those areas where a request is made by the evaluators. These communications will occur via TAS. Unless otherwise noted, such communications will include a 2-week deadline for the applicant to respond. Any supplemental information provided by the applicant will become part of the application.

It is the applicant's responsibility to ensure that the questions have been fully answered and the required documentation is attached. Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and are not obliged to take into account any information or evidence that is not made

available in the application and submitted by the due date, unless explicitly requested by the evaluators.

2.2.3 Registry Services Review

Concurrent with the other reviews that occur during the Initial Evaluation period, ICANN will review the applicant's proposed registry services for any possible adverse impact on security or stability. The applicant will be required to provide a list of proposed registry services in its application.

2.2.3.1 Definitions

Registry services are defined as:

1. 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 zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement;

2. other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and

3. any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator.

Proposed registry services will be examined to determine if they might raise significant stability or security issues. Examples of services proposed by existing registries can be found at http://www.icann.org/en/registries/rsep/. In most cases, these proposed services successfully pass this inquiry.

Registry services currently provided by gTLD registries can be found in registry agreement appendices. See http://www.icann.org/en/registries/agreements.htm.

A full definition of registry services can be found at http://www.icann.org/en/registries/rsep/rsep.html.

For purposes of this review, security and stability are defined as follows:

Security – an effect on security by the proposed registry service means (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.

Stability – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates 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, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.

2.2.3.2 Customary Services

The following registry services are customary services offered by a registry operator:

- Receipt of data from registrars concerning registration of domain names and name servers
- Dissemination of TLD zone files
- Dissemination of contact or other information concerning domain name registrations (e.g., port-43 WHOIS, Web-based Whois, RESTful Whois)
- DNS Security Extensions

The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.

Any additional registry services that are unique to the proposed gTLD registry should be described in detail. Directions for describing the registry services are provided at http://www.icann.org/en/registries/rsep/rrs_sample.html.

2.2.3.3 TLD Zone Contents

ICANN receives a number of inquiries about use of various record types in a registry zone, as entities contemplate different business and technical models. Permissible zone contents for a TLD zone are:

- Apex SOA record.
- Apex NS records and in-bailiwick glue for the TLD's DNS servers.

- NS records and in-bailiwick glue for DNS servers of registered names in the TLD.
- DS records for registered names in the TLD.
- Records associated with signing the TLD zone (i.e., RRSIG, DNSKEY, NSEC, and NSEC3).

An applicant wishing to place any other record types into its TLD zone should describe in detail its proposal in the registry services section of the application. This will be evaluated and could result in an extended evaluation to determine whether the service would create a risk of a meaningful adverse impact on security or stability of the DNS. Applicants should be aware that a service based on use of less-common DNS resource records in the TLD zone, even if approved in the registry services review, might not work as intended for all users due to lack of application support.

2.2.3.4 Methodology

Review of the applicant's proposed registry services will include a preliminary determination of whether any of the proposed registry services could raise significant security or stability issues and require additional consideration.

If the preliminary determination reveals that there may be significant security or stability issues (as defined in subsection 2.2.3.1) surrounding a proposed service, the application will be flagged for an extended review by the Registry Services Technical Evaluation Panel (RSTEP), see http://www.icann.org/en/registries/rsep/rstep.html). This review, if applicable, will occur during the Extended Evaluation period (refer to Section 2.3).

In the event that an application is flagged for extended review of one or more registry services, an additional fee to cover the cost of the extended review will be due from the applicant. Applicants will be advised of any additional fees due, which must be received before the additional review begins.

2.2.4 Applicant's Withdrawal of an Application

An applicant who does not pass the Initial Evaluation may withdraw its application at this stage and request a partial refund (refer to subsection 1.5 of Module 1).

2.3 Extended Evaluation

An applicant may request an Extended Evaluation if the application has failed to pass the Initial Evaluation elements concerning:

- Geographic names (refer to subsection 2.2.1.4). There is no additional fee for an extended evaluation in this instance.
- Demonstration of technical and operational capability (refer to subsection 2.2.2.1). There is no additional fee for an extended evaluation in this instance.
- Demonstration of financial capability (refer to subsection 2.2.2.2). There is no additional fee for an extended evaluation in this instance.
- Registry services (refer to subsection 2.2.3). Note that this investigation incurs an additional fee (the Registry Services Review Fee) if the applicant wishes to proceed. See Section 1.5 of Module 1 for fee and payment information.

An Extended Evaluation does not imply any change of the evaluation criteria. The same criteria used in the Initial Evaluation will be used to review the application in light of clarifications provided by the applicant.

From the time an applicant receives notice of failure to pass the Initial Evaluation, eligible applicants will have 15 calendar days to submit to ICANN the Notice of Request for Extended Evaluation. If the applicant does not explicitly request the Extended Evaluation (and pay an additional fee in the case of a Registry Services inquiry) the application will not proceed.

2.3.1 Geographic Names Extended Evaluation

In the case of an application that has been identified as a geographic name requiring government support, but where the applicant has not provided sufficient evidence of support or non-objection from all relevant governments or public authorities by the end of the Initial Evaluation period, the applicant has additional time in the Extended Evaluation period to obtain and submit this documentation.

If the applicant submits the documentation to the Geographic Names Panel by the required date, the GNP will perform its review of the documentation as detailed in

section 2.2.1.4. If the applicant has not provided the documentation by the required date (at least 90 calendar days from the date of the notice), the application will not pass the Extended Evaluation, and no further reviews are available.

2.3.2 Technical/Operational or Financial Extended Evaluation

The following applies to an Extended Evaluation of an applicant's technical and operational capability or financial capability, as described in subsection 2.2.2.

An applicant who has requested Extended Evaluation will again access the online application system (TAS) and clarify its answers to those questions or sections on which it received a non-passing score (or, in the case of an application where individual questions were passed but the total score was insufficient to pass Initial Evaluation, those questions or sections on which additional points are possible). The answers should be responsive to the evaluator report that indicates the reasons for failure, or provide any amplification that is not a material change to the application. Applicants may not use the Extended Evaluation period to substitute portions of new information for the information submitted in their original applications, i.e., to materially change the application.

An applicant participating in an Extended Evaluation on the Technical / Operational or Financial reviews will have the option to have its application reviewed by the same evaluation panelists who performed the review during the Initial Evaluation period, or to have a different set of panelists perform the review during Extended Evaluation.

The Extended Evaluation allows an additional exchange of information between the evaluators and the applicant to further clarify information contained in the application. This supplemental information will become part of the application record. Such communications will include a deadline for the applicant to respond.

ICANN will notify applicants at the end of the Extended Evaluation period as to whether they have passed. If an application passes Extended Evaluation, it continues to the next stage in the process. If an application does not pass Extended Evaluation, it will proceed no further. No further reviews are available.

2.3.3 Registry Services Extended Evaluation

This section applies to Extended Evaluation of registry services, as described in subsection 2.2.3.

If a proposed registry service has been referred to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review, the RSTEP will form a review team of members with the appropriate qualifications.

The review team will generally consist of three members, depending on the complexity of the registry service proposed. In a 3-member panel, the review could be conducted within 30 to 45 calendar days. In cases where a 5-member panel is needed, this will be identified before the extended evaluation starts. In a 5-member panel, the review could be conducted in 45 calendar days or fewer.

The cost of an RSTEP review will be covered by the applicant through payment of the Registry Services Review Fee. Refer to payment procedures in section 1.5 of Module 1. The RSTEP review will not commence until payment has been received.

If the RSTEP finds that one or more of the applicant's proposed registry services may be introduced without risk of a meaningful adverse effect on security or stability, these services will be included in the applicant's registry agreement with ICANN. If the RSTEP finds that the proposed service would create a risk of a meaningful adverse effect on security or stability, the applicant may elect to proceed with its application without the proposed service, or withdraw its application for the gTLD. In this instance, an applicant has 15 calendar days to notify ICANN of its intent to proceed with the application. If an applicant does not explicitly provide such notice within this time frame, the application will proceed no further.

2.4 Parties Involved in Evaluation

A number of independent experts and groups play a part in performing the various reviews in the evaluation process. A brief description of the various panels, their evaluation roles, and the circumstances under which they work is included in this section.

2.4.1 Panels and Roles

The **String Similarity Panel** will assess whether a proposed gTLD string creates a probability of user confusion due to similarity with any reserved name, any existing TLD, any requested IDN ccTLD, or any new gTLD string applied for in the current application round. This occurs during the String Similarity review in Initial Evaluation. The panel may also review IDN tables submitted by applicants as part of its work.

The **DNS Stability Panel** will determine whether a proposed string might adversely affect the security or stability of the DNS. This occurs during the DNS Stability String review in Initial Evaluation.

The **Geographic Names Panel** will review each application to determine whether the applied-for gTLD represents a geographic name, as defined in this guidebook. In the event that the string is a geographic name requiring government support, the panel will ensure that the required documentation is provided with the application and verify that the documentation is from the relevant governments or public authorities and is authentic.

The **Technical Evaluation Panel** will review the technical components of each application against the criteria in the Applicant Guidebook, along with proposed registry operations, in order to determine whether the applicant is technically and operationally capable of operating a gTLD registry as proposed in the application. This occurs during the Technical/Operational reviews in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Financial Evaluation Panel** will review each application against the relevant business, financial and organizational criteria contained in the Applicant Guidebook, to determine whether the applicant is financially capable of maintaining a gTLD registry as proposed in the application. This occurs during the Financial review in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Registry Services Technical Evaluation Panel (RSTEP)** will review proposed registry services in the application to determine if they pose a risk of a meaningful adverse impact on security or stability. This occurs, if applicable, during the Extended Evaluation period.

Members of all panels are required to abide by the established Code of Conduct and Conflict of Interest guidelines included in this module.

2.4.2 Panel Selection Process

ICANN has selected qualified third-party providers to perform the various reviews, based on an extensive selection process.[11] In addition to the specific subject matter expertise required for each panel, specified qualifications are required, including:

- The provider must be able to convene – or have the capacity to convene - globally diverse panels and be able to evaluate applications from all regions of the world, including applications for IDN gTLDs.
- The provider should be familiar with the IETF IDNA standards, Unicode standards, relevant RFCs and the terminology associated with IDNs.
- The provider must be able to scale quickly to meet the demands of the evaluation of an unknown number of applications. At present it is not known how many applications will be received, how complex they will be, and whether they will be predominantly for ASCII or non-ASCII gTLDs.
- The provider must be able to evaluate the applications within the required timeframes of Initial and Extended Evaluation.

2.4.3 Code of Conduct Guidelines for Panelists

The purpose of the New gTLD Program ("Program") Code of Conduct ("Code") is to prevent real and apparent conflicts of interest and unethical behavior by any Evaluation Panelist ("Panelist").

Panelists shall conduct themselves as thoughtful, competent, well prepared, and impartial professionals throughout the application process. Panelists are expected to comply with equity and high ethical standards while assuring the Internet community, its constituents, and the public of objectivity, integrity, confidentiality, and credibility. Unethical actions, or even the appearance of compromise, are not acceptable. Panelists are expected

[11] http://newgtlds.icann.org/about/evaluation-panels-selection-process

to be guided by the following principles in carrying out their respective responsibilities. This Code is intended to summarize the principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which Panelists must comply.

Bias -- Panelists shall:

- not advance personal agendas or non-ICANN approved agendas in the evaluation of applications;
- examine facts as they exist and not be influenced by past reputation, media accounts, or unverified statements about the applications being evaluated;
- exclude themselves from participating in the evaluation of an application if, to their knowledge, there is some predisposing factor that could prejudice them with respect to such evaluation; and
- exclude themselves from evaluation activities if they are philosophically opposed to or are on record as having made generic criticism about a specific type of applicant or application.

Compensation/Gifts -- Panelists shall not request or accept any compensation whatsoever or any gifts of substance from the Applicant being reviewed or anyone affiliated with the Applicant. (Gifts of substance would include any gift greater than USD 25 in value).

If the giving of small tokens is important to the Applicant's culture, Panelists may accept these tokens; however, the total of such tokens must not exceed USD 25 in value. If in doubt, the Panelist should err on the side of caution by declining gifts of any kind.

Conflicts of Interest -- Panelists shall act in accordance with the "New gTLD Program Conflicts of Interest Guidelines" (see subsection 2.4.3.1).

Confidentiality -- Confidentiality is an integral part of the evaluation process. Panelists must have access to sensitive information in order to conduct evaluations. Panelists must maintain confidentiality of information entrusted to them by ICANN and the Applicant and any other confidential information provided to them from whatever source,

except when disclosure is legally mandated or has been authorized by ICANN. "Confidential information" includes all elements of the Program and information gathered as part of the process – which includes but is not limited to: documents, interviews, discussions, interpretations, and analyses – related to the review of any new gTLD application.

Affirmation -- All Panelists shall read this Code prior to commencing evaluation services and shall certify in writing that they have done so and understand the Code.

2.4.3.1 Conflict of Interest Guidelines for Panelists

It is recognized that third-party providers may have a large number of employees in several countries serving numerous clients. In fact, it is possible that a number of Panelists may be very well known within the registry / registrar community and have provided professional services to a number of potential applicants.

To safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner, ICANN has established detailed Conflict of Interest guidelines and procedures that will be followed by the Evaluation Panelists. To help ensure that the guidelines are appropriately followed ICANN will:

- Require each Evaluation Panelist (provider and individual) to acknowledge and document understanding of the Conflict of Interest guidelines.
- Require each Evaluation Panelist to disclose all business relationships engaged in at any time during the past six months.
- Where possible, identify and secure primary and backup providers for evaluation panels.
- In conjunction with the Evaluation Panelists, develop and implement a process to identify conflicts and re-assign applications as appropriate to secondary or contingent third party providers to perform the reviews.

Compliance Period -- All Evaluation Panelists must comply with the Conflict of Interest guidelines beginning with the opening date of the Application Submission period and ending with the public announcement by ICANN of the

final outcomes of all the applications from the Applicant in question.

Guidelines -- The following guidelines are the minimum standards with which all Evaluation Panelists must comply. It is recognized that it is impossible to foresee and cover all circumstances in which a potential conflict of interest might arise. In these cases the Evaluation Panelist should evaluate whether the existing facts and circumstances would lead a reasonable person to conclude that there is an actual conflict of interest.

Evaluation Panelists and Immediate Family Members:

- Must not be under contract, have or be included in a current proposal to provide Professional Services for or on behalf of the Applicant during the Compliance Period.
- Must not currently hold or be committed to acquire any interest in a privately-held Applicant.
- Must not currently hold or be committed to acquire more than 1% of any publicly listed Applicant's outstanding equity securities or other ownership interests.
- Must not be involved or have an interest in a joint venture, partnership or other business arrangement with the Applicant.
- Must not have been named in a lawsuit with or against the Applicant.
- Must not be a:
    - Director, officer, or employee, or in any capacity equivalent to that of a member of management of the Applicant;
    - Promoter, underwriter, or voting trustee of the Applicant; or
    - Trustee for any pension or profit-sharing trust of the Applicant.

Definitions--

Evaluation Panelist: An Evaluation Panelist is any individual associated with the review of an application. This includes

any primary, secondary, and contingent third party Panelists engaged by ICANN to review new gTLD applications.

Immediate Family Member: Immediate Family Member is a spouse, spousal equivalent, or dependent (whether or not related) of an Evaluation Panelist.

Professional Services: include, but are not limited to legal services, financial audit, financial planning / investment, outsourced services, consulting services such as business / management / internal audit, tax, information technology, registry / registrar services.

2.4.3.2 Code of Conduct Violations

Evaluation panelist breaches of the Code of Conduct, whether intentional or not, shall be reviewed by ICANN, which may make recommendations for corrective action, if deemed necessary. Serious breaches of the Code may be cause for dismissal of the person, persons or provider committing the infraction.

In a case where ICANN determines that a Panelist has failed to comply with the Code of Conduct, the results of that Panelist's review for all assigned applications will be discarded and the affected applications will undergo a review by new panelists.

Complaints about violations of the Code of Conduct by a Panelist may be brought to the attention of ICANN via the public comment and applicant support mechanisms, throughout the evaluation period. Concerns of applicants regarding panels should be communicated via the defined support channels (see subsection 1.4.2). Concerns of the general public (i.e., non-applicants) can be raised via the public comment forum, as described in Module 1.

2.4.4 Communication Channels

Defined channels for technical support or exchanges of information with ICANN and with evaluation panels are available to applicants during the Initial Evaluation and Extended Evaluation periods. Contacting individual ICANN staff members, Board members, or individuals engaged by ICANN to perform an evaluation role in order to lobby for a particular outcome or to obtain confidential information about applications under review is not appropriate. In the interests of fairness and equivalent treatment for all applicants, any such individual contacts will be referred to the appropriate communication channels.

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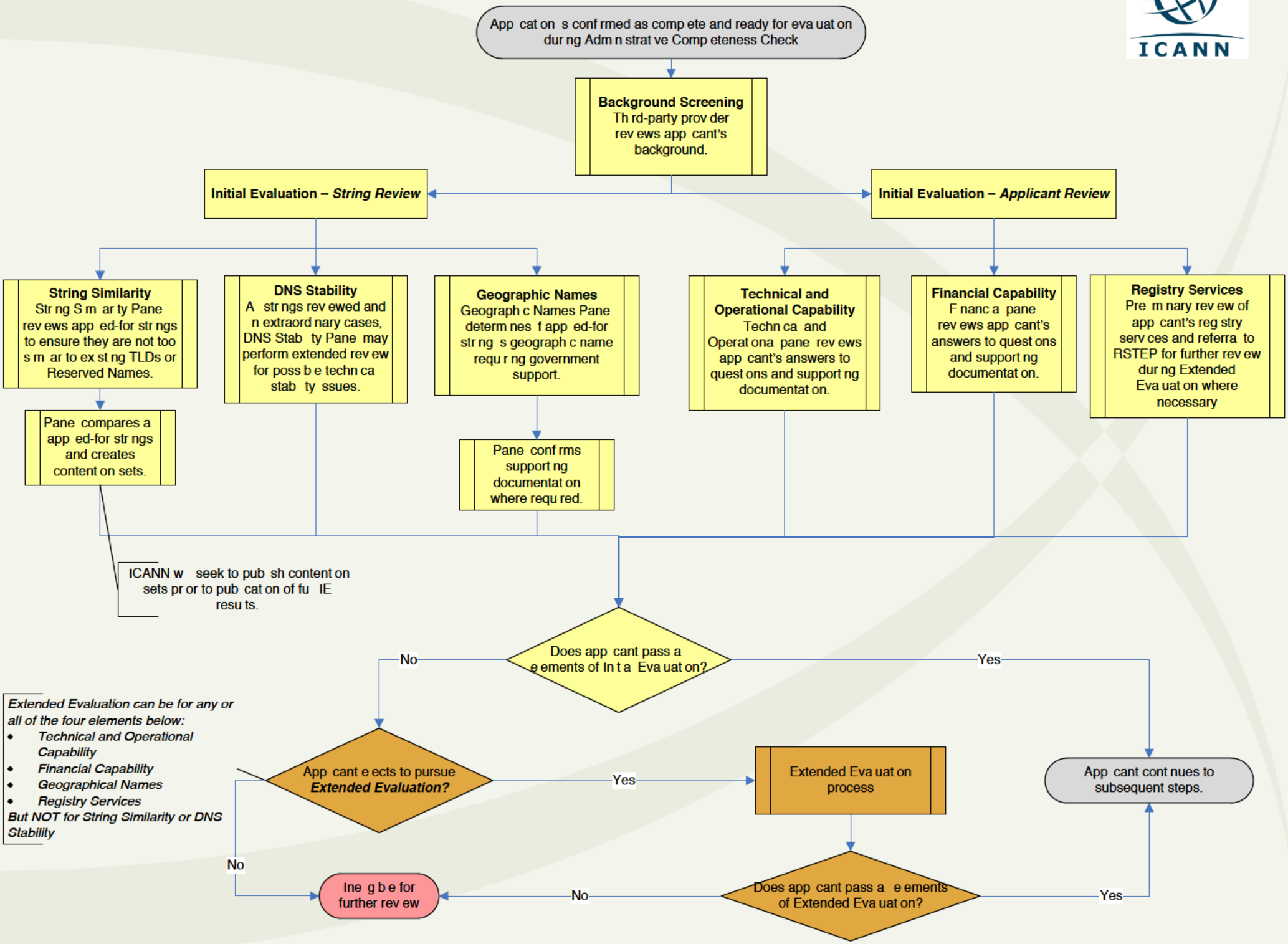

Annex: Separable Country Names List

gTLD application restrictions on country or territory names are tied to listing in property fields of the ISO 3166-1 standard. Notionally, the ISO 3166-1 standard has an "English short name" field which is the common name for a country and can be used for such protections; however, in some cases this does not represent the common name. This registry seeks to add additional protected elements which are derived from definitions in the ISO 3166-1 standard. An explanation of the various classes is included below.

Separable Country Names List

Code	English Short Name	Cl.	Separable Name
ax	Åland Islands	B1	Åland
as	American Samoa	C	Tutuila
		C	Swain's Island
ao	Angola	C	Cabinda
ag	Antigua and Barbuda	A	Antigua
		A	Barbuda
		C	Redonda Island
au	Australia	C	Lord Howe Island
		C	Macquarie Island
		C	Ashmore Island
		C	Cartier Island
		C	Coral Sea Islands
bo	Bolivia, Plurinational State of	B1	Bolivia
bq	Bonaire, Sint Eustatius and Saba	A	Bonaire
		A	Sint Eustatius
		A	Saba
ba	Bosnia and Herzegovina	A	Bosnia
		A	Herzegovina
br	Brazil	C	Fernando de Noronha Island
		C	Martim Vaz Islands
		C	Trinidade Island
io	British Indian Ocean Territory	C	Chagos Archipelago
		C	Diego Garcia
bn	Brunei Darussalam	B1	Brunei
		C	Negara Brunei Darussalam
cv	Cape Verde	C	São Tiago
		C	São Vicente
ky	Cayman Islands	C	Grand Cayman
cl	Chile	C	Easter Island
		C	Juan Fernández Islands
		C	Sala y Gómez Island
		C	San Ambrosio Island
		C	San Félix Island
cc	Cocos (Keeling) Islands	A	Cocos Islands
		A	Keeling Islands
co	Colombia	C	Malpelo Island
		C	San Andrés Island
		C	Providencia Island
km	Comoros	C	Anjouan
		C	Grande Comore
		C	Mohéli
ck	Cook Islands	C	Rarotonga
cr	Costa Rica	C	Coco Island
ec	Ecuador	C	Galápagos Islands
gq	Equatorial Guinea	C	Annobón Island
		C	Bioko Island

		C	Río Muni
fk	Falkland Islands (Malvinas)	B1	Falkland Islands
		B1	Malvinas
fo	Faroe Islands	A	Faroe
fj	Fiji	C	Vanua Levu
		C	Viti Levu
		C	Rotuma Island
pf	French Polynesia	C	Austral Islands
		C	Gambier Islands
		C	Marquesas Islands
		C	Society Archipelago
		C	Tahiti
		C	Tuamotu Islands
		C	Clipperton Island
tf	French Southern Territories	C	Amsterdam Islands
		C	Crozet Archipelago
		C	Kerguelen Islands
		C	Saint Paul Island
gr	Greece	C	Mount Athos
		B1	**
gd	Grenada	C	Southern Grenadine Islands
		C	Carriacou
gp	Guadeloupe	C	la Désirade
		C	Marie-Galante
		C	les Saintes
hm	Heard Island and McDonald Islands	A	Heard Island
		A	McDonald Islands
va	Holy See (Vatican City State)	A	Holy See
		A	Vatican
hn	Honduras	C	Swan Islands
in	India	C	Amindivi Islands
		C	Andaman Islands
		C	Laccadive Islands
		C	Minicoy Island
		C	Nicobar Islands
ir	Iran, Islamic Republic of	B1	Iran
ki	Kiribati	C	Gilbert Islands
		C	Tarawa
		C	Banaba
		C	Line Islands
		C	Kiritimati
		C	Phoenix Islands
		C	Abariringa
		C	Enderbury Island
kp	Korea, Democratic People's Republic of	C	North Korea
kr	Korea, Republic of	C	South Korea
la	Lao People's Democratic Republic	B1	Laos
mk	Macedonia, the Former Yugoslav Republic of	B1	**
my	Malaysia	C	Sabah
		C	Sarawak
mh	Marshall Islands	C	Jaluit
			Kwajalein
			Majuro
mu	Mauritius	C	Agalega Islands
		C	Cargados Carajos Shoals
		C	Rodrigues Island
fm	Micronesia, Federated States of	B1	Micronesia

		C	Caroline Islands (see also pw)
		C	Chuuk
		C	Kosrae
		C	Pohnpei
		C	Yap
md	Moldova, Republic of	B1	Moldova
		C	Moldava
nc	New Caledonia	C	Loyalty Islands
mp	Northern Mariana Islands	C	Mariana Islands
		C	Saipan
om	Oman	C	Musandam Peninsula
pw	Palau	C	Caroline Islands (see also fm)
		C	Babelthuap
ps	Palestinian Territory, Occupied	B1	Palestine
pg	Papua New Guinea	C	Bismarck Archipelago
		C	Northern Solomon Islands
		C	Bougainville
pn	Pitcairn	C	Ducie Island
		C	Henderson Island
		C	Oeno Island
re	Réunion	C	Bassas da India
		C	Europa Island
		C	Glorioso Island
		C	Juan de Nova Island
		C	Tromelin Island
ru	Russian Federation	B1	Russia
		C	Kaliningrad Region
sh	Saint Helena, Ascension, and Tristan de Cunha	A	Saint Helena
		A	Ascension
		A	Tristan de Cunha
		C	Gough Island
		C	Tristan de Cunha Archipelago
kn	Saint Kitts and Nevis	A	Saint Kitts
		A	Nevis
pm	Saint Pierre and Miquelon	A	Saint Pierre
		A	Miquelon
vc	Saint Vincent and the Grenadines	A	Saint Vincent
		A	The Grenadines
		C	Northern Grenadine Islands
		C	Bequia
		C	Saint Vincent Island
ws	Samoa	C	Savai'i
		C	Upolu
st	Sao Tome and Principe	A	Sao Tome
		A	Principe
sc	Seychelles	C	Mahé
		C	Aldabra Islands
		C	Amirante Islands
		C	Cosmoledo Islands
		C	Farquhar Islands
sb	Solomon Islands	C	Santa Cruz Islands
		C	Southern Solomon Islands
		C	Guadalcanal
za	South Africa	C	Marion Island
		C	Prince Edward Island
gs	South Georgia and the South Sandwich Islands	A	South Georgia
		A	South Sandwich Islands

sj	Svalbard and Jan Mayen	A	Svalbard
		A	Jan Mayen
		C	Bear Island
sy	Syrian Arab Republic	B1	Syria
tw	Taiwan, Province of China	B1	Taiwan
		C	Penghu Islands
		C	Pescadores
tz	Tanzania, United Republic of	B1	Tanzania
tl	Timor-Leste	C	Oecussi
to	Tonga	C	Tongatapu
tt	Trinidad and Tobago	A	Trinidad
		A	Tobago
tc	Turks and Caicos Islands	A	Turks Islands
		A	Caicos Islands
tv	Tuvalu	C	Fanafuti
ae	United Arab Emirates	B1	Emirates
us	United States	B2	America
um	United States Minor Outlying Islands	C	Baker Island
		C	Howland Island
		C	Jarvis Island
		C	Johnston Atoll
		C	Kingman Reef
		C	Midway Islands
		C	Palmyra Atoll
		C	Wake Island
		C	Navassa Island
vu	Vanuatu	C	Efate
		C	Santo
ve	Venezuela, Bolivarian Republic of	B1	Venezuela
		C	Bird Island
vg	Virgin Islands, British	B1	Virgin Islands
		C	Anegada
		C	Jost Van Dyke
		C	Tortola
		C	Virgin Gorda
vi	Virgin Islands, US	B1	Virgin Islands
		C	Saint Croix
		C	Saint John
		C	Saint Thomas
wf	Wallis and Futuna	A	Wallis
		A	Futuna
		C	Hoorn Islands
		C	Wallis Islands
		C	Uvea
ye	Yemen	C	Socotra Island

Maintenance

A Separable Country Names Registry will be maintained and published by ICANN Staff.

Each time the ISO 3166-1 standard is updated with a new entry, this registry will be reappraised to identify if the changes to the standard warrant changes to the entries in this registry. Appraisal will be based on the criteria listing in the "Eligibility" section of this document.

Codes reserved by the ISO 3166 Maintenance Agency do not have any implication on this registry, only entries derived from normally assigned codes appearing in ISO 3166-1 are eligible.

If an ISO code is struck off the ISO 3166-1 standard, any entries in this registry deriving from that code must be struck.

Eligibility

Each record in this registry is derived from the following possible properties:

Class A: The ISO 3166-1 English Short Name is comprised of multiple, separable parts whereby the country is comprised of distinct sub-entities. Each of these separable parts is eligible in its own right for consideration as a country name. For example, "Antigua and Barbuda" is comprised of "Antigua" and "Barbuda."

Class B: The ISO 3166-1 English Short Name (1) or the ISO 3166-1 English Full Name (2) contains additional language as to the type of country the entity is, which is often not used in common usage when referencing the country. For example, one such short name is "The Bolivarian Republic of Venezuela" for a country in common usage referred to as "Venezuela."

** Macedonia is a separable name in the context of this list; however, due to the ongoing dispute listed in UN documents between the Hellenic Republic (Greece) and the Former Yugoslav Republic of Macedonia over the name, no country will be afforded attribution or rights to the name "Macedonia" until the dispute over the name has been resolved. See http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/240/37/IMG/N9324037.pdf.

Class C: The ISO 3166-1 Remarks column containing synonyms of the country name, or sub-national entities, as denoted by "often referred to as," "includes", "comprises", "variant" or "principal islands".

In the first two cases, the registry listing must be directly derivative from the English Short Name by excising words and articles. These registry listings do not include vernacular or other non-official terms used to denote the country.

Eligibility is calculated in class order. For example, if a term can be derived both from Class A and Class C, it is only listed as Class A.

Attachment to Module 2

Sample Letter of Government Support

[This letter should be provided on official letterhead]

ICANN
Suite 330, 4676 Admiralty Way
Marina del Rey, CA 90292

Attention: New gTLD Evaluation Process

Subject: Letter for support for [TLD requested]

This letter is to confirm that [government entity] fully supports the application for [TLD] submitted to ICANN by [applicant] in the New gTLD Program. As the [Minister/Secretary/position] I confirm that I have the authority of the [x government/public authority] to be writing to you on this matter. [Explanation of government entity, relevant department, division, office, or agency, and what its functions and responsibilities are]

The gTLD will be used to [explain your understanding of how the name will be used by the applicant. This could include policies developed regarding who can register a name, pricing regime and management structures.] [Government/public authority/department] has worked closely with the applicant in the development of this proposal.

The [x government/public authority] supports this application, and in doing so, understands that in the event that the application is successful, [applicant] will be required to enter into a Registry Agreement with ICANN. In doing so, they will be required to pay fees to ICANN and comply with consensus policies developed through the ICANN multi-stakeholder policy processes.

[Government / public authority] further understands that, in the event of a dispute between [government/public authority] and the applicant, ICANN will comply with a legally binding order from a court in the jurisdiction of [government/public authority].

[Optional] This application is being submitted as a community-based application, and as such it is understood that the Registry Agreement will reflect the community restrictions proposed in the application. In the event that we believe the registry is not complying with these restrictions, possible avenues of recourse include the Registry Restrictions Dispute Resolution Procedure.

[Optional] I can advise that in the event that this application is successful [government/public authority] will enter into a separate agreement with the applicant. This agreement will outline the conditions under which we support them in the operation of the TLD, and circumstances under which we would withdraw that support. ICANN will not be a party to this agreement, and enforcement of this agreement lies fully with [government/public authority].

[Government / public authority] understands that the Geographic Names Panel engaged by ICANN will, among other things, conduct due diligence on the authenticity of this documentation. I would request that if additional information is required during this process, that [name and contact details] be contacted in the first instance.

Thank you for the opportunity to support this application.

Yours sincerely

Signature from relevant government/public authority

Attachment to Module 2

Evaluation Questions and Criteria

Since ICANN was founded in 1998 as a not-for-profit, multi-stakeholder organization, one of its key mandates has been to promote competition in the domain name market. ICANN's mission specifically calls for the corporation to maintain and build on processes that will ensure competition and consumer interests – without compromising Internet security and stability. This includes the consideration and implementation of new gTLDs. It is ICANN's goal to make the criteria and evaluation as objective as possible.

While new gTLDs are viewed by ICANN as important to fostering choice, innovation and competition in domain registration services, the decision to launch these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community.

Any public or private sector organization can apply to create and operate a new gTLD. However the process is not like simply registering or buying a second-level domain name. Instead, the application process is to evaluate and select candidates capable of running a registry, a business that manages top level domains such as, for example, .COM or .INFO. Any successful applicant will need to meet published operational and technical criteria in order to preserve Internet stability and interoperability.

I. Principles of the Technical and Financial New gTLD Evaluation Criteria

- Principles of conservatism. This is the first round of what is to be an ongoing process for the introduction of new TLDs, including Internationalized Domain Names. Therefore, the criteria in this round require applicants to provide a thorough and thoughtful analysis of the technical requirements to operate a registry and the proposed business model.

- The criteria and evaluation should be as objective as possible.

    - With that goal in mind, an important objective of the new TLD process is to diversify the namespace, with different registry business models and target audiences. In some cases, criteria that are objective, but that ignore the differences in business models and target audiences of new registries, will tend to make the process exclusionary. For example, the business model for a registry targeted to a small community need not possess the same robustness in funding and technical infrastructure as a registry intending to compete with large gTLDs. Therefore purely objective criteria such as a requirement for a certain amount of cash on hand will not provide for the flexibility to consider different business models. The process must provide for an objective evaluation framework, but allow for adaptation according to the differing models applicants will present. Within that framework, applicant responses will be evaluated against the criteria in light of the proposed model.

    - Therefore the criteria should be flexible: able to scale with the overall business approach, providing that the planned approach is consistent and coherent, and can withstand highs and lows.

- Criteria can be objective in areas of registrant protection, for example:
  - Providing for funds to continue operations in the event of a registry failure.
  - Adherence to data escrow, registry failover, and continuity planning requirements.

- The evaluation must strike the correct balance between establishing the business and technical competence of the applicant to operate a registry (to serve the interests of registrants), while not asking for the detailed sort of information or making the judgment that a venture capitalist would. ICANN is not seeking to certify business success but instead seeks to encourage innovation while providing certain safeguards for registrants.

- New registries must be added in a way that maintains DNS stability and security. Therefore, ICANN asks several questions so that the applicant can demonstrate an understanding of the technical requirements to operate a registry. ICANN will ask the applicant to demonstrate actual operational technical compliance prior to delegation. This is in line with current prerequisites for the delegation of a TLD.

- Registrant protection is emphasized in both the criteria and the scoring. Examples of this include asking the applicant to:

  - Plan for the occurrence of contingencies and registry failure by putting in place financial resources to fund the ongoing resolution of names while a replacement operator is found or extended notice can be given to registrants,
  - Demonstrate a capability to understand and plan for business contingencies to afford some protections through the marketplace,
  - Adhere to DNS stability and security requirements as described in the technical section, and
  - Provide access to the widest variety of services.

II. Aspects of the Questions Asked in the Application and Evaluation Criteria

The technical and financial questions are intended to inform and guide the applicant in aspects of registry start-up and operation. The established registry operator should find the questions straightforward while inexperienced applicants should find them a natural part of planning.

Evaluation and scoring (detailed below) will emphasize:

- How thorough are the answers? Are they well thought through and do they provide a sufficient basis for evaluation?

- Demonstration of the ability to operate and fund the registry on an ongoing basis:

  - Funding sources to support technical operations in a manner that ensures stability and security and supports planned expenses,
  - Resilience and sustainability in the face of ups and downs, anticipation of contingencies,
  - Funding to carry on operations in the event of failure.

- Demonstration that the technical plan will likely deliver on best practices for a registry and identification of aspects that might raise DNS stability and security issues.

- Ensures plan integration, consistency and compatibility (responses to questions are not evaluated individually but in comparison to others):
  - Funding adequately covers technical requirements,
  - Funding covers costs,
  - Risks are identified and addressed, in comparison to other aspects of the plan.

III. Scoring

Evaluation

- The questions, criteria, scoring and evaluation methodology are to be conducted in accordance with the principles described earlier in section I. With that in mind, globally diverse evaluation panelists will staff evaluation panels. The diversity of evaluators and access to experts in all regions of the world will ensure application evaluations take into account cultural, technical and business norms in the regions from which applications originate.

- Evaluation teams will consist of two independent panels. One will evaluate the applications against the financial criteria. The other will evaluate the applications against the technical & operational criteria. Given the requirement that technical and financial planning be well integrated, the panels will work together and coordinate information transfer where necessary. Other relevant experts (e.g., technical, audit, legal, insurance, finance) in pertinent regions will provide advice as required.

- Precautions will be taken to ensure that no member of the Evaluation Teams will have any interest or association that may be viewed as a real or potential conflict of interest with an applicant or application. All members must adhere to the Code of Conduct and Conflict of Interest guidelines that are found in Module 2.

- Communications between the evaluation teams and the applicants will be through an online interface. During the evaluation, evaluators may pose a set of clarifying questions to an applicant, to which the applicant may respond through the interface.

Confidentiality: ICANN will post applications after the close of the application submission period. The application form notes which parts of the application will be posted.

Scoring

- Responses will be evaluated against each criterion. A score will be assigned according to the scoring schedule linked to each question or set of questions. In several questions, 1 point is the maximum score that may be awarded. In several other questions, 2 points are awarded for a response that exceeds requirements, 1 point is awarded for a response that meets requirements and 0 points are awarded for a response that fails to meet requirements. Each question must receive at least a score of "1," making each a "pass/fail" question.

- In the Continuity question in the financial section(see Question #50), up to 3 points are awarded if an applicant provides, at the application stage, a financial instrument that will guarantee ongoing registry operations in the event of a business failure. This extra

point can serve to guarantee passing the financial criteria for applicants who score the minimum passing score for each of the individual criteria. The purpose of this weighting is to reward applicants who make early arrangements for the protection of registrants and to accept relatively riskier business plans where registrants are protected.

- There are 21 Technical & Operational questions. Each question has a criterion and scoring associated with it. The scoring for each is 0, 1, or 2 points as described above. One of the questions (IDN implementation) is optional. Other than the optional questions, all Technical & Operational criteria must be scored a 1 or more or the application will fail the evaluation.

- The total technical score must be equal to or greater than 22 for the application to pass. That means the applicant can pass by:

  - Receiving a 1 on all questions, including the optional question, and a 2 on at least one mandatory question; or
  - Receiving a 1 on all questions, excluding the optional question and a 2 on at least two mandatory questions.

  This scoring methodology requires a minimum passing score for each question and a slightly higher average score than the per question minimum to pass.

- There are six Financial questions and six sets of criteria that are scored by rating the answers to one or more of the questions. For example, the question concerning registry operation costs requires consistency between the technical plans (described in the answers to the Technical & Operational questions) and the costs (described in the answers to the costs question).

- The scoring for each of the Financial criteria is 0, 1 or 2 points as described above with the exception of the Continuity question, for which up to 3 points are possible. All questions must receive at least a 1 or the application will fail the evaluation.

- The total financial score on the six criteria must be 8 or greater for the application to pass. That means the applicant can pass by:

  - Scoring a 3 on the continuity criteria, or
  - Scoring a 2 on any two financial criteria.

- Applications that do not pass Initial Evaluation can enter into an extended evaluation process as described in Module 2. The scoring is the same.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
Applicant Information	1	Full legal name of the Applicant (the established entity that would enter into a Registry Agreement with ICANN)	Y	Responses to Questions 1 - 12 are required for a complete application. Responses are not scored.			
	2	Address of the principal place of business of the Applicant. This address will be used for contractual purposes. No Post Office boxes are allowed.	Y				
	3	Phone number for the Applicant's principal place of business.	Y				
	4	Fax number for the Applicant's principal place of business.	Y				
	5	Website or URL, if applicable.	Y				
Primary Contact for this Application	6	Name	Y	The primary contact is the individual designated with the primary responsibility for management of the application, including responding to tasks in the TLD Application System (TAS) during the various application phases. Both contacts listed should also be prepared to receive inquiries from the public.			
		Title	Y				
		Date of birth	N				
		Country of birth	N				
		Address	N				
		Phone number	Y				
		Fax number	Y				
		Email address	Y				
Secondary Contact for this Application	7	Name	Y	The secondary contact is listed in the event the primary contact is unavailable to continue with the application process.			
		Title	Y				
		Date of birth	N				
		Country of birth	N				
		Address	N				
		Phone number	Y				
		Fax number	Y				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		Email address	Y				
Proof of Legal Establishment	8	(a) Legal form of the Applicant. (e.g., partnership, corporation, non-profit institution).	Y				
		(b) State the specific national or other jurisdiction that defines the type of entity identified in 8(a).	Y	In the event of questions regarding proof of establishment, the applicant may be asked for additional details, such as the specific national or other law applying to this type of entity			
		(c) Attach evidence of the applicant's establishment as the type of entity identified in Question 8(a) above, in accordance with the applicable laws identified in Question 8(b).	Y	Applications without valid proof of legal establishment will not be evaluated further. Supporting documentation for proof of legal establishment should be submitted in the original language.			
	9	(a) If the applying entity is publicly traded, provide the exchange and symbol.	Y				
		(b) If the applying entity is a subsidiary, provide the parent company.	Y				
		(c) If the applying entity is a joint venture, list all joint venture partners.	Y				
	10	Business ID, Tax ID, VAT registration number, or equivalent of the Applicant.	N				
Applicant Background	11	(a) Enter the full name, date and country of birth, contact information (permanent residence), and position of all directors (i.e., members of the applicant's Board of Directors, if applicable).	Partial	Applicants should be aware that the names and positions of the individuals listed in response to this question will be published as part of the application. The contact information listed for individuals is for identification purposes only and will not be published as part of the application. Background checks may be conducted on individuals named in the applicant's response to question 11. Any material misstatement or misrepresentation (or omission of material information) may cause the application to be rejected. The applicant certifies that it has obtained permission for the posting of the names and positions of individuals included in this application.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(b) Enter the full name, date and country of birth, contact information (permanent residence), and position of all officers and partners. Officers are high-level management officials of a corporation or business, for example, a CEO, vice president, secretary, chief financial officer. Partners would be listed in the context of a partnership or other such form of legal entity.	Partial				
		(c) Enter the full name and contact information of all shareholders holding at least 15% of shares, and percentage held by each. For a shareholder entity, enter the principal place of business. For a shareholder individual, enter the date and country of birth and contact information (permanent residence).	Partial				
		(d) For an applying entity that does not have directors, officers, partners, or shareholders, enter the full name, date and country of birth, contact information (permanent residence), and position of all individuals having overall legal or executive responsibility for the applying entity.	Partial				
		(e) Indicate whether the applicant or any of the individuals named above: i. within the past ten years, has been convicted of any crime related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that is the substantive equivalent of any of these; ii. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of funds of others; iii. within the past ten years has been convicted of any willful tax-related fraud or willful evasion of tax liabilities; iv. within the past ten years has been convicted of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or representative;	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		v. has ever been convicted of any crime involving the use of computers, telephony systems, telecommunications or the Internet to facilitate the commission of crimes; vi. has ever been convicted of any crime involving the use of a weapon, force, or the threat of force; vii. has ever been convicted of any violent or sexual offense victimizing children, the elderly, or individuals with disabilities; viii. has ever been convicted of the illegal sale, manufacture, or distribution of pharmaceutical drugs, or been convicted or successfully extradited for any offense described in Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; ix. has ever been convicted or successfully extradited for any offense described in the United Nations Convention against Transnational Organized Crime (all Protocols); x. has been convicted, within the respective timeframes, of aiding, abetting, facilitating, enabling, conspiring to commit, or failing to report any of the listed crimes (i.e., within the past 10 years for crimes listed in (i) - (iv) above, or ever for the crimes listed in (v) – (ix) above); xi. has entered a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents) within the respective timeframes listed above for any of the listed crimes (i.e., within the past 10 years for crimes listed in (i) – (iv) above, or ever for the crimes listed in (v) – (ix) above); xii. is the subject of a disqualification imposed by ICANN and in effect at the time of this application. If any of the above events have occurred, please provide details.					

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(f) Indicate whether the applicant or any of the individuals named above have been involved in any decisions indicating that the applicant or individual named in the application was engaged in cybersquatting, as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), Anti-cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or equivalent legislation.	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook for details.			
		(g) Disclose whether the applicant or any of the individuals named above has been involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made. Provide an explanation related to each such instance.	N	ICANN may deny an otherwise qualified application based on the background screening process. See section 1.2.1 of the guidebook for details.			
		(h) Provide an explanation for any additional background information that may be found concerning the applicant or any individual named in the application, which may affect eligibility, including any criminal convictions not identified above.	N				
Evaluation Fee	12	(a) Enter the confirmation information for payment of the evaluation fee (e.g., wire transfer confirmation number).	N	The evaluation fee is paid in the form of a deposit at the time of user registration, and submission of the remaining amount at the time the full application is submitted. The information in question 12 is required for each payment. The full amount in USD must be received by ICANN. Applicant is responsible for all transaction fees and exchange rate fluctuation. Fedwire is the preferred wire mechanism; SWIFT is also acceptable. ACH is not recommended as these funds will take longer to clear and could affect timing of the application processing.			
		(b) Payer name	N				
		(c) Payer address	N				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(d) Wiring bank	N				
		(e) Bank address	N				
		(f) Wire date	N				
Applied-for gTLD string	13	Provide the applied-for gTLD string. If applying for an IDN, provide the U-label.	Y	Responses to Questions 13-17 are not scored, but are used for database and validation purposes. The U-label is an IDNA-valid string of Unicode characters, including at least one non-ASCII character.			
	14	(a) If applying for an IDN, provide the A-label (beginning with "xn--").	Y				
		(b) If an IDN, provide the meaning, or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.	Y				
		(c) If an IDN, provide the language of the label (both in English and as referenced by ISO-639-1).	Y				
		(d) If an IDN, provide the script of the label (both in English and as referenced by ISO 15924).	Y				
		(e) If an IDN, list all code points contained in the U-label according to Unicode form.	Y	For example, the string "HELLO" would be listed as U+0048 U+0065 U+006C U+006C U+006F.			
	15	(a) If an IDN, upload IDN tables for the proposed registry. An IDN table must include: 1. the applied-for gTLD string relevant to the tables, 2. the script or language designator (as defined in BCP 47), 3. table version number, 4. effective date (DD Month YYYY), and 5. contact name, email address, and phone number. Submission of IDN tables in a standards-based format is encouraged.	Y	In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string. IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second level (see question 44). IDN tables should be submitted in a machine-readable format. The model format described in Section 5 of RFC 4290 would be ideal. The format used by RFC 3743 is an acceptable alternative. Variant generation algorithms that are more complex (such as those with contextual			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				rules) and cannot be expressed using these table formats should be specified in a manner that could be re-implemented programmatically by ICANN. Ideally, for any complex table formats, a reference code implementation should be provided in conjunction with a description of the generation rules.			
		(b) Describe the process used for development of the IDN tables submitted, including consultations and sources used.	Y				
		(c) List any variants to the applied-for gTLD string according to the relevant IDN tables.	Y	Variant TLD strings will not be delegated as a result of this application. Variant strings will be checked for consistency and, if the application is approved, will be entered on a Declared IDN Variants List to allow for future allocation once a variant management mechanism is established for the top level. Inclusion of variant TLD strings in this application is for information only and confers no right or claim to these strings upon the applicant.			
	16	Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.	Y				
	17	OPTIONAL. Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).	Y	If provided, this information will be used as a guide to ICANN in communications regarding the application.			
Mission/Purpose	18	(a) Describe the mission/purpose of your proposed gTLD.	Y	The information gathered in response to Question 18 is intended to inform the post-launch review of the New gTLD Program, from the perspective of assessing the relative costs and benefits achieved in the expanded gTLD space. For the application to be considered complete, answers to this section must be fulsome and sufficiently quantitative and detailed to inform future study on plans vs. results.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				The New gTLD Program will be reviewed, as specified in section 9.3 of the Affirmation of Commitments. This will include consideration of the extent to which the introduction or expansion of gTLDs has promoted competition, consumer trust and consumer choice, as well as effectiveness of (a) the application and evaluation process, and (b) safeguards put in place to mitigate issues involved in the introduction or expansion. The information gathered in this section will be one source of input to help inform this review. This information is not used as part of the evaluation or scoring of the application, except to the extent that the information may overlap with questions or evaluation areas that are scored. An applicant wishing to designate this application as community-based should ensure that these responses are consistent with its responses for question 20 below.			
		(b) How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?	Y	Answers should address the following points: i. What is the goal of your proposed gTLD in terms of areas of specialty, service levels, or reputation? ii. What do you anticipate your proposed gTLD will add to the current space, in terms of competition, differentiation, or innovation? iii. What goals does your proposed gTLD have in terms of user experience? iv. Provide a complete description of the applicant's intended registration policies in support of the goals listed above. v. Will your proposed gTLD impose any measures for			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				protecting the privacy or confidential information of registrants or users? If so, please describe any such measures. Describe whether and in what ways outreach and communications will help to achieve your projected benefits.			
	18	(c) What operating rules will you adopt to eliminate or minimize social costs (e.g., time or financial resource costs, as well as various types of consumer vulnerabilities)? What other steps will you take to minimize negative consequences/costs imposed upon consumers?	Y	Answers should address the following points: i. How will multiple applications for a particular domain name be resolved, for example, by auction or on a first-come/first-serve basis? ii. Explain any cost benefits for registrants you intend to implement (e.g., advantageous pricing, introductory discounts, bulk registration discounts). iii. Note that the Registry Agreement requires that registrars be offered the option to obtain initial domain name registrations for periods of one to ten years at the discretion of the registrar, but no greater than ten years. Additionally, the Registry Agreement requires advance written notice of price increases. Do you intend to make contractual commitments to registrants regarding the magnitude of price escalation? If so, please describe your plans.			
Community-based Designation	19	Is the application for a community-based TLD?	Y	There is a presumption that the application is a standard application (as defined in the Applicant Guidebook) if this question is left unanswered.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				The applicant's designation as standard or community-based cannot be changed once the application is submitted.			
	20	(a) Provide the name and full description of the community that the applicant is committing to serve. In the event that this application is included in a community priority evaluation, it will be scored based on the community identified in response to this question. The name of the community does not have to be formally adopted for the application to be designated as community-based.	Y	Descriptions should include: • How the community is delineated from Internet users generally. Such descriptions may include, but are not limited to, the following: membership, registration, or licensing processes, operation in a particular industry, use of a language. • How the community is structured and organized. For a community consisting of an alliance of groups, details about the constituent parts are required. • When the community was established, including the date(s) of formal organization, if any, as well as a description of community activities to date. • The current estimated size of the community, both as to membership and geographic extent.		Responses to Question 20 will be regarded as firm commitments to the specified community and reflected in the Registry Agreement, provided the application is successful. Responses are not scored in the Initial Evaluation. Responses may be scored in a community priority evaluation, if applicable. Criteria and scoring methodology for the community priority evaluation are described in Module 4 of the Applicant Guidebook.	
		(b) Explain the applicant's relationship to the community identified in 20(a).	Y	Explanations should clearly state: • Relations to any community organizations. • Relations to the community and its constituent parts/groups. • Accountability mechanisms of the applicant to the community.			
		(c) Provide a description of the community-based purpose of the applied-for gTLD.	Y	Descriptions should include: • Intended registrants in the TLD. • Intended end-users of the TLD. • Related activities the applicant has carried out or intends to carry out in service of this purpose. • Explanation of how the purpose is of a lasting nature.			
		(d) Explain the relationship between the applied-for gTLD string and the community identified in 20(a).	Y	Explanations should clearly state: • relationship to the established name, if any, of the community.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				• relationship to the identification of community members. • any connotations the string may have beyond the community.			
		(e) Provide a complete description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD. Policies and enforcement mechanisms are expected to constitute a coherent set.	Y	Descriptions should include proposed policies, if any, on the following: • Eligibility: who is eligible to register a second-level name in the gTLD, and how will eligibility be determined. • Name selection: what types of second-level names may be registered in the gTLD. • Content/Use: what restrictions, if any, the registry operator will impose on how a registrant may use its registered name. • Enforcement: what investigation practices and mechanisms exist to enforce the policies above, what resources are allocated for enforcement, and what appeal mechanisms are available to registrants.			
		(f) Attach any written endorsements for the application from established institutions representative of the community identified in 20(a). An applicant may submit written endorsements by multiple institutions, if relevant to the community.	Y	At least one such endorsement is required for a complete application. The form and content of the endorsement are at the discretion of the party providing the endorsement; however, the letter must identify the applied-for gTLD string and the applying entity, include an express statement support for the application, and the supply the contact information of the entity providing the endorsement. Endorsements from institutions not mentioned in the response to 20(b) should be accompanied by a clear description of each such institution's relationship to the community. Endorsements presented as supporting documentation for this question should be submitted in the original language.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
Geographic Names	21	(a) Is the application for a geographic name?	Y	An applied-for gTLD string is considered a geographic name requiring government support if it is: (a) the capital city name of a country or territory listed in the ISO 3166-1 standard; (b) a city name, where it is clear from statements in the application that the applicant intends to use the gTLD for purposes associated with the city name; (c) a sub-national place name listed in the ISO 3166-2 standard; or (d) a name listed as a UNESCO region or appearing on the "Composition of macro geographic (continental) or regions, geographic sub-regions, and selected economic and other groupings" list. See Module 2 for complete definitions and criteria. An application for a country or territory name, as defined in the Applicant Guidebook, will not be approved.			
		(b) If a geographic name, attach documentation of support or non-objection from all relevant governments or public authorities.	N	See the documentation requirements in Module 2 of the Applicant Guidebook. Documentation presented in response to this question should be submitted in the original language.			
Protection of Geographic Names	22	Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD. This should include any applicable rules and procedures for reservation and/or release of such names.	Y	Applicants should consider and describe how they will incorporate Governmental Advisory Committee (GAC) advice in their management of second-level domain name registrations. See "Principles regarding New gTLDs" at https://gacweb.icann.org/display/GACADV/New+gTLDs. For reference, applicants may draw on existing methodology developed for the reservation and release of country names in the .INFO top-level domain. See the Dot Info Circular at https://gacweb.icann.org/display/GACADV/New+gTLDs . Proposed measures will be posted for public comment as part of the application. However, note that procedures for release of geographic names at the second level			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				must be separately approved according to Specification 5 of the Registry Agreement. That is, approval of a gTLD application does not constitute approval for release of any geographic names under the Registry Agreement. Such approval must be granted separately by ICANN.			
Registry Services	23	Provide name and full description of all the Registry Services to be provided. Descriptions should include both technical and business components of each proposed service, and address any potential security or stability concerns. The following registry services are customary services offered by a registry operator: A. Receipt of data from registrars concerning registration of domain names and name servers. B. Dissemination of TLD zone files. C. Dissemination of contact or other information concerning domain name registrations (e.g., port-43 WHOIS, Web-based Whois, RESTful Whois service). D. Internationalized Domain Names, where offered. E. DNS Security Extensions (DNSSEC). The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD. Additional proposed registry services that are unique to the registry must also be described.	Y	Registry Services are defined as the following: (1) operations of the Registry critical to the following tasks: (i) the receipt of data from registrars concerning registrations of domain names and name servers; (ii) provision to registrars of status information relating to the zone servers for the TLD; (iii) dissemination of TLD zone files; (iv) operation of the Registry zone servers; and (v) dissemination of contact and other information concerning domain name server registrations in the TLD as required by the Registry Agreement; and (2) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy; (3) any other products or services that only a Registry Operator is capable of providing, by reason of its designation as the Registry Operator. A full definition of Registry Services can be found at http://www.icann.org/en/registries/rsep/rsep.html. Security: For purposes of this Applicant Guidebook, an effect on security by the proposed Registry Service means (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 applicable standards. Stability: For purposes of this Applicant Guidebook, an effect on stability shall mean that the proposed Registry Service (1) is not compliant with applicable relevant standards that are authoritative and published by a well-established, recognized and		Responses are not scored. A preliminary assessment will be made to determine if there are potential security or stability issues with any of the applicant's proposed Registry Services. If any such issues are identified, the application will be referred for an extended review. See the description of the Registry Services review process in Module 2 of the Applicant Guidebook. Any information contained in the application may be considered as part of the Registry Services review. If its application is approved, applicant may engage in only those registry services defined in the application, unless a new request is submitted to ICANN in accordance with the Registry Agreement.	

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
				authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs sponsored by the IETF, or (2) creates 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, recognized and authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs and relying on Registry Operator's delegation information or provisioning.			
Demonstration of Technical & Operational Capability (External)	24	Shared Registration System (SRS) Performance: describe • the plan for operation of a robust and reliable SRS. SRS is a critical registry function for enabling multiple registrars to provide domain name registration services in the TLD. SRS must include the EPP interface to the registry, as well as any other interfaces intended to be provided, if they are critical to the functioning of the registry. Please refer to the requirements in Specification 6 (section 1.2) and Specification 10 (SLA Matrix) attached to the Registry Agreement; and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer should include, but is not limited to: • A high-level SRS system description; • Representative network diagram(s); • Number of servers; • Description of interconnectivity with other registry systems; • Frequency of synchronization between servers; and • Synchronization scheme (e.g., hot standby, cold standby).	Y	The questions in this section (24-44) are intended to give applicants an opportunity to demonstrate their technical and operational capabilities to run a registry. In the event that an applicant chooses to outsource one or more parts of its registry operations, the applicant should still provide the full details of the technical arrangements. Note that the resource plans provided in this section assist in validating the technical and operational plans as well as informing the cost estimates in the Financial section below. Questions 24-30(a) are designed to provide a description of the applicant's intended technical and operational approach for those registry functions that are outward-facing, i.e., interactions with registrars, registrants, and various DNS users. Responses to these questions will be published to allow review by affected parties.	0-1	Complete answer demonstrates: (1) a plan for operating a robust and reliable SRS, one of the five critical registry functions; (2) scalability and performance consistent with the overall business approach, and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) evidence of compliance with Specification 6 (section 1.2) to the Registry Agreement.	1 - meets requirements: Response includes (1) An adequate description of SRS that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Details of a well-developed plan to operate a robust and reliable SRS; (3) SRS plans are sufficient to result in compliance with Specification 6 and Specification 10 to the Registry Agreement; (4) SRS is consistent with the technical, operational and financial approach described in the application; and (5) Demonstrates that adequate technical resources are already on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		A complete answer is expected to be no more than 5 pages. (As a guide, one page contains approximately 4000 characters).					
	25	Extensible Provisioning Protocol (EPP): provide a detailed description of the interface with registrars, including how the applicant will comply with EPP in RFCs 3735 (if applicable), and 5730-5734. If intending to provide proprietary EPP extensions, provide documentation consistent with RFC 3735, including the EPP templates and schemas that will be used. Describe resourcing plans (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 5 pages. If there are proprietary EPP extensions, a complete answer is also expected to be no more than 5 pages per EPP extension.	Y		0-1	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; (4) ability to comply with relevant RFCs; (5) if applicable, a well-documented implementation of any proprietary EPP extensions; and (6) if applicable, how proprietary EPP extensions are consistent with the registration lifecycle as described in Question 27.	**1 - meets requirements**: Response includes (1) Adequate description of EPP that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Sufficient evidence that any proprietary EPP extensions are compliant with RFCs and provide all necessary functionalities for the provision of registry services; (3) EPP interface is consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates that technical resources are already on hand, or committed or readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.
	26	Whois: describe • how the applicant will comply with Whois specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 10 to the Registry Agreement; • how the Applicant's Whois service will comply with RFC 3912; and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer should include, but is not limited to:	Y	The Registry Agreement (Specification 4) requires provision of Whois lookup services for all names registered in the TLD. This is a minimum requirement. Provision for Searchable Whois as defined in the scoring column is a requirement for achieving a score of 2 points.	0-2	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements, (one of the five critical registry functions); (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the	**2 – exceeds requirements**: Response meets all the attributes for a score of 1 and includes: (1) A Searchable Whois service: Whois service includes web-based search capabilities by domain name, registrant name, postal address, contact names, registrar IDs, and Internet Protocol addresses without arbitrary limit. Boolean search capabilities may be offered. The service shall include appropriate precautions to avoid abuse of this feature (e.g., limiting access to legitimate authorized users), and the

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		• A high-level Whois system description; • Relevant network diagram(s); • IT and infrastructure resources (e.g., servers, switches, routers and other components); • Description of interconnectivity with other registry systems; and • Frequency of synchronization between servers. To be eligible for a score of 2, answers must also include: • Provision for Searchable Whois capabilities; and • A description of potential forms of abuse of this feature, how these risks will be mitigated, and the basis for these descriptions. A complete answer is expected to be no more than 5 pages.				planned costs detailed in the financial section; (4) ability to comply with relevant RFCs; (5) evidence of compliance with Specifications 4 and 10 to the Registry Agreement; and (6) if applicable, a well-documented implementation of Searchable Whois.	application demonstrates compliance with any applicable privacy laws or policies. 1 - meets requirements: Response includes (1) adequate description of Whois service that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Evidence that Whois services are compliant with RFCs, Specifications 4 and 10 to the Registry Agreement, and any other contractual requirements including all necessary functionalities for user interface; (3) Whois capabilities consistent with the technical, operational, and financial approach as described in the application; and (4) demonstrates an adequate level of resources that are already on hand or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.
	27	Registration Life Cycle: provide a detailed description of the proposed registration lifecycle for domain names in the proposed gTLD. The description must: • explain the various registration states as well as the criteria and procedures that are used to change state; • describe the typical registration lifecycle of create/update/delete and all intervening steps such as pending, locked, expired, and transferred that may apply; • clearly explain any time elements that are involved - for instance details of add-grace or redemption grace periods, or notice periods for renewals or transfers; and • describe resourcing plans for this aspect of the criteria (number and	Y		0-1	Complete answer demonstrates: (1) complete knowledge and understanding of registration lifecycles and states; (2) consistency with any specific commitments made to registrants as adapted to the overall business approach for the proposed gTLD; and (3) the ability to comply with relevant RFCs.	1 - meets requirements: Response includes (1) An adequate description of the registration lifecycle that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Details of a fully developed registration life cycle with definition of various registration states, transition between the states, and trigger points; (3) A registration lifecycle that is consistent with any commitments to registrants and with technical, operational, and financial plans described in the application; and (4) Demonstrates an adequate level of

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		description of personnel roles allocated to this area). The description of the registration lifecycle should be supplemented by the inclusion of a state diagram, which captures definitions, explanations of trigger points, and transitions from state to state. If applicable, provide definitions for aspects of the registration lifecycle that are not covered by standard EPP RFCs. A complete answer is expected to be no more than 5 pages.					resources that are already on hand or committed or readily available to carry out this function. **0 - fails requirements**: Does not meet all the requirements to score 1.
	28	Abuse Prevention and Mitigation: Applicants should describe the proposed policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. A complete answer should include, but is not limited to: • An implementation plan to establish and publish on its website a single abuse point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller; • Policies for handling complaints regarding abuse; • Proposed measures for removal of orphan glue records for names removed from the zone when provided with evidence in written form that the glue is present in connection with malicious conduct (see Specification 6); and • Resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). To be eligible for a score of 2, answers must include measures to promote Whois accuracy as well as measures from one other area as	Y	Note that, while orphan glue often supports correct and ordinary operation of the DNS, registry operators will be required to 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.	0-2	Complete answer demonstrates: (1) Comprehensive abuse policies, which include clear definitions of what constitutes abuse in the TLD, and procedures that will effectively minimize potential for abuse in the TLD; (2) Plans are adequately resourced in the planned costs detailed in the financial section; (3) Policies and procedures identify and address the abusive use of registered names at startup and on an ongoing basis; and (4) When executed in accordance with the Registry Agreement, plans will result in compliance with contractual requirements.	**2 – exceeds requirements**: Response meets all the attributes for a score of 1 and includes: (1) Details of measures to promote Whois accuracy, using measures specified here or other measures commensurate in their effectiveness; and (2) Measures from at least one additional area to be eligible for 2 points as described in the question. **1 - meets requirements** Response includes: (1) An adequate description of abuse prevention and mitigation policies and procedures that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Details of well-developed abuse policies and procedures; (3) Plans are sufficient to result in compliance with contractual requirements; (4) Plans are consistent with the technical, operational, and financial approach described in the application, and any commitments made to registrants; and (5) Demonstrates an adequate level of resources that are on hand, committed, or readily available to

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		described below. • Measures to promote Whois accuracy (can be undertaken by the registry directly or by registrars via requirements in the Registry-Registrar Agreement (RRA)) may include, but are not limited to: o Authentication of registrant information as complete and accurate at time of registration. Measures to accomplish this could include performing background checks, verifying all contact information of principals mentioned in registration data, reviewing proof of establishment documentation, and other means. o Regular monitoring of registration data for accuracy and completeness, employing authentication methods, and establishing policies and procedures to address domain names with inaccurate or incomplete Whois data; and o If relying on registrars to enforce measures, establishing policies and procedures to ensure compliance, which may include audits, financial incentives, penalties, or other means. Note that the requirements of the RAA will continue to apply to all ICANN-accredited registrars. • A description of policies and procedures that define malicious or abusive behavior, capture metrics, and establish Service Level Requirements for resolution, including service levels for responding to law enforcement requests. This may include rapid takedown or suspension systems and sharing information regarding malicious or abusive behavior with industry partners; • Adequate controls to ensure proper access to domain functions (can be undertaken by the registry directly or by					carry out this function. 0 – fails requirements Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		registrars via requirements in the Registry-Registrar Agreement (RRA)) may include, but are not limited to: o Requiring multi-factor authentication (i.e., strong passwords, tokens, one-time passwords) from registrants to process update, transfers, and deletion requests; o Requiring multiple, unique points of contact to request and/or approve update, transfer, and deletion requests; and o Requiring the notification of multiple, unique points of contact when a domain has been updated, transferred, or deleted. A complete answer is expected to be no more than 20 pages.					
	29	Rights Protection Mechanisms: Applicants must describe how their registry will comply with policies and practices that minimize abusive registrations and other activities that affect the legal rights of others, such as the Uniform Domain Name Dispute Resolution Policy (UDRP), Uniform Rapid Suspension (URS) system, and Trademark Claims and Sunrise services at startup. A complete answer should include: • A description of how the registry operator will implement safeguards against allowing unqualified registrations (e.g., registrations made in violation of the registry's eligibility restrictions or policies), and reduce opportunities for behaviors such as phishing or pharming. At a minimum, the registry operator must offer a Sunrise period and a Trademark Claims service during the required time periods, and implement decisions rendered under the URS on an ongoing basis; and • A description of resourcing plans for the	Y		0-2	Complete answer describes mechanisms designed to: (1) prevent abusive registrations, and (2) identify and address the abusive use of registered names on an ongoing basis.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes: (1) Identification of rights protection as a core objective, supported by a well-developed plan for rights protection; and (2) Mechanisms for providing effective protections that exceed minimum requirements (e.g., RPMs in addition to those required in the registry agreement). 1 - meets requirements: Response includes (1) An adequate description of RPMs that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) A commitment from the applicant to implement of rights protection mechanisms sufficient to comply with minimum requirements in Specification 7; (3) Plans that are sufficient to result in compliance with contractual requirements;

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		initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). To be eligible for a score of 2, answers must also include additional measures specific to rights protection, such as abusive use policies, takedown procedures, registrant pre-verification, or authentication procedures, or other covenants. A complete answer is expected to be no more than 10 pages.					(4) Mechanisms that are consistent with the technical, operational, and financial approach described in the application; and (5) Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score a 1.
	30	(a) Security Policy: provide a summary of the security policy for the proposed registry, including but not limited to: • indication of any independent assessment reports demonstrating security capabilities, and provisions for periodic independent assessment reports to test security capabilities; • description of any augmented security levels or capabilities commensurate with the nature of the applied for gTLD string, including the identification of any existing international or industry relevant security standards the applicant commits to following (reference site must be provided); • list of commitments made to registrants concerning security levels. To be eligible for a score of 2, answers must also include: • Evidence of an independent assessment report demonstrating effective security controls (e.g., ISO 27001). A summary of the above should be no more than 20 pages. Note that the complete security policy for the registry is required to be submitted in accordance with 30(b).	Y	Criterion 5 calls for security levels to be appropriate for the use and level of trust associated with the TLD string, such as, for example, financial services oriented TLDs. "Financial services" are activities performed by financial institutions, including: 1) the acceptance of deposits and other repayable funds; 2) lending; 3) payment and remittance services; 4) insurance or reinsurance services; 5) brokerage services; 6) investment services and activities; 7) financial leasing; 8) issuance of guarantees and commitments; 9) provision of financial advice; 10) portfolio management and advice; or 11) acting as a financial clearinghouse. Financial services is used as an example only; other strings with exceptional potential to cause harm to consumers would also be expected to deploy appropriate levels of security.	0-2	Complete answer demonstrates: (1) detailed description of processes and solutions deployed to manage logical security across infrastructure and systems, monitoring and detecting threats and security vulnerabilities and taking appropriate steps to resolve them; (2) security capabilities are consistent with the overall business approach and planned size of the registry; (3) a technical plan adequately resourced in the planned costs detailed in the financial section; (4) security measures are consistent with any commitments made to registrants regarding security levels; and (5) security measures are appropriate for the applied-for gTLD string (For example, applications for strings with unique trust implications, such as financial services-oriented strings, would be expected to provide a commensurate level of security).	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes: (1) Evidence of highly developed and detailed security capabilities, with various baseline security levels, independent benchmarking of security metrics, robust periodic security monitoring, and continuous enforcement; and (2) an independent assessment report is provided demonstrating effective security controls are either in place or have been designed, and are commensurate with the applied-for gTLD string. (This could be ISO 27001 certification or other well-established and recognized industry certifications for the registry operation. If new independent standards for demonstration of effective security controls are established, such as the High Security Top Level Domain (HSTLD) designation, this could also be included. An illustrative example of an independent standard is the proposed set of requirements described in http://www.icann.org/en/correspondence/aba-bits-to-beckstrom-crocker-20dec11-en.pdf.) 1 - meets requirements: Response includes:

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							(1) Adequate description of security policies and procedures that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) A description of adequate security capabilities, including enforcement of logical access control, threat analysis, incident response and auditing. Ad-hoc oversight and governance and leading practices being followed; (3) Security capabilities consistent with the technical, operational, and financial approach as described in the application, and any commitments made to registrants; (4) Demonstrates that an adequate level of resources are on hand, committed or readily available to carry out this function; and (5) Proposed security measures are commensurate with the nature of the applied-for gTLD string. 0 - fails requirements: Does not meet all the requirements to score 1.
Demonstration of Technical & Operational Capability (Internal)	30	(b) Security Policy: provide the complete security policy and procedures for the proposed registry, including but not limited to: • system (data, server, application / services) and network access control, ensuring systems are maintained in a secure fashion, including details of how they are monitored, logged and backed up; • resources to secure integrity of updates between registry systems and nameservers, and between nameservers, if any; • independent assessment reports demonstrating security capabilities (submitted as attachments), if any; • provisioning and other measures that mitigate risks posed by denial of service attacks; • computer and network incident response	N	Questions 30(b) – 44 are designed to provide a description of the applicant's intended technical and operational approach for those registry functions that are internal to the infrastructure and operations of the registry. To allow the applicant to provide full details and safeguard proprietary information, responses to these questions will not be published.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		policies, plans, and processes; • plans to minimize the risk of unauthorized access to its systems or tampering with registry data; • intrusion detection mechanisms, a threat analysis for the proposed registry, the defenses that will be deployed against those threats, and provision for periodic threat analysis updates; • details for auditing capability on all network access; • physical security approach; • identification of department or group responsible for the registry's security organization; • background checks conducted on security personnel; • description of the main security threats to the registry operation that have been identified; and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area).					
	31	Technical Overview of Proposed Registry: provide a technical overview of the proposed registry. The technical plan must be adequately resourced, with appropriate expertise and allocation of costs. The applicant will provide financial descriptions of resources in the next section and those resources must be reasonably related to these technical requirements. The overview should include information on the estimated scale of the registry's technical operation, for example, estimates for the number of registration transactions and DNS queries per month should be provided for the first two years of operation. In addition, the overview should account for geographic dispersion of incoming network traffic such as DNS, Whois, and registrar transactions.	N	To the extent this answer is affected by the applicant's intent to outsource various registry operations, the applicant should describe these plans (e.g., taking advantage of economies of scale or existing facilities). However, the response must include specifying the technical plans, estimated scale, and geographic dispersion as required by the question.	0-1	Complete answer demonstrates: (1) complete knowledge and understanding of technical aspects of registry requirements; (2) an adequate level of resiliency for the registry's technical operations; (3) consistency with planned or currently deployed technical/operational solutions; (4) consistency with the overall business approach and planned size of the registry; (5) adequate resourcing for technical plan in the	1 - meets requirements: Response includes: (1) A description that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Technical plans consistent with the technical, operational, and financial approach as described in the application; (3) Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		If the registry serves a highly localized registrant base, then traffic might be expected to come mainly from one area. This high-level summary should not repeat answers to questions below. Answers should include a visual diagram(s) to highlight dataflows, to provide context for the overall technical infrastructure. Detailed diagrams for subsequent questions should be able to map back to this high-level diagram(s). The visual diagram(s) can be supplemented with documentation, or a narrative, to explain how all of the Technical & Operational components conform. A complete answer is expected to be no more than 10 pages.				planned costs detailed in the financial section; and (6) consistency with subsequent technical questions.	
	32	Architecture: provide documentation for the system and network architecture that will support registry operations for the proposed scale of the registry. System and network architecture documentation must clearly demonstrate the applicant's ability to operate, manage, and monitor registry systems. Documentation should include multiple diagrams or other components including but not limited to: • Detailed network diagram(s) showing the full interplay of registry elements, including but not limited to SRS, DNS, Whois, data escrow, and registry database functions; • Network and associated systems necessary to support registry operations, including: ▪ Anticipated TCP / IP addressing scheme, ▪ Hardware (i.e., servers, routers, networking components, virtual machines and key characteristics (CPU and RAM, Disk space, internal network connectivity, and make and model)), ▪ Operating system and versions, and ▪ Software and applications (with version information) necessary to support registry operations, management, and monitoring • General overview of capacity planning, including bandwidth allocation plans; • List of providers / carriers; and • Resourcing plans for the initial	N		0-2	Complete answer demonstrates: (1) detailed and coherent network architecture; (2) architecture providing resiliency for registry systems; (3) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and (4) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes (1) Evidence of highly developed and detailed network architecture that is able to scale well above stated projections for high registration volumes, thereby significantly reducing the risk from unexpected volume surges and demonstrates an ability to adapt quickly to support new technologies and services that are not necessarily envisaged for initial registry startup; and (2) Evidence of a highly available, robust, and secure infrastructure. 1 - meets requirements: Response includes (1) An adequate description of the architecture that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Plans for network architecture describe all necessary elements; (3) Descriptions demonstrate adequate network architecture providing robustness and security of the

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). To be eligible for a score of 2, answers must also include evidence of a network architecture design that greatly reduces the risk profile of the proposed registry by providing a level of scalability and adaptability (e.g., protection against DDoS attacks) that far exceeds the minimum configuration necessary for the expected volume. A complete answer is expected to be no more than 10 pages.					registry; (4) Bandwidth and SLA are consistent with the technical, operational, and financial approach as described in the application; and (5) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.
	33	Database Capabilities: provide details of database capabilities including but not limited to: • database software; • storage capacity (both in raw terms [e.g., MB, GB] and in number of registrations / registration transactions); • maximum transaction throughput (in total and by type of transaction); • scalability; • procedures for object creation, editing, and deletion, and user and credential management; • high availability; • change management procedures; • reporting capabilities; and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A registry database data model can be included to provide additional clarity to this response. Note: Database capabilities described should be in reference to registry services and not necessarily related support functions such as Personnel or Accounting, unless such services are inherently intertwined with the delivery of registry services. To be eligible for a score of 2, answers must also	N		0-2	Complete answer demonstrates: (1) complete knowledge and understanding of database capabilities to meet the registry technical requirements; (2) database capabilities consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes (1) Highly developed and detailed description of database capabilities that are able to scale well above stated projections for high registration volumes, thereby significantly reducing the risk from unexpected volume surges and demonstrates an ability to adapt quickly to support new technologies and services that are not necessarily envisaged for registry startup; and (2) Evidence of comprehensive database capabilities, including high scalability and redundant database infrastructure, regularly reviewed operational and reporting procedures following leading practices. 1 - meets requirements: Response includes (1) An adequate description of database capabilities that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Plans for database capabilities

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		include evidence of database capabilities that greatly reduce the risk profile of the proposed registry by providing a level of scalability and adaptability that far exceeds the minimum configuration necessary for the expected volume. A complete answer is expected to be no more than 5 pages.					describe all necessary elements; (3) Descriptions demonstrate adequate database capabilities, with database throughput, scalability, and database operations with limited operational governance; (4) Database capabilities are consistent with the technical, operational, and financial approach as described in the application; and (5) Demonstrates that an adequate level of resources that are on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.
	34	Geographic Diversity: provide a description of plans for geographic diversity of: a. name servers, and b. operations centers. Answers should include, but are not limited to: • the intended physical locations of systems, primary and back-up operations centers (including security attributes), and other infrastructure; • any registry plans to use Anycast or other topological and geographical diversity measures, in which case, the configuration of the relevant service must be included; • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). To be eligible for a score of 2, answers must also include evidence of a geographic diversity plan that greatly reduces the risk profile of the proposed registry by ensuring the continuance of all vital business functions (as identified in the applicant's continuity plan in Question 39) in the event of a natural or other disaster) at the principal place of business or point of presence.	N		0-2	Complete answer demonstrates: (1) geographic diversity of nameservers and operations centers; (2) proposed geo-diversity measures are consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes (1) Evidence of highly developed measures for geo-diversity of operations, with locations and functions to continue all vital business functions in the event of a natural or other disaster at the principal place of business or point of presence; and (2) A high level of availability, security, and bandwidth. 1 - meets requirements: Response includes (1) An adequate description of Geographic Diversity that substantially demonstrates the applicant's capabilities and knowledge required to meet this element; (2) Plans provide adequate geo-diversity of name servers and operations to continue critical registry functions in the event of a temporary outage at the principal place of business or point of presence; (3) Geo-diversity plans are consistent

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		A complete answer is expected to be no more than 5 pages.					with technical, operational, and financial approach as described in the application; and (4) Demonstrates adequate resources that are on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.
	35	DNS Service: describe the configuration and operation of nameservers, including how the applicant will comply with relevant RFCs. All name servers used for the new gTLD must be operated in compliance with the DNS protocol specifications defined in the relevant RFCs, including but not limited to: 1034, 1035, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 3901, 4343, and 4472. • Provide details of the intended DNS Service including, but not limited to: A description of the DNS services to be provided, such as query rates to be supported at initial operation, and reserve capacity of the system. Describe how your nameserver update methods will change at various scales. Describe how DNS performance will change at various scales. • RFCs that will be followed – describe how services are compliant with RFCs and if these are dedicated or shared with any other functions (capacity/performance) or DNS zones. • The resources used to implement the services - describe complete server hardware and software, including network bandwidth and addressing plans for servers. Also include resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). • Demonstrate how the system will	N	Note that the use of DNS wildcard resource records as described in RFC 4592 or any other method or technology for synthesizing DNS resource records or using redirection within the DNS by the registry is prohibited in the Registry Agreement. Also note that name servers for the new gTLD must comply with IANA Technical requirements for authoritative name servers: http://www.iana.org/procedures/nameserver-requirements.html.	0-1	Complete answer demonstrates: (1) adequate description of configurations of nameservers and compliance with respective DNS protocol-related RFCs; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; (4) evidence of compliance with Specification 6 to the Registry Agreement; and (5) evidence of complete knowledge and understanding of requirements for DNS service, one of the five critical registry functions.	1 - meets requirements: Response includes: (1) Adequate description of DNS service that that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Plans are sufficient to result in compliance with DNS protocols (Specification 6, section 1.1) and required performance specifications Specification 10, Service Level Matrix; (3) Plans are consistent with technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		function - describe how the proposed infrastructure will be able to deliver the performance described in Specification 10 (section 2) attached to the Registry Agreement. Examples of evidence include: • Server configuration standard (i.e., planned configuration). • Network addressing and bandwidth for query load and update propagation. • Headroom to meet surges. A complete answer is expected to be no more than 10 pages.					
	36	IPv6 Reachability: provide a description of plans for providing IPv6 transport including, but not limited to: • How the registry will support IPv6 access to Whois, Web-based Whois and any other Registration Data Publication Service as described in Specification 6 (section 1.5) to the Registry Agreement. • How the registry will comply with the requirement in Specification 6 for having at least two nameservers reachable over IPv6. • List all services that will be provided over IPv6, and describe the IPv6 connectivity and provider diversity that will be used. • Resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 5 pages.	N	IANA nameserver requirements are available at http://www.iana.org/procedures/nameserver-requirements.html.	0-1	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) evidence of compliance with Specification 6 to the Registry Agreement.	1 - meets requirements: Response includes (1) Adequate description of IPv6 reachability that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) A description of an adequate implementation plan addressing requirements for IPv6 reachability, indicating IPv6 reachability allowing IPv6 transport in the network over two independent IPv6 capable networks in compliance to IPv4 IANA specifications, and Specification 10; (3) IPv6 plans consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
	37	Data Backup Policies & Procedures: provide • details of frequency and procedures for backup of data, • hardware, and systems used for backup, • data format, • data backup features, • backup testing procedures, • procedures for retrieval of data/rebuild of database, • storage controls and procedures, and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 5 pages.	N		0-1	Complete answer demonstrates: (1) detailed backup and retrieval processes deployed; (2) backup and retrieval process and frequency are consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	1 - meets requirements: Response includes (1) Adequate description of backup policies and procedures that substantially demonstrate the applicant's capabilities and knowledge required to meet this element; (2) A description of leading practices being or to be followed; (3) Backup procedures consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, or committed or readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score a 1.
	38	Data Escrow: describe • how the applicant will comply with the data escrow requirements documented in the Registry Data Escrow Specification (Specification 2 of the Registry Agreement); and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 5 pages	N		0-1	Complete answer demonstrates: (1) complete knowledge and understanding of data escrow, one of the five critical registry functions; (2) compliance with Specification 2 of the Registry Agreement; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) the escrow arrangement is consistent with the overall business approach and size/scope of the registry.	1 – meets requirements: Response includes (1) Adequate description of a Data Escrow process that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Data escrow plans are sufficient to result in compliance with the Data Escrow Specification (Specification 2 to the Registry Agreement); (3) Escrow capabilities are consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, committed, or readily available to carry out this function. 0 – fails requirements: Does not meet all the requirements to score a 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
	39	Registry Continuity: describe how the applicant will comply with registry continuity obligations as described in Specification 6 (section 3) to the registry agreement. This includes conducting registry operations using diverse, redundant servers to ensure continued operation of critical functions in the case of technical failure. Describe resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). The response should include, but is not limited to, the following elements of the business continuity plan: • Identification of risks and threats to compliance with registry continuity obligations; • Identification and definitions of vital business functions (which may include registry services beyond the five critical registry functions) versus other registry functions and supporting operations and technology; • Definitions of Recovery Point Objectives and Recovery Time Objective; and • Descriptions of testing plans to promote compliance with relevant obligations. To be eligible for a score of 2, answers must also include: • A highly detailed plan that provides for leading practice levels of availability; and • Evidence of concrete steps such as a contract with a backup provider (in addition to any currently designated service operator) or a maintained hot site. A complete answer is expected to be no more than 15 pages.	N	For reference, applicants should review the ICANN gTLD Registry Continuity Plan at http://www.icann.org/en/registries/continuity/gtld-registry-continuity-plan-25apr09-en.pdf. A Recovery Point Objective (RPO) refers to the point in time to which data should be recovered following a business disruption or disaster. The RPO allows an organization to define a window of time before a disruption or disaster during which data may be lost and is independent of the time it takes to get a system back on-line.If the RPO of a company is two hours, then when a system is brought back on-line after a disruption/disaster, all data must be restored to a point within two hours before the disaster. A Recovery Time Objective (RTO) is the duration of time within which a process must be restored after a business disruption or disaster to avoid what the entity may deem as unacceptable consequences. For example, pursuant to the draft Registry Agreement DNS service must not be down for longer than 4 hours. At 4 hours ICANN may invoke the use of an Emergency Back End Registry Operator to take over this function. The entity may deem this to be an unacceptable consequence therefore they may set their RTO to be something less than 4 hours and would build continuity plans accordingly. Vital business functions are functions that are critical to the success of the operation. For example, if a registry operator provides an additional service beyond the five critical registry functions, that it deems as central to its TLD, or supports an operation that is central to the TLD, this might be identified as a vital business function.	0-2	Complete answer demonstrates: (1) detailed description showing plans for compliance with registry continuity obligations; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) evidence of compliance with Specification 6 to the Registry Agreement.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes: (1) Highly developed and detailed processes for maintaining registry continuity; and (2) Evidence of concrete steps, such as a contract with a backup service provider or a maintained hot site. 1 - meets requirements: Response includes: (1) Adequate description of a Registry Continuity plan that substantially demonstrates capability and knowledge required to meet this element; (2) Continuity plans are sufficient to result in compliance with requirements (Specification 6); (3) Continuity plans are consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, committed readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score a 1.
	40	Registry Transition: provide a Service Migration plan (as described in the Registry Transition Processes) that could be followed in the event	N		0-1	Complete answer demonstrates: (1) complete knowledge and	1 - meets requirements: Response includes (1) Adequate description of a registry

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		that it becomes necessary to permanently transition the proposed gTLD to a new operator. The plan must take into account, and be consistent with the vital business functions identified in the previous question. Elements of the plan may include, but are not limited to: • Preparatory steps needed for the transition of critical registry functions; • Monitoring during registry transition and efforts to minimize any interruption to critical registry functions during this time; and • Contingency plans in the event that any part of the registry transition is unable to move forward according to the plan. A complete answer is expected to be no more than 10 pages.				understanding of the Registry Transition Processes; and (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry.	transition plan that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) A description of an adequate registry transition plan with appropriate monitoring during registry transition; and (3) Transition plan is consistent with the technical, operational, and financial approach as described in the application. 0 - fails requirements: Does not meet all the requirements to score a 1.
	41	Failover Testing: provide • a description of the failover testing plan, including mandatory annual testing of the plan. Examples may include a description of plans to test failover of data centers or operations to alternate sites, from a hot to a cold facility, registry data escrow testing, or other mechanisms. The plan must take into account and be consistent with the vital business functions identified in Question 39; and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). The failover testing plan should include, but is not limited to, the following elements: • Types of testing (e.g., walkthroughs, takedown of sites) and the frequency of testing; • How results are captured, what is done	N		0-1	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	1 - meets requirements: Response includes (1) An adequate description of a failover testing plan that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) A description of an adequate failover testing plan with an appropriate level of review and analysis of failover testing results; (3) Failover testing plan is consistent with the technical, operational, and financial approach as described in the application; and (4) Demonstrates an adequate level of resources that are on hand, committed or readily available to carry out this function. 0 – fails requirements Does not meet all the requirements to score a 1.

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		with the results, and with whom results are shared; • How test plans are updated (e.g., what triggers an update, change management processes for making updates); • Length of time to restore critical registry functions; • Length of time to restore all operations, inclusive of critical registry functions; and • Length of time to migrate from one site to another. A complete answer is expected to be no more than10 pages.					
	42	Monitoring and Fault Escalation Processes: provide • a description of the proposed (or actual) arrangements for monitoring critical registry systems (including SRS, database systems, DNS servers, Whois service, network connectivity, routers and firewalls). This description should explain how these systems are monitored and the mechanisms that will be used for fault escalation and reporting, and should provide details of the proposed support arrangements for these registry systems. • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). To be eligible for a score of 2, answers must also include: • Meeting the fault tolerance / monitoring guidelines described • Evidence of commitment to provide a 24x7 fault response team. A complete answer is expected to be no more than 10 pages.	N		0-2	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) consistency with the commitments made to registrants and registrars regarding system maintenance.	2 - exceeds requirements: Response meets all attributes for a score of 1 and includes (1) Evidence showing highly developed and detailed fault tolerance/monitoring and redundant systems deployed with real-time monitoring tools / dashboard (metrics) deployed and reviewed regularly; (2) A high level of availability that allows for the ability to respond to faults through a 24x7 response team. 1 - meets requirements: Response includes (1) Adequate description of monitoring and fault escalation processes that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Evidence showing adequate fault tolerance/monitoring systems planned with an appropriate level of monitoring and limited periodic review being performed; (3) Plans are consistent with the technical, operational, and financial approach described in the application; and (4) Demonstrates an adequate level of resources that are on hand,

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							committed or readily available to carry out this function. **0 - fails requirements**: Does not meet all the requirements to score 1.
	43	DNSSEC: Provide • The registry's DNSSEC policy statement (DPS), which should include the policies and procedures the proposed registry will follow, for example, for signing the zone file, for verifying and accepting DS records from child domains, and for generating, exchanging, and storing keying material; • Describe how the DNSSEC implementation will comply with relevant RFCs, including but not limited to: RFCs 4033, 4034, 4035, 5910, 4509, 4641, and 5155 (the latter will only be required if Hashed Authenticated Denial of Existence will be offered); and • resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 5 pages. Note, the DPS is required to be submitted as part of the application	N		0-1	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements, one of the five critical registry functions; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) an ability to comply with relevant RFCs.	**1 - meets requirements**: Response includes (1) An adequate description of DNSSEC that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) Evidence that TLD zone files will be signed at time of launch, in compliance with required RFCs, and registry offers provisioning capabilities to accept public key material from registrants through the SRS ; (3) An adequate description of key management procedures in the proposed TLD, including providing secure encryption key management (generation, exchange, and storage); (4) Technical plan is consistent with the technical, operational, and financial approach as described in the application; and (5) Demonstrates an adequate level of resources that are already on hand, committed or readily available to carry out this function. **0 - fails requirements**: Does not meet all the requirements to score 1.

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	44	OPTIONAL. IDNs: • State whether the proposed registry will support the registration of IDN labels in the TLD, and if so, how. For example, explain which characters will be supported, and provide the associated IDN Tables with variant characters identified, along with a corresponding registration policy. This includes public interfaces to the databases such as Whois and EPP. • Describe how the IDN implementation will comply with RFCs 5809-5893 as well as the ICANN IDN Guidelines at http://www.icann.org/en/topics/idn/implementation-guidelines.htm. • Describe resourcing plans for the initial implementation of, and ongoing maintenance for, this aspect of the criteria (number and description of personnel roles allocated to this area). A complete answer is expected to be no more than 10 pages plus attachments.	N	IDNs are an optional service at time of launch. Absence of IDN implementation or plans will not detract from an applicant's score. Applicants who respond to this question with plans for implementation of IDNs at time of launch will be scored according to the criteria indicated here. IDN tables should be submitted in a machine-readable format. The model format described in Section 5 of RFC 4290 would be ideal. The format used by RFC 3743 is an acceptable alternative. Variant generation algorithms that are more complex (such as those with contextual rules) and cannot be expressed using these table formats should be specified in a manner that could be re-implemented programmatically by ICANN. Ideally, for any complex table formats, a reference code implementation should be provided in conjunction with a description of the generation rules.	0-1	IDNs are an optional service. Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan that is adequately resourced in the planned costs detailed in the financial section; (3) consistency with the commitments made to registrants and the technical, operational, and financial approach described in the application; (4) issues regarding use of scripts are settled and IDN tables are complete and publicly available; and (5) ability to comply with relevant RFCs.	1 - meets requirements for this optional element: Response includes (1) Adequate description of IDN implementation that substantially demonstrates the applicant's capability and knowledge required to meet this element; (2) An adequate description of the IDN procedures, including complete IDN tables, compliance with IDNA/IDN guidelines and RFCs, and periodic monitoring of IDN operations; (3) Evidence of ability to resolve rendering and known IDN issues or spoofing attacks; (4) IDN plans are consistent with the technical, operational, and financial approach as described in the application; and (5) Demonstrates an adequate level of resources that are on hand, committed readily available to carry out this function. 0 - fails requirements: Does not meet all the requirements to score a 1.
Demonstration of Financial Capability	45	Financial Statements: provide • audited or independently certified financial statements for the most recently completed fiscal year for the applicant, and • audited or unaudited financial statements for the most recently ended interim financial period for the applicant for which this information may be released. For newly-formed applicants, or where financial statements are not audited, provide: • the latest available unaudited financial statements; and • an explanation as to why audited or independently certified financial statements are not available. At a minimum, the financial statements should be provided for the legal entity listed as the applicant.	N	The questions in this section (45-50) are intended to give applicants an opportunity to demonstrate their financial capabilities to run a registry. Supporting documentation for this question should be submitted in the original language.	0-1	Audited or independently certified financial statements are prepared in accordance with International Financial Reporting Standards (IFRS) adopted by the International Accounting Standards Board (IASB) or nationally recognized accounting standards (e.g., GAAP). This will include a balance sheet and income statement reflecting the applicant's financial position and results of operations, a statement of shareholders equity/partner capital, and a cash flow statement. In the event the applicant is an entity newly formed for the purpose of applying for a gTLD and with little to no operating history	1 - meets requirements: Complete audited or independently certified financial statements are provided, at the highest level available in the applicant's jurisdiction. Where such audited or independently certified financial statements are not available, such as for newly-formed entities, the applicant has provided an explanation and has provided, at a minimum, unaudited financial statements. 0 - fails requirements: Does not meet all the requirements to score 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		Financial statements are used in the analysis of projections and costs. A complete answer should include: • balance sheet; • income statement; • statement of shareholders equity/partner capital; • cash flow statement, and • letter of auditor or independent certification, if applicable.				(less than one year), the applicant must submit, at a minimum, pro forma financial statements including all components listed in the question. Where audited or independently certified financial statements are not available, applicant has provided an adequate explanation as to the accounting practices in its jurisdiction and has provided, at a minimum, unaudited financial statements.	
	46	Projections Template: provide financial projections for costs and funding using Template 1, Most Likely Scenario (attached). Note, if certain services are outsourced, reflect this in the relevant cost section of the template. The template is intended to provide commonality among TLD applications and thereby facilitate the evaluation process. A complete answer is expected to be no more than 10 pages in addition to the template.	N		0-1	Applicant has provided a thorough model that demonstrates a sustainable business (even if break-even is not achieved through the first three years of operation). Applicant's description of projections development is sufficient to show due diligence.	1 - meets requirements: (1) Financial projections adequately describe the cost, funding and risks for the application (2) Demonstrates resources and plan for sustainable operations; and (3) Financial assumptions about the registry operations, funding and market are identified, explained, and supported. 0 - fails requirements: Does not meet all of the requirements to score a 1.
	47	Costs and capital expenditures: in conjunction with the financial projections template, describe and explain: • the expected operating costs and capital expenditures of setting up and operating the proposed registry; • any functions to be outsourced, as indicated in the cost section of the template, and the reasons for outsourcing; • any significant variances between years in any category of expected costs; and • a description of the basis / key assumptions including rationale for the costs provided in the projections template. This may include an	N	This question is based on the template submitted in question 46.	0-2	Costs identified are consistent with the proposed registry services, adequately fund technical requirements, and are consistent with proposed mission/purpose of the registry. Costs projected are reasonable for a registry of size and scope described in the application. Costs identified include the funding costs (interest expenses and fees) related to the continued operations instrument described in Question 50 below.	2 - exceeds requirements: Response meets all of the attributes for a score of 1 and: (1) Estimated costs and assumptions are conservative and consistent with an operation of the registry volume/scope/size as described by the applicant; (2) Estimates are derived from actual examples of previous or existing registry operations or equivalent; and (3) Conservative estimates are based on those experiences and describe a range of anticipated costs and use the high end of those estimates.

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		executive summary or summary outcome of studies, reference data, or other steps taken to develop the responses and validate any assumptions made. As described in the Applicant Guidebook, the information provided will be considered in light of the entire application and the evaluation criteria. Therefore, this answer should agree with the information provided in Template 1 to: 1) maintain registry operations, 2) provide registry services described above, and 3) satisfy the technical requirements described in the Demonstration of Technical & Operational Capability section. Costs should include both fixed and variable costs. To be eligible for a score of two points, answers must demonstrate a conservative estimate of costs based on actual examples of previous or existing registry operations with similar approach and projections for growth and costs or equivalent. Attach reference material for such examples. A complete answer is expected to be no more than 10 pages.				Key assumptions and their rationale are clearly described and may include, but are not limited to: • Key components of capital expenditures; • Key components of operating costs, unit operating costs, headcount, number of technical/operating/ equipment units, marketing, and other costs; and • Costs of outsourcing, if any.	1 - meets requirements: (1) Cost elements are reasonable and complete (i.e., cover all of the aspects of registry operations: registry services, technical requirements and other aspects as described by the applicant); (2) Estimated costs and assumptions are consistent and defensible with an operation of the registry volume/scope/size as described by the applicant; and (3) Projections are reasonably aligned with the historical financial statements provided in Question 45. 0 - fails requirements: Does not meet all the requirements to score a 1.
		(b) Describe anticipated ranges in projected costs. Describe factors that affect those ranges. A complete answer is expected to be no more than 10 pages.	N				
	48	(a) Funding and Revenue: Funding can be derived from several sources (e.g., existing capital or proceeds/revenue from operation of the proposed registry). Describe: I) How existing funds will provide resources for both: a) start-up of operations, and b) ongoing operations; II) the revenue model including projections for transaction volumes and price (if the applicant does not intend to rely on registration revenue in order to cover the costs of the registry's	N	Supporting documentation for this question should be submitted in the original language.	0-2	Funding resources are clearly identified and adequately provide for registry cost projections. Sources of capital funding are clearly identified, held apart from other potential uses of those funds and available. The plan for transition of funding sources from available capital to revenue from operations (if applicable) is described.	2 - exceeds requirements: Response meets all the attributes for a score of 1 and (1) Existing funds (specifically all funds required for start-up) are quantified, on hand, segregated in an account available only to the applicant for purposes of the application only, ; (2) If on-going operations are to be at least partially resourced from existing funds (rather than revenue from on-going operations) that funding is segregated and

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		operation, it must clarify how the funding for the operation will be developed and maintained in a stable and sustainable manner); III) outside sources of funding (the applicant must, where applicable, provide evidence of the commitment by the party committing the funds). Secured vs unsecured funding should be clearly identified, including associated sources of funding (i.e., different types of funding, level and type of security/collateral, and key items) for each type of funding; IV) Any significant variances between years in any category of funding and revenue; and V) A description of the basis / key assumptions including rationale for the funding and revenue provided in the projections template. This may include an executive summary or summary outcome of studies, reference data, or other steps taken to develop the responses and validate any assumptions made; and VI) Assurances that funding and revenue projections cited in this application are consistent with other public and private claims made to promote the business and generate support. To be eligible for a score of 2 points, answers must demonstrate: I) A conservative estimate of funding and revenue; and II) Ongoing operations that are not dependent on projected revenue. A complete answer is expected to be no more than 10 pages.				Outside sources of funding are documented and verified. Examples of evidence for funding sources include, but are not limited to: • Executed funding agreements; • A letter of credit; • A commitment letter; or • A bank statement. Funding commitments may be conditional on the approval of the application. Sources of capital funding required to sustain registry operations on an on-going basis are identified. The projected revenues are consistent with the size and projected penetration of the target markets. Key assumptions and their rationale are clearly described and address, at a minimum: • Key components of the funding plan and their key terms; and • Price and number of registrations.	earmarked for this purpose only in an amount adequate for three years operation; (3) If ongoing operations are to be at least partially resourced from revenues, assumptions made are conservative and take into consideration studies, reference data, or other steps taken to develop the response and validate any assumptions made; and (4) Cash flow models are prepared which link funding and revenue assumptions to projected actual business activity. 1 - meets requirements: (1) Assurances provided that materials provided to investors and/or lenders are consistent with the projections and assumptions included in the projections templates; (2) Existing funds (specifically all funds required for start-up) are quantified, committed, identified as available to the applicant; (3) If on-going operations are to be at least partially resourced from existing funds (rather than revenue from on-going operations) that funding is quantified and its sources identified in an amount adequate for three years operation; (4) If ongoing operations are to be at least partially resourced from revenues, assumptions made are reasonable and are directly related to projected business volumes, market size and penetration; and (5) Projections are reasonably aligned with the historical financial statements provided in Question 45. 0 - fails requirements: Does not meet all the requirements to score a 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		(b) Describe anticipated ranges in projected funding and revenue. Describe factors that affect those ranges. A complete answer is expected to be no more than 10 pages.	N				
	49	(a) Contingency Planning: describe your contingency planning: • Identify any projected barriers/risks to implementation of the business approach described in the application and how they affect cost, funding, revenue, or timeline in your planning; • Identify the impact of any particular regulation, law or policy that might impact the Registry Services offering; and • Describe the measures to mitigate the key risks as described in this question. A complete answer should include, for each contingency, a clear description of the impact to projected revenue, funding, and costs for the 3-year period presented in Template 1 (Most Likely Scenario). To be eligible for a score of 2 points, answers must demonstrate that action plans and operations are adequately resourced in the existing funding and revenue plan even if contingencies occur. A complete answer is expected to be no more than10 pages.	N		0-2	Contingencies and risks are identified, quantified, and included in the cost, revenue, and funding analyses. Action plans are identified in the event contingencies occur. The model is resilient in the event those contingencies occur. Responses address the probability and resource impact of the contingencies identified.	2 - exceeds requirements: Response meets all attributes for a score of 1 and: (1) Action plans and operations are adequately resourced in the existing funding and revenue plan even if contingencies occur. 1 - meets requirements: (1) Model adequately identifies the key risks (including operational, business, legal, jurisdictional, financial, and other relevant risks); (2) Response gives consideration to probability and resource impact of contingencies identified; and (3) If resources are not available to fund contingencies in the existing plan, funding sources and a plan for obtaining them are identified. 0 - fails requirements: Does not meet all the requirements to score a 1.
		(b) Describe your contingency planning where funding sources are so significantly reduced that material deviations from the implementation model are required. In particular, describe: • how on-going technical requirements will be met; and • what alternative funding can be reasonably raised at a later time. Provide an explanation if you do not believe there is any chance of reduced funding.	N				

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		Complete a financial projections template (Template 2, Worst Case Scenario) A complete answer is expected to be no more than 10 pages, in addition to the template.					
		(c) Describe your contingency planning where activity volumes so significantly exceed the high projections that material deviation from the implementation model are required. In particular, how will on-going technical requirements be met? A complete answer is expected to be no more than 10 pages.	N				
	50	(a) Provide a cost estimate for funding critical registry functions on an annual basis, and a rationale for these cost estimates commensurate with the technical, operational, and financial approach described in the application. The critical functions of a registry which must be supported even if an applicant's business and/or funding fails are: (1) DNS resolution for registered domain names Applicants should consider ranges of volume of daily DNS queries (e.g., 0-100M, 100M-1B, 1B+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics. (2) Operation of the Shared Registration System Applicants should consider ranges of volume of daily EPP transactions (e.g., 0-200K, 200K-2M, 2M+), the incremental costs associated with	N	Registrant protection is critical and thus new gTLD applicants are requested to provide evidence indicating that the critical functions will continue to be performed even if the registry fails. Registrant needs are best protected by a clear demonstration that the basic registry functions are sustained for an extended period even in the face of registry failure. Therefore, this section is weighted heavily as a clear, objective measure to protect and serve registrants. The applicant has two tasks associated with adequately making this demonstration of continuity for critical registry functions. First, costs for maintaining critical registrant protection functions are to be estimated (Part a). In evaluating the application, the evaluators will adjudge whether the estimate is reasonable given the systems architecture and overall business approach described elsewhere in the application. The Continuing Operations Instrument (COI) is invoked by ICANN if necessary to pay for an Emergency Back End Registry Operator (EBERO) to maintain the five critical registry functions for a period of three to five years. Thus, the cost estimates are tied to the cost for a third party to provide the functions, not	0-3	Figures provided are based on an accurate estimate of costs. Documented evidence or detailed plan for ability to fund on-going critical registry functions for registrants for a period of three years in the event of registry failure, default or until a successor operator can be designated. Evidence of financial wherewithal to fund this requirement prior to delegation. This requirement must be met prior to or concurrent with the execution of the Registry Agreement.	3 - exceeds requirements: Response meets all the attributes for a score of 1 and: (1) Financial instrument is secured and in place to provide for on-going operations for at least three years in the event of failure. 1 - meets requirements: (1) Costs are commensurate with technical, operational, and financial approach as described in the application; and (2) Funding is identified and instrument is described to provide for on-going operations of at least three years in the event of failure. 0 - fails requirements: Does not meet all the requirements to score a 1.

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		increasing levels of such queries, and the ability to meet SLA performance metrics. (3) Provision of Whois service Applicants should consider ranges of volume of daily Whois queries (e.g., 0-100K, 100k-1M, 1M+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics for both web-based and port-43 services. (4) Registry data escrow deposits Applicants should consider administration, retention, and transfer fees as well as daily deposit (e.g., full or incremental) handling. Costs may vary depending on the size of the files in escrow (i.e., the size of the registry database). (5) Maintenance of a properly signed zone in accordance with DNSSEC requirements. Applicants should consider ranges of volume of daily DNS queries (e.g., 0-100M, 100M-1B, 1B+), the incremental costs associated with increasing levels of such queries, and the ability to meet SLA performance metrics. List the estimated annual cost for each of these functions (specify currency used). A complete answer is expected to be no more than 10 pages.		to the applicant's actual in-house or subcontracting costs for provision of these functions. Refer to guidelines at http://www.icann.org/en/announcements/announcement-3-23dec11-en.htm regarding estimation of costs. However, the applicant must provide its own estimates and explanation in response to this question.			
		(b) Applicants must provide evidence as to how the funds required for performing these critical registry functions will be available and guaranteed to fund registry operations (for the protection of registrants in the new gTLD) for a	N	Second (Part b), methods of securing the funds required to perform those functions for at least three years are to be described by the applicant in accordance with the criteria below. Two types of instruments will fulfill			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		minimum of three years following the termination of the Registry Agreement. ICANN has identified two methods to fulfill this requirement: (i) Irrevocable standby letter of credit (LOC) issued by a reputable financial institution. • The amount of the LOC must be equal to or greater than the amount required to fund the registry operations specified above for at least three years. In the event of a draw upon the letter of credit, the actual payout would be tied to the cost of running those functions. • The LOC must name ICANN or its designee as the beneficiary. Any funds paid out would be provided to the designee who is operating the required registry functions. • The LOC must have a term of at least five years from the delegation of the TLD. The LOC may be structured with an annual expiration date if it contains an evergreen provision providing for annual extensions, without amendment, for an indefinite number of periods until the issuing bank informs the beneficiary of its final expiration or until the beneficiary releases the LOC as evidenced in writing. If the expiration date occurs prior to the fifth anniversary of the delegation of the TLD, applicant will be required to obtain a replacement instrument. • The LOC must be issued by a reputable financial institution insured at the highest level in its jurisdiction. Documentation should indicate by whom the issuing institution is insured (i.e., as opposed to by whom the institution is rated). • The LOC will provide that ICANN or its designee shall be unconditionally entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee. • Applicant should attach an original copy of the executed letter of credit or a draft of the letter of credit containing the full terms and conditions. If not yet executed, the Applicant will be required to provide ICANN with an original copy of the executed LOC prior to or concurrent with the execution of the Registry Agreement. • The LOC must contain at least the following required elements: o Issuing bank and date of issue. o Beneficiary: ICANN / 4676 Admiralty		this requirement. The applicant must identify which of the two methods is being described. The instrument is required to be in place at the time of the execution of the Registry Agreement. Financial Institution Ratings: The instrument must be issued or held by a financial institution with a rating beginning with "A" (or the equivalent) by any of the following rating agencies: A.M. Best, Dominion Bond Rating Service, Egan-Jones, Fitch Ratings, Kroll Bond Rating Agency, Moody's, Morningstar, Standard & Poor's, and Japan Credit Rating Agency. If an applicant cannot access a financial institution with a rating beginning with "A," but a branch or subsidiary of such an institution exists in the jurisdiction of the applying entity, then the instrument may be issued by the branch or subsidiary or by a local financial institution with an equivalent or higher rating to the branch or subsidiary. If an applicant cannot access any such financial institutions, the instrument may be issued by the highest-rated financial institution in the national jurisdiction of the applying entity, if accepted by ICANN. Execution by ICANN: For any financial instruments that contemplate ICANN being a party, upon the written request of the applicant, ICANN may (but is not obligated to) execute such agreement prior to submission of the applicant's application if the agreement is on terms acceptable to ICANN. ICANN encourages applicants to deliver a written copy of any such agreement (only if it requires ICANN's signature) to ICANN as soon as possible to facilitate ICANN's review. If the financial instrument requires ICANN's signature, then the applicant will receive 3 points for question 50 (for the instrument being "secured and in place") only if ICANN executes the agreement prior to submission of the application. ICANN will determine, in			

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		Way, Suite 330 / Marina del Rey, CA 90292 / US, or its designee. o Applicant's complete name and address. o LOC identifying number. o Exact amount in USD. o Expiry date. o Address, procedure, and required forms whereby presentation for payment is to be made. o Conditions: ▪ Partial drawings from the letter of credit may be made provided that such payment shall reduce the amount under the standby letter of credit. ▪ All payments must be marked with the issuing bank name and the bank's standby letter of credit number. ▪ LOC may not be modified, amended, or amplified by reference to any other document, agreement, or instrument. ▪ The LOC is subject to the International Standby Practices (ISP 98) International Chamber of Commerce (Publication No. 590), or to an alternative standard that has been demonstrated to be reasonably equivalent. (ii) A <u>deposit into an irrevocable cash escrow account</u> held by a reputable financial institution. • The amount of the deposit must be equal to or greater than the amount required to fund registry operations for at least three years. • Cash is to be held by a third party financial institution which will not allow the funds to be commingled with the Applicant's operating funds or other funds and may only be accessed by ICANN or its designee if certain conditions are met. • The account must be held by a reputable financial institution insured at the highest level in its jurisdiction. Documentation should indicate by whom the issuing institution is insured (i.e., as opposed to by whom the institution is rated). • The escrow agreement relating to the escrow account will provide that ICANN or its designee shall be unconditionally entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee. • The escrow agreement must have a term		its sole discretion, whether to execute and become a party to a financial instrument. The financial instrument should be submitted in the original language.			

	#	Question	Included in public posting	Notes	Scoring Range	Criteria	Scoring
		of five years from the delegation of the TLD. • The funds in the deposit escrow account are not considered to be an asset of ICANN. • Any interest earnings less bank fees are to accrue to the deposit, and will be paid back to the applicant upon liquidation of the account to the extent not used to pay the costs and expenses of maintaining the escrow. • The deposit plus accrued interest, less any bank fees in respect of the escrow, is to be returned to the applicant if the funds are not used to fund registry functions due to a triggering event or after five years, whichever is greater. • The Applicant will be required to provide ICANN an explanation as to the amount of the deposit, the institution that will hold the deposit, and the escrow agreement for the account at the time of submitting an application. • Applicant should attach evidence of deposited funds in the escrow account, or evidence of provisional arrangement for deposit of funds. Evidence of deposited funds and terms of escrow agreement must be provided to ICANN prior to or concurrent with the execution of the Registry Agreement.					

Instructions: TLD Applicant – Financial Projections

The application process requires the applicant to submit two cash basis Financial Projections.

The first projection (Template 1) should show the Financial Projections associated with the Most Likely scenario expected. This projection should include the forecasted registration volume, registration fee, and all costs and capital expenditures expected during the start-up period and during the first three years of operations. Template 1 relates to Question 46 (Projections Template) in the application.

We also ask that applicants show as a separate projection (Template 2) the Financial Projections associated with a realistic Worst Case scenario. Template 2 relates to Question 49 (Contingency Planning) in the application.

For each Projection prepared, please include Comments and Notes on the bottom of the projection (in the area provided) to provide those reviewing these projections with information regarding:

1. Assumptions used, significant variances in Operating Cash Flows and Capital Expenditures from year-to-year;
2. How you plan to fund operations;
3. Contingency planning

As you complete Template 1 and Template 2, please reference data points and/or formulas used in your calculations (where appropriate).

Section I – Projected Cash inflows and outflows

Projected Cash Inflows

Lines A and B. Provide the number of forecasted registrations and the registration fee for years 1, 2, and 3. Leave the *Start-up* column blank. The start-up period is for cash costs and capital expenditures only; there should be no cash projections input to this column.

Line C. Multiply lines A and B to arrive at the *Registration Cash Inflow* for line C.

Line D. Provide projected cash inflows from any other revenue source for years 1, 2, and 3. For any figures provided on line *D*, please disclose the source in the *Comments/Notes* box of Section I. Note, do not include funding in Line *D as that is covered in Section VI*.

Line E. Add lines *C* and *D* to arrive at the total cash inflow.

Projected Operating Cash Outflows

Start up costs - For all line items (F thru L) Please describe the total period of time this start-up cost is expected to cover in the *Comments/Notes* box.

Line F. Provide the projected labor costs for marketing, customer support, and technical support for start-up, year 1, year 2, and year 3. Note, other labor costs should be put in line *L* (*Other Costs*) and specify the type of labor and associated projected costs in the *Comments/Notes* box of this section.

Line G. *Marketing Costs* represent the amount spent on advertising, promotions, and other marketing activities. This amount should not include labor costs included in Marketing Labor (line *F)*.

Lines H through K. Provide projected costs for facilities, G&A, interests and taxes, and Outsourcing for start-up as well as for years 1, 2, and 3. Be sure to list the type of activities that are being outsourced. You may combine certain activities from the same provider as long as an appropriate description of the services being combined is listed in the *Comments/Notes* box.

Line L. Provide any other projected operating costs for start-up, year 1, year 2, year 3. Be sure to specify the type of cost in the *Comments/Notes* box.

Line M. Add lines *F* through *L* to arrive at the total costs for line *M*.

Line N. Subtract line *E* from line *M* to arrive at the projected net operation number for line *N*.

Section IIa – Breakout of Fixed and Variable Operating Cash Outflows

Line A. Provide the projected variable operating cash outflows including labor and other costs that are not fixed in nature. Variable operating cash outflows are expenditures that fluctuate in relationship with increases or decreases in production or level of operations.

Line B. Provide the projected fixed operating cash outflows. Fixed operating cash outflows are expenditures that do not generally fluctuate in relationship with increases or decreases in production or level of operations. Such costs are generally necessary to be incurred in order to operate the base line operations of the organization or are expected to be incurred based on contractual commitments.

Line C – Add lines *A* and *B* to arrive at total Fixed and Variable Operating Cash Outflows for line *C*. This must equal Total Operating Cash Outflows from Section I, Line *M*.

Section IIb – Breakout of Critical Registry Function Operating Cash Outflows

Lines A – E. Provide the projected cash outflows for the five critical registry functions. If these functions are outsourced, the component of the outsourcing fee representing these functions must be separately identified and provided. These costs are based on the applicant's cost to manage these functions and should be calculated separately from the Continued Operations Instrument (COI) for Question 50.

Line F. If there are other critical registry functions based on the applicant's registry business model then the projected cash outflow for this function must be provided with a description added to the *Comment/Notes* box. This projected cash outflow may also be included in the 3-year reserve.

Line G. Add lines *A* through *F* to arrive at the Total Critical Registry Function Cash Outflows.

Section III – Projected Capital Expenditures

Lines A through C. Provide projected hardware, software, and furniture & equipment capital expenditures for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

Line D. Provide any projected capital expenditures as a result of outsourcing. This should be included for start-up and years 1, 2, and 3. Specify the type of expenditure and describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box of Section III.

Line E – Please describe "other" capital expenditures in the *Comments/Notes* box.

Line F. Add lines *A* through *E* to arrive at the Total Capital Expenditures.

Section IV – Projected Assets & Liabilities

Lines A through C. Provide projected cash, account receivables, and other current assets for start-up as well as for years 1, 2, and 3. For *Other Current Assets*, specify the type of asset and describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

Line D. Add lines *A*, *B*, *C* to arrive at the Total Current Assets.

Lines E through G. Provide projected accounts payable, short-term debt, and other current liabilities for start-up as well as for years 1, 2, and 3. For *Other Current Liabilities*, specify the type of liability and describe the total period of time the start-up up cost is expected to cover in the *Comments/Notes* box.

Line H. Ad lines *E* through *G* to arrive at the total current liabilities.

Lines I through K. Provide the projected fixed assets (PP&E), the 3-year reserve, and long-term assets for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

Line L. Ad lines *I* through *K* to arrive at the total long-term assets.

Line M. Provide the projected long-term debt for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box

Section V – Projected Cash Flow

Cash flow is driven by *Projected Net Operations* (Section I), *Projected Capital Expenditures* (Section III), and *Projected Assets & Liabilities* (Section IV).

Line A. Provide the projected net operating cash flows for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

Line B. Provide the projected capital expenditures for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box of Section V.

Lines C through F. Provide the projected change in non-cash current assets, total current liabilities, debt adjustments, and other adjustments for start-up as well as for years 1, 2, and 3. Please describe the total period of time the start-up cost is expected to cover in the *Comments/Notes* box.

Line G. Add lines *A* through *F* to arrive at the projected net cash flow for line *H*.

Section VI – Sources of Funds

Lines A & B. Provide projected funds from debt and equity at start-up. Describe the sources of debt and equity funding as well as the total period of time the start-up is expected to cover in the *Comments/Notes* box. Please also provide evidence the funding (e.g., letter of commitment).

Line C. Add lines *A* and *B* to arrive at the total sources of funds for line *C*.

General Comments – Regarding Assumptions Used, Significant Variances Between Years, etc.

Provide explanations for any significant variances between years (or expected in years beyond the timeframe of the template) in any category of costing or funding.

General Comments – Regarding how the Applicant Plans to Fund Operations

Provide general comments explaining how you will fund operations. Funding should be explained in detail in response to question 48.

General Comments – Regarding Contingencies

Provide general comments to describe your contingency planning. Contingency planning should be explained in detail in response to question 49.

TLD Applicant -- Financial Projections : **Sample**

In local currency (unless noted otherwise)

Sec.	Reference / Formula	Start-up Costs	Live / Operational Year 1	Year 2	Year 3	Comments / Notes
						Provide name of local currency used.
I) Projected Cash Inflows and Outflows						
A) Forecasted registration volume		-	62 000	81 600	105 180	Registration was forecasted based on recent market surveys which we have attached and disccused below.
B) Registration fee		$ -	$ 5.00	$ 5.50	$ 6.05	We do not anticipate sign ficant increases in Registration Fees subsequent to year 3.
C) Registration cash inflows	**A * B**	-	310 000	448 800	636 339	
D) Other cash inflows		-	35 000	48 000	62 000	Other cash inflows represent advertising monies expected from display ads on our website.
E) Total Cash Inflows		-	345 000	496 800	698 339	
Projected Operating Cash Outflows						
F) Labor:						
i) Marketing Labor		25 000	66 000	72 000	81 000	Costs are further detailed and explained in response to question 47.
ii) Customer Support Labor		5 000	68 000	71 000	74 000	
iii) Technical Labor		32 000	45 000	47 000	49 000	
G) Marketing		40 000	44 000	26 400	31 680	
H) Facilities		7 000	10 000	12 000	14 400	
I) General & Administrative		14 000	112 000	122 500	136 000	
J) Interest and Taxes		27 500	29 000	29 800	30 760	
K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):						Provide a list and associated cost for each outsourced function.
i) Hot site maintenance		5 000	7 500	7 500	7 500	Outsourcing hot site to ABC Company cost based on number of servers hosted and customer support
ii) Partial Registry Functions		32 000	37 500	41 000	43 000	Outsourced certain registry and other functions to ABC registry (*applicant shou d list outsourced functions*). Costs for each year are based on expected domains under management
iii) {list type of activities being outsourced}		-	-	-	-	
iv) {list type of activities being outsourced}		-	-	-	-	
v) {list type of activities being outsourced}		-	-	-	-	
vi) {list type of activities being outsourced}		-	-	-	-	
L) Other Operating Costs		12 200	18 000	21 600	25 920	
M) Total Operating Cash Outflows		199 700	437 000	450 800	493 260	
N) Projected Net Operating Cash flow	**E - M**	(199 700)	(92 000)	46 000	205 079	
IIa) Break out of Fixed and Variable Operating Cash Outflows						
A) Total Variable Operating Costs		92 000	195 250	198 930	217 416	Variable Costs: -Start Up equals all labor plus 75% of marketing. -Years 1 through 3 equal 75% of all labor plus 50% of Marketing and 30% of G&A and Other Operating Costs
B) Total Fixed Operating Costs		107 700	241 750	251 870	275 844	Fixed Costs: equals Total Costs less Variable Costs
C) Total Operating Cash Outflows	**= Sec. I) M**	199 700	437 000	450 800	493 260	
	CHECK	-	-	-	-	Check that II) C equals I) N.
IIb) Break out of Critical Registry Function Operating Cash Outflows						Note: these are based on the applicant's cost to manage these functions and should be calculated separately from the Continued Operations Instrument (COI) for Question 50
A) Operation of SRS			5 000	5 500	6 050	Commensurate with Question 24
B) Provision of Whois			6 000	6 600	7 260	Commensurate with Question 26
C) DNS Resolution for Registered Domain Names			7 000	7 700	8 470	Commensurate with Question 35
D) Registry Data Escrow			8 000	8 800	9 680	Commensurate with Question 38
E) Maintenance of Zone in accordance with DNSSEC			9 000	9 900	10 890	Commensurate with Question 43
F) Other						
G) Total Critical Function Cash Outflows		-	35 000	38 500	42 350	
III) Projected Capital Expenditures						
A) Hardware		98 000	21 000	16 000	58 000	-Hardware & Software have a useful life of 3 years
B) Software		32 000	18 000	24 000	11 000	
C) Furniture & Other Equipment		43 000	22 000	14 000	16 000	-Furniture & other equipment have a useful l fe of 5 years
D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures)						
i)		-	-	-	-	List and describe each identifiable type of outsourcing.
ii)		-	-	-	-	List and describe each identifiable type of outsourcing.
iii)		-	-	-	-	List and describe each identifiable type of outsourcing.
iv)		-	-	-	-	List and describe each identifiable type of outsourcing.
v)		-	-	-	-	List and describe each identifiable type of outsourcing.
vi)		-	-	-	-	List and describe each identifiable type of outsourcing.
E) Other Capital Expenditures						
F) Total Capital Expenditures		173 000	61 000	54 000	85 000	
IV) Projected Assets & Liabilities						
A) Cash		668 300	474 300	413 00	471 679	
B) Accounts receivable			70 000	106 000	160 000	
C) Other current assets			40 000	60 000	80 000	
D) Total Current Assets		668 300	584 300	579 00	711 679	
E) Accounts payable		41 000	110 000	113 000	125 300	
F) Short-term Debt						
G) Other Current Liabilities						
H) Total Current Liabilities		41 000	110 000	113 000	125 300	
I) Total Property, Plant & Equipment (PP&E)	**= Sec III) F: cumulative**	173 000	234 000	288 000	373 000	
	Prior Years Cur Yr					
J) 3-year Reserve		186 000	186 000	186 000	186 000	Should equal amount calculated for Question 50
K) Other Long-term Assets						
L) Total Long-term Assets		359 000	420 000	474 000	559 000	
M) Total Long-term Debt		1 000 000	1 000 000	1 000 000	1 000 000	Principal payments on the line of credit with XYZ Bank will not be incurred until Year 5. Interest wi l be paid as incurred and is reflected in Sec I) J.
V) Projected Cash flow (excl. 3-year Reserve)						
A) Net operating cash flows	**= Sec. I) N**	(199 700)	(92 000)	46 000	205 079	
B) Capital expenditures	**= Sec. III) FE**	(173 000)	(61 000)	(54 000)	(85 000)	
C) Change in Non Cash Current Assets	**= Sec. IV) (B C): Prior Yr - Cur Yr**	n/a	(110 000)	(56 000)	(74 000)	
D) Change in Total Current Liab lities	**= Sec. IV) H: Cur Yr - Prior Yr**	41 000	69 000	3 000	12 300	The $41k in Start Up Costs represents an offset of the Accounts Payable reflected in the Projected balance sheet. Subsequent years are based on changes in Current Liabi ities where Prior Year is subtracted from the Current year
E) Debt Adjustments	**= Sec IV) F and M: Cur Yr - Prior Yr**	n/a	-	-	-	
F) Other Adjustments						
G) Projected Net Cash flow		**(331,700)**	**(194,000)**	**(61,000)**	**58,379**	
VI) Sources of funds						
A) Debt:						
i) On-hand at time of application		1 000 000				See below for comments on funding. Revenues are further detailed and explained in response to question 48.
ii) Contingent and/or committed but not yet on-hand						
B) Equity:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand		-				
C) Total Sources of funds		1 000 000				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

We expect the number of registrations to grow at approximately 30% per year with an increase in the registration fee of $1 per year for the first three years. These volume assumptions are based on the attached (i) market data and (ii) published benchmark regsitry growth. Fee assumptions are aligned with the growth plan and anticipated demand based on the regsitration curve. We anticipate our costs will increase at a controlled pace over the first three years except for marketing costs which will be higher in the start-up and first year as we establish our brand name and work to increase registrations. Operating costs are supported by the attached (i) benchmark report for a basket of similar registries and (ii) a build-up of costs based on our current operations. Our capital expenditures will be greatest in the start-up phase and then our need to invest in computer hardware and software will level off after the start-up period. Capital expenses are based on contract drafts and discussions held with vendors. We have included and referenced the hardware costs to support the estimates. Our investment in Furniture and Equipment will be greatest in the start-up period as we build our infrastructure and then decrease in the following periods.
Start-up: Our start-up phase is anticpated to comprise [X] months in line with benchmark growth curves indicated by prior start-ups and published market data. Our assumptions were derived from the attached support.

Comments regarding how the Applicant plans to Fund operations:

We have recently negotiated a line of credit with XYZ Bank (a copy of the fully executed line of credit agreement has been included with our application) and this funding will allow us to purchase necessary equipment and pay for employees and other Operating Costs during our start-up period and the first few years of operations. We expect that our business operation wi l be self funded (i.e. revenue from operations will cover all anticipated costs and capital expenditures) by the second half of our second year in operation; we also expect to become profitable with positive cash flow in year three.

General Comments regarding contingencies:

Although we expect to be cash flow positive by the end of year 2 the recently negotiated line of credit will cover our operating costs for the first 4 years of operation if necessary. We have also entered into an agreement with XYZ Co. to assume our registrants should our business model not have the ability to sustain itself in future years. Agreement with XYZ Co. has been included with our application. A full description of risks and a range of potential outcomes and impacts are included in our responses to Question 49. These responses have quantified the impacts of certain probabilites and our negotiated funding and action plans as shown are adequate to fund our our Worst Case Scenerio.

Template 1 - Financial Projections: **Most Likely**

In local currency (unless noted otherwise)

Sec.			Reference / Formula	Start-up Costs	Live / Operational Year 1	Year 2	Year 3	Comments / Notes
								Provide name of local currency used.
I) Projected Cash inflows and outflows								
	A) Forecasted registration volume							
	B) Registration fee							
	C) Registration cash inflows				-	-	-	
	D) Other cash inflows							
		E) Total Cash Inflows		-	-	-	-	
Projected Operating Cash Outflows								
	F) Labor:							
		i) Marketing Labor						
		ii) Customer Support Labor						
		iii) Technical Labor						
	G) Marketing							
	H) Facilities							
	I) General & Administrative							
	J) Interest and Taxes							
	K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):							
	i)	{list type of activities being outsourced}						
	ii)	{list type of activities being outsourced}						
	iii)	{list type of activities being outsourced}						
	iv)	{list type of activities being outsourced}						
	v)	{list type of activities being outsourced}						
	vi)	{list type of activities being outsourced}						
	L) Other Operating costs							
		M) Total Operating Cash Outflows		-	-	-	-	
		N) Projected Net Operating Cash flow		-	-	-	-	
IIa) Break out of Fixed and Variable Operating Cash Outflows								
	A) Total Variable Operating Costs							
	B) Total Fixed Operating Costs							
		C) Total Operating Cash Outflows		-	-	-	-	
			CHECK	-	-	-	-	
IIb) Break out of Critical Function Operating Cash Outflows								
	A) Operation of SRS							
	B) Provision of Whois							
	C) DNS Resolution for Registered Domain Names							
	D) Registry Data Escrow							
	E) Maintenance of Zone in accordance with DNSSEC							
		G) Total Critical Registry Function Cash Outflows		-	-	-	-	
		H) 3-year Total		-				
III) Projected Capital Expenditures								
	A) Hardware							
	B) Software							
	C) Furniture & Other Equipment							
	D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures)							
	i)							
	ii)							
	iii)							
	iv)							
	v)							
	vi)							
	E) Other Capital Expenditures							
		F) Total Capital Expenditures		-	-	-	-	
IV) Projected Assets & Liabilities								
	A) Cash							
	B) Accounts receivable							
	C) Other current assets							
		D) Total Current Assets		-	-	-	-	
	E) Accounts payable							
	F) Short-term Debt							
	G) Other Current Liabilities							
		H) Total Current Liabilities		-	-	-	-	
	I) Total Property, Plant & Equipment (PP&E)			-	-	-	-	
	J) 3-year Reserve				-	-	-	
	K) Other Long-term Assets							
		L) Total Long-term Assets		-	-	-	-	
	M) Total Long-term Debt							
V) Projected Cash flow (excl. 3-year Reserve)								
	A) Net operating cash flows			-	-	-	-	
	C) Capital expenditures			-	-	-	-	
	D) Change in Non Cash Current Assets			n/a	-	-	-	
	E) Change in Total Current Liabilities			-	-	-	-	
	F) Debt Adjustments			n/a	-	-	-	
	G) Other Adjustments							
		H) Projected Net Cash flow		-	-	-	-	
VI) Sources of funds								
	A) Debt:							
		i) On-hand at time of application						
		ii) Contingent and/or committed but not yet on-hand						
	B) Equity:							
		i) On-hand at time of application						
		ii) Contingent and/or committed but not yet on-hand						
		C) Total Sources of funds		-				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

Comments regarding how the Applicant plans to Fund operations:

General Comments regarding contingencies:

Template 2 - Financial Projections: **Worst Case**

In local currency (unless noted otherwise)

Sec.		Reference / Formula	Start-up Costs	Live / Operational Year 1	Year 2	Year 3	Comments / Notes
							Provide name of local currency used.
I) Projected Cash inflows and outflows							
	A) Forecasted registration volume						
	B) Registration fee						
	C) Registration cash inflows			-	-	-	
	D) Other cash inflows						
	E) Total Cash Inflows		-	-	-	-	
Projected Operating Cash Outflows							
	F) Labor:						
	i) Marketing Labor						
	ii) Customer Support Labor						
	iii) Technical Labor						
	G) Marketing						
	H) Facilities						
	I) General & Administrative						
	J) Interest and Taxes						
	K) Outsourcing Operating Costs, if any (list the type of activities being outsourced):						
	i) {list type of activities being outsourced}						
	ii) {list type of activities being outsourced}						
	iii) {list type of activities being outsourced}						
	iv) {list type of activities being outsourced}						
	v) {list type of activities being outsourced}						
	vi) {list type of activities being outsourced}						
	L) Other Operating costs						
	M) Total Operating Cash Outflows		-	-	-	-	
	N) Projected Net Operating Cash flow		-	-	-	-	
IIa) Break out of Fixed and Variable Operating Cash Outflows							
	A) Total Variable Operating Costs						
	B) Total Fixed Operating Costs						
	C) Total Operating Cash Outflows		-	-	-	-	
		CHECK	-	-	-	-	
IIb) Break out of Critical Function Operating Cash Outflows							
	A) Operation of SRS						
	B) Provision of Whois						
	C) DNS Resolution for Registered Domain Names						
	D) Registry Data Escrow						
	E) Maintenance of Zone in accordance with DNSSEC						
	G) Total Critical Registry Function Cash Outflows		-	-	-	-	
	H) 3-year Total		-				
III) Projected Capital Expenditures							
	A) Hardware						
	B) Software						
	C) Furniture & Other Equipment						
	D) Outsourcing Capital Expenditures, if any (list the type of capital expenditures)						
	i)						
	ii)						
	iii)						
	iv)						
	v)						
	vi)						
	E) Other Capital Expenditures						
	F) Total Capital Expenditures		-	-	-	-	
IV) Projected Assets & Liabilities							
	A) Cash						
	B) Accounts receivable						
	C) Other current assets						
	D) Total Current Assets		-	-	-	-	
	E) Accounts payable						
	F) Short-term Debt						
	G) Other Current Liabilities						
	H) Total Current Liabilities		-	-	-	-	
	I) Total Property, Plant & Equipment (PP&E)		-	-	-	-	
	J) 3-year Reserve			-	-	-	
	K) Other Long-term Assets						
	L) Total Long-term Assets		-	-	-	-	
	M) Total Long-term Debt						
V) Projected Cash flow (excl. 3-year Reserve)							
	A) Net operating cash flows		-	-	-	-	
	C) Capital expenditures		-	-	-	-	
	D) Change in Non Cash Current Assets		n/a	-	-	-	
	E) Change in Total Current Liabilities		-	-	-	-	
	F) Debt Adjustments		n/a	-	-	-	
	G) Other Adjustments						
	H) Projected Net Cash flow		-	-	-	-	
VI) Sources of funds							
	A) Debt:						
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
	B) Equity:						
	i) On-hand at time of application						
	ii) Contingent and/or committed but not yet on-hand						
	C) Total Sources of funds		-				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

Comments regarding how the Applicant plans to Fund operations:

General Comments regarding contingencies:

gTLD Applicant Guidebook

(v. 2012-06-04)

Module 3

4 June 2012

Module 3

Objection Procedures

This module describes two types of mechanisms that may affect an application:

I. The procedure by which ICANN's Governmental Advisory Committee may provide GAC Advice on New gTLDs to the ICANN Board of Directors concerning a specific application. This module describes the purpose of this procedure, and how GAC Advice on New gTLDs is considered by the ICANN Board once received.

II. The dispute resolution procedure triggered by a formal objection to an application by a third party. This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging a formal objection to a gTLD application, the general procedures for filing or responding to an objection, and the manner in which dispute resolution proceedings are conducted.

This module also discusses the guiding principles, or standards, that each dispute resolution panel will apply in reaching its expert determination.

All applicants should be aware of the possibility that a formal objection may be filed against any application, and of the procedures and options available in the event of such an objection.

3.1 GAC Advice on New gTLDs

ICANN's Governmental Advisory Committee was formed to consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.

The process for GAC Advice on New gTLDs is intended to address applications that are identified by governments to be problematic, e.g., that potentially violate national law or raise sensitivities.

GAC members can raise concerns about any application to the GAC. The GAC as a whole will consider concerns

raised by GAC members, and agree on GAC advice to forward to the ICANN Board of Directors.

The GAC can provide advice on any application. For the Board to be able to consider the GAC advice during the evaluation process, the GAC advice would have to be submitted by the close of the Objection Filing Period (see Module 1).

GAC Advice may take one of the following forms:

I. The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.

II. The GAC advises ICANN that there are concerns about a particular application "dot-example." The ICANN Board is expected to enter into dialogue with the GAC to understand the scope of concerns. The ICANN Board is also expected to provide a rationale for its decision.

III. The GAC advises ICANN that an application should not proceed unless remediated. This will raise a strong presumption for the Board that the application should not proceed unless there is a remediation method available in the Guidebook (such as securing the approval of one or more governments), that is implemented by the applicant.

Where GAC Advice on New gTLDs is received by the Board concerning an application, ICANN will publish the Advice and endeavor to notify the relevant applicant(s) promptly. The applicant will have a period of 21 calendar days from the publication date in which to submit a response to the ICANN Board.

ICANN will consider the GAC Advice on New gTLDs as soon as practicable. The Board may consult with independent experts, such as those designated to hear objections in the New gTLD Dispute Resolution Procedure, in cases where the issues raised in the GAC advice are pertinent to one of the subject matter areas of the objection procedures. The receipt of GAC advice will not toll the processing of any application (i.e., an application will not be suspended but will continue through the stages of the application process).

3.2 Public Objection and Dispute Resolution Process

The independent dispute resolution process is designed to protect certain interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows a party with standing to have its objection considered before a panel of qualified experts.

A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection.

As described in section 3.1 above, ICANN's Governmental Advisory Committee has a designated process for providing advice to the ICANN Board of Directors on matters affecting public policy issues, and these objection procedures would not be applicable in such a case. The GAC may provide advice on any topic and is not limited to the grounds for objection enumerated in the public objection and dispute resolution process.

3.2.1 Grounds for Objection

A formal objection may be filed on any one of the following four grounds:

String Confusion Objection – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD string in the same round of applications.

Legal Rights Objection – The applied-for gTLD string infringes the existing legal rights of the objector.

Limited Public Interest Objection – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

Community Objection – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these objection grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see

http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm.

3.2.2 Standing to Object

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by a panel of experts designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection ground	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round. In the case where an IDN ccTLD Fast Track request has been submitted before the public posting of gTLD applications received, and the Fast Track requestor wishes to file a string confusion objection to a gTLD application, the Fast Track requestor will be granted standing.
Legal rights	Rightsholders
Limited public interest	No limitations on who may file – however, subject to a "quick look" designed for early conclusion of frivolous and/or abusive objections
Community	Established institution associated with a clearly delineated community

3.2.2.1 String Confusion Objection

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.
- Any gTLD applicant in this application round may file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied, where string confusion between the two applicants has not already been found in the Initial Evaluation. That is, an applicant does not have standing to object to another application with which it is already in a contention set as a result of the Initial Evaluation.

In the case where an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible

outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4, String Contention Procedures). If an objection by one gTLD applicant to another gTLD application is unsuccessful, the applicants may both move forward in the process without being considered in direct contention with one another.

3.2.2.2 Legal Rights Objection

A rightsholder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming (which may include either registered or unregistered trademarks) are infringed by the applied-for gTLD must be included in the filing.

An intergovernmental organization (IGO) is eligible to file a legal rights objection if it meets the criteria for registration of a .INT domain name[1]:

a) An international treaty between or among national governments must have established the organization; and

b) The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting the criteria.

3.2.2.3 Limited Public Interest Objection

Anyone may file a Limited Public Interest Objection. Due to the inclusive standing base, however, objectors are subject to a "quick look" procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.

A Limited Public Interest objection would be manifestly unfounded if it did not fall within one of the categories that have been defined as the grounds for such an objection (see subsection 3.5.3).

A Limited Public Interest objection that is manifestly unfounded may also be an abuse of the right to object. An objection may be framed to fall within one of the

[1] See also http://www.iana.org/domains/int/policy/.

accepted categories for Limited Public Interest objections, but other facts may clearly show that the objection is abusive. For example, multiple objections filed by the same or related parties against a single applicant may constitute harassment of the applicant, rather than a legitimate defense of legal norms that are recognized under general principles of international law. An objection that attacks the applicant, rather than the applied-for string, could be an abuse of the right to object.[2]

The quick look is the Panel's first task, after its appointment by the DRSP and is a review on the merits of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with Article 21 of the New gTLD Dispute Resolution Procedure.

In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place, and it is currently contemplated that the filing fee paid by the applicant would be refunded, pursuant to Procedure Article 14(e).

3.2.2.4 Community Objection

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

[2] The jurisprudence of the European Court of Human Rights offers specific examples of how the term "manifestly ill-founded" has been interpreted in disputes relating to human rights. Article 35(3) of the European Convention on Human Rights provides: "The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application." The ECHR renders reasoned decisions on admissibility, pursuant to Article 35 of the Convention. (Its decisions are published on the Court's website http://www.echr.coe.int.) In some cases, the Court briefly states the facts and the law and then announces its decision, without discussion or analysis. E.g., Decision as to the Admissibility of Application No. 34328/96 by Egbert Peree against the Netherlands (1998). In other cases, the Court reviews the facts and the relevant legal rules in detail, providing an analysis to support its conclusion on the admissibility of an application. Examples of such decisions regarding applications alleging violations of Article 10 of the Convention (freedom of expression) include: Décision sur la recevabilité de la requête no 65831/01 présentée par Roger Garaudy contre la France (2003); Décision sur la recevabilité de la requête no 65297/01 présentée par Eduardo Fernando Alves Costa contre le Portugal (2004).

The jurisprudence of the European Court of Human Rights also provides examples of the abuse of the right of application being sanctioned, in accordance with ECHR Article 35(3). See, for example, Décision partielle sur la recevabilité de la requête no 61164/00 présentée par Gérard Duringer et autres contre la France et de la requête no 18589/02 contre la France (2003).

It is an established institution – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of a formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

It has an ongoing relationship with a clearly delineated community – Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;
- Institutional purpose related to the benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

3.2.3 Dispute Resolution Service Providers

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, directly with the appropriate DRSP for each objection ground.

- The International Centre for Dispute Resolution has agreed to administer disputes brought pursuant to string confusion objections.
- The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed to administer disputes brought pursuant to legal rights objections.

- The International Center of Expertise of the International Chamber of Commerce has agreed to administer disputes brought pursuant to Limited Public Interest and Community Objections.

ICANN selected DRSPs on the basis of their relevant experience and expertise, as well as their willingness and ability to administer dispute proceedings in the new gTLD Program. The selection process began with a public call for expressions of interest[3] followed by dialogue with those candidates who responded. The call for expressions of interest specified several criteria for providers, including established services, subject matter expertise, global capacity, and operational capabilities. An important aspect of the selection process was the ability to recruit panelists who will engender the respect of the parties to the dispute.

3.2.4 Options in the Event of Objection

Applicants whose applications are the subject of an objection have the following options:

The applicant can work to reach a settlement with the objector, resulting in withdrawal of the objection or the application;

The applicant can file a response to the objection and enter the dispute resolution process (refer to Section 3.2); or

The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.

If for any reason the applicant does not file a response to an objection, the objector will prevail by default.

3.2.5 Independent Objector

A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Limited Public Interest and Community.

[3] *See* http://www.icann.org/en/announcements/announcement-21dec07.htm.

Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.

Mandate and Scope - The IO may file objections against "highly objectionable" gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) Limited Public Interest objections and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).

The IO may file a Limited Public Interest objection against an application even if a Community objection has been filed, and vice versa.

The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.

Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.

The IO may consider public comment when making an independent assessment whether an objection is warranted. The IO will have access to application comments received during the comment period.

In light of the public interest goal noted above, the IO shall not object to an application unless at least one comment in opposition to the application is made in the public sphere.

Selection – The IO will be selected by ICANN, through an open and transparent process, and retained as an independent consultant. The Independent Objector will be an individual with considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

Although recommendations for IO candidates from the community are welcomed, the IO must be and remain independent and unaffiliated with any of the gTLD applicants. The various rules of ethics for judges and international arbitrators provide models for the IO to declare and maintain his/her independence.

The IO's (renewable) tenure is limited to the time necessary to carry out his/her duties in connection with a single round of gTLD applications.

Budget and Funding – The IO's budget would comprise two principal elements: (a) salaries and operating expenses, and (b) dispute resolution procedure costs – both of which should be funded from the proceeds of new gTLD applications.

As an objector in dispute resolution proceedings, the IO is required to pay filing and administrative fees, as well as advance payment of costs, just as all other objectors are required to do. Those payments will be refunded by the DRSP in cases where the IO is the prevailing party.

In addition, the IO will incur various expenses in presenting objections before DRSP panels that will not be refunded, regardless of the outcome. These expenses include the fees and expenses of outside counsel (if retained) and the costs of legal research or factual investigations.

3.3 Filing Procedures

The information included in this section provides a summary of procedures for filing:

- Objections; and
- Responses to objections.

For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.

Note that the rules and procedures of each DRSP specific to each objection ground must also be followed. See http://newgtlds.icann.org/en/program-status/objection-dispute-resolution.

3.3.1 Objection Filing Procedures

The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. Should an applicant wish to file a formal objection to another gTLD application, it would follow these same procedures.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date.

Objections will not be accepted by the DRSPs after this date.

- All objections must be filed in English.
- Each objection must be filed separately. An objector wishing to object to several applications must file a separate objection and pay the accompanying filing fees for each application that is the subject of an objection. If an objector wishes to object to an application on more than one ground, the objector must file separate objections and pay the accompanying filing fees for each objection ground.

Each objection filed by an objector must include:

- The name and contact information of the objector.
- A statement of the objector's basis for standing; that is, why the objector believes it meets the standing requirements to object.
- A description of the basis for the objection, including:
  - A statement giving the specific ground upon which the objection is being filed.
  - A detailed explanation of the validity of the objection and why it should be upheld.
- Copies of any documents that the objector considers to be a basis for the objection.

Objections are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant.

The DRSP will publish, and regularly update a list on its website identifying all objections as they are filed. ICANN will post on its website a notice of all objections filed once the objection filing period has closed.

3.3.2 Objection Filing Fees

At the time an objection is filed, the objector is required to pay a filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid, the DRSP will

dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

Funding from ICANN for objection filing fees, as well as for advance payment of costs (see subsection 3.4.7 below) is available to the At-Large Advisory Committee (ALAC). Funding for ALAC objection filing and dispute resolution fees is contingent on publication by ALAC of its approved process for considering and making objections. At a minimum, the process for objecting to a gTLD application will require: bottom-up development of potential objections, discussion and approval of objections at the Regional At-Large Organization (RALO) level, and a process for consideration and approval of the objection by the At-Large Advisory Committee.

Funding from ICANN for objection filing fees, as well as for advance payment of costs, is available to individual national governments in the amount of USD 50,000 with the guarantee that a minimum of one objection per government will be fully funded by ICANN where requested. ICANN will develop a procedure for application and disbursement of funds.

Funding available from ICANN is to cover costs payable to the dispute resolution service provider and made directly to the dispute resolution service provider; it does not cover other costs such as fees for legal advice.

3.3.3 Response Filing Procedures

Upon notification that ICANN has published the list of all objections filed (refer to subsection 3.3.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, an applicant responding to several objections must file a separate response and pay the accompanying filing fee to respond to each objection.
- Responses must be filed electronically.

Each response filed by an applicant must include:

- The name and contact information of the applicant.

- A point-by-point response to the claims made by the objector.
- Any copies of documents that it considers to be a basis for the response.

Responses are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector.

3.3.4 Response Filing Fees

At the time an applicant files its response, it is required to pay a filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

3.4 Objection Processing Overview

The information below provides an overview of the process by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure (included as an attachment to this module).

3.4.1 Administrative Review

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's right to submit a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for filing an objection.

3.4.2 Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon

consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of a circumstance in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

3.4.3 Mediation

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in mediation aimed at settling the dispute. Each DRSP has experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel constituted to issue an expert determination in the related dispute.

There are no automatic extensions of time associated with the conduct of negotiations or mediation. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. Absent exceptional circumstances, the parties must limit their requests for extension to 30 calendar days.

The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

3.4.4 Selection of Expert Panels

A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an expert for lack of independence.

There will be one expert in proceedings involving a string confusion objection.

There will be one expert, or, if all parties agree, three experts with relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.

There will be three experts recognized as eminent jurists of international reputation, with expertise in relevant fields as appropriate, in proceedings involving a Limited Public Interest objection.

There will be one expert in proceedings involving a community objection.

Neither the experts, the DRSP, ICANN, nor their respective employees, directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

3.4.5 Adjudication

The panel may decide whether the parties shall submit any written statements in addition to the filed objection and response, and may specify time limits for such submissions.

In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the panel may require a party to produce additional evidence.

Disputes will usually be resolved without an in-person hearing. The panel may decide to hold such a hearing only in extraordinary circumstances.

3.4.6 Expert Determination

The DRSPs' final expert determinations will be in writing and will include:

- A summary of the dispute and findings;

- An identification of the prevailing party; and
- The reasoning upon which the expert determination is based.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

The findings of the panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process.

3.4.7 Dispute Resolution Costs

Before acceptance of objections, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while Limited Public Interest and community objection proceedings will involve hourly rates charged by the panelists.

Within ten (10) calendar days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ten (10) calendar days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DSRP will sustain the objection and no fees paid by the applicant will be refunded.

After the hearing has taken place and the panel renders its expert determination, the DRSP will refund the advance payment of costs to the prevailing party.

3.5 Dispute Resolution Principles (Standards)

Each panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified in the paragraphs that follow. The panel may also refer to other relevant rules of international law in connection with the standards.

The objector bears the burden of proof in each case.

The principles outlined below are subject to evolution based on ongoing consultation with DRSPs, legal experts, and the public.

3.5.1 String Confusion Objection

A DRSP panel hearing a string confusion objection will consider whether the applied-for gTLD string is likely to result in string confusion. String confusion exists where a string so nearly resembles another that it is likely to deceive or cause confusion. For a likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

3.5.2 Legal Rights Objection

In interpreting and giving meaning to GNSO Recommendation 3 ("Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law"), a DRSP panel of experts presiding over a legal rights objection will determine whether the potential use of the applied-for gTLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector's registered or unregistered trademark or service mark ("mark") or IGO name or acronym (as identified in the treaty establishing the organization), or unjustifiably impairs the distinctive character or the reputation of the objector's mark or IGO name or acronym, or otherwise creates an impermissible likelihood of confusion between the applied-for gTLD and the objector's mark or IGO name or acronym.

In the case where the objection is based on trademark rights, the panel will consider the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound, or meaning, to the objector's existing mark.

2. Whether the objector's acquisition and use of rights in the mark has been bona fide.

3. Whether and to what extent there is recognition in the relevant sector of the public of the sign corresponding to the gTLD, as the mark of the objector, of the applicant or of a third party.

4. Applicant's intent in applying for the gTLD, including whether the applicant, at the time of application for the gTLD, had knowledge of the objector's mark, or could not have reasonably been unaware of that mark, and including whether the applicant has engaged in a pattern of conduct whereby it applied for or operates TLDs or registrations in TLDs which are identical or confusingly similar to the marks of others.

5. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the gTLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise by the objector of its mark rights.

6. Whether the applicant has marks or other intellectual property rights in the sign corresponding to the gTLD, and, if so, whether any acquisition of such a right in the sign, and use of the sign, has been bona fide, and whether the purported or likely use of the gTLD by the applicant is consistent with such acquisition or use.

7. Whether and to what extent the applicant has been commonly known by the sign corresponding to the gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide.

8. Whether the applicant's intended use of the gTLD would create a likelihood of confusion with the objector's mark as to the source, sponsorship, affiliation, or endorsement of the gTLD.

In the case where a legal rights objection has been filed by an IGO, the panel will consider the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound or meaning, to the name or acronym of the objecting IGO;

2. Historical coexistence of the IGO and the applicant's use of a similar name or acronym. Factors considered may include:

    a. Level of global recognition of both entities;

    b. Length of time the entities have been in existence;

    c. Public historical evidence of their existence, which may include whether the objecting IGO has communicated its name or abbreviation under Article 6*ter* of the Paris Convention for the Protection of Industrial Property.

3. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the TLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise of the objecting IGO's name or acronym;

4. Whether and to what extent the applicant has been commonly known by the sign corresponding to the applied-for gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide; and

5. Whether the applicant's intended use of the applied-for gTLD would create a likelihood of confusion with the objecting IGO's name or acronym as to the source, sponsorship, affiliation, or endorsement of the TLD.

3.5.3 Limited Public Interest Objection

An expert panel hearing a Limited Public Interest objection will consider whether the applied-for gTLD string is contrary to general principles of international law for morality and public order.

Examples of instruments containing such general principles include:

- The Universal Declaration of Human Rights (UDHR)

- The International Covenant on Civil and Political Rights (ICCPR)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The International Convention on the Elimination of All Forms of Racial Discrimination
- Declaration on the Elimination of Violence against Women
- The International Covenant on Economic, Social, and Cultural Rights
- The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
- Slavery Convention
- Convention on the Prevention and Punishment of the Crime of Genocide
- Convention on the Rights of the Child

Note that these are included to serve as examples, rather than an exhaustive list. It should be noted that these instruments vary in their ratification status. Additionally, states may limit the scope of certain provisions through reservations and declarations indicating how they will interpret and apply certain provisions. National laws not based on principles of international law are not a valid ground for a Limited Public Interest objection.

Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply.

The grounds upon which an applied-for gTLD string may be considered contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law are:

- Incitement to or promotion of violent lawless action;
- Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin, or other similar types of

discrimination that violate generally accepted legal norms recognized under principles of international law;

- Incitement to or promotion of child pornography or other sexual abuse of children; or
- A determination that an applied-for gTLD string would be contrary to specific principles of international law as reflected in relevant international instruments of law.

The panel will conduct its analysis on the basis of the applied-for gTLD string itself. The panel may, if needed, use as additional context the intended purpose of the TLD as stated in the application.

3.5.4 Community Objection

The four tests described here will enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a clearly delineated community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and
- The application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. Each of these tests is described in further detail below.

Community – The objector must prove that the community expressing opposition can be regarded as a clearly delineated community. A panel could balance a number of factors to determine this, including but not limited to:

- The level of public recognition of the group as a community at a local and/or global level;
- The level of formal boundaries around the community and what persons or entities are considered to form the community;

- The length of time the community has been in existence;
- The global distribution of the community (this may not apply if the community is territorial); and
- The number of people or entities that make up the community.

If opposition by a number of people/entities is found, but the group represented by the objector is not determined to be a clearly delineated community, the objection will fail.

Substantial Opposition – The objector must prove substantial opposition within the community it has identified itself as representing. A panel could balance a number of factors to determine whether there is substantial opposition, including but not limited to:

- Number of expressions of opposition relative to the composition of the community;
- The representative nature of entities expressing opposition;
- Level of recognized stature or weight among sources of opposition;
- Distribution or diversity among sources of expressions of opposition, including:
  - Regional
  - Subsectors of community
  - Leadership of community
  - Membership of community
- Historical defense of the community in other contexts; and
- Costs incurred by objector in expressing opposition, including other channels the objector may have used to convey opposition.

If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

Targeting – The objector must prove a strong association between the applied-for gTLD string and the community represented by the objector. Factors that could be

balanced by a panel to determine this include but are not limited to:

- Statements contained in application;
- Other public statements by the applicant;
- Associations by the public.

If opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the objection will fail.

Detriment – The objector must prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. An allegation of detriment that consists only of the applicant being delegated the string instead of the objector will not be sufficient for a finding of material detriment.

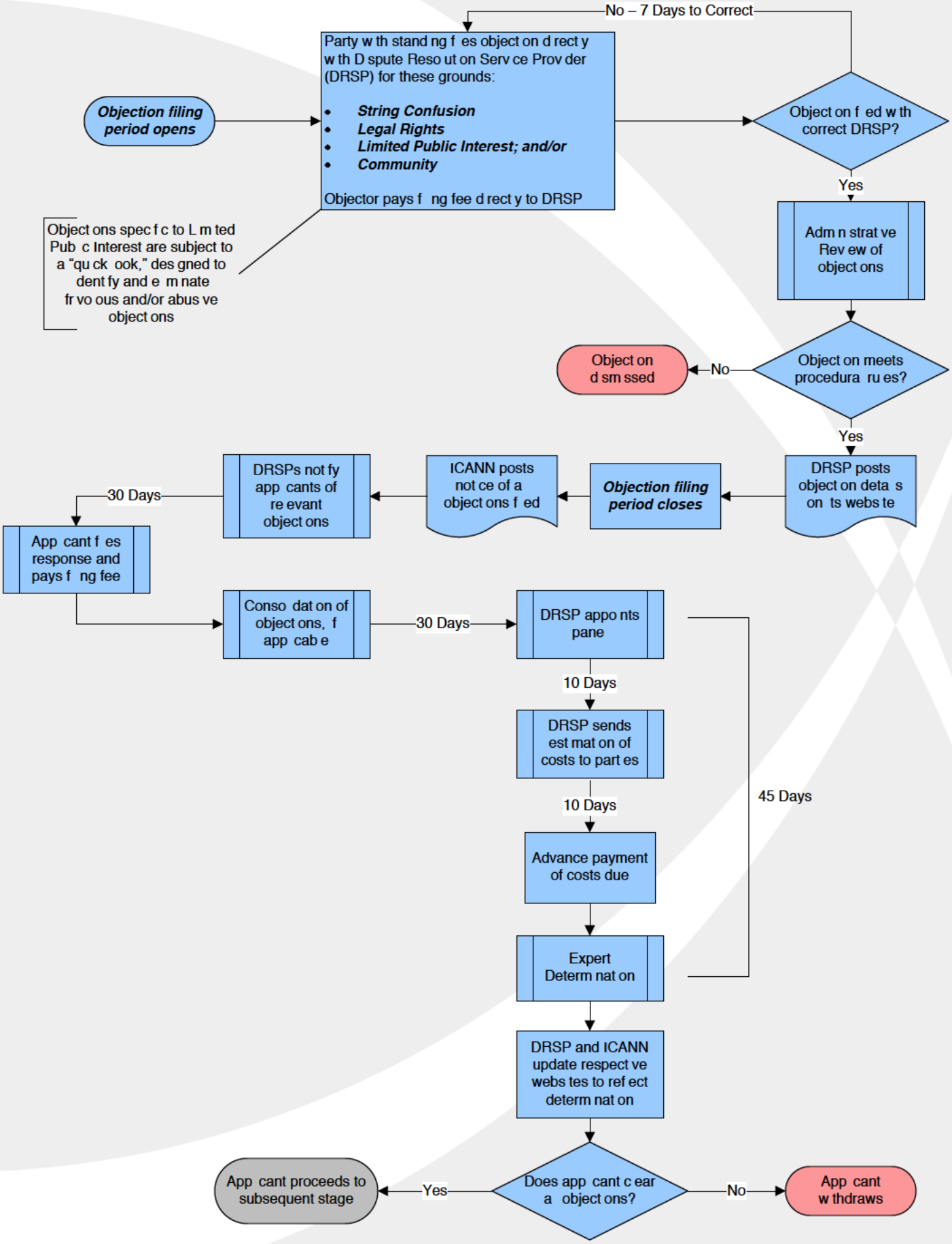
Factors that could be used by a panel in making this determination include but are not limited to:

- Nature and extent of damage to the reputation of the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string;
- Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the applicant has not proposed or does not intend to institute effective security protection for user interests;
- Interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string;
- Dependence of the community represented by the objector on the DNS for its core activities;
- Nature and extent of concrete or economic damage to the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string; and
- Level of certainty that alleged detrimental outcomes would occur.

If opposition by a community is determined, but there is no likelihood of material detriment to the targeted community resulting from the applicant's operation of the applied-for gTLD, the objection will fail.

The objector must meet all four tests in the standard for the objection to prevail.

DRAFT - New gTLD Program – Objection and Dispute Resolution



Attachment to Module 3

New gTLD Dispute Resolution Procedure

These Procedures were designed with an eye toward timely and efficient dispute resolution. As part of the New gTLD Program, these Procedures apply to all proceedings administered by each of the dispute resolution service providers (DRSP). Each of the DRSPs has a specific set of rules that will also apply to such proceedings.

NEW GTLD DISPUTE RESOLUTION PROCEDURE

Article 1. ICANN's New gTLD Program

(a) The Internet Corporation for Assigned Names and Numbers ("ICANN") has implemented a program for the introduction of new generic Top-Level Domain Names ("gTLDs") in the internet. There will be a succession of rounds, during which applicants may apply for new gTLDs, in accordance with terms and conditions set by ICANN.

(b) The new gTLD program includes a dispute resolution procedure, pursuant to which disputes between a person or entity who applies for a new gTLD and a person or entity who objects to that gTLD are resolved in accordance with this New gTLD Dispute Resolution Procedure (the "Procedure").

(c) Dispute resolution proceedings shall be administered by a Dispute Resolution Service Provider ("DRSP") in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(d) By applying for a new gTLD, an applicant accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b); by filing an objection to a new gTLD, an objector accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b). The parties cannot derogate from this Procedure without the express approval of ICANN and from the applicable DRSP Rules without the express approval of the relevant DRSP.

Article 2. Definitions

(a) The "Applicant" or "Respondent" is an entity that has applied to ICANN for a new gTLD and that will be the party responding to the Objection.

(b) The "Objector" is one or more persons or entities who have filed an objection against a new gTLD for which an application has been submitted.

(c) The "Panel" is the panel of Experts, comprising one or three "Experts," that has been constituted by a DRSP in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(d) The "Expert Determination" is the decision upon the merits of the Objection that is rendered by a Panel in a proceeding conducted under this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(e) The grounds upon which an objection to a new gTLD may be filed are set out in full in Module 3 of the Applicant Guidebook. Such grounds are identified in this Procedure, and are based upon the Final Report on the Introduction of New Generic Top-Level Domains, dated 7 August 2007, issued by the ICANN Generic Names Supporting Organization (GNSO), as follows:

(i) "String Confusion Objection" refers to the objection that the string comprising the potential gTLD is confusingly similar to an existing top-level domain or another string applied for in the same round of applications.

(ii) "Existing Legal Rights Objection" refers to the objection that the string comprising the potential new gTLD infringes the existing legal rights of others

that are recognized or enforceable under generally accepted and internationally recognized principles of law.

(iii) "Limited Public Interest Objection" refers to the objection that the string comprising the potential new gTLD is contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law.

(iv) "Community Objection" refers to the objection that there is substantial opposition to the application from a significant portion of the community to which the string may be explicitly or implicitly targeted.

(f) "DRSP Rules" are the rules of procedure of a particular DRSP that have been identified as being applicable to objection proceedings under this Procedure.

Article 3. Dispute Resolution Service Providers

The various categories of disputes shall be administered by the following DRSPs:

(a) String Confusion Objections shall be administered by the International Centre for Dispute Resolution.

(b) Existing Legal Rights Objections shall be administered by the Arbitration and Mediation Center of the World Intellectual Property Organization.

(c) Limited Public Interest Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.

(d) Community Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.

Article 4. Applicable Rules

(a) All proceedings before the Panel shall be governed by this Procedure and by the DRSP Rules that apply to a particular category of objection. The outcome of the proceedings shall be deemed an Expert Determination, and the members of the Panel shall act as experts.

(b) The applicable DRSP Rules are the following:

(i) For a String Confusion Objection, the applicable DRSP Rules are the ICDR Supplementary Procedures for ICANN's New gTLD Program.

(ii) For an Existing Legal Rights Objection, the applicable DRSP Rules are the WIPO Rules for New gTLD Dispute Resolution.

(iii) For a Limited Public Interest Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce (ICC), as supplemented by the ICC as needed.

(iv) For a Community Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce (ICC), as supplemented by the ICC as needed.

(c) In the event of any discrepancy between this Procedure and the applicable DRSP Rules, this Procedure shall prevail.

(d) The place of the proceedings, if relevant, shall be the location of the DRSP that is administering the proceedings.

(e) In all cases, the Panel shall ensure that the parties are treated with equality, and that each party is given a reasonable opportunity to present its position.

Article 5. Language

(a) The language of all submissions and proceedings under this Procedure shall be English.

(b) Parties may submit supporting evidence in its original language, provided and subject to the authority of the Panel to determine otherwise, that such evidence is accompanied by a certified or otherwise official English translation of all relevant text.

Article 6. Communications and Time Limits

(a) All communications by the Parties with the DRSPs and Panels must be submitted electronically. A Party that wishes to make a submission that is not available in electronic form (e.g., evidentiary models) shall request leave from the Panel to do so, and the Panel, in its sole discretion, shall determine whether to accept the non-electronic submission.

(b) The DRSP, Panel, Applicant, and Objector shall provide copies to one another of all correspondence (apart from confidential correspondence between the Panel and the DRSP and among the Panel) regarding the proceedings.

(c) For the purpose of determining the date of commencement of a time limit, a notice or other communication shall be deemed to have been received on the day that it is transmitted in accordance with paragraphs (a) and (b) of this Article.

(d) For the purpose of determining compliance with a time limit, a notice or other communication shall be deemed to have been sent, made or transmitted if it is dispatched in accordance with paragraphs (a) and (b) of this Article prior to or on the day of the expiration of the time limit.

(e) For the purpose of calculating a period of time under this Procedure, such period shall begin to run on the day following the day when a notice or other communication is received.

(f) Unless otherwise stated, all time periods provided in the Procedure are calculated on the basis of calendar days

Article 7. Filing of the Objection

(a) A person wishing to object to a new gTLD for which an application has been submitted may file an objection ("Objection"). Any Objection to a proposed new gTLD must be filed before the published closing date for the Objection Filing period.

(b) The Objection must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Applicant.

(c) The electronic addresses for filing Objections (the specific addresses shall be made available once they are created by providers):

(i) A String Confusion Objection must be filed at: [●].

(ii) An Existing Legal Rights Objection must be filed at: [●].

(iii) A Limited Public Interest Objection must be filed at: [●].

(iv) A Community Objection must be filed at: [●].

(d) All Objections must be filed separately:

(i) An Objector who wishes to object to an application on more than one ground must file separate objections with the appropriate DRSP(s).

(ii) An Objector who wishes to object to more than one gTLD must file separate objections to each gTLD with the appropriate DRSP(s).

(e) If an Objection is filed with the wrong DRSP, that DRSP shall promptly notify the Objector of the error and that DRSP shall not process the incorrectly filed Objection. The Objector may then cure the error by filing its Objection with the correct DRSP within seven (7) days of receipt of the error notice, failing which the Objection shall be disregarded. If the Objection is filed with the correct DRSP within seven (7) days of receipt of the error notice but after the lapse of the time for submitting an Objection stipulation by Article 7(a) of this Procedure, it shall be deemed to be within this time limit.

Article 8. Content of the Objection

(a) The Objection shall contain, *inter alia*, the following information:

(i) The names and contact information (address, telephone number, email address, etc.) of the Objector;

(ii) A statement of the Objector's basis for standing; and

(iii) A description of the basis for the Objection, including:

(aa) A statement of the ground upon which the Objection is being filed, as stated in Article 2(e) of this Procedure;

(bb) An explanation of the validity of the Objection and why the objection should be upheld.

(b) The substantive portion of the Objection shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Objector shall also describe and provide copies of any supporting or official documents upon which the Objection is based.

(c) At the same time as the Objection is filed, the Objector shall pay a filing fee in the amount set in accordance with the applicable DRSP Rules and include evidence of such payment in the Objection. In the event that the filing fee is not paid within ten (10) days of the receipt of the Objection by the DRSP, the Objection shall be dismissed without prejudice.

Article 9. Administrative Review of the Objection

(a) The DRSP shall conduct an administrative review of the Objection for the purpose of verifying compliance with Articles 5-8 of this Procedure and the applicable DRSP Rules, and inform the Objector, the Applicant and ICANN of the result of its review within

fourteen (14) days of its receipt of the Objection. The DRSP may extend this time limit for reasons explained in the notification of such extension.

(b) If the DRSP finds that the Objection complies with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall confirm that the Objection shall be registered for processing.

(c) If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Objection be corrected within five (5) days. If the deficiencies in the Objection are cured within the specified period but after the lapse of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure, the Objection shall be deemed to be within this time limit.

(d) If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, and the deficiencies in the Objection are not corrected within the period specified in Article 9(c), the DRSP shall dismiss the Objection and close the proceedings, without prejudice to the Objector's submission of a new Objection that complies with this Procedure, provided that the Objection is filed within the deadline for filing such Objections. The DRSP's review of the Objection shall not interrupt the running of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure.

(e) Immediately upon registering an Objection for processing, pursuant to Article 9(b), the DRSP shall post the following information about the Objection on its website: (i) the proposed string to which the Objection is directed; (ii) the names of the Objector and the Applicant; (ii) the grounds for the Objection; and (iv) the dates of the DRSP's receipt of the Objection.

Article 10. ICANN's Dispute Announcement

(a) Within thirty (30) days of the deadline for filing Objections in relation to gTLD applications in a given round, ICANN shall publish a document on its website identifying all of the admissible Objections that have been filed (the "Dispute Announcement"). ICANN shall also directly inform each DRSP of the posting of the Dispute Announcement.

(b) ICANN shall monitor the progress of all proceedings under this Procedure and shall take steps, where appropriate, to coordinate with any DRSP in relation to individual applications for which objections are pending before more than one DRSP.

Article 11. Response to the Objection

(a) Upon receipt of the Dispute Announcement, each DRSP shall promptly send a notice to: (i) each Applicant for a new gTLD to which one or more admissible Objections have been filed with that DRSP; and (ii) the respective Objector(s).

(b) The Applicant shall file a response to each Objection (the "Response"). The Response shall be filed within thirty (30) days of the transmission of the notice by the DRSP pursuant to Article 11(a).

(c) The Response must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Objector.

(d) The Response shall contain, inter alia, the following information:

(i) The names and contact information (address, telephone number, email address, etc.) of the Applicant; and

(ii) A point-by-point response to the statements made in the Objection.

(e) The substantive portion of the Response shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Applicant shall also describe and provide copies of any supporting or official documents upon which the Response is based.

(f) At the same time as the Response is filed, the Applicant shall pay a filing fee in the amount set and published by the relevant DRSP (which shall be the same as the filing fee paid by the Objector) and include evidence of such payment in the Response. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the DRSP, the Applicant shall be deemed to be in default, any Response disregarded and the Objection shall be deemed successful.

(g) If the DRSP finds that the Response does not comply with Articles 11(c) and (d)(1) of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Response be corrected within five (5) days. If the administrative deficiencies in the Response are cured within the specified period but after the lapse of the time limit for submitting a Response pursuant to this Procedure, the Response shall be deemed to be within this time limit.

(g) If the Applicant fails to file a Response to the Objection within the 30-day time limit, the Applicant shall be deemed to be in default and the Objection shall be deemed successful. No fees paid by the Applicant will be refunded in case of default.

Article 12. Consolidation of Objections

(a) The DRSP is encouraged, whenever possible and practicable, and as may be further stipulated in the applicable DRSP Rules, to consolidate Objections, for example, when more than one Objector has filed an Objection to the same gTLD on the same grounds. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice pursuant to Article 11(a) and, where appropriate, shall inform the parties of the consolidation in that notice.

(b) If the DRSP itself has not decided to consolidate two or more Objections, any Applicant or Objector may propose the consolidation of Objections within seven (7) days of the notice given by the DRSP pursuant to Article 11(a). If, following such a proposal, the DRSP decides to consolidate certain Objections, which decision must be made within 14 days of the notice given by the DRSP pursuant to Article 11(a), the deadline for the Applicant's Response in the consolidated proceeding shall be thirty (30) days from the Applicant's receipt of the DRSP's notice of consolidation.

(c) In deciding whether to consolidate Objections, the DRSP shall weigh the benefits (in terms of time, cost, consistency of decisions, etc.) that may result from the consolidation against the possible prejudice or inconvenience that the consolidation may cause. The DRSP's determination on consolidation shall be final and not subject to appeal.

(d) Objections based upon different grounds, as summarized in Article 2(e), shall not be consolidated.

Article 13. The Panel

(a) The DRSP shall select and appoint the Panel of Expert(s) within thirty (30) days after receiving the Response.

(b) Number and specific qualifications of Expert(s):

(i) There shall be one Expert in proceedings involving a String Confusion Objection.

(ii) There shall be one Expert or, if all of the Parties so agree, three Experts with relevant experience in intellectual property rights disputes in proceedings involving an Existing Legal Rights Objection.

(iii) There shall be three Experts recognized as eminent jurists of international reputation, one of whom shall be designated as the Chair. The Chair shall be of a nationality different from the nationalities of the Applicant and of the Objector, in proceedings involving a Limited Public Interest Objection.

(iv) There shall be one Expert in proceedings involving a Community Objection.

(c) All Experts acting under this Procedure shall be impartial and independent of the parties. The applicable DRSP Rules stipulate the manner by which each Expert shall confirm and maintain their impartiality and independence.

(d) The applicable DRSP Rules stipulate the procedures for challenging an Expert and replacing an Expert.

(e) Unless required by a court of law or authorized in writing by the parties, an Expert shall not act in any capacity whatsoever, in any pending or future proceedings, whether judicial, arbitral or otherwise, relating to the matter referred to expert determination under this Procedure.

Article 14. Costs

(a) Each DRSP shall determine the costs for the proceedings that it administers under this Procedure in accordance with the applicable DRSP Rules. Such costs shall cover the fees and expenses of the members of the Panel, as well as the administrative fees of the DRSP (the "Costs").

(b) Within ten (10) days of constituting the Panel, the DRSP shall estimate the total Costs and request the Objector and the Applicant/Respondent each to pay in advance the full amount of the Costs to the DRSP. Each party shall make its advance payment of Costs within ten (10) days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the Parties shall be credited against the amounts due for this advance payment of Costs.

(c) The DRSP may revise its estimate of the total Costs and request additional advance payments from the parties during the proceedings.

(d) Failure to make an advance payment of Costs:

(i) If the Objector fails to make the advance payment of Costs, its Objection shall be dismissed and no fees that it has paid shall be refunded.

(ii) If the Applicant fails to make the advance payment of Costs, the Objection will be deemed to have been sustained and no fees that the Applicant has paid shall be refunded.

(e) Upon the termination of the proceedings, after the Panel has rendered its Expert Determination, the DRSP shall refund to the prevailing party, as determined by the Panel, its advance payment(s) of Costs.

Article 15. Representation and Assistance

(a) The parties may be represented or assisted by persons of their choice.

(b) Each party or party representative shall communicate the name, contact information and function of such persons to the DRSP and the other party (or parties in case of consolidation).

Article 16. Negotiation and Mediation

(a) The parties are encouraged, but not required, to participate in negotiations and/or mediation at any time throughout the dispute resolution process aimed at settling their dispute amicably.

(b) Each DRSP shall be able to propose, if requested by the parties, a person who could assist the parties as mediator.

(c) A person who acts as mediator for the parties shall not serve as an Expert in a dispute between the parties under this Procedure or any other proceeding under this Procedure involving the same gTLD.

(d) The conduct of negotiations or mediation shall not, *ipso facto*, be the basis for a suspension of the dispute resolution proceedings or the extension of any deadline under this Procedure. Upon the joint request of the parties, the DRSP or (after it has been constituted) the Panel may grant the extension of a deadline or the suspension of the proceedings. Absent exceptional circumstances, such extension or suspension shall not exceed thirty (30) days and shall not delay the administration of any other Objection.

(e) If, during negotiations and/or mediation, the parties agree on a settlement of the matter referred to the DRSP under this Procedure, the parties shall inform the DRSP, which shall terminate the proceedings, subject to the parties' payment obligation under this Procedure having been satisfied, and inform ICANN and the parties accordingly.

Article 17. Additional Written Submissions

(a) The Panel may decide whether the parties shall submit any written statements in addition to the Objection and the Response, and it shall fix time limits for such submissions.

(b) The time limits fixed by the Panel for additional written submissions shall not exceed thirty (30) days, unless the Panel, having consulted the DRSP, determines that exceptional circumstances justify a longer time limit.

Article 18. Evidence

In order to achieve the goal of resolving disputes over new gTLDs rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the Panel may require a party to provide additional evidence.

Article 19. Hearings

(a) Disputes under this Procedure and the applicable DRSP Rules will usually be resolved without a hearing.

(b) The Panel may decide, on its own initiative or at the request of a party, to hold a hearing only in extraordinary circumstances.

(c) In the event that the Panel decides to hold a hearing:

(i) The Panel shall decide how and where the hearing shall be conducted.

(ii) In order to expedite the proceedings and minimize costs, the hearing shall be conducted by videoconference if possible.

(iii) The hearing shall be limited to one day, unless the Panel decides, in exceptional circumstances, that more than one day is required for the hearing.

(iv) The Panel shall decide whether the hearing will be open to the public or conducted in private.

Article 20. Standards

(a) For each category of Objection identified in Article 2(e), the Panel shall apply the standards that have been defined by ICANN.

(b) In addition, the Panel may refer to and base its findings upon the statements and documents submitted and any rules or principles that it determines to be applicable.

(c) The Objector bears the burden of proving that its Objection should be sustained in accordance with the applicable standards.

Article 21. The Expert Determination

(a) The DRSP and the Panel shall make reasonable efforts to ensure that the Expert Determination is rendered within forty-five (45) days of the constitution of the Panel. In specific circumstances such as consolidated cases and in consultation with the DRSP, if significant additional documentation is requested by the Panel, a brief extension may be allowed.

(b) The Panel shall submit its Expert Determination in draft form to the DRSP's scrutiny as to form before it is signed, unless such scrutiny is specifically excluded by the applicable DRSP Rules. The modifications proposed by the DRSP to the Panel, if any, shall address only the form of the Expert Determination. The signed Expert Determination shall be communicated to the DRSP, which in turn will communicate that Expert Determination to the Parties and ICANN.

(c) When the Panel comprises three Experts, the Expert Determination shall be made by a majority of the Experts.

(d) The Expert Determination shall be in writing, shall identify the prevailing party and shall state the reasons upon which it is based. The remedies available to an Applicant or an Objector pursuant to any proceeding before a Panel shall be limited to the success or dismissal of an Objection and to the refund by the DRSP to the prevailing party, as determined by the Panel in its Expert Determination, of its advance payment(s) of Costs pursuant to Article 14(e) of this Procedure and any relevant provisions of the applicable DRSP Rules.

(e) The Expert Determination shall state the date when it is made, and it shall be signed by the Expert(s). If any Expert fails to sign the Expert Determination, it shall be accompanied by a statement of the reason for the absence of such signature.

(f) In addition to providing electronic copies of its Expert Determination, the Panel shall provide a signed hard copy of the Expert Determination to the DRSP, unless the DRSP Rules provide for otherwise.

(g) Unless the Panel decides otherwise, the Expert Determination shall be published in full on the DRSP's website.

Article 22. Exclusion of Liability

In addition to any exclusion of liability stipulated by the applicable DRSP Rules, neither the Expert(s), nor the DRSP and its employees, nor ICANN and its Board members, employees and consultants shall be liable to any person for any act or omission in connection with any proceeding conducted under this Procedure.

Article 23. Modification of the Procedure

(a) ICANN may from time to time, in accordance with its Bylaws, modify this Procedure.

(b) The version of this Procedure that is applicable to a dispute resolution proceeding is the version that was in effect on the day when the relevant application for a new gTLD is submitted.

gTLD Applicant Guidebook

(v. 2012-06-04)

Module 4

4 June 2012

Module 4

String Contention Procedures

This module describes situations in which contention over applied-for gTLD strings occurs, and the methods available to applicants for resolving such contention cases.

4.1 String Contention

String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or

2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in user confusion, called contending strings. If either situation above occurs, such applications will proceed to contention resolution through either community priority evaluation, in certain cases, or through an auction. Both processes are described in this module. A group of applications for contending strings is referred to as a contention set.

(In this Applicant Guidebook, "similar" means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.)

4.1.1 Identification of Contention Sets

Contention sets are groups of applications containing identical or similar applied-for gTLD strings. Contention sets are identified during Initial Evaluation, following review of all applied-for gTLD strings. ICANN will publish preliminary contention sets once the String Similarity review is completed, and will update the contention sets as necessary during the evaluation and dispute resolution stages.

Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. That is, two or more applicants whose applied-for strings or designated variants are variant strings according to an IDN table submitted to ICANN would be considered in direct contention with one another. For example, if one applicant applies for string A and another applies for string B, and strings A and B are variant TLD strings as defined in Module 1, then the two applications are in direct contention.

The String Similarity Panel will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String Similarity review described in Module 2 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Two strings are in **direct contention** if they are identical or similar to one another. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. The example that follows explains direct and indirect contention in greater detail.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect contention. C and G both contend with B, but not with one another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.

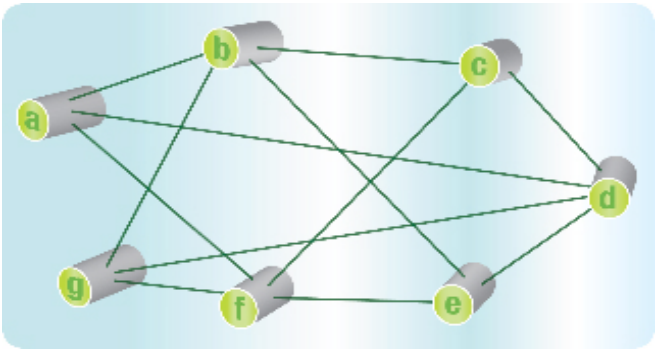


Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.

While preliminary contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process stages have concluded. This is because any application excluded through those processes might modify a contention set identified earlier.

A contention set may be augmented, split into two sets, or eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding. The composition of a contention set may also be modified as some applications may be voluntarily withdrawn throughout the process.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.

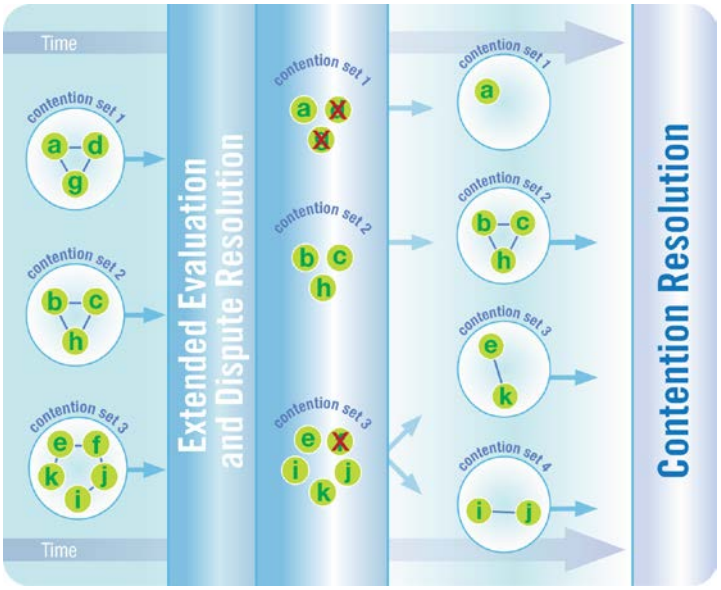


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

The remaining contention cases must then be resolved through community priority evaluation or by other means, depending on the circumstances. In the string contention resolution stage, ICANN addresses each contention set to achieve an unambiguous resolution.

As described elsewhere in this guidebook, cases of contention might be resolved by community priority evaluation or an agreement among the parties. Absent that, the last-resort contention resolution mechanism will be an auction.

4.1.2 *Impact of String Confusion Dispute Resolution Proceedings on Contention Sets*

If an applicant files a string confusion objection against another application (refer to Module 3), and the panel finds that user confusion is probable (that is, finds in favor of the objector), the two applications will be placed in direct contention with each other. Thus, the outcome of a dispute resolution proceeding based on a string confusion objection would be a new contention set structure for the relevant applications, augmenting the original contention set.

If an applicant files a string confusion objection against another application, and the panel finds that string

confusion does not exist (that is, finds in favor of the responding applicant), the two applications will not be considered in direct contention with one another.

A dispute resolution outcome in the case of a string confusion objection filed by another applicant will not result in removal of an application from a previously established contention set.

4.1.3 Self-Resolution of String Contention

Applicants that are identified as being in contention are encouraged to reach a settlement or agreement among themselves that resolves the contention. This may occur at any stage of the process, once ICANN publicly posts the applications received and the preliminary contention sets on its website.

Applicants may resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that applicants may seek to establish joint ventures in their efforts to resolve string contention. However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might require additional fees or evaluation in a subsequent application round. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the remaining application. Accordingly, new joint ventures must take place in a manner that does not materially change the application, to avoid being subject to re-evaluation.

4.1.4 Possible Contention Resolution Outcomes

An application that has successfully completed all previous stages and is no longer part of a contention set due to changes in the composition of the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next stage.

An application that prevails in a contention resolution procedure, either community priority evaluation or auction, may proceed to the next stage.

In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, consider a case where string A is in contention with B, and B is in contention with C, but C is not in contention with A. If A wins the contention resolution procedure, B is eliminated but C can proceed since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

4.2 Community Priority Evaluation

Community priority evaluation will only occur if a community-based applicant selects this option. Community priority evaluation can begin once all applications in the contention set have completed all previous stages of the process.

The community priority evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the community priority evaluation. Each application participating in the community priority evaluation begins with a score of zero.

4.2.1 Eligibility for Community Priority Evaluation

As described in subsection 1.2.3 of Module 1, all applicants are required to identify whether their application type is:

- Community-based; or
- Standard.

Applicants designating their applications as community-based are also asked to respond to a set of questions in the application form to provide relevant information if a community priority evaluation occurs.

Only community-based applicants are eligible to participate in a community priority evaluation.

At the start of the contention resolution stage, all community-based applicants within remaining contention sets will be notified of the opportunity to opt for a community priority evaluation via submission of a deposit by a specified date. Only those applications for which a deposit has been received by the deadline will be scored in the community priority evaluation. Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.

Before the community priority evaluation begins, the applicants who have elected to participate may be asked to provide additional information relevant to the community priority evaluation.

4.2.2 Community Priority Evaluation Procedure

Community priority evaluations for each eligible contention set will be performed by a community priority panel appointed by ICANN to review these applications. The panel's role is to determine whether any of the community-based applications fulfills the community priority criteria. Standard applicants within the contention set, if any, will not participate in the community priority evaluation.

If a single community-based application is found to meet the community priority criteria (see subsection 4.2.3 below), that applicant will be declared to prevail in the community priority evaluation and may proceed. If more than one community-based application is found to meet the criteria, the remaining contention between them will be resolved as follows:

- In the case where the applications are in indirect contention with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage. In this case, applications that are in direct contention with any of these community-based applications will be eliminated.
- In the case where the applications are in direct contention with one another, these applicants will proceed to an auction. If all parties agree and present a joint request, ICANN may postpone the auction for a three-month period while the parties attempt to reach a settlement before proceeding to auction. This is a one-time option; ICANN will grant no more than one such request for each set of contending applications.

If none of the community-based applications are found to meet the criteria, then all of the parties in the contention set (both standard and community-based applicants) will proceed to an auction.

Results of each community priority evaluation will be posted when completed.

Applicants who are eliminated as a result of a community priority evaluation are eligible for a partial refund of the gTLD evaluation fee (see Module 1).

4.2.3 Community Priority Evaluation Criteria

The Community Priority Panel will review and score the one or more community-based applications having elected the community priority evaluation against four criteria as listed below.

The scoring process is conceived to identify qualified community-based applications, while preventing both "false positives" (awarding undue priority to an application that refers to a "community" construed merely to get a sought-after generic word as a gTLD string) and "false negatives" (not awarding priority to a qualified community application). This calls for a holistic approach, taking multiple criteria into account, as reflected in the process. The scoring will be performed by a panel and be based on information provided in the application plus other relevant information available (such as public information regarding the community represented). The panel may also perform independent research, if deemed necessary to reach informed scoring decisions.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below. Accordingly, a finding by the panel that an application does not meet the scoring threshold to prevail in a community priority evaluation is not necessarily an indication the community itself is in some way inadequate or invalid.

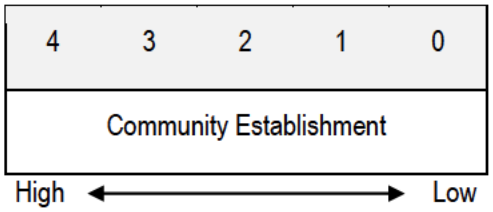
The sequence of the criteria reflects the order in which they will be assessed by the panel. The utmost care has been taken to avoid any "double-counting" - any negative aspect found in assessing an application for one criterion

should only be counted there and should not affect the assessment for other criteria.

An application must score at least 14 points to prevail in a community priority evaluation. The outcome will be determined according to the procedure described in subsection 4.2.2.

Criterion #1: Community Establishment (0-4 points)

A maximum of 4 points is possible on the Community Establishment criterion:



As measured by:

A. Delineation (2)

2	1	0
Clearly delineated, organized, and pre-existing community.	Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.	Insufficient delineation and pre-existence for a score of 1.

B. Extension (2)

2	1	0
Community of considerable size and longevity.	Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.	Community of neither considerable size nor longevity.

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not

considered here, but taken into account when scoring Criterion #2, "Nexus between Proposed String and Community.")

Criterion 1 Definitions

- "Community" - Usage of the expression "community" has evolved considerably from its Latin origin – "communitas" meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest. Notably, as "community" is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some understanding of the community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.
- "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.
- "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.
- "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.
- "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.
- "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."

- "Longevity" means that the pursuits of a community are of a lasting, non-transient nature.

Criterion 1 Guidelines

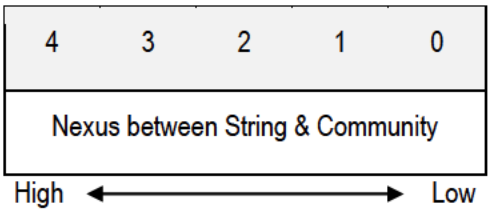
With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both "Delineation" and "Extension."

With respect to "Delineation," if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.

With respect to "Extension," if an application satisfactorily demonstrates both community size and longevity, it scores a 2.

Criterion #2: Nexus between Proposed String and Community (0-4 points)

A maximum of 4 points is possible on the Nexus criterion:



As measured by:

A. Nexus (3)

3	2	0
The string matches the name of the community or is a well-known short-form or abbreviation of the community	String identifies the community, but does not qualify for a score of 3.	String nexus does not fulfill the requirements for a score of 2.

3	2	0

name.

B. Uniqueness (1)

1	0
String has no other significant meaning beyond identifying the community described in the application.	String does not fulfill the requirement for a score of 1.

This section evaluates the relevance of the string to the specific community that it claims to represent.

Criterion 2 Definitions

- "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.
- "Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

Criterion 2 Guidelines

With respect to "Nexus," for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.

With respect to "Nexus," for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a globally well-known but local tennis club applying for ".TENNIS") then it would not qualify for a 2.

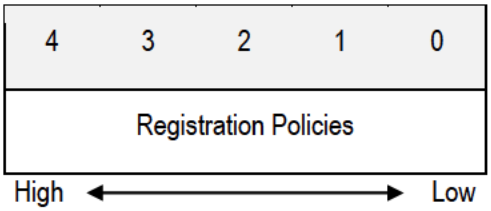
With respect to "Uniqueness," "significant meaning" relates to the public in general, with consideration of the community language context added.

"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness" implies a requirement that the string does identify the community, i.e. scores 2 or 3 for "Nexus," in order to be eligible for a score of 1 for "Uniqueness."

It should be noted that "Uniqueness" is only about the *meaning* of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."

Criterion #3: Registration Policies (0-4 points)

A maximum of 4 points is possible on the Registration Policies criterion:



As measured by:

A. Eligibility (1)

1	0
Eligibility restricted to community members.	Largely unrestricted approach to eligibility.

B. Name selection (1)

1	0
Policies include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

C. Content and use (1)

1	0
Policies include rules for content and use consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

D. Enforcement (1)

1	0
Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms.	Policies do not fulfill the requirements for a score of 1.

This section evaluates the applicant's registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

Criterion 3 Definitions

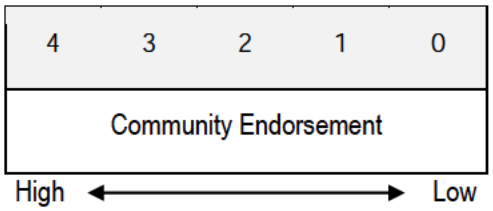
- "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.
- "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.
- "Content and use" means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.
- "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

Criterion 3 Guidelines

With respect to "Eligibility," the limitation to community "members" can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant's physical address is within the boundaries of the location.

With respect to "Name selection," "Content and use," and "Enforcement," scoring of applications against these sub-criteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.

Criterion #4: Community Endorsement (0-4 points)



As measured by:

A. Support (2)

2	1	0
Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community.	Documented support from at least one group with relevance, but insufficient support for a score of 2.	Insufficient proof of support for a score of 1.

B. Opposition (2)

2	1	0
No opposition of relevance.	Relevant opposition from one group of non-negligible size.	Relevant opposition from two or more groups of non-negligible size.

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application, with due regard for the communities implicitly addressed by the string.

Criterion 4 Definitions

- "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by

the community members as representative of the community.

- "Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied-for string would be considered relevant.

Criterion 4 Guidelines

With respect to "Support," it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

Also with respect to "Support," the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.

The applicant will score a 1 for "Support" if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on "Support" if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to represent the community. It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.

To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or expressions of support received.

When scoring "Opposition," previous objections to the application as well as public comments during the same application round will be taken into account and assessed

in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular score for "Opposition." To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant.

4.3 Auction: Mechanism of Last Resort

It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string contention among the applications within a contention set, if the contention has not been resolved by other means.

An auction will not take place to resolve contention in the case where the contending applications are for geographic names (as defined in Module 2). In this case, the applications will be suspended pending resolution by the applicants.

An auction will take place, where contention has not already been resolved, in the case where an application for a geographic name is in a contention set with applications for similar strings that have not been identified as geographic names.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching the auction stage. However, there is a possibility that significant funding will accrue to ICANN as a result of one or more auctions.[1]

[1] The purpose of an auction is to resolve contention in a clear, objective manner. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Any proceeds from auctions will be reserved and earmarked until the uses of funds are determined. Funds must be used in a manner that supports directly ICANN's Mission and Core Values and also allows ICANN to maintain its not for profit status.

Possible uses of auction funds include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

4.3.1 Auction Procedures

An auction of two or more applications within a contention set is conducted as follows. The auctioneer successively increases the prices associated with applications within the contention set, and the respective applicants indicate their willingness to pay these prices. As the prices rise, applicants will successively choose to exit from the auction. When a sufficient number of applications have been eliminated so that no direct contentions remain (i.e., the remaining applications are no longer in contention with one another and all the relevant strings can be delegated as TLDs), the auction will be deemed to conclude. At the auction's conclusion, the applicants with remaining applications will pay the resulting prices and proceed toward delegation. This procedure is referred to as an "ascending-clock auction."

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. The detailed set of Auction Rules will be available prior to the commencement of any auction proceedings. If any conflict arises between this module and the auction rules, the auction rules will prevail.

For simplicity, this section will describe the situation where a contention set consists of two or more applications for identical strings.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants ("bidders") will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described

The amount of funding resulting from auctions, if any, will not be known until all relevant applications have completed this step. Thus, a detailed mechanism for allocation of these funds is not being created at present. However, a process can be pre-established to enable community consultation in the event that such funds are collected. This process will include, at a minimum, publication of data on any funds collected, and public comment on any proposed models.

in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.

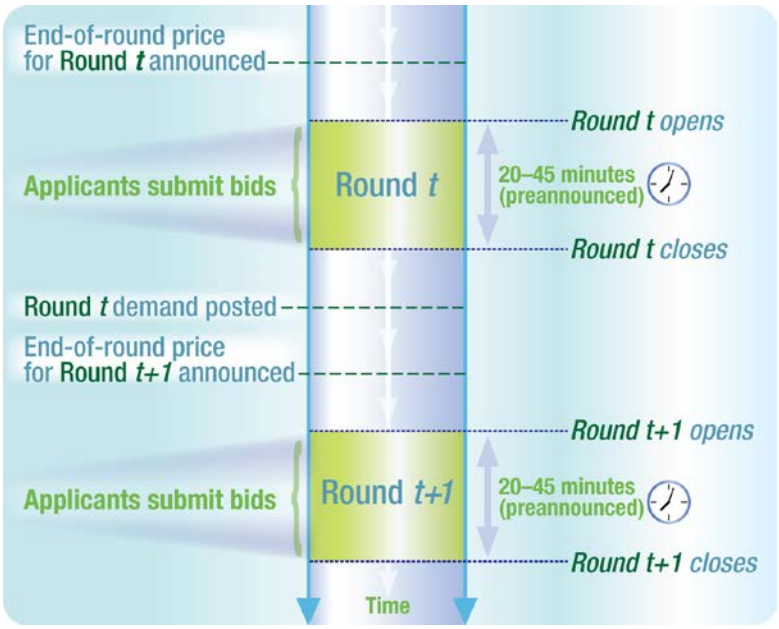


Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.

3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.

4. Bidders may submit their bid or bids at any time during the auction round.

5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.

6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the relevant gTLD strings at prices up to the respective bid amounts, subject to closure of the auction in accordance with the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.

7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.

    - Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.

    - If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.

    - If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.

    - To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.

- No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round. That is, once an application has exited the auction, it may not return.

- If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid is taken to be an exit bid at the start-of-round price for the current auction round.

8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.

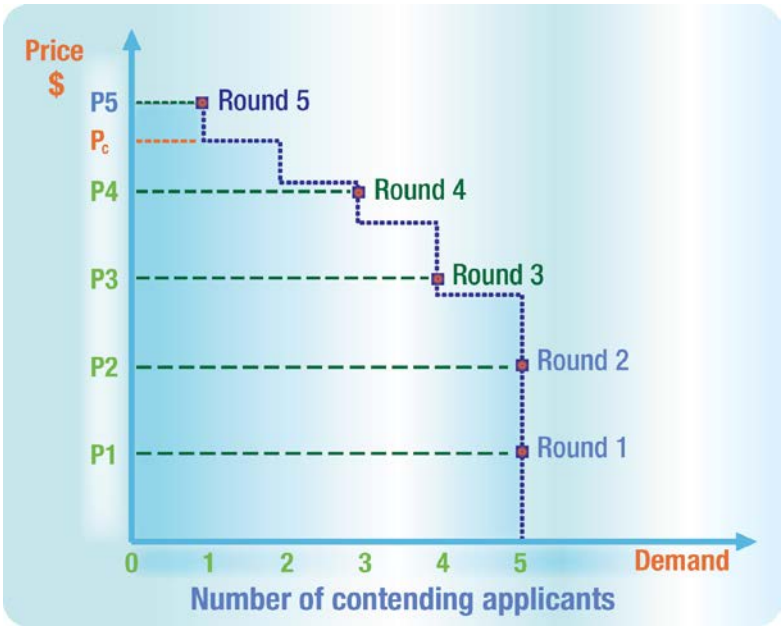


Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price P_1.
- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_1. Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five contending applications remained at P_1 and announces the end-of-round price P_2.
- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_2. The auctioneer discloses that five contending applications remained at P_2 and announces the end-of-round price P_3.
- During Auction round 3, one of the bidders submits an exit bid at slightly below P_3, while the other four bidders submit bids of at least P_3. The auctioneer discloses that four contending applications remained at P_3 and announces the end-of-round price P_4.
- During Auction round 4, one of the bidders submits an exit bid midway between P_3 and P_4, while the other three remaining bidders submit bids of at least P_4. The auctioneer discloses that three contending applications remained at P_4 and announces the end-of-auction round price P_5.
- During Auction round 5, one of the bidders submits an exit bid at slightly above P_4, and one of the bidders submits an exit bid at P_c midway between P_4 and P_5. The final bidder submits a bid greater than P_c. Since the aggregate demand at P_5 does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is P_c, as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations will be conducted simultaneously.

4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined. The bidding deposit must be transmitted by wire transfer to a specified bank account specified by ICANN or its auction provider at a major international bank, to be received in advance of the auction date. The amount of the deposit will determine a bidding limit for each bidder: the bidding deposit will equal 10% of the bidding limit; and the bidder will not be permitted to submit any bid in excess of its bidding limit.

In order to avoid the need for bidders to pre-commit to a particular bidding limit, bidders may be given the option of making a specified deposit that will provide them with unlimited bidding authority for a given application. The amount of the deposit required for unlimited bidding authority will depend on the particular contention set and will be based on an assessment of the possible final prices within the auction.

All deposits from non-defaulting losing bidders will be returned following the close of the auction.

4.3.2 Winning Bid Payments

Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins (i.e., if its application is approved), and to enter into the prescribed registry agreement with ICANN—together with a specified penalty for defaulting on payment of its winning bid or failing to enter into the required registry agreement.

The winning bidder in any auction will be required to pay the full amount of the final price within 20 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

In the event that a bidder anticipates that it would require a longer payment period than 20 business days due to verifiable government-imposed currency restrictions, the bidder may advise ICANN well in advance of the auction and ICANN will consider applying a longer payment period to all bidders within the same contention set.

Any winning bidder for whom the full amount of the final price is not received within 20 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

Any winning bidder for whom the full amount of the final price is received within 20 business days of the end of an auction retains the obligation to execute the required registry agreement within 90 days of the end of auction. Such winning bidder who does not execute the agreement within 90 days of the end of the auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that execution of the registry agreement is imminent.

4.3.3 Post-Default Procedures

Once declared in default, any winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price. The same default procedures and penalties are in place for any runner-up bidder receiving such an offer.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 20 business days to submit its full payment. A bidder who declines such an offer cannot revert on that statement, has no further obligations in this context and will not be considered in default.

The penalty for defaulting on a winning bid will equal 10% of the defaulting bid.[2] Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned.

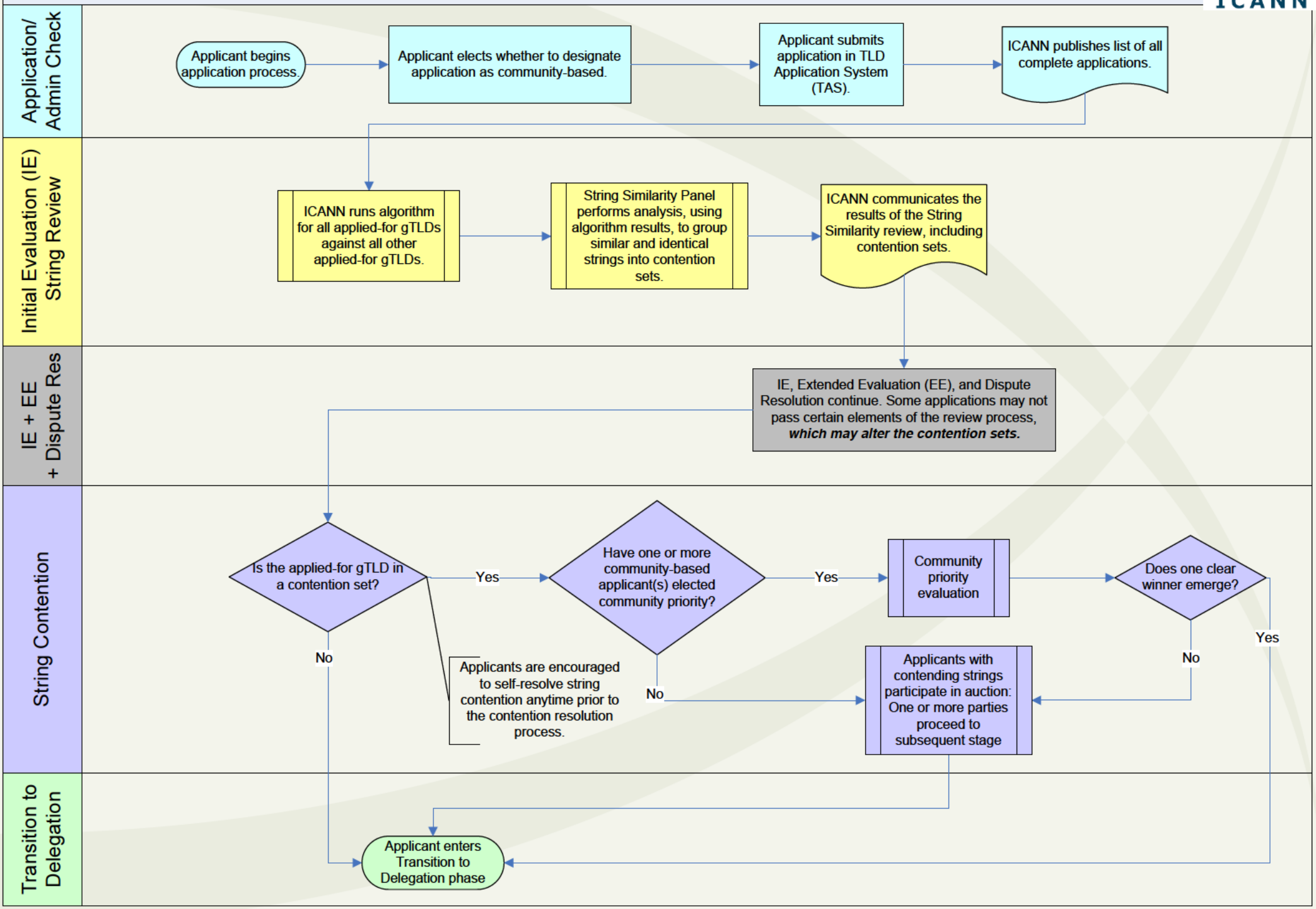
[2] If bidders were given the option of making a specified deposit that provided them with unlimited bidding authority for a given application and if the winning bidder utilized this option, then the penalty for defaulting on a winning bid will be the lesser of the following: (1) 10% of the defaulting bid, or (2) the specified deposit amount that provided the bidder with unlimited bidding authority.

4.4 Contention Resolution and Contract Execution

An applicant that has been declared the winner of a contention resolution process will proceed by entering into the contract execution step. (Refer to section 5.1 of Module 5.)

If a winner of the contention resolution procedure has not executed a contract within 90 calendar days of the decision, ICANN has the right to deny that application and extend an offer to the runner-up applicant, if any, to proceed with its application. For example, in an auction, another applicant who would be considered the runner-up applicant might proceed toward delegation. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time. If the winning applicant can demonstrate that it is working diligently and in good faith toward successful completion of the steps necessary for entry into the registry agreement, ICANN may extend the 90-day period at its discretion. Runner-up applicants have no claim of priority over the winning application, even after what might be an extended period of negotiation.

DRAFT - New gTLD Program - String Contention



gTLD Applicant Guidebook

(v. 2012-06-04)

Module 5

4 June 2012

Module 5

Transition to Delegation

This module describes the final steps required of an applicant for completion of the process, including execution of a registry agreement with ICANN and preparing for delegation of the new gTLD into the root zone.

5.1 Registry Agreement

All applicants that have successfully completed the evaluation process—including, if necessary, the dispute resolution and string contention processes—are required to enter into a registry agreement with ICANN before proceeding to delegation.

After the close of each stage in the process, ICANN will send a notification to those successful applicants that are eligible for execution of a registry agreement at that time.

To proceed, applicants will be asked to provide specified information for purposes of executing the registry agreement:

1. Documentation of the applicant's continued operations instrument (see Specification 8 to the agreement).

2. Confirmation of contact information and signatory to the agreement.

3. Notice of any material changes requested to the terms of the agreement.

4. The applicant must report: (i) any ownership interest it holds in any registrar or reseller of registered names, (ii) if known, any ownership interest that a registrar or reseller of registered names holds in the applicant, and (iii) if the applicant controls, is controlled by, or is under common control with any registrar or reseller of registered names. ICANN retains the right to refer an application to a competition authority prior to entry into the registry agreement if it is determined that the registry-registrar cross-ownership

arrangements might raise competition issues. For this purpose "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 a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit additional updated documentation and information before entering into the registry agreement.

ICANN will begin processing registry agreements one month after the date of the notification to successful applicants. Requests will be handled in the order the complete information is received.

Generally, the process will include formal approval of the agreement without requiring additional Board review, so long as: the application passed all evaluation criteria; there are no material changes in circumstances; and there are no material changes to the base agreement. There may be other cases where the Board requests review of an application.

Eligible applicants are expected to have executed the registry agreement within nine (9) months of the notification date. Failure to do so may result in loss of eligibility, at ICANN's discretion. An applicant may request an extension of this time period for up to an additional nine (9) months if it can demonstrate, to ICANN's reasonable satisfaction, that it is working diligently and in good faith toward successfully completing the steps necessary for entry into the registry agreement.

The registry agreement can be reviewed in the attachment to this module. Certain provisions in the agreement are labeled as applicable to governmental and intergovernmental entities only. Private entities, even if supported by a government or IGO, would not ordinarily be eligible for these special provisions.

All successful applicants are expected to enter into the agreement substantially as written. Applicants may request and negotiate terms by exception; however, this extends

the time involved in executing the agreement. In the event that material changes to the agreement are requested, these must first be approved by the ICANN Board of Directors before execution of the agreement.

ICANN's Board of Directors has ultimate responsibility for the New gTLD Program. The Board reserves the right to individually consider an application for a new gTLD to determine whether approval would be in the best interest of the Internet community. Under exceptional circumstances, the Board may individually consider a gTLD application. For example, the Board might individually consider an application as a result of GAC Advice on New gTLDs or of the use of an ICANN accountability mechanism.

5.2 Pre-Delegation Testing

Each applicant will be required to complete pre-delegation technical testing as a prerequisite to delegation into the root zone. This pre-delegation test must be completed within the time period specified in the registry agreement.

The purpose of the pre-delegation technical test is to verify that the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described in Module 2.

The test is also intended to indicate that the applicant can operate the gTLD in a stable and secure manner. All applicants will be tested on a pass/fail basis according to the requirements that follow.

The test elements cover both the DNS server operational infrastructure and registry system operations. In many cases the applicant will perform the test elements as instructed and provide documentation of the results to ICANN to demonstrate satisfactory performance. At ICANN's discretion, aspects of the applicant's self-certification documentation can be audited either on-site at the services delivery point of the registry or elsewhere as determined by ICANN.

5.2.1 Testing Procedures

The applicant may initiate the pre-delegation test by submitting to ICANN the Pre-Delegation form and accompanying documents containing all of the following information:

- All name server names and IPv4/IPv6 addresses to be used in serving the new TLD data;
- If using anycast, the list of names and IPv4/IPv6 unicast addresses allowing the identification of each individual server in the anycast sets;
- If IDN is supported, the complete IDN tables used in the registry system;
- A test zone for the new TLD must be signed at test time and the valid key-set to be used at the time of testing must be provided to ICANN in the documentation, as well as the TLD DNSSEC Policy Statement (DPS);
- The executed agreement between the selected escrow agent and the applicant; and
- Self-certification documentation as described below for each test item.

ICANN will review the material submitted and in some cases perform tests in addition to those conducted by the applicant. After testing, ICANN will assemble a report with the outcome of the tests and provide that report to the applicant.

Any clarification request, additional information request, or other request generated in the process will be highlighted and listed in the report sent to the applicant.

ICANN may request the applicant to complete load tests considering an aggregated load where a single entity is performing registry services for multiple TLDs.

Once an applicant has met all of the pre-delegation testing requirements, it is eligible to request delegation of its applied-for gTLD.

If an applicant does not complete the pre-delegation steps within the time period specified in the registry agreement, ICANN reserves the right to terminate the registry agreement.

5.2.2 Test Elements: DNS Infrastructure

The first set of test elements concerns the DNS infrastructure of the new gTLD. In all tests of the DNS infrastructure, all requirements are independent of whether IPv4 or IPv6 is used. All tests shall be done both over IPv4 and IPv6, with reports providing results according to both protocols.

UDP Support -- The DNS infrastructure to which these tests apply comprises the complete set of servers and network infrastructure to be used by the chosen providers to deliver DNS service for the new gTLD to the Internet. The documentation provided by the applicant must include the results from a system performance test indicating available network and server capacity and an estimate of expected capacity during normal operation to ensure stable service as well as to adequately address Distributed Denial of Service (DDoS) attacks.

Self-certification documentation shall include data on load capacity, latency and network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries responded against an increasing number of queries per second generated from local (to the servers) traffic generators. The table shall include at least 20 data points and loads of UDP-based queries that will cause up to 10% query loss against a randomly selected subset of servers within the applicant's DNS infrastructure. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

Query latency shall be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing information on the transit and peering arrangements for the DNS server locations, listing the AS numbers of the transit providers or peers at each point of presence and available bandwidth at those points of presence.

TCP support -- TCP transport service for DNS queries and responses must be enabled and provisioned for expected load. ICANN will review the capacity self-certification documentation provided by the applicant and will perform TCP reachability and transaction capability tests across a

randomly selected subset of the name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Self-certification documentation shall include data on load capacity, latency and external network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries that generated a valid (zone data, NODATA, or NXDOMAIN) response against an increasing number of queries per second generated from local (to the name servers) traffic generators. The table shall include at least 20 data points and loads that will cause up to 10% query loss (either due to connection timeout or connection reset) against a randomly selected subset of servers within the applicant's DNS infrastructure.

Query latency will be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing records of TCP-based DNS queries from nodes external to the network hosting the servers. These locations may be the same as those used for measuring latency above.

DNSSEC support -- Applicant must demonstrate support for EDNS(0) in its server infrastructure, the ability to return correct DNSSEC-related resource records such as DNSKEY, RRSIG, and NSEC/NSEC3 for the signed zone, and the ability to accept and publish DS resource records from second-level domain administrators. In particular, the applicant must demonstrate its ability to support the full life cycle of KSK and ZSK keys. ICANN will review the self-certification materials as well as test the reachability, response sizes, and DNS transaction capacity for DNS queries using the EDNS(0) protocol extension with the "DNSSEC OK" bit set for a randomly selected subset of all name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Load capacity, query latency, and reachability shall be documented as for UDP and TCP above.

5.2.3 Test Elements: Registry Systems

As documented in the registry agreement, registries must provide support for EPP within their Shared Registration System, and provide Whois service both via port 43 and a web interface, in addition to support for the DNS. This section details the requirements for testing these registry systems.

System performance -- The registry system must scale to meet the performance requirements described in Specification 10 of the registry agreement and ICANN will require self-certification of compliance. ICANN will review the self-certification documentation provided by the applicant to verify adherence to these minimum requirements.

Whois support -- Applicant must provision Whois services for the anticipated load. ICANN will verify that Whois data is accessible over IPv4 and IPv6 via both TCP port 43 and via a web interface and review self-certification documentation regarding Whois transaction capacity. Response format according to Specification 4 of the registry agreement and access to Whois (both port 43 and via web) will be tested by ICANN remotely from various points on the Internet over both IPv4 and IPv6.

Self-certification documents shall describe the maximum number of queries per second successfully handled by both the port 43 servers as well as the web interface, together with an applicant-provided load expectation.

Additionally, a description of deployed control functions to detect and mitigate data mining of the Whois database shall be documented.

EPP Support -- As part of a shared registration service, applicant must provision EPP services for the anticipated load. ICANN will verify conformance to appropriate RFCs (including EPP extensions for DNSSEC). ICANN will also review self-certification documentation regarding EPP transaction capacity.

Documentation shall provide a maximum Transaction per Second rate for the EPP interface with 10 data points corresponding to registry database sizes from 0 (empty) to the expected size after one year of operation, as determined by applicant.

Documentation shall also describe measures taken to handle load during initial registry operations, such as a land-rush period.

IPv6 support -- The ability of the registry to support registrars adding, changing, and removing IPv6 DNS records supplied by registrants will be tested by ICANN. If the registry supports EPP access via IPv6, this will be tested by ICANN remotely from various points on the Internet.

DNSSEC support -- ICANN will review the ability of the registry to support registrars adding, changing, and removing DNSSEC-related resource records as well as the registry's overall key management procedures. In particular, the applicant must demonstrate its ability to support the full life cycle of key changes for child domains. Inter-operation of the applicant's secure communication channels with the IANA for trust anchor material exchange will be verified.

The practice and policy document (also known as the DNSSEC Policy Statement or DPS), describing key material storage, access and usage for its own keys is also reviewed as part of this step.

IDN support -- ICANN will verify the complete IDN table(s) used in the registry system. The table(s) must comply with the guidelines in http://iana.org/procedures/idn-repository.html.

Requirements related to IDN for Whois are being developed. After these requirements are developed, prospective registries will be expected to comply with published IDN-related Whois requirements as part of pre-delegation testing.

Escrow deposit -- The applicant-provided samples of data deposit that include both a full and an incremental deposit showing correct type and formatting of content will be reviewed. Special attention will be given to the agreement with the escrow provider to ensure that escrowed data can be released within 24 hours should it be necessary. ICANN may, at its option, ask an independent third party to demonstrate the reconstitutability of the registry from escrowed data. ICANN may elect to test the data release process with the escrow agent.

5.3 Delegation Process

Upon notice of successful completion of the ICANN pre-delegation testing, applicants may initiate the process for delegation of the new gTLD into the root zone database.

This will include provision of additional information and completion of additional technical steps required for delegation. Information about the delegation process is available at http://iana.org/domains/root/.

5.4 Ongoing Operations

An applicant that is successfully delegated a gTLD will become a "Registry Operator." In being delegated the role of operating part of the Internet's domain name system, the applicant will be assuming a number of significant responsibilities. ICANN will hold all new gTLD operators accountable for the performance of their obligations under the registry agreement, and it is important that all applicants understand these responsibilities.

5.4.1 What is Expected of a Registry Operator

The registry agreement defines the obligations of gTLD registry operators. A breach of the registry operator's obligations may result in ICANN compliance actions up to and including termination of the registry agreement. Prospective applicants are encouraged to review the following brief description of some of these responsibilities.

Note that this is a non-exhaustive list provided to potential applicants as an introduction to the responsibilities of a registry operator. For the complete and authoritative text, please refer to the registry agreement.

A registry operator is obligated to:

Operate the TLD in a stable and secure manner. The registry operator is responsible for the entire technical operation of the TLD. As noted in RFC 1591[1]:

"The designated manager must do a satisfactory job of operating the DNS service for the domain. That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence. This includes keeping

[1] See http://www.rfc-editor.org/rfc/rfc1591.txt

the central IR[2] (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience."

The registry operator is required to comply with relevant technical standards in the form of RFCs and other guidelines. Additionally, the registry operator must meet performance specifications in areas such as system downtime and system response times (see Specifications 6 and 10 of the registry agreement).

Comply with consensus policies and temporary policies. gTLD registry operators are required to comply with consensus policies. Consensus policies may relate to a range of topics such as issues affecting interoperability of the DNS, registry functional and performance specifications, database security and stability, or resolution of disputes over registration of domain names.

To be adopted as a consensus policy, a policy must be developed by the Generic Names Supporting Organization (GNSO)[3] following the process in Annex A of the ICANN Bylaws.[4] The policy development process involves deliberation and collaboration by the various stakeholder groups participating in the process, with multiple opportunities for input and comment by the public, and can take significant time.

Examples of existing consensus policies are the Inter-Registrar Transfer Policy (governing transfers of domain names between registrars), and the Registry Services Evaluation Policy (establishing a review of proposed new registry services for security and stability or competition concerns), although there are several more, as found at http://www.icann.org/en/general/consensus-policies.htm.

gTLD registry operators are obligated to comply with both existing consensus policies and those that are developed in the future. Once a consensus policy has been formally adopted, ICANN will provide gTLD registry operators with notice of the requirement to implement the new policy and the effective date.

[2] IR is a historical reference to "Internet Registry," a function now performed by ICANN.
[3] http://gnso.icann.org
[4] http://www.icann.org/en/general/bylaws.htm#AnnexA

In addition, the ICANN Board may, when required by circumstances, establish a temporary policy necessary to maintain the stability or security of registry services or the DNS. In such a case, all gTLD registry operators will be required to comply with the temporary policy for the designated period of time.

For more information, see Specification 1 of the registry agreement.

Implement start-up rights protection measures. The registry operator must implement, at a minimum, a Sunrise period and a Trademark Claims service during the start-up phases for registration in the TLD, as provided in the registry agreement. These mechanisms will be supported by the established Trademark Clearinghouse as indicated by ICANN.

The Sunrise period allows eligible rightsholders an early opportunity to register names in the TLD.

The Trademark Claims service provides notice to potential registrants of existing trademark rights, as well as notice to rightsholders of relevant names registered. Registry operators may continue offering the Trademark Claims service after the relevant start-up phases have concluded.

For more information, see Specification 7 of the registry agreement and the Trademark Clearinghouse model accompanying this module.

Implement post-launch rights protection measures. The registry operator is required to implement decisions made under the Uniform Rapid Suspension (URS) procedure, including suspension of specific domain names within the registry. The registry operator is also required to comply with and implement decisions made according to the Trademark Post-Delegation Dispute Resolution Policy (PDDRP).

The required measures are described fully in the URS and PDDRP procedures accompanying this module. Registry operators may introduce additional rights protection measures relevant to the particular gTLD.

Implement measures for protection of country and territory names in the new gTLD. All new gTLD registry operators are required to provide certain minimum protections for country and territory names, including an initial reservation requirement and establishment of applicable rules and

procedures for release of these names. The rules for release can be developed or agreed to by governments, the GAC, and/or approved by ICANN after a community discussion. Registry operators are encouraged to implement measures for protection of geographical names in addition to those required by the agreement, according to the needs and interests of each gTLD's particular circumstances. (See Specification 5 of the registry agreement).

Pay recurring fees to ICANN. In addition to supporting expenditures made to accomplish the objectives set out in ICANN's mission statement, these funds enable the support required for new gTLDs, including: contractual compliance, registry liaison, increased registrar accreditations, and other registry support activities. The fees include both a fixed component (USD 25,000 annually) and, where the TLD exceeds a transaction volume, a variable fee based on transaction volume. See Article 6 of the registry agreement.

Regularly deposit data into escrow. This serves an important role in registrant protection and continuity for certain instances where the registry or one aspect of the registry operations experiences a system failure or loss of data. (See Specification 2 of the registry agreement.)

Deliver monthly reports in a timely manner. A registry operator must submit a report to ICANN on a monthly basis. The report includes registrar transactions for the month and is used by ICANN for calculation of registrar fees. (See Specification 3 of the registry agreement.)

Provide Whois service. A registry operator must provide a publicly available Whois service for registered domain names in the TLD. (See Specification 4 of the registry agreement.)

Maintain partnerships with ICANN-accredited registrars. A registry operator creates a Registry-Registrar Agreement (RRA) to define requirements for its registrars. This must include certain terms that are specified in the Registry Agreement, and may include additional terms specific to the TLD. A registry operator must provide non-discriminatory access to its registry services to all ICANN-accredited registrars with whom it has entered into an RRA, and who are in compliance with the requirements. This includes providing advance notice of pricing changes to all

registrars, in compliance with the time frames specified in the agreement. (See Article 2 of the registry agreement.)

Maintain an abuse point of contact. A registry operator must maintain and publish on its website a single point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller. A registry operator must also take reasonable steps to investigate and respond to any reports from law enforcement, governmental and quasi-governmental agencies of illegal conduct in connection with the use of the TLD. (See Article 2 and Specification 6 of the registry agreement.)

Cooperate with contractual compliance audits. To maintain a level playing field and a consistent operating environment, ICANN staff performs periodic audits to assess contractual compliance and address any resulting problems. A registry operator must provide documents and information requested by ICANN that are necessary to perform such audits. (See Article 2 of the registry agreement.)

Maintain a Continued Operations Instrument. A registry operator must, at the time of the agreement, have in place a continued operations instrument sufficient to fund basic registry operations for a period of three (3) years. This requirement remains in place for five (5) years after delegation of the TLD, after which time the registry operator is no longer required to maintain the continued operations instrument. (See Specification 8 to the registry agreement.)

Maintain community-based policies and procedures. If the registry operator designated its application as community-based at the time of the application, the registry operator has requirements in its registry agreement to maintain the community-based policies and procedures it specified in its application. The registry operator is bound by the Registry Restrictions Dispute Resolution Procedure with respect to disputes regarding execution of its community-based policies and procedures. (See Article 2 to the registry agreement.)

Have continuity and transition plans in place. This includes performing failover testing on a regular basis. In the event that a transition to a new registry operator becomes necessary, the registry operator is expected to cooperate

by consulting with ICANN on the appropriate successor, providing the data required to enable a smooth transition, and complying with the applicable registry transition procedures. (See Articles 2 and 4 of the registry agreement.)

Make TLD zone files available via a standardized process. This includes provision of access to the registry's zone file to credentialed users, according to established access, file, and format standards. The registry operator will enter into a standardized form of agreement with zone file users and will accept credential information for users via a clearinghouse. (See Specification 4 of the registry agreement.)

Implement DNSSEC. The registry operator is required to sign the TLD zone files implementing Domain Name System Security Extensions (DNSSEC) in accordance with the relevant technical standards. The registry must accept public key material from registrars for domain names registered in the TLD, and publish a DNSSEC Policy Statement describing key material storage, access, and usage for the registry's keys. (See Specification 6 of the registry agreement.)

5.4.2 What is Expected of ICANN

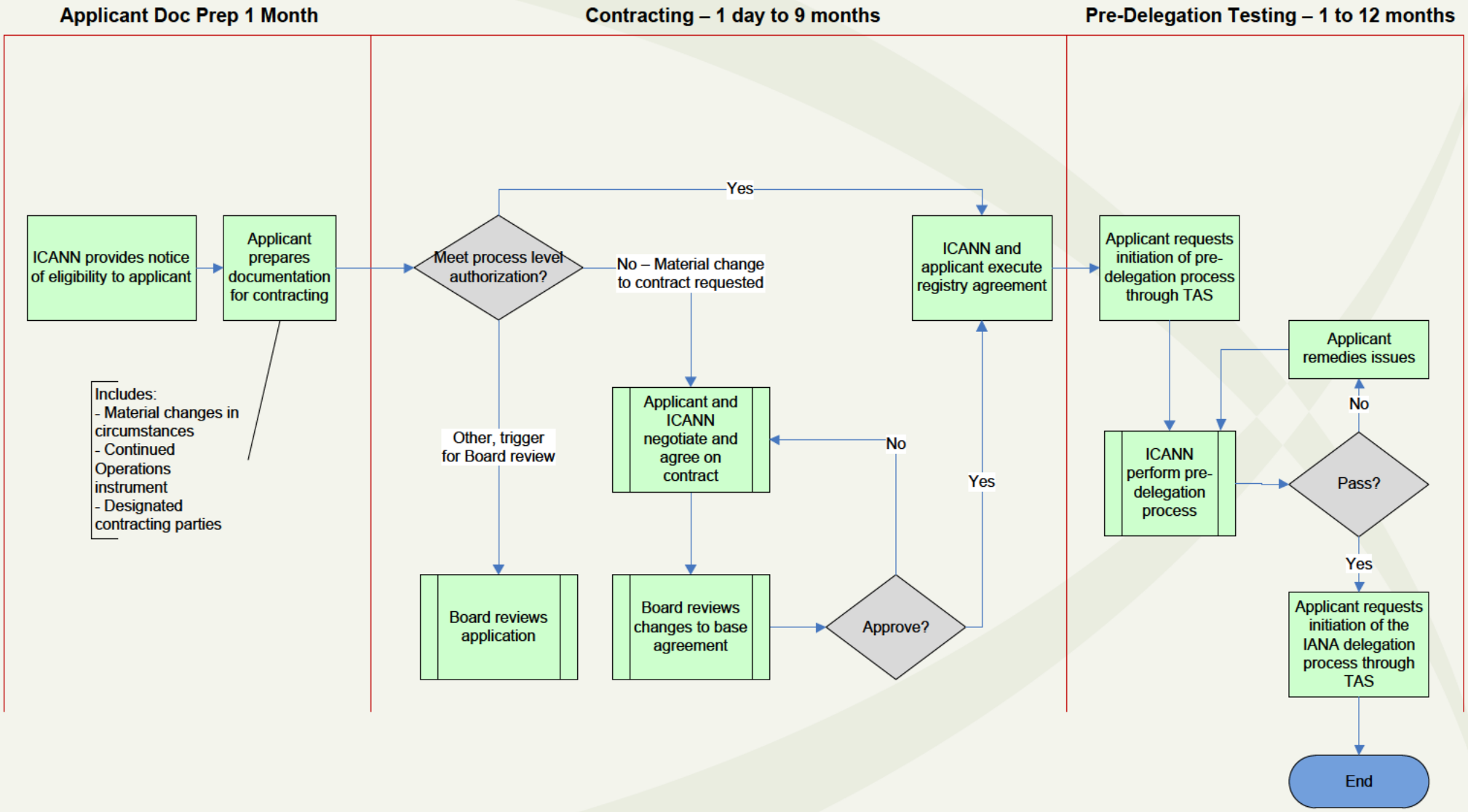
ICANN will continue to provide support for gTLD registry operators as they launch and maintain registry operations. ICANN's gTLD registry liaison function provides a point of contact for gTLD registry operators for assistance on a continuing basis.

ICANN's contractual compliance function will perform audits on a regular basis to ensure that gTLD registry operators remain in compliance with agreement obligations, as well as investigate any complaints from the community regarding the registry operator's adherence to its contractual obligations. See http://www.icann.org/en/compliance/ for more information on current contractual compliance activities.

ICANN's Bylaws require ICANN to act in an open and transparent manner, and to provide equitable treatment among registry operators. ICANN is responsible for maintaining the security and stability of the global Internet, and looks forward to a constructive and cooperative relationship with future gTLD registry operators in furtherance of this goal.

Draft – New gTLD Program - Transition to Delegation

(Timeframes are estimates only)



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

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 end of the Term (as defined in Section 4.1), 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 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 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 at [*see specification 6*] ("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 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 Polices and Temporary Policies are adopted in accordance with the procedure and relate to those topics and subject to those limitations set forth at [*see specification 1*]* ("Specification 1").

2.3 Data Escrow. Registry Operator shall comply with the registry data escrow procedures posted at [*see 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 posted in the specification at [*see specification 3*]*.

2.5 Publication of Registration Data. Registry Operator shall provide public access to registration data in accordance with the specification posted at [*see specification 4*]* ("Specification 4").

2.6 Reserved Names. Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall comply with the restrictions on registration of character strings set forth at [*see specification 5*]* ("Specification 5"). Registry Operator may establish policies concerning the reservation or blocking of additional character strings within the TLD at its discretion. If Registry Operator is the registrant for any domain names in the Registry TLD (other than the Second-Level Reservations for Registry Operations from Specification 5), such registrations must be through an ICANN accredited registrar. Any such registrations 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.

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

2.8 Protection of Legal Rights of Third Parties. Registry Operator must specify, and comply with, a process and procedures for launch of the TLD and initial registration-related and ongoing protection of the legal rights of third parties as set forth in the specification at [*see specification 7*]* ("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) Registry Operator must use only ICANN accredited registrars in registering domain names. 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. Such agreement may be revised by Registry Operator from time to time; provided, however, that any such revisions must be approved in advance 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 not disclose such contracts to any third party other than relevant competition authorities. ICANN reserves the right, but not the obligation, to refer any such contract, transaction or other arrangement to relevant competition authorities in the event that ICANN determines that such contract, transaction or other arrangement might raise competition issues.

(c) For the purposes of this Agreement: (i) "Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, 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

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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 to ten years at the discretion of the registrar, but no greater than ten 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 to ten years at the discretion of the registrar, but no greater than ten 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.

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

(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 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 necessary to demonstrate Registry Operator's compliance with this Agreement. Upon no less than five (5) business 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.

(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% 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 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 the specification at [*see specification 8*].

2.13 Emergency Transition. Registry Operator agrees that in the event that any of the registry functions set forth in Section 6 of Specification 10 fails for a period longer than the emergency threshold for such function set forth in Section 6 of Specification 10, 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 _____) (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,

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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 and Alternative Instrument, as applicable.

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 the specification at [*see 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 reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold any internal analyses or evaluations prepared by Registry Operator with respect to such data. Any data delivered to ICANN or its designee pursuant to this Section 2.15 shall be fully aggregated and anonymized by ICANN or its designee prior to any disclosure of such data to any third party.

2.16 Registry Performance Specifications. Registry Performance Specifications for operation of the TLD will be as set forth in the specification at [*see specification 10*]*. Registry Operator shall comply with such Performance Specifications and, for a period of at least one year, shall keep technical and operational records sufficient to evidence compliance with such specifications for each calendar year during the Term.

2.17 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.

2.18 *[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

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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 2.18.]

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, 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 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 years upon the expiration of the initial Term set forth in Section 4.1 and each successive Term, unless:

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(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 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; or

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

(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 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.

(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) 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 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 thirty (30) 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, 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 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) [*Applicable to intergovernmental organizations or governmental entities only.*] ICANN may terminate this Agreement pursuant to Section 7.14.

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 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.

(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 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 exclusive use, (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) 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 and Alternative Instrument, as applicable, 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 and Alternative Instrument, as applicable, 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

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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 Cooperative Engagement. Before either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator, following initiation of communications by either party, must attempt to resolve the dispute by engaging in good faith discussion over a period of at least fifteen (15) calendar days.

5.2 Arbitration. Disputes arising under or in connection with this Agreement, 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, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) 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). 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, 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, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) 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

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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). 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 an 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. 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 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. 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. 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 four calendar quarter period (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 shall pay the Registry-

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Level Fees on a quarterly basis by the 20th day following the end of each calendar quarter (i.e., on April 20, July 20, October 20 and January 20 for the calendar quarters ending March 31, June 30, September 30 and December 31) of the year to an account designated 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 ten (10) business 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 (as a group) 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 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 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 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 6.4 shall be effective as of the first day of the year in which the above calculation is made.

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

ARTICLE 7.

MISCELLANEOUS

7.1 Indemnification of ICANN.

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

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

(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 in Control; Assignment and Subcontracting. Neither party may assign this Agreement without the prior written approval of the other party, which approval will not be unreasonably withheld. Notwithstanding the foregoing, ICANN may assign this Agreement in conjunction with a reorganization or re-incorporation of ICANN to another nonprofit corporation or similar entity organized in the same legal jurisdiction in which ICANN is currently organized for the same or substantially the same purposes. For purposes of this Section 7.5, a direct or indirect change of control of Registry Operator or any material subcontracting arrangement with respect to the operation of the registry for the TLD shall be deemed an assignment. ICANN shall be deemed to have reasonably withheld its consent to any such a direct or indirect change of control or subcontracting arrangement in the event that ICANN reasonably determines that the person or entity acquiring control of Registry Operator or entering into such subcontracting arrangement (or the ultimate parent entity of such acquiring or subcontracting entity) does not meet the ICANN-adopted registry operator criteria or qualifications then in effect. In addition, without limiting the foregoing, Registry Operator must provide no less than thirty (30) calendar days advance notice to ICANN of any material subcontracting arrangements, and any agreement to subcontract portions of the operations of the TLD 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. Without limiting the foregoing, 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. Such change of control notification shall include a statement that affirms that the ultimate parent entity of the party acquiring such control meets the ICANN-adopted specification or policy on registry operator criteria then in effect, and affirms that Registry Operator is in compliance with its obligations under this Agreement. Within thirty (30) calendar days of such notification, ICANN may request additional information from Registry Operator establishing compliance with this Agreement, in which case Registry Operator must supply the requested information within fifteen (15) calendar days. If ICANN fails to expressly provide or withhold its consent to any direct or indirect change of control of Registry Operator or any material subcontracting arrangement within thirty (30) (or, if ICANN has requested additional information from Registry Operator as set forth above, sixty (60)) calendar days of the receipt of written notice of such transaction from Registry Operator, ICANN shall be deemed to have consented to such transaction. In connection with any such transaction, Registry Operator shall comply with the Registry Transition Process.

7.6 Amendments and Waivers.

(a) If ICANN 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 submit a Special Amendment for approval by the Applicable Registry Operators pursuant to the process set forth in this Section 7.6, provided that a Special Amendment is not a Restricted Amendment (as defined below). Prior to submitting a Special Amendment for such approval, ICANN shall first consult in good faith with the Working Group (as defined below) regarding the form and substance of a 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 amendment by ICANN to the Applicable Registry Operators in accordance with Section 7.8. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registry Operators).

(b) If, within two (2) calendar years of the expiration of the Posting Period (the "Approval Period"), (i) the ICANN Board of Directors approves a Special Amendment (which may be in a form different than submitted for public comment) and (ii) such Special Amendment receives Registry Operator Approval (as defined below), such Special Amendment shall be deemed approved (an "Approved Amendment") by the Applicable Registry Operators (the last date on which such approvals are obtained is herein referred to as the "Amendment Approval Date") and shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice from ICANN to Registry Operator (the "Amendment Effective Date"). In the event that a Special Amendment is not approved by the ICANN Board of Directors or does not receive Registry Operator Approval within the Approval Period, the Special Amendment will have no effect. The procedure used by ICANN to obtain Registry Operator Approval shall be designed to document the written approval of the Applicable Registry Operators, which may be in electronic form.

(c) During the thirty (30) calendar day period following the Amendment Approval Date, Registry Operator (so long as it did not vote in favor of the Approved Amendment) may apply in writing to ICANN for an exemption from the Approved Amendment (each such request submitted by Registry Operator hereunder, an "Exemption Request"). 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; provided, that any such conditions, alternatives or variations shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. If the Exemption Request is approved by ICANN, the Approved Amendment will not amend this Agreement. 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(c) or through an arbitration decision pursuant to Article 5 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.

(d) Except as set forth in this Section 7.6, 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 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 Section 7.6 shall be deemed to limit Registry Operator's obligation to comply with Section 2.2.

(e) 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 the 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) 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 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: (i) an amendment of Specification 1, (ii) 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, (iii) an amendment to the definition of Registry Services as set forth in the first paragraph of Section 2.1 of Specification 6, or (iv) an amendment to the length of the Term.

(iv) "Working Group" means representatives of the Applicable Registry Operators and other members of the community that ICANN 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(d)).

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7.7 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.

7.8 General Notices. Except for notices pursuant to Section 7.6, 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 Section 7.6 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 Section 7.6, 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 two (2) business days. Any notice required by Section 7.6 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
4676 Admiralty Way, Suite 330
Marina Del Rey, California 90292
Telephone: 1-310-823-9358
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:
Facsimile:
Attention:

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

7.9 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.

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7.10 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.

7.11 Ownership Rights. Nothing contained in this Agreement shall be construed as establishing or granting to Registry Operator any property ownership rights or interests in the TLD or the letters, words, symbols or other characters making up the TLD string.

7.12 Severability. 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.

7.13 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.

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

7.14 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 cooperative engagement 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 cooperative engagement, 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 non-compliance 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 7.14, following an ICANN Determination and prior to a finding by an arbitrator pursuant to Section 7.14(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 7.14(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.

* * * * *

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

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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:

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

EXHIBIT A

Approved 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 document. 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 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 90 days, the Board shall reaffirm its temporary adoption every 90 days for a total period not to exceed one year, in order to maintain such Temporary Policy in effect until such time as it becomes a Consensus Policy. If the one year period expires or, if during such one 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 Polices 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.
   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 days of the week, 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 [1]. The aforementioned document describes some elements as optional; Registry Operator will include those elements in the Deposits if they are available. Registry Operator will use the draft version available at the time of signing the Agreement, if not already an RFC. Once the specification is published as an RFC, Registry Operator will implement that specification, no later than 180 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 base to represent that data. These "extension schemas" will be specified as described in [1]. Data related to the "extensions schemas" will be included in the deposit file described in section 3.1. ICANN and the respective Registry 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 [2]. 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 [3], that are also royalty-free. The process to follow for a data file in original text format is:
   (1) The file should be compressed. The suggested algorithm for compression is ZIP as per RFC 4880.
   (2) 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.
   (3) The file may be split as necessary if, once compressed and encrypted is larger than the file size limit agreed with the escrow agent. Every part of a split file, or the whole file if split is not used, will be called a processed file in this section.
   (4) A digital signature file will be generated for every processed file using the Registry's private key. The digital signature file will be in binary OpenPGP format as per RFC 4880 [2], 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.
   (5) 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.
   (6) The Escrow Agent will then validate every (processed) transferred data file using the procedure described in section 8.

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 and ICANN will exchange 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 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 [1].

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 [1].
   (5) If [1] includes a verification process, that will be applied at this step.
   If any discrepancy is found in any of the steps, the Deposit will be considered incomplete.

9. **References**.
[1] Domain Name Data Escrow Specification (work in progress), http://tools.ietf.org/html/draft-arias-noguchi-registry-data-escrow
[2] OpenPGP Message Format, http://www.rfc-editor.org/rfc/rfc4880.txt
[3] OpenPGP parameters, http://www.iana.org/assignments/pgp-parameters/pgp-parameters.xhtml

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 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 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 ten business 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 on a non-exclusive, perpetual, irrevocable, royalty-free, paid-up basis to ICANN or to a party designated in writing by ICANN.

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 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 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 failed, with respect to (a) any Full Deposit or (b) five Differential Deposits within any calendar month, to receive, within five calendar days after the Deposit's scheduled delivery date, notification of receipt from Escrow Agent; (x) ICANN gave notice to Escrow Agent and Registry Operator of that failure; and (y) ICANN has not, within seven calendar days after such notice, received notice from Escrow Agent that the Deposit has been received; or

6.3 ICANN has received notification from Escrow Agent of failed verification of a Full Deposit or of failed verification of five Differential Deposits within any calendar month and (a) ICANN gave notice to Registry Operator of that receipt; and (b) ICANN has not, within seven calendar days after such notice, received notice from Escrow Agent of verification of a remediated version of such Full Deposit or Differential Deposit; or

6.4 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

6.5 Registry Operator has experienced a failure of critical registry functions and ICANN has asserted its rights pursuant to Section 2.13 of the Registry Agreement; or

6.6 a competent court, arbitral, legislative, or government agency mandates the release of the Deposits to ICANN.

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 termination of the Registry Agreement or the Escrow Agreement.

7. Verification of Deposits.

7.1 Within twenty-four hours after receiving each Deposit or corrected Deposit, Escrow Agent must verify the format and completeness of each Deposit and deliver to ICANN a copy of the verification report generated for each Deposit. Reports will be delivered electronically, as specified from time to time by ICANN.

7.2 If Escrow Agent discovers that any Deposit fails the verification procedures, Escrow Agent must notify, either by email, fax or phone, Registry Operator and ICANN of such nonconformity within twenty-four hours after receiving the non-conformant Deposit. Upon notification of such verification failure, Registry Operator must begin developing modifications, updates, corrections, and other fixes of the Deposit necessary for the Deposit to 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 _____ 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 months after the end of the month to which the reports relate.

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	http://www.iana.org/assignments/registrar-ids
03	total-domains	total domains under sponsorship
04	total-nameservers	total name servers registered for TLD
05	net-adds-1-yr	number of domains successfully registered with an initial term of one year (and not deleted within the add grace period)
06	net-adds-2-yr	number of domains successfully registered with an initial term of two years (and not deleted within the add grace period)
07	net-adds-3-yr	number of domains successfully registered with an initial term of three years (and not deleted within the add grace period)
08	net-adds-4-yr	number of domains successfully registered with an initial term of four years (and not deleted within the add grace period)
09	net-adds-5-yr	number of domains successfully registered with an initial term of five years (and not deleted within the add grace period)
10	net-adds-6-yr	number of domains successfully registered with an initial term of six years (and not deleted within the add grace period)
11	net-adds-7-yr	number of domains successfully registered with an initial term of seven years (and not deleted within the add grace period)

12	net-adds-8-yr	number of domains successfully registered with an initial term of eight years (and not deleted within the add grace period)
13	net-adds-9-yr	number of domains successfully registered with an initial term of nine years (and not deleted within the add grace period)
14	net-adds-10-yr	number of domains successfully registered with an initial term of ten years (and not deleted within the add grace period)
15	net-renews-1-yr	number of domains successfully renewed either automatically or by command with a new renewal period of one year (and not deleted within the renew grace period)
16	net-renews-2-yr	number of domains successfully renewed either automatically or by command with a new renewal period of two years (and not deleted within the renew grace period)
17	net-renews-3-yr	number of domains successfully renewed either automatically or by command with a new renewal period of three years (and not deleted within the renew grace period)
18	net-renews-4-yr	number of domains successfully renewed either automatically or by command with a new renewal period of four years (and not deleted within the renew grace period)
19	net-renews-5-yr	number of domains successfully renewed either automatically or by command with a new renewal period of five years (and not deleted within the renew grace period)
20	net-renews-6-yr	number of domains successfully renewed either automatically or by command with a new renewal period of six years (and not deleted within the renew grace period)
21	net-renews-7-yr	number of domains successfully renewed either automatically or by command with a new renewal period of seven years (and not deleted within the renew grace period)
22	net-renews-8-yr	number of domains successfully renewed either automatically or by command with a new renewal period of eight years (and not deleted within the renew grace period)
23	net-renews-9-yr	number of domains successfully renewed either

		automatically or by command with a new renewal period of nine years (and not deleted within the renew grace period)
24	net-renews-10-yr	number of domains successfully renewed either automatically or by command with a new renewal period of ten years (and not deleted within the renew grace period)
25	transfer-gaining-successful	transfers initiated by this registrar that were ack'd by the other registrar – either by command or automatically
26	transfer-gaining-nacked	transfers initiated by this registrar that were n'acked by the other registrar
27	transfer-losing-successful	transfers initiated by another registrar that this registrar ack'd – either by command or automatically
28	transfer-losing-nacked	transfers initiated by another registrar that this registrar n'acked
29	transfer-disputed-won	number of transfer disputes in which this registrar prevailed
30	transfer-disputed-lost	number of transfer disputes this registrar lost
31	transfer-disputed-nodecision	number of transfer disputes involving this registrar with a split or no decision
32	deleted-domains-grace	domains deleted within the add grace period
33	deleted-domains-nograce	domains deleted outside the add grace period
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 (successful and failed) domain name create commands

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

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

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

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

SPECIFICATION 4

SPECIFICATION FOR 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.

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. **Domain Name Data:**

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

1.4.2. **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 <<<

1.5. **Registrar Data:**

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

1.5.2. **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 <<<

1.6. **Nameserver Data:**

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

1.6.2. **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 <<<

1.7. 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, 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.

1.8. **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.

1.8.1. Registry Operator will offer searchability on the web-based Directory Service.

1.8.2. 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.).

1.8.3. 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).

1.8.4. Registry Operator will offer Boolean search capabilities supporting, at least, the following logical operators to join a set of search criteria: AND, OR, NOT.

1.8.5. Search results will include domain names matching the search criteria.

1.8.6. 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.

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 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 (the "CZDA Provider"). Registry Operator will provide access to zone file data per Section 2.1.3 and do so using the file format described in Section 2.1.4. 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 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.

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 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, non-transferable, limited right to access Registry Operator's Zone File FTP 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 also provides historical data, it will use the naming pattern <zone>-yyyymmdd.zone.gz, etc.

2.1.4. **File Format Standard**. Registry Operator will provide zone files using a sub-format 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 e-mail, 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.

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, de-accreditation, 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 2 business days. 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 AT THE SECOND LEVEL IN GTLD REGISTRIES

Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall reserve (i.e., Registry Operator shall not register, delegate, use or otherwise make available such labels to any third party, but may register such labels in its own name in order to withhold them from delegation or use) names formed with the following labels from initial (i.e. other than renewal) registration within the TLD:

1. **Example. The label "EXAMPLE**" shall be reserved at the second level and at all other levels within the TLD at which Registry Operator makes registrations.

2. **Two-character labels**. All two-character labels shall be initially reserved. The reservation of a two-character label string may be released to the extent that Registry Operator reaches agreement with the government and country-code manager. The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.

3. **Tagged Domain Names.** Labels may only include hyphens in the third and fourth position if they represent valid internationalized domain names in their ASCII encoding (for example "xn--ndk061n").

4. **Second-Level Reservations for Registry Operations.** The following names are reserved for use in connection with the operation of the registry for the TLD. Registry Operator may use them, but upon conclusion of Registry Operator's designation as operator of the registry for the TLD they shall be transferred as specified by ICANN: NIC, WWW, IRIS and WHOIS.

5. **Country and Territory Names.** The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:

    5.1. 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>;

    5.2. 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

    5.3. 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 may be released to the extent that Registry Operator reaches agreement with the applicable government(s), provided, further, that

Registry Operator may also propose release of these reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN.

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.

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, 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 "DPS-framework" (currently in draft format, see http://tools.ietf.org/html/draft-ietf-dnsop-dnssec-dps-framework) within 180 days after the "DPS-framework" becomes an RFC.

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 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 Registry 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 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 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 Operators 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 any rights protection mechanisms ("RPMs") that may be mandated from time to time by ICANN. 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 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 established by ICANN each of the mandatory RPMs set forth in the Trademark Clearinghouse (posted at [url to be inserted when final Trademark Clearinghouse is adopted]), which may be revised 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.

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 Registry 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 [__] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (which is hereby incorporated by reference into this Specification 8) 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^{th}) 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 Section [__] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (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. 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). The Continued Operations Instrument shall expressly state that ICANN may access the financial resources of the Continued Operations Instrument pursuant to Section 2.13 or Section 4.5 [*insert for government entity*: or Section 7.14] of the Registry Agreement.

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 Registry Services related to the TLD 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 Registry Services related to the TLD 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 Operation 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 replacement instrument(s).

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 that are reasonably necessary for the management, operations and purpose of the TLD, provided, that Registry Operator may reserve names from registration pursuant to Section 2.6 of the Registry Agreement;

    c. register names in the TLD or sub-domains of the TLD based upon proprietary access to information about searches or resolution requests by consumers for domain names not yet registered (commonly known as, "front-running");

    d. allow any Affiliated registrar to disclose user data to Registry Operator or any Registry Related Party, except as 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; or

    e. disclose confidential registry data or confidential information about its Registry Services or operations to any employee of any DNS services provider, except as necessary for the management and operations of the TLD, unless all unrelated third parties (including other registry operators) are given equivalent access to such confidential registry data or confidential information 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. 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.

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 exclusive use, (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; 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 Critical Functions as specified in Section 2.13. of this Agreement.

Critical Function	Emergency Threshold
DNS service (all servers)	4-hour downtime / week
DNSSEC proper resolution	4-hour downtime / week
EPP	24-hour downtime / week
RDDS (WHOIS/Web-based WHOIS)	24-hour downtime / week
Data Escrow	Breach of the Registry Agreement caused by missing escrow deposits 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, 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 departments prepared to handle emergency requests from registrars. In the event that a registrar is unable to conduct EPP transactions with the Registry 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 will provide related notice to the ICANN emergency operations department, at least, 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 contractual obligations with ICANN, on services under SLA 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 any other request from Internet users (for DNS and RDDS) or registrars (for EPP).

8.2. **ICANN testing registrar.** Registry Operator agrees that ICANN will have a testing registrar used for purposes of measuring the **SLR**s 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.

TRADEMARK CLEARINGHOUSE
4 JUNE 2012

1. PURPOSE OF CLEARINGHOUSE

1.1 The Trademark Clearinghouse is a central repository for information to be authenticated, stored, and disseminated, pertaining to the rights of trademark holders. ICANN will enter into an arms-length contract with service provider or providers, awarding the right to serve as a Trademark Clearinghouse Service Provider, i.e., to accept, authenticate, validate and facilitate the transmission of information related to certain trademarks.

1.2 The Clearinghouse will be required to separate its two primary functions: (i) authentication and validation of the trademarks in the Clearinghouse; and (ii) serving as a database to provide information to the new gTLD registries to support pre-launch Sunrise or Trademark Claims Services. Whether the same provider could serve both functions or whether two providers will be determined in the tender process.

1.3 The Registry shall only need to connect with one centralized database to obtain the information it needs to conduct its Sunrise or Trademark Claims Services regardless of the details of the Trademark Clearinghouse Service Provider's contract(s) with ICANN.

1.4 Trademark Clearinghouse Service Provider may provide ancillary services, as long as those services and any data used for those services are kept separate from the Clearinghouse database.

1.5 The Clearinghouse database will be a repository of authenticated information and disseminator of the information to a limited number of recipients. Its functions will be performed in accordance with a limited charter, and will not have any discretionary powers other than what will be set out in the charter with respect to authentication and validation. The Clearinghouse administrator(s) cannot create policy. Before material changes are made to the Clearinghouse functions, they will be reviewed through the ICANN public participation model.

1.6 Inclusion in the Clearinghouse is not proof of any right, nor does it create any legal rights. Failure to submit trademarks into the Clearinghouse should not be perceived to be lack of vigilance by trademark holders or a waiver of any rights, nor can any negative influence be drawn from such failure.

2. SERVICE PROVIDERS

2.1 The selection of Trademark Clearinghouse Service Provider(s) will be subject to predetermined criteria, but the foremost considerations will be the ability to store, authenticate, validate and disseminate the data at the highest level of technical stability

and security without interference with the integrity or timeliness of the registration process or registry operations.

2.2 Functions – Authentication/Validation; Database Administration. Public commentary has suggested that the best way to protect the integrity of the data and to avoid concerns that arise through sole-source providers would be to separate the functions of database administration and data authentication/validation.

2.2.1 One entity will authenticate registrations ensuring the word marks qualify as registered or are court-validated word marks or word marks that are protected by statute or treaty. This entity would also be asked to ensure that proof of use of marks is provided, which can be demonstrated by furnishing a signed declaration and one specimen of current use.

2.2.2 The second entity will maintain the database and provide Sunrise and Trademark Claims Services (described below).

2.3 Discretion will be used, balancing effectiveness, security and other important factors, to determine whether ICANN will contract with one or two entities - one to authenticate and validate, and the other to, administer in order to preserve integrity of the data.

2.4 Contractual Relationship.

2.4.1 The Clearinghouse shall be separate and independent from ICANN. It will operate based on market needs and collect fees from those who use its services. ICANN may coordinate or specify interfaces used by registries and registrars, and provide some oversight or quality assurance function to ensure rights protection goals are appropriately met.

2.4.2 The Trademark Clearinghouse Service Provider(s) (authenticator/validator and administrator) will be selected through an open and transparent process to ensure low costs and reliable, consistent service for all those utilizing the Clearinghouse services.

2.4.3 The Service Provider(s) providing the authentication of the trademarks submitted into the Clearinghouse shall adhere to rigorous standards and requirements that would be specified in an ICANN contractual agreement.

2.4.4 The contract shall include service level requirements, customer service availability (with the goal of seven days per week, 24 hours per day, 365 days per year), data escrow requirements, and equal access requirements for all persons and entities required to access the Trademark Clearinghouse database.

2.4.5 To the extent practicable, the contract should also include indemnification by Service Provider for errors such as false positives for participants such as Registries, ICANN, Registrants and Registrars.

2.5. Service Provider Requirements. The Clearinghouse Service Provider(s) should utilize regional marks authentication service providers (whether directly or through sub-contractors) to take advantage of local experts who understand the nuances of the trademark in question. Examples of specific performance criteria details in the contract award criteria and service-level-agreements are:

2.5.1 provide 24 hour accessibility seven days a week (database administrator);
2.5.2 employ systems that are technically reliable and secure (database administrator);
2.5.3 use globally accessible and scalable systems so that multiple marks from multiple sources in multiple languages can be accommodated and sufficiently cataloged (database administrator and validator);
2.5.4 accept submissions from all over the world - the entry point for trademark holders to submit their data into the Clearinghouse database could be regional entities or one entity;
2.5.5 allow for multiple languages, with exact implementation details to be determined;
2.5.6 provide access to the Registrants to verify and research Trademark Claims Notices;
2.5.7 have the relevant experience in database administration, validation or authentication, as well as accessibility to and knowledge of the various relevant trademark laws (database administrator and authenticator); and
2.5.8 ensure through performance requirements, including those involving interface with registries and registrars, that neither domain name registration timeliness, nor registry or registrar operations will be hindered (database administrator).

3. CRITERIA FOR TRADEMARK INCLUSION IN CLEARINGHOUSE

3.1 The trademark holder will submit to one entity – a single entity for entry will facilitate access to the entire Clearinghouse database. If regional entry points are used, ICANN will publish an information page describing how to locate regional submission points. Regardless of the entry point into the Clearinghouse, the authentication procedures established will be uniform.

3.2 The standards for inclusion in the Clearinghouse are:

3.2.1 Nationally or regionally registered word marks from all jurisdictions.
3.2.2 Any word mark that has been validated through a court of law or other judicial proceeding.

3.2.3 Any word mark protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion.

3.2.4 Other marks that constitute intellectual property.

3.2.5 Protections afforded to trademark registrations do not extend to applications for registrations, marks within any opposition period or registered marks that were the subject of successful invalidation, cancellation or rectification proceedings.

3.3 The type of data supporting entry of a registered word mark into the Clearinghouse must include a copy of the registration or the relevant ownership information, including the requisite registration number(s), the jurisdictions where the registrations have issued, and the name of the owner of record.

3.4 Data supporting entry of a judicially validated word mark into the Clearinghouse must include the court documents, properly entered by the court, evidencing the validation of a given word mark.

3.5 Data supporting entry into the Clearinghouse of word marks protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion, must include a copy of the relevant portion of the statute or treaty and evidence of its effective date.

3.6 Data supporting entry into the Clearinghouse of marks that constitute intellectual property of types other than those set forth in sections 3.2.1-3.2.3 above shall be determined by the registry operator and the Clearinghouse based on the services any given registry operator chooses to provide.

3.7 Registrations that include top level extensions such as “icann.org” or “.icann” as the word mark will not be permitted in the Clearinghouse regardless of whether that mark has been registered or it has been otherwise validated or protected (e.g., if a mark existed for icann.org or .icann, neither will not be permitted in the Clearinghouse).

3.8 All mark holders seeking to have their marks included in the Clearinghouse will be required to submit a declaration, affidavit, or other sworn statement that the information provided is true and current and has not been supplied for an improper purpose. The mark holder will also be required to attest that it will keep the information supplied to the Clearinghouse current so that if, during the time the mark is included in the Clearinghouse, a registration gets cancelled or is transferred to another entity, or in the case of a court- or Clearinghouse-validated mark the holder abandons use of the mark, the mark holder has an affirmative obligation to notify the Clearinghouse. There will be penalties for failing to keep information current. Moreover, it is anticipated that there will be a process whereby registrations can be

removed from the Clearinghouse if it is discovered that the marks are procured by fraud or if the data is inaccurate.

3.9 As an additional safeguard, the data will have to be renewed periodically by any mark holder wishing to remain in the Clearinghouse. Electronic submission should facilitate this process and minimize the cost associated with it. The reason for periodic authentication is to streamline the efficiencies of the Clearinghouse and the information the registry operators will need to process and limit the marks at issue to the ones that are in use.

4. USE OF CLEARINGHOUSE DATA

4.1 All mark holders seeking to have their marks included in the Clearinghouse will have to consent to the use of their information by the Clearinghouse. However, such consent would extend only to use in connection with the stated purpose of the Trademark Clearinghouse Database for Sunrise or Trademark Claims services. The reason for such a provision would be to presently prevent the Clearinghouse from using the data in other ways without permission. There shall be no bar on the Trademark Clearinghouse Service Provider or other third party service providers providing ancillary services on a non-exclusive basis.

4.2 In order not to create a competitive advantage, the data in the Trademark Clearinghouse should be licensed to competitors interested in providing ancillary services on equal and non-discriminatory terms and on commercially reasonable terms if the mark holders agree. Accordingly, two licensing options will be offered to the mark holder: (a) a license to use its data for all required features of the Trademark Clearinghouse, with no permitted use of such data for ancillary services either by the Trademark Clearinghouse Service Provider or any other entity; or (b) license to use its data for the mandatory features of the Trademark Clearinghouse and for any ancillary uses reasonably related to the protection of marks in new gTLDs, which would include a license to allow the Clearinghouse to license the use and data in the Trademark Clearinghouse to competitors that also provide those ancillary services. The specific implementation details will be determined, and all terms and conditions related to the provision of such services shall be included in the Trademark Clearinghouse Service Provider's contract with ICANN and subject to ICANN review.

4.3 Access by a prospective registrant to verify and research Trademark Claims Notices shall not be considered an ancillary service, and shall be provided at no cost to the Registrant. Misuse of the data by the service providers would be grounds for immediate termination.

5. DATA AUTHENTICATION AND VALIDATION GUIDELINES

5.1 One core function for inclusion in the Clearinghouse would be to authenticate that the data meets certain minimum criteria. As such, the following minimum criteria are suggested:

5.1.1 An acceptable list of data authentication sources, i.e. the web sites of patent and trademark offices throughout the world, third party providers who can obtain information from various trademark offices;

5.1.2 Name, address and contact information of the applicant is accurate, current and matches that of the registered owner of the trademarks listed;

5.1.3 Electronic contact information is provided and accurate;

5.1.4 The registration numbers and countries match the information in the respective trademark office database for that registration number.

5.2 For validation of marks by the Clearinghouse that were not protected via a court, statute or treaty, the mark holder shall be required to provide evidence of use of the mark in connection with the bona fide offering for sale of goods or services prior to application for inclusion in the Clearinghouse. Acceptable evidence of use will be a signed declaration and a single specimen of current use, which might consist of labels, tags, containers, advertising, brochures, screen shots, or something else that evidences current use.

6. MANDATORY RIGHTS PROTECTION MECHANISMS

All new gTLD registries will be required to use the Trademark Clearinghouse to support its pre-launch or initial launch period rights protection mechanisms (RPMs). These RPMs, at a minimum, must consist of a Trademark Claims service and a Sunrise process.

6.1 Trademark Claims service

6.1.1 New gTLD Registry Operators must provide Trademark Claims services during an initial launch period for marks in the Trademark Clearinghouse. This launch period must occur for at least the first 60 days that registration is open for general registration.

6.1.2 A Trademark Claims service is intended to provide clear notice to the prospective registrant of the scope of the mark holder's rights in order to minimize the chilling effect on registrants (Trademark Claims Notice). A form that describes the required elements is attached. The specific statement by

prospective registrant warrants that: (i) the prospective registrant has received notification that the mark(s) is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge, the registration and use of the requested domain name will not infringe on the rights that are the subject of the notice.

6.1.3 The Trademark Claims Notice should provide the prospective registrant access to the Trademark Clearinghouse Database information referenced in the Trademark Claims Notice to enhance understanding of the Trademark rights being claimed by the trademark holder. These links (or other sources) shall be provided in real time without cost to the prospective registrant. Preferably, the Trademark Claims Notice should be provided in the language used for the rest of the interaction with the registrar or registry, but it is anticipated that at the very least in the most appropriate UN-sponsored language (as specified by the prospective registrant or registrar/registry).

6.1.4 If the domain name is registered in the Clearinghouse, the registrar (again through an interface with the Clearinghouse) will promptly notify the mark holders(s) of the registration after it is effectuated.

6.1.5 The Trademark Clearinghouse Database will be structured to report to registries when registrants are attempting to register a domain name that is considered an "Identical Match" with the mark in the Clearinghouse. "Identical Match" means that the domain name consists of the complete and identical textual elements of the mark. In this regard: (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) only certain special characters contained within a trademark are spelled out with appropriate words describing it (@ and &); (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name may either be (i) omitted or (ii) replaced by spaces, hyphens or underscores and still be considered identical matches; and (d) no plural and no "marks contained" would qualify for inclusion.

6.2 Sunrise service

6.2.1 Sunrise registration services must be offered for a minimum of 30 days during the pre-launch phase and notice must be provided to all trademark holders in the Clearinghouse if someone is seeking a sunrise registration. This notice will be provided to holders of marks in the Clearinghouse that are an Identical Match to the name to be registered during Sunrise.

6.2.2 Sunrise Registration Process. For a Sunrise service, sunrise eligibility requirements (SERs) will be met as a minimum requirement, verified by Clearinghouse data, and

incorporate a Sunrise Dispute Resolution Policy (SDRP).

6.2.3 The proposed SERs include: (i) ownership of a mark (that satisfies the criteria in section 7.2 below), (ii) optional registry elected requirements re: international class of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

6.2.4 The proposed SDRP must allow challenges based on at least the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

6.2.5 The Clearinghouse will maintain the SERs, validate and authenticate marks, as applicable, and hear challenges.

7. PROTECTION FOR MARKS IN CLEARINGHOUSE

The scope of registered marks that must be honored by registries in providing Trademarks Claims services is broader than those that must be honored by registries in Sunrise services.

7.1 For Trademark Claims services - Registries must recognize and honor all word marks that have been or are: (i) nationally or regionally registered; (ii) court-validated; or (iii) specifically protected by a statute or treaty in effect at the time the mark is submitted to the Clearinghouse for inclusion. No demonstration of use is required.

7.2 For Sunrise services - Registries must recognize and honor all word marks: (i) nationally or regionally registered and for which proof of use – which can be a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse; or (ii) that have been court-validated; or (iii) that are specifically protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008.

8. COSTS OF CLEARINGHOUSE

Costs should be completely borne by the parties utilizing the services. Trademark holders will pay to register the Clearinghouse, and registries will pay for Trademark Claims and Sunrise services. Registrars and others who avail themselves of Clearinghouse services will pay the Clearinghouse directly.

TRADEMARK NOTICE

[In English and the language of the registration agreement]

You have received this Trademark Notice because you have applied for a domain name which matches at least one trademark record submitted to the Trademark Clearinghouse.

You may or may not be entitled to register the domain name depending on your intended use and whether it is the same or significantly overlaps with the trademarks listed below. ***Your rights to register this domain name may or may not be protected as noncommercial use or "fair use" by the laws of your country. [in bold italics or all caps]***

Please read the trademark information below carefully, including the trademarks, jurisdictions, and goods and service for which the trademarks are registered. Please be aware that not all jurisdictions review trademark applications closely, so some of the trademark information below may exist in a national or regional registry which does not conduct a thorough or substantive review of trademark rights prior to registration. ***If you have questions, you may want to consult an attorney or legal expert on trademarks and intellectual property for guidance.***

If you continue with this registration, you represent that, you have received and you understand this notice and to the best of your knowledge, your registration and use of the requested domain name will not infringe on the trademark rights listed below.
The following [number] Trademarks are listed in the Trademark Clearinghouse:

1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

[with links to the TM registrations as listed in the TM Clearinghouse]

2. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant:

Trademark Registrant Contact:
****** [with links to the TM registrations as listed in the TM Clearinghouse]

X. 1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

UNIFORM RAPID SUSPENSION SYSTEM ("URS")
4 JUNE 2012

DRAFT PROCEDURE

1. Complaint

1.1 Filing the Complaint

a) Proceedings are initiated by electronically filing with a URS Provider a Complaint outlining the trademark rights and the actions complained of entitling the trademark holder to relief.

b) Each Complaint must be accompanied by the appropriate fee, which is under consideration. The fees will be non-refundable.

c) One Complaint is acceptable for multiple related companies against one Registrant, but only if the companies complaining are related. Multiple Registrants can be named in one Complaint only if it can be shown that they are in some way related. There will not be a minimum number of domain names imposed as a prerequisite to filing.

1.2 Contents of the Complaint

The form of the Complaint will be simple and as formulaic as possible. There will be a Form Complaint. The Form Complaint shall include space for the following:

1.2.1 Name, email address and other contact information for the Complaining Party (Parties).

1.2.2 Name, email address and contact information for any person authorized to act on behalf of Complaining Parties.

1.2.3 Name of Registrant (i.e. relevant information available from Whois) and Whois listed available contact information for the relevant domain name(s).

1.2.4 The specific domain name(s) that are the subject of the Complaint. For each domain name, the Complainant shall include a copy of the currently available Whois information and a description and copy, if available, of the offending portion of the website content associated with each domain name that is the subject of the Complaint.

1.2.5 The specific trademark/service marks upon which the Complaint is based and pursuant to which the Complaining Parties are asserting their rights to them, for which goods and in connection with what services.

1.2.6 A statement of the grounds upon which the Complaint is based setting forth facts showing that the Complaining Party is entitled to relief, namely:

1.2.6.1. that the registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

a. Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use in commerce - was submitted to, and validated by, the Trademark Clearinghouse)

b. Proof of use may also be submitted directly with the URS Complaint.

and

1.2.6.2. that the Registrant has no legitimate right or interest to the domain name; and

1.2.6.3. that the domain was registered and is being used in bad faith.

A non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of pocket costs directly related to the domain name; or

b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or

c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or

d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

1.2.7 A box in which the Complainant may submit up to 500 words of explanatory free form text.

1.2.8. An attestation that the Complaint is not being filed for any improper basis and that there is a sufficient good faith basis for filing the Complaint.

2. Fees

2.1 URS Provider will charge fees to the Complainant. Fees are thought to be in the range of USD 300 per proceeding, but will ultimately be set by the Provider.

2.2 Complaints listing fifteen (15) or more disputed domain names registered by the same registrant will be subject to a Response Fee which will be refundable to the prevailing party. Under no circumstances shall the Response Fee exceed the fee charged to the Complainant.

3. Administrative Review

3.1 Complaints will be subjected to an initial administrative review by the URS Provider for compliance with the filing requirements. This is a review to determine that the Complaint contains all of the necessary information, and is not a determination as to whether a *prima facie* case has been established.

3.2 The Administrative Review shall be conducted within two (2) business days of submission of the Complaint to the URS Provider.

3.3 Given the rapid nature of this Procedure, and the intended low level of required fees, there will be no opportunity to correct inadequacies in the filing requirements.

3.4 If a Complaint is deemed non-compliant with filing requirements, the Complaint will be dismissed without prejudice to the Complainant filing a new complaint. The initial filing fee shall not be refunded in these circumstances.

4. Notice and Locking of Domain

4.1 Upon completion of the Administrative Review, the URS Provider must immediately notify the registry operator (via email) ("Notice of Complaint") after the Complaint has been deemed compliant with the filing requirements. Within 24 hours of receipt of the Notice of Complaint from the URS Provider, the registry operator shall "lock" the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will continue to resolve. The registry operator will notify the URS Provider immediately upon locking the domain name ("Notice of Lock").

4.2 Within 24 hours after receiving Notice of Lock from the registry operator, the URS Provider shall notify the Registrant of the Complaint, sending a hard copy of the Notice of Complaint to the addresses listed in the Whois contact information, and providing an electronic copy of the Complaint, advising of the locked status, as well as the potential

effects if the Registrant fails to respond and defend against the Complaint. Notices must be clear and understandable to Registrants located globally. The Notice of Complaint shall be in English and translated by the Provider into the predominant language used in the registrant's country or territory.

4.3 All Notices to the Registrant shall be sent through email, fax (where available) and postal mail. The Complaint and accompanying exhibits, if any, shall be served electronically.

4.4 The URS Provider shall also electronically notify the registrar of record for the domain name at issue via the addresses the registrar has on file with ICANN.

5. The Response

5.1 A Registrant will have 14 calendar days from the date the URS Provider sent its Notice of Complaint to the Registrant to electronically file a Response with the URS Provider. Upon receipt, the Provider will electronically send a copy of the Response, and accompanying exhibits, if any, to the Complainant.

5.2 No filing fee will be charged if the Registrant files its Response prior to being declared in default or not more than thirty (30) days following a Determination. For Responses filed more than thirty (30) days after a Determination, the Registrant should pay a reasonable non-refundable fee for re-examination, plus a Response Fee as set forth in section 2.2 above if the Complaint lists twenty-six (26) or more disputed domain names against the same registrant. The Response Fee will be refundable to the prevailing party.

5.3 Upon request by the Registrant, a limited extension of time to respond may be granted by the URS Provider if there is a good faith basis for doing so. In no event shall the extension be for more than seven (7) calendar days.

5.4 The Response shall be no longer than 2,500 words, excluding attachments, and the content of the Response should include the following:

5.4.1 Confirmation of Registrant data.

5.4.2 Specific admission or denial of each of the grounds upon which the Complaint is based.

5.4.3 Any defense which contradicts the Complainant's claims.

5.4.4 A statement that the contents are true and accurate.

5.5 In keeping with the intended expedited nature of the URS and the remedy afforded to a successful Complainant, affirmative claims for relief by the Registrant will not be permitted except for an allegation that the Complainant has filed an abusive Complaint.

5.6 Once the Response is filed, and the URS Provider determines that the Response is compliant with the filing requirements of a Response (which shall be on the same day),

the Complaint, Response and supporting materials will immediately be sent to a qualified Examiner, selected by the URS Provider, for review and Determination. All materials submitted are considered by the Examiner.

5.7 The Response can contain any facts refuting the claim of bad faith registration by setting out any of the following circumstances:

5.7.1 Before any notice to Registrant of the dispute, Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

5.7.2 Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if Registrant has acquired no trademark or service mark rights; or

5.7.3 Registrant is making a legitimate or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Such claims, if found by the Examiner to be proved based on its evaluation of all evidence, shall result in a finding in favor of the Registrant.

5.8 The Registrant may also assert Defenses to the Complaint to demonstrate that the Registrant's use of the domain name is not in bad faith by showing, for example, one of the following:

5.8.1 The domain name is generic or descriptive and the Registrant is making fair use of it.

5.8.2 The domain name sites are operated solely in tribute to or in criticism of a person or business that is found by the Examiner to be fair use.

5.8.3 Registrant's holding of the domain name is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.

5.8.4 The domain name is not part of a wider pattern or series of abusive registrations because the Domain Name is of a significantly different type or character to other domain names registered by the Registrant.

5.9 Other factors for the Examiner to consider:

5.9.1 Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves not indicia of bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner must review each case on its merits.

5.9.2 Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute bad faith under the URS.

Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will take into account:

5.9.2.1. the nature of the domain name;

5.9.2.2. the nature of the advertising links on any parking page associated with the domain name; and

5.9.2.3. that the use of the domain name is ultimately the Registrant's responsibility.

6. Default

6.1 If at the expiration of the 14-day answer period (or extended period if granted), the Registrant does not submit an answer, the Complaint proceeds to Default.

6.2 In either case, the Provider shall provide Notice of Default via email to the Complainant and Registrant, and via mail and fax to Registrant. During the Default period, the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use and will also be prohibited from changing the Whois information.

6.3 All Default cases proceed to Examination for review on the merits of the claim.

6.4 If after Examination in Default cases, the Examiner rules in favor of Complainant, Registrant shall have the right to seek relief from Default via de novo review by filing a Response at any time up to six months after the date of the Notice of Default. The Registrant will also be entitled to request an extension of an additional six months if the extension is requested before the expiration of the initial six-month period.

6.5 If a Response is filed after: (i) the Respondent was in Default (so long as the Response is filed in accordance with 6.4 above); and (ii) proper notice is provided in accordance with the notice requirements set forth above, the domain name shall again resolve to the original IP address as soon as practical, but shall remain locked as if the Response had been filed in a timely manner before Default. The filing of a Response after Default is not an appeal; the case is considered as if responded to in a timely manner.

6.5 If after Examination in Default case, the Examiner rules in favor of Registrant, the Provider shall notify the Registry Operator to unlock the name and return full control of the domain name registration to the Registrant.

7. Examiners

7.1 One Examiner selected by the Provider will preside over a URS proceeding.

7.2 Examiners should have demonstrable relevant legal background, such as in trademark law, and shall be trained and certified in URS proceedings. Specifically, Examiners shall be provided with instructions on the URS elements and defenses and how to conduct the examination of a URS proceeding.

7.3 Examiners used by any given URS Provider shall be rotated to the extent feasible to avoid "forum or examiner shopping." URS Providers are strongly encouraged to work equally with all certified Examiners, with reasonable exceptions (such as language needs, non-performance, or malfeasance) to be determined on a case by case analysis.

8. Examination Standards and Burden of Proof

8.1 The standards that the qualified Examiner shall apply when rendering its Determination are whether:

8.1.2 The registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty currently in effect and that was in effect at the time the URS Complaint is filed; and

8.1.2.1 Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse.

8.1.2.2 Proof of use may also be submitted directly with the URS Complaint.

8.1.2 The Registrant has no legitimate right or interest to the domain name; and

8.1.3 The domain was registered and is being used in a bad faith.

8.2 The burden of proof shall be clear and convincing evidence.

8.3 For a URS matter to conclude in favor of the Complainant, the Examiner shall render a Determination that there is no genuine issue of material fact. Such Determination may include that: (i) the Complainant has rights to the name; and (ii) the Registrant has no rights or legitimate interest in the name. This means that the Complainant must present adequate evidence to substantiate its trademark rights in the domain name (e.g., evidence of a trademark registration and evidence that the domain name was registered and is being used in bad faith in violation of the URS).

8.4 If the Examiner finds that the Complainant has not met its burden, or that genuine issues of material fact remain in regards to any of the elements, the Examiner will reject the Complaint under the relief available under the URS. That is, the Complaint shall be dismissed if the Examiner finds that evidence was presented or is available to the Examiner to indicate that the use of the domain name in question is a non-infringing use or fair use of the trademark.

8.5 Where there is any genuine contestable issue as to whether a domain name registration and use of a trademark are in bad faith, the Complaint will be denied, the URS proceeding will be terminated without prejudice, e.g., a UDRP, court proceeding or

another URS may be filed. The URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse.

8.6 To restate in another way, if the Examiner finds that all three standards are satisfied by clear and convincing evidence and that there is no genuine contestable issue, then the Examiner shall issue a Determination in favor of the Complainant. If the Examiner finds that any of the standards have not been satisfied, then the Examiner shall deny the relief requested, thereby terminating the URS proceeding without prejudice to the Complainant to proceed with an action in court of competent jurisdiction or under the UDRP.

9. Determination

9.1 There will be no discovery or hearing; the evidence will be the materials submitted with the Complaint and the Response, and those materials will serve as the entire record used by the Examiner to make a Determination.

9.2 If the Complainant satisfies the burden of proof, the Examiner will issue a Determination in favor of the Complainant. The Determination will be published on the URS Provider's website. However, there should be no other preclusive effect of the Determination other than the URS proceeding to which it is rendered.

9.3 If the Complainant does not satisfy the burden of proof, the URS proceeding is terminated and full control of the domain name registration shall be returned to the Registrant.

9.4 Determinations resulting from URS proceedings will be published by the service provider in a format specified by ICANN.

9.5 Determinations shall also be emailed by the URS Provider to the Registrant, the Complainant, the Registrar, and the Registry Operator, and shall specify the remedy and required actions of the registry operator to comply with the Determination.

9.6 To conduct URS proceedings on an expedited basis, examination should begin immediately upon the earlier of the expiration of a fourteen (14) day Response period (or extended period if granted), or upon the submission of the Response. A Determination shall be rendered on an expedited basis, with the stated goal that it be rendered within three (3) business days from when Examination began. Absent extraordinary circumstances, however, Determinations must be issued no later than five (5) days after the Response is filed. Implementation details will be developed to accommodate the needs of service providers once they are selected. (The tender offer for potential service providers will indicate that timeliness will be a factor in the award decision.)

10. Remedy

10.1 If the Determination is in favor of the Complainant, the decision shall be immediately transmitted to the registry operator.

10.2 Immediately upon receipt of the Determination, the registry operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS Provider about the URS. The URS Provider shall not be allowed to offer any other services on such page, nor shall it directly or indirectly use the web page for advertising purposes (either for itself or any other third party). The Whois for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the Whois shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration.

10.3 There shall be an option for a successful Complainant to extend the registration period for one additional year at commercial rates.

10.4 No other remedies should be available in the event of a Determination in favor of the Complainant.

11. Abusive Complaints

11.1 The URS shall incorporate penalties for abuse of the process by trademark holders.

11.2 In the event a party is deemed to have filed two (2) abusive Complaints, or one (1) "deliberate material falsehood," that party shall be barred from utilizing the URS for one-year following the date of issuance of a Determination finding a complainant to have: (i) filed its second abusive complaint; or (ii) filed a deliberate material falsehood.

11.3 A Complaint may be deemed abusive if the Examiner determines:

11.3.1 it was presented solely for improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost of doing business; and

11.3.2 (i) the claims or other assertions were not warranted by any existing law or the URS standards; or (ii) the factual contentions lacked any evidentiary support

11.4 An Examiner may find that Complaint contained a deliberate material falsehood if it contained an assertion of fact, which at the time it was made, was made with the knowledge that it was false and which, if true, would have an impact on the outcome on the URS proceeding.

11.5 Two findings of "deliberate material falsehood" shall permanently bar the party from utilizing the URS.

11.6 URS Providers shall be required to develop a process for identifying and tracking barred parties, and parties whom Examiners have determined submitted abusive complaints or deliberate material falsehoods.

11.7 The dismissal of a complaint for administrative reasons or a ruling on the merits, in itself, shall not be evidence of filing an abusive complaint.

11.8 A finding that filing of a complaint was abusive or contained a deliberate materially falsehood can be appealed solely on the grounds that an Examiner abused his/her discretion, or acted in an arbitrary or capricious manner.

12. Appeal

12.1 Either party shall have a right to seek a de novo appeal of the Determination based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal. An appellant must identify the specific grounds on which the party is appealing, including why the appellant claims the Examiner's Determination was incorrect.

12.2 The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.

12.3 Filing an appeal shall not change the domain name's resolution. For example, if the domain name no longer resolves to the original nameservers because of a Determination in favor or the Complainant, the domain name shall continue to point to the informational page provided by the URS Provider. If the domain name resolves to the original nameservers because of a Determination in favor of the registrant, it shall continue to resolve during the appeal process.

12.4 An appeal must be filed within 14 days after a Determination is issued and any Response must be filed 14 days after an appeal is filed.

12.5 If a respondent has sought relief from Default by filing a Response within six months (or the extended period if applicable) of issuance of initial Determination, an appeal must be filed within 14 days from date the second Determination is issued and any Response must be filed 14 days after the appeal is filed.

12.6 Notice of appeal and findings by the appeal panel shall be sent by the URS Provider via e-mail to the Registrant, the Complainant, the Registrar, and the Registry Operator.

12.7 The Providers' rules and procedures for appeals, other than those stated above, shall apply.

13. Other Available Remedies

The URS Determination shall not preclude any other remedies available to the appellant, such as UDRP (if appellant is the Complainant), or other remedies as may be available in a court of competition jurisdiction. A URS Determination for or against a party shall not prejudice the

party in UDRP or any other proceedings.

14. Review of URS

A review of the URS procedure will be initiated one year after the first Examiner Determination is issued. Upon completion of the review, a report shall be published regarding the usage of the procedure, including statistical information, and posted for public comment on the usefulness and effectiveness of the procedure.

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE (TRADEMARK PDDRP)
4 JUNE 2012

1. Parties to the Dispute

The parties to the dispute will be the trademark holder and the gTLD registry operator. ICANN shall not be a party.

2. Applicable Rules

2.1 This procedure is intended to cover Trademark post-delegation dispute resolution proceedings generally. To the extent more than one Trademark PDDRP provider ("Provider") is selected to implement the Trademark PDDRP, each Provider may have additional rules that must be followed when filing a Complaint. The following are general procedures to be followed by all Providers.

2.2 In the Registry Agreement, the registry operator agrees to participate in all post-delegation procedures and be bound by the resulting Determinations.

3. Language

3.1 The language of all submissions and proceedings under the procedure will be English.

3.2 Parties may submit supporting evidence in their original language, provided and subject to the authority of the Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

4. Communications and Time Limits

4.1 All communications with the Provider must be submitted electronically.

4.2 For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

4.3 For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched.

4.4 For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

4.5 All references to day limits shall be considered as calendar days unless otherwise specified.

5. Standing

5.1 The mandatory administrative proceeding will commence when a third-party complainant ("Complainant") has filed a Complaint with a Provider asserting that the Complainant is a trademark holder (which may include either registered or unregistered marks as defined below) claiming that one or more of its marks have been infringed, and thereby the Complainant has been harmed, by the registry operator's manner of operation or use of the gTLD.

5.2 Before proceeding to the merits of a dispute, and before the Respondent is required to submit a substantive Response, or pay any fees, the Provider shall appoint a special one-person Panel to perform an initial "threshold" review ("Threshold Review Panel").

6. Standards

For purposes of these standards, "registry operator" shall include entities directly or indirectly controlling, controlled by or under common control with a registry operator, whether by ownership or control of voting securities, by contract or otherwise where 'control' means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether by ownership or control of voting securities, by contract or otherwise.

6.1 Top Level:

A complainant must assert and prove, by clear and convincing evidence, that the registry operator's affirmative conduct in its operation or use of its gTLD string that is identical or confusingly similar to the complainant's mark, causes or materially contributes to the gTLD doing one of the following*:*

(a) taking unfair advantage of the distinctive character or the reputation of the complainant's mark; or

(b) impairing the distinctive character or the reputation of the complainant's mark; or

(c) creating a likelihood of confusion with the complainant's mark.

An example of infringement at the top-level is where a TLD string is identical to a trademark and then the registry operator holds itself out as the beneficiary of the mark.

6.2 Second Level

Complainants are required to prove, by clear and convincing evidence that, through the registry operator's affirmative conduct:

(a) there is a substantial pattern or practice of specific bad faith intent by the registry operator to profit from the sale of trademark infringing domain names; and

(b) the registry operator's bad faith intent to profit from the systematic registration of domain names within the gTLD that are identical or confusingly similar to the complainant's mark, which:

(i) takes unfair advantage of the distinctive character or the reputation of the complainant's mark; or

(ii) impairs the distinctive character or the reputation of the complainant's mark, or

(iii) creates a likelihood of confusion with the complainant's mark.

In other words, it is not sufficient to show that the registry operator is on notice of possible trademark infringement through registrations in the gTLD. The registry operator is not liable under the PDDRP solely because: (i) infringing names are in its registry; or (ii) the registry operator knows that infringing names are in its registry; or (iii) the registry operator did not monitor the registrations within its registry.

A registry operator is not liable under the PDDRP for any domain name registration that: (i) is registered by a person or entity that is unaffiliated with the registry operator; (ii) is registered without the direct or indirect encouragement, inducement, initiation or direction of any person or entity affiliated with the registry operator; and (iii) provides no direct or indirect benefit to the registry operator other than the typical registration fee (which may include other fees collected incidental to the registration process for value added services such enhanced registration security).

An example of infringement at the second level is where a registry operator has a pattern or practice of actively and systematically encouraging registrants to register second level domain names and to take unfair advantage of the trademark to the extent and degree that bad faith is apparent. Another example of infringement at the second level is where a registry operator has a pattern or practice of acting as the registrant or beneficial user of infringing registrations, to monetize and profit in bad faith.

7. Complaint

7.1 Filing:

The Complaint will be filed electronically. Once the Administrative Review has been completed and the Provider deems the Complaint be in compliance, the Provider will electronically serve the Complaint and serve a paper notice on the registry operator that is the subject of the Complaint ("Notice of Complaint") consistent with the contact information listed in the Registry Agreement.

7.2 Content:

7.2.1 The name and contact information, including address, phone, and email address, of the Complainant, and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

7.2.2 The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.

7.2.3 A statement of the nature of the dispute, and any relevant evidence, which shall include:

(a) The particular legal rights claim being asserted, the marks that form the basis for the dispute and a short and plain statement of the basis upon which the Complaint is being filed.

(b) A detailed explanation of how the Complainant's claim meets the requirements for filing a claim pursuant to that particular ground or standard.

(c) A detailed explanation of the validity of the Complaint and why the Complainant is entitled to relief.

(d) A statement that the Complainant has at least 30 days prior to filing the Complaint notified the registry operator in writing of: (i) its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks and (ii) it willingness to meet to resolve the issue.

(e) An explanation of how the mark is used by the Complainant (including the type of goods/services, period and territory of use – including all on-line usage) or otherwise protected by statute, treaty or has been validated by a court or the Clearinghouse.

(f) Copies of any documents that the Complainant considers to evidence its basis for relief, including evidence of current use of the Trademark at issue in the Complaint and domain name registrations.

(g) A statement that the proceedings are not being brought for any improper purpose.

(h) A statement describing how the registration at issue has harmed the trademark owner.

7.3 Complaints will be limited 5,000 words and 20 pages, excluding attachments, unless the Provider determines that additional material is necessary.

7.4 At the same time the Complaint is filed, the Complainant will pay a non-refundable filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice.

8. Administrative Review of the Complaint

8.1 All Complaints will be reviewed by the Provider within five (5) business days of submission to the Provider to determine whether the Complaint contains all necessary information and complies with the procedural rules.

8.2 If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue to the Threshold Review. If the Provider finds that the Complaint does not comply with procedural rules, it will electronically notify the Complainant of such non-compliant and provide the Complainant five (5) business days to submit an amended Complaint. If the Provider does not receive an amended Complaint within the five (5) business days provided, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded.

8.3 If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve the Notice of Complaint consistent with the contact information listed in the Registry Agreement.

9. Threshold Review

9.1 Provider shall establish a Threshold Review Panel, consisting of one panelist selected by the Provider, for each proceeding within five (5) business days after completion of Administrative Review and the Complaint has been deemed compliant with procedural rules.

9.2 The Threshold Review Panel shall be tasked with determining whether the Complainant satisfies the following criteria:

9.2.1 The Complainant is a holder of a word mark that: (i) is nationally or regionally registered and that is in current use; or (ii) has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty at the time the PDDRP complaint is filed;

9.2.1.1 Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse

9.2.1.2 Proof of use may also be submitted directly with the Complaint.

9.2.2 The Complainant has asserted that it has been materially harmed as a result of trademark infringement;

9.2.3 The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Top Level Standards herein
OR

The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Second Level Standards herein;

9.2.4 The Complainant has asserted that: (i) at least 30 days prior to filing the Complaint the Complainant notified the registry operator in writing of its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks, and it willingness to meet to resolve the issue; (ii) whether the registry operator responded to the Complainant's notice of specific concerns; and (iii) if the registry operator did respond, that the Complainant attempted to engage in good faith discussions to resolve the issue prior to initiating the PDDRP.

9.3 Within ten (10) business days of date Provider served Notice of Complaint, the registry operator shall have the opportunity, but is not required, to submit papers to support its position as to the Complainant's standing at the Threshold Review stage. If the registry operator chooses to file such papers, it must pay a filing fee.

9.4 If the registry operator submits papers, the Complainant shall have ten (10) business days to submit an opposition.

9.5 The Threshold Review Panel shall have ten (10) business days from due date of Complainant's opposition or the due date of the registry operator's papers if none were filed, to issue Threshold Determination.

9.6 Provider shall electronically serve the Threshold Determination on all parties.

9.7 If the Complainant has not satisfied the Threshold Review criteria, the Provider will dismiss the proceedings on the grounds that the Complainant lacks standing and declare that the registry operator is the prevailing party.

9.8 If the Threshold Review Panel determines that the Complainant has standing and satisfied the criteria then the Provider to will commence the proceedings on the merits.

10. Response to the Complaint

10.1 The registry operator must file a Response to each Complaint within forty-five (45) days after the date of the Threshold Review Panel Declaration.

10.2 The Response will comply with the rules for filing of a Complaint and will contain the name and contact information for the registry operator, as well as a point-by-point response to the statements made in the Complaint.

10.3 The Response must be filed with the Provider and the Provider must serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

10.4 Service of the Response will be deemed effective, and the time will start to run for a Reply, upon confirmation that the electronic Response and hard-copy notice of the Response was sent by the Provider to the addresses provided by the Complainant.

10.5 If the registry operator believes the Complaint is without merit, it will affirmatively plead in its Response the specific grounds for the claim.

11. Reply

11.1 The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not "without merit." A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.

11.2 Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

12. Default

12.1 If the registry operator fails to respond to the Complaint, it will be deemed to be in default.

12.2 Limited rights to set aside the finding of default will be established by the Provider, but in no event will they be permitted absent a showing of good cause to set aside the finding of default.

12.3 The Provider shall provide notice of Default via email to the Complainant and registry operator.

12.4 All Default cases shall proceed to Expert Determination on the merits.

13. Expert Panel

13.1 The Provider shall establish an Expert Panel within 21 days after receiving the Reply, or if no Reply is filed, within 21 days after the Reply was due to be filed.

13.2 The Provider shall appoint a one-person Expert Panel, unless any party requests a three- member Expert Panel. No Threshold Panel member shall serve as an Expert Panel member in the same Trademark PDDRP proceeding.

13.3 In the case where either party requests a three-member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection shall be made pursuant to the Providers rules or procedures. Trademark PDDRP panelists within a Provider shall be rotated to the extent feasible.

13.4 Expert Panel member must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing a panelist for lack of independence.

14. Costs

14.1 The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider rules. Such costs will be estimated to cover the administrative fees of the Provider, the Threshold Review Panel and the Expert Panel, and are intended to be reasonable.

14.2 The Complainant shall be required to pay the filing fee as set forth above in the "Complaint" section, and shall be required to submit the full amount of the Provider estimated administrative fees, the Threshold Review Panel fees and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant's share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator's share if the registry operator prevails.

14.3 If the Panel declares the Complainant to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred. Failure to do shall be deemed a violation of the Trademark PDDRP and a breach of the Registry Agreement, subject to remedies available under the Agreement up to and including termination.

15. Discovery

15.1 Whether and to what extent discovery is allowed is at the discretion of the Panel, whether made on the Panel's own accord, or upon request from the Parties.

15.2 If permitted, discovery will be limited to that for which each Party has a substantial need.

15.3 In extraordinary circumstances, the Provider may appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

15.4 At the close of discovery, if permitted by the Expert Panel, the Parties will make a final evidentiary submission, the timing and sequence to be determined by the Provider in consultation with the Expert Panel.

16. Hearings

16.1 Disputes under this Procedure will be resolved without a hearing unless either party requests a hearing or the Expert Panel determines on its own initiative that one is necessary.

16.2 If a hearing is held, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the Parties cannot agree.

16.3 Hearings should last no more than one day, except in the most extraordinary circumstances.

16.4 All dispute resolution proceedings will be conducted in English.

17. Burden of Proof

The Complainant bears the burden of proving the allegations in the Complaint; the burden must be by clear and convincing evidence.

18. Remedies

18.1 Since registrants are not a party to the action, a recommended remedy cannot take the form of deleting, transferring or suspending registrations (except to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with a registry operator).

18.2 Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 14.

18.3 The Expert Panel may recommend a variety of graduated enforcement tools against the registry operator if it the Expert Panel determines that the registry operator is liable under this Trademark PDDRP, including:

18.3.1 Remedial measures for the registry to employ to ensure against allowing future infringing registrations, which may be in addition to what is required under the registry agreement, except that the remedial measures shall not:

(a) Require the Registry Operator to monitor registrations not related to the names at issue in the PDDRP proceeding; or

(b) Direct actions by the registry operator that are contrary to those required under the Registry Agreement;

18.3.2 Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured or a set period of time;

OR,

18.3.3 In extraordinary circumstances where the registry operator acted with malice, providing for the termination of a Registry Agreement.

18.4 In making its recommendation of the appropriate remedy, the Expert Panel will consider the ongoing harm to the Complainant, as well as the harm the remedies will create for other, unrelated, good faith domain name registrants operating within the gTLD.

18.5 The Expert Panel may also determine whether the Complaint was filed "without merit," and, if so, award the appropriate sanctions on a graduated scale, including:

18.5.1 Temporary bans from filing Complaints;

18.5.2 Imposition of costs of registry operator, including reasonable attorney fees; and

18.5.3 Permanent bans from filing Complaints after being banned temporarily.

18.6 Imposition of remedies shall be at the discretion of ICANN, but absent extraordinary circumstances, those remedies will be in line with the remedies recommended by the Expert Panel.

19. The Expert Panel Determination

19.1 The Provider and the Expert Panel will make reasonable efforts to ensure that the Expert Determination is issued within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.

19.2 The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for that Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

19.3 The Expert Determination may further include a recommendation of specific remedies. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert Panel's Determination.

19.4 The Expert Determination shall state which party is the prevailing party.

19.5 While the Expert Determination that a registry operator is liable under the standards of the Trademark PDDRP shall be taken into consideration, ICANN will have the authority to impose the remedies, if any, that ICANN deems appropriate given the circumstances of each matter.

20. Appeal of Expert Determination

20.1 Either party shall have a right to seek a de novo appeal of the Expert Determination of liability or recommended remedy based on the existing record within the Trademark PDDRP proceeding for a reasonable fee to cover the costs of the appeal.

20.2 An appeal must be filed with the Provider and served on all parties within 20 days after an Expert Determination is issued and a response to the appeal must be filed within 20

days after the appeal. Manner and calculation of service deadlines shall in consistent with those set forth in Section 4 above, "Communication and Time Limits."

20.3 A three-member Appeal Panel is to be selected by the Provider, but no member of the Appeal Panel shall also have been an Expert Panel member.

20.4 The fees for an appeal in the first instance shall be borne by the appellant.

20.5 A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.

20.6 The Appeal Panel may request at its sole discretion, further statements or evidence from any party regardless of whether the evidence pre-dates the filing of the Complaint if the Appeal Panel determines such evidence is relevant.

20.7 The prevailing party shall be entitled to an award of costs of appeal.

20.8 The Providers rules and procedures for appeals, other than those stated above, shall apply.

21. Challenge of a Remedy

21.1 ICANN shall not implement a remedy for violation of the Trademark PDDRP for at least 20 days after the issuance of an Expert Determination, providing time for an appeal to be filed.

21.2 If an appeal is filed, ICANN shall stay its implementation of a remedy pending resolution of the appeal.

21.3 If ICANN decides to implement a remedy for violation of the Trademark PDDRP, ICANN will wait ten (10) business days (as observed in the location of its principal office) after notifying the registry operator of its decision. ICANN will then implement the decision unless it has received from the registry operator during that ten (10) business-day period official documentation that the registry operator has either: (a) commenced a lawsuit against the Complainant in a court of competent jurisdiction challenging the Expert Determination of liability against the registry operator, or (b) challenged the intended remedy by initiating dispute resolution under the provisions of its Registry Agreement. If ICANN receives such documentation within the ten (10) business day period, it will not seek to implement the remedy in furtherance of the Trademark PDDRP until it receives: (i) evidence of a resolution between the Complainant and the registry operator; (ii) evidence that registry operator's lawsuit against Complainant has been dismissed or withdrawn; or (iii) a copy of an order from the dispute resolution provider selected pursuant to the Registry Agreement dismissing the dispute against ICANN whether by reason of agreement of the parties or upon determination of the merits.

21.4 The registry operator may challenge ICANN's imposition of a remedy imposed in furtherance of an Expert Determination that the registry operator is liable under the PDDRP, to the extent a challenge is warranted, by initiating dispute resolution under the provisions of its Registry Agreement. Any arbitration shall be determined in accordance with the parties' respective rights and duties under the Registry Agreement. Neither the Expert Determination nor the decision of ICANN to implement a remedy is intended to prejudice the registry operator in any way in the determination of the arbitration dispute. Any remedy involving a termination of the Registry Agreement must be according to the terms and conditions of the termination provision of the Registry Agreement.

21.5 Nothing herein shall be deemed to prohibit ICANN from imposing remedies at any time and of any nature it is otherwise entitled to impose for a registry operator's non-compliance with its Registry Agreement.

22. Availability of Court or Other Administrative Proceedings

22.1 The Trademark PDDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of an Expert Determination as to liability.

22.2 In those cases where a Party submits documented proof to the Provider that a Court action involving the same Parties, facts and circumstances as the Trademark PDDRP was instituted prior to the filing date of the Complaint in the Trademark PDDRP, the Provider shall suspend or terminate the Trademark PDDRP.

REGISTRY RESTRICTIONS DISPUTE RESOLUTION PROCEDURE (RRDRP)[1]
4 JUNE 2012

1. Parties to the Dispute

The parties to the dispute will be the harmed established institution and the gTLD registry operator. ICANN shall not be a party.

2. Applicable Rules

2.1 This procedure is intended to cover these dispute resolution proceedings generally. To the extent more than one RRDRP provider ("Provider") is selected to implement the RRDRP, each Provider may have additional rules and procedures that must be followed when filing a Complaint. The following are the general procedure to be followed by all Providers.

2.2 In any new community-based gTLD registry agreement, the registry operator shall be required to agree to participate in the RRDRP and be bound by the resulting Determinations.

3. Language

3.1 The language of all submissions and proceedings under the procedure will be English.

3.2 Parties may submit supporting evidence in their original language, provided and subject to the authority of the RRDRP Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

4. Communications and Time Limits

4.1 All communications with the Provider must be filed electronically.

4.2 For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

4.3 For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched.

[1] Initial complaints that a Registry has failed to comply with registration restrictions shall be processed through a Registry Restriction Problem Report System (RRPRS) using an online form similar to the Whois Data Problem Report System (WDPRS) at InterNIC.net. A nominal processing fee could serve to decrease frivolous complaints. The registry operator shall receive a copy of the complaint and will be required to take reasonable steps to investigate (and remedy if warranted) the reported non-compliance. The Complainant will have the option to escalate the complaint in accordance with this RRDRP, if the alleged non-compliance continues. Failure by the Registry to address the complaint to complainant's satisfaction does not itself give the complainant standing to file an RRDRP complaint.

4.4 For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

4.5 All references to day limits shall be considered as calendar days unless otherwise specified.

5. Standing

5.1 The mandatory administrative proceeding will commence when a third-party complainant ("Complainant") has filed a Complaint with a Provider asserting that the Complainant is a harmed established institution as a result of the community-based gTLD registry operator not complying with the registration restrictions set out in the Registry Agreement.

5.2 Established institutions associated with defined communities are eligible to file a community objection. The "defined community" must be a community related to the gTLD string in the application that is the subject of the dispute. To qualify for standing for a community claim, the Complainant must prove both: it is an established institution, and has an ongoing relationship with a defined community that consists of a restricted population that the gTLD supports.

5.3 Complainants must have filed a claim through the Registry Restriction Problem Report System (RRPRS) to have standing to file an RRDRP.

5.4 The Panel will determine standing and the Expert Determination will include a statement of the Complainant's standing.

6. Standards

6.1 For a claim to be successful, the claims must prove that:

6.1.1 The community invoked by the objector is a defined community;

6.1.2 There is a strong association between the community invoked and the gTLD label or string;

6.1.3 The TLD operator violated the terms of the community-based restrictions in its agreement;

6.1.4 There is a measureable harm to the Complainant and the community named by the objector.

7. Complaint

7.1 Filing:

The Complaint will be filed electronically. Once the Administrative Review has been completed and the Provider deems the Complaint to be in compliance, the Provider will electronically serve the Complaint and serve a hard copy and fax notice on the registry operator consistent with the contact information listed in the Registry Agreement.

7.2 Content:

7.2.1 The name and contact information, including address, phone, and email address, of the Complainant, the registry operator and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

7.2.2 The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.

7.2.3 A statement of the nature of the dispute, which must include:

7.2.3.1 The particular registration restrictions in the Registry Agreement with which the registry operator is failing to comply; and

7.2.3.2 A detailed explanation of how the registry operator's failure to comply with the identified registration restrictions has caused harm to the complainant.

7.2.4 A statement that the proceedings are not being brought for any improper purpose.

7.2.5 A statement that the Complainant has filed a claim through the RRPRS and that the RRPRS process has concluded.

7.2.6 A statement that Complainant has not filed a Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) complaint relating to the same or similar facts or circumstances.

7.3 Complaints will be limited to 5,000 words and 20 pages, excluding attachments, unless the Provider determines that additional material is necessary.

7.4 Any supporting documents should be filed with the Complaint.

7.5 At the same time the Complaint is filed, the Complainant will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice to the Complainant to file another complaint.

8. Administrative Review of the Complaint

8.1 All Complaints will be reviewed within five (5) business days of submission by panelists designated by the applicable Provider to determine whether the Complainant has complied with the procedural rules.

8.2 If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue. If the Provider finds that the Complaint does not comply with procedural rules, it will electronically notify the Complainant of such non-compliance and provide the Complainant five (5) business days to submit an amended Complaint. If the Provider does not receive an amended Complaint within the five (5) business days provided, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded if the Complaint is deemed not in compliance.

8.3 If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve a paper notice on the registry operator that is the subject of the Complaint consistent with the contact information listed in the Registry Agreement.

9. Response to the Complaint

9.1 The registry operator must file a response to each Complaint within thirty (30) days of service the Complaint.

9.2 The Response will comply with the rules for filing of a Complaint and will contain the names and contact information for the registry operator, as well as a point by point response to the statements made in the Complaint.

9.3 The Response must be electronically filed with the Provider and the Provider must serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

9.4 Service of the Response will be deemed effective, and the time will start to run for a Reply, upon electronic transmission of the Response.

9.5 If the registry operator believes the Complaint is without merit, it will affirmatively plead in it Response the specific grounds for the claim.

9.6 At the same time the Response is filed, the registry operator will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the Provider, the Response will be deemed improper and not considered in the proceedings, but the matter will proceed to Determination.

10 Reply

10.1 The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not "without merit." A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.

10.2 Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

11. Default

11.1 If the registry operator fails to respond to the Complaint, it will be deemed to be in default.

11.2 Limited rights to set aside the finding of default will be established by the Provider, but in no event will it be permitted absent a showing of good cause to set aside the finding of Default.

11.3 The Provider shall provide Notice of Default via email to the Complainant and registry operator.

11.4 All Default cases shall proceed to Expert Determination on the merits.

12. Expert Panel

12.1 The Provider shall select and appoint a single-member Expert Panel within (21) days after receiving the Reply, or if no Reply is filed, within 21 days after the Reply was due to be filed.

12.2 The Provider will appoint a one-person Expert Panel unless any party requests a three-member Expert Panel.

12.3 In the case where either party requests a three-member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection shall be made pursuant to the Provider's rules or procedures. RRDRP panelists within a Provider shall be rotated to the extent feasible.

12.4 Expert Panel members must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an Expert for lack of independence.

13. Costs

13.1 The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider Rules. Such costs will cover the administrative fees, including the Filing and Response Fee, of the Provider, and the Expert Panel fees, and are intended to be reasonable.

13.2 The Complainant shall be required to pay the Filing fee as set forth above in the "Complaint" section, and shall be required to submit the full amount of the other Provider-estimated administrative fees, including the Response Fee, and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant's share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator's share if the registry operator prevails.

13.3 If the Panel declares the Complainant to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred, including the Filing Fee. Failure to do shall be deemed a violation of the RRDRP and a breach of the Registry Agreement, subject to remedies available under the Agreement up to and including termination.

13.4 If the Panel declares the registry operator to be the prevailing party, the Provider shall reimburse the registry operator for its Response Fee.

14. Discovery/Evidence

14.1 In order to achieve the goal of resolving disputes rapidly and at a reasonable cost, discovery will generally not be permitted. In exceptional cases, the Expert Panel may require a party to provide additional evidence.

14.2 If permitted, discovery will be limited to that for which each Party has a substantial need.

14.3 Without a specific request from the Parties, but only in extraordinary circumstances, the Expert Panel may request that the Provider appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

15. Hearings

15.1 Disputes under this RRDRP will usually be resolved without a hearing.

15.2 The Expert Panel may decide on its own initiative, or at the request of a party, to hold a hearing. However, the presumption is that the Expert Panel will render Determinations based on written submissions and without a hearing.

15.3 If a request for a hearing is granted, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the parties cannot agree.

15.4 Hearings should last no more than one day, except in the most exceptional circumstances.

15.5 If the Expert Panel grants one party's request for a hearing, notwithstanding the other party's opposition, the Expert Panel is encouraged to apportion the hearing costs to the requesting party as the Expert Panel deems appropriate.

15.6 All dispute resolution proceedings will be conducted in English.

16. Burden of Proof

The Complainant bears the burden of proving its claim; the burden should be by a preponderance of the evidence.

17. Recommended Remedies

17.1 Since registrants of domain names registered in violation of the agreement restriction are not a party to the action, a recommended remedy cannot take the form of deleting, transferring or suspending registrations that were made in violation of the agreement restrictions (except to the extent registrants have been shown to be officers, directors, agents, employees, or entities under common control with a registry operator).

17.2 Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 13.

17.3 The Expert Panel may recommend a variety of graduated enforcement tools against the registry operator if the Expert Panel determines that the registry operator allowed registrations outside the scope of its promised limitations, including:

17.3.1 Remedial measures, which may be in addition to requirements under the registry agreement, for the registry to employ to ensure against allowing future registrations that do not comply with community-based limitations; except that the remedial measures shall not:

(a) Require the registry operator to monitor registrations not related to the names at issue in the RRDRP proceeding, or

(b) direct actions by the registry operator that are contrary to those required under the registry agreement

17.3.2 Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured or a set period of time;

OR,

17.3.3 In extraordinary circumstances where the registry operator acted with malice providing for the termination of a registry agreement.

17.3 In making its recommendation of the appropriate remedy, the Expert Panel will consider the ongoing harm to the Complainant, as well as the harm the remedies will create for other, unrelated, good faith domain name registrants operating within the gTLD.

18. The Expert Determination

18.1 The Provider and the Expert Panel will make reasonable efforts to ensure that the Expert Determination is rendered within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.

18.2 The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for its

Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

18.3 The Expert Determination may further include a recommendation of specific remedies. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert Determination.

18.4 The Expert Determination shall state which party is the prevailing party.

18.5 While the Expert Determination that a community-based restricted gTLD registry operator was not meeting its obligations to police the registration and use of domains within the applicable restrictions shall be considered, ICANN shall have the authority to impose the remedies ICANN deems appropriate, given the circumstances of each matter.

19. Appeal of Expert Determination

19.1 Either party shall have a right to seek a de novo appeal of the Expert Determination based on the existing record within the RRDRP proceeding for a reasonable fee to cover the costs of the appeal.

19.2 An appeal must be filed with the Provider and served on all parties within 20 days after an Expert Determination is issued and a response to the appeal must be filed within 20 days after the appeal. Manner and calculation of service deadlines shall in consistent with those set forth in Section 4 above, "Communication and Time Limits."

19.3 A three-member Appeal Panel is to be selected by the Provider, but no member of the Appeal Panel shall also have been an Expert Panel member.

19.4 The fees for an appeal in the first instance shall be borne by the appellant.

19.5 A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint.

19.6 The Appeal Panel may request at its sole discretion, further statements or evidence from any party regardless of whether the evidence pre-dates the filing of the Complaint if the Appeal Panel determines such evidence is relevant.

19.7 The prevailing party shall be entitled to an award of costs of appeal.

19.8 The Providers rules and procedures for appeals, other than those stated above, shall apply.

20. Breach

20.1 If the Expert determines that the registry operator is in breach, ICANN will then proceed to notify the registry operator that it is in breach. The registry operator will be given the opportunity to cure the breach as called for in the Registry Agreement.

20.2 If registry operator fails to cure the breach then both parties are entitled to utilize the options available to them under the registry agreement, and ICANN may consider the recommended remedies set forth in the Expert Determination when taking action.

20.3 Nothing herein shall be deemed to prohibit ICANN from imposing remedies at any time and of any nature it is otherwise entitled to impose for a registry operator's non-compliance with its Registry Agreement.

21. Availability of Court or Other Administrative Proceedings

21.1 The RRDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of an Expert Determination as to liability.

21.2 The parties are encouraged, but not required to participate in informal negotiations and/or mediation at any time throughout the dispute resolution process but the conduct of any such settlement negotiation is not, standing alone, a reason to suspend any deadline under the proceedings.

gTLD Applicant Guidebook

(v. 2012-06-04)

Module 6

4 June 2012

Module 6

Top-Level Domain Application – Terms and Conditions

By submitting this application through ICANN's online interface for a generic Top Level Domain (gTLD) (this application), applicant (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on its behalf) agrees to the following terms and conditions (these terms and conditions) without modification. Applicant understands and agrees that these terms and conditions are binding on applicant and are a material part of this application.

1. Applicant warrants that the statements and representations contained in the application (including any documents submitted and oral statements made and confirmed in writing in connection with the application) are true and accurate and complete in all material respects, and that ICANN may rely on those statements and representations fully in evaluating this application. Applicant acknowledges that any material misstatement or misrepresentation (or omission of material information) may cause ICANN and the evaluators to reject the application without a refund of any fees paid by Applicant. Applicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading.

2. Applicant warrants that it has the requisite organizational power and authority to make this application on behalf of applicant, and is able to make all agreements, representations, waivers, and understandings stated in these terms and conditions and to enter into the form of registry agreement as posted with these terms and conditions.

3. Applicant acknowledges and agrees that ICANN has the right to determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to review, consider and approve an application to establish one or more

gTLDs and to delegate new gTLDs after such approval is entirely at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.

4. Applicant agrees to pay all fees that are associated with this application. These fees include the evaluation fee (which is to be paid in conjunction with the submission of this application), and any fees associated with the progress of the application to the extended evaluation stages of the review and consideration process with respect to the application, including any and all fees as may be required in conjunction with the dispute resolution process as set forth in the application. Applicant acknowledges that the initial fee due upon submission of the application is only to obtain consideration of an application. ICANN makes no assurances that an application will be approved or will result in the delegation of a gTLD proposed in an application. Applicant acknowledges that if it fails to pay fees within the designated time period at any stage of the application review and consideration process, applicant will forfeit any fees paid up to that point and the application will be cancelled. Except as expressly provided in this Application Guidebook, ICANN is not obligated to reimburse an applicant for or to return any fees paid to ICANN in connection with the application process.

5. Applicant shall indemnify, defend, and hold harmless ICANN (including its affiliates, subsidiaries, directors, officers, employees, consultants, evaluators, and agents, collectively the ICANN Affiliated Parties) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including legal fees and expenses, arising out of or relating to: (a) ICANN's or an ICANN Affiliated Party's consideration of the application, and any approval rejection or withdrawal of the application; and/or (b) ICANN's or an ICANN Affiliated Party's reliance on information provided by applicant in the application.

6. Applicant hereby releases ICANN and the ICANN Affiliated Parties from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN or any ICANN Affiliated Party in connection with ICANN's or an ICANN Affiliated Party's review of this application, investigation or verification, any characterization or description of applicant or the information in this application, any withdrawal of this application or the decision by ICANN to recommend, or not to recommend, the approval of applicant's gTLD application. APPLICANT AGREES NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION, AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED IN COURT OR ANY OTHER JUDICIAL FOR A ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES AND ACCEPTS THAT APPLICANT'S NONENTITLEMENT TO PURSUE ANY RIGHTS, REMEDIES, OR LEGAL CLAIMS AGAINST ICANN OR THE ICANN AFFILIATED PARTIES IN COURT OR ANY OTHER JUDICIAL FORA WITH RESPECT TO THE APPLICATION SHALL MEAN THAT APPLICANT WILL FOREGO ANY RECOVERY OF ANY APPLICATION FEES, MONIES INVESTED IN BUSINESS INFRASTRUCTURE OR OTHER STARTUP COSTS AND ANY AND ALL PROFITS THAT APPLICANT MAY EXPECT TO REALIZE FROM THE OPERATION OF A REGISTRY FOR THE TLD; PROVIDED, THAT APPLICANT MAY UTILIZE ANY ACCOUNTABILITY MECHANISM SET FORTH IN ICANN'S BYLAWS FOR PURPOSES OF CHALLENGING ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES THAT ANY ICANN AFFILIATED PARTY IS AN EXPRESS THIRD PARTY BENEFICIARY OF THIS SECTION 6 AND MAY ENFORCE EACH PROVISION OF THIS SECTION 6 AGAINST APPLICANT.

7. Applicant hereby authorizes ICANN to publish on ICANN's website, and to disclose or publicize in any other manner, any materials submitted to, or obtained or generated by, ICANN and the ICANN Affiliated Parties in connection with the application, including evaluations, analyses and any other

materials prepared in connection with the evaluation of the application; provided, however, that information will not be disclosed or published to the extent that this Applicant Guidebook expressly states that such information will be kept confidential, except as required by law or judicial process. Except for information afforded confidential treatment, applicant understands and acknowledges that ICANN does not and will not keep the remaining portion of the application or materials submitted with the application confidential.

8. Applicant certifies that it has obtained permission for the posting of any personally identifying information included in this application or materials submitted with this application. Applicant acknowledges that the information that ICANN posts may remain in the public domain in perpetuity, at ICANN's discretion. Applicant acknowledges that ICANN will handle personal information collected in accordance with its gTLD Program privacy statement http://newgtlds.icann.org/en/applicants/agb/program-privacy, which is incorporated herein by this reference. If requested by ICANN, Applicant will be required to obtain and deliver to ICANN and ICANN's background screening vendor any consents or agreements of the entities and/or individuals named in questions 1-11 of the application form necessary to conduct these background screening activities. In addition, Applicant acknowledges that to allow ICANN to conduct thorough background screening investigations:

    a. Applicant may be required to provide documented consent for release of records to ICANN by organizations or government agencies;

    b. Applicant may be required to obtain specific government records directly and supply those records to ICANN for review;

    c. Additional identifying information may be required to resolve questions of identity of individuals within the applicant organization;

d. Applicant may be requested to supply certain information in the original language as well as in English.

9. Applicant gives ICANN permission to use applicant's name in ICANN's public announcements (including informational web pages) relating to Applicant's application and any action taken by ICANN related thereto.

10. Applicant understands and agrees that it will acquire rights in connection with a gTLD only in the event that it enters into a registry agreement with ICANN, and that applicant's rights in connection with such gTLD will be limited to those expressly stated in the registry agreement. In the event ICANN agrees to recommend the approval of the application for applicant's proposed gTLD, applicant agrees to enter into the registry agreement with ICANN in the form published in connection with the application materials. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed draft 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). Applicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application.

11. Applicant authorizes ICANN to:

a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;

b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession, provided, however, that ICANN will use reasonable efforts to ensure that such persons maintain the confidentiality of information in the application that this Applicant Guidebook expressly states will be kept confidential.

12. For the convenience of applicants around the world, the application materials published by ICANN in the English language have been translated into certain other languages frequently used around the world. Applicant recognizes that the English language version of the application materials (of which these terms and conditions is a part) is the version that binds the parties, that such translations are non-official interpretations and may not be relied upon as accurate in all respects, and that in the event of any conflict between the translated versions of the application materials and the English language version, the English language version controls.

13. Applicant understands that ICANN has a long-standing relationship with Jones Day, an international law firm, and that ICANN intends to continue to be represented by Jones Day throughout the application process and the resulting delegation of TLDs. ICANN does not know whether any particular applicant is or is not a client of Jones Day. To the extent that Applicant is a Jones Day client, by submitting this application, Applicant agrees to execute a waiver permitting Jones Day to represent ICANN adverse to Applicant in the matter. Applicant further agrees that by submitting its Application, Applicant is agreeing to execute waivers or take similar reasonable actions to permit other law and consulting firms retained by ICANN in connection with the review and evaluation of its application to represent ICANN adverse to Applicant in the matter.

14. ICANN reserves the right to make reasonable updates and changes to this applicant guidebook and to the application process, including the process for withdrawal of applications, at any time by posting notice of such updates and changes to the ICANN website, including as the possible result of new policies that might be adopted or advice to ICANN from ICANN advisory committees during the course of the application process. Applicant acknowledges that ICANN may make such updates and changes and agrees that its application will be subject to any such updates and changes. In the event that Applicant has completed and submitted its application prior to

such updates or changes and Applicant can demonstrate to ICANN that compliance with such updates or changes would present a material hardship to Applicant, then ICANN will work with Applicant in good faith to attempt to make reasonable accommodations in order to mitigate any negative consequences for Applicant to the extent possible consistent with ICANN's mission to ensure the stable and secure operation of the Internet's unique identifier systems.

Exhibit 19

Published on *NTIA* (http://www.ntia.doc.gov)

Statement of Policy on the Management of Internet Names and Addresses

Topics:

Domain Name System [1]

Date:
June 05, 1998
Docket Number:
980212036-8146-02

UNITED STATES DEPARTMENT OF COMMERCE

Management of Internet Names and Addresses

Docket Number: 980212036-8146-02

AGENCY: National Telecommunications and Information Administration

ACTION: Statement of Policy

SUMMARY: On July 1, 1997, as part of the Clinton Administration's *Framework for Global Electronic Commerce*, (1) the President directed the Secretary of Commerce to privatize the domain name system (DNS) in a manner that increases competition and facilitates international participation in its management.

Accordingly, on July 2, 1997, the Department of Commerce issued a Request for Comments (RFC) on DNS administration. The RFC solicited public input on issues relating to the overall framework of the DNS administration, the creation of new top-level domains, policies for domain name registrars, and trademark issues. During the comment period, more than 430 comments were received, amounting to some 1500 pages.(2)

On January 30, 1998, the National Telecommunications and Information Administration (NTIA), an agency of the Department of Commerce, issued for comment, *A Proposal to Improve the Technical Management of Internet Names and Addresses.* The proposed rulemaking, or "Green Paper," was published in the Federal Register on February 20, 1998, providing opportunity for public comment. NTIA received more than 650 comments, as of March 23, 1998, when the comment period closed.(3)

The Green Paper proposed certain actions designed to privatize the management of Internet names and addresses in a manner that allows for the development of robust competition and facilitates global participation in

Internet management. The Green Paper proposed for discussion a variety of issues relating to DNS management including private sector creation of a new not-for-profit corporation (the "new corporation") managed by a globally and functionally representative Board of Directors.

EFFECTIVE DATE: This general statement of policy is not subject to the delay in effective date required of substantive rules under 5 U.S.C. § 553(d). It does not contain mandatory provisions and does not itself have the force and effect of law.(4) Therefore, the effective date of this policy statement is [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Personal Data Redacted , Rm 4701, National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, 14 h and Constitution Ave., NW, Washington, D.C., 20230. Telephone: (202) 482-0365. E-mail: dnspolicy@ntia.doc.gov [2]

AUTHORITY: 15 U.S.C. § 1512; 15 U.S.C. § 1525; 47 U.S.C. § 902(b)(2)(H); 47 U.S.C. § 902(b)(2)(I); 47 U.S.C. § 902(b)(2)(M); 47 U.S.C. § 904(c)(1).

SUPPLEMENTARY INFORMATION:

Background:

Domain names are the familiar and easy-to-remember names for Internet computers (e.g., "www.ecommerce.gov"). They map to unique Internet Protocol (IP) numbers (e.g., 98.37.241.30) that serve as routing addresses on the Internet. The domain name system (DNS) translates Internet names into the IP numbers needed for transmission of information across the network.

U.S. Role in DNS Development:

More than 25 years ago, the U.S. Government began funding research necessary to develop packet-switching technology and communications networks, starting with the "ARPANET" network established by the Department of Defense's Advanced Research Projects Agency (DARPA) in the 1960s. ARPANET was later linked to other networks established by other government agencies, universities and research facilities. During the 1970s, DARPA also funded the development of a "network of networks;" this became known as the Internet, and the protocols that allowed the networks to intercommunicate became known as Internet protocols (IP).

As part of the ARPANET development work contracted to the University of California at Los Angeles (UCLA), Dr. Jon Postel, then a graduate student at the university, undertook the maintenance of a list of host names and addresses and also a list of documents prepared by ARPANET researchers, called Requests for Comments (RFCs). The lists and the RFCs were made available to the network community through the auspices of SRI International, under contract to DARPA and later the Defense Communication Agency (DCA) (now the Defense Information Systems Agency (DISA)) for performing the functions of the Network Information Center (the NIC).

After Dr. Postel moved from UCLA to the Information Sciences Institute (ISI) at the University of Southern California (USC), he continued to maintain the list of assigned Internet numbers and names under contracts with DARPA. SRI International continued to publish the lists. As the lists grew, DARPA permitted Dr. Postel to delegate additional administrative aspects of the list maintenance to SRI, under continuing technical oversight. Dr. Postel, under the DARPA contracts, also published a list of technical parameters that had been assigned for use by protocol developers. Eventually these functions collectively became known as the Internet Assigned Numbers Authority (IANA).

Until the early 1980s, the Internet was managed by DARPA, and used primarily for research purposes. Nonetheless, the task of maintaining the name list became onerous, and the Domain Name System (DNS) was developed to improve the process. Dr. Postel and SRI participated in DARPA's development and establishment of the technology and practices used by the DNS. By 1990, ARPANET was completely phased out.

The National Science Foundation (NSF) has statutory authority for supporting and strengthening basic scientific research, engineering, and educational activities in the United States, including the maintenance of computer networks to connect research and educational institutions. Beginning in 1987, IBM, MCI and Merit developed NSFNET, a national high-speed network based on Internet protocols, under an award from NSF. NSFNET, the largest of the governmental networks, provided a "backbone" to connect other networks serving more than 4,000 research and educational institutions throughout the country. The National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy also contributed backbone facilities.

In 1991-92, NSF assumed responsibility for coordinating and funding the management of the non-military portion of the Internet infrastructure. NSF solicited competitive proposals to provide a variety of infrastructure services, including domain name registration services. On December 31, 1992, NSF entered into a cooperative agreement with Network Solutions, Inc. (NSI) for some of these services, including the domain name registration services. Since that time, NSI has managed key registration, coordination, and maintenance functions of the Internet domain name system. NSI registers domain names in the generic top level domains (gTLDs) on a first come, first served basis and also maintains a directory linking domain names with the IP numbers of domain name servers. NSI also currently maintains the authoritative database of Internet registrations.

In 1992, the U.S. Congress gave NSF statutory authority to allow commercial activity on the NSFNET.[(5)] This facilitated connections between NSFNET and newly forming commercial network service providers, paving the way for today's Internet. Thus, the U.S. Government has played a pivotal role in creating the Internet as we know it today. The U.S. Government consistently encouraged bottom-up development of networking technologies, and throughout the course of its development, computer scientists from around the world have enriched the Internet and facilitated exploitation of its true potential. For example, scientists at CERN, in Switzerland, developed software, protocols and conventions that formed the basis of today's vibrant World Wide Web. This type of pioneering Internet research and development continues in cooperative organizations and consortia throughout the world.

DNS Management Today:

In recent years, commercial use of the Internet has expanded rapidly. As a legacy, however, major components of the domain name system are still performed by, or subject to, agreements with agencies of the U.S. Government.

Every Internet computer has a unique IP number. IANA, headed by Dr. Jon Postel, coordinates this system by allocating blocks of numerical addresses to regional IP registries (ARIN in North America, RIPE in Europe, and APNIC in the Asia/Pacific region), under contract with DARPA. In turn, larger Internet service providers apply to the regional IP registries for blocks of IP addresses. The recipients of those address blocks then reassign addresses to smaller Internet service providers and to end users.

1) Assignment of numerical addresses to Internet users.

The domain name space is constructed as a hierarchy. It is divided into top-level domains (TLDs), with each TLD then divided into second-level domains (SLDs), and so on. More than 200 national, or country-code, TLDs (ccTLDs) are administered by their corresponding governments or by private entities with the appropriate national government's acquiescence. A small set of gTLDs do not carry any national identifier, but denote the intended function of that portion of the domain space. For example, .com was established for commercial users, .org for not-for-profit organizations, and .net for network service providers. The registration and propagation of these key gTLDs are performed by NSI, under a five-year cooperative agreement with NSF. This agreement expires on September 30, 1998.

2) Management of the system of registering names for Internet users.

The root server system is a set of thirteen file servers, which together contain authoritative databases listing all TLDs. Currently, NSI operates the "A" root server, which maintains the authoritative root database and replicates changes to the other root servers on a daily basis. Different organizations, including NSI, operate the other 12 root servers.[(6)] The U.S. Government plays a role in the operation of about half of the Internet's root servers. Universal name consistency on the Internet cannot be guaranteed without a set of authoritative and consistent roots. Without such consistency messages could not be routed with any certainty to the intended addresses.

3) Operation of the root server system.

The Internet protocol suite, as defined by the Internet Engineering Task Force (IETF), contains many technical parameters, including protocol numbers, port numbers, autonomous system numbers, management information base object identifiers and others. The common use of these protocols by the Internet community requires that the particular values used in these fields be assigned uniquely. Currently, IANA, under contract with DARPA, makes these assignments and maintains a registry of the assigned values.

4) Protocol Assignment.

The Need for Change:

From its origins as a U.S.-based research vehicle, the Internet is rapidly becoming an international medium for commerce, education and communication. The traditional means of organizing its technical functions need to evolve as well. The pressures for change are coming from many different quarters:

_ There is widespread dissatisfaction about the absence of competition in domain name registration.

_ Conflicts between trademark holders and domain name holders are becoming more common. Mechanisms for resolving these conflicts are expensive and cumbersome.

_ Many commercial interests, staking their future on the successful growth of the Internet, are calling for a more formal and robust management structure.

_ An increasing percentage of Internet users reside outside of the U.S., and those stakeholders want to participate in Internet coordination.

_ As Internet names increasingly have commercial value, the decision to add new top-level domains cannot be made on an *ad hoc* basis by entities or individuals that are not formally accountable to the Internet community.

_ As the Internet becomes commercial, it becomes less appropriate for U.S. research agencies to direct and fund these functions.

The Internet technical community has been actively debating DNS management policy for several years. Experimental registry systems offering name registration services in an alternative set of exclusive domains developed as early as January 1996. Although visible to only a fraction of Internet users, alternative systems such as the name.space, AlterNIC, and eDNS affiliated registries(7) contributed to the community's dialogue on the evolution of DNS administration.

In May of 1996, Personal Data Redacted proposed the creation of multiple, exclusive, competing top-level domain name registries. This proposal called for the introduction of up to 50 new competing domain name registries, each with the exclusive right to register names in up to three new top-level domains, for a total of 150 new TLDs. While some supported the proposal, the plan drew much criticism from the Internet technical community.(8) The paper was revised and reissued.(9) The Internet Society's (ISOC) board of trustees endorsed, in principle, the slightly revised but substantively similar version of the draft in June of 1996.

After considerable debate and redrafting failed to produce a consensus on DNS change, IANA and the Internet Society (ISOC) organized the International Ad Hoc Committee(10) (IAHC or the Ad Hoc Committee) in September 1996, to resolve DNS management issues. The World Intellectual Property Organization (WIPO) and the International Telecommunications Union (ITU) participated in the IAHC. The Federal Networking Council (FNC) participated in the early deliberations of the Ad Hoc Committee.

The IAHC issued a draft plan in December 1996 that introduced unique and thoughtful concepts for the evolution of DNS administration.(11) The final report proposed a memorandum of understanding (MoU) that would have established, initially, seven new gTLDs to be operated on a nonexclusive basis by a consortium of new private domain name registrars called the Council of Registrars (CORE).(12) Policy oversight would have been undertaken in a separate council called the Policy Oversight Committee (POC) with seats allocated to specified stakeholder groups. Further, the plan formally introduced mechanisms for resolving trademark/domain name disputes. Under the MoU, registrants for second-level domains would have been required to submit to mediation and arbitration, facilitated by WIPO, in the event of conflict with trademark holders.

Although the IAHC proposal gained support in many quarters of the Internet community, the IAHC process was criticized for its aggressive technology development and implementation schedule, for being dominated by the Internet engineering community, and for lacking participation by and input from business interests and others in the Internet community.(13) Others criticized the plan for failing to solve the competitive problems that were such a source of dissatisfaction among Internet users and for imposing unnecessary burdens on trademark holders. Although the POC responded by revising the original plan, demonstrating a commendable degree of flexibility, the proposal was not able to overcome initial criticism of both the plan and the process by which the plan was developed.(14) Important segments of the Internet community remained outside the IAHC process, criticizing it as insufficiently representative.(15)

As a result of the pressure to change DNS management, and in order to facilitate its withdrawal from DNS management, the U.S. Government, through the Department of Commerce and NTIA, sought public comment on the direction of U.S. policy with respect to DNS, issuing the Green Paper on January 30, 1998.(16) The approach outlined in the Green Paper adopted elements of other proposals, such as the early Postel drafts and the IAHC gTLD- MoU.

Comments and Response: The following are summaries of and responses to the major comments that were received in response to NTIA's issuance of *A Proposal to Improve the Technical Management of Internet Names and Addresses*. As used herein, quantitative terms such as "some," "many," and "the majority of," reflect, roughly speaking, the proportion of comments addressing a particular issue but are not intended to summarize all comments received or the complete substance of all such comments.

1. Principles for a New System. The Green Paper set out four principles to guide the evolution of the domain name system: stability, competition, private bottom-up coordination, and representation.

Comments: In general, commenters supported these principles, in some cases highlighting the importance of one or more of the principles. For example, a number of commenters emphasized the importance of establishing a body that fully reflects the broad diversity of the Internet community. Others stressed the need to preserve the

bottom-up tradition of Internet governance. A limited number of commenters proposed additional principles for the new system, including principles related to the protection of human rights, free speech, open communication, and the preservation of the Internet as a public trust. Finally, some commenters who agreed that Internet stability is an important principle, nonetheless objected to the U.S. Government's assertion of any participatory role in ensuring such stability.

Response: The U.S. Government policy applies only to management of Internet names and addresses and does not set out a system of Internet "governance." Existing human rights and free speech protections will not be disturbed and, therefore, need not be specifically included in the core principles for DNS management. In addition, this policy is not intended to displace other legal regimes (international law, competition law, tax law and principles of international taxation, intellectual property law, etc.) that may already apply. The continued applicability of these systems as well as the principle of representation should ensure that DNS management proceeds in the interest of the Internet community as a whole. Finally, the U.S. Government believes that it would be irresponsible to withdraw from its existing management role without taking steps to ensure the stability of the Internet during its transition to private sector management. On balance, the comments did not present any consensus for amending the principles outlined in the Green Paper.

2. The Coordinated Functions. The Green Paper identified four DNS functions to be performed on a coordinated, centralized basis in order to ensure that the Internet runs smoothly:

2. To oversee the operation of the Internet root server system;

3. To oversee policy for determining the circumstances under which new top level domains would be added to the root system; and

4. To coordinate the development of other technical protocol parameters as needed to maintain universal connectivity on the Internet.

1. To set policy for and direct the allocation of IP number blocks;

Comments: Most commenters agreed that these functions should be coordinated centrally, although a few argued that a system of authoritative roots is not technically necessary to ensure DNS stability. A number of commenters, however, noted that the fourth function, as delineated in the Green Paper, overstated the functions currently performed by IANA, attributing to it central management over an expanded set of functions, some of which are now carried out by the IETF.

Response: In order to preserve universal connectivity and the smooth operation of the Internet, the U.S. Government continues to believe, along with most commenters, that these four functions should be coordinated. In the absence of an authoritative root system, the potential for name collisions among competing sources for the same domain name could undermine the smooth functioning and stability of the Internet.

The Green Paper was not, however, intended to expand the responsibilities associated with Internet protocols beyond those currently performed by IANA. Specifically, management of DNS by the new corporation does not encompass the development of Internet technical parameters for other purposes by other organizations such as IETF. The fourth function should be restated accordingly:

· to coordinate the assignment of other Internet technical parameters as needed to maintain universal connectivity on the Internet.

3. Separation of Name and Number Authority.

Comments: A number of commenters suggested that management of the domain name system should be separated from management of the IP number system. These commenters expressed the view that the numbering system is relatively technical and straightforward. They feared that tight linkage of domain name and IP number policy development would embroil the IP numbering system in the kind of controversy that has surrounded domain name issuance in recent months. These commenters also expressed concern that the development of alternative name and number systems could be inhibited by this controversy or delayed by those with vested interests in the existing system.

Response: The concerns expressed by the commenters are legitimate, but domain names and IP numbers must ultimately be coordinated to preserve universal connectivity on the Internet. Also, there are significant costs associated with establishing and operating two separate management entities.

However, there are organizational structures that could minimize the risks identified by commenters. For example, separate name and number councils could be formed within a single organization. Policy could be determined within the appropriate council that would submit its recommendations to the new corporation's Board of Directors for ratification.

4. Creation of the New Corporation and Management of the DNS. The Green Paper called for the creation of a new private, not-for-profit corporation(17) responsible for coordinating specific DNS functions for the benefit of the Internet as a whole. Under the Green Paper proposal, the U.S. Government(18) would gradually transfer these functions to the new corporation beginning as soon as possible, with the goal of having the new corporation carry out operational responsibility by October 1998. Under the Green Paper proposal, the U.S. Government would continue to participate in policy oversight until such time as the new corporation was established and stable, phasing out as soon as possible, but in no event later than September 30, 2000. The Green Paper suggested that the new corporation be incorporated in the United States in order to promote stability and facilitate the continued reliance on technical expertise residing in the United States, including IANA staff at USC/ISI.

Comments: Almost all commenters supported the creation of a new, private not-for-profit corporation to manage DNS. Many suggested that IANA should evolve into the new corporation. A small number of commenters asserted that the U.S. Government should continue to manage Internet names and addresses. Another small number of commenters suggested that DNS should be managed by international governmental institutions such as the

United Nations or the International Telecommunications Union. Many commenters urged the U.S. Government to commit to a more aggressive timeline for the new corporation's assumption of management responsibility. Some commenters also suggested that the proposal to headquarter the new corporation in the United States represented an inappropriate attempt to impose U.S. law on the Internet as a whole.

Response: The U.S. Government is committed to a transition that will allow the private sector to take leadership for DNS management. Most commenters shared this goal. While international organizations may provide specific expertise or act as advisors to the new corporation, the U.S. continues to believe, as do most commenters, that neither national governments acting as sovereigns nor intergovernmental organizations acting as representatives of governments should participate in management of Internet names and addresses. Of course, national governments now have, and will continue to have, authority to manage or establish policy for their own ccTLDs.

The U.S. Government would prefer that this transition be complete before the year 2000. To the extent that the new corporation is established and operationally stable, September 30, 2000 is intended to be, and remains, an "outside" date.

IANA has functioned as a government contractor, albeit with considerable latitude, for some time now. Moreover, IANA is not formally organized or constituted. It describes a function more than an entity, and as such does not currently provide a legal foundation for the new corporation. This is not to say, however, that IANA could not be reconstituted by a broad-based, representative group of Internet stakeholders or that individuals associated with IANA should not themselves play important foundation roles in the formation of the new corporation. We believe, and many commenters also suggested, that the private sector organizers will want Personal Data Redacted and other IANA staff to be involved in the creation of the new corporation.

Because of the significant U.S.-based DNS expertise and in order to preserve stability, it makes sense to headquarter the new corporation in the United States. Further, the mere fact that the new corporation would be incorporated in the United States would not remove it from the jurisdiction of other nations. Finally, we note that the new corporation must be headquartered somewhere, and similar objections would inevitably arise if it were incorporated in another location.

5. Structure of the New Corporation. The Green Paper proposed a 15-member Board, consisting of three representatives of regional number registries, two members designated by the Internet Architecture Board (IAB), two members representing domain name registries and domain name registrars, seven members representing Internet users, and the Chief Executive Officer of the new corporation.

Comments: Commenters expressed a variety of positions on the composition of the Board of Directors for the new corporation. In general, however, most commenters supported the establishment of a Board of Directors that would be representative of the functional and geographic diversity of the Internet. For the most part, commenters agreed that the groups listed in the Green Paper included individuals and entities likely to be materially affected by changes in DNS. Most of those who criticized the proposed allocation of Board seats called for increased representation of their particular interest group on the Board of Directors. Specifically, a number of commenters suggested that the allocation set forth in the Green Paper did not adequately reflect the special interests of (1)

trademark holders, (2) Internet service providers, or (3) the not-for-profit community. Others commented that the Green Paper did not adequately ensure that the Board would be globally representative.

Response: The Green Paper attempted to describe a manageably sized Board of Directors that reflected the diversity of the Internet. It is probably impossible to allocate Board seats in a way that satisfies all parties concerned. On balance, we believe the concerns raised about the representation of specific groups are best addressed by a thoughtful allocation of the "user" seats as determined by the organizers of the new corporation and its Board of Directors, as discussed below.

The Green Paper identified several international membership associations and organizations to designate Board members such as APNIC, ARIN, RIPE, and the Internet Architecture Board. We continue to believe that as use of the Internet expands outside the United States, it is increasingly likely that a properly open and transparent DNS management entity will have board members from around the world. Although we do not set any mandatory minimums for global representation, this policy statement is designed to identify global representativeness as an important priority.

6. Registrars and Registries. The Green Paper proposed moving the system for registering second level domains and the management of generic top-level domains into a competitive environment by creating two market-driven businesses, registration of second level domain names and the management of gTLD registries.

a. Competitive Registrars. Comments: Commenters strongly supported establishment of a competitive registrar system whereby registrars would obtain domain names for customers in any gTLD. Few disagreed with this position. The Green Paper proposed a set of requirements to be imposed by the new corporation on all would-be registrars. Commenters for the most part did not take exception to the proposed criteria, but a number of commenters suggested that it was inappropriate for the United States government to establish them.

Response: In response to the comments received, the U.S. Government believes that the new corporation, rather than the U.S. Government, should establish minimum criteria for registrars that are pro-competitive and provide some measure of stability for Internet users without being so onerous as to prevent entry by would-be domain name registrars from around the world. Accordingly, the proposed criteria are not part of this policy statement.

b. Competitive Registries. Comments: Many commenters voiced strong opposition to the idea of competitive and/or for-profit domain name registries, citing one of several concerns. Some suggested that top level domain names are not, by nature, ever truly generic. As such, they will tend to function as "natural monopolies" and should be regulated as a public trust and operated for the benefit of the Internet community as a whole. Others suggested that even if competition initially exists among various domain name registries, lack of portability in the naming systems would create lock-in and switching costs, making competition unsustainable in the long run. Finally, other commenters suggested that no new registry could compete meaningfully with NSI unless all domain name registries were not-for-profit and/or noncompeting.

Some commenters asserted that an experiment involving the creation of additional for-profit registries would be too risky, and irreversible once undertaken. A related concern raised by commenters addressed the rights that for-profit operators might assert with respect to the information contained in registries they operate. These commenters argued that registries would have inadequate incentives to abide by DNS policies and procedures

unless the new corporation could terminate a particular entity's license to operate a registry. For-profit operators, under this line of reasoning, would be more likely to disrupt the Internet by resisting license terminations.

Commenters who supported competitive registries conceded that, in the absence of domain name portability, domain name registries could impose switching costs on users who change domain name registries. They cautioned, however, that it would be premature to conclude that switching costs provide a sufficient basis for precluding the proposed move to competitive domain name registries and cited a number of factors that could protect against registry opportunism. These commenters concluded that the potential benefits to customers from enhanced competition outweighed the risk of such opportunism. The responses to the Green Paper also included public comments on the proposed criteria for registries.

Response: Both sides of this argument have considerable merit. It is possible that additional discussion and information will shed light on this issue, and therefore, as discussed below, the U.S. Government has concluded that the issue should be left for further consideration and final action by the new corporation. The U.S. Government is of the view, however, that competitive systems generally result in greater innovation, consumer choice, and satisfaction in the long run. Moreover, the pressure of competition is likely to be the most effective means of discouraging registries from acting monopolistically. Further, in response to the comments received, the U.S. government believes that new corporation should establish and implement appropriate criteria for gTLD registries. Accordingly, the proposed criteria are not part of this policy statement.

7. The Creation of New gTLDs. The Green Paper suggested that during the period of transition to the new corporation, the U.S. Government, in cooperation with IANA, would undertake a process to add up to five new gTLDs to the authoritative root. Noting that formation of the new corporation would involve some delay, the Green Paper contemplated new gTLDs in the short term to enhance competition and provide information to the technical community and to policy makers, while offering entities that wished to enter into the registry business an opportunity to begin offering service to customers. The Green Paper, however, noted that ideally the addition of new TLDs would be left to the new corporation.

Comments: The comments evidenced very strong support for limiting government involvement during the transition period on the matter of adding new gTLDs. Specifically, most commenters -- both U.S. and non-U.S.-- suggested that it would be more appropriate for the new, globally representative, corporation to decide these issues once it is up and running. Few believed that speed should outweigh process considerations in this matter. Others warned, however, that relegating this contentious decision to a new and untested entity early in its development could fracture the organization. Others argued that the market for a large or unlimited number of new gTLDs should be opened immediately. They asserted that there are no technical impediments to the addition of a host of gTLDs, and the market will decide which TLDs succeed and which do not. Further, they pointed out that there are no artificial or arbitrary limits in other media on the number of places in which trademark holders must defend against dilution.

Response: The challenge of deciding policy for the addition of new domains will be formidable. We agree with the many commenters who said that the new corporation would be the most appropriate body to make these decisions based on global input. Accordingly, as supported by the preponderance of comments, the U.S. Government will not implement new gTLDs at this time.

At least in the short run, a prudent concern for the stability of the system suggests that expansion of gTLDs proceed at a deliberate and controlled pace to allow for evaluation of the impact of the new gTLDs and well-reasoned evolution of the domain space. New top level domains could be created to enhance competition and to enable the new corporation to evaluate the functioning, in the new environment, of the root server system and the software systems that enable shared registration.

8. The Trademark Dilemma. When a trademark is used as a domain name without the trademark owner's consent, consumers may be misled about the source of the product or service offered on the Internet, and trademark owners may not be able to protect their rights without very expensive litigation. For cyberspace to function as an effective commercial market, businesses must have confidence that their trademarks can be protected. On the other hand, management of the Internet must respond to the needs of the Internet community as a whole, and not trademark owners exclusively. The Green Paper proposed a number of steps to balance the needs of domain name holders with the legitimate concerns of trademark owners in the interest of the Internet community as a whole. The proposals were designed to provide trademark holders with the same rights they have in the physical world, to ensure transparency, and to guarantee a dispute resolution mechanism with resort to a court system.

The Green Paper also noted that trademark holders have expressed concern that domain name registrants in faraway places may be able to infringe their rights with no convenient jurisdiction available in which the trademark owner could enforce a judgment protecting those rights. The Green Paper solicited comments on an arrangement whereby, at the time of registration, registrants would agree to submit a contested domain name to the jurisdiction of the courts where the registry is domiciled, where the registry database is maintained, or where the "A" root server is maintained.

Comments: Commenters largely agreed that domain name registries should maintain up-to-date, readily searchable domain name databases that contain the information necessary to locate a domain name holder. In general commenters did not take specific issue with the database specifications proposed in Appendix 2 of the Green Paper, although some commenters proposed additional requirements. A few commenters noted, however, that privacy issues should be considered in this context.

A number of commenters objected to NSI's current business practice of allowing registrants to use domain names before they have actually paid any registration fees. These commenters pointed out that this practice has encouraged cybersquatters and increased the number of conflicts between domain name holders and trademark holders. They suggested that domain name applicants should be required to pay before a desired domain name becomes available for use.

Most commenters also favored creation of an on-line dispute resolution mechanism to provide inexpensive and efficient alternatives to litigation for resolving disputes between trademark owners and domain name registrants. The Green Paper contemplated that each registry would establish specified minimum dispute resolution procedures, but remain free to establish additional trademark protection and dispute resolution mechanisms. Most commenters did not agree with this approach, favoring instead a uniform approach to resolving trademark/domain name disputes.

Some commenters noted that temporary suspension of a domain name in the event of an objection by a trademark holder within a specified period of time after registration would significantly extend trademark holders' rights beyond what is accorded in the real world. They argued that such a provision would create a de facto waiting period for name use, as holders would need to suspend the use of their name until after the objection window had passed to forestall an interruption in service. Further, they argue that such a system could be used anti-competitively to stall a competitor's entry into the marketplace.

The suggestion that domain name registrants be required to agree at the time of registration to submit disputed domain names to the jurisdiction of specified courts was supported by U.S. trademark holders but drew strong protest from trademark holders and domain name registrants outside the United States. A number of commenters characterized this as an inappropriate attempt to establish U.S. trademark law as the law of the Internet. Others suggested that existing jurisdictional arrangements are satisfactory. They argue that establishing a mechanism whereby the judgment of a court can be enforced absent personal jurisdiction over the infringer would upset the balance between the interests of trademark holders and those of other members of the Internet community.

Response: The U.S. Government will seek international support to call upon the World Intellectual Property Organization (WIPO) to initiate a balanced and transparent process, which includes the participation of trademark holders and members of the Internet community who are not trademark holders, to (1) develop recommendations for a uniform approach to resolving trademark/domain name disputes involving cyberpiracy (as opposed to conflicts between trademark holders with legitimate competing rights), (2) recommend a process for protecting famous trademarks in the generic top level domains, and (3) evaluate the effects, based on studies conducted by independent organizations, such as the National Research Council of the National Academy of Sciences, of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property holders. These findings and recommendations could be submitted to the board of the new corporation for its consideration in conjunction with its development of registry and registrar policy and the creation and introduction of new gTLDs.

In trademark/domain name conflicts, there are issues of jurisdiction over the domain name in controversy and jurisdiction over the legal persons (the trademark holder and the domain name holder). This document does not attempt to resolve questions of personal jurisdiction in trademark/domain name conflicts. The legal issues are numerous, involving contract, conflict of laws, trademark, and other questions. In addition, determining how these various legal principles will be applied to the borderless Internet with an unlimited possibility of factual scenarios will require a great deal of thought and deliberation. Obtaining agreement by the parties that jurisdiction over the domain name will be exercised by an alternative dispute resolution body is likely to be at least somewhat less controversial than agreement that the parties will subject themselves to the personal jurisdiction of a particular national court. Thus, the references to jurisdiction in this policy statement are limited to jurisdiction over the domain name in dispute, and not to the domain name holder.

In order to strike a balance between those commenters who thought that registrars and registries should not themselves be engaged in disputes between trademark owners and domain name holders and those commenters who thought that trademark owners should have access to a reliable and up-to-date database, we believe that a database should be maintained that permits trademark owners to obtain the contact information necessary to protect their trademarks.

Further, it should be clear that whatever dispute resolution mechanism is put in place by the new corporation, that mechanism should be directed toward disputes about cybersquatting and cyberpiracy and not to settling the disputes between two parties with legitimate competing interests in a particular mark. Where legitimate competing rights are concerned, disputes are rightly settled in an appropriate court.

Under the revised plan, we recommend that domain name holders agree to submit infringing domain names to the jurisdiction of a court where the "A" root server is maintained, where the registry is domiciled, where the registry database is maintained, or where the registrar is domiciled. We believe that allowing trademark infringement suits to be brought wherever registrars and registries are located will help ensure that all trademark holders - both U.S. and non-U.S. - have the opportunity to bring suits in a convenient jurisdiction and enforce the judgments of those courts.

Under the revised plan, we also recommend that, whatever options are chosen by the new corporation, each registrar should insist that payment be made for the domain name before it becomes available to the applicant. The failure to make a domain name applicant pay for its use of a domain name has encouraged cyberpirates and is a practice that should end as soon as possible.

9. Competition Concerns.

Comments: Several commenters suggested that the U.S. Government should provide full antitrust immunity or indemnification for the new corporation. Others noted that potential antitrust liability would provide an important safeguard against institutional inflexibility and abuses of power.

Response: Applicable antitrust law will provide accountability to and protection for the international Internet community. Legal challenges and lawsuits can be expected within the normal course of business for any enterprise and the new corporation should anticipate this reality.

The Green Paper envisioned the new corporation as operating on principles similar to those of a standard-setting body. Under this model, due process requirements and other appropriate processes that ensure transparency, equity and fair play in the development of policies or practices would need to be included in the new corporation's originating documents. For example, the new corporation's activities would need to be open to all persons who are directly affected by the entity, with no undue financial barriers to participation or unreasonable restrictions on participation based on technical or other such requirements. Entities and individuals would need to be able to participate by expressing a position and its basis, having that position considered, and appealing if adversely affected. Further, the decision making process would need to reflect a balance of interests and should not be dominated by any single interest category. If the new corporation behaves this way, it should be less vulnerable to antitrust challenges.

10. The NSI Agreement.

Comments: Many commenters expressed concern about continued administration of key gTLDs by NSI. They argued that this would give NSI an unfair advantage in the marketplace and allow NSI to leverage economies of

scale across their gTLD operations. Some commenters also believe the Green Paper approach would have entrenched and institutionalized NSI's dominant market position over the key domain name going forward. Further, many commenters expressed doubt that a level playing field between NSI and the new registry market entrants could emerge if NSI retained control over .com, .net, and .org.

Response: The cooperative agreement between NSI and the U.S. Government is currently in its ramp down period. The U.S. Government and NSI will shortly commence discussions about the terms and conditions governing the ramp-down of the cooperative agreement. Through these discussions, the U.S. Government expects NSI to agree to take specific actions, including commitments as to pricing and equal access, designed to permit the development of competition in domain name registration and to approximate what would be expected in the presence of marketplace competition. The U.S. Government expects NSI to agree to act in a manner consistent with this policy statement, including recognizing the role of the new corporation to establish and implement DNS policy and to establish terms (including licensing terms) applicable to new and existing gTLD registries under which registries, registrars and gTLDs are permitted to operate. Further, the U.S. Government expects NSI to agree to make available on an ongoing basis appropriate databases, software, documentation thereof, technical expertise, and other intellectual property for DNS management and shared registration of domain names.

11. A Global Perspective

Comments: A number of commenters expressed concern that the Green Paper did not go far enough in globalizing the administration of the domain name system. Some believed that international organizations should have a role in administering the DNS. Others complained that incorporating the new corporation in the United States would entrench control over the Internet with the U.S. Government. Still others believed that the awarding by the U.S. Government of up to five new gTLDs would enforce the existing dominance of U.S. entities over the gTLD system.

Response: The U.S. Government believes that the Internet is a global medium and that its technical management should fully reflect the global diversity of Internet users. We recognize the need for and fully support mechanisms that would ensure international input into the management of the domain name system. In withdrawing the U.S. Government from DNS management and promoting the establishment of a new, non-governmental entity to manage Internet names and addresses, a key U.S. Government objective has been to ensure that the increasingly global Internet user community has a voice in decisions affecting the Internet's technical management.

We believe this process has reflected our commitment. Many of the comments on the Green Paper were filed by foreign entities, including governments. Our dialogue has been open to all Internet users - foreign and domestic, government and private - during this process, and we will continue to consult with the international community as we begin to implement the transition plan outlined in this paper.

12. The Intellectual Infrastructure Fund.

In 1995, NSF authorized NSI to assess domain name registrants a $50 fee per year for the first two years, 30 percent of which was to be deposited in the Intellectual Infrastructure Fund (IIF), a fund to be used for the preservation and enhancement of the intellectual infrastructure of the Internet.

Comments: Very few comments referenced the IIF. In general, the comments received on the issue supported either refunding the IIF portion of the domain name registration fee to domain registrants from whom it had been collected or applying the funds toward Internet infrastructure development projects generally, including funding the establishment of the new corporation.

Response: As proposed in the Green Paper, allocation of a portion of domain name registration fees to this fund terminated as of March 31, 1998. NSI has reduced its registration fees accordingly. The IIF remains the subject of litigation. The U.S. Government takes the position that its collection has recently been ratified by the U.S. Congress,(19)

and has moved to dismiss the claim that it was unlawfully collected. This matter has not been finally resolved, however.

13. The .us Domain.

At present, the IANA administers .us as a locality-based hierarchy in which second-level domain space is allocated to states and U.S. territories.(20) This name space is further subdivided into localities. General registration under localities is performed on an exclusive basis by private firms that have requested delegation from IANA. The .us name space has typically been used by branches of state and local governments, although some commercial names have been assigned. Where registration for a locality has not been delegated, the IANA itself serves as the registrar.

Comments: Many commenters suggested that the pressure for unique identifiers in the .com gTLD could be relieved if commercial use of the .us space was encouraged. Commercial users and trademark holders, however, find the current locality-based system too cumbersome and complicated for commercial use. They called for expanded use of the .us TLD to alleviate some of the pressure for new generic TLDs and reduce conflicts between American companies and others vying for the same domain name. Most commenters support an evolution of the .us domain designed to make this name space more attractive to commercial users.

Response: Clearly, there is much opportunity for enhancing the .us domain space, and .us could be expanded in many ways without displacing the current structure. Over the next few months, the U.S. Government will work with the private sector and state and local governments to determine how best to make the .us domain more attractive to commercial users. Accordingly, the Department of Commerce will seek public input on this important issue.

ADMINISTRATIVE LAW REQUIREMENTS:

On February 20, 1998, NTIA published for public comment a proposed rule regarding the domain name registration system. That proposed rule sought comment on substantive regulatory provisions, including but not

limited to a variety of specific requirements for the membership of the new corporation, the creation during a transition period of a specified number of new generic top level domains and minimum dispute resolution and other procedures related to trademarks. As discussed elsewhere in this document, in response to public comment these aspects of the original proposal have been eliminated. In light of the public comment and the changes to the proposal made as a result, as well as the continued rapid technological development of the Internet, the Department of Commerce has determined that it should issue a general statement of policy, rather than define or impose a substantive regulatory regime for the domain name system. As such, this policy statement is not a substantive rule, does not contain mandatory provisions and does not itself have the force and effect of law.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration, that, for purposes of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 et seq., the proposed rule on this matter, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published along with the proposed rule. No comments were received regarding this certification. As such, and because this final rule is a general statement of policy, no final regulatory flexibility analysis has been prepared.

This general statement of policy does not contain any reporting or record keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. ch. 35 (PRA). However, at the time the U.S. Government might seek to enter into agreements as described in this policy statement, a determination will be made as to whether any reporting or record keeping requirements subject to the PRA are being implemented. If so, the NTIA will, at that time, seek approval under the PRA for such requirement(s) from the Office of Management and Budget.

This statement has been determined to be not significant for purposes of Office of Management and Budget review under Executive Order 12866, entitled Regulatory Planning and Review.

REVISED POLICY STATEMENT:

This document provides the U.S. Government's policy regarding the privatization of the domain name system in a manner that allows for the development of robust competition and that facilitates global participation in the management of Internet names and addresses.

The policy that follows does not propose a monolithic structure for Internet governance. We doubt that the Internet should be governed by one plan or one body or even by a series of plans and bodies. Rather, we seek a stable process to address the narrow issues of management and administration of Internet names and numbers on an ongoing basis.

As set out below, the U.S. Government is prepared to recognize, by entering into agreement with, and to seek international support for, a new, not-for-profit corporation formed by private sector Internet stakeholders to administer policy for the Internet name and address system. Under such agreement(s) or understanding(s), the new corporation would undertake various responsibilities for the administration of the domain name system now performed by or on behalf of the U.S. Government or by third parties under arrangements or agreements with the U.S. Government. The U.S. Government would also ensure that the new corporation has appropriate access to needed databases and software developed under those agreements.

The Coordinated Functions

Management of number addresses is best done on a coordinated basis. Internet numbers are a unique, and at least currently, a limited resource. As technology evolves, changes may be needed in the number allocation system. These changes should also be coordinated.

Similarly, coordination of the root server network is necessary if the whole system is to work smoothly. While day-to-day operational tasks, such as the actual operation and maintenance of the Internet root servers, can be dispersed, overall policy guidance and control of the TLDs and the Internet root server system should be vested in a single organization that is representative of Internet users around the globe.

Further, changes made in the administration or the number of gTLDs contained in the authoritative root system will have considerable impact on Internet users throughout the world. In order to promote continuity and reasonable predictability in functions related to the root zone, the development of policies for the addition, allocation, and management of gTLDs and the establishment of domain name registries and domain name registrars to host gTLDs should be coordinated.

Finally, coordinated maintenance and dissemination of the protocol parameters for Internet addressing will best preserve the stability and interconnectivity of the Internet. We are not, however, proposing to expand the functional responsibilities of the new corporation beyond those exercised by IANA currently.

In order to facilitate the needed coordination, Internet stakeholders are invited to work together to form a new, private, not-for-profit corporation to manage DNS functions. The following discussion reflects current U.S. Government views of the characteristics of an appropriate management entity. What follows is designed to describe the characteristics of an appropriate entity generally.

Principles for a New System. In making a decision to enter into an agreement to establish a process to transfer current U.S. government management of DNS to such a new entity, the U.S. will be guided by, and consider the proposed entity's commitment to, the following principles:

The U.S. Government should end its role in the Internet number and name address system in a manner that ensures the stability of the Internet. The introduction of a new management system should not disrupt current operations or create competing root systems. During the transition and thereafter, the stability of the Internet should be the first priority of any DNS management system. Security and reliability of the DNS are important aspects of stability, and as a new DNS management system is introduced, a comprehensive security strategy should be developed.

2. Competition.

The Internet succeeds in great measure because it is a decentralized system that encourages innovation and maximizes individual freedom. Where possible, market mechanisms that support competition and consumer

choice should drive the management of the Internet because they will lower costs, promote innovation, encourage diversity, and enhance user choice and satisfaction.

3. Private, Bottom-Up Coordination.

Certain management functions require coordination. In these cases, responsible, private-sector action is preferable to government control. A private coordinating process is likely to be more flexible than government and to move rapidly enough to meet the changing needs of the Internet and of Internet users. The private process should, as far as possible, reflect the bottom-up governance that has characterized development of the Internet to date.

4. Representation.

The new corporation should operate as a private entity for the benefit of the Internet community as a whole. The development of sound, fair, and widely accepted policies for the management of DNS will depend on input from the broad and growing community of Internet users. Management structures should reflect the functional and geographic diversity of the Internet and its users. Mechanisms should be established to ensure international participation in decision making.

1. Stability

Purpose. The new corporation ultimately should have the authority to manage and perform a specific set of functions related to coordination of the domain name system, including the authority necessary to:

2) oversee operation of the authoritative Internet root server system;

3) oversee policy for determining the circumstances under which new TLDs are added to the root system; and

4) coordinate the assignment of other Internet technical parameters as needed to maintain universal connectivity on the Internet.

1) set policy for and direct allocation of IP number blocks to regional Internet number registries;

Funding. Once established, the new corporation could be funded by domain name registries, regional IP registries, or other entities identified by the Board.

Staff. We anticipate that the new corporation would want to make arrangements with current IANA staff to provide continuity and expertise over the course of transition. The new corporation should secure necessary expertise to bring rigorous management to the organization.

Incorporation. We anticipate that the new corporation's organizers will include representatives of regional Internet number registries, Internet engineers and computer scientists, domain name registries, domain name registrars, commercial and noncommercial users, Internet service providers, international trademark holders and Internet experts highly respected throughout the international Internet community. These incorporators should include substantial representation from around the world.

As these functions are now performed in the United States, by U.S. residents, and to ensure stability, the new corporation should be headquartered in the United States, and incorporated in the U.S. as a not-for-profit corporation. It should, however, have a board of directors from around the world. Moreover, incorporation in the United States is not intended to supplant or displace the laws of other countries where applicable.

Structure. The Internet community is already global and diverse and likely to become more so over time. The organization and its board should derive legitimacy from the participation of key stakeholders. Since the organization will be concerned mainly with numbers, names and protocols, its board should represent membership organizations in each of these areas, as well as the direct interests of Internet users.

The Board of Directors for the new corporation should be balanced to equitably represent the interests of IP number registries, domain name registries, domain name registrars, the technical community, Internet service providers (ISPs), and Internet users (commercial, not-for-profit, and individuals) from around the world. Since these constituencies are international, we would expect the board of directors to be broadly representative of the global Internet community.

As outlined in appropriate organizational documents, (Charter, Bylaws, etc.) the new corporation should:

2) direct the Interim Board to establish a system for electing a Board of Directors for the new corporation that insures that the new corporation's Board of Directors reflects the geographical and functional diversity of the Internet, and is sufficiently flexible to permit evolution to reflect changes in the constituency of Internet stakeholders. Nominations to the Board of Directors should preserve, as much as possible, the tradition of bottom-up governance of the Internet, and Board Members should be elected from membership or other associations open to all or through other mechanisms that ensure broad representation and participation in the election process.

3) direct the Interim Board to develop policies for the addition of TLDs, and establish the qualifications for domain name registries and domain name registrars within the system.

4) restrict official government representation on the Board of Directors without precluding governments and intergovernmental organizations from participating as Internet users or in a non-voting advisory capacity.

1) appoint, on an interim basis, an initial Board of Directors (an Interim Board) consisting of individuals representing the functional and geographic diversity of the Internet community. The Interim Board would likely need access to legal counsel with expertise in corporate law, competition law, intellectual property law, and emerging Internet law. The Interim Board could serve for a fixed period, until the Board of Directors is elected and installed, and we anticipate that members of the Interim Board would not

themselves serve on the Board of Directors of the new corporation for a fixed period thereafter.

Governance. The organizing documents (Charter, Bylaws, etc.) should provide that the new corporation is governed on the basis of a sound and transparent decision-making process, which protects against capture by a self-interested faction, and which provides for robust, professional management of the new corporation. The new corporation could rely on separate, diverse, and robust name and number councils responsible for developing, reviewing, and recommending for the board's approval policy related to matters within each council's competence. Such councils, if developed, should also abide by rules and decision-making processes that are sound, transparent, protect against capture by a self-interested party and provide an open process for the presentation of petitions for consideration. The elected Board of Directors, however, should have final authority to approve or reject policies recommended by the councils.

Operations. The new corporation's processes should be fair, open and pro-competitive, protecting against capture by a narrow group of stakeholders. Typically this means that decision-making processes should be sound and transparent; the basis for corporate decisions should be recorded and made publicly available. Super-majority or even consensus requirements may be useful to protect against capture by a self-interested faction. The new corporation does not need any special grant of immunity from the antitrust laws so long as its policies and practices are reasonably based on, and no broader than necessary to promote the legitimate coordinating objectives of the new corporation. Finally, the commercial importance of the Internet necessitates that the operation of the DNS system, and the operation of the authoritative root server system should be secure, stable, and robust.

The new corporation's charter should provide a mechanism whereby its governing body will evolve to reflect changes in the constituency of Internet stakeholders. The new corporation could, for example, establish an open process for the presentation of petitions to expand board representation.

Trademark Issues. Trademark holders and domain name registrants and others should have access to searchable databases of registered domain names that provide information necessary to contact a domain name registrant when a conflict arises between a trademark holder and a domain name holder.(21) To this end, we anticipate that the policies established by the new corporation would provide that following information would be included in all registry databases and available to anyone with access to the Internet:

- up-to-date and historical chain of registration information for the domain name;

- a mail address for service of process;

- the date of domain name registration;

- the date that any objection to the registration of the domain name is filed; and

- any other information determined by the new corporation to be reasonably necessary to resolve disputes between domain name registrants and trademark holders expeditiously.

- up-to-date registration and contact information;

Further, the U.S. Government recommends that the new corporation adopt policies whereby:

2) Domain name registrants would agree, at the time of registration or renewal, that in cases involving cyberpiracy or cybersquatting (as opposed to conflicts between legitimate competing rights holders), they would submit to and be bound by alternative dispute resolution systems identified by the new corporation for the purpose of resolving those conflicts. Registries and Registrars should be required to abide by decisions of the ADR system.

3) Domain name registrants would agree, at the time of registration or renewal, to abide by processes adopted by the new corporation that exclude, either pro-actively or retroactively, certain famous trademarks from being used as domain names (in one or more TLDs) except by the designated trademark holder.

4) Nothing in the domain name registration agreement or in the operation of the new corporation should limit the rights that can be asserted by a domain name registrant or trademark owner under national laws.

1) Domain registrants pay registration fees at the time of registration or renewal and agree to submit infringing domain names to the authority of a court of law in the jurisdiction in which the registry, registry database, registrar, or the "A" root servers are located.

THE TRANSITION

Based on the processes described above, the U.S. Government believes that certain actions should be taken to accomplish the objectives set forth above. Some of these steps must be taken by the government itself, while others will need to be taken by the private sector. For example, a new not-for-profit organization must be established by the private sector and its Interim Board chosen. Agreement must be reached between the U.S. Government and the new corporation relating to transfer of the functions currently performed by IANA. NSI and the U.S. Government must reach agreement on the terms and conditions of NSI's evolution into one competitor among many in the registrar and registry marketplaces. A process must be laid out for making the management of the root server system more robust and secure. A relationship between the U.S. Government and the new corporation must be developed to transition DNS management to the private sector and to transfer management functions.

During the transition the U.S. Government expects to:

2) enter into agreement with the new corporation under which it assumes responsibility for management of the domain name space;

3) ask WIPO to convene an international process including individuals from the private sector and government to develop a set of recommendations for trademark/domain name dispute resolutions and other issues to be presented to the Interim Board for its consideration as soon as possible;

4) consult with the international community, including other interested governments as it makes decisions on the transfer; and

5) undertake, in cooperation with IANA, NSI, the IAB, and other relevant organizations from the public and private sector, a review of the root server system to recommend means to increase the security and professional management of the system. The recommendations of the study should be implemented as part of the transition process; and the new corporation should develop a comprehensive security strategy for DNS management and operations.

1) ramp down the cooperative agreement with NSI with the objective of introducing competition into the domain name space. Under the ramp down agreement NSI will agree to (a) take specific actions, including commitments as to pricing and equal access, designed to permit the development of competition in domain name registration and to approximate what would be expected in the presence of marketplace competition, (b) recognize the role of the new corporation to establish and implement DNS policy and to establish terms (including licensing terms) applicable to new and existing gTLDs and registries under which registries, registrars and gTLDs are permitted to operate, (c) make available on an ongoing basis appropriate databases, software, documentation thereof, technical expertise, and other intellectual property for DNS management and shared registration of domain names;

ENDNOTES

1. Available at <http://www.ecommerce.gov>.

2. July 2, 1997 RFC and public comments are located at: <http://www.ntia.doc.gov/ntiahome/domainname/index.html>.

3. [3]The RFC, the Green Paper, and comments received in response to both documents are available on the Internet at the following address: <http://www.ntia.doc.gov>. Additional comments were submitted after March 23, 1998. These comments have been considered and treated as part of the official record and have been separately posted at the same site, although the comments were not received by the deadline established in the February 20, 1998 Federal Register Notice.

4. See Administrative Law Requirements at p. 19.

5. See Scientific and Advanced-Technology Act of 1992; Pub. L. 102-476 § 4(9), 106 Stat. 2297, 2300 (codified at 42 U.S.C. § 1862 (a)).

6. An unofficial diagram of the general geographic location and institutional affiliations of the 13 Internet root servers, prepared by Personal Data Redacted i, is available at <http://www.wia.org/pub/rootserv.html [3]>.

7. For further information about these systems see: name.space: <http://namespace.pgmedia.net>; AlterNIC: <http://www.alternic.net>; eDNS: <http://www.edns.net [4]>. Reference to these organizations does not constitute an endorsement of their commercial activities.

8. Lengthy discussions by the Internet technical community on DNS issues generally and on the Postel DNS proposal took place on the *newdom, com-priv, ietf* and *domain-policy* Internet mailing lists.

9. [9] See *draft-Postel-iana-itld-admin-01.txt*; available at <http://www.newdom.com/archive>.

10. For further information about the IAHC see: <http://www.iahc.org [5]> and related links. Reference to this organization does not constitute an endorsement of the commercial activities of its related organizations.

11. December 1996 draft: *draft-iahc-gtldspec-00.txt;* available at <http://info.internet.isi.edu:80/in-drafts/files>.

12. The IAHC final report is available at <http://www.iahc.org/draft-iahc-recommend-00.html>.

13. See generally public comments received in response to July 2, 1997 RFC located at <http://www.ntia.doc.gov/ntiahome/domainname/email>.

14. For a discussion, see Congressional testimony of Personal Data Redacted , Before the House Committee on Science, Subcommittee on Basic Research, September 25, 1997 available at <http://www.ntia.doc.gov/ntiahome/domainname/email>.

15. See generally public comments received in response to July 2, 1997 RFC located at <http://www.ntia.doc.gov/ntiahome/domainname/email>.

16. [16]The document was published in the *Federal Register* on February 20, 1998, (63 Fed. Reg. 8826 (Feb. 20, 1998)).

17. As used herein, the term "new corporation" is intended to refer to an entity formally organized under well recognized and established business law standards.

18. As noted in the Summary, the President directed the Secretary of Commerce to privatize DNS in a manner that increases competition and facilitates international participation in its management. Accordingly, the Department of Commerce will lead the coordination of the U.S. government's role in this transition.

19. 1998 Supplemental Appropriations and Rescissions Act; Pub. L. 105-174; 112 Stat. 58.

20. [20] Management principles for the .us domain space are set forth in Internet RFC 1480, (http://www.isi.edu/in-notes/rfc1480.txt).

21. These databases would also benefit domain name holders by making it less expensive for new registrars and registries to identify potential customers, enhancing competition and lowering prices.

Source URL: http://www.ntia.doc.gov/federal-register-notice/1998/statement-policy-management-internet-names-and-addresses

Links:
[1] http://www.ntia.doc.gov/category/domain-name-system
[2] mailto:dnspolicy@ntia.doc.gov
[3] http://www.wia.org/pub/rootserv.html
[4] http://www.edns.net./
[5] http://www.iahc.org./

Exhibit 20

Published on *National Telecommunications and Information Administration* (https://www.ntia.doc.gov)

Improvement of Technical Management of Internet Names and Addresses; Proposed Rule

Date:
February 20, 1998
Docket Number:
980212036-8036-01

[Federal Register: February 20, 1998 (Volume 63, Number 34)]
[Proposed Rules]
[Page 8825-8833]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr20fe98-24]

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Part IV

Department of Commerce

National Telecommunications and Information Administration

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15 CFR Chapter XXIII

Improvement of Technical Management of Internet Names and Addresses; Proposed Rule

[[Page 8826]]

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Chapter XXIII

[Docket No. 980212036-8036-01]
RIN 0660-AA11

Improvement of Technical Management of Internet Names and Addresses

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Proposed rule; request for public comment.

SUMMARY: This document sets forth ways to improve technical management of the Internet Domain Name System (DNS). Specifically, it describes the process by which the Federal government will transfer management of the Internet DNS to a private not-for-profit corporation. The document also proposes to open up to competition the administration of top level domains and the registration of domain names.

DATES: Comments must be received by March 23, 1998.

ADDRESSES: Comments may be mailed to Personal Data Redacted , National Telecommunications and Information Administration (NTIA), Room 4701, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 or sent via electronic mail to dns@ntia.doc.gov. Messages to that address will receive a reply in acknowledgment. Comments submitted in electronic form should be in ASCII, WordPerfect (please specify version), or Microsoft Word (please specify version) format. Comments received will be posted on the NTIA website at http://www.ntia.doc.gov. Detailed information about electronic filing is available on the NTIA website, http://www.ntia.doc.gov/domainname/domainname130.htm. Paper submissions should include three paper copies and a version on diskette in the formats specified above.

FOR FURTHER INFORMATION CONTACT: Karen Rose, NTIA, (202) 482-0365.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 1512; 47 U.S.C. 902(b)(2)(H); 47 U.S.C. 902 (b)(2)(I); 47 U.S.C. 902(b)(2)(M); 47 U.S.C. 904(c)(1).

I. Introduction

On July 1, 1997, The President directed the Secretary of Commerce to privatize, increase competition in, and promote international participation in the domain name system. Domain names are the familiar and easy-to-remember names for Internet computers (e.g. ``www.ecommerce.gov''). They map to unique Internet Protocol (IP) numbers (e.g., 98.37.241.30) that serve as routing addresses on the Internet. The domain name system (DNS) translates Internet names into the IP numbers needed for transmission of information across the network. On July 2, 1997, the Department of Commerce issued a Request for Comments (RFC) on DNS administration (62 FR 35896). This proposed rule, shaped by over 430 comments received in response to the RFC, provides notice and seeks public comment on a proposal to transfer control of Internet domain names from government to a private, nonprofit corporation.

II. Background

Today's Internet is an outgrowth of U.S. government investments in packet-switching technology and communications networks carried out under agreements with the Defense Advanced Research Projects Agency (DARPA), the National Science Foundation (NSF) and other U.S. research agencies. The government encouraged bottom-up development of networking technologies through work at NSF, which established the NSFNET as a network for research and education. The NSFNET fostered a wide range of applications, and in 1992 the U.S. Congress gave the National Science Foundation statutory authority to commercialize the NSFNET, which formed the basis for today's Internet.

As a legacy, major components of the domain name system are still performed by or subject to agreements with agencies of the U.S. government.

A. Assignment of Numerical Addresses to Internet Users

Every Internet computer has a unique IP number. The Internet Assigned Numbers Authority (IANA), headed by Dr. Jon Postel of the Information Sciences Institute (ISI) at the University of Southern California, coordinates this system by allocating blocks of numerical addresses to regional IP registries (ARIN in North America, RIPE in Europe, and APNIC in the Asia/Pacific region), under contract with DARPA. In turn, larger Internet service providers apply to the regional IP registries for blocks of IP addresses. The recipients of those address blocks then reassign addresses to smaller Internet service providers and to end users.

B. Management of the System of Registering Names for Internet Users

The domain name space is constructed as a hierarchy. It is divided into top-level domains (TLDs), with each TLD then divided into second-level domains (SLDs), and so on. More than 200 national, or country-code, TLDs (ccTLDs) are administered by their corresponding governments or by private entities with the appropriate national government's acquiescence. A small set of generic top-level domains (gTLDs) do not carry any national identifier, but denote the intended function of that portion of the domain space. For example, .com was established for commercial users, .org for not-for-profit organizations, and .net for network service providers. The registration and propagation of these key gTLDs are performed by Network Solutions, Inc. (NSI), a Virginia-based company, under a five-year cooperative agreement with NSF. This agreement includes an optional ramp-down period that expires on September 30, 1998.

C. Operation of the Root Server System

The root server system contains authoritative databases listing the TLDs so that an Internet message can be routed to its destination. Currently, NSI operates the ``A'' root server, which maintains the authoritative root database and replicates changes to the other root servers on a daily basis. Different organizations, including NSI, operate the other 12 root servers. In total, the U.S. government plays a direct role in the operation of half of the world's root servers. Universal connectivity on the Internet cannot be guaranteed without a set of authoritative and consistent roots.

D. Protocol Assignment

The Internet protocol suite, as defined by the Internet Engineering Task Force (IETF), contains many technical parameters, including protocol numbers, port numbers, autonomous system numbers, management information base object identifiers and others. The common use of these protocols by the Internet community requires that the particular values used in these fields be assigned uniquely. Currently, IANA, under contract with DARPA, makes these assignments and maintains a registry of the assigned values.

III. The Need For Change

From its origins as a U.S.-based research vehicle, the Internet is rapidly becoming an international medium for commerce, education and communication. The traditional means

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of organizing its technical functions need to evolve as well. The pressures for change are coming from many different quarters:

- There is widespread dissatisfaction about the absence of competition in domain name registration.
- Mechanisms for resolving conflict between trademark holders and domain name holders are expensive and cumbersome.
- Without changes, a proliferation of lawsuits could lead to chaos as tribunals around the world apply the antitrust law and intellectual property law of their jurisdictions to the Internet.
- Many commercial interests, staking their future on the successful growth of the Internet, are calling for a more formal and robust management structure.
- An increasing percentage of Internet users reside outside of the U.S., and those stakeholders want a larger voice in Internet coordination.
- As Internet names increasingly have commercial value, the decision to add new top-level domains cannot continue to be made on an ad hoc basis by entities or individuals that are not formally accountable to the Internet community.
- As the Internet becomes commercial, it becomes inappropriate for U.S. research agencies (NSF and DARPA) to participate in and fund these functions.

IV. The Future Role of the U.S. Government in the DNS

On July 1, 1997, as part of the Clinton Administration's Framework for Global Electronic Commerce, the President directed the Secretary of Commerce to privatize, increase competition in, and promote international participation in the domain name system.

Accordingly, on July 2, 1997, the Department of Commerce issued a Request for Comments (RFC) on DNS administration, on behalf of an inter-agency working group previously formed to explore the appropriate future role of the U.S. government in the DNS. The RFC solicited public input on issues relating to the overall framework of the DNS system, the creation of new top-level domains, policies for registrars, and trademark issues. During the comment period, over 430 comments were received, amounting to some 1500 pages.1

\1\ The RFC and comments received are available on the Internet at the following address: .

This discussion draft, shaped by the public input described above, provides notice and seeks public comment on a proposal to improve the technical management of Internet names and addresses. It does not propose a monolithic structure for Internet governance. We doubt that the Internet should be governed by one plan or one body or even by a series of plans and bodies. Rather, we seek to create mechanisms to solve a few, primarily technical (albeit critical) questions about administration of Internet names and numbers.

We expect that this proposal will likely spark a lively debate, requiring thoughtful analysis, and appropriate revisions. Nonetheless, we are hopeful that reasonable consensus can be found and that, after appropriate modifications, implementation can begin in April, 1998. Recognizing that no solution will win universal support, the U.S. government seeks as much consensus as possible before acting.

V. Principles for a New System

Our consultations have revealed substantial differences among Internet stakeholders on how the domain name system should evolve. Since the Internet is changing so rapidly, no one entity or individual can claim to know what is best for the Internet. We certainly do not believe that our views are uniquely prescient. Nevertheless, shared principles have emerged from our discussions with Internet stakeholders.

A. Stability

The U.S. government should end its role in the Internet number and name address systems in a responsible manner. This means, above all else, ensuring the stability of the Internet. The Internet functions well today, but its current technical management is probably not viable over the long term. We should not wait for it to break down before acting. Yet, we should not move so quickly, or depart so radically from the existing structures, that we disrupt the functioning of the Internet. The introduction of a new system should not disrupt current operations, or create competing root systems.

B. Competition

The Internet succeeds in great measure because it is a decentralized system that encourages innovation and maximizes individual freedom. Where possible, market mechanisms that support competition and consumer choice should drive the technical management of the Internet because they will promote innovation, preserve diversity, and enhance user choice and satisfaction.

C. Private, Bottom-Up Coordination

Certain technical management functions require coordination. In these cases, responsible, private-sector action is preferable to government control. A private coordinating process is likely to be more flexible than government and to move rapidly enough to meet the changing needs of the Internet and of Internet users. The private process should, as far as possible, reflect the bottom-up governance that has characterized development of the Internet to date.

D. Representation

Technical management of the Internet should reflect the diversity

of its users and their needs. Mechanisms should be established to ensure international input in decision making.

In keeping with these principles, we divide the name and number functions into two groups, those that can be moved to a competitive system and those that should be coordinated. We then suggest the creation of a representative, not-for-profit corporation to manage the coordinated functions according to widely accepted objective criteria. We then suggest the steps necessary to move to competitive markets in those areas that can be market driven. Finally, we suggest a transition plan to ensure that these changes occur in an orderly fashion that preserves the stability of the Internet.

VI. The Proposal

A. The Coordinated Functions

Management of number addresses is best done on a coordinated basis. As technology evolves, changes may be needed in the number allocation system. These changes should also be undertaken in a coordinated fashion.

Similarly, coordination of the root server network is necessary if the whole system is to work smoothly. While day-to-day operational tasks, such as the actual operation and maintenance of the Internet root servers, can be contracted out, overall policy guidance and control of the TLDs and the Internet root server system should be vested in a single organization that is representative of Internet users.

Finally, coordinated maintenance and dissemination of the protocol parameters for Internet addressing will best preserve the stability and interconnectivity of the Internet.

We propose the creation of a private, not-for-profit corporation (the new corporation) to manage the coordinated functions in a stable and open institutional framework. The new corporation should operate as a private

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entity for the benefit of the Internet as a whole. The new corporation would have the following authority:

1. To set policy for and direct the allocation of number blocks to regional number registries for the assignment of Internet addresses;
2. To oversee the operation of an authoritative root server system;
3. To oversee policy for determining, based on objective criteria clearly established in the new organization's charter, the circumstances under which new top-level domains are added to the root system; and
4. To coordinate the development of other technical protocol parameters as needed to maintain universal connectivity on the Internet.

The U.S. government would gradually transfer existing IANA functions, the root system and the appropriate databases to this new not-for-profit corporation. This transition would commence as soon as possible, with operational responsibility moved to the new entity by September 30, 1998. The U.S. government would participate in policy oversight to assure stability until the new corporation is established and stable, phasing out as soon as possible and in no event later than September 30, 2000. The U.S. Department of Commerce will coordinate the U.S. government policy role. In proposing these dates, we are trying to balance concerns about a premature U.S. government exit that turns the domain name system over to a new and untested entity against the

concern that the U.S. government will never relinquish its current management role.

The new corporation will be funded by domain name registries and regional IP registries. Initially, current IANA staff will move to this new organization to provide continuity and expertise throughout the period of time it takes to establish the new corporation. The new corporation should hire a chief executive officer with a background in the corporate sector to bring a more rigorous management to the organization than was possible or necessary when the Internet was primarily a research medium. As these functions are now performed in the United States, the new corporation will be headquartered in the United States, and incorporated under U.S. law as a not-for-profit corporation. It will, however, have and report to a board of directors from around the world.

It is probably impossible to establish and maintain a perfectly representative board for this new organization. The Internet community is already extraordinarily diverse and likely to become more so over time. Nonetheless, the organization and its board must derive legitimacy from the participation of key stakeholders. Since the organization will be concerned mainly with numbers, names and protocols, its board should represent membership organizations in each of these areas, as well as the direct interests of Internet users.

The board of directors for the new corporation should be balanced to equitably represent the interests of IP number registries, domain name registries, domain name registrars, the technical community, and Internet users (commercial, not-for-profit, and individuals). Officials of governments or intergovernmental organizations should not serve on the board of the new corporation. Seats on the initial board might be allocated as follows:

Three directors from a membership association of regional number registries, representing three different regions of the world. Today this would mean one each from ARIN, APNIC and RIPE. As additional regional number registries are added, board members could be designated on a rotating basis or elected by a membership organization made up of regional registries. ARIN, RIPE and APNIC are open membership organizations that represent entities with large blocks of numbers. They have the greatest stake in and knowledge of the number address system. They are also representative internationally.

Two members designated by the Internet Architecture Board (IAB), an international membership board that represents the technical community of the Internet.

Two members designated by a membership association (to be created) representing domain name registries and registrars.

Seven members designated by a membership association (to be created) representing Internet users. At least one of those board seats could be designated for an individual or entity engaged in non-commercial, not-for-profit use of the Internet, and one for individual end users. The remaining seats could be filled by commercial users, including trademark holders.

The CEO of the new corporation would serve on the board of directors.

The new corporation's processes should be fair, open and pro-competitive, protecting against capture by a narrow group of stakeholders. Its decision-making processes should be sound and transparent; the bases for its decisions should be recorded and made publicly available. Super-majority or even consensus requirements may be useful to protect against capture by a self-interested faction. The new corporation's charter should provide a mechanism whereby its governing body will evolve to reflect changes in the constituency of Internet stakeholders. The new corporation should establish an open

process for the presentation of petitions to expand board representation.

In performing the functions listed above, the new corporation will act much like a standard-setting body. To the extent that the new corporation operates in an open and pro-competitive manner, its actions will withstand antitrust scrutiny. Its standards should be reasonably based on, and no broader than necessary to promote its legitimate coordinating objectives. Under U.S. law, a standard-setting body can face antitrust liability if it is dominated by an economically interested entity, or if standards are set in secret by a few leading competitors. But appropriate processes and structure will minimize the possibility that the body's actions will be, or will appear to a court to be, anti-competitive.

B. The Competitive Functions

The system for registering second-level domain names and the management of the TLD registries should become competitive and market-driven.

In this connection, we distinguish between registries and registrars. A ``registry,'' as we use the term, is responsible for maintaining a TLD's zone files, which contain the name of each SLD in that TLD and each SLD's corresponding IP number. Under the current structure of the Internet, a given TLD can have no more than one registry. A ``registrar'' acts as an interface between domain-name holders and the registry, providing registration and value-added services. It submits to the registry zone file information and other data (including contact information) for each of its customers in a single TLD. Currently, NSI acts as both the exclusive registry and as the exclusive registrar for .com, .net, .org, and .edu.

Both registry and registrar functions could be operated on a competitive basis. Just as NSI acts as the registry for .com, .net, and .org, other companies could manage registries with different TLDs such as .vend or .store. Registrars could provide the service of obtaining domain names for customers in any gTLD. Companies that design Web sites for customers might, for example, provide registration as an adjunct to other services. Other companies may perform this function as a stand-alone business.

There appears to be strong consensus that, at least at this time, domain name

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registration--the registrar function--should be competitive. There is disagreement, however, over the wisdom of promoting competition at the registry level.

Some have made a strong case for establishing a market-driven registry system. Competition among registries would allow registrants to choose among TLDs rather than face a single option. Competing TLDs would seek to heighten their efficiency, lower their prices, and provide additional value-added services. Investments in registries could be recouped through branding and marketing. The efficiency, convenience, and service levels associated with the assignment of names could ultimately differ from one TLD registry to another. Without these types of market pressures, they argue, registries will have very little incentive to innovate.

Others feel strongly, however, that if multiple registries are to exist, they should be undertaken on a not-for-profit basis. They argue that lack of portability among registries (that is, the fact that users cannot change registries without adjusting at least part of their

domain name string) could create lock-in problems and harm consumers. For example, a registry could induce users to register in a top-level domain by charging very low prices initially and then raise prices dramatically, knowing that name holders will be reluctant to risk established business by moving to a different top-level domain.

We concede that switching costs and lock-in could produce the scenario described above. On the other hand, we believe that market mechanisms may well discourage this type of behavior. On balance, we believe that consumers will benefit from competition among market oriented registries, and we thus support limited experimentation with competing registries during the transition to private sector administration of the domain name system.

C. The Creation of New gTLDs

Internet stakeholders disagree about who should decide when a new top-level domain can be added and how that decision should be made. Some believe that anyone should be allowed to create a top-level domain registry. They argue that the market will decide which will succeed and which will not. Others believe that such a system would be too chaotic and would dramatically increase customer confusion. They argue that it would be far more complex technically, because the root server system would have to point to a large number of top-level domains that were changing with great frequency. They also point out that it would be much more difficult for trademark holders to protect their trademarks if they had to police a large number of top-level domains.

All these arguments have merit, but they all depend on facts that only further experience will reveal. At least in the short run, a prudent concern for the stability of the system requires that expansion of gTLDs proceed at a deliberate and controlled pace to allow for evaluation of the impact of the new gTLDs and well-reasoned evolution of the domain space. The number of new top-level domains should be large enough to create competition among registries and to enable the new corporation to evaluate the functioning, in the new environment, of the root server system and the software systems that enable shared registration. At the same time, it should not be so large as to destabilize the Internet.

We believe that during the transition to private management of the DNS, the addition of up to five new registries would be consistent with these goals. At the outset, we propose that each new registry be limited to a single top-level domain. During this period, the new corporation should evaluate the effects that the addition of new gTLDs have on the operation of the Internet, on users, and on trademark holders. After this transition, the new corporation will be in a better position to decide whether or when the introduction of additional gTLDs is desirable.

Individual companies and consortia alike may seek to operate specific generic top-level domains. Competition will take place on two levels. First, there will be competition among different generic top-level domains. Second, registrars will compete to register clients into these generic top-level domains. By contrast, existing national registries will continue to administer country-code top-level domains if these national government seek to assert those rights. Changes in the registration process for these domains are up to the registries administering them and their respective national governments.

Some have called for the creation of a more descriptive system of top-level domains based on industrial classifications or some other easy to understand schema. They suggest that having multiple top-level domains is already confusing and that the addition of new generic TLDs will make it more difficult for users to find the companies they are

seeking.

Market driven systems result in innovation and greater consumer choice and satisfaction in the long run. We expect that in the future, directory services of various sorts will make it easy for users to find the sites they seek regardless of the number of top-level domains. Attempts to impose too much central order risk stifling a medium like the Internet that is decentralized by nature and thrives on freedom and innovation.

D. The Trademark Dilemma

It is important to keep in mind that trademark/domain name disputes arise very rarely on the Internet today. NSI, for example, has registered millions of domain names, only a tiny fraction of which have been challenged by a trademark owner. But where a trademark is unlawfully used as a domain name, consumers may be misled about the source of the product or service offered on the Internet, and trademark owners may not be able to protect their rights without very expensive litigation.

For cyberspace to function as an effective commercial market, businesses must have confidence that their trademarks can be protected. On the other hand, management of the Internet must respond to the needs of the Internet community as a whole, and not trademark owners exclusively. The balance we strike is to provide trademark holders with the same rights they have in the physical world, to ensure transparency, to guarantee a dispute resolution mechanism with resort to a court system, and to add new top-level domains carefully during the transition to private sector coordination of the domain name system.

There are certain steps that could be taken in the application process that would not be difficult for an applicant, but that would make the trademark owner's job easier. For instance, gTLD registrants could supply basic information--including the applicant's name and sufficient contact information to be able to locate the applicant or its representative. To deter the pirating of domain names, the registry could also require applicants to certify that it knows of no entity with superior rights in the domain name it seeks to register.

The job of policing trademarks could be considerably easier if domain name databases were readily searchable through a common interface to determine what names are registered, who holds those domain names, and how to contact a domain name holder. Many trademark holders find the current registration search tool, who is, too limited in its functioning to be effective for this purpose. A more robust and flexible search tool, which features multiple field or string searching and retrieves similar names, could be

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employed or developed to meet the needs of trademark holders. The databases also could be kept up to date by a requirement that domain name registrants maintain up-to-date contact information.

Mechanisms that allow for on-line dispute resolution could provide an inexpensive and efficient alternative to litigation for resolving disputes between trademark owners and domain name registrants. A swift dispute resolution process could provide for the temporary suspension of a domain name registration if an adversely affected trademark holder objects within a short time, e.g. 30 days, of the initial registration. We seek comment on whether registries should be required to resolve disputes within a specified period of time after an opposition is filed, and if so, how long that period should be.

Trademark holders have expressed concern that domain name registrants in faraway places may be able to infringe their rights with no convenient jurisdiction available in which the trademark owner could file suit to protect those rights. At the time of registration, registrants could agree that, in the event of a trademark dispute involving the name registered, jurisdiction would lie where the registry is domiciled, where the registry database in maintained, or where the ``A'' root server is maintained. We seek comment on this proposal, as well as suggestions for how such jurisdictional provisions could be implemented.

Trademark holders have also called for the creation of some mechanism for ``clearing'' trademarks, especially famous marks, across a range of gTLDs. Such mechanisms could reduce trademark conflict associated with the addition of new gTLDs. Again, we seek comment on this proposal, and suggested mechanisms for trademark clearance processes.

We stop short of proposals that could significantly limit the flexibility of the Internet, such as waiting periods or not allowing any new top-level domains.

We also do not propose to establish a monolithic trademark dispute resolution process at this time, because it is unclear what system would work best. Even trademark holders we have consulted are divided on this question. Therefore, we propose that each name registry must establish minimum dispute resolution and other procedures related to trademark considerations. Those minimum procedures are spelled out in Appendix 2. Beyond those minimums, registries would be permitted to establish additional trademark protection and trademark dispute resolution mechanisms.

We also propose that shortly after their introduction into the root, a study be undertaken on the effects of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property right holders. This study should be conducted under the auspices of a body that is internationally recognized in the area of dispute resolution procedures, with input from trademark and domain name holders and registries. The findings of this study should be submitted to the board of the new corporation and considered when it makes decisions on the creation and introduction of new gTLDs. Information on the strengths and weaknesses of different dispute resolution procedures should also give the new corporation guidance for deciding whether the established minimum criteria for dispute resolution should be amended or maintained. Such a study could also provide valuable input with respect to trademark harmonization generally.

U.S. trademark law imposes no general duty on a registrar to investigate the propriety of any given registration.2 Under existing law, a trademark holder can properly file a lawsuit against a domain name holder that is infringing or diluting the trademark holder's mark. But the law provides no basis for holding that a registrar's mere registration of a domain name, at the behest of an applicant with which it has an arm's-length relationship, should expose it to liability.3 Infringers, rather than registrars, registries, and technical management bodies, should be liable for trademark infringement. Until case law is fully settled, however, registries can expect to incur legal expenses in connection with trademark disputes as a cost of doing business. These costs should not be borne by the new not-for-profit corporation, and therefore registries should be required to indemnify the new corporation for costs incurred in connection with trademark disputes. The evolution of litigation will be one of the factors to be studied by the group tasked to review Internet trademark issues as the new structure evolves.

\2\ See generally MDT Corp. v. New York Stock Exchange, 858 F. Supp. 1028 (C.D. Calif. 1994).

\3\ See Lockheed Martin Corp. v. Network Solutions, Inc., 1997 WL 721899 (C.D. Calif. 11/17/97); Panavision International v. Toeppen, 1996 U.S. Dist. LEXIS 20744, 41 U.S.P.Q.2d 1310 (C.D. Calif. 1996).

E. The Intellectual Infrastructure Fund

In 1995, NSF authorized NSI to assess new domain name registrants a $50 fee per year for the first two years, 30 percent of which was to be deposited in a fund for the preservation and enhancement of the intellectual infrastructure of the Internet (the ``Intellectual Infrastructure Fund'').

In excess of $46 Million has been collected to date. In 1997, Congress authorized the crediting of $23 Million of the funds collected to the Research and Related Activities Appropriation of the National Science Foundation to support the development of the Next Generation Internet. The establishment of the Intellectual Infrastructure Fund currently is the subject of litigation in the U.S. District Court for the District of Columbia.

As the U.S. government is seeking to end its role in the domain name system, we believe the provision in the cooperative agreement regarding allocation of a portion of the registration fee to the Internet Intellectual Infrastructure Fund should terminate on April 1, 1998, the beginning of the ramp-down period of the cooperative agreement.

VII. The Transition

A number of steps must be taken to create the system envisioned in this paper.

1. The new not-for-profit organization must be established and its board chosen.

2. The membership associations representing (1) registries and registrars, and (2) Internet users, must be formed.

3. An agreement must be reached between the U.S. government and the current IANA on the transfer of IANA functions to the new organization.

4. NSI and the U.S. government must reach agreement on the terms and conditions of NSI's evolution into one competitor among many in the registrar and registry marketplaces. A level playing field for competition must be established.

5. The new corporation must establish processes for determining whether an organization meets the transition period criteria for prospective registries and registrars.

6. A process must be laid out for making the management of the root server system more robust and secure, and, for transitioning that management from U.S. government auspices to those of the new corporation.

A. The NSI Agreement

The U.S. government will ramp down the NSI cooperative agreement and phase it out by the end of September 1998. The ramp down agreement with NSI should reflect the following terms and conditions designed to promote competition in the domain name space.

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1. NSI will effectively separate and maintain a clear division between its current registry business and its current registrar business. NSI will continue to operate .com, .net and .org but on a fully shared-registry basis; it will shift operation of .edu to a not-for-profit entity. The registry will treat all registrars on a nondiscriminatory basis and will price registry services according to an agreed upon formula for a period of time.

2. As part of the transition to a fully shared-registry system, NSI will develop (or license) and implement the technical capability to share the registration of its top-level domains with any registrar so that any registrar can register domain names there in as soon as possible, by a date certain to be agreed upon.

3. NSI will give the U.S. government a copy and documentation of all the data, software, and appropriate licenses to other intellectual property generated under the cooperative agreement, for use by the new corporation for the benefit of the Internet.

4. NSI will turn over control of the ``A'' root server and the management of the root server system when instructed to do so by the U.S. government.

5. NSI will agree to meet the requirements for registries and registrars set out in Appendix 1.

B. Competitive Registries, Registrars, and the Addition of New gTLDs

Over the past few years, several groups have expressed a desire to enter the registry or registrar business. Ideally, the U.S. government would stay its hand, deferring the creation of a specific plan to introduce competition into the domain name system until such time as the new corporation has been organized and given an opportunity to study the questions that such proposals raise. Should the transition plan outlined below, or some other proposal, fail to achieve substantial consensus, that course may well need to be taken.

Realistically, however, the new corporation cannot be established overnight. Before operating procedures can be established, a board of directors and a CEO must be selected. Under a best case scenario, it is unlikely that the new corporation can be fully operational before September 30, 1998. It is our view, based on widespread public input, that competition should be introduced into the DNS system more quickly.

We therefore set out below a proposal to introduce competition into the domain name system during the transition from the existing U.S. government authority to a fully functioning coordinating body. This proposal is designed only for the transition period. Once the new corporation is formed, it will assume authority over the terms and conditions for the admission of new top-level domains.

Registries and New gTLDs

This proposal calls for the creation of up to five new registries, each of which would be initially permitted to operate one new gTLD. As discussed above, that number is large enough to provide valuable information about the effects of adding new gTLDs and introducing competition at the registry level, but not so large as to threaten the stability of the Internet during this transition period. In order to designate the new registries and gTLDs, IANA must establish equitable, objective criteria and processes for selecting among a large number of individuals and entities that want to provide registry services. Unsuccessful applicants will be disappointed.

We have examined a number of options for recognizing the development work already underway in the private sector. For example, some argue for the provision of a ``pioneer preference'' or other grand

fathering mechanism to limit the pool of would-be registrants to those who, in response to previous IANA requests, have already invested in developing registry businesses. While this has significant appeal and we do not rule it out, it is not an easy matter to determine who should be in that pool. IANA would be exposed to considerable liability for such determinations, and required to defend against charges that it acted in an arbitrary or inequitable manner. We welcome suggestions as to whether the pool of applicants should be limited, and if so, on what basis.

We propose, that during the transition, the first five entities (whether from a limited or unlimited pool) to meet the technical, managerial, and site requirements described in Appendix 1 will be allowed to establish a domain name registry. The IANA will engage neutral accounting and technical consultancy firms to evaluate a proposed registry under these criteria and certify an applicant as qualified. These registries may either select, in order of their qualification, from a list of available gTLDs or propose another gTLD to IANA. (We welcome suggestions on the gTLDs that should be immediately available and would propose a list based on that input, as well as any market data currently available that indicates consumer interest in particular gTLDs.)

The registry will be permitted to provide and charge for value-added services, over and above the basic services provided to registrars. At least at this time, the registry must, however, operate on a shared registry basis, treating all registrars on a nondiscriminatory basis, with respect to pricing, access and rules. Each TLD's registry should be equally accessible to any qualified registrar, so that registrants may choose their registrars competitively on the basis of price and service. The registry will also have to agree to modify its technical capabilities based on protocol changes that occur in Internet technology so that interoperability can be preserved. At some point in the future, the new organization may consider the desirability of allowing the introduction of non-shared registries.

Registrars

Any entity will be permitted to provide registrar services as long as it meets the basic technical, managerial, and site requirements as described in Appendix 1 of this paper. Registrars will be allowed to register clients into any top-level domain for which the client satisfies the eligibility rules, if any.

C. The Root Server System

IANA and the U.S. government, in cooperation with NSI, the IAB, and other relevant organizations will undertake a review of the root server system to recommend means to increase the security and professional management of the system. The recommendations of the study should be implemented as part of the transition process to the new corporation.

D. The .us Domain

At present, the IANA administers .us as a locality based hierarchy in which second-level domain space is allocated to states and US territories.4 This name space is further subdivided into localities. General registration under localities is performed on an exclusive basis by private firms that have requested delegation from IANA. The .us name space has typically been used by branches of state and local governments, although some commercial names have been assigned. Where registration for a locality has not been delegated, the IANA itself serves as the registrar.

\4\ Management principles for the .us domain space are set forth in Internet RFC 1480, (http://www.isi.edu/in-notes/rfc1480.txt)

Some in the Internet community have suggested that the pressure for unique identifiers in the .com gTLD could be relieved if commercial use of the .us space was encouraged. Commercial

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users and trademark holders, however, find the current locality-based system too cumbersome and complicated for commercial use. Expanded use of the .us TLD could alleviate some of the pressure for new generic TLDs and reduce conflicts between American companies and others vying for the same domain name.

Clearly, there is much opportunity for enhancing the .us domain space, and the .us domain could be expanded in many ways without displacing the current geopolitical structure. Over the next few months, the U.S. government will work with the private sector and state and local governments to determine how best to make the .us domain more attractive to commercial users. It may also be appropriate to move the gTLDs traditionally reserved for U.S. government use (i.e. .gov and .mil), into a reformulated .us ccTLD.

The U.S. government will further explore and seek public input on these issues through a separate Request for Comment on the evolution of the .us name space. However, we welcome any preliminary comments at this time.

E. The Process

The U.S. government recognizes that its unique role in the Internet domain name system should end as soon as is practical. We also recognize an obligation to end this involvement in a responsible manner that preserves the stability of the Internet. We cannot cede authority to any particular commercial interest or any specific coalition of interest groups. We also have a responsibility to oppose any efforts to fragment the Internet, as this would destroy one of the key factors--interoperability--that has made the Internet so successful.

Our goal is to seek as strong a consensus as possible so that a new, open, and accountable system can emerge that is legitimate in the eyes of all Internet stakeholders. It is in this spirit that we present this paper for discussion.

VIII. Other Information

Executive Order 12866

This proposal has been determined not to be significant under section 3(f) of Executive Order 12866.

Executive Order 12612

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy, the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

We believe that the overall effect of the proposal will be highly beneficial. No negative effects are envisioned at this time. In fact, businesses will enjoy a reduction in the cost of registering domain names as a result of this proposal. In 1995, the National Science Foundation authorized a registration fee of $50 per year for the first two years, 30 percent of which was to be deposited in a fund for the preservation and enhancement of the intellectual infrastructure of the Internet (the ``Intellectual Infrastructure Fund''). The proposal seeks to terminate the agreement to earmark a portion of the registration fee to the Intellectual Infrastructure Fund. We also believe that a competitive registration system will lead to reduced fees in registering domain names.

The proposal is pro-competitive because it transfers the current system of domain name registration to a market-driven registry system. Moreover, as the Internet becomes more important to commerce, particularly small businesses, it is crucial that a more formal and robust management structure be implemented. As the commercial value of Internet names increases, decisions regarding the addition of new top-level domains should be formal, certain, and accountable to the Internet community. For example, presently, mechanisms for resolving disputes between trademark holders and domain name holders are expensive and cumbersome. The proposal requires each name registry to establish an inexpensive and efficient dispute resolution system as well as other procedures related to trademark consideration.

The U.S. government would gradually transfer existing Internet Assigned Numbers Authority (IANA) functions, the root system and the appropriate databases to a new not-for-profit corporation by September 30, 1998. The U.S. government would, however, participate in policy oversight to assure stability until the new corporation is established and stable, phasing out completely no later than September 30, 2000. Accordingly, the transition period would afford the U.S. government an opportunity to determine if the structure of the new corporation negatively impacts small entities. Moreover, the corporation would be headquartered in the U.S. and incorporated under U.S. law. Accordingly, the corporation would be subject to antitrust scrutiny if dominated by economically interested entities, or if its standards are established by a few leading competitors.

As a result, no initial regulatory flexibility analysis has been prepared.

Paperwork Reduction Act

This rule does not contain information collection requirements subject to the provisions of the Paperwork Reduction Act.

Kathy Smith,
Acting Deputy Assistant Secretary for Communications and Information.

Appendix 1--Recommended Registry and Registrar Requirements

In order to ensure the stability of the Internet's domain name system, protect consumers, and preserve the intellectual property rights of trademark owners, all registries of generic top-level domain names must meet the set of technical, managerial, and site requirements outlined below. Only prospective registries that meet these criteria will be allowed by IANA to register their gTLD in the

``A'' server. If, after it begins operations, a registry no longer meets these requirements, IANA may transfer management of the domain names under that registry's gTLD to another organization.

Independent testing, reviewing, and inspection called for in the requirements for registries should be done by appropriate certifying organizations or testing laboratories rather than IANA itself, although IANA will define the requirements and the procedures for tests and audits.

These requirements apply only to generic TLDs. They will apply to both existing gTLDs (e.g., .com, .edu., .net, .org) and new gTLDs. Although they are not required to, we expect many ccTLD registries and registrars may wish to assure their customers that they meet these requirements or similar ones.

Registries will be separate from registrars and have only registrars as their customers. If a registry wishes to act both as registry and registrar for the same TLD, it must do so through separate subsidiaries. Appropriate accounting and confidentiality safeguards shall be used to ensure that the registry subsidiary's business is not utilized in any manner to benefit the registrar subsidiary to the detriment of any other registrar.

Each top-level domain (TLD) database will be maintained by only one registry and, at least initially, each new registry can host only one TLD.

Registry Requirements

1. An independently-tested, functioning Database and Communications System that:

a. Allows multiple competing registrars to have secure access (with encryption and authentication) to the database on an equal (first-come, first-served) basis.

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b. Is both robust (24 hours per day, 365 days per year) and scalable (i.e., capable of handling high volumes of entries and inquiries).

c. Has multiple high-throughput (i.e., at least T1) connections to the Internet via at least two separate Internet Service Providers.

d. Includes a daily data backup and archiving system.

e. Incorporates a record management system that maintains copies of all transactions, correspondence, and communications with registrars for at least the length of a registration contract.

f. Features a searchable, on-line database meeting the requirements of Appendix 2.

g. Provides free access to the software and customer interface that a registrar would need to register new second-level domain names.

h. An adequate number (perhaps two or three) of globally-positioned zone-file servers connected to the Internet for each TLD.

2. Independently-reviewed Management Policies, Procedures, and Personnel including:

a. Alternate (i.e., non-litigation) dispute resolution providing a timely and inexpensive forum for trademark-related complaints. (These procedures should be consistent with applicable national laws and compatible with any available judicial or administrative remedies.)

b. A plan to ensure that the registry's obligations to its customers will be fulfilled in the event that the registry goes out

of business. This plan must indicate how the registry would ensure that domain name holders will continue to have use of their domain name and that operation of the Internet will not be adversely affected.

c. Procedures for assuring and maintaining the expertise and experience of technical staff.

d. Commonly-accepted procedures for information systems security to prevent malicious hackers and others from disrupting operations of the registry.

3. Independently inspected Physical Sites that feature:

a. A backup power system including a multi-day power source.

b. A high level of security due to twenty-four-hour guards and appropriate physical safeguards against intruders.

c. A remotely-located, fully redundant and staffed twin facility with ``hot switchover'' capability in the event of a main facility failure caused by either a natural disaster (e.g., earthquake or tornado) or an accidental (fire, burst pipe) or deliberate (arson, bomb) man-made event. (This might be provided at, or jointly supported with, another registry, which would encourage compatibility of hardware and commonality of interfaces.)

Registrar Requirements

Registries will set standards for registrars with which they wish to do business. The following are the minimal qualifications that IANA should mandate that each registry impose and test or inspect before allowing a registrar to access its database(s). Any additional requirements imposed by registries on registrars must be approved by IANA and should not affect the stability of the Internet or substantially reduce competition in the registrar business. Registries may refuse to accept registrations from registrars that fail to meet these requirements and may remove domain names from the registries if at a later time the registrar which registered them no longer meets the requirements for registrars.

1. A functioning Database and Communications System that supports:

a. Secure access (with encryption and authentication) to the registry.

b. Robust and scalable operations capable of handling moderate volumes.

c. Multiple connections to the Internet via at least two Internet Service Providers.

d. A daily data backup and archival system.

e. A record management system that maintains copies of all transactions, correspondence, and communications with all registries for at least the length of a registration contract.

2. Management Policies, Procedures, and Personnel including:

a. A plan to ensure that the registrar's obligations to its customers and to the registries will be fulfilled in the event that the registrar goes out of business. This plan must indicate how the registrar would ensure that domain name holders will continue to have use of their domain name and that operation of the Internet will not be adversely affected.

b. Commonly-accepted procedures for information systems security to prevent malicious hackers and others from disrupting operations.

3. Independently inspected Physical Sites that features:

a. A backup power system.

b. A high level of security due to twenty-four-hour guards and appropriate physical safeguards against intruders.

c. Remotely-stored backup files to permit recreation of customer

records.

Appendix 2--Minimum Dispute Resolution and Other Procedures Related to Trademarks

1. Minimum Application Requirements.
a. Sufficient owner and contact information (e.g., names, mail address for service of process, e-mail address, telephone and fax numbers, etc.) to enable an interested party to contact either the owner/applicant or its designated representative; and a
b. Certification statement by the applicant that:

--It is entitled to register the domain name for which it is applying and knows of no entity with superior rights in the domain name; and
--It intends to use the domain name.

2. Searchable Database Requirements.
a. Utilizing a simple, easy-to-use, standardized search interface that features multiple field or string searching and the retrieval of similar names, the following information must be included in all registry databases, and available to anyone with access to the Internet:

--Up-to-date ownership and contact information;
--Up-to-date and historical chain of title information for the domain name;
--A mail address for service of process;
--The date of the domain name registration; and
--The date an objection to registration of the domain name was filed.

3. Updated Ownership, Contact and Use Information.
a. At any time there is a change in ownership, the domain name owner must submit the following information:

--Up-to-date contact and ownership information; and
--A description of how the owner is using the domain name, or, if the domain name is not in use, a statement to that effect.

4. Alternative Dispute Resolution of Domain Name Conflicts.
a. There must be a readily available and convenient dispute resolution process that requires no involvement by registrars.
b. Registries/Registrars will abide by the decisions resulting from an agreed upon dispute resolution process or by the decision of a court of competent jurisdiction.
If an objection to registration is raised within 30 days after registration of the domain name, a brief period of suspension during the pendency of the dispute will be provided by the registries.

[FR Doc. 98-4200 Filed 2-19-98; 8:45 am]
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National Telecommunications and Information Administration
1401 Constitution Ave., NW Washington, DC 20230

commerce.gov | Privacy Policy | Web Policies | FOIA | Accessibility | usa.gov

Source URL: https://www.ntia.doc.gov/federal-register-notice/1998/improvement-technical-management-internet-names-and-addresses-proposed-

Exhibit 21

New gTLD Application Submitted to ICANN by: Afilias Domains No. 3 Limited,

String: WEB

Originally Posted: 13 June 2012

Application ID: 1-1013-6638

Applicant Information

1. Full legal name

Afilias Domains No. 3 Limited,

2. Address of the principal place of business

Contact Information Redacted

3. Phone number

Contact Information Redacted

4. Fax number

Contact Information Redacted

5. If applicable, website or URL

http://www.AfiliasDomains3.info

Primary Contact

6(a). Name

John Kane

6(b). Title

Vice President, Corporate Services

6(c). Address

6(d). Phone Number

Contact Information Redacted

6(e). Fax Number

6(f). Email Address

Contact Information Redacted

Secondary Contact

7(a). Name

John Kane

7(b). Title

Vice President, Corporate Services

7(c). Address

7(d). Phone Number

Contact Information Redacted

7(e). Fax Number

7(f). Email Address

Contact Information Redacted

Proof of Legal Establishment

8(a). Legal form of the Applicant

limited liability corporation

8(b). State the specific national or other jursidiction that defines the type of entity identified in 8(a).

Republic of Ireland

8(c). Attach evidence of the applicant's establishment.

Attachments are not displayed on this form.

9(a). If applying company is publicly traded, provide the exchange and symbol.

9(b). If the applying entity is a subsidiary, provide the parent company.

Afilias Limited

9(c). If the applying entity is a joint venture, list all joint venture partners.

not a joint venture

Applicant Background

11(a). Name(s) and position(s) of all directors

M. Scott Hemphill	Director
Thomas Wade	Director

11(b). Name(s) and position(s) of all officers and partners

Thomas Wade	CFO

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility

Applied-for gTLD string

13. Provide the applied-for gTLD string. If an IDN, provide the U-label.

WEB

14(a). If an IDN, provide the A-label (beginning with "xn--").

14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.

14(c). If an IDN, provide the language of the label (in English).

14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).

14(d). If an IDN, provide the script of the label (in English).

14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).

14(e). If an IDN, list all code points contained in the U-label according to Unicode form.

15(a). If an IDN, Attach IDN Tables for the proposed registry.

Attachments are not displayed on this form.

15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.

15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.

16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are

known, describe steps that will be taken to mitigate these issues in software and other applications.

Afilias anticipates the introduction of this TLD without operational or rendering problems. Based on a decade of experience launching and operating new TLDs, Afilias, the back-end provider of registry services for this TLD, is confident the launch and operation of this TLD presents no known challenges. The rationale for this opinion includes:
• The string is not complex and is represented in standard ASCII characters and follows relevant technical, operational and policy standards;
• The string length is within lengths currently supported in the root and by ubiquitous Internet programs such as web browsers and mail applications;
• There are no new standards required for the introduction of this TLD;
• No onerous requirements are being made on registrars, registrants or Internet users, and;
• The existing secure, stable and reliable Afilias SRS, DNS, WHOIS and supporting systems and staff are amply provisioned and prepared to meet the needs of this TLD.

17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).

Mission/Purpose

18(a). Describe the mission/purpose of your proposed gTLD.

Afilias Domains No. 3, the Applicant, is a subsidiary of Afilias Limited, and will be referred to throughout this application as Afilias for simplicity of review by ICANN.

Mission and purpose

The goal of the .WEB TLD is to help users of the Internet establish meaningful and relevant identities while promoting themselves or their groups, companies or organizations at the same time. This TLD will open up new opportunities for individuals, businesses and organizations to garner a unique piece of the Internet in a space where they can secure the domain name they want but can’t have currently.

Businesses and organizations will want to acquire a domain in the .WEB TLD:
• A professional web presence is desired to support merchandising, retailing efforts and business goals.
• Retailers may wish to obtain a .WEB domain to create websites to support or announce planned business offerings and marketing efforts in the “web” arena.
• The web is an indispensible part of virtually every individual’s and business’ life today.

“As of 2011, more than 2.2 billion people – nearly a third of Earth’s population – uses the services of the Internet.” (source: Internet World Stats, updated 31 March 2011). Considering that many of this population have heretofore been unable to get the domain name they desired because it was already taken or reserved in a .com or .net environment, the need for a new TLD with a well-established name in the industry is obvious. And nothing is as synonymous with “Internet” or “net” as the word, “web”.

18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

The .WEB TLD will be positioned to become one the most-used, professional Internet spaces available.

i. General goals

.WEB will be an open TLD, generally available to all registrants (except in the Sunrise period as described below). The domains can be used for any purpose, including for business use, for personal use and by organizations. There are no content or use restrictions for this TLD.

Afilias will design and position the .WEB TLD to be one of the most popular TLDs on the Internet. The company will market, brand, provide outreach, and offer marketing support to registrars with the goal of gaining public support for the .WEB TLD. This can only be accomplished by creating a user friendly, easy to use, interesting, professionally relevant and entertaining TLD.

ii. How .WEB adds to the current space

On today's Internet, there are hundreds of thousands of companies around the world vying for the attention of potential users and customers. For this precise reason, the .WEB TLD provides an excellent opportunity for companies who elect to participate in the domain to separate themselves from the rest of the .com and .net pack.

The .WEB TLD opens up a tremendous number of options for those companies involved with applications who wish to create a targeted identity on the Internet. In addition, it gives those companies the opportunity to build off the name recognition associated with their brand and name. Any company would be very receptive to being able to associate its own products or services with other quality products and services through the .WEB TLD.

iii. User experience goals

As is the goal of all new gTLDs, this TLD intends to create a space where registrants who desire to participate in the .WEB can create identities where potential users and clients can find the kinds of information they want and need. For example, if you are an organization or company whose business is built around use of the Internet, by belonging to this space you will be able to join forces or share information with other organizations or companies with similar interests and common goals. If an entity or group belongs to the .WEB TLD group, they can be assured they are establishing a presence on the Internet which will:
a) closely align them with similar brands,
b) ensure they can keep their own names/brands rather than having to "fit in" to the short list of current TLDs available,
c) facilitate ease of discovery when searched for by potential customers and users, and
d) foster confidence of users seeking any information whatsoever regarding applications because this person belongs to the .WEB.

iv. Registry policies

.WEB will be an open TLD, generally available to all registrants except during the Sunrise period.

.WEB domains will be offered for one to ten years as a general rule with a maximum period of no more than ten years. During the Sunrise period, initial registrations will likely have a minimum requirement for number of years. A requirement may be put in place during Sunrise, for example, that all names must be registered for at least five years.

The roll-out of our TLD is anticipated to feature the following phases:
• Reservation of reserved names and premium names, which will be distributed through special

mechanisms (detailed below).
• Sunrise – the required period for trademark owners to secure their domains before availability to the general public. This phase will feature applications for domain strings, verification of trademarks via Trademark Clearinghouse and a trademark verification agent, auctions between qualified parties who wish to secure the same string, and a Trademark Claims Service.
• Land rush – this period provides an opportunity for potential registrations to apply for names prior to the General availability period.
• General Availability period – real-time registrations, made on a first-come first-served basis. Trademark Claims Service will be in use at least for the first 60 days after General Availability applications open.

The registration of domain names in the .WEB TLD will follow the standard practices, procedures and policies Afilias, the back-end provider of registry services, currently has in place. This includes the following:
• Domain registration policies (for example, grace periods, transfer policies, etc.) are defined in response #27.
• Abuse prevention tools and policies, for example, measures to promote WHOIS accuracy and efforts to reduce phishing and pharming, are discussed in detail in our response #28.
• Rights protection mechanisms and dispute resolution mechanism policies (for example, UDRP, URS) are detailed in #29.

Other detailed policies for this domain include policies for reserved names.

Reserved names

Registry reserved names

We will reserve the following classes of domain names, which will not be made generally available to registrants via the Sunrise or subsequent periods:
• All of the reserved names required in Specification 5 of the new gTLD Registry Agreement;
• The geographic names required in Specification 5 of the new gTLD Registry Agreement, and may be released to the extent that Registry Operator reaches agreement with the government and country-code manager;
• The registry operator's own name and variations thereof, and registry operations names (such as registry.tld, and www.tld), for internal use;
• Names related to ICANN and Internet standards bodies (iana.tld, ietf.tld, w3c.tld, etc.), and may be released to the extent that Registry Operator reaches agreement with ICANN.

The list of reserved names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know which names have been set aside.

Premium names

The registry will also designate a set of premium domain names, set aside for distribution via special mechanisms. The list of premium names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know that these names are not available. Premium names may be distributed via mechanisms such as requests for proposals, contests, direct sales, and auctions.

For the auctioning of premium names, we intend to contract with an established auction provider that has successfully conducted domain auctions. This will ensure that there is a tested, trustworthy technical platform for the auctions, auditable records, and reliable collection mechanisms. With our chosen auction provider, we will create and post policies and procedures that ensure clear, fair, and ethical auctions. As an example of such a policy, all employees of the registry operator and its contractors will be strictly prohibited from bidding in auctions for domains in the TLD. We expect a comprehensive and robust set of auction rules to cover possible scenarios, such as how domains will be awarded if the winning bidder does not make payment.

v. Privacy and confidential information protection

As per the New gTLD Registry Agreement, we will make domain contact data (and other fields)

freely and publicly available via a Web-based WHOIS server. This default set of fields includes the mandatory publication of registrant data. Our Registry-Registrar Agreement will require that registrants consent to this publication.

We shall notify each of our registrars regarding the purposes for which data about any identified or identifiable natural person ("Personal Data") submitted to the Registry Operator by such registrar is collected and used, and the intended recipients (or categories of recipients) of such Personal Data (the data in question is essentially the registrant and contact data required to be published in the WHOIS). We will require each registrar to obtain the consent of each registrant in the TLD for the collection and use of such Personal Data. The policies will be posted publicly on our TLD web site. As the registry operator, we shall not use or authorize the use of Personal Data in any way that is incompatible with the notice provided to registrars.

Our privacy and data use policies are as follows:
• As registry operator, we do not plan on selling bulk WHOIS data. We will not sell contact data in any way. We will not allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations.
• We may use registration data in the aggregate for marketing purposes.
• DNS query data will never be sold in a way that is personally identifiable.
• We may from time to time use the demographic data collected for statistical analysis, provided that this analysis will not disclose individual Personal Data and provided that such use is compatible with the notice provided to registrars regarding the purpose and procedures for such use.

As the registry operator we shall take significant steps to protect Personal Data collected from registrars from loss, misuse, unauthorized disclosure, alteration, or destruction. In our responses to Question 30 ("Security Policy") and Question 38 ("Escrow") we detail the security policies and procedures we will use to protect the registry system and the data contained therein from unauthorized access and loss.

Please see our response to Question 26 ("WHOIS") regarding "searchable WHOIS" and rate-limiting. That section contains details about how we will limit the mining of WHOIS data by spammers and other parties who abuse access to the WHOIS.

In order to acquire and maintain accreditation for our TLD, we will require registrars to adhere to certain information technology policies designed to help protect registrant data. These will include standards for access to the registry system and password management protocols. Our response to Question 30, "Security Policy" provides details of implementation.

We will allow the use of proxy and privacy services, which can protect the personal data of registrants from spammers and other parties that mine zone files and WHOIS data. We are aware that there are parties who may use privacy services to protect their free speech rights, or to avoid religious or political persecution.

18(c). What operating rules will you adopt to eliminate or minimize social costs?

Afilias has adopted the above-mentioned and other policies to ensure fair and equitable access and cost structures to the Internet community, including:
• no new burdens placed on the Internet community to resolve name disputes
• utilization of standard registration practices and policies (as detailed in responses to questions #27, #28, #29)
• protection of trademarks at launch and on-going operations (as detailed in the response to question #29)
• fair and reasonable wholesale prices
• fair and equitable treatment of registrars

As per the ICANN Registry Agreement, we will use only ICANN-accredited registrars, and will provide non-discriminatory access to registry services to those registrars.

Pricing Policies and Commitments

Pricing for domain names at General Availability will be $8 per domain year for the first year. Applicant reserves the right to reduce this pricing for promotional purposes in a manner available to all accredited registrars. Registry Operator reserves the right to work with ICANN to initiate an increase in the wholesale price of domains if required. Registry Operator will provide reasonable notice to the registrars of any approved price increase.

Community-based Designation

19. Is the application for a community-based TLD?

No

20(a). Provide the name and full description of the community that the applicant is committing to serve.

20(b). Explain the applicant's relationship to the community identified in 20(a).

20(c). Provide a description of the community-based purpose of the applied-for gTLD.

20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).

20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).

Attachments are not displayed on this form.

Geographic Names

21(a). Is the application for a geographic name?

No

Protection of Geographic Names

22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

We will protect names with national or geographic significance by reserving the country and territory names at the second level and at all other levels within the TLD, as per the requirements in the New TLD Registry Agreement (Specification 5, paragraph 5).

We will employ a series of rules to translate the geographical names required to be reserved by Specification 5, paragraph 5 to a form consistent with the "host names" format used in domain names.

Considering the Governmental Advisory Committee (GAC) advice "Principles regarding new gTLDs", these domains will be blocked, at no cost to governments, public authorities, or IGOs, before the TLD is introduced (Sunrise), so that no parties may apply for them. We will publish a list of these names before Sunrise, so our registrars and their prospective applicants can be aware that these names are reserved.
We will define a procedure so that governments can request the above reserved domain(s) if they would like to take possession of them. This procedure will be based on existing methodology developed for the release of country names in the .INFO TLD. For example, we will require a written request from the country's GAC representative, or a written request from the country's relevant Ministry or Department. We will allow the designated beneficiary (the Registrant) to register the name, with an accredited Afilias Registrar, possibly using an authorization number transmitted directly to the designated beneficiary in the country concerned.

As defined by Specification 5, paragraph 5, such geographic domains may be released to the extent that Registry Operator reaches agreement with the applicable government(s). Registry operator will work with respective GAC representatives of the country's relevant Ministry of Department to obtain their release of the names to the Registry Operator.

If internationalized domains names (IDNs) are introduced in the TLD in the future, we will also reserve the IDN versions of the country names in the relevant script(s) before IDNs become available to the public. If we find it advisable and practical, we will confer with relevant language authorities so that we can reserve the IDN domains properly along with their variants.

Regarding GAC advice regarding second-level domains not specified via Specification 5, paragraph 5: All domains awarded to registrants are subject to the Uniform Domain Name Dispute Resolution Policy (UDRP), and to any properly-situated court proceeding. We will ensure appropriate procedures to allow governments, public authorities or IGO's to challenge abuses of names with national or geographic significance at the second level. In its registry-registrar agreement, and flowing down to registrar-registrant agreements, the registry operator will institute a provision to suspend domains names in the event of a dispute. We may exercise that right in the case of a dispute over a geographic name.

Registry Services

23. Provide name and full description of all the Registry Services to be provided.

Afilias Domains No. 3, the Applicant, is a subsidiary of Afilias Limited, and will be referred to throughout this application as Afilias for simplicity of review by ICANN.

Afilias has more experience successfully applying to ICANN and launching new TLDs than any other provider. Afilias is the ICANN-contracted registry operator of the .INFO and .MOBI TLDs, and Afilias is the back-end registry services provider for other ICANN TLDs including .ORG, .ASIA, .AERO, and .XXX.

Registry services for this TLD will be performed by Afilias in the same responsible manner used to support 16 top level domains today. Afilias supports more ICANN-contracted TLDs (6) than any other provider currently. Afilias' primary corporate mission is to deliver secure, stable and reliable registry services. This TLD will utilize an existing, proven team and platform for registry services with:
• A stable and secure, state-of-the-art, EPP-based SRS with ample storage capacity, data security provisions and scalability that is proven with registrars who account for over 95% of all gTLD domain name registration activity (over 375 registrars);
• A reliable, 100% available DNS service (zone file generation, publication and dissemination) tested to withstand severe DDoS attacks and dramatic growth in Internet use;
• A WHOIS service that is flexible and standards compliant, with search capabilities to address both registrar and end-user needs; includes consideration for evolving standards, such as RESTful, or draft-kucherawy-wierds;
• Experience introducing IDNs in the following languages: German (DE), Spanish (ES), Polish (PL), Swedish (SV), Danish (DA), Hungarian (HU), Icelandic (IS), Latvian (LV), Lithuanian (LT), Korean (KO), Simplified and Traditional Chinese (CN), Devanagari (HI-DEVA), Russian (RU), Belarusian (BE), Ukrainian (UK), Bosnian (BS), Serbian (SR), Macedonian (MK) and Bulgarian (BG) across the TLDs it serves;
• A registry platform that is both IPv6 and DNSSEC enabled;
• An experienced, respected team of professionals active in standards development of innovative services such as DNSSEC and IDN support;
• Methods to limit domain abuse, remove outdated and inaccurate data, and ensure the integrity of the SRS, and;
• Customer support and reporting capabilities to meet financial and administrative needs, e.g., 24x7 call center support, integration support, billing, and daily, weekly, and monthly reporting.

Afilias will support this TLD as the registry operator, leveraging a proven registry infrastructure that is fully operational, staffed with professionals, massively provisioned, and immediately ready to launch and maintain this TLD.

The below response includes a description of the registry services to be provided for this TLD, additional services provided to support registry operations, and an overview of Afilias' approach to registry management.

Registry services to be provided

To support this TLD, Afilias will offer the following registry services, all in accordance with relevant technical standards and policies:
• Receipt of data from registrars concerning registration for domain names and nameservers, and provision to registrars of status information relating to the EPP-based domain services for registration, queries, updates, transfers, renewals, and other domain management functions. Please see our responses to questions #24, #25, and #27 for full details, which we

request be incorporated here by reference.
• Operation of the registry DNS servers: The Afilias DNS system, run and managed by Afilias, is a massively provisioned DNS infrastructure that utilizes among the most sophisticated DNS architecture, hardware, software and redundant design created. Afilias' industry-leading system works in a seamless way to incorporate nameservers from any number of other secondary DNS service vendors. Please see our response to question #35 for full details, which we request be incorporated here by reference.
• Dissemination of TLD zone files: Afilias' distinctive architecture allows for real-time updates and maximum stability for zone file generation, publication and dissemination. Please see our response to question #34 for full details, which we request be incorporated here by reference.
• Dissemination of contact or other information concerning domain registrations: A port 43 WHOIS service with basic and expanded search capabilities with requisite measures to prevent abuse. Please see our response to question #26 for full details, which we request be incorporated here by reference.
• Internationalized Domain Names (IDNs): Ability to support all protocol valid Unicode characters at every level of the TLD, including alphabetic, ideographic and right-to-left scripts, in conformance with the ICANN IDN Guidelines. Please see our response to question #44 for full details, which we request be incorporated here by reference.
• DNS Security Extensions (DNSSEC): A fully DNSSEC-enabled registry, with a stable and efficient means of signing and managing zones. This includes the ability to safeguard keys and manage keys completely. Please see our response to question #43 for full details, which we request be incorporated here by reference.

Each service will meet or exceed the contract service level agreement. All registry services for this TLD will be provided in a standards-compliant manner.

Security

Afilias addresses security in every significant aspect–physical, data and network as well as process. Afilias' approach to security permeates every aspect of the registry services provided. A dedicated security function exists within the company to continually identify existing and potential threats, and to put in place comprehensive mitigation plans for each identified threat. In addition, a rapid security response plan exists to respond comprehensively to unknown or unidentified threats. The specific threats and Afilias mitigation plans are defined in our response to question #30(b); please see that response for complete information. In short, Afilias is committed to ensuring the confidentiality, integrity, and availability of all information.

New registry services

No new registry services are planned for the launch of this TLD.

Additional services to support registry operation

Numerous supporting services and functions facilitate effective management of the TLD. These support services are also supported by Afilias, including:
• Customer support: 24x7 live phone and e-mail support for customers to address any access, update or other issues they may encounter. This includes assisting the customer identification of the problem as well as solving it. Customers include registrars and the registry operator, but not registrants except in unusual circumstances. Customers have access to a web-based portal for a rapid and transparent view of the status of pending issues.
• Financial services: billing and account reconciliation for all registry services according to pricing established in respective agreements.

Reporting is an important component of supporting registry operations. Afilias will provide reporting to the registry operator and registrars, and financial reporting.

Reporting provided to registry operator

Afilias reporting provides an extensive suite of reports, including daily, weekly and monthly reports with data at the transaction level that enable us to track and reconcile at whatever level of detail preferred. Afilias provides the exact data required by ICANN in the required

format to enable the registry operator to meet its technical reporting requirements to ICANN.

In addition, Afilias offers access to a data warehouse capability that will enable near real-time data to be available 24x7. Afilias' data warehouse capability enables drill-down analytics all the way to the transaction level.

Reporting available to registrars

Afilias provides an extensive suite of reporting to registrars and has been doing so in an exemplary manner for more than ten years. Specifically, Afilias provides daily, weekly and monthly reports with detail at the transaction level to enable registrars to track and reconcile at whatever level of detail they prefer.

Reports are provided in standard formats, facilitating import for use by virtually any registrar analytical tool. Registrar reports are available for download via a secure administrative interface. A given registrar will only have access to its own reports. These include the following:

• Daily Reports: Transaction Report, Billable Transactions Report, and Transfer Reports;
• Weekly: Domain Status and Nameserver Report, Weekly Nameserver Report, Domains Hosted by Nameserver Weekly Report, and;
• Monthly: Billing Report and Monthly Expiring Domains Report.

Weekly registrar reports are maintained for each registrar for four weeks. Weekly reports older than four weeks will be archived for a period of six months, after which they will be deleted.

Financial reporting

Registrar account balances are updated real-time when payments and withdrawals are posted to the registrars' accounts. In addition, the registrar account balances are updated as and when they perform billable transactions at the registry level.

Afilias provides Deposit/Withdrawal Reports that are updated periodically to reflect payments received or credits and withdrawals posted to the registrar accounts.

The following reports are also available: a) Daily Billable Transaction Report, containing details of all the billable transactions performed by all the registrars in the SRS, b) daily e-mail reports containing the number of domains in the registry and a summary of the number and types of billable transactions performed by the registrars, and c) registry operator versions of most registrar reports (for example, a daily Transfer Report that details all transfer activity between all of the registrars in the SRS).

Afilias approach to registry support

Afilias is dedicated to managing the technical operations and support of this TLD in a secure, stable and reliable manner. Afilias has reviewed specific needs and objectives of this TLD. The resulting comprehensive plans are illustrated in technical responses #24-44. Afilias has provided financial responses for this application which demonstrate cost and technology consistent with the size and objectives of this TLD.

Afilias is the registry services provider for this and several other TLD applications. Over the past 11 years of providing services for gTLD and ccTLDs, Afilias has accumulated experience about resourcing levels necessary to provide high quality services with conformance to strict service requirements. Afilias currently supports over 20 million domain names, spread across 16 TLDs, with over 400 accredited registrars.

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused

way.

With over a decade of registry experience, Afilias has the depth and breadth of experience that ensure existing and new needs are addressed, all while meeting or exceeding service level requirements and customer expectations. This is evident in Afilias' participation in business, policy and technical organizations supporting registry and Internet technology within ICANN and related organizations. This allows Afilias to be at the forefront of security initiatives such as: DNSSEC, wherein Afilias worked with Public Interest Registry (PIR) to make the .ORG registry the first DNSSEC enabled gTLD and the largest TLD enabled at the time; in enhancing the Internet experience for users across the globe by leading development of IDNs; in pioneering the use of open-source technologies by its usage of PostgreSQL, and; being the first to offer near-real-time dissemination of DNS zone data.

The ability to observe tightening resources for critical functions and the capacity to add extra resources ahead of a threshold event are factors that Afilias is well versed in. Afilias' human resources team, along with well-established relationships with external organizations, enables it to fill both long-term and short-term resource needs expediently.

Afilias' growth from a few domains to serving 20 million domain names across 16 TLDs and 400 accredited registrars indicates that the relationship between the number of people required and the volume of domains supported is not linear. In other words, servicing 100 TLDs does not automatically require 6 times more staff than servicing 16 TLDs. Similarly, an increase in the number of domains under management does not require in a linear increase in resources. Afilias carefully tracks the relationship between resources deployed and domains to be serviced, and pro-actively reviews this metric in order to retain a safe margin of error. This enables Afilias to add, train and prepare new staff well in advance of the need, allowing consistent delivery of high quality services.

Demonstration of Technical & Operational Capability

24. Shared Registration System (SRS) Performance

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " 〈" and "〉 " CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias operates a state-of-the-art EPP-based Shared Registration System (SRS) that is secure, stable and reliable. The SRS is a critical component of registry operations that must balance the business requirements for the registry and its customers, such as numerous domain acquisition and management functions. The SRS meets or exceeds all ICANN requirements given that Afilias:
• Operates a secure, stable and reliable SRS which updates in real-time and in full compliance with Specification 6 of the new gTLD Registry Agreement;
• Is committed to continuously enhancing our SRS to meet existing and future needs;
• Currently exceeds contractual requirements and will perform in compliance with Specification 10 of the new gTLD Registry Agreement;
• Provides SRS functionality and staff, financial, and other resources to more than adequately meet the technical needs of this TLD, and;
• Manages the SRS with a team of experienced technical professionals who can seamlessly integrate this TLD into the Afilias registry platform and support the TLD in a secure, stable and reliable manner.

Description of operation of the SRS, including diagrams

Afilias' SRS provides the same advanced functionality as that used in the .INFO and .ORG

registries, as well as the fourteen other TLDs currently supported by Afilias. The Afilias registry system is standards-compliant and utilizes proven technology, ensuring global familiarity for registrars, and it is protected by our massively provisioned infrastructure that mitigates the risk of disaster.

EPP functionality is described fully in our response to question #25; please consider those answers incorporated here by reference. An abbreviated list of Afilias SRS functionality includes:
• Domain registration: Afilias provides registration of names in the TLD, in both ASCII and IDN forms, to accredited registrars via EPP and a web-based administration tool.
• Domain renewal: Afilias provides services that allow registrars the ability to renew domains under sponsorship at any time. Further, the registry performs the automated renewal of all domain names at the expiration of their term, and allows registrars to rescind automatic renewals within a specified number of days after the transaction for a full refund.
• Transfer: Afilias provides efficient and automated procedures to facilitate the transfer of sponsorship of a domain name between accredited registrars. Further, the registry enables bulk transfers of domains under the provisions of the Registry-Registrar Agreement.
• RGP and restoring deleted domain registrations: Afilias provides support for the Redemption Grace Period (RGP) as needed, enabling the restoration of deleted registrations.
• Other grace periods and conformance with ICANN guidelines: Afilias provides support for other grace periods that are evolving as standard practice inside the ICANN community. In addition, the Afilias registry system supports the evolving ICANN guidelines on IDNs.

Afilias also supports the basic check, delete, and modify commands.

As required for all new gTLDs, Afilias provides “thick” registry system functionality. In this model, all key contact details for each domain are stored in the registry. This allows better access to domain data and provides uniformity in storing the information.

Afilias’ SRS complies today and will continue to comply with global best practices including relevant RFCs, ICANN requirements, and this TLD’s respective domain policies. With over a decade of experience, Afilias has fully documented and tested policies and procedures, and our highly skilled team members are active participants of the major relevant technology and standards organizations, so ICANN can be assured that SRS performance and compliance are met. Full details regarding the SRS system and network architecture are provided in responses to questions #31 and #32; please consider those answers incorporated here by reference.

SRS servers and software

All applications and databases for this TLD will run in a virtual environment currently hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors. (It is possible that by the time this application is evaluated and systems deployed, Westmere processors may no longer be the “latest”; the Afilias policy is to use the most advanced, stable technology available at the time of deployment.) The data for the registry will be stored on storage arrays of solid state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources, thus reducing energy consumption and carbon footprint.

The network firewalls, routers and switches support all applications and servers. Hardware traffic shapers are used to enforce an equitable access policy for connections coming from registrars. The registry system accommodates both IPv4 and IPv6 addresses. Hardware load balancers accelerate TLS/SSL handshaking and distribute load among a pool of application servers.

Each of the servers and network devices are equipped with redundant, hot-swappable components and multiple connections to ancillary systems. Additionally, 24x7 support agreements with a four-hour response time at all our data centers guarantee replacement of failed parts in the shortest time possible.

Examples of current system and network devices used are:
• Servers: Cisco UCS B230 blade servers
• SAN storage arrays: IBM Storwize V7000 with Solid State Drives
• SAN switches: Brocade 5100

• Firewalls: Cisco ASA 5585-X
• Load balancers: F5 Big-IP 6900
• Traffic shapers: Procera PacketLogic PL8720
• Routers: Juniper MX40 3D
• Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

These system components are upgraded and updated as required, and have usage and performance thresholds which trigger upgrade review points. In each data center, there is a minimum of two of each network component, a minimum of 25 servers, and a minimum of two storage arrays.

Technical components of the SRS include the following items, continually checked and upgraded as needed: SRS, WHOIS, web admin tool, DNS, DNS distributor, reporting, invoicing tools, and deferred revenue system (as needed).

All hardware is massively provisioned to ensure stability under all forecast volumes from launch through “normal” operations of average daily and peak capacities. Each and every system application, server, storage and network device is continuously monitored by the Afilias Network Operations Center for performance and availability. The data gathered is used by dynamic predictive analysis tools in real-time to raise alerts for unusual resource demands. Should any volumes exceed established thresholds, a capacity planning review is instituted which will address the need for additions well in advance of their actual need.

SRS diagram and interconnectivity description

As with all core registry services, the SRS is run from a global cluster of registry system data centers, located in geographic centers with high Internet bandwidth, power, redundancy and availability. All of the registry systems will be run in a <n+1> setup, with a primary data center and a secondary data center. For detailed site information, please see our responses to questions #32 and #35. Registrars access the SRS in real-time using EPP.

A sample of the Afilias SRS technical and operational capabilities (displayed in Figure 24-a) include:
• Geographically diverse redundant registry systems;
• Load balancing implemented for all registry services (e.g. EPP, WHOIS, web admin) ensuring equal experience for all customers and easy horizontal scalability;
• Disaster Recovery Point objective for the registry is within one minute of the loss of the primary system;
• Detailed and tested contingency plan, in case of primary site failure, and;
• Daily reports, with secure access for confidentiality protection.

As evidenced in Figure 24-a, the SRS contains several components of the registry system. The interconnectivity ensures near-real-time distribution of the data throughout the registry infrastructure, timely backups, and up-to-date billing information.

The WHOIS servers are directly connected to the registry database and provide real-time responses to queries using the most up-to-date information present in the registry.

Committed DNS-related EPP objects in the database are made available to the DNS Distributor via a dedicated set of connections. The DNS Distributor extracts committed DNS-related EPP objects in real time and immediately inserts them into the zone for dissemination.

The Afilias system is architected such that read-only database connections are executed on database replicas and connections to the database master (where write-access is executed) are carefully protected to ensure high availability.

This interconnectivity is monitored, as is the entire registry system, according to the plans detailed in our response to question #42.

Synchronization scheme

Registry databases are synchronized both within the same data center and in the backup data

center using a database application called Slony. For further details, please see the responses to questions #33 and #37. Slony replication of transactions from the publisher (master) database to its subscribers (replicas) works continuously to ensure the publisher and its subscribers remain synchronized. When the publisher database completes a transaction the Slony replication system ensures that each replica also processes the transaction. When there are no transactions to process, Slony “sleeps” until a transaction arrives or for one minute, whichever comes first. Slony “wakes up” each minute to confirm with the publisher that there has not been a transaction and thus ensures subscribers are synchronized and the replication time lag is minimized. The typical replication time lag between the publisher and subscribers depends on the topology of the replication cluster, specifically the location of the subscribers relative to the publisher. Subscribers located in the same data center as the publisher are typically updated within a couple of seconds, and subscribers located in a secondary data center are typically updated in less than ten seconds. This ensures real-time or near-real-time synchronization between all databases, and in the case where the secondary data center needs to be activated, it can be done with minimal disruption to registrars.

SRS SLA performance compliance

Afilias has a ten-year record of delivering on the demanding ICANN SLAs, and will continue to provide secure, stable and reliable service in compliance with SLA requirements as specified in the new gTLD Registry Agreement, Specification 10, as presented in Figure 24-b.

The Afilias SRS currently handles over 200 million EPP transactions per month for just .INFO and .ORG. Overall, the Afilias SRS manages over 700 million EPP transactions per month for all TLDs under management.

Given this robust functionality, and more than a decade of experience supporting a thick TLD registry with a strong performance history, Afilias will meet or exceed the performance metrics in Specification 10 of the new gTLD Registry Agreement. The Afilias services and infrastructure are designed to scale both vertically and horizontally without any downtime to provide consistent performance as this TLD grows. The Afilias architecture is also massively provisioned to meet seasonal demands and marketing campaigns. Afilias’ experience also gives high confidence in the ability to scale and grow registry operations for this TLD in a secure, stable and reliable manner.

SRS resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Over 100 Afilias team members contribute to the management of the SRS code and network that will support this TLD. The SRS team is composed of Software Engineers, Quality Assurance Analysts, Application Administrators, System Administrators, Storage Administrators, Network Administrators, Database Administrators, and Security Analysts located at three geographically separate Afilias facilities. The systems and services set up and administered by these team members are monitored 24x7 by skilled analysts at two NOCs located in Toronto, Ontario (Canada) and Horsham, Pennsylvania (USA). In addition to these team members, Afilias also utilizes trained project management staff to maintain various calendars, work breakdown schedules, utilization and resource schedules and other tools to support the technical and management staff. It is this team who will both deploy this TLD on the Afilias infrastructure, and maintain it. Together, the Afilias team has managed 11 registry transitions and six new TLD launches, which illustrate its ability to securely and reliably deliver regularly scheduled updates as well as a secure, stable and reliable SRS service for this TLD.

25. Extensible Provisioning Protocol (EPP)

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE " 〈" and "〉 " CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias has been a pioneer and innovator in the use of EPP. .INFO was the first EPP-based gTLD registry and launched on EPP version 02⁄00. Afilias has a track record of supporting TLDs on standards-compliant versions of EPP. Afilias will operate the EPP registrar interface as well as a web-based interface for this TLD in accordance with RFCs and global best practices. In addition, Afilias will maintain a proper OT&E (Operational Testing and Evaluation) environment to facilitate registrar system development and testing.

Afilias' EPP technical performance meets or exceeds all ICANN requirements as demonstrated by:
• A completely functional, state-of-the-art, EPP-based SRS that currently meets the needs of various gTLDs and will meet this new TLD's needs;
• A track record of success in developing extensions to meet client and registrar business requirements such as multi-script support for IDNs;
• Supporting six ICANN gTLDs on EPP: .INFO, .ORG, .MOBI, .AERO, .ASIA and .XXX
• EPP software that is operating today and has been fully tested to be standards-compliant;
• Proven interoperability of existing EPP software with ICANN-accredited registrars, and;
• An SRS that currently processes over 200 million EPP transactions per month for both .INFO and .ORG. Overall, Afilias processes over 700 million EPP transactions per month for all 16 TLDs under management.

The EPP service is offered in accordance with the performance specifications defined in the new gTLD Registry Agreement, Specification 10.

EPP Standards

The Afilias registry system complies with the following revised versions of the RFCs and operates multiple ICANN TLDs on these standards, including .INFO, .ORG, .MOBI, .ASIA and .XXX. The systems have been tested by our Quality Assurance ("QA") team for RFC compliance, and have been used by registrars for an extended period of time:
• 3735 - Guidelines for Extending EPP
• 3915 - Domain Registry Grace Period Mapping
• 5730 - Extensible Provisioning Protocol (EPP)
• 5731 - Domain Name Mapping
• 5732 - Host Mapping
• 5733 - Contact Mapping
• 5734 - Transport Over TCP
• 5910 - Domain Name System (DNS) Security Extensions Mapping for the Extensible Provisioning Protocol (EPP)

This TLD will support all valid EPP commands. The following EPP commands are in operation today and will be made available for this TLD. See attachment #25a for the base set of EPP commands and copies of Afilias XSD schema files, which define all the rules of valid, RFC compliant EPP commands and responses that Afilias supports. Any customized EPP extensions, if necessary, will also conform to relevant RFCs.

Afilias staff members actively participated in the Internet Engineering Task Force (IETF) process that finalized the new standards for EPP. Afilias will continue to actively participate in the IETF and will stay abreast of any updates to the EPP standards.

EPP software interface and functionality

Afilias will provide all registrars with a free open-source EPP toolkit. Afilias provides this software for use with both Microsoft Windows and Unix⁄Linux operating systems. This

software, which includes all relevant templates and schema defined in the RFCs, is available on sourceforge.net and will be available through the registry operator's website.

Afilias' SRS EPP software complies with all relevant RFCs and includes the following functionality:
• EPP Greeting: A response to a successful connection returns a greeting to the client. Information exchanged can include: name of server, server date and time in UTC, server features, e.g., protocol versions supported, languages for the text response supported, and one or more elements which identify the objects that the server is capable of managing;
• Session management controls: <login> to establish a connection with a server, and <logout> to end a session;
• EPP Objects: Domain, Host and Contact for respective mapping functions;
• EPP Object Query Commands: Info, Check, and Transfer (query) commands to retrieve object information, and;
• EPP Object Transform Commands: five commands to transform objects: <create> to create an instance of an object, <delete> to remove an instance of an object, <renew> to extend the validity period of an object, <update> to change information associated with an object, and <transfer> to manage changes in client sponsorship of a known object.

Currently, 100% of the top domain name registrars in the world have software that has already been tested and certified to be compatible with the Afilias SRS registry. In total, over 375 registrars, representing over 95% of all registration volume worldwide, operate software that has been certified compatible with the Afilias SRS registry. Afilias' EPP Registrar Acceptance Criteria are available in attachment #25b, EPP OT&E Criteria.

Free EPP software support

Afilias analyzes and diagnoses registrar EPP activity log files as needed and is available to assist registrars who may require technical guidance regarding how to fix repetitive errors or exceptions caused by misconfigured client software.

Registrars are responsible for acquiring a TLS/SSL certificate from an approved certificate authority, as the registry-registrar communication channel requires mutual authentication; Afilias will acquire and maintain the server-side TLS/SSL certificate. The registrar is responsible for developing support for TLS/SSL in their client application. Afilias will provide free guidance for registrars unfamiliar with this requirement.

Registrar data synchronization

There are two methods available for registrars to synchronize their data with the registry:
• Automated synchronization: Registrars can, at any time, use the EPP <info> command to obtain definitive data from the registry for a known object, including domains, hosts (nameservers) and contacts.
• Personalized synchronization: A registrar may contact technical support and request a data file containing all domains (and associated host (nameserver) and contact information) registered by that registrar, within a specified time interval. The data will be formatted as a comma separated values (CSV) file and made available for download using a secure server.

EPP modifications

There are no unique EPP modifications planned for this TLD.

All ICANN TLDs must offer a Sunrise as part of a rights protection program. Afilias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. These extensions are:
• An <ipr:name> element that indicates the name of Registered Mark.
• An <ipr:number> element that indicates the registration number of the IPR.
• An <ipr:ccLocality> element that indicates the origin for which the IPR is established (a national or international trademark registry).
• An <ipr:entitlement> element that indicates whether the applicant holds the trademark as the original "OWNER", "CO-OWNER" or "ASSIGNEE".
• An <ipr:appDate> element that indicates the date the Registered Mark was applied for.

• An <ipr:regDate> element that indicates the date the Registered Mark was issued and registered.
• An <ipr:class> element that indicates the class of the registered mark.
• An <ipr:type> element that indicates the Sunrise phase the application applies for.

Note that some of these extensions might be subject to change based on ICANN-developed requirements for the Trademark Clearinghouse.

EPP resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

108 Afilias team members directly contribute to the management and development of the EPP based registry systems. As previously noted, Afilias is an active member of IETF and has a long documented history developing and enhancing EPP. These contributors include 11 developers and 14 QA engineers focused on maintaining and enhancing EPP server side software. These engineers work directly with business staff to timely address existing needs and forecast registry/registrar needs to ensure the Afilias EPP software is effective today and into the future. A team of eight data analysts work with the EPP software system to ensure that the data flowing through EPP is securely and reliably stored in replicated database systems. In addition to the EPP developers, QA engineers, and data analysts, other EPP contributors at Afilias include: Technical Analysts, the Network Operations Center and Data Services team members.

26. Whois

Afilias operates the WHOIS (registration data directory service) infrastructure in accordance with RFCs and global best practices, as it does for the 16 TLDs it currently supports. Designed to be robust and scalable, Afilias' WHOIS service has exceeded all contractual requirements for over a decade. It has extended search capabilities, and methods of limiting abuse.

The WHOIS service operated by Afilias meets and exceeds ICANN's requirements. Specifically, Afilias will:
• Offer a WHOIS service made available on port 43 that is flexible and standards- compliant;
• Comply with all ICANN policies, and meeting or exceeding WHOIS performance requirements in Specification 10 of the new gTLD Registry Agreement;
• Enable a Searchable WHOIS with extensive search capabilities that offers ease of use while enforcing measures to mitigate access abuse, and;
• Employ a team with significant experience managing a compliant WHOIS service.

Such extensive knowledge and experience managing a WHOIS service enables Afilias to offer a comprehensive plan for this TLD that meets the needs of constituents of the domain name industry and Internet users. The service has been tested by our QA team for RFC compliance, and has been used by registrars and many other parties for an extended period of time. Afilias' WHOIS service currently serves almost 500 million WHOIS queries per month, with the capacity already built in to handle an order of magnitude increase in WHOIS queries, and the ability to smoothly scale should greater growth be needed.

WHOIS system description and diagram

The Afilias WHOIS system, depicted in figure 26-a, is designed with robustness, availability, compliance, and performance in mind. Additionally, the system has provisions for detecting abusive usage (e.g., excessive numbers of queries from one source). The WHOIS system is generally intended as a publicly available single object lookup system. Afilias uses an advanced, persistent caching system to ensure extremely fast query response times.

Afilias will develop restricted WHOIS functions based on specific domain policy and regulatory requirements as needed for operating the business (as long as they are standards compliant). It will also be possible for contact and registrant information to be returned according to regulatory requirements. The WHOIS database supports multiple string and field searching through a reliable, free, secure web-based interface.

Data objects, interfaces, access and lookups

Registrars can provide an input form on their public websites through which a visitor is able to perform WHOIS queries. The registry operator can also provide a Web-based search on its site. The input form must accept the string to query, along with the necessary input elements to select the object type and interpretation controls. This input form sends its data to the Afilias port 43 WHOIS server. The results from the WHOIS query are returned by the server and displayed in the visitor's Web browser. The sole purpose of the Web interface is to provide a user-friendly interface for WHOIS queries.

Afilias will provide WHOIS output as per Specification 4 of the new gTLD Registry Agreement. The output for domain records generally consists of the following elements:

• The name of the domain registered and the sponsoring registrar;
• The names of the primary and secondary nameserver(s) for the registered domain name;
• The creation date, registration status and expiration date of the registration;
• The name, postal address, e-mail address, and telephone and fax numbers of the domain name holder;
• The name, postal address, e-mail address, and telephone and fax numbers of the technical contact for the domain name holder;
• The name, postal address, e-mail address, and telephone and fax numbers of the administrative contact for the domain name holder, and;
• The name, postal address, e-mail address, and telephone and fax numbers of the billing contact for the domain name holder.

The following additional features are also present in Afilias' WHOIS service:

• Support for IDNs, including the language tag and the Punycode representation of the IDN in addition to Unicode Hex and Unicode HTML formats;
• Enhanced support for privacy protection relative to the display of confidential information.

Afilias will also provide sophisticated WHOIS search functionality that includes the ability to conduct multiple string and field searches.

Query controls

For all WHOIS queries, a user is required to enter the character string representing the information for which they want to search. The object type and interpretation control parameters to limit the search may also be specified. If object type or interpretation control parameter is not specified, WHOIS will search for the character string in the Name field of the Domain object.

WHOIS queries are required to be either an "exact search" or a "partial search," both of which are insensitive to the case of the input string.

An exact search specifies the full string to search for in the database field. An exact match between the input string and the field value is required.

A partial search specifies the start of the string to search for in the database field. Every record with a search field that starts with the input string is considered a match. By default, if multiple matches are found for a query, then a summary containing up to 50 matching results is presented. A second query is required to retrieve the specific details of one of the matching records.

If only a single match is found, then full details will be provided. Full detail consists of

the data in the matching object as well as the data in any associated objects. For example: a query that results in a domain object includes the data from the associated host and contact objects.

WHOIS query controls fall into two categories: those that specify the type of field, and those that modify the interpretation of the input or determine the level of output to provide. Each is described below.

The following keywords restrict a search to a specific object type:
• Domain: Searches only domain objects. The input string is searched in the Name field.
• Host: Searches only nameserver objects. The input string is searched in the Name field and the IP Address field.
• Contact: Searches only contact objects. The input string is searched in the ID field.
• Registrar: Searches only registrar objects. The input string is searched in the Name field.
By default, if no object type control is specified, then the Name field of the Domain object is searched.

In addition, Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal address and contact names. Deployment of these features is provided as an option to the registry operator, based upon registry policy and business decision-making.

Figure 26-b presents the keywords that modify the interpretation of the input or determine the level of output to provide.

By default, if no interpretation control keywords are used, the output will include full details if a single match is found and a summary if multiple matches are found.

Unique TLD requirements
There are no unique WHOIS requirements for this TLD.

Sunrise WHOIS processes
All ICANN TLDs must offer a Sunrise as part of a rights protection program. Afilias uses EPP extensions that allow registrars to submit trademark and other intellectual property rights (IPR) data to the registry. The following corresponding data will be displayed in WHOIS for relevant domains:
• Trademark Name: element that indicates the name of the Registered Mark.
• Trademark Number: element that indicates the registration number of the IPR.
• Trademark Locality: element that indicates the origin for which the IPR is established (a national or international trademark registry).
• Trademark Entitlement: element that indicates whether the applicant holds the trademark as the original “OWNER”, “CO-OWNER” or “ASSIGNEE”.
• Trademark Application Date: element that indicates the date the Registered Mark was applied for.
• Trademark Registration Date: element that indicates the date the Registered Mark was issued and registered.
• Trademark Class: element that indicates the class of the Registered Mark.
• IPR Type: element that indicates the Sunrise phase the application applies for.

IT and infrastructure resources

All the applications and databases for this TLD will run in a virtual environment hosted by a cluster of servers equipped with the latest Intel Westmere multi-core processors (or a more advanced, stable technology available at the time of deployment). The registry data will be stored on storage arrays of solid-state drives shared over a fast storage area network. The virtual environment allows the infrastructure to easily scale both vertically and horizontally to cater to changing demand. It also facilitates effective utilization of system resources thus reducing energy consumption and carbon footprint.

The applications and servers are supported by network firewalls, routers and switches. The WHOIS system accommodates both IPv4 and IPv6 addresses.

Each of the servers and network devices are equipped with redundant hot-swappable components

and multiple connections to ancillary systems. Additionally, 24x7 support agreements with our hardware vendor with a 4-hour response time at all our data centers guarantees replacement of failed parts in the shortest time possible.

Models of system and network devices used are:
• Servers: Cisco UCS B230 blade servers
• SAN storage arrays: IBM Storwize V7000 with Solid State Drives
• Firewalls: Cisco ASA 5585-X
• Load balancers: F5 Big-IP 6900
• Traffic shapers: Procera PacketLogic PL8720
• Routers: Juniper MX40 3D
• Network switches: Cisco Nexus 7010, Nexus 5548, Nexus 2232

There will be at least four virtual machines (VMs) offering WHOIS service. Each VM will run at least two WHOIS server instances - one for registrars and one for the public. All instances of the WHOIS service is made available to registrars and the public are rate limited to mitigate abusive behavior.

Frequency of synchronization between servers

Registration data records from the EPP publisher database will be replicated to the WHOIS system database on a near-real-time basis whenever an update occurs.

Specifications 4 and 10 compliance

The WHOIS service for this TLD will meet or exceed the performance requirements in the new gTLD Registry Agreement, Specification 10. Figure 26-c provides the exact measurements and commitments. Afilias has a 10 year track record of exceeding WHOIS performance and a skilled team to ensure this continues for all TLDs under management.

The WHOIS service for this TLD will meet or exceed the requirements in the new gTLD Registry Agreement, Specification 4.

RFC 3912 compliance

Afilias will operate the WHOIS infrastructure in compliance with RFCs and global best practices, as it does with the 16 TLDs Afilias currently supports.

Afilias maintains a registry-level centralized WHOIS database that contains information for every registered domain and for all host and contact objects. The WHOIS service will be available on the Internet standard WHOIS port (port 43) in compliance with RFC 3912. The WHOIS service contains data submitted by registrars during the registration process. Changes made to the data by a registrant are submitted to Afilias by the registrar and are reflected in the WHOIS database and service in near-real-time, by the instance running at the primary data center, and in under ten seconds by the instance running at the secondary data center, thus providing all interested parties with up-to-date information for every domain. This service is compliant with the new gTLD Registry Agreement, Specification 4.

The WHOIS service maintained by Afilias will be authoritative and complete, as this will be a “thick” registry (detailed domain contact WHOIS is all held at the registry); users do not have to query different registrars for WHOIS information, as there is one central WHOIS system. Additionally, visibility of different types of data is configurable to meet the registry operator’s needs.

Searchable WHOIS

Afilias offers a searchable WHOIS on a web-based Directory Service. Partial match capabilities are offered on the following fields: domain name, registrar ID, and IP address. In addition, Afilias WHOIS systems can perform and respond to WHOIS searches by registrant name, postal

address and contact names.

Providing the ability to search important and high-value fields such as registrant name, address and contact names increases the probability of abusive behavior. An abusive user could script a set of queries to the WHOIS service and access contact data in order to create or sell a list of names and addresses of registrants in this TLD. Making the WHOIS machine readable, while preventing harvesting and mining of WHOIS data, is a key requirement integrated into the Afilias WHOIS systems. For instance, Afilias limits search returns to 50 records at a time. If bulk queries were ever necessary (e.g., to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process), Afilias makes such query responses available to carefully screened and limited staff members at the registry operator (and customer support staff) via an internal data warehouse. The Afilias WHOIS system accommodates anonymous access as well as pre-identified and profile-defined uses, with full audit and log capabilities.

The WHOIS service has the ability to tag query responses with labels such as “Do not redistribute” or “Special access granted”. This may allow for tiered response and reply scenarios. Further, the WHOIS service is configurable in parameters and fields returned, which allow for flexibility in compliance with various jurisdictions, regulations or laws.

Afilias offers exact-match capabilities on the following fields: registrar ID, nameserver name, and nameserver’s IP address (only applies to IP addresses stored by the registry, i.e., glue records). Search capabilities are fully available, and results include domain names matching the search criteria (including IDN variants). Afilias manages abuse prevention through rate limiting and CAPTCHA (described below). Queries do not require specialized transformations of internationalized domain names or internationalized data fields

Please see “Query Controls” above for details about search options and capabilities.

Deterring WHOIS abuse

Afilias has adopted two best practices to prevent abuse of the WHOIS service: rate limiting and CAPTCHA.

Abuse of WHOIS services on port 43 and via the Web is subject to an automated rate-limiting system. This ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system.

Abuse of web-based public WHOIS services is subject to the use of CAPTCHA (Completely Automated Public Turing test to tell Computers and Humans Apart) technology. The use of CAPTCHA ensures that uniformity of service to users is unaffected by a few parties whose activities abuse or otherwise might threaten to overload the WHOIS system. Afilias will adopt a CAPTCHA on its Web-based WHOIS.

Data mining of any sort on the WHOIS system is strictly prohibited, and this prohibition is published in WHOIS output and in terms of service.

For rate limiting on IPv4, there are configurable limits per IP and subnet. For IPv6, the traditional limitations do not apply. Whenever a unique IPv6 IP address exceeds the limit of WHOIS queries per minute, the same rate-limit for the given 64 bits of network prefix that the offending IPv6 IP address falls into will be applied. At the same time, a timer will start and rate-limit validation logic will identify if there are any other IPv6 address within the original 80-bit(/48) prefix. If another offending IPv6 address does fall into the /48 prefix then rate-limit validation logic will penalize any other IPv6 addresses that fall into that given 80-bit (/48) network. As a security precaution, Afilias will not disclose these limits.

Pre-identified and profile-driven role access allows greater granularity and configurability in both access to the WHOIS service, and in volume/frequency of responses returned for queries.

Afilias staff are key participants in the ICANN Security & Stability Advisory Committee’s deliberations and outputs on WHOIS, including SAC003, SAC027, SAC033, SAC037, SAC040, and

SAC051. Afilias staff are active participants in both technical and policy decision making in ICANN, aimed at restricting abusive behavior.

WHOIS staff resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Within Afilias, there are 11 staff members who develop and maintain the compliant WHOIS systems. They keep pace with access requirements, thwart abuse, and continually develop software. Of these resources, approximately two staffers are typically required for WHOIS-related code customization. Other resources provide quality assurance, and operations personnel maintain the WHOIS system itself. This team will be responsible for the implementation and on-going maintenance of the new TLD WHOIS service.

27. Registration Life Cycle

THE RESPONSE FOR THIS QUESTION USES ANGLE BRACKETS (THE “〈” and “〉” CHARACTERS), WHICH ICANN INFORMS AFILIAS (CASE ID 11027) CANNOT BE PROPERLY RENDERED IN TAS DUE TO SECURITY CONCERNS. HENCE, THE FULL ANSWER TO THIS QUESTION IS ATTACHED AS A PDF FILE.

Afilias has been managing registrations for over a decade. Afilias has had experience managing registrations for over a decade and supports comprehensive registration lifecycle services including the registration states, all standard grace periods, and can address any modifications required with the introduction of any new ICANN policies.

This TLD will follow the ICANN standard domain lifecycle, as is currently implemented in TLDs such as .ORG and .INFO. The below response includes: a diagram and description of the lifecycle of a domain name in this TLD, including domain creation, transfer protocols, grace period implementation and the respective time frames for each; and the existing resources to support the complete lifecycle of a domain.

As depicted in Figure 27-a, prior to the beginning of the Trademark Claims Service or Sunrise IP protection program[s], Afilias will support the reservation of names in accordance with the new gTLD Registry Agreement, Specification 5. After the quiet period for Sunrise closes, there will be a land rush period providing applicants the opportunity to register their domain prior to general availability; this will be followed by a 30 day quiet period.

Registration period

After the IP protection programs, the landrush and the general launch, eligible registrants may choose an accredited registrar to register a domain name. The registrar will check availability on the requested domain name and if available, will collect specific objects such as, the required contact and host information from the registrant. The registrar will then provision the information into the registry system using standard Extensible Provisioning Protocol (“EPP”) commands through a secure connection to the registry backend service provider.

When the domain is created, the standard five day Add Grace Period begins, the domain and contact information are available in WHOIS, and normal operating EPP domain statuses will apply. Other specifics regarding registration rules for an active domain include:

• The domain must be unique;
• Restricted or reserved domains cannot be registered;
• The domain can be registered from 1-10 years;
• The domain can be renewed at any time for 1-10 years, but cannot exceed 10 years;
• The domain can be explicitly deleted at any time;
• The domain can be transferred from one registrar to another except during the first 60 days following a successful registration or within 60 days following a transfer; and,
Contacts and hosts can be modified at any time.

The following describe the domain status values recognized in WHOIS when using the EPP protocol following RFC 5731.
• OK or Active: This is the normal status for a domain that has no pending operations or restrictions.
• Inactive: The domain has no delegated name servers.
• Locked: No action can be taken on the domain. The domain cannot be renewed, transferred, updated, or deleted. No objects such as contacts or hosts can be associated to, or disassociated from the domain. This status includes: Delete Prohibited ⁄ Server Delete Prohibited, Update Prohibited ⁄ Server Update Prohibited, Transfer Prohibited, Server Transfer Prohibited, Renew Prohibited, Server Renew Prohibited.
• Hold: The domain will not be included in the zone. This status includes: Client Hold, Server Hold.
• Transfer Prohibited: The domain cannot be transferred away from the sponsoring registrar. This status includes: Client Transfer Prohibited, Server Transfer Prohibited.

The following describe the registration operations that apply to the domain name during the registration period.

a. Domain modifications: This operation allows for modifications or updates to the domain attributes to include:
i. Registrant Contact
ii. Admin Contact
iii. Technical Contact
iv. Billing Contact
v. Host or nameservers
vi. Authorization information
vii. Associated status values

A domain with the EPP status of Client Update Prohibited or Server Update Prohibited may not be modified until the status is removed.

b. Domain renewals: This operation extends the registration period of a domain by changing the expiration date. The following rules apply:
i. A domain can be renewed at any time during its registration term,
ii. The registration term cannot exceed a total of 10 years.

A domain with the EPP status of Client Renew Prohibited or Server Renew Prohibited cannot be renewed.

c. Domain deletions: This operation deletes the domain from the Shared Registry Services (SRS). The following rules apply:
i. A domain can be deleted at any time during its registration term, f the domain is deleted during the Add Grace Period or the Renew⁄Extend Grace Period, the sponsoring registrar will receive a credit,
ii. A domain cannot be deleted if it has “child” nameservers that are associated to other domains.

A domain with the EPP status of Client Delete Prohibited or Server Delete Prohibited cannot be deleted.

d. Domain transfers: A transfer of the domain from one registrar to another is conducted by following the steps below.
i. The registrant must obtain the applicable <authInfo> code from the sponsoring (losing) registrar.

• Every domain name has an authInfo code as per EPP RFC 5731. The authInfo code is a six- to 16-character code assigned by the registrar at the time the name was created. Its purpose is to aid identification of the domain owner so proper authority can be established (it is the "password" to the domain).
• Under the Registry-Registrar Agreement, registrars will be required to provide a copy of the authInfo code to the domain registrant upon his or her request.
ii. The registrant must provide the authInfo code to the new (gaining) registrar, who will then initiate a domain transfer request. A transfer cannot be initiated without the authInfo code.
• Every EPP <transfer> command must contain the authInfo code or the request will fail. The authInfo code represents authority to the registry to initiate a transfer.
iii. Upon receipt of a valid transfer request, the registry automatically asks the sponsoring (losing) registrar to approve the request within five calendar days.
• When a registry receives a transfer request the domain cannot be modified, renewed or deleted until the request has been processed. This status must not be combined with either Client Transfer Prohibited or Server Transfer Prohibited status.
• If the sponsoring (losing) registrar rejects the transfer within five days, the transfer request is cancelled. A new domain transfer request will be required to reinitiate the process.
• If the sponsoring (losing) registrar does not approve or reject the transfer within five days, the registry automatically approves the request.
iv. After a successful transfer, it is strongly recommended that registrars change the authInfo code, so that the prior registrar or registrant cannot use it anymore.
v. Registrars must retain all transaction identifiers and codes associated with successful domain object transfers and protect them from disclosure.
vi. Once a domain is successfully transferred the status of TRANSFERPERIOD is added to the domain for a period of five days.
vii. Successful transfers will result in a one year term extension (resulting in a maximum total of 10 years), which will be charged to the gaining registrar.

e. Bulk transfer: Afilias supports bulk transfer functionality within the SRS for situations where ICANN may request the registry to perform a transfer of some or all registered objects (includes domain, contact and host objects) from one registrar to another registrar. Once a bulk transfer has been executed, expiry dates for all domain objects remain the same, and all relevant states of each object type are preserved. In some cases the gaining and the losing registrar as well as the registry must approved bulk transfers. A detailed log is captured for each bulk transfer process and is archived for audit purposes.

Afilias will support ICANN's Transfer Dispute Resolution Process. Afilias will also respond to Requests for Enforcement (law enforcement or court orders) and will follow that process.

1. Auto-renew grace period
The Auto-Renew Grace Period displays as AUTORENEWPERIOD in WHOIS. An auto-renew must be requested by the registrant through the sponsoring registrar and occurs if a domain name registration is not explicitly renewed or deleted by the expiration date and is set to a maximum of 45 calendar days. In this circumstance the registration will be automatically renewed by the registry system the first day after the expiration date. If a Delete, Extend, or Transfer occurs within the AUTORENEWPERIOD the following rules apply:
i. Delete. If a domain is deleted the sponsoring registrar at the time of the deletion receives a credit for the auto-renew fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
ii. Renew/Extend. A domain can be renewed as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is renewed.
iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred, the losing registrar is credited for the auto-renew fee, and the year added by the operation is cancelled. As a result of the transfer, the expiration date of the domain is extended by minimum of one year as long as the total term does not exceed 10 years. The gaining registrar is charged for the additional transfer year(s) even in cases where a full year is not added because of the maximum 10 year registration restriction.

2. Redemption grace period
During this period, a domain name is placed in the PENDING DELETE RESTORABLE status when a

registrar requests the deletion of a domain that is not within the Add Grace Period. A domain can remain in this state for up to 30 days and will not be included in the zone file. The only action a registrar can take on a domain is to request that it be restored. Any other registrar requests to modify or otherwise update the domain will be rejected. If the domain is restored it moves into PENDING RESTORE and then OK. After 30 days if the domain is not restored it moves into PENDING DELETE SCHEDULED FOR RELEASE before the domain is released back into the pool of available domains.

3. Pending delete
During this period, a domain name is placed in PENDING DELETE SCHEDULED FOR RELEASE status for five days, and all Internet services associated with the domain will remain disabled and domain cannot be restored. After five days the domain is released back into the pool of available domains.

Other grace periods

All ICANN required grace periods will be implemented in the registry backend service provider's system including the Add Grace Period (AGP), Renew/Extend Grace Period (EGP), Transfer Grace Period (TGP), Auto-Renew Grace Period (ARGP), and Redemption Grace Period (RGP). The lengths of grace periods are configurable in the registry system. At this time, the grace periods will be implemented following other gTLDs such as .ORG. More than one of these grace periods may be in effect at any one time. The following are accompanying grace periods to the registration lifecycle.

Add grace period
The Add Grace Period displays as ADDPERIOD in WHOIS and is set to five calendar days following the initial registration of a domain. If the domain is deleted by the registrar during this period, the registry provides a credit to the registrar for the cost of the registration. If a Delete, Renew/Extend, or Transfer operation occurs within the five calendar days, the following rules apply.
i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion is credited for the amount of the registration. The domain is deleted from the registry backend service provider's database and is released back into the pool of available domains.
ii. Renew/Extend. If the domain is renewed within this period and then deleted, the sponsoring registrar will receive a credit for both the registration and the extended amounts. The account of the sponsoring registrar at the time of the renewal will be charged for the initial registration plus the number of years the registration is extended. The expiration date of the domain registration is extended by that number of years as long as the total term does not exceed 10 years.
iii. Transfer (other than ICANN-approved bulk transfer). Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the ADDPERIOD or at any other time within the first 60 days after the initial registration. Enforcement is the responsibility of the registrar sponsoring the domain name registration and is enforced by the SRS.

Renew / extend grace period
The Renew / Extend Grace Period displays as RENEWPERIOD in WHOIS and is set to five calendar days following an explicit renewal on the domain by the registrar. If a Delete, Extend, or Transfer occurs within the five calendar days, the following rules apply:
i. Delete. If a domain is deleted within this period the sponsoring registrar at the time of the deletion receives a credit for the renewal fee. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.
ii. Renew/Extend. A domain registration can be renewed within this period as long as the total term does not exceed 10 years. The account of the sponsoring registrar at the time of the extension will be charged for the additional number of years the registration is renewed.
iii. Transfer (other than ICANN-approved bulk transfer). If a domain is transferred within the Renew/Extend Grace Period, there is no credit to the losing registrar for the renewal fee. As a result of the transfer, the expiration date of the domain registration is extended by a minimum of one year as long as the total term for the domain does not exceed 10 years.
If a domain is auto-renewed, then extended, and then deleted within the Renew/Extend Grace Period, the registrar will be credited for any auto-renew fee charged and the number of years

for the extension. The years that were added to the domain's expiration as a result of the auto-renewal and extension are removed. The deleted domain is moved to the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.

Transfer Grace Period

The Transfer Grace period displays as TRANSFERPERIOD in WHOIS and is set to five calendar days after the successful transfer of domain name registration from one registrar to another registrar. Transfers under Part A of the ICANN Policy on Transfer of Registrations between registrars may not occur during the TRANSFERPERIOD or within the first 60 days after the transfer. If a Delete or Renew/Extend occurs within that five calendar days, the following rules apply:

i. Delete. If the domain is deleted by the new sponsoring registrar during this period, the registry provides a credit to the registrar for the cost of the transfer. The domain then moves into the Redemption Grace Period with a status of PENDING DELETE RESTORABLE.

ii. Renew/Extend. If a domain registration is renewed within the Transfer Grace Period, there is no credit for the transfer. The registrar's account will be charged for the number of years the registration is renewed. The expiration date of the domain registration is extended by the renewal years as long as the total term does not exceed 10 years.

Registration lifecycle resources

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way. Virtually all Afilias resource are involved in the registration lifecycle of domains.

There are a few areas where registry staff devote resources to registration lifecycle issues:
a. Supporting Registrar Transfer Disputes. The registry operator will have a compliance staffer handle these disputes as they arise; they are very rare in the existing gTLDs.
b. Afilias has its development and quality assurance departments on hand to modify the grace period functionality as needed, if ICANN issues new Consensus Policies or the RFCs change.

Afilias has more than 30 staff members in these departments.

28. Abuse Prevention and Mitigation

Afilias will take the requisite operational and technical steps to promote WHOIS data accuracy, limit domain abuse, remove outdated and inaccurate data, and other security measures to ensure the integrity of the TLD. The specific measures include, but are not limited to:
• Posting a TLD Anti-Abuse Policy that clearly defines abuse, and provide point-of-contact information for reporting suspected abuse;
• Committing to rapid identification and resolution of abuse, including suspensions;
• Ensuring completeness of WHOIS information at the time of registration;
• Publishing and maintaining procedures for removing orphan glue records for names removed from the zone, and;
• Establishing measures to deter WHOIS abuse, including rate-limiting, determining data syntax validity, and implementing and enforcing requirements from the Registry-Registrar Agreement.

Abuse policy

The Anti-Abuse Policy stated below will be enacted under the contractual authority of the registry operator through the Registry-Registrar Agreement, and the obligations will be passed on to and made binding upon registrants. This policy will be posted on the TLD web site along

with contact information for registrants or users to report suspected abuse.

The policy is designed to address the malicious use of domain names. The registry operator and its registrars will make reasonable attempts to limit significant harm to Internet users. This policy is not intended to take the place of the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS), and it is not to be used as an alternate form of dispute resolution or as a brand protection mechanism. Its intent is not to burden law-abiding or innocent registrants and domain users; rather, the intent is to deter those who use domain names maliciously by engaging in illegal or fraudulent activity.

Repeat violations of the abuse policy will result in a case-by-case review of the abuser(s), and the registry operator reserves the right to escalate the issue, with the intent of levying sanctions that are allowed under the TLD anti-abuse policy.

The below policy is a recent version of the policy that has been used by the .INFO registry since 2008, and the .ORG registry since 2009. It has proven to be an effective and flexible tool.

.WEB Anti-Abuse Policy

The following Anti-Abuse Policy is effective upon launch of the TLD. Malicious use of domain names will not be tolerated. The nature of such abuses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in general. The registry operator definition of abusive use of a domain includes, without limitation, the following:

• Illegal or fraudulent actions;
• Spam: The use of electronic messaging systems to send unsolicited bulk messages. The term applies to email spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of web sites and Internet forums;
• Phishing: The use of counterfeit web pages that are designed to trick recipients into divulging sensitive data such as personally identifying information, usernames, passwords, or financial data;
• Pharming: The redirecting of unknowing users to fraudulent sites or services, typically through, but not limited to, DNS hijacking or poisoning;
• Willful distribution of malware: The dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and Trojan horses.
• Malicious fast-flux hosting: Use of fast-flux techniques with a botnet to disguise the location of web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities.
• Botnet command and control: Services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct distributed denial-of-service attacks (DDoS attacks);
• Illegal Access to Other Computers or Networks: Illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity).

Pursuant to the Registry-Registrar Agreement, registry operator reserves the right at its sole discretion to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary: (1) to protect the integrity and stability of the registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to avoid any liability, civil or criminal, on the part of registry operator, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) per the terms of the registration agreement and this Anti-Abuse Policy, or (5) to correct mistakes made by registry operator or any registrar in connection with a domain name registration. Registry operator also reserves the right to place upon registry lock, hold, or similar status a domain name during resolution of a dispute.

The policy stated above will be accompanied by notes about how to submit a report to the registry operator's abuse point of contact, and how to report an orphan glue record suspected of being used in connection with malicious conduct (see below).

Abuse point of contact and procedures for handling abuse complaints

The registry operator will establish an abuse point of contact. This contact will be a role-based e-mail address of the form “abuse@registry.WEB”. This e-mail address will allow multiple staff members to monitor abuse reports on a 24x7 basis, and then work toward closure of cases as each situation calls for. For tracking purposes, the registry operator will have a ticketing system with which all complaints will be tracked internally. The reporter will be provided with the ticket reference identifier for potential follow-up. Afilias will integrate its existing ticketing system to ensure uniform tracking and handling of the complaint. This role-based approach has been used successfully by ISPs, e-mail service providers, and registrars for many years, and is considered a global best practice.

The registry operator’s designated abuse handlers will then evaluate complaints received via the abuse system address. They will decide whether a particular issue is of concern, and decide what action, if any, is appropriate.

In general, the registry operator will find itself receiving abuse reports from a wide variety of parties, including security researchers and Internet security companies, financial institutions such as banks, Internet users, and law enforcement agencies among others. Some of these parties may provide good forensic data or supporting evidence of the malicious behavior. In other cases, the party reporting an issue may not be familiar with how to provide such data or proof of malicious behavior. It is expected that a percentage of abuse reports to the registry operator will not be actionable, because there will not be enough evidence to support the complaint (even after investigation), and because some reports or reporters will simply not be credible.

The security function includes a communication and outreach function, with information sharing with industry partners regarding malicious or abusive behavior, in order to ensure coordinated abuse mitigation across multiple TLDs.

Assessing abuse reports requires great care, and the registry operator will rely upon professional, trained investigators who are versed in such matters. The goals are accuracy, good record-keeping, and a zero false-positive rate so as not to harm innocent registrants.

Different types of malicious activities require different methods of investigation and documentation. Further, the registry operator expects to face unexpected or complex situations that call for professional advice, and will rely upon professional, trained investigators as needed.

In general, there are two types of domain abuse that must be addressed:
a) Compromised domains. These domains have been hacked or otherwise compromised by criminals, and the registrant is not responsible for the malicious activity taking place on the domain. For example, the majority of domain names that host phishing sites are compromised. The goal in such cases is to get word to the registrant (usually via the registrar) that there is a problem that needs attention with the expectation that the registrant will address the problem in a timely manner. Ideally such domains do not get suspended, since suspension would disrupt legitimate activity on the domain.
b) Malicious registrations. These domains are registered by malefactors for the purpose of abuse. Such domains are generally targets for suspension, since they have no legitimate use.

The standard procedure is that the registry operator will forward a credible alleged case of malicious domain name use to the domain’s sponsoring registrar with a request that the registrar investigate the case and act appropriately. The registrar will be provided evidence collected as a result of the investigation conducted by the trained abuse handlers. As part of the investigation, if inaccurate or false WHOIS registrant information is detected, the registrar is notified about this. The registrar is the party with a direct relationship with—and a direct contract with—the registrant. The registrar will also have vital information that the registry operator will not, such as:
• Details about the domain purchase, such as the payment method used (credit card, PayPal, etc.);
• The identity of a proxy-protected registrant;

• The purchaser’s IP address;
• Whether there is a reseller involved, and;
• The registrant’s past sales history and purchases in other TLDs (insofar as the registrar can determine this).

Registrars do not share the above information with registry operators due to privacy and liability concerns, among others. Because they have more information with which to continue the investigation, and because they have a direct relationship with the registrant, the registrar is in the best position to evaluate alleged abuse. The registrar can determine if the use violates the registrar’s legal terms of service or the registry Anti-Abuse Policy, and can decide whether or not to take any action. While the language and terms vary, registrars will be expected to include language in their registrar-registrant contracts that indemnifies the registrar if it takes action, and allows the registrar to suspend or cancel a domain name; this will be in addition to the registry Anti-Abuse Policy. Generally, registrars can act if the registrant violates the registrar’s terms of service, or violates ICANN policy, or if illegal activity is involved, or if the use violates the registry’s Anti-Abuse Policy.

If a registrar does not take action within a time period indicated by the registry operator (usually 24 hours), the registry operator might then decide to take action itself. At all times, the registry operator reserves the right to act directly and immediately if the potential harm to Internet users seems significant or imminent, with or without notice to the sponsoring registrar.

The registry operator will be prepared to call upon relevant law enforcement bodies as needed. There are certain cases, for example, Illegal pharmacy domains, where the registry operator will contact the Law Enforcement Agencies to share information about these domains, provide all the evidence collected and work closely with them before any action will be taken for suspension. The specific action is often dependent upon the jurisdiction of which the registry operator, although the operator in all cases will adhere to applicable laws and regulations.

When valid court orders or seizure warrants are received from courts or law enforcement agencies of relevant jurisdiction, the registry operator will order execution in an expedited fashion. Compliance with these will be a top priority and will be completed as soon as possible and within the defined timelines of the order. There are certain cases where Law Enforcement Agencies request information about a domain including but not limited to:
• Registration information
• History of a domain, including recent updates made
• Other domains associated with a registrant’s account
• Patterns of registrant portfolio

Requests for such information is handled on a priority basis and sent back to the requestor as soon as possible. Afilias sets a goal to respond to such requests within 24 hours.

The registry operator may also engage in proactive screening of its zone for malicious use of the domains in the TLD, and report problems to the sponsoring registrars. The registry operator could take advantage of a combination of the following resources, among others:
• Blocklists of domain names and nameservers published by organizations such as SURBL and Spamhaus.
• Anti-phishing feeds, which will provide URLs of compromised and maliciously registered domains being used for phishing.
• Analysis of registration or DNS query data [DNS query data received by the TLD nameservers.]

The registry operator will keep records and track metrics regarding abuse and abuse reports. These will include:
• Number of abuse reports received by the registry’s abuse point of contact described above;
• Number of cases and domains referred to registrars for resolution;
• Number of cases and domains where the registry took direct action;
• Resolution times;
• Number of domains in the TLD that have been blacklisted by major anti-spam blocklist providers, and;
• Phishing site uptimes in the TLD.

Removal of orphan glue records

By definition, orphan glue records used to be glue records. Glue records are related to delegations and are necessary to guide iterative resolvers to delegated nameservers. A glue record becomes an orphan when its parent nameserver record is removed without also removing the corresponding glue record. (Please reference the ICANN SSAC paper SAC048 at: http://www.icann.org/en/committees/security/sac048.pdf.) Orphan glue records may be created when a domain (example.tld) is placed on EPP ServerHold or ClientHold status. When placed on Hold, the domain is removed from the zone and will stop resolving. However, any child nameservers (now orphan glue) of that domain (e.g., ns1.example.tld) are left in the zone. It is important to keep these orphan glue records in the zone so that any innocent sites using that nameserver will continue to resolve. This use of Hold status is an essential tool for suspending malicious domains.

Afilias observes the following procedures, which are being followed by other registries and are generally accepted as DNS best practices. These procedures are also in keeping with ICANN SSAC recommendations.

When a request to delete a domain is received from a registrar, the registry first checks for the existence of glue records. If glue records exist, the registry will check to see if other domains in the registry are using the glue records. If other domains in the registry are using the glue records then the request to delete the domain will fail until no other domains are using the glue records. If no other domains in the registry are using the glue records then the glue records will be removed before the request to delete the domain is satisfied. If no glue records exist then the request to delete the domain will be satisfied.

If a registrar cannot delete a domain because of the existence of glue records that are being used by other domains, then the registrar may refer to the zone file or the “weekly domain hosted by nameserver report” to find out which domains are using the nameserver in question and attempt to contact the corresponding registrar to request that they stop using the nameserver in the glue record. The registry operator does not plan on performing mass updates of the associated DNS records.

The registry operator will accept, evaluate, and respond appropriately to complaints that orphan glue is being used maliciously. Such reports should be made in writing to the registry operator, and may be submitted to the registry’s abuse point-of-contact. If it is confirmed that an orphan glue record is being used in connection with malicious conduct, the registry operator will have the orphan glue record removed from the zone file. Afilias has the technical ability to execute such requests as needed.

Methods to promote WHOIS accuracy

The creation and maintenance of accurate WHOIS records is an important part of registry management. As described in our response to question #26, WHOIS, the registry operator will manage a secure, robust and searchable WHOIS service for this TLD.

WHOIS data accuracy

The registry operator will offer a “thick” registry system. In this model, all key contact details for each domain name will be stored in a central location by the registry. This allows better access to domain data, and provides uniformity in storing the information. The registry operator will ensure that the required fields for WHOIS data (as per the defined policies for the TLD) are enforced at the registry level. This ensures that the registrars are providing required domain registration data. Fields defined by the registry policy to be mandatory are documented as such and must be submitted by registrars. The Afilias registry system verifies formats for relevant individual data fields (e.g. e-mail, and phone/fax numbers). Only valid country codes are allowed as defined by the ISO 3166 code list. The Afilias WHOIS system is extensible, and is capable of using the VAULT system, described further below.

Similar to the centralized abuse point of contact described above, the registry operator can institute a contact email address which could be utilized by third parties to submit complaints for inaccurate or false WHOIS data detected. This information will be processed by Afilias’ support department and forwarded to the registrars. The registrars can work with the

registrants of those domains to address these complaints. Afilias will audit registrars on a yearly basis to verify whether the complaints being forwarded are being addressed or not. This functionality, available to all registry operators, is activated based on the registry operator's business policy.

Afilias also incorporates a spot-check verification system where a randomly selected set of domain names are checked periodically for accuracy of WHOIS data. Afilias' .PRO registry system incorporates such a verification system whereby 1% of total registrations or 100 domains, whichever number is larger, are spot-checked every month to verify the domain name registrant's critical information provided with the domain registration data. With both a highly qualified corps of engineers and a 24x7 staffed support function, Afilias has the capacity to integrate such spot-check functionality into this TLD, based on the registry operator's business policy. Note: This functionality will not work for proxy protected WHOIS information, where registrars or their resellers have the actual registrant data. The solution to that problem lies with either registry or registrar policy, or a change in the general marketplace practices with respect to proxy registrations.

Finally, Afilias' registry systems have a sophisticated set of billing and pricing functionality which aids registry operators who decide to provide a set of financial incentives to registrars for maintaining or improving WHOIS accuracy. For instance, it is conceivable that the registry operator may decide to provide a discount for the domain registration or renewal fees for validated registrants, or levy a larger cost for the domain registration or renewal of proxy domain names. The Afilias system has the capability to support such incentives on a configurable basis, towards the goal of promoting better WHOIS accuracy.

Role of registrars

As part of the RRA (Registry Registrar Agreement), the registry operator will require the registrar to be responsible for ensuring the input of accurate WHOIS data by their registrants. The Registrar⁄Registered Name Holder Agreement will include a specific clause to ensure accuracy of WHOIS data, and to give the registrar rights to cancel or suspend registrations if the Registered Name Holder fails to respond to the registrar's query regarding accuracy of data. ICANN's WHOIS Data Problem Reporting System (WDPRS) will be available to those who wish to file WHOIS inaccuracy reports, as per ICANN policy (http:⁄⁄wdprs.internic.net⁄).

Controls to ensure proper access to domain functions

Several measures are in place in the Afilias registry system to ensure proper access to domain functions, including authentication provisions in the RRA relative to notification and contact updates via use of AUTH-INFO codes.

IP address access control lists, TLS⁄SSL certificates and proper authentication are used to control access to the registry system. Registrars are only given access to perform operations on the objects they sponsor.

Every domain will have a unique AUTH-INFO code. The AUTH-INFO code is a 6- to 16-character code assigned by the registrar at the time the name is created. Its purpose is to aid identification of the domain owner so proper authority can be established. It is the "password" to the domain name. Registrars must use the domain's password in order to initiate a registrar-to-registrar transfer. It is used to ensure that domain updates (update contact information, transfer, or deletion) are undertaken by the proper registrant, and that this registrant is adequately notified of domain update activity. Only the sponsoring registrar of a domain has access to the domain's AUTH-INFO code stored in the registry, and this is accessible only via encrypted, password-protected channels.

Information about other registry security measures such as encryption and security of registrar channels are confidential to ensure the security of the registry system. The details can be found in the response to question #30b.

Validation and abuse mitigation mechanisms

Afilias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

Afilias has the ability to analyze the registration data for known patterns at the time of registration. A database of these known patterns is developed from domains and other associated objects (e.g., contact information) which have been previously detected and suspended after being flagged as abusive. Any domains matching the defined criteria can be flagged for investigation. Once analyzed and confirmed by the domain anti-abuse team members, these domains may be suspended. This provides proactive detection of abusive domains.

Provisions are available to enable the registry operator to only allow registrations by pre-authorized and verified contacts. These verified contacts are given a unique code that can be used for registration of new domains.

Registrant pre-verification and authentication

One of the systems that could be used for validity and identity authentication is VAULT (Validation and Authentication Universal Lookup). It utilizes information obtained from a series of trusted data sources with access to billions of records containing data about individuals for the purpose of providing independent age and id verification as well as the ability to incorporate additional public or private data sources as required. At present it has the following: US Residential Coverage - 90% of Adult Population and also International Coverage - Varies from Country to Country with a minimum of 80% coverage (24 countries, mostly European).

Various verification elements can be used. Examples might include applicant data such as name, address, phone, etc. Multiple methods could be used for verification include integrated solutions utilizing API (XML Application Programming Interface) or sending batches of requests.

• Verification and Authentication requirements would be based on TLD operator requirements or specific criteria.
• Based on required WHOIS Data; registrant contact details (name, address, phone)
• If address⁄ZIP can be validated by VAULT, the validation process can continue (North America +25 International countries)
• If in-line processing and registration and EPP⁄API call would go to the verification clearinghouse and return up to 4 challenge questions.
• If two-step registration is required, then registrants would get a link to complete the verification at a separate time. The link could be specific to a domain registration and pre-populated with data about the registrant.
• If WHOIS data is validated a token would be generated and could be given back to the registrar which registered the domain.
• WHOIS data would reflect the Validated Data or some subset, i.e., fields displayed could be first initial and last name, country of registrant and date validated. Other fields could be generic validation fields much like a “privacy service”.
• A “Validation Icon” customized script would be sent to the registrants email address. This could be displayed on the website and would be dynamically generated to avoid unauthorized use of the Icon. When clicked on the Icon would should limited WHOIS details i.e. Registrant: jdoe, Country: USA, Date Validated: March 29, 2011, as well as legal disclaimers.
• Validation would be annually renewed, and validation date displayed in the WHOIS.

Abuse prevention resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both

a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way. Abuse prevention and detection is a function that is staffed across the various groups inside Afilias, and requires a team effort when abuse is either well hidden or widespread, or both. While all of Afilias' 200+ employees are charged with responsibility to report any detected abuse, the engineering and analysis teams, numbering over 30, provide specific support based on the type of abuse and volume and frequency of analysis required. The Afilias security and support teams have the authority to initiate mitigation.

Afilias has developed advanced validation and abuse mitigation mechanisms. These capabilities and mechanisms are described below. These services and capabilities are discretionary and may be utilized by the registry operator based on their policy and business need.

This TLD's anticipated volume of registrations in the first three years of operations is listed in response #46. Afilias' anti-abuse function anticipates the expected volume and type of registrations, and together will adequately cover the staffing needs for this TLD. The registry operator will maintain an abuse response team, which may be a combination of internal staff and outside specialty contractors, adjusting to the needs of the size and type of TLD. The team structure planned for this TLD is based on several years of experience responding to, mitigating, and managing abuse for TLDs of various sizes. The team will generally consist of abuse handlers (probably internal), a junior analyst, (either internal or external), and a senior security consultant (likely an external resource providing the registry operator with extra expertise as needed). These responders will be specially trained in the investigation of abuse complaints, and will have the latitude to act expeditiously to suspend domain names (or apply other remedies) when called for.

The exact resources required to maintain an abuse response team must change with the size and registration procedures of the TLD. An initial abuse handler is necessary as a point of contact for reports, even if a part-time responsibility. The abuse handlers monitor the abuse email address for complaints and evaluate incoming reports from a variety of sources. A large percentage of abuse reports to the registry operator may be unsolicited commercial email. The designated abuse handlers can identify legitimate reports and then decide what action is appropriate, either to act upon them, escalate to a security analyst for closer investigation, or refer them to registrars as per the above-described procedures. A TLD with rare cases of abuse would conform to this structure.

If multiple cases of abuse within the same week occur regularly, the registry operator will consider staffing internally an additional security analyst to investigate the complaints as they become more frequent. Training an abuse analyst requires 3-6 months and likely requires the active guidance of an experienced senior security analyst for guidance and verification of assessments and recommendations being made.

If this TLD were to regularly experience multiple cases of abuse within the same day, a full-time senior security analyst would likely be necessary. A senior security analyst capable of fulfilling this role should have several years of experience and able to manage and train the internal abuse response team.

The abuse response team will also maintain subscriptions for several security information services, including the blocklists from organizations like SURBL and Spamhaus and anti-phishing and other domain related abuse (malware, fast-flux etc.) feeds. The pricing structure of these services may depend on the size of the domain and some services will include a number of rapid suspension requests for use as needed.

For a large TLD, regular audits of the registry data are required to maintain control over abusive registrations. When a registrar with a significant number of registrations has been compromised or acted maliciously, the registry operator may need to analyze a set of registration or DNS query data. A scan of all the domains of a registrar is conducted only as needed. Scanning and analysis for a large registrar may require as much as a week of full-time effort for a dedicated machine and team.

29. Rights Protection Mechanisms

Rights protection is a core responsibility of the TLD operator, and is supported by a fully-developed plan for rights protection that includes:
• Establishing mechanisms to prevent unqualified registrations (e.g., registrations made in violation of the registry's eligibility restrictions or policies);
• Implementing a robust Sunrise program, utilizing the Trademark Clearinghouse, the services of one of ICANN's approved dispute resolution providers, a trademark validation agent, and drawing upon sunrise policies and rules used successfully in previous gTLD launches;
• Implementing a professional trademark claims program that utilizes the Trademark Clearinghouse, and drawing upon models of similar programs used successfully in previous TLD launches;
• Complying with the URS requirements;
• Complying with the UDRP;
• Complying with the PDDRP, and;
• Including all ICANN-mandated and independently developed rights protection mechanisms ("RPMs") in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD.

The response below details the rights protection mechanisms at the launch of the TLD (Sunrise and Trademark Claims Service) which comply with rights protection policies (URS, UDRP, PDDRP, and other ICANN RPMs), outlines additional provisions made for rights protection, and provides the resourcing plans.

Safeguards for rights protection at the launch of the TLD

The launch of this TLD will include the operation of a trademark claims service according to the defined ICANN processes for checking a registration request and alerting trademark holders of potential rights infringement.

The Sunrise Period will be an exclusive period of time, prior to the opening of public registration, when trademark and service mark holders will be able to reserve marks that are an identical match in the .WEB domain. Following the Sunrise Period, Afilias will open registration to qualified applicants.

The anticipated Rollout Schedule for the Sunrise Period will be approximately as follows:
• Launch of the TLD – Sunrise Period begins for trademark holders and service mark holders to submit registrations for their exact marks in the .ART domain.
• Quiet Period – The Sunrise Period will close and will be followed by a Quiet Period for testing and evaluation.
• Land rush period opens after the Quiet period
• Quiet period of 30 days begins after the close of Land rush
• One month after close of Quiet Period – Registration in the .ART domain will be opened to qualified applicants.

Sunrise Period Requirements & Restrictions
Those wishing to reserve their marks in the .WEB domain during the Sunrise Period must own a current trademark or service mark listed in the Trademark Clearinghouse.

Notice will be provided to all trademark holders in the Clearinghouse if someone is seeking a Sunrise registration. This notice will be provided to holders of marks in the Clearinghouse that are an Identical Match (as defined in the Trademark Clearing House) to the name to be registered during Sunrise.

Each Sunrise registration will require a minimum term, to be determined at a later date.

Afilias will establish the following Sunrise eligibility requirements (SERs) as minimum requirements, verified by Clearinghouse data, and incorporate a Sunrise Dispute Resolution Policy (SDRP). The SERs include: (i) ownership of a mark that satisfies the criteria set forth in section 7.2 of the Trademark Clearing House specifications, (ii) description of international class of goods or services covered by registration; (iii) representation that

all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

The SDRP will allow challenges based on the following four grounds: (i) at time the challenged domain name was registered, the registrants did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

Ongoing rights protection mechanisms

Several mechanisms will be in place to protect rights in this TLD. As described in our responses to questions #27 and #28, measures are in place to ensure domain transfers and updates are only initiated by the appropriate domain holder, and an experienced team is available to respond to legal actions by law enforcement or court orders.

This TLD will conform to all ICANN RPMs including URS (defined below), UDRP, PDDRP, and all measures defined in Specification 7 of the new TLD agreement.

Uniform Rapid Suspension (URS)

The registry operator will implement decisions rendered under the URS on an ongoing basis. Per the URS policy posted on ICANN’s Web site as of this writing, the registry operator will receive notice of URS actions from the ICANN-approved URS providers. These emails will be directed immediately to the registry operator’s support staff, which is on duty 24x7. The support staff will be responsible for creating a ticket for each case, and for executing the directives from the URS provider. All support staff will receive pertinent training.

As per ICANN’s URS guidelines, within 24 hours of receipt of the notice of complaint from the URS provider, the registry operator shall “lock” the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will remain in the TLD DNS zone file and will thus continue to resolve. The support staff will “lock” the domain by associating the following EPP statuses with the domain and relevant contact objects:

- ServerUpdateProhibited, with an EPP reason code of “URS”
- ServerDeleteProhibited, with an EPP reason code of “URS”
- ServerTransferProhibited, with an EPP reason code of “URS”
- The registry operator’s support staff will then notify the URS provider immediately upon locking the domain name, via email.

The registry operator’s support staff will retain all copies of emails from the URS providers, assign them a tracking or ticket number, and will track the status of each opened URS case through to resolution via spreadsheet or database.

The registry operator’s support staff will execute further operations upon notice from the URS providers. The URS provider is required to specify the remedy and required actions of the registry operator, with notification to the registrant, the complainant, and the registrar.

As per the URS guidelines, if the complainant prevails, the “registry operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The nameservers shall be redirected to an informational web page provided by the URS provider about the URS. The WHOIS for the domain name shall continue to display all of the information of the original registrant except for the redirection of the nameservers. In addition, the WHOIS shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration.”

Rights protection via the RRA

The following will be memorialized and be made binding via the Registry-Registrar and

Registrar-Registrant Agreements:

• The registry may reject a registration request or a reservation request, or may delete, revoke, suspend, cancel, or transfer a registration or reservation under the following criteria:
a. to enforce registry policies and ICANN requirements; each as amended from time to time;
b. that is not accompanied by complete and accurate information as required by ICANN requirements and/or registry policies or where required information is not updated and/or corrected as required by ICANN requirements and/or registry policies;
c. to protect the integrity and stability of the registry, its operations, and the TLD system;
d. to comply with any applicable law, regulation, holding, order, or decision issued by a court, administrative authority, or dispute resolution service provider with jurisdiction over the registry;
e. to establish, assert, or defend the legal rights of the registry or a third party or to avoid any civil or criminal liability on the part of the registry and/or its affiliates, subsidiaries, officers, directors, representatives, employees, contractors, and stockholders;
f. to correct mistakes made by the registry or any accredited registrar in connection with a registration; or
g. as otherwise provided in the Registry-Registrar Agreement and/or the Registrar-Registrant Agreement.

Reducing opportunities for behaviors such as phishing or pharming

In our response to question #28, the registry operator has described its anti-abuse program. Rather than repeating the policies and procedures here, please see our response to question #28 for full details.

In the case of this TLD, Afilias will apply an approach that addresses registered domain names (rather than potentially registered domains). This approach will not infringe upon the rights of eligible registrants to register domains, and allows Afilias internal controls, as well as community-developed UDRP and URS policies and procedures if needed, to deal with complaints, should there be any.

Afilias is a member of various security fora which provide access to lists of names in each TLD which may be used for malicious purposes. Such identified names will be subject to the TLD anti-abuse policy, including rapid suspensions after due process.

Rights protection resourcing plans

Since its founding, Afilias is focused on delivering secure, stable and reliable registry services. Several essential management and staff who designed and launched the Afilias registry in 2001 and expanded the number of TLDs supported, all while maintaining strict service levels over the past decade, are still in place today. This experiential continuity will endure for the implementation and on-going maintenance of this TLD. Afilias operates in a matrix structure, which allows its staff to be allocated to various critical functions in both a dedicated and a shared manner. With a team of specialists and generalists, the Afilias project management methodology allows efficient and effective use of our staff in a focused way.

Supporting RPMs requires several departments within the registry operator as well as within Afilias. The implementation of Sunrise and the Trademark Claims service and on-going RPM activities will pull from the 102 Afilias staff members of the engineering, product management, development, security and policy teams at Afilias which are on duty 24x7. A trademark validator will also be assigned within the registry operator, whose responsibilities may require as much as 50% of full-time employment if the domains under management were to exceed several million. No additional hardware or software resources are required to support this as Afilias has fully-operational capabilities to manage abuse today.

30(a). Security Policy: Summary of the security policy for the proposed registry

Afilias aggressively and actively protects the registry system from known threats and vulnerabilities, and has deployed an extensive set of security protocols, policies and procedures to thwart compromise. Afilias' robust and detailed plans are continually updated and tested to ensure new threats are mitigated prior to becoming issues. Afilias will continue these rigorous security measures, which include:
• Multiple layers of security and access controls throughout registry and support systems;
• 24x7 monitoring of all registry and DNS systems, support systems and facilities;
• Unique, proven registry design that ensures data integrity by granting only authorized access to the registry system, all while meeting performance requirements;
• Detailed incident and problem management processes for rapid review, communications, and problem resolution, and;
• Yearly external audits by independent, industry-leading firms, as well as twice-yearly internal audits.

Security policies and protocols

Afilias has included security in every element of its service, including facilities, hardware, equipment, connectivity/Internet services, systems, computer systems, organizational security, outage prevention, monitoring, disaster mitigation, and escrow/insurance, from the original design, through development, and finally as part of production deployment. Examples of threats and the confidential and proprietary mitigation procedures are detailed in our response to question #30(b).

There are several important aspects of the security policies and procedures to note:
• Afilias hosts domains in data centers around the world that meet or exceed global best practices.
• Afilias' DNS infrastructure is massively provisioned as part of its DDoS mitigation strategy, thus ensuring sufficient capacity and redundancy to support new gTLDs.
• Diversity is an integral part of all of our software and hardware stability and robustness plan, thus avoiding any single points of failure in our infrastructure.
• Access to any element of our service (applications, infrastructure and data) is only provided on an as-needed basis to employees and a limited set of others to fulfill their job functions. The principle of least privilege is applied.
• All registry components–critical and non-critical–are monitored 24x7 by staff at our NOCs, and the technical staff has detailed plans and procedures that have stood the test of time for addressing even the smallest anomaly. Well-documented incident management procedures are in place to quickly involve the on-call technical and management staff members to address any issues.

Afilias follows the guidelines from the ISO 27001 Information Security Standard (Reference: http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=42103) for the management and implementation of its Information Security Management System. Afilias also utilizes the COBIT IT governance framework to facilitate policy development and enable controls for appropriate management of risk (Reference: http://www.isaca.org/cobit). Best practices defined in ISO 27002 are followed for defining the security controls within the organization. Afilias continually looks to improve the efficiency and effectiveness of our processes, and follows industry best practices as defined by the IT Infrastructure Library, or ITIL (Reference: http://www.itil-officialsite.com/).

The Afilias registry system is located within secure data centers that implement a multitude of security measures both to minimize any potential points of vulnerability and to limit any damage should there be a breach. The characteristics of these data centers are described fully in our response to question #30(b).

The Afilias registry system employs a number of multi-layered measures to prevent unauthorized access to its network and internal systems. Before reaching the registry network, all traffic is required to pass through a firewall system. Packets passing to and from the Internet are inspected, and unauthorized or unexpected attempts to connect to the registry servers are both logged and denied. Management processes are in place to ensure each request is tracked and

documented, and regular firewall audits are performed to ensure proper operation. 24x7 monitoring is in place and, if potential malicious activity is detected, appropriate personnel are notified immediately.

Afilias employs a set of security procedures to ensure maximum security on each of its servers, including disabling all unnecessary services and processes and regular application of security-related patches to the operating system and critical system applications. Regular external vulnerability scans are performed to verify that only services intended to be available are accessible.

Regular detailed audits of the server configuration are performed to verify that the configurations comply with current best security practices. Passwords and other access means are changed on a regular schedule and are revoked whenever a staff member's employment is terminated.

Access to registry system

Access to all production systems and software is strictly limited to authorized operations staff members. Access to technical support and network operations teams where necessary are read only and limited only to components required to help troubleshoot customer issues and perform routine checks. Strict change control procedures are in place and are followed each time a change is required to the production hardware/application. User rights are kept to a minimum at all times. In the event of a staff member's employment termination, all access is removed immediately.

Afilias applications use encrypted network communications. Access to the registry server is controlled. Afilias allows access to an authorized registrar only if each of the authentication factors matches the specific requirements of the requested authorization. These mechanisms are also used to secure any web-based tools that allow authorized registrars to access the registry. Additionally, all write transactions in the registry (whether conducted by authorized registrars or the registry's own personnel) are logged.

EPP connections are encrypted using TLS/SSL, and mutually authenticated using both certificate checks and login/password combinations. Web connections are encrypted using TLS/SSL for an encrypted tunnel to the browser, and authenticated to the EPP server using login/password combinations.

All systems are monitored for security breaches from within the data center and without, using both system-based and network-based testing tools. Operations staff also monitor systems for security-related performance anomalies. Triple-redundant continual monitoring ensures multiple detection paths for any potential incident or problem. Details are provided in our response to questions #30(b) and #42. Network Operations and Security Operations teams perform regular audits in search of any potential vulnerability.

To ensure that registrar hosts configured erroneously or maliciously cannot deny service to other registrars, Afilias uses traffic shaping technologies to prevent attacks from any single registrar account, IP address, or subnet. This additional layer of security reduces the likelihood of performance degradation for all registrars, even in the case of a security compromise at a subset of registrars.

There is a clear accountability policy that defines what behaviors are acceptable and unacceptable on the part of non-staff users, staff users, and management. Periodic audits of policies and procedures are performed to ensure that any weaknesses are discovered and addressed. Aggressive escalation procedures and well-defined Incident Response management procedures ensure that decision makers are involved at early stages of any event.

In short, security is a consideration in every aspect of business at Afilias, and this is evidenced in a track record of a decade of secure, stable and reliable service.

Independent assessment

Supporting operational excellence as an example of security practices, Afilias performs a number of internal and external security audits each year of the existing policies, procedures

and practices for:
• Access control;
• Security policies;
• Production change control;
• Backups and restores;
• Batch monitoring;
• Intrusion detection, and
• Physical security.

Afilias has an annual Type 2 SSAE 16 audit performed by PricewaterhouseCoopers (PwC). Further, PwC performs testing of the general information technology controls in support of the financial statement audit. A Type 2 report opinion under SSAE 16 covers whether the controls were properly designed, were in place, and operating effectively during the audit period (calendar year). This SSAE 16 audit includes testing of internal controls relevant to Afilias' domain registry system and processes. The report includes testing of key controls related to the following control objectives:
• Controls provide reasonable assurance that registrar account balances and changes to the registrar account balances are authorized, complete, accurate and timely.
• Controls provide reasonable assurance that billable transactions are recorded in the Shared Registry System (SRS) in a complete, accurate and timely manner.
• Controls provide reasonable assurance that revenue is systemically calculated by the Deferred Revenue System (DRS) in a complete, accurate and timely manner.
• Controls provide reasonable assurance that the summary and detail reports, invoices, statements, registrar and registry billing data files, and ICANN transactional reports provided to registry operator(s) are complete, accurate and timely.
• Controls provide reasonable assurance that new applications and changes to existing applications are authorized, tested, approved, properly implemented and documented.
• Controls provide reasonable assurance that changes to existing system software and implementation of new system software are authorized, tested, approved, properly implemented and documented.
• Controls provide reasonable assurance that physical access to data centers is restricted to properly authorized individuals.
• Controls provide reasonable assurance that logical access to system resources is restricted to properly authorized individuals.
• Controls provide reasonable assurance that processing and backups are appropriately authorized and scheduled and that deviations from scheduled processing and backups are identified and resolved.

The last Type 2 report issued was for the year 2010, and it was unqualified, i.e., all systems were evaluated with no material problems found.

During each year, Afilias monitors the key controls related to the SSAE controls. Changes or additions to the control objectives or activities can result due to deployment of new services, software enhancements, infrastructure changes or process enhancements. These are noted and after internal review and approval, adjustments are made for the next review.

In addition to the PricewaterhouseCoopers engagement, Afilias performs internal security audits twice a year. These assessments are constantly being expanded based on risk assessments and changes in business or technology.

Additionally, Afilias engages an independent third-party security organization, PivotPoint Security, to perform external vulnerability assessments and penetration tests on the sites hosting and managing the Registry infrastructure. These assessments are performed with major infrastructure changes, release of new services or major software enhancements. These independent assessments are performed at least annually. A report from a recent assessment is attached with our response to question #30(b).

Afilias has engaged with security companies specializing in application and web security testing to ensure the security of web-based applications offered by Afilias, such as the Web Admin Tool (WAT) for registrars and registry operators.

Finally, Afilias has engaged IBM's Security services division to perform ISO 27002 gap assessment studies so as to review alignment of Afilias' procedures and policies with the ISO

27002 standard. Afilias has since made adjustments to its security procedures and policies based on the recommendations by IBM.

Special TLD considerations

Afilias' rigorous security practices are regularly reviewed; if there is a need to alter or augment procedures for this TLD, they will be done so in a planned and deliberate manner.

Commitments to registrant protection

With over a decade of experience protecting domain registration data, Afilias understands registrant security concerns. Afilias supports a "thick" registry system in which data for all objects are stored in the registry database that is the centralized authoritative source of information. As an active member of IETF (Internet Engineering Task Force), ICANN's SSAC (Security & Stability Advisory Committee), APWG (Anti-Phishing Working Group), MAAWG (Messaging Anti-Abuse Working Group), USENIX, and ISACA (Information Systems Audits and Controls Association), the Afilias team is highly attuned to the potential threats and leading tools and procedures for mitigating threats. As such, registrants should be confident that:
• Any confidential information stored within the registry will remain confidential;
• The interaction between their registrar and Afilias is secure;
• The Afilias DNS system will be reliable and accessible from any location;
• The registry system will abide by all polices, including those that address registrant data;
• Afilias will not introduce any features or implement technologies that compromise access to the registry system or that compromise registrant security.

Afilias has directly contributed to the development of the documents listed below and we have implemented them where appropriate. All of these have helped improve registrants' ability to protect their domains name(s) during the domain name lifecycle.
• [SAC049]: SSAC Report on DNS Zone Risk Assessment and Management (03 June 2011)
• [SAC044]: A Registrant's Guide to Protecting Domain Name Registration Accounts (05 November 2010)
• [SAC040]: Measures to Protect Domain Registration Services Against Exploitation or Misuse (19 August 2009)
• [SAC028]: SSAC Advisory on Registrar Impersonation Phishing Attacks (26 May 2008)
• [SAC024]: Report on Domain Name Front Running (February 2008)
• [SAC022]: Domain Name Front Running (SAC022, SAC024) (20 October 2007)
• [SAC011]: Problems caused by the non-renewal of a domain name associated with a DNS Name Server (7 July 2006)
• [SAC010]: Renewal Considerations for Domain Name Registrants (29 June 2006)
• [SAC007]: Domain Name Hijacking Report (SAC007) (12 July 2005)

To protect any unauthorized modification of registrant data, Afilias mandates TLS/SSL transport (per RFC 5246) and authentication methodologies for access to the registry applications. Authorized registrars are required to supply a list of specific individuals (five to ten people) who are authorized to contact the registry. Each such individual is assigned a pass phrase. Any support requests made by an authorized registrar to registry customer service are authenticated by registry customer service. All failed authentications are logged and reviewed regularly for potential malicious activity. This prevents unauthorized changes or access to registrant data by individuals posing to be registrars or their authorized contacts.

These items reflect an understanding of the importance of balancing data privacy and access for registrants, both individually and as a collective, worldwide user base.

The Afilias 24/7 Customer Service Center consists of highly trained staff who collectively are proficient in 15 languages, and who are capable of responding to queries from registrants whose domain name security has been compromised–for example, a victim of domain name hijacking. Afilias provides specialized registrant assistance guides, including specific hand-holding and follow-through in these kinds of commonly occurring circumstances, which can be highly distressing to registrants

Security resourcing plans

Please refer to our response to question #30b for security resourcing plans.

© *Internet Corporation For Assigned Names and Numbers.*

Exhibit 22

From: Personal Data Redacted Contact Information Redacted
Subject: Re: .web
Date: June 7, 2016 at 11:32:17 AM EDT
To: Personal Data Redacted Contact Information Redacted
Cc: Personal Data Redacted Contact Information Redacted

Personal D

Thanks for the message, sorry for the delay. The three of us are still technically the managers of the LLC, but the decision goes beyond just us. Personal Data Re is at NSR full time and no longer involved with our TLD applications. I'm still running our program and Juan sits on the board with me and several others. Based on your request, I went back to check with all the powers that be and there was no change in the response and will not be seeking an extension. It pains me personally to stroke a check to ICANN like this, but that's what we're going to have to do just like others did on .app and .shop.
Best,
Personal Da

On Jun 6, 2016, at 1:08 PM, Jon Nevett Contact Information Redacted wrote:

Hi guys. Personal Da and I corresponded last week, but I wanted to take another run at the three of you. Not sure if you three are still the Board members of your applicant, but I wanted to reach out to discuss a couple of ideas. Until Monday, I believe that we have a right to ask for a 2 month delay of the ICANN auction with the agreement of all applicants. Would you be ok with an extension while we try to work this out cooperatively?

Please let me know.

Thanks.

Personal Data Redacted

Contact Information Redacted

Exhibit 23

New gTLD Application Submitted to ICANN by: NU DOT CO LLC

String: WEB

Originally Posted: 13 June 2012

Application ID: 1-1296-36138

Applicant Information

1. Full legal name

NU DOT CO LLC

2. Address of the principal place of business

Contact Information Redacted

3. Phone number

Contact Information Redacted

4. Fax number

Contact Information Redacted

5. If applicable, website or URL

Primary Contact

6(a). Name

Personal Data Redacted

6(b). Title

Personal Data Redacted

6(c). Address

6(d). Phone Number

Contact Information Redacted

6(e). Fax Number

6(f). Email Address

Contact Information Redacted

Secondary Contact

7(a). Name

Personal Data Redacted

7(b). Title

Personal Data Redacted

7(c). Address

7(d). Phone Number

Contact Information Redacted

7(e). Fax Number

7(f). Email Address

Contact Information Redacted

Proof of Legal Establishment

8(a). Legal form of the Applicant

Limited liability company

8(b). State the specific national or other jursidiction that defines the type of entity identified in 8(a).

NU DOTCO LLC is a UNITED STATES entity, registered in the STATE of DELAWARE as a limited liability company.

8(c). Attach evidence of the applicant's establishment.

Attachments are not displayed on this form.

9(a). If applying company is publicly traded, provide the exchange and symbol.

9(b). If the applying entity is a subsidiary, provide the parent company.

9(c). If the applying entity is a joint venture, list all joint venture partners.

Applicant Background

11(a). Name(s) and position(s) of all directors

Personal Data Redacted

11(b). Name(s) and position(s) of all officers and partners

Personal Data Redacted

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

Domain Marketing Holdings, LLC	Not Applicable
NUCO LP, LLC	Not Applicable

11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility

Applied-for gTLD string

13. Provide the applied-for gTLD string. If an IDN, provide the U-label.

WEB

14(a). If an IDN, provide the A-label (beginning with "xn--").

14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.

14(c). If an IDN, provide the language of the label (in English).

14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).

14(d). If an IDN, provide the script of the label (in English).

14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).

14(e). If an IDN, list all code points contained in the U-label according to Unicode form.

15(a). If an IDN, Attach IDN Tables for the proposed registry.

Attachments are not displayed on this form.

15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.

15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.

16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.

NU DOTCO, LLC ("NU.CO") foresees no known rendering issues in connection with the proposed .LAW TLD which it is seeking to apply for as a gTLD. This answer is based upon consultation with NU.CO's backend provider, Neustar, which has successfully launched a number of new gTLDs over the last decade. In reaching this determination, the following data points were analyzed: • ICANN's Security Stability Advisory Committee (SSAC) entitled Alternative TLD Name Systems and Roots: Conflict, Control and Consequences (SAC009); • IAB - RFC3696 "Application Techniques for Checking and Transformation of Names" • Known software issues which Neustar has encountered during the last decade launching new gTLDs; • Character type and length; • ICANN supplemental notes to Question 16; and • ICANN's presentation during its Costa Rica regional meeting on TLD Universal Acceptance;

17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).

Mission/Purpose

18(a). Describe the mission/purpose of your proposed gTLD.

18.1 Mission/purpose of .WEB
The mission of .WEB is to provide the internet community at-large with an alternative "home domain" for their online presence. We envision that through strategic marketing campaigns designed to brand the domain, it will become a premium online namespace for a variety of businesses and websites. This general domain will provide new registrants with better, more relevant alternatives to the limited options remaining for current commercial TLD names.

18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

18.2 How will .WEB benefit registrants, Internet users, and others?
.WEB seeks to offer registrants and the broader internet community, with a reliable, trusted, and secure top level domain (TLD). Congestion in the current availability of commercial TLD names fundamentally advantages older incumbent players. Providing access to additional high-value second level domain names (i.e. shorter and more memorable) will provide an opportunity for new entrants to compete effectively for internet users' finite attention. The domain's coherent and consistent branding will assist registrants in developing meaningful emotional connection with users, allowing them to further differentiate themselves as premium destinations. These marketing efforts along with the initial adoption of key industry players, should reinforce the implicit attribution of "cutting-edge" and "innovativeness" upon its registrants. Prospective users benefit from the long-term commitment of a proven executive team that has a track-record of building and successfully marketing affinity TLD's (e.g., .CO targeting innovative businesses and entrepreneurs).

The demand for having an online presence continues to grow worldwide, especially as more people and businesses become active internet users, enjoying the increases in productivity and promotional effectiveness that the internet offers. A clear example of this is the number of worldwide internet users, which has grown at an average18% annual rate over the past decade, and domain registrations which have experienced similar adoption rates having grown from approximately 25mm in 2000 to over 225mm today.

In particular for small businesses and entrepreneurs, the Internet offers an incredibly useful way to promote themselves to a wider audience, both locally and globally. Moreover, it allows them to cost-effective offer their products and services directly to consumers, leveling the playing field with larger and more established competitors. A number of new and innovative business models have been established that were not possible prior to the Internet, creating substantial value for society.

However, until a few years ago it was difficult and costly for individuals and small businesses to establish an internet presence. This has changed as prices decreased dramatically and offerings became more accessible and intuitive. This is the result of having many retailers (i.e. registrars or resellers) that compete amongst each other on price, along with product and service differentiation. Differentiation has mainly centered around higher value-add services ancillary to the domain registration itself, such as hosting, web-site builders, SSL, e-mail, etc. The basic product (a domain) has not changed much, and until now, there have been few feasible alternatives to the commercial TLDs. The proposed new TLDs will provide users with more relevant and customized

options. Just as ICANN opened up the market for the distribution and registration of domains and created the Registrar industry, which ultimately benefitted hundreds of millions of people and businesses worldwide, we expect that the introduction of new TLDs will yield similar benefits.

The experienced team behind this application initially launched and currently operates the .CO ccTLD. The intention is for .WEB to be added to .CO's product portfolio, where it can benefit from economies of scale along with the firm's experience and expertise in marketing and branding TLD properties. Their successful track record proves that properly branded affinity domains can help sites form deeper emotional connections with their users, providing significant value-add. The .CO re-launch is a great illustration of how a new option in TLDs can address the unmet needs an affinity group (e.g., small businesses and start-ups), and we continue to firmly believe that the new .WEB domain will provide better, more relevant solutions for registrants .

Since its launch, .CO's marketing has primarily focused on developing a worldwide ecosystem of innovative small businesses and entrepreneurs. To date, the .CO registry, .CO Internet S.A.S, has reached close to 1.3 million domains under management, with more than one million individual new Registrations in the first year alone and a renewal rate for domains purchased during launch of nearly 70% and a current average renewal rate of 65%. The renewal rate is one of the highest amongst the industry and especially high considering it has not yet reached the multiple year expiration dates, where it's expected to climb even higher. In addition, .CO has become the standard secondary option to .COM for the leading global registrars, having the most conversions when presented with a non-.COM option. Further, .CO has secured a strong position with the tech startup community by securing such high profile users as Twitter (t.co), Google (g.co), tech influencers like Angel list (angel.co) and 500 Startups (500.co), and entrepreneurship organizations like Startup America (s.co).

.CO has differentiated itself from other existing TLDs by combining innovative branding with the highest standards in trademark protection, unprecedented marketing campaigns, and pro-active security monitoring. We plan to implement a very similar strategy for .WEB in its launch, operation, promotion and growth.

We plan to target a similar community of entrepreneurs, startups, and progressive corporate entities that are looking for an online presence with a suitable domain name. We anticipate the addressable community will continue to grow as traditional businesses choose to launch an online presence for their pre-existing operations and as entrepreneurs launch new start-ups. The domain's marketing strategy will utilize a 3 pillar framework, similar to that used with .CO:

- Awareness: We plan to launch marketing campaigns to both the small businesses and entrepreneurs promoting .WEB via a combination of:
o Media placements online and offline
o Social media campaigns
o Events
o Sponsorships
o Endorsements
o PR efforts
o Direct marketing
o Channel marketing

- Usage: We plan to foster the community of users of .WEB via a combination community engagement and outreach, use-case development and direct marketing to base.

- Distribution: The distribution will be done through the existing ICANN accredited registrar channel and will include marketing at the point of sale, packages and bundles, campaigns, etc.

The marketing plans will evolve depending on market conditions, but using .CO as an example, we implemented an awareness and branding strategy that included the creation of a brand identity and logo; mass media placements including 2 super-bowl commercials with one of our partners plus many TV placements; billboards and other outdoors campaigns; several online media campaigns including networks, re-targeting and videos; ongoing Twitter, Facebook engagements; sponsorship and presence in a variety of events for TMs (INTA), Tech startups (SxSW, Web 2.0, Internetweek, etc.), Startups (Task Rabbit TR.co), Community (ICANN, LACTLD, etc.), etc. We also implemented for .CO a strong usage promotion of the domain by creating and fostering a community of .CO users and case studies. We achieved this through a combination of events, sponsorships, and partnerships with different entities like Angel.co, 500.co, Startup America (s.co), founders institute (fi.co), etc. We also cultivated many case studies of successful .CO users, remaining in close contact with them. Finally, we implemented a rigorous channel marketing and sales plan that included marketing placements at the

point of purchase plus co-marketing and community outreach.

While we do plan to follow a similar strategy to achieve widespread awareness, usage and distribution, the budget and actual placements for promoting .WEB will be scaled down accordingly, as neither its volume of registrations or revenues is expected to be in line with that of .CO.

By launching the .WEB domain we expect to provide more descriptive/ relevant options for end-users, including access to desirable second level domain names which are unavailable or occupied by current general TLD's. As illustrated with .CO, the rapid growth to 1.3 million domains is evidence of pent up demand in the marketplace for good, descriptive domain names. We expect that our marketing strategies will result in a new branded and available option that will emotionally connect with potential users and allow them to differentiate themselves through the use of a branded premium domain.

We will also follow the same ICANN rules and distribution methods of major gTLDs thereby ensuring Registrars and Resellers do not have to change their systems to distribute the .WEB domain. As our systems are already integrated with largest registrars in the world and we have implemented industry best practices, the transition to delegation and launch should be seamless to the registrar channel as well as consumers.

We will also implement a thick whois and adopt any ICANN recommendations or requirements in the future. In order to protect the privacy of our users, we will allow the use of Privacy or Proxy registrations by reputable registrars that comply with applicable policies specified by ICANN. We find this service is highly valuable for registrants that want to ensure their information is not available online and would like to maintain a higher level privacy.

18(c). What operating rules will you adopt to eliminate or minimize social costs?

18.3 .WEB operating rules to benefit consumers
We plan to follow all ICANN policies, including the best practices and recommendations for gTLDs. This will allow us to ensure end-users, have an easy way to register/purchase, administer, and use their domains. Adopting these policies will also prevent malicious behavior by third parties and ensure a smooth operation of the domain. The plans for the launch will be similar to the launch process used in .CO, which included:

- Gradual Offering Plan: The .CO launch included a very comprehensive gradual opening plan that both protected trademarks and provided transparency to end users. The launch was lauded by ICANN for its comprehensiveness and management. For the launch of .WEB we will follow ICANN's policies especially as it relates to the Trademark Clearinghouse which was similar to the process we used for .CO:
-
o Sunrise: Provide a period of a few weeks to allow the TM and IP community to register their .WEB domains prior to the opening to the public. Trademark validations will be done by the Trademark Clearinghouse or as specified by ICANN in their policies. If there are multiple validated applications, these would go to auction and allocated based on these results.
o Landrush: Provide a period of a few weeks to allow domain investors and others that are interested in premium domains to apply for these domains. Once the period of the Landrush phase is over, a process to check the applications will determine if these were unique or if there were multiple applicants. If single applicants, then the domain is awarded at that time. If multiple applicants then the domain would go to an auction in which all applicants would be able to participate. For .CO this process included close to 30,000 applications and the resulting auctions were managed by Pool.com. The process was very successful managing to allocate very efficiently domains according to their perceived value by applicants and bidders at the resulting auctions.

- General Availability: For .CO we had 100k registrations in the first 10 minutes and we didn't have a single issue nor service degradation through the launch or afterwards. We achieved this through a combination of strong planning between our partners, especially Neustar our back-end provider; communication with our Registrars prior and during the launch in a very structured way; strong infrastructure planning and provisioning; and effective load, contingency, and disaster recovery planning. We plan to use similar methods for the launch of .WEB.
o First come first serve during GA and afterwards, which we believe is the best mechanism to ensure a fair allocation of domains once the domain has been launched.
o Use of UDRP and any other best-practices in rights protection mechanisms

o Highly managed General Availability launch
- Premium Domains: We will keep some domains for premium sales and these will be restricted prior to the Gradual Offering Plan begins, but can be applied for during the Sunrise phase. These premium domains will be brokered or sold via auction directly or through an accredited 3rd party. With .CO we used this mechanism as a way to allocate high value domains and also to promote the usage of the domain by high profile companies including Twitter with t.co, Google with g.co, Startup America with s.co, as well as a myriad of smaller startups and other endorsements.

Community-based Designation

19. Is the application for a community-based TLD?

No

20(a). Provide the name and full description of the community that the applicant is committing to serve.

20(b). Explain the applicant's relationship to the community identified in 20(a).

20(c). Provide a description of the community-based purpose of the applied-for gTLD.

20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).

20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).

Attachments are not displayed on this form.

Geographic Names

21(a). Is the application for a geographic name?

No

Protection of Geographic Names

22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

In preparation for answering this question, NU DOTCO, LLC (NU.CO) reviewed the following relevant background material regarding the protection of geographic names in the DNS, including:

- ICANN Board Resolution 01-92 regarding the methodology developed for the reservation and release of country names in the .INFO top-level domain (see http://www.icann.org/en/minutes/minutes-10sep01.htm);

- ICANN's Proposed Action Plan on .INFO Country Names (see http://www.icann.org/en/meetings/montevideo/action-plan-country-names-09oct01.htm);

- "Report of the Second WIPO Internet Domain Name Process: The Recognition and Rights and the Use of Names in the Internet Domain Name System," Section 6, Geographical Identifiers (see http://www.wipo.int/amc/en/processes/process²/report/html/report.html);

- ICANN's Governmental Advisory Committee (GAC) Principles Regarding New gTLDs, (see https://gacweb.icann.org/download/attachments/1540128/gTLD_principles_0.pdf?version=1&modificationDate=1312358178000); and

- ICANN's Generic Names Supporting Organization (GNSO) Reserved Names Working Group – Final Report (see http://gnso.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm).

Initial Reservation of Country and Territory Names

NU.CO is committed to initially reserving the country and territory names contained in the internationally recognized lists described in Article 5 of Specification 5 attached to the New gTLD Applicant Guidebook at the second level and at all other levels within the .WEB gTLD at which domain name registrations will be provided. Specifically, NU.CO will reserve:

- 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 (see http://www.iso.org/iso/support/country_codes/iso_3166_code_lists/iso-3166-1_decoding_table.htm#EU);

- 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

- The list of United Nations member states in six official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names.

Potential Future Release of Two Character Names

While NU.CO foresees no immediate need for plans to make use of these initially reserved country names at the second level within the .WEB namespace, NU.CO recognizes that there has been several successful and non-misleading use of country names by new gTLD operators as evidenced below:

AUSTRALIA.COOP – Is operated by Co-operatives Australia the national body for State Co-operative Federations and provides a valuable resource about cooperatives within Australia.

UK.COOP – Is operated by Co-operatives UK the national trade body that campaigns for co-operation and works to promote, develop and unite co-operative enterprises within the United Kingdom.

NZ.COOP – Is operated by the New Zealand Cooperatives Association which brings together the country's cooperative mutual business in a not-for-profit incorporated society.

USA.JOBS - Is operated by DirectEmployers Association (DE). While Employ Media the registry operator of the .JOBS gTLD is currently in a dispute with ICANN regarding the allocation of this and other domain names. Direct Employers has a series of partnerships and programs with the United States Department of Labor, the National Association of State Workforce Agencies and Facebook to help unemployed workers find jobs.

MALDIVIAN.AERO - Is the dominant domestic air carrier in Maldives, and provides a range of commercial and leisure air transport services.

The more likely request by NU.CO will come in connection with the un-reservation and allocation of two-letter .WEB domain names, e.g. US.WEB, UK.WEB, etc. If NU.CO should decide in the future to attempt and allocate these domain names, it would submit the proper Registry Service Evaluation Processes (RSEP) with ICANN. In evaluating similar RSEP requests that have been submitted to ICANN by other gTLD registry operators, NU.CO believes that its request would be favorably granted.

Creation and Updating the Policies

NU.CO is committed to continually reviewing and updating when necessary its policies in this area. Consistent with this commitment, NU.CO intends to remain an active participant in any ongoing ICANN policy discussion regarding the protection of geographic names within the DNS.

Registry Services

23. Provide name and full description of all the Registry Services to be provided.

23.1 Introduction

NU DOTCO LLC has elected to partner with NeuStar, Inc ("Neustar") to provide back-end services for the .WEB registry. In making this decision, NU DOTCO LLC recognized that Neustar already possesses a production-proven registry system that can be quickly deployed and smoothly operated over its robust, flexible, and scalable world-class infrastructure. The existing registry services will be leveraged for the .WEB registry. The following section describes the registry services to be provided.

23.2 Standard Technical and Business Components

Neustar will provide the highest level of service while delivering a secure, stable and comprehensive registry platform. NU DOTCO LLC will use Neustar's Registry Services platform to deploy the .WEB registry, by providing the following Registry Services (none of these services are offered in a manner that is unique to .WEB):

-Registry-Registrar Shared Registration Service (SRS)
-Extensible Provisioning Protocol (EPP)
-Domain Name System (DNS)
-WHOIS
-DNSSEC
-Data Escrow
-Dissemination of Zone Files using Dynamic Updates
-Access to Bulk Zone Files

-Dynamic WHOIS Updates
-IPv6 Support
-Rights Protection Mechanisms
-Internationalized Domain Names (IDN)

The following is a description of each of the services.

23.2.1 SRS

Neustar's secure and stable SRS is a production-proven, standards-based, highly reliable, and high-performance domain name registration and management system. The SRS includes an EPP interface for receiving data from registrars for the purpose of provisioning and managing domain names and name servers. The response to Question 24 provides specific SRS information.

23.2.2 EPP

The .WEB registry will use the Extensible Provisioning Protocol (EPP) for the provisioning of domain names. The EPP implementation will be fully compliant with all RFCs. Registrars are provided with access via an EPP API and an EPP based Web GUI. With more than 10 gTLD, ccTLD, and private TLDs implementations, Neustar has extensive experience building EPP-based registries. Additional discussion on the EPP approach is presented in the response to Question 25.

23.2.3 DNS

NU DOTCO LLC will leverage Neustar's world-class DNS network of geographically distributed nameserver sites to provide the highest level of DNS service. The service utilizes "Anycast" routing technology, and supports both IPv4 and IPv6. The DNS network is highly proven, and currently provides service to over 20 TLDs and thousands of enterprise companies. Additional information on the DNS solution is presented in the response to Questions 35.

23.2.4 WHOIS

Neustar's existing standard WHOIS solution will be used for the .WEB. The service provides supports for near real-time dynamic updates. The design and construction is agnostic with regard to data display policy is flexible enough to accommodate any data model. In addition, a searchable WHOIS service that complies with all ICANN requirements will be provided. The following WHOIS options will be provided:

Standard WHOIS (Port 43)
Standard WHOIS (Web)
Searchable WHOIS (Web)

23.2.5 DNSSEC

An RFC compliant DNSSEC implementation will be provided using existing DNSSEC capabilities. Neustar is an experienced provider of DNSSEC services, and currently manages signed zones for three large top level domains: .biz, .us, and .co. Registrars are provided with the ability to submit and manage DS records using EPP, or through a web GUI. Additional information on DNSSEC, including the management of security extensions is found in the response to Question 43.

23.2.6 Data Escrow

Data escrow will be performed in compliance with all ICANN requirements in conjunction with an approved data escrow provider. The data escrow service will:

-Protect against data loss
-Follow industry best practices
-Ensure easy, accurate, and timely retrieval and restore capability in the event of a hardware failure
-Minimizes the impact of software or business failure.

Additional information on the Data Escrow service is provided in the response to Question 38.

23.2.7 Dissemination of Zone Files using Dynamic Updates

Dissemination of zone files will be provided through a dynamic, near real-time process. Updates will be performed within the specified performance levels. The proven technology ensures that updates pushed to all nodes within a few minutes of the changes being received by the SRS. Additional information on the DNS updates may be found in the response to Question 35.

23.2.8 Access to Bulk Zone Files

NU DOTCO LLC will provide third party access to the bulk zone file in accordance with specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider.

23.2.9 Dynamic WHOIS Updates

Updates to records in the WHOIS database will be provided via dynamic, near real-time updates. Guaranteed delivery message oriented middleware is used to ensure each individual WHOIS server is refreshed with dynamic updates. This component ensures that all WHOIS servers are kept current as changes occur in the SRS, while also decoupling WHOIS from the SRS. Additional information on WHOIS updates is presented in response to Question 26.

23.2.10 IPv6 Support

The .WEB registry will provide IPv6 support in the following registry services: SRS, WHOIS, and DNS/DNSSEC. In addition, the registry supports the provisioning of IPv6 AAAA records. A detailed description on IPv6 is presented in the response to Question 36.

23.2.11 Required Rights Protection Mechanisms

NU DOTCO LLC, will provide all ICANN required Rights Mechanisms, including:

-Trademark Claims Service
-Trademark Post-Delegation Dispute Resolution Procedure (PDDRP)
-Registration Restriction Dispute Resolution Procedure (RRDRP)
-UDRP
-URS
-Sunrise service.
More information is presented in the response to Question 29.

23.2.12 Internationalized Domain Names (IDN)

IDN registrations are provided in full compliance with the IDNA protocol. Neustar possesses extensive experience offering IDN registrations in numerous TLDs, and its IDN implementation uses advanced technology to accommodate the unique bundling needs of certain languages. Character mappings are easily constructed to block out characters that may be deemed as confusing to users. A detailed description of the IDN implementation is presented in response to Question 44.

23.3 Unique Services

NU DOTCO LLC will not be offering services that are unique to .WEB.

23.4 Security or Stability Concerns

All services offered are standard registry services that have no known security or stability concerns. Neustar has demonstrated a strong track record of security and stability within the industry.

Demonstration of Technical & Operational Capability

24. Shared Registration System (SRS) Performance

24.1 Introduction

NU DOTCO LLC has partnered with NeuStar, Inc ("Neustar"), an experienced TLD registry operator, for the operation of the .WEB Registry. The applicant is confident that the plan in place for the operation of a robust and reliable Shared Registration System (SRS) as currently provided by Neustar will satisfy the criterion established by ICANN.

Neustar built its SRS from the ground up as an EPP based platform and has been operating it reliably and at scale since 2001. The software currently provides registry services to five TLDs (.BIZ, .US, TEL, .CO and .TRAVEL) and is used to provide gateway services to the .CN and .TW registries. Neustar's state of the art registry has a proven track record of being secure, stable, and robust. It manages more than 6 million domains, and has over 300 registrars connected today.
The following describes a detailed plan for a robust and reliable SRS that meets all ICANN requirements including compliance with Specifications 6 and 10.

24.2 The Plan for Operation of a Robust and Reliable SRS

24.2.1 High-level SRS System Description

The SRS to be used for .WEB will leverage a production-proven, standards-based, highly reliable and high-performance domain name registration and management system that fully meets or exceeds the requirements as identified in the new gTLD Application Guidebook.

The SRS is the central component of any registry implementation and its quality, reliability and capabilities are essential to the overall stability of the TLD. Neustar has a documented history of deploying SRS implementations with proven and verifiable performance, reliability and availability. The SRS adheres to all industry standards and protocols. By leveraging an existing SRS platform, NU DOTCO LLC is mitigating the significant risks and costs associated with the development of a new system. Highlights of the SRS include:

-State-of-the-art, production proven multi-layer design
-Ability to rapidly and easily scale from low to high volume as a TLD grows
-Fully redundant architecture at two sites
-Support for IDN registrations in compliance with all standards
-Use by over 300 Registrars
-EPP connectivity over IPv6
-Performance being measured using 100% of all production transactions (not sampling).

24.2.2 SRS Systems, Software, Hardware, and Interoperability

The systems and software that the registry operates on are a critical element to providing a high quality of service. If the systems are of poor quality, if they are difficult to maintain and operate, or if the registry personnel are unfamiliar with them, the registry will be prone to outages. Neustar has a decade of experience operating registry infrastructure to extremely high service level requirements. The infrastructure is designed using best of breed systems and software. Much of the application software that performs registry-specific operations was developed by the current engineering team and a result the team is intimately familiar with its operations.

The architecture is highly scalable and provides the same high level of availability and performance as volumes increase. It combines load balancing technology with scalable server technology to provide a cost effective and efficient method for scaling.

The Registry is able to limit the ability of any one registrar from adversely impacting other registrars by consuming too many resources due to excessive EPP transactions. The system uses network layer 2 level packet shaping to limit the number of simultaneous connections registrars can open to the protocol layer.

All interaction with the Registry is recorded in log files. Log files are generated at each layer of the system. These log files record at a minimum:

-The IP address of the client
-Timestamp
-Transaction Details
-Processing Time.

In addition to logging of each and every transaction with the SRS Neustar maintains audit records, in the database, of all transformational transactions. These audit records allow the Registry, in support of the applicant, to produce a complete history of changes for any domain name.

24.2.3 SRS Design

The SRS incorporates a multi-layer architecture that is designed to mitigate risks and easily scale as volumes increase. The three layers of the SRS are:

-Protocol Layer
-Business Policy Layer
-Database.

Each of the layers is described below.

24.2.4 Protocol Layer

The first layer is the protocol layer, which includes the EPP interface to registrars. It consists of a high availability farm of load-balanced EPP servers. The servers are designed to be fast processors of transactions. The servers perform basic validations and then feed information to the business policy engines as described below. The protocol layer is horizontally scalable as dictated by volume.

The EPP servers authenticate against a series of security controls before granting service, as follows:

-The registrar's host exchanges keys to initiates a TLS handshake session with the EPP server.
-The registrar's host must provide credentials to determine proper access levels.
-The registrar's IP address must be preregistered in the network firewalls and traffic-shapers.

24.2.5 Business Policy Layer

The Business Policy Layer is the "brain" of the registry system. Within this layer, the policy engine servers perform rules-based processing as defined through configurable attributes. This process takes individual transactions, applies various validation and policy rules, persists data and dispatches notification through the central database in order to publish to various external systems. External systems fed by the Business Policy Layer include backend processes such as dynamic update of DNS, WHOIS and Billing.

Similar to the EPP protocol farm, the SRS consists of a farm of application servers within this layer. This design ensures that there is sufficient capacity to process every transaction in a manner that meets or exceeds all service level requirements. Some registries couple the business logic layer directly in the protocol layer or within the database. This architecture limits the ability to scale the registry. Using a decoupled architecture enables the load to be distributed among farms of inexpensive servers that can be scaled up or down as demand changes.

The SRS today processes over 30 million EPP transactions daily.

24.2.6 Database

The database is the third core components of the SRS. The primary function of the SRS database is to provide highly reliable, persistent storage for all registry information required for domain registration services. The database is highly secure, with access limited to transactions from authenticated registrars, trusted application-server processes, and highly restricted access by the registry database administrators. A full description of the database can be found in response to Question 33.

Figure 24-1 attached depicts the overall SRS architecture including network components.

24.2.7 Number of Servers

As depicted in the SRS architecture diagram above Neustar operates a high availability architecture where at each level of the stack there are no single points of failures. Each of the network level devices run with dual pairs as do the databases. For the .WEB registry, the SRS will operate with 8 protocol servers and 6 policy engine servers. These expand horizontally as volume increases due to additional TLDs, increased load, and through organic growth. In addition to the SRS servers described

above, there are multiple backend servers for services such as DNS and WHOIS. These are discussed in detail within those respective response sections.

24.2.8 Description of Interconnectivity with Other Registry Systems

The core SRS service interfaces with other external systems via Neustar's external systems layer. The services that the SRS interfaces with include:

-WHOIS
-DNS
-Billing
-Data Warehouse (Reporting and Data Escrow).

Other external interfaces may be deployed to meet the unique needs of a TLD. At this time there are no additional interfaces planned for .WEB.

The SRS includes an "external notifier" concept in its business policy engine as a message dispatcher. This design allows time-consuming backend processing to be decoupled from critical online registrar transactions. Using an external notifier solution, the registry can utilize "control levers" that allow it to tune or to disable processes to ensure optimal performance at all times. For example, during the early minutes of a TLD launch, when unusually high volumes of transactions are expected, the registry can elect to suspend processing of one or more back end systems in order to ensure that greater processing power is available to handle the increased load requirements. This proven architecture has been used with numerous TLD launches, some of which have involved the processing of over tens of millions of transactions in the opening hours. The following are the standard three external notifiers used the SRS:

24.2.9 WHOIS External Notifier

The WHOIS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on WHOIS. It is important to note that, while the WHOIS external notifier feeds the WHOIS system, it intentionally does not have visibility into the actual contents of the WHOIS system. The WHOIS external notifier serves just as a tool to send a signal to the WHOIS system that a change is ready to occur. The WHOIS system possesses the intelligence and data visibility to know exactly what needs to change in WHOIS. See response to Question 26 for greater detail.

24.2.10 DNS External Notifier

The DNS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on DNS. Like the WHOIS external notifier, the DNS external notifier does not have visibility into the actual contents of the DNS zones. The work items that are generated by the notifier indicate to the dynamic DNS update sub-system that a change occurred that may impact DNS. That DNS system has the ability to decide what actual changes must be propagated out to the DNS constellation. See response to Question 35 for greater detail.

24.2.11 Billing External Notifier

The billing external notifier is responsible for sending all billable transactions to the downstream financial systems for billing and collection. This external notifier contains the necessary logic to determine what types of transactions are billable. The financial systems use this information to apply appropriate debits and credits based on registrar.

24.2.12 Data Warehouse

The data warehouse is responsible for managing reporting services, including registrar reports, business intelligence dashboards, and the processing of data escrow files. The Reporting Database is used to create both internal and external reports, primarily to support registrar billing and contractual reporting requirement. The data warehouse databases are updated on a daily basis with full copies of the production SRS data.

24.2.13 Frequency of Synchronization between Servers

The external notifiers discussed above perform updates in near real-time, well within the prescribed service level requirements. As transactions from registrars update the core SRS, update notifications are pushed to the external systems such as DNS and WHOIS. These updates are typically live in the

external system within 2-3 minutes.

24.2.14 Synchronization Scheme (e.g., hot standby, cold standby)

Neustar operates two hot databases within the data center that is operating in primary mode. These two databases are kept in sync via synchronous replication. Additionally, there are two databases in the secondary data center. These databases are updated real time through asynchronous replication. This model allows for high performance while also ensuring protection of data. See response to Question 33 for greater detail.

24.2.15 Compliance with Specification 6 Section 1.2

The SRS implementation for .WEB is fully compliant with Specification 6, including section 1.2. EPP Standards are described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. Extensible Provisioning Protocol or EPP is defined by a core set of RFCs that standardize the interface that make up the registry-registrar model. The SRS interface supports EPP 1.0 as defined in the following RFCs shown in Table 24-1 attached.

Additional information on the EPP implementation and compliance with RFCs can be found in the response to Question 25.

24.2.16 Compliance with Specification 10

Specification 10 of the New TLD Agreement defines the performance specifications of the TLD, including service level requirements related to DNS, RDDS (WHOIS), and EPP. The requirements include both availability and transaction response time measurements. As an experienced registry operator, Neustar has a long and verifiable track record of providing registry services that consistently exceed the performance specifications stipulated in ICANN agreements. This same high level of service will be provided for the .WEB Registry. The following section describes Neustar's experience and its capabilities to meet the requirements in the new agreement.

To properly measure the technical performance and progress of TLDs, Neustar collects data on key essential operating metrics. These measurements are key indicators of the performance and health of the registry. Neustar's current .biz SLA commitments are among the most stringent in the industry today, and exceed the requirements for new TLDs. Table 24-2 compares the current SRS performance levels compared to the requirements for new TLDs, and clearly demonstrates the ability of the SRS to exceed those requirements.

Their ability to commit and meet such high performance standards is a direct result of their philosophy towards operational excellence. See response to Question 31 for a full description of their philosophy for building and managing for performance.

24.3 Resourcing Plans

The development, customization, and on-going support of the SRS are the responsibility of a combination of technical and operational teams, including:

-Development/Engineering
-Database Administration
-Systems Administration
-Network Engineering.

Additionally, if customization or modifications are required, the Product Management and Quality Assurance teams will be involved in the design and testing. Finally, the Network Operations and Information Security play an important role in ensuring the systems involved are operating securely and reliably.

The necessary resources will be pulled from the pool of operational resources described in detail in the response to Question 31. Neustar's SRS implementation is very mature, and has been in production for over 10 years. As such, very little new development related to the SRS will be required for the implementation of the .WEB registry. The following resources are available from those teams:

-Development/Engineering – 19 employees
-Database Administration- 10 employees
-Systems Administration – 24 employees

-Network Engineering – 5 employees

The resources are more than adequate to support the SRS needs of all the TLDs operated by Neustar, including the .WEB registry.

25. Extensible Provisioning Protocol (EPP)

25.1 Introduction

NU DOTCO LLC's back-end registry operator, Neustar, has over 10 years of experience operating EPP based registries. They deployed one of the first EPP regis

Exhibit 24

Case Detail

Edit | Clone | SPAM

Case Information

Case Number	00225003 [View Hierarchy]	Internal Status	Closed
Account Name	Ruby Glen, LLC	Status	Closed
Contact Name	Personal Data Redacted	Case Close Reason	Response Provided
Contact Type		Urgency	Moderate
Application ID	1-1527-54849	Severity	Sev 3
Registry		Case Record Type	General Case [Change]
Case Origin	Web	Category	Application Processing
Multiple Contacts Found	☐	Sub Category	Initial Evaluation Process
Visible in Self-Service Portal	✓	Case Owner	Jared Erwin [Change]
Suppress Notification	☐	Assigned to	Jared Erwin
Updates On Case	☐	Parent Case	
SLA Resolution status	SLA Exceeded		
Phone			

Additional Information

Subject .WEB Auction Postponement – Required Applicant Update

Description

ICANN,

It has come to our attention that one of the applicants for .WEB has failed to properly update its application. Upon information and belief, there have been changes to the Board of Directors and potential control of Nu Dot Co LLC ("NDC") that has materially changed its application. To our knowledge, however, NDC has not filed the required application change request.

As you know, Section 1.2.7 of the Applicant Guidebook specifically states, "[i]f at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in the financial position and changes in ownership or control of the applicant… Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application." As you also know, ICANN has been clear that such requirements are in full force and effect until the registry agreement is executed with the successful applicant.

Failure by No Dot Co LLC to maintain the accuracy of its application is detrimental to the other competing applicants, especially in light of the pending ICANN auction, creating an unfair competitive advantage for NDC.

We request that ICANN investigate the change in NDC's Board and potential control and that the ICANN auction scheduled for July 27 be immediately postponed. The auction should be rescheduled after the final investigation is complete and NDC's requisite change request is resolved.

We do not make this request lightly and haven't done so in well over 100 other scheduled ICANN auctions.

Thank you and best regards,
Jonathon Nevett

Case Comments

New | Case Comments Help

Action	Public	Comment
Make Private	✓	**Created By: Jared Erwin (6/27/2016 3:42 PM)** Dear **Personal Data Redacted** Thank you for bringing this to our attention. We are reviewing the information provided, and we will work with the applicant directly should action be required. We note your request to postpone the auction for the .WEB/.WEBS contention set currently scheduled for 27 July 2016. Please continue to follow the standard auction process and monitor the Customer Portal for updates. If there are any changes to the auction date, we will notify you and all auction participants. Thank you for your attention. I will now resolve this case, but please do not hesitate to reopen it should you have any questions. Best regards, Jared Erwin New gTLD Operations
Make Private	✓	**Created By: Susan Yao (6/23/2016 10:17 AM)** Dear **Personal Data Redacted** Thank you for your contacting ICANN Global Support on your request. Your request has been forwarded to our gTLD Team for processing. Someone from the team will be contacting you. Please do not hesitate to contact us if you have any other questions or concerns. Best regards, Susan Yao Global Support Analyst II ICANN Global Support

Exhibit 25

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Attorneys for Plaintiff
RUBY GLEN, LLC

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

RUBY GLEN, LLC

Plaintiff,

vs.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS AND DOES 1-10

Defendant.

Case No.: 2:16-cv-05505-PA-AS

PLAINTIFF'S AMENDED COMPLAINT FOR:

1) **BREACH OF CONTRACT**
2) **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
3) **NEGLIGENCE**
4) **UNFAIR COMPETITION (VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200)**
5) **DECLARATORY RELIEF**

Plaintiff RUBY GLEN, LLC (hereinafter, "Plaintiff") alleges as follows:

INTRODUCTION

1. Plaintiff was formed for the purpose of applying to the Internet Corporation for Assigned Names and Numbers ("ICANN") for the right to operate the .WEB generic top-level domain ("gTLD"). In reliance on ICANN's agreement to administer the bid process in accordance with the rules and guidelines contained in its gTLD Applicant Guidebook ("Applicant Guidebook"), Plaintiff paid ICANN a mandatory $185,000 application fee for the opportunity to secure the rights to the .WEB gTLD.

2. Throughout every stage of the four years it has taken to bring the .WEB gTLD to market, Plaintiff worked diligently to follow the rules and procedures promulgated by ICANN. In the past month, ICANN has done just the opposite. Instead of functioning as a disinterested regulator of a fair and transparent gTLD bid process, ICANN used its authority and oversight to unfairly benefit an applicant who is in admitted violation of a number of provisions of the Applicant Guidebook. ICANN's conduct, tainted by an inherent conflict of interest, ensured that it would be the sole beneficiary of the $135 million proceeds from the .WEB auction—a result that ICANN's own guidelines identify as a "last resort" outcome. Even more problematic, ICANN allowed a third party to make an eleventh-hour end run around the application process to the detriment of Plaintiff, the other legitimate applicants for the .WEB gTLD and the Internet community at large.

3. ICANN's failure to administer the gTLD application process in a fair, proper, and transparent manner is not unique to the .WEB gTLD applicants. To the contrary, in the days following the filing of this action, ICANN was publicly rebuked by an independent review panel for its "cavalier" and seemingly routine dismissal of concerns raised by gTLD applicants without "mak[ing] any reasonable investigation" into the facts underlying those concerns as required by ICANN's Bylaws, Articles of

Incorporation and the Applicant Guidebook. The independent review panel also highlighted what it deemed to be improper influence by ICANN staff on purportedly independent ICANN accountability mechanisms established to handle concerns raised by gTLD applicants.

4. As set forth more fully herein, ICANN deprived Plaintiff and the other applicants for the .WEB gTLD of the right to compete for the .WEB gTLD in accordance with established ICANN policy and guidelines. Court intervention is necessary to ensure ICANN's compliance with its own accountability and transparency mechanisms in the ongoing .WEB bid process and to prevent the assignment of the .WEB gTLD to an entity that is in admitted violation of ICANN's own policies.

PARTIES

5. Plaintiff Ruby Glen, LLC is a limited liability company, duly organized and existing under the laws of the State of Delaware and operated by Donuts Inc., an affiliate located in Bellevue, Washington. The sole member of Ruby Glen, LLC is Covered TLD, LLC ("Covered TLD"). Covered TLD is a limited liability company, duly organized and existing under the laws of the State of Delaware. Covered TLD has a sole member, Donuts Inc. ("Donuts"). Donuts is a for-profit corporation, duly organized and existing under the laws of the State of Delaware, with its principal place of business in Bellevue, Washington.

6. Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") is a nonprofit corporation, organized and existing under the laws of the State of California, with its principal place of business in Los Angeles, California.

7. Defendants Does 1-10 are persons who instigated, encouraged, facilitated, acted in concert or conspiracy with, aided and abetted, and/or are otherwise responsible in some manner or degree for the breaches and wrongful conduct averred herein. Plaintiff is presently ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of DOES 1 through 10, and will amend this

Complaint to allege their true names and capacities when the same have been ascertained.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a) as the parties are completely diverse in citizenship and the amount in controversy exceeds $75,000.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c), in that Defendant ICANN resides and transacts business in this judicial district. Moreover, a substantial part of the events, omissions, and acts that are the subject matter of this action occurred within the Central District of California.

FACTS COMMON TO ALL CAUSES OF ACTION

A. ICANN'S FORMATION AND PURPOSE

10. ICANN is a non-profit corporation originally established to assist in the transition of the Internet domain name system from one of a single domain name operator to one with multiple companies competing to provide domain name registration services to Internet users "in a manner that w[ould] permit market mechanisms to support competition and consumer choice in the technical management of the [domain name system]."

11. ICANN's ongoing role is to provide technical coordination of the Internet's domain name system by introducing and promoting competition in the registration of domain names, while ensuring the security and stability of the domain name system. In that role, and as relevant here, ICANN was delegated the task of administering generic top level domains ("gTLDs") such as .COM, .ORG, or, in this case, .WEB.

12. Article 4 of ICANN's Articles of Incorporation requires ICANN to "operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international

conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets." A true and correct copy of ICANN's Articles of Incorporation is attached hereto as Exhibit A and incorporated herein by reference.

13. ICANN is accountable to the Internet community for operating in a manner consistent with its Bylaws and Articles of Incorporation as a whole. ICANN's Bylaws require ICANN, its Board of Directors and its staff to act in an open, transparent and fair manner with integrity. A true and correct copy of ICANN's Bylaws are attached hereto as Exhibit B and incorporated herein by reference. Specifically, the ICANN Bylaws require ICANN, its Board of Directors, and staff to:

a. "Mak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness."

b. "[Act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected."

c. "Remain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness."

d. Ensure that it does "not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition."

e. "[O]perate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness."

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B. THE NEW gTLD PROGRAM AND APPLICANT GUIDEBOOK

14. ICANN is the sole organization worldwide with the power and ability to administer the bid processes for, and assign rights to, gTLDS. As of 2011, there were only 22 gTLDs in existence; the most common of which are .COM, .NET, and .ORG.

15. In or about 2011, ICANN approved the expansion of a number of the gTLDs available to eligible applicants as part of its 2012 Generic Top Level Domains Internet Expansion Program (the "New gTLD Program").

16. In January 2012, as part of the New gTLD Program, ICANN invited eligible parties to submit applications to obtain the rights to operate various new gTLDs, including, the .WEB and .WEBS gTLDs (collectively referred to herein as ".WEB" or the ".WEB gTLD"). In return, ICANN agreed to (a) conduct the bid process in a transparent manner and (b) abide by its own bylaws and the rules and guidelines set forth in ICANN's gTLD Applicant Guidebook ("Applicant Guidebook"). A true and correct copy of the Applicant Guidebook is attached hereto as Exhibit C and incorporated herein by reference.

17. The Applicant Guidebook obligates ICANN to, among other things, conduct a thorough investigation into each of the applicants' backgrounds. This investigation is necessary to ensure the integrity of the application process, including a potential auction of last resort, and the existence of a level playing field among those competing to secure the rights to a particular new gTLD. It also ensures that each applicant is capable of administering any new gTLD, whether secured at the auction of last resort or privately beforehand, thereby benefiting the public at large.

18. ICANN has broad authority to investigate all applicants who apply to participate in the New gTLD Program. This investigative authority, willingly provided by each applicant as part of the terms and conditions in the guidelines contained in the Applicant Guidebook, is set forth in relevant part in Section 6 as follows:

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> 8. … In addition, Applicant acknowledges that [sic] to allow ICANN to conduct thorough background screening investigations:
>
> …
>
> c. Additional identifying information may be required to resolve questions of identity of individuals within the applicant organization; …
>
> …
>
> 11. Applicant authorizes ICANN to:
>
> a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;
>
> b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession…

19. To aid ICANN in fulfilling its investigatory obligations, "applicant[s] (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on [their] behalf)" are required to provide extensive background information in their respective applications. In addition to serving the purposes noted above, this information also allows ICANN to determine whether an entity applicant or individuals associated with an entity applicant have engaged in the automatically disqualifying conduct set forth in Section 1.2.1 of the Applicant Guidebook, including convictions of certain crimes or disciplinary actions by governments or regulatory bodies. Finally, this background information is important to provide transparency to other applicants competing for the same gTLD.

20. Indeed, ICANN deemed transparency into an applicant's background so important when drafting the Applicant Guidebook that applicants submitting a new

gTLD application are required to undertake a continuing obligation to notify ICANN of "any change in circumstances that would render any information provided in the application false or misleading," including "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant."

21. As a further condition of participating in the .WEB auction, ICANN required Plaintiff and other applicants to agree to a broad covenant not to sue in order to apply for the .WEB contention set (the "Purported Release"). The Purported Release applies to all new gTLD applicants and states, in relevant part:

> Applicant hereby releases ICANN . . . from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN . . . in connection with ICANN's . . . review of this application. . . . Applicant agrees not to challenge . . . and irrevocably waives any right to sue or proceed in court.

22. The Purported Release is not subject to negotiation. If a potential applicant does not agree to the release, it cannot be considered for participation in the .WEB auction. The Purported Release is also entirely one-sided in that it allows ICANN to absolve itself of wrongdoing while affording no remedy to applicants. Moreover, the Purported Release does not apply equally as between ICANN and the applicants because it does not prevent ICANN from proceeding with litigation against an applicant.

23. In lieu of the rights ICANN claims are waived by the Purported Release, ICANN purports to provide applicants with an independent review process, as a means to challenge ICANN's actions with respect to a gTLD application. The IRP is effectively an arbitration, operated by the International Centre for Dispute Resolution of the American Arbitration Association, comprised of an independent panel of arbitrators. The IRP is officially identified by ICANN as an Accountability Mechanism.

24. In accordance with the IRP, any entity materially affected by a decision or action by the Board that the entity believes is inconsistent with the Articles of

Incorporation or Bylaws may submit a request for independent review of that decision or action. In order to be materially affected, the person must suffer injury or harm that is directly and causally connected to the Board's alleged violation of the Bylaws or the Articles of Incorporation, and not as a result of third parties acting in line with the Board's action.

C. THE AUCTION PROCESS FOR NEW gTLDS

25. A large number of new gTLDs made available by ICANN in 2012 received multiple applications. In accordance with the Applicant Guidebook, where multiple new gTLD applicants apply to obtain the rights to operate the same new gTLD, those applicants are grouped into a "contention set."

26. Pursuant to the Applicant Guidebook, a contention set may be resolved privately among the members of a contention set or facilitated by ICANN as an auction of last resort. Applicants are encouraged to privately resolve a new gTLD contention set (i.e., reach a determination as to which applicant will ultimately be assigned the right to operate the new gTLD at issue). An ICANN auction of last resort will only be conducted when the members of a contention cannot reach agreement privately. By refusing to agree to resolve a contention set privately, one member of a contention set has the ability to force the other members, all of whom may be willing to resolve the contention set privately, to an ICANN auction of last resort.

27. For purposes of this matter, it is important to understand that the manner in which a contention set is resolved—whether by private agreement or ICANN auction—determines which entities will receive the proceeds from the winning bid. When a contention set is resolved privately, ICANN receives no financial benefit; in an ICANN auction, the entirety of the auction proceeds go to ICANN.

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D. PLAINTIFF'S APPLICATION FOR THE .WEB gTLD

28. In May 2012, Plaintiff submitted application 1-1527-54849 for the .WEB contention set. Plaintiff also submitted with its application the sum of $185,000—the mandatory application fee.

29. In consideration of Plaintiff paying the $185,000 application fee, ICANN agreed to conduct the application process for the .WEB gTLD in a manner consistent with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in both the Applicant Guidebook and the Auction Rules, and in conformity with the laws of fair competition. Plaintiff would not have paid the $185,000 mandatory application fee absent the mutual consideration and promises set forth above.

30. Plaintiff's application passed ICANN's "Initial Evaluation" process on July 19, 2013. It is an approved member of the .WEB contention set and qualified to participate in the ICANN auction process for .WEB.

E. NDC'S APPLICATION FOR THE .WEB gTLD

31. On June 13, 2012, NDC submitted application number 1-1296-36138 for the .WEB contention set.

32. Among other things, the application required NDC to provide "the identification of directors, officers, partners, and major shareholders of that entity." As relevant here, NDC provided the following response to Sections 7 and 11 of the application:

> **Secondary Contact**
>
> **7(a). Name**
> Personal Data Redacted
>
> **7(b). Title**
> Personal Data Redacted

Applicant Background

11(a). Name(s) and position(s) of all directors

Personal Data Redacted

11(b). Name(s) and position(s) of all officers and partners

Personal Data Redacted

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

Domain Marketing Holdings, LLC	Not Applicable
NUCO LP, LLC	Not Applicable

33. By submitting its application for the .WEB gTLD and electing to participate in the .WEB contention set, NDC expressly agreed to the terms and conditions set forth in the Applicant Guidebook as well as Auction Rules, including specifically, and without limitation, Sections 1.2.1, 1.2.7, 6.1 and 6.10 of the Applicant Guidebook.

34. The Applicant Guidebook requires an applicant to notify ICANN of any changes to its application, including the applicant background screening information required under Section 1.2.1; the failure to do so can result in the denial of an application. For example, Section 1.2.7 imposes an ongoing duty to update "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant." Similarly, pursuant to Section 6.1, "[a]pplicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading."

35. In addition to a continuing obligation to provide complete, updated, and accurate information related to its application, Section 6.10 of the Applicant Guidebook,

strictly prohibits an applicant from "resell[ing], assign[ing], or transfer[ring] any of applicant's rights or obligations in connection with the application." An applicant that violates this prohibition is subject to disqualification from the contention set.

36. ICANN failed to investigate credible evidence supporting a determination that NDC violated each of these guidelines—evidence that it held for over a month prior to the .WEB auction date. Despite the urging of multiple .WEB applicants and NDC's written admissions of potentially disqualifying changes to NDC's application, ICANN continues to turn a blind eye to the direct detriment of other .WEB applicants and to ICANN's foundational duties to administer the New gTLD Program with fairness and transparency.

F. NDC'S FAILURE TO NOTIFY ICANN OF CHANGES TO ITS APPLICATION

37. On or about June 1, 2016, Plaintiff learned that NDC was the only member of the .WEB contention set unwilling to resolve the contention set in advance and in lieu of the ICANN auction.

38. At the time, Plaintiff found the decision unusual given NDC's historical willingness and enthusiasm to participate in the private resolution process. Overall, NDC has applied for 13 gTLDs in the New gTLD Program; nine of those gTLDs were resolved privately with NDC's agreement. The auction for the .WEB gTLD is the first auction in which NDC has pushed for an ICANN auction of last resort.

39. On June 7, 2016, Plaintiff contacted NDC in writing to inquire as to whether NDC might reconsider its recent decision to forego resolution of the .WEB contention set prior to ICANN's auction of last resort. In response, NDC stated that its position had not changed. NDC also advised, however, that Personal Data Redacted, who is identified on NDC's .WEB application as Personal Data Redacted , is "no longer involved with [NDC's] applications." NDC also made statements indicating a potential change in the ownership of NDC, including an admission that the board of

NDC had changed to add "several others" and that he had to check with the "powers that be," implying that he and his associate on the email were no longer in control. The email communication containing these statements is set forth in pertinent part below:

> **From:** Personal Data Redacted
> **Subject: Re: .web**
> **Date:** June 7, 2016 at 11:32:17 AM EDT
> **To:** Personal Data Redacted
> **Cc:**
>
> Jon,
>
> [Redacted]
>
> Personal Data Redacted is at NSR full time and no longer involved with our TLD applications. I'm still running our program and Personal D sits on the board with me and several others.
>
> [Redacted]
>
> Best,
> Personal Data Redacted

40. Noting that NDC's conduct and statements (a) appeared to directly contradict information in NDC's .WEB application and (b) suggested that NDC had either resold, assigned, or transferred its rights in the application in violation of its duties under the Applicant Guidebook, Plaintiff diligently contacted ICANN staff in writing with the discrepancy on or about June 22, 2016 to understand who it was competing against for .WEB and to improve transparency over the process for ICANN and the other .WEB applicants.

41. After engaging in a series of discussions with ICANN staff, Plaintiff decided to formally raise the issue with the ICANN Ombudsman on or about June 30, 2016; as of the initiation of this lawsuit, Plaintiff's most recent correspondence with the ICANN Ombudsman, dated July 10, 2016, in which it provided further information related to the statements made by NDC, remains unanswered.

42. At every opportunity, Plaintiff raised the need for a postponement of the .WEB auction to allow ICANN time to fulfill its obligations to (a) investigate the

contradictory representations made by NDC in relation to its pending application; (b) address NDC's continued status as an auction participant; and (c) provide all the other .WEB applicants the necessary transparency into who they were competing against. It also discussed the matter with ICANN staff and the Ombudsman at ICANN's most recent meeting in Helsinki, Finland, which took place from June 27-30, 2016.

43. On July 11, 2016, Radix FZC (on behalf of DotWeb Inc.) and Schlund Technologies GmbH, each members of the .WEB contention set, sent correspondence to ICANN stating their own concerns in proceeding with the auction of last resort scheduled for July 27, 2016. The correspondence stated:

> We support a postponement of the auction, to give ICANN and the other applicants time to investigate whether there has been a change of leadership and/or control of another applicant, NU DOT CO LLC. To do otherwise would be unfair, as we do not have transparency into who leads and controls that applicant as the auction approaches.

G. ICANN'S DECISION TO PROCEED WITH THE .WEB AUCTION

44. On July 13, 2016, ICANN issued a statement denying the collective request of multiple members of the .WEB contention set to postpone the July 27, 2016 auction to allow for a full and transparent investigation into apparent discrepancies in the NDC application, as highlighted by NDC's own statements. Without providing any detail, ICANN simply stated as follows:

> Secondly, in regards to potential changes of control of NU DOT CO LLC, we have investigated the matter, and to date we have found no basis to initiate the application change request process or postpone the auction.

45. Contrary to its obligations of accountability and transparency, ICANN's decision did not address the manner or scope of the claimed investigation nor did it address whether a specific inquiry was made into (a) Personal Data Redacted current status, if any, with NDC, (b) the identity of "several other[]" new and unvetted members of

NDC's board, or (c) any change in ownership—the very issues raised by NDC's own statements. The correspondence was also silent as to any investigation into whether NDC had either resold, assigned, or transferred all or some of the rights to its .WEB application.

46. Plaintiff was unable to learn any further information regarding the extent of the investigation undertaken by ICANN, other than it was limited to inquiries only to NDC and no independent corroboration was sought or obtained.

47. Despite the clear credibility issues raised by NDC's own contradictory statements, ICANN conducted no further investigation. Indeed, ICANN informed Plaintiff that it never even contacted Personal Data Redacted or interviewed the other individuals identified in Sections 7 and 11 of NDC's application prior to reaching its conclusion.

48. To be clear, the financial benefit to ICANN of resolving the .WEB contention set by way of an ICANN auction is no small matter—as of the filing of this lawsuit, ICANN's stated net proceeds from the 15 ICANN auctions conducted since June 2014 total $101,357,812. The most profitable gTLDs from those auctions commanded winning bids of $41,501,000 (.SHOP), $25,001,000 (.APP), $6,706,000 (.TECH), $5,588,888 (.REALTY), $5,100,175 (.SALON) and $3,359,000 (.MLS). ICANN has not yet determined what it will do with the enormous proceeds from these auctions.

H. PLAINTIFF'S REQUEST FOR RECONSIDERATION

49. ICANN's Bylaws provide an established accountability mechanism by which an entity that believes it was materially affected by an action or inaction by ICANN staff that contravened established policies and procedures may submit a request for reconsideration or review of the conduct at issue. The review is conducted by ICANN's Board Governance Committee.

50. On July 17, 2016, Plaintiff and Radix FZC, an affiliate of another member of the .WEB contention set, jointly submitted a Reconsideration Request to ICANN, in

response to the actions and inactions of ICANN staff in connection with the decision set forth in the ICANN's July 13, 2016 correspondence.

51. The Reconsideration Request sought reconsideration of (a) ICANN's determination that it "found no basis to initiate the application change request process" in response to the contradictory statements of NDC and (b) ICANN's improper denial of the request made by multiple contention set members to postpone the .WEB auction of last resort, which would have provided ICANN the time necessary to conduct a full and transparent investigation into material discrepancies in NDC's application and its eligibility as a contention set member.

52. The Reconsideration Request highlighted the following issues:

a. ICANN's failure to forego a full and transparent investigation into the material representations made by NDC is a clear violation of the principles and procedures set forth in the ICANN Articles of Incorporation, Bylaws and the Applicant Guidebook.

b. ICANN is the party with the power and resources necessary to delay the ICANN auction of last resort while the accuracy of NDC's current application is evaluated utilizing the broad investigatory controls contained in the Applicant Guidebook, to which all applicants, including NDC, agreed.

c. Postponement of the .WEB auction of last resort provides the most efficient manner for resolving the current dispute for all parties by (i) sparing ICANN and the many aggrieved applicants the time and expense of legal action while (ii) avoiding the very real likelihood of a court-mandated unwinding of the ICANN auction of last resort should it proceed.

d. ICANN'S July 13, 2016 decision raises serious concerns as to whether the scope of ICANN's investigation was impacted by the

inherent conflict of interest arising from a perceived financial benefit to ICANN if the Auction goes forward as scheduled.

e. ICANN's New gTLD Program Auctions guidelines state that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms,**" i.e., no pending Ombudsman complaints, Reconsideration Requests or IRPs.

53. The issues raised by Plaintiff were similar to those raised by applicants for other gTLDs in similar contexts; issues that were deemed well-founded by an independent panel assigned to review ICANN's compliance with its mandatory obligations and bylaws in relation to its administration of the application processes for the New gTLD Program.

54. On July 21, 2016, ICANN denied the Request for Reconsideration. In doing so, ICANN relied solely on statements from NDC that directly contradicted those contained in NDC's earlier correspondence—a clear red flag. Once again, despite the credibility issues raised by NDC's own contradictory statements, ICANN failed and refused to contact Personal Data Redacted or interview the other individuals identified in Sections 7 and 11 of NDC's application prior to reaching its conclusion. ICANN also failed to investigate whether NDC had either resold, assigned, or transferred all or some of its rights to its .WEB application.

55. On July 22, 2016, Plaintiff initiated ICANN's Independent Review Process by filing ICANN's Notice of Independent Review. The IRP remains pending.

I. THE .WEB AUCTION RESULTS

56. On July 27, 2016, the .WEB auction proceeded as scheduled. The following day, ICANN reported NDC as the winning bidder of the .WEB gTLD. According to ICANN, NDC's winning bid amount was $135 million, more than *triple*

the previous highest price paid for a new gTLD and a sum greater than all of the prior ICANN auction proceeds combined.

57. On July 28, 2016, non-party VeriSign, Inc. ("VeriSign"), the registry operator for the .COM and .NET gTLDs, filed a Form 10-Q with the Securities and Exchange Commission in which it disclosed that "[s]ubsequent to June 30, 2016, the Company incurred a commitment to pay approximately $130.0 million for the future assignment of contractual rights, which are subject to third-party consent. The payment is expected to occur during the third quarter of 2016."

58. On August 1, 2016, VeriSign confirmed via a press release that the approximately $130 million "commitment" referred to in its Form 10-Q was, in fact, an agreement entered into with NDC "wherein [VeriSign] provided funds for [NDC]'s bid for the .web TLD" in an effort to acquire the rights to the .WEB gTLD. VeriSign stated that its acquisition of the .WEB gTLD would be complete after NDC "execute[s] the .web Registry Agreement with [ICANN]" and then "assign[s] the Registry Agreement to VeriSign upon consent from ICANN."

59. VeriSign did not apply for the .WEB gTLD and was not a disclosed member of the .WEB contention set. At no point prior to the .WEB auction did NDC disclose (a) its relationship with VeriSign; (b) the fact that NDC had effectively become a proxy for VeriSign as a result of VeriSign agreeing to fund NDC's .WEB auction bids; or (c) the fact that NDC had either resold, assigned, or transferred all or some of its rights to its .WEB application to VeriSign.

60. As alleged above, VeriSign is the registry operator for the .COM and .NET gTLDs, which together account for the greatest market share among all gTLDs. Indeed, on July 28, 2016, VeriSign reported combined registrations for the .COM and .NET registries of 143.2 million domains, *more than six times greater* than the combined total registrations of approximately 23 million for all other existing gTLDs.

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61. On information and belief, VeriSign did not apply for, or disclose its interest in, the .WEB gTLD in an effort to avoid heightened scrutiny of its application by ICANN, the other .WEB applicants, the domain name industry at large and, most importantly, the U.S. Department of Justice; specifically, VeriSign's apparent acquisition of NDC's application rights was an attempt to avoid allegations of anti-competitive conduct and antitrust violations in applying to operate the .WEB gTLD, which is widely viewed by industry analysts as the strongest competitor to the .COM and .NET gTLDs.

62. Had VeriSign's apparent acquisition of NDC's application rights been fully disclosed to ICANN by NDC, as required by Sections 1.2.7, 6.1 and 6.10 of the Applicant Guidebook, among other provisions, the relationship would have also triggered heightened scrutiny of VeriSign's Registry Agreements with ICANN for .COM and .NET, as well as its Cooperative Agreement with the Department of Commerce.

FIRST CAUSE OF ACTION

(Breach of Contract against Defendant ICANN)

63. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 62 above as though fully set forth herein.

64. In June 2012, ICANN invited eligible parties to submit applications to obtain the rights to, among others, the .WEB gTLD as part of the New gTLD Program. In doing so, ICANN promised the potential applicants that it would (a) conduct the bid process in a transparent manner, (b) ensure competition, and (c) abide by its own Bylaws and the rules set forth in the Applicant Guidebook.

65. On or about June 13, 2012, Plaintiff submitted an application to ICANN to obtain the rights to the .WEB gTLD. In consideration of ICANN's promise to abide by its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in

the Applicant Guidebook in its administration of the .WEB auction process, Plaintiff paid ICANN a sum of $185,0000—the mandatory application fee.

66. In consideration of Plaintiff paying the sum of $185,000, ICANN promised to conduct the application process for the .WEB gTLD in a manner consistent with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in both the Applicant Guidebook and the Auction Rules, and in conformity with the laws of fair competition.

67. Plaintiff would not have paid the $185,000 mandatory application fee or spent time and other resources absent the mutual consideration and promises set forth above. Plaintiff performed all conditions, covenants, and promises on its part to be performed in accordance with the agreed upon terms of participating in the New gTLD Program, except those obligations, if any, that it has been prevented or excused from performing as a result of the misconduct set forth in this Complaint.

68. ICANN has materially breached its obligations to Plaintiff, as set forth in ICANN's Bylaws and Articles of Incorporation, and the Applicant Guidebook by (a) failing to thoroughly investigate the issues raised by NDC's own statements and (b) refusing to postpone the .WEB auction of last resort to allow for a full and transparent investigation into the apparent discrepancies in NDC's .WEB application.

69. Specifically, ICANN's acts and omission violated, among other things:

a. Article 1, section 2.8 and Article III, Section 1 of ICANN's Bylaws, which require ICANN to "[m]ak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness" and "operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness." ICANN obligates each applicant who seeks to participate in the New gTLD auction process to affirm that the statements and representations contained in the application are true

and accurate; applicants also undertake a continuing obligation to update their application when changes in circumstance affect an application's accuracy. By failing to engage in a thorough, open, and transparent investigation of the contradictory statements made by NDC in relation to its application, as well as an apparent change of control with potential antitrust implications, ICANN plainly—and inexplicably—failed to reach its decisions by "applying documented policies neutrally and objectively, with integrity and fairness."

b. Article 1, section 2.9 of ICANN's Bylaws, which requires ICANN to "[act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected." In undertaking only a cursory examination of the contradictory statements made by NDC and the apparent change in NDC's rights to its application, ICANN failed to balance ICANN's interest in a swift resolution of the concerns raised by the members of the .WEB contention set with its obligation to obtain sufficient assurances and information from the individuals and entities at the center of the statements made by NDC; at the very least, ICANN should have (a) conducted interviews with Personal Data Redacted and all other individuals identified in Section 11 of NDC's application prior to reaching its conclusion and (b) investigated whether NDC had either resold, assigned, or transferred all or some of its rights to its .WEB application.

c. Article 1, section 2.10 of ICANN's Bylaws, which requires ICANN to "[r]emain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness." By failing to

make use of the processes established in Sections 6.8 and 6.11 to the Applicant Guidebook in investigating an admitted failure by NDC to abide by its continuing obligation to update its application, ICANN staff disregarded the very accountability mechanisms put in place to serve and protect the .WEB contention set, the Internet community, and the public at large. This error was compounded by the cursory dismissal of the concerns raised by multiple members of the .WEB contention set relating to the accuracy of the representations made in NDC's application. By failing to apprise the members of the contention set as to the manner and scope of the investigation conducted by ICANN staff, ICANN failed to ensure that it would hold itself accountable to any gTLD applicant, let alone the Internet community and the public.

d. Article II, section 3 of ICANN's Bylaws, which states that "ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition." There can be no questioning the fact that the Staff Action resulted in disparate treatment in favor of NDC. On one hand, there are clear statements from NDC that representations made in its application are inaccurate and there is ample evidence that NDC has either resold, assigned, or transferred all or some of its rights to its .WEB application. On the other hand, when pressed by multiple members of the contention set to fully investigate the matter, ICANN provided only a conclusory statement that raises more questions than it resolves. To the extent it had reason to engage in such disparate treatment of the members

of the .WEB contention set, ICANN failed to provide such a reason in reaching the determinations at issue in this Request.

70. ICANN also promised that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms**." ICANN breached this promise by refusing to postpone the .WEB auction of last resort while Plaintiff's Reconsideration Request remains pending and its Ombudsman complaint remains unresolved. ICANN further breached this promise by moving forward with the .WEB auction of last resort while Plaintiff's IRP, initiated on July 22, 2016, remains pending.

71. On information and belief, Plaintiff alleges that the breaches set forth above resulted from a pre-textual "investigation" into the admissions made by NDC and ICANN's issuance of its subsequent July 13, 2016 decision. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its contractual obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that ICANN willfully and intentionally committed the wrongful acts described above.

72. As a direct and proximate result of ICANN's breaches, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and goodwill, in an amount to be determined at trial but not less than twenty-two million, five hundred thousand dollars ($22,500,000) plus interest.

SECOND CAUSE OF ACTION

(Breach of the Covenant of Good Faith and Fair Dealing against Defendant ICANN)

73. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 62 above as though fully set forth herein.

74. An implied covenant of good faith and fair dealing exists between Plaintiff and ICANN as a result of the contractual relationship entered into as part of the .WEB gTLD application process.

75. ICANN breached the covenant of good faith and fair dealing when it acted in a way that deprived Plaintiff of the benefits of the agreement as set forth in the Applicant Guidebook, namely that the administration of the bid process for the .WEB gTLD would be founded on the principles of fairness and transparency.

76. ICANN breached the covenant of good faith and fair dealing when it:

a. Failed to conduct due diligence and an adequate investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions, including but not limited to failing to investigate whether NDC had either resold, assigned, or transferred all or some of its rights to its .WEB application;

b. Failed to conduct interviews with Personal Data Redacted and all other individuals identified in Sections 7 and 11 of NDC's application as part of an investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

c. Failed to provide a necessary level of transparency into the identity and leadership of a competing applicant;

d. Refused to postpone the ICANN auction of last resort to allow for a full and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions; and

e. Failed to conduct a reasonable inquiry into NDC's impermissible resale, transfer, or assignment of its rights in the .WEB application to VeriSign.

77. On information and belief, Plaintiff alleges that the breaches set forth above resulted from a pre-textual "investigation" into the admissions made by NDC and

ICANN's issuance of its subsequent July 13, 2016 decision. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that ICANN willfully and intentionally committed the wrongful acts described above.

78. As a direct and proximate result of ICANN's breaches as set forth above, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and good will.

THIRD CAUSE OF ACTION

(**Negligence against Defendant ICANN)**

79. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 62 above as though fully set forth herein.

80. ICANN owed Plaintiff a duty to act with proper care and diligence in administering the .WEB auction process in accordance with its own Bylaws, Articles of Incorporation, and the rules and procedures as stated in the Applicant Guidebook.

81. ICANN breached the duty owed Plaintiff by, among other things:

a. Failing to conduct due diligence and an adequate investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions, including whether NDC resold, assigned or transferred any of its rights or obligations in connection with the application to VeriSign;

b. Failing to conduct interviews with Personal Data Redacted and all other individuals identified in Sections 7 and 11 of NDC's application as part of an investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

c. Refusing to postpone the ICANN auction of last resort to allow for a full and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions; and

d. Failing to provide a rationale for the decision set forth in the July 13, 2016 correspondence.

82. As a direct and proximate result of ICANN's breaches as set forth above, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and good will.

FOURTH CAUSE OF ACTION

(Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 against Defendant ICANN)

83. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 62 above as though fully set forth herein.

84. The California Unfair Competition Law ("UCL") protects both consumers and competitors by prohibiting "unfair competition," which is defined, in the disjunctive, by Business and Professions Code section 17200 as including "any unlawful, unfair or fraudulent business act or practice" as well as "unfair, deceptive, untrue or misleading advertising."

85. Plaintiff has standing to pursue this claim under Business and Professions Code section 17204 because Plaintiff has suffered injury in fact and has lost money or property as a result of ICANN's actions as set forth above. The losses include, but are not limited to, expenses incurred by Plaintiff in exhausting every available formal and informal avenue of recourse with ICANN prior to the filing of the above-captioned action, including legal fees related to the preparation and submission of the Reconsideration Request. Losses also include the $185,000 application fee paid to ICANN to participate as an application in the .WEB contention set.

86. The following acts and omissions of ICANN, among others, were unlawful under the UCL:

a. ICANN's imposition of the unenforceable contract terms contained in the Purported Release, in violation of California Civil Code section 1668, which declares violative of public policy those contracts that "have for their object, directly or indirectly, to exempt anyone from the responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent…."

b. ICANN's imposition of the unenforceable contract terms contained in the Purported Release, in violation of California Civil Code § 1770(a)(19), which defines as unlawful, the "[i]nsert[ion] of an unconscionable provision in [a] contract."

87. The following acts and omissions of ICANN, among others, were unfair under the UCL:

a. Plaintiff hereby incorporates by this reference the allegations of Paragraph 86 and its subparts as stated herein; each act therein alleged is also an unfair act or practice under the UCL;

b. ICANN's decision to conduct a cursory investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions without regard for rights of the other .WEB contention set members;

c. ICANN's decision to forego a postponement of the ICANN auction of last resort scheduled for July 27, 2016 without conducting an open and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions; and

d. ICANN's decision to allow NDC to continue to participate as a

.WEB contention set member despite NDC's own admission of inaccuracies contained in its application, in violation of the guidelines contained in the Applicant Guidebook.

88. The following acts and omissions of ICANN, among others, were fraudulent under the UCL in that they were likely to deceive, and in fact did deceive, members of the public:

a. Plaintiff hereby incorporates by this reference the allegations of Paragraph 86 and its subparts as if restated herein; each is also a fraudulent act or practice under the UCL;

b. ICANN's false representation that it would make all decisions in administering the .WEB auction process "by applying documented policies neutrally and objectively, with integrity and fairness";

c. ICANN's false representation that in administering the .WEB auction process, it would "[act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected";

d. ICANN's false representation that in administering the .WEB auction process, it would"[r]emain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness";

e. ICANN's false representation that in administering the .WEB auction process, it would "apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment";

f. ICANN's false representation that all applicants would be subject to the same agreement, rules, and procedures;

g. ICANN's false representation that it would require applicants to

update their applications with "any change in circumstances that would render any information provided in the application false or misleading," including "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant";

h. ICANN's false representation that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms**"; and

i. ICANN's false representation that an applicant would be disqualified from participating in the .WEB contention set for "resell[ing], assign[ing], or transfer[ring] any of [the] applicant's rights or obligations in connection with the application."

89. On information and belief, the conduct identified in Paragraphs 86-88 and their subparts resulted from the intentional conduct of ICANN.

90. With specific reference to the conduct identified in Paragraphs 87-88 and their subparts above, Plaintiff alleges that ICANN's "investigation" into the admissions made by NDC and ICANN's subsequent issuance of its July 13, 2016 decision were pre-textual in nature, the goal of which was to ensure ICANN secured a windfall from the .WEB contention set being resolved by way of an ICANN auction of last resort. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its contractual obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that it was in ICANN's interest to willfully and intentionally commit the wrongful acts described above. Pursuant to Business and Professions Code section 17203 and the equitable powers of the Court, Plaintiff seeks an order (a) enjoining ICANN from proceeding with the .WEB ICANN auction of last resort until the claims presented by way of the above-captioned action are resolved; (b)

enjoining ICANN from entering into a Registry Agreement with any party for the .WEB gTLD pending a final decision on the merits of this matter; and (c) enjoining ICANN from engaging in the unlawful, unfair and fraudulent business acts and practices described above. Plaintiff also seeks an order requiring ICANN to comply with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in the Applicant Guidebook, in the continued administration of the .WEB contention set process and to take such corrective actions and adopt such remedial measures as are necessary to prevent the further occurrence of the acts or practices alleged herein.

91. Plaintiff also seeks an order requiring restitution of any and all monies obtained by ICANN from Plaintiff as a result of the intentionally unlawful, unfair, and fraudulent described above. Plaintiff's request includes, but is not limited to, the restitution of any and all fees paid by or monies received from Plaintiff in relation to the .WEB contention set process.

92. Preventing the unlawful business practices engaged in by ICANN will ensure a significant benefit to the other .WEB contention set members as well as the public at large. Moreover, the financial burden of pursuing private enforcement substantially exceeds the financial benefit to Plaintiff. Thus, in the interest of justice, Plaintiff seeks attorneys' fees in bringing this private attorney general claim pursuant to Civil Code section 1021.5 in an amount subject to proof.

FIFTH CAUSE OF ACTION

(Declaratory Relief—Against Defendant ICANN)

93. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 62 above as though fully set forth herein.

94. An actual and justiciable controversy has arisen, and now exists, between Plaintiff, on one hand, and ICANN, on the other, regarding the legality and effect of the Purported Release contained in the Applicant Guidebook.

95. As a condition of participating in the .WEB contention set process, ICANN required Plaintiff and other applicants to sign the Applicant Guidebook, which contained a covenant not to sue in order to apply for the .WEB contention set. The Purported Release applies to all New gTLD applicants and states, in relevant part:

> Applicant hereby releases ICANN . . . from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN . . . in connection with ICANN's . . . review of this application. . . . Applicant agrees not to challenge . . . and irrevocably waives any right to sue or proceed in court.

96. The Purported Release is not subject to negotiation: If a potential applicant does not agree to the release, it cannot be considered for participation in the .WEB contention set process. The Purported Release is also entirely unilateral in that it allows ICANN to absolve itself of wrongdoing while affording no remedy to applicants. Moreover, the Purported Release does not apply equally as between ICANN and the applicants because it does not prevent ICANN from proceeding with litigation against an applicant.

97. Plaintiff seeks a declaration of its rights regarding the enforceability of the Purported Release in light of California Civil Code Section 1668, which prohibits the type of broad exculpatory clauses contained in the Purported Release: "All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property or another, or violation of law, whether willful or negligent, are against the policy of the law."

98. Plaintiff maintains that, on its face, the Release is "against the policy of the law" because it exempts ICANN from any and all claims arising out of the application process, even those arising from fraudulent or willful conduct.

99. As such, an actual controversy has arisen and now exists between Plaintiff and ICANN as to the enforceability of the Purported Release. Plaintiff desires a judicial

determination and declaration that the Purported Release is unenforceable, unconscionable, and/or void as a matter of public policy. Such a declaration is necessary and appropriate at this time so that Plaintiff may ascertain its rights with respect to the enforceability of the Purported Release.

WHEREFORE, Plaintiff RUBY GLEN, LLC prays for relief as follows:

1. For compensatory damages according to proof at the time trial;
2. For general damages according to proof;
3. For restitutionary damages according to proof;
4. An injunction requiring ICANN to refrain from conducting the auction of last resort for the .WEB gTLD pending a final decision on the merits of this matter;
5. An injunction requiring ICANN to refrain from entering into a Registry Agreement with any party for the .WEB gTLD pending a final decision on the merits of this matter;
6. An injunction requiring ICANN to refrain from assigning the rights to the .WEB gTLD to any party pending a final decision on the merits of this matter;
7. Attorneys' fees and costs to the extent permitted by law; and
8. For such other relief as the Court deems just and proper against all Defendants.

Dated: August 8, 2016

By: s/ Personal Data Redacted
Personal Data Redacted (SBN 238731)
Personal Data Redacted (SBN 208781)
Personal Data Redacted

COZEN O'CONNOR
999 Third Avenue, Suite 1900
Seattle, WA 98104
Telephone: 206.340.1000
Toll Free Phone: 1.800.423.1950
Facsimile: 206.621.8783
Attorneys for Ruby Glen, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies, under penalty of perjury under the laws of the State of California, that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Electronic Mail Notice List

Personal Data Redacted

SIGNED AND DATED this 8th day of August, 2016 at Seattle, Washington.

COZEN O'CONNOR

By: /s/ Personal Data Redacted
Paula Zecchini

Exhibit 26

From: Personal Data Redacted [redacted]
Date: Monday, July 11, 2016 at 12:07 AM
To: Akram Atallah [redacted], Christine Willett [redacted],
John Jeffrey [redacted], [redacted]
Cc: Personal Data Redacted [redacted]
Subject: Postponement of the .WEB auction

Hi,

We support a postponement of the .WEB auction to give ICANN and the other applicants time to investigate whether there has been a change of leadership and/or control of another applicant, NU DOT CO LLC. To do otherwise would be unfair, as we do not have transparency into who leads and controls that applicant as the auction approaches.

Personal Data Redacted

Radix FZC, Dot Web, Inc.

Exhibit 27

SchlundTech

JUL 11 2016

Schlund Technologies GmbH | Maximilianstr. 6 | 93047 Regensburg | Germany

Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
USA

To: Akram Atallah, Christine Willett, John Jeffrey
Via e-mail and fax

July 11, 2016

RE: Postponement of ICANN Auction .WEB/.WEBS

Dear Mr. Atallah, Ms. Willett, and Mr. Jeffrey,

Schlund Technologies GmbH is one of the applicants for .WEB with a scheduled ICANN Auction on July 27, 2016.

We support a postponement of the auction, to give ICANN and the other applicants time to investigate whether there has been a change of leadership and/or control of another applicant, NU DOT CO LLC. To do otherwise would be unfair, as we do not have transparency into who leads and controls that applicant as the auction approaches.

Sincerely,

Personal Data Redacted

Schlund Technologies GmbH
Maximilianstr. 6
93047 Regensburg
Germany

Handelsregister B
Regensburg 9620

Geschäftsführer/CEO
RA Thomas Mörz

USt-IdNr. DE814286643

Commerzbank AG
Konto-Nr. 599279900
BLZ 50040000
IBAN-Nr.:
DE54500400000599279900
SWIFT-Code:
COBADEFFXXX

Exhibit 28

Case
00220793

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Attachments [3] | Case Comments [13] | Emails [0] | Activity History [10] | Related Cases [1] | Case History [10+]

Case Detail

Edit

Case Information

Case Number	00220793 [View Hierarchy]	Internal Status	Closed
Account Name	NU DOT CO LLC	Status	Closed
Contact Name	Personal Data Redacted	Case Close Reason	Response Provided
Contact Type		Urgency	Moderate
Contention Set Member	CSM-0746	Severity	Sev 3
Application ID	1-1296-36138	Case Record Type	Contention Set Case
Case Origin	Internal	Category	Auction Eligibility Notification
Visible in Self-Service Portal	✓	Sub Category	
Suppress Notification	☐	Case Owner	Jared Erwin [Change]
Updates On Case	☐	Assigned to	Jared Erwin
Phone		Parent Case	

Additional Information

System Information

Attachment Upload

Case Comments

New

Case Comments Help

Action	Public	Comment
Make Private	✓	**Created By: Jared Erwin (5/27/2016 3:18 PM)** Dear Personal Data Redacted Thank you for confirming. No further action is required of you at this time. Best regards, Jared Erwin New gTLD Operations
Make Private	✓	**Created By: Jose Ignacio Rasco (5/27/2016 12:48 PM)** I can confirm that there have been no changes to the NU DOTCO LLC organization that would need to be reported to ICANN. Regards, ,Personal Data Redacted
Make Private	✓	**Created By: Jared Erwin (5/27/2016 12:02 PM)** Dear ,Personal Data Redacted We would like to confirm that there have not been changes to your application or the NU DOT CO LLC organization that need to be reported to ICANN. This may include any information that is no longer true and accurate in the application, including changes that occur as part of regular business operations (e.g., changes to officers and directors, application contacts). If there have been any such changes, please submit a new case via the Customer Portal (myicann.secure.force.com) with the requested changes so that we may begin processing. If a change request is required, please note Rule 9 of the Auction Rules for Indirect Contention (https://newgtlds.icann.org/en/applicants/auctions/rules-indirect-contention-24feb15-en.pdf): "ICANN intends to initiate the Auction process once the composition of the contention set has stabilized. ICANN reserves the right not to send Intent to Auction notices and/or to postpone a scheduled Auction if a change request by one or more applicants in the Contention Set is pending, but believes that in most instances the Auction should be able to proceed without further delay." Let me know if you have any questions. Thank you and best regards, Jared Erwin New gTLD Operations

Exhibit 29

The Internet Corporation for Assigned Names and Numbers

ICANN

13 July 2016

Mr. Personal Data Redacted, NU DOT CO LLC
Ms. Personal Data RedactedCharleston Road Registry Inc.
Mr. Personal Data RedactedWeb.com Group, Inc
Mr. Personal Data RedactedDotWeb Inc.
Mr. Personal Data RedactedRuby Glen, LLC
Mr. John Kane, Afilias Domains No. 3 Limited
Mr. Personal Data RedactedVistaprint Ltd
Mr. Personal Data RedactedSchlund Technologies GmbH
Mr. Personal Data RedactedRuby Glen, LLC

Re: .WEB/.WEBS Auction on 27 July 2016

Dear Members of the .WEB/.WEBS Contention Set,

We are writing in regards to inquiries we have received concerning potential changes of control of NU DOT CO LLC, an applicant in the .WEB/.WEBS contention set, and requests to postpone the auction to investigate the matter. We would like to provide some clarification regarding this issue and how it may or may not impact the .WEB/.WEBS auction scheduled for 27 July 2016.

Firstly, as a reminder, in regards to a request for postponement, Rule 10 of the Auction Rules for Indirect Contention states:

> "...Postponement requests must be submitted by all members of the Contention Set by the due date specified within the ICANN Customer Portal, generally twenty eight (28) days after receipt of Intent to Auction notice from ICANN. If a postponement request is not submitted by the due date specified within the ICANN Customer Portal or is not accommodated by ICANN, an applicant may request an advancement/postponement request via submission of the Auction Date Advancement/Postponement Request Form. The form must be submitted at least 45 days prior to the scheduled Auction Date and ICANN must receive a request from each member of the contention set..." (https://newgtlds.icann.org/en/applicants/auctions/rules-indirect-contention-24feb15-en.pdf)

The date to submit the postponement form passed on 12 June 2016, and we did not receive consensus from the contention set. As such, no postponement was granted.

Secondly, in regards to potential changes of control of NU DOT CO LLC, we have investigated the matter, and to date we have found no basis to initiate the application change request process or postpone the auction.

Finally, as you are aware, ICANN provided confirmation to all members of the .WEB/.WEBS contention set on 6 July 2016 that the auction will be proceeding as scheduled on 27 July 2016. Please follow all instructions provided to you by Power Auctions, the Auction Manager, regarding next steps, including mini and mock auctions as well as the deposit deadline.

Regarding the deposit deadline, Rule 28 of the Auction Rules for Indirect Contention states:

> "All wires and all instructions associated with Deposits, including instructions regarding the allocation of funds among Contention Sets from wires and funds rolled over from previous Auctions, must be received no later than 16:00 UTC on the day that is seven (7) calendar days prior to the Commencement Date of the relevant Auction (the "Deposit Deadline"), unless this deadline is waived, at the Auction Manager's sole discretion."

As per Rule 28, the Deposit Deadline for the upcoming auction is 16:00 UTC on 20 July 2016.

While the auction is currently set to proceed as scheduled, applicants may continue to work toward self-resolution of the contention set. Applicants may withdraw their application up until the Deposit Deadline noted above. Once the Deposit Deadline is reached, there is a quiet period in which applicants are no longer allowed to withdraw their application until after conclusion of the auction.

I hope this information has been helpful to you. Please do not hesitate to respond with any additional questions or concerns. Should you have specific questions regarding next steps for the auction, you may submit a case to globalsupport@icann.org, and someone from my team will contact you promptly.

Sincerely,

Christine A. Willett
Vice President, GDD Operations
ICANN

Exhibit 30

Personal Data Redacted (SBN 238731)
Personal Data Redacted (SBN 208781)
Personal Data Redacted (*pro hac vice* to be submitted)
COZEN O'CONNOR
999 Third Avenue, Suite 1900
Seattle, WA 98104
Telephone: 206.340.1000
Toll Free Phone: 1.800.423.1950
Facsimile: 206.621.8783
E-Mail: Personal Data Redacted

Attorneys for Plaintiff
RUBY GLEN, LLC

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

RUBY GLEN, LLC

Plaintiff,

vs.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS AND DOES 1-10

Defendant.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1) **BREACH OF CONTRACT**
2) **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
3) **NEGLIGENCE**
4) **UNFAIR COMPETITION (VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200)**
5) **DECLARATORY RELIEF**

DEMAND FOR JURY TRIAL

Plaintiff RUBY GLEN, LLC (hereinafter, "Plaintiff") alleges as follows:

INTRODUCTION

1. Plaintiff was formed for the purpose of applying to the Internet Corporation for Assigned Names and Numbers ("ICANN") for the right to operate the .WEB generic top-level domain ("gTLD"). In reliance on ICANN's agreement to administer the bid process in accordance with the rules and guidelines contained in its gTLD Applicant Guidebook ("Applicant Guidebook"), Plaintiff paid ICANN a mandatory $185,000 application fee for the opportunity to secure the rights to the .WEB gTLD.

2. Throughout every stage of the four years it has taken to bring the .WEB gTLD to market, Plaintiff worked diligently to follow the rules and procedures promulgated by ICANN. In the past month, ICANN has done just the opposite. Instead of functioning as a disinterested regulator of a fair and transparent gTLD bid process, ICANN used its authority and oversight to unfairly benefit an applicant who is in admitted violation of a number of provisions of the Applicant Guidebook. Even more problematic, ICANN's conduct, tainted by an inherent conflict of interest, ensured that it would be the sole beneficiary of the multi-million dollar proceeds from the .WEB auction—a result that ICANN's own guidelines identify as a "last resort" outcome.

3. As set forth more fully herein, ICANN has deprived Plaintiff and other applicants for the .WEB gTLD of the right to compete for the .WEB gTLD in accordance with established ICANN policy and guidelines. Court intervention is necessary to ensure ICANN's compliance with its own accountability and transparency mechanisms in the ongoing .WEB bid process.

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PARTIES

4. Plaintiff RUBY GLEN, LLC is a limited liability company, duly organized and existing under the laws of the State of Delaware and operated by an affiliate located in Bellevue, Washington.

5. Defendant INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS ("ICANN") is a nonprofit corporation, organized and existing under the laws of the State of California, with its principal place of business in Los Angeles, California.

6. Defendants Does 1-10 are persons who instigated, encouraged, facilitated, acted in concert or conspiracy with, aided and abetted, and/or are otherwise responsible in some manner or degree for the breaches and wrongful conduct averred herein. Plaintiff is presently ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of DOES 1 through 10, and will amend this Complaint to allege their true names and capacities when the same have been ascertained.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c), in that Defendant ICANN resides and transacts business in this judicial district. Moreover, a substantial part of the events, omissions, and acts that are the subject matter of this action occurred within the Central District of California.

FACTS COMMON TO ALL CAUSES OF ACTION

A. ICANN'S FORMATION AND PURPOSE

9. ICANN is a non-profit corporation originally established to assist in the transition of the Internet domain name system from one of a single domain name operator to one with multiple companies competing to provide domain name

registration services to Internet users "in a manner that w[ould] permit market mechanisms to support competition and consumer choice in the technical management of the [domain name system]."

10. ICANN's ongoing role is to provide technical coordination of the Internet's domain name system by introducing and promoting competition in the registration of domain names, while ensuring the security and stability of the domain name system. In that role, and as relevant here, ICANN was delegated the task of administering generic top level domains ("gTLDs") such as .COM, .ORG, or, in this case, .WEB.

11. Article 4 of ICANN's Articles of Incorporation requires ICANN to "operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets." A true and correct copy of ICANN's Articles of Incorporation is attached hereto as Exhibit A and incorporated herein by reference.

12. ICANN is accountable to the Internet community for operating in a manner consistent with its Bylaws and Articles of Incorporation as a whole. ICANN's Bylaws require ICANN, its Board of Directors and its staff to act in an open, transparent and fair manner with integrity. A true and correct copy of ICANN's Bylaws are attached hereto as Exhibit B and incorporated herein by reference. Specifically, the ICANN Bylaws require ICANN, its Board of Directors, and staff to:

a. "Mak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness."

b. "[Act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected."

c. "Remain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness."

d. Ensure that it does "not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition."

e. "[O]perate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness."

B. THE NEW gTLD PROGRAM AND APPLICANT GUIDEBOOK

13. ICANN is the sole organization worldwide with the power and ability to administer the bid processes for, and assign rights to, gTLDS. As of 2011, there were only 22 gTLDs in existence; the most common of which are .COM, .NET, and .ORG.

14. In or about 2011, ICANN approved the expansion of a number of the gTLDs available to eligible applicants as part of its 2012 Generic Top Level Domains Internet Expansion Program (the "New gTLD Program").

15. In January 2012, as part of the New gTLD Program, ICANN invited eligible parties to submit applications to obtain the rights to operate various new gTLDs, including, the .WEB and .WEBS gTLDs (collectively referred to herein as ".WEB" or the ".WEB gTLD"). In return, ICANN agreed to (a) conduct the bid process in a transparent manner and (b) abide by its own bylaws and the rules and guidelines set forth in ICANN's gTLD Applicant Guidebook ("Applicant Guidebook"). A true and correct copy of the Applicant Guidebook is attached hereto as Exhibit C and incorporated herein by reference.

16. The Applicant Guidebook obligates ICANN to, among other things, conduct a thorough investigation into each of the applicants' backgrounds. This investigation is necessary to ensure the integrity of the application process, including a potential auction of last resort, and the existence of a level playing field among those competing to secure the rights to a particular new gTLD. It also ensures that each applicant is capable of administering any new gTLD, whether secured at the auction of last resort or privately beforehand, thereby benefiting the public at large.

17. ICANN has broad authority to investigate all applicants who apply to participate in the New gTLD Program. This investigative authority, willingly provided by each applicant as part of the terms and conditions in the guidelines contained in the Applicant Guidebook, is set forth in relevant part in Section 6 as follows:

> 8. … In addition, Applicant acknowledges that [sic] to allow ICANN to conduct thorough background screening investigations:
>
> …
>
> c. Additional identifying information may be required to resolve questions of identity of individuals within the applicant organization; …
>
> …
>
> 11. Applicant authorizes ICANN to:
>
> a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;
>
> b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession…

///

18. To aid ICANN in fulfilling its investigatory obligations, "applicant[s] (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on [their] behalf)" are required to provide extensive background information in their respective applications. In addition to serving the purposes noted above, this information also allows ICANN to determine whether an entity applicant or individuals associated with an entity applicant have engaged in the automatically disqualifying conduct set forth in Section 1.2.1 of the Applicant Guidebook, including convictions of certain crimes or disciplinary actions by governments or regulatory bodies. Finally, this background information is important to provide transparency to other applicants competing for the same gTLD.

19. Indeed, ICANN deemed transparency into an applicant's background so important when drafting the Applicant Guidebook that applicants submitting a new gTLD application are required to undertake a continuing obligation to notify ICANN of "any change in circumstances that would render any information provided in the application false or misleading," including "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant."

20. As a further condition of participating in the .WEB Auction, ICANN required Plaintiff and other applicants to agree to a broad covenant not to sue in order to apply for the .WEB contention set (the "Purported Release"). The Purported Release applies to all new gTLD applicants and states, in relevant part:

> Applicant hereby releases ICANN . . . from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN . . . in connection with ICANN's . . . review of this application. . . . Applicant agrees not to challenge . . . and irrevocably waives any right to sue or proceed in court.

21. The Purported Release is not subject to negotiation. If a potential applicant does not agree to the release, it cannot be considered for participation in the .WEB

auction. The Purported Release is also entirely one-sided in that it allows ICANN to absolve itself of wrongdoing while affording no remedy to applicants. Moreover, the Purported Release does not apply equally as between ICANN and the applicants because it does not prevent ICANN from proceeding with litigation against an applicant.

22. In lieu of the rights ICANN claims are waived by the Purported Release, ICANN purports to provide applicants with an independent review process, as a means to challenge ICANN's actions with respect to a gTLD application. The IRP is effectively an arbitration, operated by the International Centre for Dispute Resolution of the American Arbitration Association, comprised of an independent panel of arbitrators. The IRP is officially identified by ICANN as an Accountability Mechanism.

23. In accordance with the IRP, any entity materially affected by a decision or action by the Board that the entity believes is inconsistent with the Articles of Incorporation or Bylaws may submit a request for independent review of that decision or action. In order to be materially affected, the person must suffer injury or harm that is directly and causally connected to the Board's alleged violation of the Bylaws or the Articles of Incorporation, and not as a result of third parties acting in line with the Board's action. The IRP results are advisory to the ICANN Board.

C. THE AUCTION PROCESS FOR NEW gTLDS

24. A large number of new gTLDs made available by ICANN in 2012 received multiple applications. In accordance with the Applicant Guidebook, where multiple new gTLD applicants apply to obtain the rights to operate the same new gTLD, those applicants are grouped into a "contention set." Applicants are encouraged in the Applicant Guidebook to resolve a new gTLD contention set (i.e., reach a determination as to which applicant will ultimately be assigned the right to operate the new gTLD at issue). If no other resolution occurs among the contention set members, ICANN ultimately facilitates and collects the proceeds of an auction process.

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25. Pursuant to the Applicant Guidebook, a contention set may be resolved privately among the members of a contention set or facilitated by ICANN as an auction of last resort. An ICANN auction of last resort will only be conducted when the members of a contention cannot reach agreement privately. By refusing to agree to resolve a contention set privately, one member of a contention set has the ability to force the other members, all of whom may be willing to resolve the contention set privately, to an ICANN auction of last resort.

26. For purposes of this matter, it is important to understand that the manner in which a contention set is resolved—whether by private agreement or ICANN auction—determines which entities will receive the proceeds from the winning bid. When a contention set is resolved privately, ICANN receives no financial benefit; in an ICANN auction, the entirety of the auction proceeds go to ICANN.

D. PLAINTIFF'S APPLICATION FOR THE .WEB gTLD

27. In May 2012, Plaintiff submitted application 1-1527-54849 for the .WEB contention set. Plaintiff also submitted with its application the sum of $185,000—the mandatory application fee.

28. In consideration of Plaintiff paying the $185,000 application fee, ICANN agreed to conduct the application process for the .WEB gTLD in a manner consistent with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in both the Applicant Guidebook and the Auction Rules, and in conformity with the laws of fair competition. Plaintiff would not have paid the $185,000 mandatory application fee absent the mutual consideration and promises set forth above.

29. Plaintiff's application passed ICANN's "Initial Evaluation" process on July 19, 2013. It is an approved member of the .WEB contention set and qualified to participate in the ICANN auction process for .WEB.

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E. NDC'S APPLICATION FOR THE .WEB gTLD

30. On June 13, 2012, NDC submitted application number 1-1296-36138 for the .WEB contention set.

31. Among other things, the application required NDC to provide "the identification of directors, officers, partners, and major shareholders of that entity." As relevant here, NDC provided the following response to Sections 7 and 11 of the application:

Secondary Contact

7(a). Name

Personal Data Redacted

7(b). Title

Personal Data Redacted

Applicant Background

11(a). Name(s) and position(s) of all directors

Personal Data Redacted

11(b). Name(s) and position(s) of all officers and partners

Personal Data Redacted

11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares

Domain Marketing Holdings, LLC	Not Applicable
NUCO LP, LLC	Not Applicable

32. By submitting its application for the .WEB gTLD and electing to participate in for the .WEB contention set, NDC expressly agreed to the terms and

conditions set forth in the Applicant Guidebook as well as Auction Rules, including specifically, and without limitation, Sections 1.2.1, 1.2.7, 6.1 and 6.10 of the Applicant Guidebook.

33. The Applicant Guidebook requires an applicant to notify ICANN of any changes to its application; including the applicant background screening information required under Section 1.2.1, the failure to do so can result in the denial of an application. For example, Section 1.2.7 imposes an ongoing duty to update "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant." Similarly, pursuant to Section 6.1, "[a]pplicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading."

34. In addition to a continuing obligation to provide complete, updated, and accurate information related to its application, Section 6.10 of the Applicant Guidebook, strictly prohibits an applicant from "resell[ing], assign[ing], or transfer[ring] any of applicant's rights or obligations in connection with the application." An applicant that violates this prohibition is subject to disqualification from the contention set.

35. ICANN failed to investigate credible evidence supporting a determination that NDC violated each of these guidelines—evidence that it has held for over a month. Despite the urging of multiple .WEB applicants and NDC's written admissions of potentially disqualifying changes to NDC's application, ICANN continues to turn a blind eye to the direct detriment of other .WEB applicants and to ICANN's foundational duties to administer the New gTLD Program with fairness and transparency.

F. NDC'S FAILURE TO NOTIFY ICANN OF CHANGES TO ITS APPLICATION

36. On or about June 1, 2016, Plaintiff learned that NDC was the only member of the .WEB contention set unwilling to resolve the contention set in advance and in lieu of the ICANN auction.

37. At the time, Plaintiff found the decision unusual given NDC's historical willingness and enthusiasm to participate in the private resolution process. Overall, NDC has applied for 13 gTLDs in the New gTLD Program; nine of those gTLDs were resolved privately with NDC's agreement. The auction for the .WEB gTLD is the first auction in which NDC has pushed for an ICANN auction of last resort.

38. On June 7, 2016, Plaintiff contacted NDC in writing to inquire as to whether NDC might reconsider its recent decision to forego resolution of the .WEB contention prior to ICANN's auction of last resort. In response, NDC stated that its position had not changed. NDC also advised, however, that Personal Data Redacted who is identified on NDC's .WEB application as Personal Data Redacted , is "no longer involved with [NDC's] applications." NDC also made statements indicating a potential change in the ownership of NDC, including an admission that the board of NDC had changed to add "several others" and that he had to check with the "powers that be," implying that he and his associate on the email were no longer in control. The email communication containing these statements is set forth in pertinent part below:

> **From:** Personal Data Redacted Contact Information Redacted
> **Subject:** Re: .web
> **Date:** June 7, 2016 at 11:32:17 AM EDT
> **To:** Personal Data Redacted <Contact Information Redacted
> **Cc:** Personal Data Redacted Contact Information Redacted
>
> Personal Data Redacted
>
> [Redacted]
>
> Personal Data Redacted is at NSR full time and no longer involved with our TLD applications. I'm still running our program and Personal D sits on the board with me and several others.
>
> [Redacted]
>
> Best,
> Personal Data Redacted

39. Noting that NDC's conduct and statements (a) appeared to directly contradict information in NDC's .WEB application and (b) suggested that NDC had

either resold, assigned, or transferred its rights in the application in violation of its duties under the Applicant Guidebook, Plaintiff diligently contacted ICANN staff in writing with the discrepancy on or about June 22, 2016 to understand who it was competing against for .WEB and improve transparency over the process for ICANN and the other .WEB applicants.

40. After engaging in a series of discussions with ICANN staff, Plaintiff decided to formally raise the issue with the ICANN Ombudsman on or about June 30, 2016; as of the filing of this Complaint, Plaintiff's most recent correspondence with the ICANN Ombudsman, dated July 10, 2016, in which it provided further information related to the statements made by NDC, remains unanswered.

41. At every opportunity, Plaintiff raised the need for a postponement of the .WEB auction to allow ICANN time to fulfill its obligations to (a) investigate the contradictory representations made by NDC in relation to its pending application; (b) address NDC's continued status as an auction participant; and (c) provide all the other .WEB applicants the necessary transparency into who they were competing against. It also discussed the matter with ICANN staff and the Ombudsman at ICANN's most recent meeting in Helsinki, Finland, which took place from June 27-30, 2016.

42. On July 11, 2016, Radix FZC (on behalf of DotWeb Inc.) and Schlund Technologies GmbH, each members of the .WEB contention set, sent correspondence to ICANN stating their own concerns in proceeding with the auction of last resort scheduled for July 27, 2016. The correspondence stated:

> We support a postponement of the auction, to give ICANN and the other applicants time to investigate whether there has been a change of leadership and/or control of another applicant, NU DOT CO LLC. To do otherwise would be unfair, as we do not have transparency into who leads and controls that applicant as the auction approaches.

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G. ICANN'S DECISION TO PROCEED WITH THE .WEB AUCTION

43. On July 13, 2016, ICANN issued a statement denying the collective request of multiple members of the .WEB contention set to postpone the July 27, 2016 auction to allow for a full and transparent investigation into apparent discrepancies in the NDC application, as highlighted by NDC's own statements. Without providing any detail, ICANN simply stated as follows:

> Secondly, in regards to potential changes of control of NU DOT CO LLC, we have investigated the matter, and to date we have found no basis to initiate the application change request process or postpone the auction.

44. Contrary to its obligations of accountability and transparency, ICANN's decision did not address the manner or scope of the claimed investigation nor did it address whether a specific inquiry was made into (a) Personal Data Redacted current status, if any, with NDC, (b) the identity of "several other[]" new and unvetted members of NDC's board, or (c) any change in ownership—the very issues raised by NDC's own statements.

45. Plaintiff was unable to learn any further information regarding the extent of the investigation undertaken by ICANN, other than it was limited to inquiries only to NDC and no independent corroboration was sought or obtained.

46. Despite the clear credibility issues raised by NDC's own contradictory statements, ICANN conducted no further investigation. Indeed, ICANN informed Plaintiff that it never even contacted Personal Data Redacted or interviewed the other individuals identified in Sections 7 and 11 of NDC's application prior to reaching its conclusion.

47. To be clear, the financial benefit to ICANN of resolving the .WEB contention set by way of an ICANN auction is no small matter—ICANN's stated net proceeds from the 15 ICANN auctions conducted since June 2014 total $101,357,812. The most profitable gTLDs from those auctions commanded winning bids of $41,501,000 (.SHOP), $25,001,000 (.APP), $6,706,000 (.TECH), $5,588,888

(.REALTY), $5,100,175 (.SALON) and $3,359,000 (.MLS). ICANN has not yet determined what it will do with the enormous proceeds from these auctions.

H. PLAINTIFF'S REQUEST FOR RECONSIDERATION

48. ICANN's Bylaws provide an established accountability mechanism by which an entity that believes it was materially affected by an action or inaction by ICANN staff that contravened established policies and procedures may submit a request for reconsideration or review of the conduct at issue. The review is conducted by ICANN's Board Governance Committee.

49. On July 17, 2016, Plaintiff and Radix FZC, an affiliate of another member of the .WEB contention set, jointly submitted a Reconsideration Request to ICANN, in response to the actions and inactions of ICANN staff in connection with the decision set forth in the ICANN's July 13, 2016 correspondence.

50. The Reconsideration Request sought reconsideration of (a) ICANN's determination that it "found no basis to initiate the application change request process" in response to the contradictory statements of NDC and (b) ICANN's improper denial of the request made by multiple contention set members to postpone the .WEB auction of last resort, which would have provided ICANN the time necessary to conduct a full and transparent investigation into material discrepancies in NDC's application and its eligibility as a contention set member.

51. The Reconsideration Request highlighted the following issues:

a. ICANN's failure to forego a full and transparent investigation into the material representations made by NDC is a clear violation of the principles and procedures set forth in the ICANN Articles of Incorporation, Bylaws and the Applicant Guidebook.

b. ICANN is the party with the power and resources necessary to delay the ICANN auction of last resort while the accuracy of NDC's current application is evaluated utilizing the broad investigatory

controls contained in the Applicant Guidebook, to which all applicants, including NDC, agreed.

c. Postponement of the .WEB auction of last resort provides the most efficient manner for resolving the current dispute for all parties by (i) sparing ICANN and the many aggrieved applicants the time and expense of legal action while (ii) avoiding the very real likelihood of a court-mandated unwinding of the ICANN auction of last resort should it proceed.

d. ICANN'S July 13, 2016 decision raises serious concerns as to whether the scope of ICANN's investigation was impacted by the inherent conflict of interest arising from a perceived financial benefit to ICANN if the Auction goes forward as scheduled.

e. ICANN's New gTLD Program Auctions guidelines state that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms,**" i.e., no pending Ombudsman complaints, Reconsideration Requests or IRPs.

52. On July 21, 2016, ICANN denied the Request for Reconsideration. In doing so, ICANN merely relied on statements from NDC that directly contradicted those contained in NDC's earlier correspondence. Once again, despite the clear credibility issues raised by NDC's own contradictory statements, ICANN failed and refused to contact Personal Data Redacted or interview the other individuals identified in Sections 7 and 11 of NDC's application prior to reaching its conclusion.

53. On July 22, 2016, Plaintiff initiated ICANN's Independent Review Process by filing ICANN's Notice of Independent Review. The IRP remains pending.

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FIRST CAUSE OF ACTION

(Breach of Contract against Defendant ICANN)

54. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 53 above as though fully set forth herein.

55. In June 2012, ICANN invited eligible parties to submit applications to obtain the rights to, among others, the .WEB gTLD as part of the New gTLD Program. In doing so, ICANN promised the potential applicants that it would (a) conduct the bid process in a transparent manner, (b) ensure competition, and (c) abide by its own Bylaws and the rules set forth in the Applicant Guidebook.

56. On or about June 13, 2012, Plaintiff submitted an application to ICANN to obtain the rights to the .WEB gTLD. In consideration of ICANN's promise to abide by its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in the Applicant Guidebook in its administration of the .WEB auction process, Plaintiff paid ICANN a sum of $185,0000—the mandatory application fee.

57. In consideration of Plaintiff paying the sum of $185,000, ICANN promised to conduct the application process for the .WEB gTLD in a manner consistent with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in both the Applicant Guidebook and the Auction Rules, and in conformity with the laws of fair competition.

58. Plaintiff would not have paid the $185,000 mandatory application fee or spent time and other resources absent the mutual consideration and promises set forth above. Plaintiff performed all conditions, covenants, and promises on its part to be performed in accordance with the agreed upon terms of participating in the New gTLD Program, except those obligations, if any, that it has been prevented or excused from performing as a result of the misconduct set forth in this Complaint.

59. ICANN has materially breached its obligations to Plaintiff, as set forth in ICANN's Bylaws and Articles of Incorporation, and the Applicant Guidebook by (a)

failing to thoroughly investigate the issues raised by NDC's own statements and (b) refusing to postpone the .WEB auction of last resort to allow for a full and transparent investigation into the apparent discrepancies in NDC's .WEB application.

60. Specifically, ICANN's acts and omission violated, among other things:

a. Article 1, section 2.8 and Article III, Section 1 of ICANN's Bylaws, which require ICANN to "[m]ak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness" and "operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness." ICANN obligates each applicant who seeks to participate in the New gTLD auction process to affirm that the statements and representations contained in the application are true and accurate; applicants also undertake a continuing obligation to update their application when changes in circumstance affect an application's accuracy. By failing to engage in a thorough, open, and transparent investigation of the contradictory statements made by NDC in relation to its application, as well as an apparent change of control with potential antitrust implications, ICANN plainly—and inexplicably—failed to reach its decisions by "applying documented policies neutrally and objectively, with integrity and fairness."

b. Article 1, section 2.9 of ICANN's Bylaws, which requires ICANN to "[act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected." In undertaking only a cursory examination of the contradictory statements made by NDC and the apparent change in NDC's rights to its application, ICANN

failed to balance ICANN's interest in a swift resolution of the concerns raised by the members of the .WEB contention set with its obligation to obtain sufficient assurances and information from the individuals and entities at the center of the statements made by NDC; at the very least, ICANN should have conducted interviews with Personal Data Redacted and all other individuals identified in Section 11 of NDC's application prior to reaching its conclusion.

c. Article 1, section 2.10 of ICANN's Bylaws, which requires ICANN to "[r]emain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness." By failing to make use of the processes established in Sections 6.8 and 6.11 to the Applicant Guidebook in investigating an admitted failure by NDC to abide by its continuing obligation to update its application, ICANN staff disregarded the very accountability mechanisms put in place to serve and protect the .WEB contention set, the Internet community, and the public at large. This error was compounded by the cursory dismissal of the concerns raised by multiple members of the .WEB contention set relating to the accuracy of the representations made in NDC's application. By failing to apprise the members of the contention set as to the manner and scope of the investigation conducted by ICANN staff, ICANN failed to ensure that it would hold itself accountable to any gTLD applicant, let alone the Internet community and the public.

d. Article II, section 3 of ICANN's Bylaws, which states that "ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the

> promotion of effective competition." There can be no questioning the fact that the Staff Action resulted in disparate treatment in favor of NDC. On one hand, there are clear statements from NDC that representations made in its application are inaccurate and there is ample evidence that NDC has either resold, assigned, or transferred all or some of its rights to its .WEB application. On the other hand, when pressed by multiple members of the contention set to fully investigate the matter, ICANN provided only a conclusory statement that raises more questions than it resolves. To the extent it had reason to engage in such disparate treatment of the members of the .WEB contention set, ICANN failed to provide such a reason in reaching the determinations at issue in this Request.

61. ICANN also promised that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms**." ICANN breached this promise by refusing to postpone the .WEB auction of last resort while Plaintiff's Reconsideration Request remains pending and its Ombudsman complaint remains unresolved. ICANN further breached this promise by moving forward with the .WEB auction of last resort while Plaintiff's IRP, initiated on July 22, 2016, remains pending.

62. On information and belief, Plaintiff alleges that the breaches set forth above resulted from a pre-textual "investigation" into the admissions made by NDC and ICANN's issuance of its subsequent July 13, 2016 decision. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its contractual obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that ICANN willfully and intentionally committed the wrongful acts described above.

63. As a direct and proximate result of ICANN's breaches, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and goodwill, in an amount to be determined at trial but not less than ten million dollars ($10,000,000) plus interest.

SECOND CAUSE OF ACTION

(Breach of the Covenant of Good Faith and Fair Dealing against Defendant ICANN)

64. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 53 above as though fully set forth herein.

65. An implied covenant of good faith and fair dealing exists between Plaintiff and ICANN as a result of the contractual relationship entered into as part of the .WEB gTLD application process.

66. ICANN breached the covenant of good faith and fair dealing when it acted in a way that deprived Plaintiff of the benefits of the agreement as set forth in the Applicant Guidebook, namely that the administration of the bid process for the .WEB gTLD would be founded on the principles of fairness and transparency.

67. ICANN breached the covenant of good faith and fair dealing when it:

a. Failed to conduct due diligence and an adequate investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

b. Failed to conduct interviews with Personal Data Redacted and all other individuals identified in Sections 7 and 11 of NDC's application as part of an investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

c. Failed to provide a necessary level of transparency into the identity and leadership of a competing applicant; and

d. Refused to postpone the ICANN auction of last resort to allow for a full and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions.

68. On information and belief, Plaintiff alleges that the breaches set forth above resulted from a pre-textual "investigation" into the admissions made by NDC and ICANN's issuance of its subsequent July 13, 2016 decision. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its contractual obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that ICANN willfully and intentionally committed the wrongful acts described above.

69. As a direct and proximate result of ICANN's breaches as set forth above, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and good will.

THIRD CAUSE OF ACTION

(Negligence against Defendant ICANN)

70. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 53 above as though fully set forth herein.

71. ICANN owed Plaintiff a duty to act with proper care and diligence in administering the .WEB auction process in accordance with its own Bylaws, Articles of Incorporation, and the rules and procedures as stated in the Applicant Guidebook.

72. ICANN breached the duty owed Plaintiff by, among other things:

a. Failing to conduct due diligence and an adequate investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

b. Failing to conduct interviews with Personal Data Redacted and all other individuals identified in Sections 7 and 11 of NDC's application as part of an investigation into apparent violations of the Applicant Guidebook raised by NDC's admissions;

c. Refusing to postpone the ICANN auction of last resort to allow for a full and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions; and

d. Failing to provide a rationale for the decision set forth in the July 13, 2016 correspondence.

73. As a direct and proximate result of ICANN's breaches as set forth above, Plaintiff has suffered, and will continue to suffer, without limitation, losses of revenue from third parties, profits, consequential costs and expenses, market share, reputation, and good will.

FOURTH CAUSE OF ACTION

(Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 against Defendant ICANN)

74. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 53 above as though fully set forth herein.

75. The California Unfair Competition Law ("UCL") protects both consumers and competitors by prohibiting "unfair competition," which is defined, in the disjunctive, by Business and Professions Code section 17200 as including "any unlawful, unfair or fraudulent business act or practice" as well as "unfair, deceptive, untrue or misleading advertising."

76. Plaintiff has standing to pursue this claim under Business and Professions Code section 17204 because Plaintiff has suffered injury in fact and has lost money or property as a result of ICANN's actions as set forth above. The losses include, but are not limited to, expenses incurred by Plaintiff in exhausting every available formal and

informal avenue of recourse with ICANN prior to the filing of the above-captioned action, including legal fees related to the preparation and submission of the Reconsideration Request. Losses also include the $185,000 application fee paid to ICANN to participate as an application in the .WEB contention set.

77. The following acts and omissions of ICANN, among others, were unlawful under the UCL:

a. ICANN's imposition of the unenforceable contract terms contained in the Purported Release, in violation of California Civil Code section 1668, which declares violative of public policy those contracts that "have for their object, directly or indirectly, to exempt anyone from the responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent…."

b. ICANN's imposition of the unenforceable contract terms contained in the Purported Release, in violation of California Civil Code § 1770(a)(19), which defines as unlawful, the "[i]nsert[ion] of an unconscionable provision in [a] contract."

78. The following acts and omissions of ICANN, among others, were unfair under the UCL:

a. Plaintiff hereby incorporates by this reference the allegations of Paragraph 77 and its subparts as stated herein; each act therein alleged is also an unfair act or practice under the UCL;

b. ICANN's decision to conduct a cursory investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions without regard for rights of the other .WEB contention set members;

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c. ICANN's decision to forego a postponement of the ICANN auction of last resort scheduled for July 27, 2016 without conducting an open and transparent investigation into the apparent violations of the Applicant Guidebook raised by NDC's admissions; and

d. ICANN's decision to allow NDC to continue to participate as a .WEB contention set member despite NDC's own admission of inaccuracies contained in its application, in violation of the guidelines contained in the Applicant Guidebook.

79. The following acts and omissions of ICANN, among others, were fraudulent under the UCL in that they were likely to deceive, and in fact did deceive, members of the public:

a. Plaintiff hereby incorporates by this reference the allegations of Paragraphs 77 and its subparts as if restated herein; each is also a fraudulent act or practice under the UCL;

b. ICANN's false representation that it would make all decisions in administering the .WEB auction process "by applying documented policies neutrally and objectively, with integrity and fairness";

c. ICANN's false representation that in administering the .WEB auction process, it would "[act] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected";

d. ICANN's false representation that in administering the .WEB auction process, it would"[r]emain[] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness";

e. ICANN's false representation that in administering the .WEB auction process, it would "apply its standards, policies, procedures,

or practices inequitably or single out any particular party for disparate treatment";

f. ICANN's false representation that all applicants would be subject to the same agreement, rules, and procedures;

g. ICANN's false representation that it would require applicants to update their applications with "any change in circumstances that would render any information provided in the application false or misleading," including "applicant-specific information such as changes in financial position and changes in ownership or control of the applicant"; and

h. ICANN's false representation that a contention set would only proceed to auction where all active applications in the contention set have "**no pending ICANN Accountability Mechanisms**."

80. On information and belief, the conduct identified in Paragraphs 77-79 and their subparts resulted from the intentional conduct of ICANN.

81. With specific reference to the conduct identified in Paragraphs 78-79 and their subparts conduct alleged above, Plaintiff alleges that ICANN's "investigation" into the admissions made by NDC and ICANN's subsequent issuance of its July 13, 2016 decision were pre-textual in nature, the goal of which was to ensure ICANN secured a windfall from the .WEB contention set being resolved by way of an ICANN auction of last resort. Specifically, Plaintiff alleges that ICANN intentionally failed to abide by its contractual obligations to conduct a full and open investigation into NDC's admission because it was in ICANN's interest that the .WEB contention set be resolved by way of an ICANN auction. As such, Plaintiff alleges that it was in ICANN's interest to willfully and intentionally commit the wrongful acts described above.

82. Pursuant to Business and Professions Code section 17203 and the equitable powers of the Court, Plaintiff seeks an order (a) enjoining ICANN from proceeding

with the ICANN auction of last resort currently scheduled for July 27, 2016 until the claims presented by way of the above-captioned action are resolved and (b) enjoining ICANN from engaging in the unlawful, unfair and fraudulent business acts and practices described above. Plaintiff also seeks an order requiring ICANN to comply with its own Bylaws, Articles of Incorporation, and the rules and procedures set forth in the Applicant Guidebook, in the continued administration of the .WEB contention set process and to take such corrective actions and adopt such remedial measures as are necessary to prevent the further occurrence of the acts or practices alleged herein.

83. Plaintiff also seeks an order requiring restitution of any and all monies obtained by ICANN from Plaintiff as a result of the intentionally unlawful, unfair, and fraudulent described above. Plaintiff's request includes, but is not limited to, the restitution of any and all fees paid by or monies received from Plaintiff in relation to the .WEB contention set process.

84. Preventing the unlawful business practices engaged in by ICANN will ensure a significant benefit to the other .WEB contention set members as well as the public at large. Moreover, the financial burden of pursuing private enforcement substantially exceeds the financial benefit to Plaintiff. Thus, in the interest of justice, Plaintiff seeks attorneys' fees in bringing this private attorney general claim pursuant to Civil Code section 1021.5 in an amount subject to proof.

FIFTH CAUSE OF ACTION

(Declaratory Relief—Against Defendant ICANN)

85. Plaintiff incorporates the allegations set forth in Paragraphs 1 – 53 above as though fully set forth herein.

86. An actual and justiciable controversy has arisen, and now exists, between Plaintiff, on one hand, and ICANN, on the other, regarding the legality and effect of the Purported Release contained in the Applicant Guidebook.

87. As a condition of participating in the .WEB contention set process, ICANN required Plaintiff and other applicants to sign the Applicant Guidebook, which contained a covenant not to sue in order to apply for the .WEB contention set. The Purported Release applies to all New gTLD applicants and states, in relevant part:

> Applicant hereby releases ICANN . . . from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN . . . in connection with ICANN's . . . review of this application. . . . Applicant agrees not to challenge . . . and irrevocably waives any right to sue or proceed in court.

32. The Purported Release is not subject to negotiation: If a potential applicant does not agree to the release, it cannot be considered for participation in the .WEB contention set process. The Purported Release is also entirely unilateral in that it allows ICANN to absolve itself of wrongdoing while affording no remedy to applicants. Moreover, the Purported Release does not apply equally as between ICANN and the applicants because it does not prevent ICANN from proceeding with litigation against an applicant.

33. Plaintiff seeks a declaration of its rights regarding the enforceability of the Purported Release in light of California Civil Code Section 1668, which prohibits the type of broad exculpatory clauses contained in the Purported Release: "All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property or another, or violation of law, whether willful or negligent, are against the policy of the law."

34. Plaintiff maintains that, on its face, the Release is "against the policy of the law" because it exempts ICANN from any and all claims arising out of the application process, even those arising from fraudulent or willful conduct.

35. As such, an actual controversy has arisen and now exists between Plaintiff and ICANN as to the enforceability of the Purported Release. Plaintiff desires a judicial

determination and declaration that the Purported Release is unenforceable, unconscionable, and/or void as a matter of public policy. Such a declaration is necessary and appropriate at this time so that Plaintiff may ascertain its rights with respect to the enforceability of the Purported Release.

WHEREFORE, Plaintiff RUBY GLEN, LLC prays for relief as follows:

1. For compensatory damages according to proof at the time trial;
2. For general damages according to proof;
3. For restitutionary damages according to proof;
4. An injunction requiring ICANN to refrain from conducting the auction of last resort for the .WEB gTLD pending a final decision on the merits of this matter;
5. An injunction requiring ICANN to refrain from assigning the rights to the .WEB gTLD pending a final decision in the merits of this matter;
6. Attorneys' fees and costs to the extent permitted by law; and
7. For such other relief as the Court deems just and proper against all Defendants.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a jury trial on the following causes of action asserted in the Complaint:

1. First Cause of Action for Breach of Contract;
2. Second Cause of Action for Breach of the Implied Covenant of Good Faith and Fair Dealing;
3. Third Cause of Action for Negligence; and
4. Fourth Cause of Action for Unfair Competition in Violation of Business and Professions Code section 17200

Dated: July 22, 2016

By: */s/ Paula Zecchini*

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Attorneys for Ruby Glen, LLC

Exhibit 31

Afilias Plc
Contact Information Redacted

www.Afilias.info

9 September 2016

Via E-Mail

Mr Akram Attallah
President, Global Domains Division
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Re: .WEB auction

Dear Mr. Atallah:

On behalf of Afilias Domains No. 3 Limited ("Afilias"), a wholly-owned subsidiary of Afilias plc, I write with reference to our letter of 8 August 2016, in which we requested that ICANN disqualify and reject Nu Dot Co LLC's ("NDC") application for .WEB.

Specifically, NDC entered into an agreement to transfer any rights it acquired in connection with its application for .WEB to VeriSign, Inc. ("VeriSign"), which it did not disclose prior to the .WEB auction. The evidence strongly suggests that NDC acted as a front for and participated in the .WEB auction (the "Auction") for and on behalf of Verisign. Given ICANN's failure to respond to our prior letter, we request that ICANN promptly, and by no later than 16 September, 2016, (1) disclose the steps (if any) that it has taken to disqualify NDC's bid on the basis that NDC violated the rules applicable to its application; and (2) provide an undertaking that it has not, and will not, enter into a registry agreement for .WEB with NDC until (a) the Ombudsman has completed his investigation; (b) ICANN's Board has reviewed NDC's conduct and determined whether or not to disqualify NDC's bid and reject its application; and, (c) to the extent Afilias seeks review of any decision of ICANN relating to .WEB through ICANN's accountability mechanisms, such mechanisms are completed. We nonetheless emphasize that Afilias reserves all of its rights to pursue any and all rights or remedies available to it in any forum against ICANN, NDC or VeriSign in connection with the delegation of the .WEB gTLD.

We take the opportunity of this letter to further explain the reasons why ICANN must disqualify NDC's application for .WEB and proceed to contract for .WEB with Afilias, the next highest bidder in the Auction, in compliance with its obligations under ICANN's Articles of Incorporation and Bylaws (as well as principles of international law and California law), as set forth below.

Personal Data Redacted

NDC violated the New gTLD Applicant Guidebook and the Auction Rules for New gTLDs

First, NDC violated Paragraph 10 of the Terms and Conditions in Module 6 of the New gTLD Applicant Guidebook (the "Guidebook"), which expressly prohibits any applicant for a gTLD to "*resell, assign or transfer any of applicant's rights or obligations in connection with the application*". As we explained in our letter of August 8, 2016, Verisign publicly disclosed that it "*provided funds*" for NDC's bid for .WEB and that NDC would "*seek to assign the Registry Agreement to VeriSign.*" Although the specific terms of the agreement between VeriSign and NDC have not been disclosed, it is clear from Verisign's own press release and its disclosure in its Form 10-Q filed with the U.S. Securities and Exchange Commission for the quarter ended June 30, 2016, that both companies entered into an arrangement well in advance of the Auction to transfer NDC's rights and obligations regarding its .WEB application to VeriSign.

Second, NDC violated Section 1.2.7 of the Guidebook, which requires applicants to "*promptly notify ICANN via submission of the appropriate forms*" "*if at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate,*" including "*changes in financial position and changes in ownership or control of the applicant*". In this regard, we find remarkable that the Form 10-Q VeriSign filed with the U.S. Securities and Exchange Commission on 28 July, 2016—the day after the Auction—contained the following statement: "*Subsequent to June 30, 2016, the Company incurred a commitment to pay approximately $130.0 million for the future assignment of contractual rights, which are subject to third-party consent. The payment is expected to occur during the third quarter of 2016.*" When rumors surfaced that another company was behind NDC's application for .WEB, NDC sent a note to ICANN's Ombudsman on 8 July 2016, stating merely that "neither the governance, management nor the ownership in NuDotcoco [sic] has changed." Clearly, by then, relevant changes concerning NDC's financial position had, at a minimum, been agreed to and should have been reported to ICANN, namely, that the VeriSign had agreed to fund NDC's bid for .WEB.

Third, NDC violated the Auction Rules for New gTLDs ("Auction Rules"). Rule 12 provides that "participation in an Auction is limited to Bidders, which is defined by the Auction Rules as a "*Qualified Applicant*" or a "*party designated by a Qualified Applicant to bid on its behalf*". This rule prohibits bids placed on behalf of a third-party that is not a "Qualified Applicant", defined by the Auction Rules as "*an entity that has submitted an Application for a new gTLD, has received all necessary approvals from ICANN, and which is included within a Contention Set to be resolved by an Auction.*" Accordingly, Rule 40(b) provides that "*in order to be valid*" "*a Bid must be placed by a Bidder for its Application in an Open Contention Set.*"

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ICANN has the duty to deny NDC's application, disqualify its bid and proceed to contract with the next highest bidder in the Auction

ICANN's governing documents clearly dictate the appropriate response ICANN should take in connection with NDC's improper conduct:

- ICANN is required to *"...operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets."* [Articles of Incorporation, Art.4]
- ICANN is required to *"mak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness"* [Bylaws, Art.I § 2 (8)]
- ICANN is required to *"not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition."* [Bylaws, Art. II3]
- ICANN is required to *"Act[] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected."* [Bylaws, Art. I§ 2 (9)]
- ICANN is directed to *"operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness"* [Bylaws, Art. III § 1].
- ICANN is required to *"promot[e] competition in the registration of domain names where practicable and beneficial in the public interest"* [Bylaws, Art. I. § 2 (6)]
- ICANN is required to *"Remain[ ] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness."* [Bylaws, Art. I. § 2 (10)]

VeriSign chose not to apply for .WEB, as it could have done. Instead, VeriSign improperly and surreptitiously funded NDC's application. NDC's and VeriSign's attempt to game the system and obtain control over .WEB for VeriSign (which already controls.COM), must be sanctioned by ICANN by disqualifying NDC's bid and rejecting its application.

In these circumstances, we submit that ICANN should disqualify NDC's bid and offer to accept the application of Afilias, which placed the second highest exit bid. Consistent with Auction Rules No. 46 and No. 47, the winning price should be deemed to be the second-highest remaining exit bid after disqualifying NDC and striking its exit bid as invalid.

This course of action is consistent not only with ICANN's Guidebook and Auction Rules, but also with the principles of due process and fairness that ICANN is obligated to observe pursuant to its governing documents. In this regard, we note that NDC's violations must not affect the rights of other applicants that participated in the Auction in full compliance with the applicable rules, and that a new auction would be improper since the bidders have already

Afilias

seen the outcome of the first Auction. Thus, ICANN must protect the integrity of the gTLD auction and delegation process from being tainted by the actions of one bidder. The only way to do this is to disqualify NDC and proceed as we have outlined above.

Finally, we remind ICANN that "ICANN's Board of Directors has ultimate responsibility for the New gTLD Program" (Bylaws, Art. II, § 1; Guidebook, Section 5.1), and that "material changes in circumstances" require "additional Board review" before "formal approval" of a registry agreement for the delegation of a gTLD. We therefore request that ICANN provide us with an undertaking that it has not, and will not, enter into a registry agreement for .WEB with NDC until ICANN's Board has reviewed NDC's conduct and reached a considered decision on whether or not to disqualify NDC's bid and reject its application; the Ombudsman has completed his investigation and the Board has considered and reached a decision on his report; and, to the extent Afilias seeks review of any decision of ICANN relating to .WEB through ICANN's accountability mechanisms, Afilias has exhausted such mechanisms.

Conclusion

For the reasons set out above, ICANN's Board and officers are obligated under the Articles of Incorporation, Bylaws and the Guidebook (as well as international law and California law) to disqualify NDC's bid immediately and proceed with the contracting of a registry agreement with Afilias, the second highest bidder. We look forward to receiving a response from ICANN by no later than 16 September 2016.

Afilias reserves all of its rights at law and in equity, including, without limitation, relating to the issues raised in this letter.

Sincerely,

M. Scott Hemphill
Vice President & General Counsel

cc: Steve Crocker, Chairman of the ICANN Board
Göran Marby, President and Chief Executive Officer
Arif Hyder Ali, Dechert LLP

Exhibit 32

The Internet Corporation for Assigned Names and Numbers

ICANN

Mr. Scott Hemphill
Vice President & General Counsel
Afilias Plc
Contact Information Redacted

30 September 2016

Re: .WEB Auction

Dear Mr. Scott Hemphill:

Thank you for your letters of 8 August 2016 and 9 September 2016. We note your comments regarding the Nu Dot Co LLC application for .WEB and the ICANN Auction of 27 July 2016. We have posted your letters to the ICANN Correspondence page (https://www.icann.org/en/system/files/correspondence/hemphill-to-atallah-08aug16-en.pdf and https://www.icann.org/en/system/files/correspondence/hemphill-to-atallah-09sep16-en.pdf).

As you were notified via the Customer Portal on 19 August 2016, we placed the .WEB/.WEBS contention set on-hold on 19 August 2016. This was to reflect a pending ICANN Accountability Mechanism initiated by another member in the contention set (*see the Cooperative Engagement and Independent Review Processes Status Update dated 22 August 2016:* https://www.icann.org/en/system/files/files/irp-cep-status-22aug16-en.pdf). For more information on statuses of contention sets and the effect that they may have on application processing, please see the Applicant Advisory on application and contention set statuses (https://newgtlds.icann.org/en/applicants/advisories/application-contention-set-14mar14-en).

As an applicant in the contention set, the primary contact for Afilias's application will be notified of future changes to the contention set status or updates regarding the status of relevant Accountability Mechanisms. We will continue to take Afilias's comments, and other inputs that we have sought, into consideration as we consider this matter.

Thank you for your letters and your continued participation in the New gTLD Program. Please do not hesitate to contact our Global Support Center at globalsupport@icann.org with any further questions.

Sincerely,

Akram Atallah
President, Global Domains Division

Exhibit 33

Afilias Plc
Contact Information Redacted

W Afilias.info

October 7, 2016

Christine A. Willett
Vice President, gTLD Operations
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Re: Response of Afilias Domains No. 3 Ltd. ("Afilias") to 16 September 2016 Request for Comments from the Internet Corporation for Assigned Names and Numbers ("ICANN")

Dear Ms. Willett:

We appreciate the opportunity to provide comments on behalf of Afilias to the questions posed by ICANN in its 16 September 2016 letter. Further, we acknowledge receipt of the letter from Mr. Atallah, dated 30 September 2016, providing a response to previous letters submitted by Afilias regarding this matter. However, we note that Mr. Atallah's letter fails to respond to the serious issues concerning the auction for the rights to administer the .WEB generic top-level domain ("gTLD") raised in Scott Hemphill's letters of 8 August 2016 and 9 September 2016. Further, Mr. Atallah states that, while the .WEB/.WEBS contention set was placed on hold by ICANN on 19 August 2016, such action was taken because of the initiation of an ICANN Accountability Mechanism by another applicant. We are concerned that this statement appears to imply that ICANN is not placing the contention set on hold in order to address the issues raised by Afilias.

As reflected in the accompanying answers to ICANN's questions, Afilias reaffirms its position that the actions taken by NU DOT CO LLC ("NDC") and Verisign, Inc. ("Verisign") in connection with the auction and NDC's failure to disclose material information relating to its bid for the .WEB rights should result in the disqualification of NDC as a member of the contention set for .WEB and the invalidation of NDC's bid.

As part of its review, ICANN must recognize and investigate the significant harm to competition arising from Verisign's agreement with NDC to acquire the rights to .WEB. Verisign's actions are clearly designed to preserve Verisign's existing monopoly in gTLD services that results from its control of .COM and .NET. If awarded to Afilias, the .WEB gTLD will be uniquely situated to challenge Verisign's gTLD services dominance by providing registrants a compelling alternative to .COM and .NET. If Verisign is permitted by ICANN to succeed in its efforts to secure the rights to .WEB, on the other hand, this potential for important new competition will be destroyed. Verisign (through NDC) cannot be allowed to obtain the rights to .WEB through subterfuge, when all of the remaining applicants agreed to and played by the rules.

Accordingly, we urge ICANN to disqualify NDC's bid and prevent Verisign from obtaining control over the .WEB gTLD in order to ensure competition in the gTLD marketplace and prevent an unlawful act of monopolization based on anti-competitive behavior.

Sincerely,

John Kane
Vice President, Corporate Services

Personal Data Redacted

Afilias℠

Afilias' Comments on ICANN's September 16, 2016 Topics

Topic 01. Afilias and Ruby Glen have alleged that NDC failed promptly to notify ICANN of "changes in ownership and control of the applicant" [i.e., NDC], as contemplated by Section 1.2.7 of the gTLD Applicant Guidebook (Version 2012-06-04) (AGB). Please provide or describe any evidence of which you are aware regarding whether ownership or control of NDC changed after NDC applied for the .WEB gTLD.

Response. According to Afilias' review of publicly available documents, "ownership or control of NDC changed after NDC applied for the .WEB gTLD." Specifically,

- Verisign's 1 August 2016 press release states that it "entered into an agreement with Nu Dot Co LLC wherein the Company provided funds for Nu Dot Co's bid for the .web TLD. … We anticipate that Nu Dot Co … will then seek to assign the Registry Agreement to Versign upon consent from ICANN."

- Verisign's 10-Q for the quarter ended 30 June 2016, filed with the U.S. Securities and Exchange Commission on 28 July 2016, states that "[s]ubsequent to June 30, 2016, the Company incurred a commitment to pay approximately $130.0 million for the future assignment of contractual rights, which are subject to third-party consent. The payment is expected to occur during third quarter of 2016."

- Ruby Glen alleges that "NDC also made statements indicating a potential change in the ownership of NDC, including an admission that the board of NDC had changed to add 'several others'" in its Amended Complaint for *Ruby Glen, LLC v. ICANN*.

In the unique circumstances of the present case, the arrangement between Verisign and NDC constitutes the effective control of NDC by Verisign. If NDC is granted the rights to administer the .WEB gTLD from ICANN, those rights would constitute the principal business asset of NDC. NDC appears to have given Verisign de facto control over NDC's business by entering into an agreement by which Verisign will fund NDC's bid for .WEB and which gives Verisign the power to direct and control NDC's participation in the auction for .WEB in exchange for an assignment of all rights in .WEB from NDC to Verisign. Thus, Afilias has a good faith basis to believe that "ownership or control of NDC changed after NDC applied for the .WEB gTLD" and NDC did not disclose this change in violation of ICANN's rules.

Accordingly, ICANN must carefully investigate NDC's conduct by obtaining further information from NDC and Verisign, including: (1) agreements between NDC and Verisign; (2) changes to NDC's board of directors; and (3) inter-company transactions between NDC and Verisign, including the sale of assets to Verisign. Such information must also be disclosed to Afilias, the party materially affected and injured by Verisign's and NDC's actions.

Topic 02. In the *Ruby Glen, LLC v. ICANN* lawsuit, two NDC officers, Personal Data Redacted f, provided declarations dated 25 July 2016 under penalty of perjury regarding ownership and control of NDC. What evidence, if any, is there that statements made in those declarations are false?

Response. Please see our response to Topic 01. In the event that Personal Data Redacted are deposed or questioned by ICANN, Afilias requests that it be informed of the

same. If necessary, in due course, we will seek the deposition of Personal Data Redacted among others.

Topic 03. AGB Section 1.2.7 speaks of changes in ownership and control specifically "*of the applicant*." Please describe other NDC activities besides its having applied for the .WEB gTLD, and the activities relating to that application. Do you think that a change regarding only one of many activities of an applicant constitutes a change in ownership and control within the meaning of AGB Section 1.2.7? Please explain why or why not.

Response. Please see our response to Topic 01.

Topic 04. In his 8 August 2016, letter, Scott Hemphill stated: "A change in control can be effected by contract as well as by changes in equity ownership." Do you think that an applicant's making a contractual promise to conduct particular activities in which it is engaged in a particular manner constitutes a "change in control" of the applicant? Do you think that compliance with such a contractual promise constitutes such a change in control? Please give reasons.

Response. Please see our response to Topic 01.

Topic 05. Do you think that AGB Section 1.2.7 requires an applicant to disclose to ICANN all contractual commitments it makes to conduct its affairs in particular ways? If not, in what circumstances (if any) would disclosure be required?

Response. The plain language of AGB § 1.2.7 states that disclosure "via submission of the appropriate forms" is required when "information previously submitted by an applicant becomes untrue or inaccurate" or gives rise to a material "change in circumstances" during the evaluation process. The plain language of the AGB thus clearly identifies circumstances that require a disclosure to ICANN. Afilias believes that the AGB requires applicants to disclose extraordinary commitments and changes in circumstances that materially affect the implications of the award of registry rights in terms of ICANN's authorities. Here, as the commitment between NDC and Verisign uniquely raises antitrust issues, Afilias believes that NDC was required to disclose its contractual arrangement with Verisign because such arrangement will potentially destroy any new competition given Verisign's existing monopoly in gTLD services. ICANN's exercise of its authorities includes a duty to ensure that there will be an effective potential for development of competition among providers of gTLD registry services. One of ICANN's core values is to "promot[e] competition in the registration of domain names where practicable and beneficial in the public interest." Bylaws, Art. 1 § 2(6). A third party (such as Verisign) secretly funding bids to gain or preserve a monopoly directly contravenes this core value.

Topic 06. In his 8 August 2016, letter, Scott Hemphill stated that "an agreement to provide at least $135 Million to an applicant constitutes a material change in that applicant's financial condition." In your view, does AGB Section 1.2.7 require applicants to notify ICANN of all changes in their financial condition? If the requirement is limited by an (unstated) materiality test, how should materiality be determined?

Response. Please see our response to Topic 05.

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Topic 07. Do you think that changes to an applicant's financial condition that do not negatively reflect on an applicant's qualifications to operate the gTLD should be deemed material? If so, why? Do you think that an applicant's obtaining a funding commitment from a third party to fund bidding at auction negatively affects that applicant's qualifications to operate the gTLD? Please explain why, describing your view of the relevance of (a) the funding commitment the applicant received and (b) the consideration the applicant gave to obtain that commitment (e.g., a promise to repay; a promise to use a particular backend provider; an option to receive some ownership interest in the applicant in the future; some promise about how the gTLD will be operated).

Response. The plain language of AGB § 1.2.7 requires the applicant to "promptly notify ICANN" if "at any time during the evaluation process information [including changes in financial position] previously submitted by an applicant becomes untrue or inaccurate". And failure to notify ICANN of "any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application."

An applicant that obtains a funding commitment from a third party to fund bidding at an auction negatively affects that applicant's qualifications when the third party is attempting to gain or preserve a monopoly. One of ICANN's core values is to "promot[e] competition in the registration of domain names where practicable and beneficial in the public interest." Bylaws, Art. 1 § 2(6). A third party secretly funding bids to obtain a monopoly directly contravenes this core value.

Verisign's significant financial strength was built upon its ICANN-granted position as a monopoly provider of registry services. When those monopolist profits are then employed to finance a bid to maintain that dominant market position, it is anticompetitive and material to the affected bid and to ICANN new gTLD process as a whole.

Here, NDC's agreement with Verisign is essentially an agreement not-to-compete, which stifles competition. Neither NDC nor Verisign has offered any procompetitive justification for the deal or otherwise indicated that they are engaged in a procompetitive joint venture to operate the .WEB gTLD. Verisign's monopoly position gives it significant market power in the gTLD registration market. Through its secret agreement with NDC, Verisign intends to foreclose the possibility of any competition from .WEB.

Verisign's acquisition of .WEB likely means (1) fewer resources being invested in maximizing .WEB's competitive potential, (2) a dramatically reduced chance that .WEB will act as a competitive check on .COM and .NET, and (3) that .WEB will not be marketed to compete and siphon away customers from .COM and .NET. This will deprive Internet users, businesses, and Web site developers of commercially promising and viable new domains for their Web sites. This competitive harm will likely never be undone.

Topic 08. Do you have any knowledge or information that applicants in other circumstances have obtained post-application funding commitments (whether received through loans, contributions from affiliated companies, or otherwise) for their auction bidding or other operations? If so, please elaborate. Do you know if applicants have commonly notified ICANN of those funding commitments? If so, please explain. Should applicants be required to notify ICANN of those funding commitments? If so, in what circumstances?

Response. We are not aware of similar arrangements that would have the effect of creating or preserving a monopoly in gTLD registry services like Verisign's monopoly. Afilias is aware

of applications in other circumstances that have obtained post-application funding commitments. These situations are not analogous to the commitment between NDC and Verisign, however, because Verisign's acquisition of .WEB raises serious antitrust issues by stifling competition in favor of Verisign's dominance in gTLD services. Prior applicants' circumstances have no relevance to this unique situation.

Topic 09. Do you think that requiring applicants to disclose funding commitments (whether through loans, contributions from affiliated companies, or otherwise) they obtain for auction bids would help or harm the auction process? Would a requirement that applicants disclose their funding arrangements create problems for applicants (for example, making funding commitments harder to obtain)? To what extent, if any, do you think scrutinizing such arrangements (beyond determining whether they negatively reflect on an applicant's qualifications) would be within ICANN's proper mission? Would required disclosure of applicants' funding sources pose any threat to robust competition?

Response. Please see our response to Topic 08.

Disclosure is required when there is a change in circumstances that affects competition. AGB § 1.2.7 clearly states that a disclosure "via submission of the appropriate forms" is required when "information previously submitted by an applicant becomes untrue or inaccurate" during the application process. NDC deliberately chose not to disclose its relationship with Verisign in order to avoid questions about their anti-competitive relationship, deliberately violating AGB § 1.2.7 and thus harming the auction process.

ICANN should act in accordance with its core values, which dictate that it should not only "promote and sustain a competitive environment" but also "introduce[e] and promot[e] competition in the registration of domain names where practicable and beneficial to the public interest." Bylaws, Art. I §§ 2(5), (6). In accordance with its mission, then, ICANN must therefore scrutinize arrangements that contravene these values and stifle competition – such as the one between NDC and Verisign.

The importance of a competitive environment is particularly stressed in ICANN's Bylaws. Despite ICANN's core value of "applying documented policies neutrally and objectively, with integrity and fairness", Bylaws, Art. I § 2(8), ICANN's own Bylaws permit the disparate treatment of parties for the "promotion of effective competition." Bylaws, Art. II § 3.

Topic 10. The final sentence of AGB Section 1.2.7 states that failures to notify ICANN of changes "may result in denial of the application." What standards do you think ICANN should follow in determining whether a particular failure to make a required notification should lead to denial of an application? If an applicant or related entities have multiple applications and it is discovered that the applicant or related entities have external funding commitments not disclosed to ICANN, should all of that applicant's or its related entities' applications be denied?

Response. Consistent with ICANN's obligations to promote competition, ICANN must deny an application improperly and surreptitiously funded by a third party in order to obtain control over a gTLD and to stifle competition and harm consumers. Here, ICANN must disqualify NDC's bid and prevent Verisign from acquiring the rights in .WEB. Verisign, which already exercises exclusive control over .COM and .NET, chose not to apply for .WEB, as it could have done. Rather, Verisign secretly funded NDC's application to game the system and to obtain control over .WEB for Verisign in order to stifle competition for .COM and .NET's

existing monopoly. Indeed, Verisign has few incentives to market .WEB aggressively because its growth would inevitably come at the expense of Verisign's dominant position with .COM and .NET. The damage will likely be irreparable as ICANN contracts are generally automatically renewed.

Indeed, there are several standards from ICANN's own Articles of Incorporation and Bylaws that support NDC's disqualification. They are as follows:

- ICANN is required to "operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable competition and open entry in Internet-related markets." Articles of Incorporation, Art. 4.

- ICANN is required to "[m]ak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness." Bylaws, Art. I § 2(8).

- ICANN is required to "not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as the promotion of effective competition." Bylaws, Art. II § 3.

- ICANN is required to "[a]ct[ ] with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected." Bylaws, Art. I § 2(9).

- ICANN is directed to "operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness." Bylaws, Art. III § 1.

- ICANN is required to "promot[e] competition in the registration of domain names where practicable and beneficial in the public interest." Bylaws, Art. I § 2(6).

- ICANN is required to "[r]emain[ ] accountable to the Internet community through mechanisms that enhance ICANN's effectiveness." Bylaws, Art. I § 2(10).

Topic 11. Afilias and Ruby Glen have also raised questions as to whether NDC violated the last sentence of AGB, Module 6, Paragraph 10, which states: "Applicant may not resell, assign, or transfer any of the applicant's rights or obligations in connection with the application." Do you think the "rights or obligations" mentioned in that sentence are limited to those that flow from approval of the application (e.g., the right to enter a registry agreement), or do you think that they also include rights and obligations concerning the prosecution of the application (e.g., obligations to respond to additional inquiries from ICANN; rights to assist in pursuing the application by raising or addressing concerns)? In responding on this topic, please address the context established by the first two sentences of AGB Module 6, Paragraph 10.

Response. Under the plain language of AGB Module 6, Paragraph 10, an "[a]pplicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application." Thus, it is clear that "any" rights or obligations in "connection" with the application cannot be resold, assigned, or transferred to a third party.

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Topic 12. Do you have knowledge or information that gTLD applicants in other circumstances have assigned others to handle aspects of the process by which applications are evaluated? If so, please describe with specifics what you know about this practice. For example, do applicants empower persons or companies with which they are working to take charge of handling various stages of the evaluation process? If so, do you think this violates AGB Module 6, Paragraph 10?

Response. Afilias is not aware of other circumstances where an applicant (such as NDC) empowers a person or a company to improperly gain or preserve a monopoly in violation of ICANN's Bylaws. The commitment between NDC and Verisign uniquely raises antitrust issues for the reasons discussed above. Prior applicants' circumstances thus have no relevance to this unique situation.

Topic 13. Specifically with regard to the auction process, what knowledge or information do you have regarding the extent to which applicants within contention sets have taken suggestions or direction from others regarding how to conduct bidding? How common is this practice? (It is noted that Clause 68 of the "Auction Rules for New gTLDs (Version 2014-11-03)" (Auction Rules) and Section 2.6 of the "New gTLD Auctions Bidder Agreement (Version 2014-04-03)" (Bidder Agreement) prohibit certain collusive activities between applicants; the immediately preceding two questions are directed to suggestions or directions not violating those prohibitions.) Clause 12 of the Auction Rules states in part "Before an Auction to resolve a given Contention Set, each Qualified Applicant may designate a party to bid on its behalf ('Designated Bidder')." Designated Bidders must execute Bidder Agreements with the Auction Manager reflecting their rights and obligations concerning the conduct of the auction. Do you think that designation of a Designated Bidder violates the last sentence of AGB Module 6, Paragraph 10?

Response. The actions of other gTLD applicants are not relevant to NDC's actions. NDC deliberately chose not to disclose its relationship with Verisign in order to avoid questions about their anti-competitive relationship and deliberately violated AGB § 1.2.7's requirement to "promptly notify ICANN" of "any change in circumstance" that would have a material effect on the potential to create effective new competition for Verisign's existing monopoly in gTLD services.

NDC is helping Verisign solidify its monopoly over gTLDs. Verisign has enjoyed uninterrupted gTLD dominance for over a decade thanks to its control over .COM and .NET. As a result of this control, Verisign has a dominant share of all gTLD registrations. The next closest competitors have much smaller shares.

As stated above, Verisign's acquisition of .WEB likely means (1) fewer resources being invested in maximizing .WEB's competitive potential, (2) a dramatically reduced change that .WEB will act as a competitive check on .COM and .NET, and (3) that .WEB will not be marketed to compete and siphon away customers from .COM and .NET. If NDC and Verisign are permitted to consummate their arrangement, the result will deprive Internet users, businesses, and Web site developers of commercially promising and viable new domains for their Web sites. This competitive harm will likely never be undone.

Topic 14. Clause 12 of the Auction Rules states that a purpose for an applicant's selection of a Designated Bidder is to allow the Designated Bidder to bid on the applicant's behalf. Do you think that clause merely states a purpose for designation, or does it obligate the Designated Bidder to bid on

behalf of only the applicant? What do you think the phrase "its behalf" means in the Auction Rules and Bidder Agreement? Do you think it indicates that the Designated Bidder acts in the stead of the applicant, or does it additionally indicate that the Designated Bidder must act in only the interest of the applicant? (In this regard, please discuss the wording of the seventh recital in the Bidder Agreement.) Where no Designated Bidder is designated, do you think the Auction Rules or the Bidder Agreement requires that an applicant acting for itself as the Bidder act only in its own interest? If so, please explain why. As relevant to this topic 14, do you think there are any inconsistencies between the Auction Rules and the Bidder Agreement? If so, please explain those inconsistencies in detail.

Response. Afilias believes that in applying its rules in the present circumstances, ICANN should focus on the uniquely harmful competition implications of an undisclosed arrangement between NDC and Verisign, the current dominant monopolist in gTLD services. Other applications or potential applications of the rules in other circumstances are not necessarily relevant to the present unique situation.

Topic 15. Clause 13 of the Auction Rules states: "Before each Auction, each Bidder shall nominate up to two people ('Authorized Individuals') to bid on its behalf in the Auction." Authorized Individuals have certain rights and obligations in connection with the auction. Do you think that an applicant's nomination of an Authorized Individual violates the last sentence of AGB Module 6, Paragraph 10?

Response. Please see our response to Topic 14.

Topic 16. Do you think that an applicant's entry into a contract promising in exchange for a payment of money to make bids and otherwise participate in the auction in the manner directed by the other party to the contract constitutes "resell[ing], assign[ing], or transfer[ing] any of applicant's rights or obligations in connection with the application," as prohibited by AGB Module 6, Paragraph 10? Please explain why or why not.

Response. Please see our responses to Topics 05, 07, 08, and 14.

Topic 17. Do you think that AGB Module 6, Paragraph 10 would be violated by a contractual promise by an applicant to request ICANN's consent to transfer to another party any registry agreement it receives as the result of its application? If so, under what circumstances? To the best of your knowledge and information, in the context of any other gTLD has an applicant agreed, before entry into a registry agreement, to seek ICANN's consent to transfer the agreement after it is entered?

Response. Please see our responses to Topics 05, 07, 08, and 14.

Topic 18. Do you think that AGB Module 6, Paragraph 10 would be violated by a contractual promise by an applicant to seek to transfer to another party, but only upon consent of ICANN, any registry agreement it receives as the result of its application? If so, under what circumstances? To the best of your knowledge and information, in the context of any other gTLD has an applicant made such an agreement?

Response. Please see our responses to Topics 05, 07, 08, and 14.

Afilias

Topic 19. Do you think that AGB Module 6, Paragraph 10 means that a resale, assignment, or transfer contrary to its last sentence constitutes a violation that can result in forfeiture or denial of the application, or is its effect simply that any such attempted resale, assignment, or transfer of the application is ineffective? In your response, please address Restatement (Second) of Contracts §§ 317 and 322 (including comment b) and any other applicable legal principles.

Response. Please see our responses to Topics 05, 07, 08, and 14.

Topic 20. In his 9 September 2016 letter, Scott Hemphill stated that NDC and Verisign's efforts to give Verisign control over the .WEB gTLD "must be sanctioned by ICANN by disqualifying NDC's bid and rejecting its application." Assuming that a resale, assignment, or transfer contrary to the last sentence of AGB Module 6, Paragraph 10 can result in forfeiture or denial of the application (see topic 19 above), do you think that the application must be forfeited or denied in all cases? If ICANN has discretion to determine an appropriate remedy, what factors do you think should guide ICANN's discretion?

Response. Afilias contests the specific circumstances surrounding NDC's actions, which violate the AGB, and declines to make generalizations regarding resales, assignments, or transfers contrary to the AGB. For the reasons provided in our responses above, ICANN should disqualify NDC's bid based on the principles found in ICANN's Bylaws and Articles of Incorporation, and on NDC's violations of the AGB. ICANN cannot permit Verisign to acquire rights in .WEB and thereby stifle competition and preserve its existing monopoly of gTLD services in direct contravention of ICANN's core values, all to the likely detriment of consumer choice and trust in ICANN.

Exhibit 34

From: Christine Willett <christine.willett@icann.org>
Date: March 31, 2018 at 11:19:52 AM GMT+11
To: "Contact Information Redacted John Kane Contact Information Redacted
Cc: "globalsupport@icann.org" <globalsupport@icann.org>
Subject: Document Disclosure Request Regarding .WEB/.WEBS

Dear Mr. John Kane,

As you may know, on 23 February 2018, Afilias Domains No. 3 Ltd. submitted a request for documentary information under ICANN's Documentary Information Disclosure Policy ("DIDP"). ICANN responded on 24 March 2018. The DIDP Request and ICANN's Response are available at https://www.icann.org/resources/pages/didp-20180223-1-ali-request-2018-03-26-en.
The DIDP Request asked for the disclosure of various documents relating to the .WEB applications and the .WEB contention set, including any documentary information received from Verisign, Inc. ("Verisign"), NuDot Co LLC ("NDC"), Ruby Glen LLC ("Ruby Glen"), and Afilias Domains No. 3 Ltd. ("Afilias") in response to ICANN organization's 16 September 2016 request for information. In its DIDP Response, ICANN org indicated that such materials, if any, are subject to several DIDP Defined Conditions for Nondisclosure ("Nondisclosure Conditions"). ICANN org also indicated that it would "continue to review potentially responsive materials and consult with the relevant third parties, as needed, to determine if additional documentary information is appropriate for public disclosure."
As such, and consistent with ICANN's commitment to operating to the maximum extent feasible in an open and transparent manner, we are reaching out to the four relevant parties noted above and asking if there are any objections to the public disclosure of the materials each provided in response to ICANN org's 16 September 2016 letter. We ask that Afilias provide a response by 5 April 2018 indicating whether or not Afilias has any objection to the disclosure of the materials, if any, that it provided to ICANN in response to ICANN org's 16 September 2016 request for additional information.
Please let us know if you would like to discuss or have questions.
Sincerely,
Christine

Christine A. Willett
Vice President, Operations

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