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# *New gTLD Agreement*

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*Proposed Draft (v2.3)*

This document contains the draft registry agreement associated with the Draft Applicant Guidebook (Draft RFP) for New gTLDs. ~~(Note: this is version 2 of the proposed draft agreement.)~~

Successful gTLD applicants would enter into this form of registry agreement with ICANN prior to delegation of the new gTLD. Background information on how this version of the draft agreement differs from the previous draft (see <http://www.icann.org/en/topics/new-gtlds/draft-agreement-24oct08-en.pdf>) ~~is available at~~ <http://www.icann.org/en/topics/new-gtld-draft-summary-changes-rfp-clean-18feb09-en.pdf>) **is available in the explanatory memorandum *Summary of Changes to Base Agreement*.**

It is important to note that this draft agreement does not constitute a formal position by ICANN, and has not been approved by ICANN's Board of Directors. The agreement is being set out for review and community discussion purposes, and ICANN encourages comments and suggestions for improvement. This is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

## 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.

#### ARTICLE 1-DELEGATION AND OPERATION OF TOP-LEVEL DOMAIN; REPRESENTATIONS AND WARRANTIES

**1.1** ~~Section 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~~ **Term** (as defined in Section 4.1), ICANN designates \_\_\_\_\_ 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** ~~Section 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)** ~~Section 1.3~~ ~~Statements of Registry Operator.~~ Registry Operator represents and warrants that all material information provided and statements made in connection with the registry TLD application, and **statements made in writing** during the ~~negotiations~~ **negotiation** of this Agreement, were true and correct in all material respects at the time made, and that 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 a \_\_\_\_\_, duly organized, validly existing and in good standing under the laws of \_\_\_\_\_, 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)** Each of Registry Operator and the other parties thereto has duly executed and delivered to ICANN an 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 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

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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.

### 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 in Specification 6 at [see 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 requests 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 (the “RSEP”). Registry Operator may offer Additional Services only with the written approval of ICANN. 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.

**2.2 Section 2.1 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 ICANN’s 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]\*.

**2.3 Section 2.2 Data Escrow.** Registry Operator shall comply with the registry data escrow procedures posted at [see specification 2]\*.

**2.4 Section 2.3 Monthly Reporting.** Within twenty (20) calendar days following the end of each calendar month, Registry Operator shall deliver to ICANN ~~a report~~ **reports** in the format posted at [see specification 3]\*. ~~ICANN may audit Registry Operator’s books and records relating to data contained in monthly reports from time to time upon reasonable advance written notice, provided that such audits will not exceed one per quarter. Any such audit will be at ICANN’s cost, unless such audit is related to a discrepancy or discrepancies in the data provided by Registry Operator in excess of 5% to ICANN’s detriment. In the latter event, Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with such audit, which 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.~~

**2.5 Section 2.4 Publication of Registration Data.** Registry Operator shall provide public access to registration data in accordance with the specification posted at [see specification 4]\*.

**2.6 Section 2.5 Reserved Names.** Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall reserve from initial (i.e. other than renewal) registration all character strings that appear on the Schedule of Reserved Names posted at [see 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**

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**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** ~~Section 2.6~~ **Functional and Performance Specifications.** Functional and Performance Specifications for operation of the TLD will be as set forth at [see specification 6]\*. Registry Operator shall comply with ~~and~~ **such Functional and 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 at least one year, which records ICANN may audit from time to time upon reasonable advance written notice, provided that such audits will not exceed one per quarter. Any such audit will be at ICANN's cost.~~

**2.8** ~~Section 2.7~~ **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 (“Rights Protection Mechanisms”), which shall at a minimum include those provisions set forth at [see specification 7]\*. Any changes or modifications to Registry Operator’s Rights Protection Mechanisms **such process and procedures** following the Effective Date must be approved in advance by ICANN **in writing.**

**2.9** ~~Section 2.8~~ **Use of Registrars.** Registry Operator must use only ICANN accredited registrars in registering domain names. ~~Affiliates of Registry Operator may be ICANN accredited registrars authorized to register names in the TLD, provided, however, that together they may act as registrar for no more than 100,000 names registered in the TLD. Registry Operator may not itself act as an authorized registrar for the TLD through the same entity that provides registry services. Registry Operator must provide non-discriminatory access to registry services to all ICANN accredited registrars that enter into and are in compliance with Registry Operator’s registry-registrar agreement for the TLD. Registry Operator must use a uniform agreement with all registrars authorized to register names in the TLD, which may be revised by Registry Operator from time to time, provided however, that any such revisions must be approved in advance by ICANN.~~

**[There are four options for community discussion and consideration with respect to registry/registrar separation:**

**(a) No cross-ownership restrictions except where there is market power and/or registry price caps (regulation needs, if any, left to regulating authorities)**

**(b) No cross-ownership restrictions for new registries, existing restrictions for existing registries.**

**(c) Limited lifting with enhanced structural separation:**

**(i) The registrar cannot sell names in the co-owned registry, or**

**(ii) The registrar can sell a very limited number of names in the co-owned registry.**

**(d) Complete restrictions:**

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(i) Registries cannot have ownership percentages in registrars, and vice versa.

(ii) Registrars prohibited from providing back-end services (this might be accompanied by reciprocal restrictions, i.e., that registries cannot provide back-end services for other registries and registries cannot own resellers).

**2.10** ~~Section 2.9~~ **Transparency of Pricing for Registry Services.** Except as set forth in this Section 2.10, Registry Operator shall provide no less than six months notice in each ICANN accredited registrar that has executed Registry Operator's registry-registrar agreement advance notice of any price increase for (net of refunds, rebates, discounts, product tying or other programs) of no less than thirty (30) calendar days with respect to initial domain name registrations and one hundred eighty (180) calendar days with respect to renewal of domain name registrations, and shall offer registrars the option to obtain domain name registrations for periods of up to ten years, 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. Notwithstanding the foregoing, with respect to renewal of domain name registrations, Registry Operator is not required to give notice of need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to a price for which Registry Operator provided notice within that past twelve (12) months, and need not provide any notice of any price increase for the imposition of the Variable Registry-Level Fee set forth in Section 6.46.3. [Registry Operator shall ensure through its Registry Registrar Agreement that each ICANN accredited registrar authorized to sell names in the TLD will clearly display offer all domain registration renewals at the same price, unless the registrant agrees to a higher price at the time of the initial registration a link to an ICANN designated web page that ICANN will develop describing registrant rights and responsibilities. [Note: subject to continuing community discussion.] of the domain name following clear and conspicuous disclosure of such renewal price by Registry Operator.] Registry Operator shall provide public query-based DNS lookup service for the TLD at its sole expense.

**2.11** ~~Section 2.10~~ **Contractual and Operational Compliance Audits.** In addition to those audit rights set forth in Sections 2.3 and 2.6, ICANN may from time to time, at its expense, (not to exceed once per calendar quarter) conduct contractual compliance audits to assess compliance by Registry Operator with its covenants contained in Section 2 of this Agreement. Such audits shall be tailored to achieve the purpose of assessing compliance, and ICANN shall 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. As part of any contractual compliance 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) calendar days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its covenants contained in Section 2 of this Agreement. Any such audit will be at ICANN's expense, unless such audit is related to a discrepancy in the fees paid by Registry Operator hereunder in excess of 5% to ICANN's detriment. In the latter event, Registry Operator shall reimburse ICANN for all reasonable costs and expenses associated with such audit, which 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.

**2.12** **Continued Operations Instrument.** Registry operator shall comply with the terms and conditions relating to the Continued Operations Instrument set forth at [see specification 8].

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**2.13** ~~(Section 2.11~~ **[Note: ~~for~~For Community-Based TLDs Only] Obligations of Registry Operator to TLD Community.** Registry Operator shall establish registration policies in conformity with the application submitted with respect to the TLD for: (i) naming conventions within the TLD, (ii) requirements for registration by members of the TLD community, and (iii) use of registered domain names in conformity with the stated purpose of the community-based TLD. Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD. Registry Operator shall establish procedures for the enforcement of registration policies for the TLD, and resolution of disputes concerning compliance with TLD registration policies, and shall enforce such registration policies. Registry Operator agrees to 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 2.13.]

### ARTICLE 3.

#### **ARTICLE 3-COVENANTS OF ICANN**

ICANN covenants and agrees with Registry Operator as follows:

**3.1** ~~Section 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** ~~Section 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** ~~Section 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. To the extent that ICANN is authorized to set policy with regard to an authoritative root server system, ICANN will ensure that the authoritative root will point to the top-level domain nameservers designated by Registry Operator for the TLD throughout the Term of this Agreement, unless earlier terminated pursuant to Section 4.3 or 4.4.

**3.4** ~~Section 3.4~~ **Root-zone Information Publication.** ICANN's publication of root-zone contact information for the Registry 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/>.

### ARTICLE 4.

#### **ARTICLE 4-TERM AND TERMINATION**

**4.1** ~~Section 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").

~~Section 4.2~~ **Renewal.** ~~This Agreement will be renewed upon the expiration of the term set forth in Section 4.1 above and each successive term, unless an arbitrator or court has determined that Registry Operator has been in fundamental and material breach of its covenants set forth in Article 2 of this~~

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Agreement, or in default of its payment obligations under Article 6, and such breach or breaches remain uncured following notice by ICANN to Registry Operator.

**4.2 Renewal. 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:**

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

**(b) 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 default of its payment obligations under Article 6 of this Agreement.**

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

**4.3 Termination by ICANN.**

**(a) Section 4.3 Termination by ICANN. ICANN may terminate this Agreement if: (i) Registry Operator fails to cure any fundamental and material breach of Registry Operator's covenants set forth in Article 2 or default of its payment obligations set forth in Article 6 of this Agreement, each within thirty (30) calendar days after ICANN gives Registry Operator ~~written~~ notice of the such breach or default, which notice will include with specificity the details of the alleged breach and or default, (ii) an arbitrator or court has finally determined that Registry Operator is, in fundamental and material breach and has failed to of such covenant(s) or in default of its payment obligations, and (iii) Registry Operator fails to comply with such determination and cure such breach or default within ten (10) calendar days or such other time period as may be determined by the arbitrator or court. Failure of**

**(b) ICANN may, upon notice to Registry Operator, terminate this Agreement, if Registry Operator fails to complete all testing and procedures necessary for delegation of the TLD into the root zone within 12 months of the Effective Date ~~shall be considered a material and fundamental breach of Registry Operator's obligations hereunder and shall entitle ICANN, in its sole discretion, to terminate the Agreement with no further obligations of either party.~~ Registry Operator may request an extension for up to additional 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 Registry Operator fails to cure a 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**

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if the Continued Operations Instrument is not in effect for greater than sixty (60) consecutive calendar days at any time following the Effective Date.

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, 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 upon notice to ICANN if, (i) within the notice period provided for in Section 7.2(d), Registry Operator provides ICANN notice of its objection to a proposed material amendment of this Agreement pursuant to Article 7, which notice will include with specificity the details of such objection, and (ii) such amendment thereafter becomes effective in the form objected to by Registry Operator; provided, however, that Registry Operator may only terminate this Agreement pursuant to this Section 4.4(b) if the required notice of termination has been provided to ICANN within thirty (30) calendar days following the effective date of such amendment; provided, further, that the termination of this Agreement pursuant to this Section 4.4(b) shall be effective on the date that is the one hundred twenty (120) calendar day following the date upon which Registry Operator delivered the notice of termination to ICANN.

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

4.5 Section 4.4 Transition of Registry upon Termination of Agreement. Upon expiration of the Term and any termination of this Agreement, Registry Operator shall agree to provide ICANN or any successor registry authority that may be designated by ICANN for the TLD with all data (including that 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 ~~in~~ addition to that data escrowed in accordance with Section 2.2 by ICANN or such successor registry authority. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry authority in its sole discretion and in conformance with the ICANN gTLD Registry Continuity Plan, dated April 25, 2009, as the same may be amended from time to time. 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 Survival. 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 and Article 8, Section 2.12, Section 4.5, and this Section 4.6 shall survive the expiration or termination of this Agreement.

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## ARTICLE 5.

### **ARTICLE 5-DISPUTE RESOLUTION**

**5.1** ~~Section 5.1~~ **Cooperative Engagement.** Before either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator, following initiation of ~~good faith~~ 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** ~~Section 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 (“ICC”). The arbitration will be conducted in the English language in front of a single arbitrator and will occur in Los Angeles County, California, USA. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys’ fees, which the ~~arbitrators~~arbitrator shall include in ~~their~~its awards. In any proceeding, ICANN may request the appointed arbitrator award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator’s right to sell new registrations) in the event the arbitrator determines that Registry Operator ~~shall be shown to have~~has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 and Section 5.4 of this Agreement. 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, USA; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.

**5.3** ~~Section 5.3~~ **Limitation of Liability.** ICANN’s aggregate monetary liability for violations of this Agreement will not exceed the amount of 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 ~~6.4~~6.3, if any). Registry Operator’s aggregate monetary liability to ICANN for violations of this Agreement will be limited to the amount of fees paid to ICANN during the preceding twelve-month period (excluding the Variable Registry-Level Fee set forth in Section ~~6.4~~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.

### **ARTICLE 6 FEES**

**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** ~~Section 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

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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 domain names are registered in the TLD and shall apply thereafter to each Transaction. **Registry Operator shall pay the Registry-Level Fees on a quarterly basis comprised of four equal payments 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** ~~Section 6.2~~ **Cost Recovery for RSTEP.** Requests by Registry Operator for the approval of ~~new or modifications to existing registry services are reviewed~~ **Additional Services pursuant to Section 2.1 may be referred** by ICANN and referred as appropriate to the registry services **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 for ~~new or modified registry services that are referred to the RSTEP~~ 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.**

~~Section 6.3~~ **Payment Schedule.** Registry Operator shall pay the Registry Level Fees specified in Section 6.1 and Section 6.4, if applicable, on a quarterly basis comprised of four equal payments 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.

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

**(a)** ~~Section 6.4~~ **Variable Registry Level Fee.** For fiscal quarters in which ICANN does not collect 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 fee from all registrars **fees established by the ICANN Board of Directors for any ICANN fiscal year,** upon receipt ~~delivery~~ of written 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 to ICANN by the Registry Operator in accordance with the Payment Schedule in Section 6.2, and the** **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 will ~~may~~ invoice and collect the fees **Variable Registry-Level Fees** from the registrars who are party to a Registry-Registrar Agreement with Registry Operator. ~~The fee will,~~ **provided that the fees shall be required** **invoiced** to be collected from all ICANN accredited registrars if collected ~~from~~ **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**

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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 increased, at ICANN's discretion, by a percentage equal to the percentage increase, 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 increase. Any fee increase 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 ~~Section 6.5~~ Additional Fee on Late Payments. For any payments thirty (30) calendar days or more overdue ~~pursuant to Section 6.2~~ 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 CHANGES AND MODIFICATIONS

~~[Note: Article 7 remains subject to continuing community discussion. For v2 of the proposed agreement, Sections 7.1 and 7.2 reflect proposed changes from the October 2008 version of the agreement intended to address public commentary on the proposed Article. These changes include adopting proposals to allow the veto of changes by a majority vote (greater than 50%) of the affected registry operators, prohibiting use of Article 7 to effect changes to certain provisions of the agreement, and providing for a "pre-consultation" period with registry operators regarding proposed changes.]~~

## ARTICLE 7.

### AMENDMENTS

7.1 ~~Section 7.1~~ Evolution Amendment of Terms and Specifications. During the term of this Agreement, certain provisions of the Agreement and Article 2 (including the specifications incorporated into this Agreement pursuant to Article 2), Article 6 and Article 8 may be amended, modified, supplemented or updated by ICANN in accordance with changing standards, policies and requirements pursuant to the process set forth in this Article 7; provided, however, that (i) ICANN may not utilize this Article 7 to implement changes, modifications or amendments to increase the amount of fees payable hereunder unless ICANN demonstrates a financial need for any such increase, (ii) no amendment shall be applied retrospectively, and (iii) ICANN may not utilize this Article 3-~~or~~7 to

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amend Section 2.1 of the agreement or specification 1, or to change, **Section 2.2** or the process **set forth at [see specification 1]** for adoption and implementation of new or modified Consensus Policies or Temporary Policies generally.

**7.2 Section 7.2 Process for Changes.** The process for any changes, modifications or amendments to this form of registry agreement permitted by **amendment to this Agreement pursuant to Section 7.1** shall be as follows:

**(a) i. Prior to formally proposing any amendment,** ICANN will provide an opportunity of no less than thirty (30) **calendar** days for consultation with and consideration of input from **all** registry operators that would be subject to **the changes such amendment**;

**(b) ii. Following such consultation and consideration,** ICANN will publicly post on its web site **website** for no less than thirty (30) **calendar** days formal notice of any proposed changes, modifications or amendments to this form of registry agreement; **amendment to this Agreement, including the text of the amendment (including any amendment to the specifications incorporated into this Agreement), during which Registry Operator may submit comments to the amendment;**

**(c) iii. Following such public notice period and approval of the amendment by the ICANN Board approval with respect to material changes to the Agreement, of Directors, ICANN shall provide** Registry Operator will be provided notice of the final terms of any changes, modifications or amendments to the terms of this Agreement, and/or the requirements, **the amendment (including any amendment to the specifications, or processes incorporated into this Agreement)** at least ninety (90) **calendar** days prior to the effectiveness thereof by the posting of a notice of effectiveness on ICANN's web site;

iv. Any such proposed changes, modifications or amendments may be disapproved within sixty (60) days from the date of notice of effectiveness of the change by a vote of more than half of the registry operators subject to the change;

**(d) From the date of such public notice of the approved amendment, Registry Operator shall have sixty (60) calendar days to provide notice to ICANN of its disapproval of such amendment;**

**(e) If, within such sixty (60) calendar day period, the registry operators of a majority of the top-level domains subject to the amendment (i.e. Registry Operator and any other registry operator party to a registry agreement with ICANN containing a provision similar to this Article 7) provide notice to ICANN of their disapproval of the amendment, it shall be deemed disapproved by the affected registry operators; and**

**(f) v. In the event that such change, modification or the amendment is disapproved by the affected registry operators pursuant to the process set forth herein clause (e) above, the ICANN Board of Directors by a two-thirds vote shall have thirty (30) calendar days to override such disapproval if the modification or: (i) in the case of any amendment relating to the fees payable to ICANN hereunder, the amendment is justified by a financial need of ICANN and (ii) in the case of any other amendment, the amendment is justified by a substantial and compelling need related to the security or stability Security or Stability (as such terms are defined in Section 8.3) of the Internet or the Domain Name System, in which case, the proposed amendment shall be effective immediately upon expiration of such thirty (30) calendar day period. If the ICANN Board of Directors does not override such disapproval, the proposed amendment shall have no force or effect.**

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ARTICLE 8.

ARTICLE 8 MISCELLANEOUS

8.1 Indemnification of ICANN.

(a) Section 8.1 Indemnification of ICANN. 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 legal fees and expenses, arising out of or relating to Registry Operator’s operation of the registry for the TLD or Registry Operator’s provision of ~~registry services~~ **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 due to a breach by ICANN of any obligation contained in this Agreement or any willful misconduct by ICANN. This section will not apply to any request for attorneys’ fees in connection with any litigation or arbitration between or among the parties. 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 that are engaging in the same acts or omissions giving rise to such claim. For the purposes of reducing Registry Operator’s liability under Section 8.1(a) pursuant to this Section 8.1(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 8.1(a) above, the number of domains under management by such registry operator(s) shall nonetheless be included in the calculation in the preceding sentence.

8.2 Section 8.2 Indemnification Procedures. If any third-party claim is commenced that is indemnified under Section 8.1 above, ~~the party against which such claim is commenced~~ **ICANN** shall provide ~~written~~ notice thereof to ~~the other party~~ **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 policies 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

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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 8.2, 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.

**8.3 Defined Terms. For purposes of this Agreement, Security and Stability shall be defined as follows:**

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

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

**8.4** ~~Section 8.3~~ **No Offset.** All payments due under this Agreement will be made in a timely manner throughout the ~~term of this Agreement~~**Term** and notwithstanding the pendency of any dispute (monetary or otherwise) between Registry Operator and ICANN.

**8.5** ~~Section 8.4~~ **Change in Control; Assignment and Subcontracting–Registry Operator will provide no less than ten (10) days advance notice to ICANN in accordance with Section 8.8 of any event or change of circumstance anticipated to result in a direct or indirect change of ownership or control of Registry Operator.** 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 for the same or substantially the same purposes. 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. **Registry Operator will provide no less than ten (10) calendar days advance notice to ICANN prior to the consummation of any transaction anticipated to result in a direct or indirect change of ownership or control of Registry Operator. Such change of ownership or control notification shall include a statement that affirms that the ultimate parent entity of the party acquiring such ownership or 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.**

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**8.6** ~~Section 8.5~~ **Amendments and Waivers.** Except as set forth in Article 7, no amendment, supplement, or modification of this Agreement or any provision hereof will be binding unless executed in writing by both parties. Irrespective of the provisions of Article 7, ICANN and Registry Operator may at any time and from time to time enter into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement will 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 will be deemed or will constitute a waiver of any other provision hereof, nor will any such waiver constitute a continuing waiver unless otherwise expressly provided.

**8.7** ~~Section 8.6~~ **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.

**8.8** ~~Section 8.7~~ **General Notices.** ~~All~~ **Except for notices pursuant to Article 7, all** notices to be given under or in relation to this Agreement will be given either (i) in writing at the address of the appropriate party as set forth below or (ii) via facsimile or electronic mail as provided below, unless that party has given a notice of change of postal or email address, or facsimile number, as provided in this agreement. **All notices under Article 7 shall be given by both posting of the applicable information on ICANN's web site and transmission of such information to Registry Operator by electronic mail.** Any change in the contact information for notice below will be given by the party within **thirty (30) calendar** days of such change. Notices, designations, determinations, and specifications made under this Agreement will be in the English language. ~~Any~~ **Other than notices under Article 7, any** notice required by this Agreement will be deemed to have been properly given (i) if in paper form, when delivered in person or via courier service with confirmation of receipt or (ii) if via facsimile or by electronic mail, upon confirmation of receipt by the recipient's facsimile machine or email server. ~~Whenever this Agreement specifies a URL address for certain information or notice provided by ICANN, Registry Operator,~~ **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 Article 7 will be deemed to have been given notice of any such information when electronically posted at the designated URL 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.)

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If to Registry Operator, addressed to:

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

Telephone:

Facsimile:

Attention:

With a Required Copy to:

Email: (As specified from time to time.)

**8.9** ~~Section 8.8~~ **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.

**8.10** ~~Section 8.9~~ **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.

\* \* \* \* \*

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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:

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**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; or
  - 1.2.5. resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names).
- 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 Policies or Temporary Policy shall control, but only with respect to subject matter in conflict.

## SPECIFICATION 2

### DATA ESCROW REQUIREMENTS

**NOTE: THIS INTERIM DRAFT SPECIFICATION IS UNDER DEVELOPMENT BY ICANN AND REGISTRY TECHNICAL TEAMS.**

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.

~~1.1~~ Deposits ~~must~~can be of two kinds: Full Deposits ~~and~~or Incremental Deposits.

**1.1** ~~1.1.1~~ “**Full Deposit(s)**” means the Registry Data that reflects the current and complete Registry Database and will consist of data that reflects the state of the registry as of 0000 UTC on each Sunday. Pending transactions at that time (i.e. transactions that have not been committed to the Registry Database) will not be reflected in the Full Deposit.

**1.2** ~~1.1.2~~ “**Incremental Deposit(s)**” means data that reflects all transactions involving the database that ~~are~~were not reflected in the last previous Full Deposit or Incremental Deposit, as the case may be, ~~and are cumulative since the last Full Deposit.~~ Each incremental file will contain all database transactions since the previous Full Deposit was completed. **as of 0000 UTC. Incremental deposits, where required, must include complete Escrow Records as specified below that were not included or changed since the most recent full or incremental deposit (i.e., newly added or modified names).**

2. Procedure for Deposits. Each formatted Full Deposit and Incremental Deposit must be processed and ~~electronically~~ delivered in encrypted form to Escrow Agent. The formatted, encrypted and signed Deposit file(s) must be sent, by ~~anonymous~~authenticated, secure file transfer, to Escrow Agent's server within the specified time window, see PART B – LEGAL REQUIREMENTS.

3. Schedule for Deposits. Registry operators are obligated to submit a set of escrow files on a daily basis as follows:

3.1 Once a week, a Full Deposit of the entire set of objects in the registry must be submitted. Each of these files will be marked with the ~~“full”~~ type.

3.2 The other six days of the week, an Incremental Deposit must be submitted ~~indicating~~including objects that have been created, deleted or updated. Each of these files will be marked with the ~~“inc”~~ type.

3.3 Each incremental submission must ~~at least~~ cover the time period since the generation of the previous submission.

3.4 It is permissible for there to be some overlap with the previous escrow submission.

**3.4 Although we expect this to be an exception, it is permissible to have some overlap between Incremental Deposits.**

##### 4. Escrow Format Specification.

4.1 **File Naming Conventions.** Files shall be named according to the following convention:

[gTLD]\_[FILE]\_[YYYY-MM-DD]\_[type]\_[#].[suffix] where:

<gTLD> <YYYY-MM-DD> <FILE> <type> <comp> <encrypt> S<#> R<rev>.<ext> where:

- 4.1.1 {<gTLD>} is replaced with the gTLD name; **in case of an IDN-TLD, the ASCII-label must be used;**
- 4.1.2 <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”;
- 4.1.3 4.1.2 {<FILE>} is replaced with the file type (as indicated in the ~~[[#Detailed File Formats]]~~4.8 below);
- 4.1.3 {YYYY-MM-DD} is replaced by the file creation date;
- 4.1.4 {<type>} is replaced by:
- (1) “full”, if the data represents a full deposit;
  - (2) “inc”, if the data represents an incremental deposit;
  - (3) hash, if the data represents a hash string for a deposit file;
- 4.1.5 <comp> is replaced by the name of compression algorithm used, see section 4.10;
- 4.1.6 <encrypt> is replaced by the corresponding encryption algorithm used, see section 4.10;
- 4.1.7 (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”.
- 4.1.8 <rev> is replaced by the number of revision (or resend) of the file beginning with “0”;
- 4.1.9 <ext> is replaced by “data” if the file contains actual data (may be compressed and/or encrypted) or “sig” for the digital signature file of the corresponding data file.
- (5) [suffix] indicates a file extension or suffix as appropriate to the compression and encryption regimen used
  - (6) Additional naming to accommodate possible network error conditions, renaming the files once it is known they have been successfully transferred:
    - i) [YYYY-MM-DD] may be augmented to [YYYY-MM-DD-HH] to indicate the hour of transmission, to permit distinguishing between multiple attempts during a day
    - ii) [type] may permit the additional type 'resend' indicating an attempt to resend a deposit

4.2 **Object Handles.** For each of the object types (domains, contacts, ~~nameservers, dnssec~~name servers, DNSSEC delegation signer records, and registrars), an ID or "handle" will be used to permit compactly referencing objects from other files.

4.2.1 These handles may be represented as alphanumeric values, offering maximum flexibility.

4.2.2 Registry operator may use the domain name as the domain handle.

4.3 **Dates.** Numerous fields indicate "dates", such as the creation and expiry dates for domains. These fields should contain timestamps indicating the date and time in a format and time zone that is consistent across all such fields in the escrow deposit. ICANN may require following one of the following standards:

4.3.1 RFC 3339 – Date and Time on the Internet;

4.3.2 ISO 8601 unifies several older ISO standards on date and time notation; and

4.3.3 Timestamps should be presented relative to UTC consistent with the date/time handling used in EPP, RFC 4930 [1].

4.3.4 **4.4 CSV Format.** Escrow data shall be compiled into CSV text files, as described in RFC 4180 [5]. ~~In accordance with RFC 4180, the~~The character encoding for these files should be US-ASCII, though

UTF-8 is also permissible. **Once compressed and/or encrypted the data files shall be in binary form. Signature files shall never be compressed nor encrypted.**

**4.4 4.5-Object Statuses.** RFC 4930 (EPP) and related RFCs (4931, 4932, 4933) see [1], [2], [3], [4] indicate permissible status codes for various registry objects. As represented in these RFCs, escrow deposits should use the following RFC-specified codes, such as: **Additionally the status "reserved" is allowed for domains; it is used to indicate a reserved name on behalf of the Registry or ICANN.**

Status
clientHold
clientDeleteProhibited
clientTransferProhibited
clientUpdateProhibited
clientRenewProhibited
serverHold
serverDeleteProhibited
serverRenewProhibited
serverTransferProhibited
serverUpdateProhibited
Ok
pendingCreate
pendingDelete
pendingTransfer
pendingRenew
pendingUpdate
Linked

**4.5 Reserved Name Handling.** Registries typically have a set of names reserved on behalf of themselves or IANA. **Reserved names must be included in the DOMAIN file, and have the special "reserved" status associated with them in the DOMSTATUS file to indicate that they are reserved.**

There may be a need for additional values, such as "Reserved" (to indicate reserved names).

#### 4.6 Detailed File Formats.

4.6.1 Domains. Indicates a file type "DOMAIN"

The following fields shall be stored in the DOMAIN file:

- i) Domain Handle;
- ii) Domain Name;
- iii) Registrar handle for the present sponsoring registrar;
- iv) Creation Date;
- v) Registrar Handle for the initial sponsoring registrar;
- vi) Expiry Date;
- vii) Authinfo for the domain; and
- viii) Contact handles.

**4.6.2 Internationalized Domain Names (IDNs).** In the case of internationalized domain names, the ASCII compatible form (A Label) of the IDN string shall be referenced in the domain name field (e.g. "xn-11b5bs1di.tld"), not the Unicode label (U Label). If it is necessary to capture both A Labels and U Labels, that shall be handled by creating an extension file.

The following fields shall be stored in the DOMIDN file:

- i) Domain Handle;
- ii) Unicode Label/U Label;
- iii) Language Tag (based on ISO 639-1); and
- iv) Script Tag (based on ISO 15924).

**4.6.3 Variant Handling.** If Registry Operator offers IDNs, the variant table and registration policy must be deposited with the IANA IDN Practices Repository (<http://www.iana.org/domains/idn-tables/>)<sup>[9]</sup>. In some cases, for a particular name, there may be multiple "variants," where reservation of a domain name indicates reservation of one or more other names that are equivalent, in the language representation. Depending on implementation, there are several possible ~~implications~~ approaches for escrow, **the Registry shall use the most appropriate to its needs:**

- (1) Multiple name variants may be expressed in the registry, and presented in the DNS zone; each such name shall be stored in the DOMAIN ~~file~~ **and DOMIDN files**, as described ~~above~~ **below**.
- (2) It may suffice, in some cases, to store variants in the form shown above as the "DOMIDN" file, where variant names, in Unicode form, are associated with the "parent/canonical" domain name.
- (3) There will be cases where there is an algorithm used to generate variant names, and where the number of variants would be impractical to store or to submit directly for escrow. In such cases, out of band documentation must provide details about variant generation algorithms. It may also be necessary to add an extension file to indicate, for domains having variant names, the algorithm and any other parameters used to compute variants.

#### **4.7 Detailed File Formats.**

**For each object the order in which its fields are presented indicates the order in which they are expected to be in the respective record. The first line of all files must contain the field names.**

**4.6.4 Reserved Name Handling.** Registries typically have a set of names reserved on behalf of themselves or IANA. The following are reasonable approaches to choose between:

- (1) Reserved names may be included in the DOMAIN file, and have a special "Reserved" status associated with it in the DOMSTATUS file to indicate that it is reserved; and
- (2) An additional file, RESERVED, may be established, with the following fields:

##### **4.7.1 Domains. Indicates a file type "DOMAIN"**

**The following fields shall be stored in the DOMAIN file:**

- (1) Domain Handle;**
- (2) i) Reserved Domain Name; and**
- (3) ii) Registrar Handle for the organization for which it is reserved. present sponsoring registrar;**
- (4) Creation Date;**
- (5) Registrar Handle for the initial sponsoring registrar;**
- (6) Expiry Date;**



**(7) Authinfo for the domain; and**

**4.7.2 Internationalized Domain Names (IDNs). In the case of internationalized domain names, the ASCII-compatible form (A-Label) of the IDN string shall be referenced in the domain name field (e.g. - "xn-11b5bs1di.tld"), not the Unicode label (U-Label).**

**The following fields shall be stored in the DOMIDN file:**

- (1) Domain Handle;**
- (2) Unicode Label/U-Label;**
- (3) Language Tag (based on ISO 639-1); and**
- (4) Script Tag (based on ISO 15924).**

**4.7.3 4.6.5-Contacts.** Indicates a file type "CONTACT".

The following fields shall be stored in the CONTACT file:

- (1) i-)Contact Handle;**
- (2) ii-)Registrar Handle for the sponsoring registrar;**
- (3) iii-)Creation Date;**
- (4) iv-)Authinfo for the contact;**
  - v-) Contact Name;**
  - vi-) Contact Organization;**
- (5) vii-)Voice Telephone Number;**
- (6) viii-)Voice Telephone Extension-(if separate);**
- (7) ix-)Fax Telephone Number;**
- (8) x-)Fax Extension-(if separate);**
- (9) Email Address.**
- (10) Registrar Handle of the creator registrar;**
- (11) Registrar Handle of the registrar who last updated the contact;**
- (12) Last update Date;**
- (13) Last transfer Date;**

**4.7.4 Contacts' addresses. Indicates a file type "CONADDR". Contains the addresses of the Contacts. Only two addresses per Contact are allowed provided they are of different types.**

**The following fields shall be stored in the CONADDR file:**

- (1) Contact Handle;**
- (2) Address type: int / loc; see RFC 4933 [4];**
- (3) Contact Name;**
- (4) Contact Organization;**
- (5) xi-)Postal Address 1;**
- (6) xii-)Postal Address 2;**
- (7) xiii-)Postal Address 3;**
  - xiv-) Postal Address 4;**
- (8) xv-)City;**
- (9) xvi-)State/Province/Region;**
- (10) xvii-)Postal Code;**
- (11) xviii-)Country; and**
  - xix-) Email Address.**

**Notes for 4.8.3 and 4.8.4:**

The following fields are ones where standards documents may be able to indicate requirements appropriate to validation. In particular, the EPP Contact Mapping (~~RFC 3733~~)[4] requires reference to other standards documents as follows:

**Country**

Country identifiers are represented using two character identifiers as specified in ISO 3166.

**Telephone numbers**

Telephone numbers (both voice and fax) are formatted based on structures defined in ITU standard E164a.

**Email Address**

Email address syntax is defined in RFC 2822.

**4.7.5** ~~4.6.6 Nameservers~~Name servers. Indicates a file type "NAMESERVER".

The following fields shall be stored in the NAMESERVER file:

- (1) i) ~~Nameserver~~Name server Handle;
- (2) ii) ~~Nameserver~~Name server Name;
- (3) iii) Creation Date; and
- (4) iv) Registrar Handle of sponsoring registrar.

**4.7.6** ~~4.6.7 Nameserver~~Name server IP Addresses. Indicates a file type "NSIP"

The following fields shall be stored in the NSIP file:

- (1) i) ~~Nameserver~~Name server Handle; and
- (2) ii) IP Address.

**Notes.** IP addresses must conform either to, RFC 791, for IPv4 addresses, or RFC 4291, for IPv6 addresses.

**4.7.7** ~~4.6.8 Registrars~~. Indicates a file type "REGISTRAR"

The following fields shall be stored in the REGISTRAR file:

- (1) i) Registrar Handle;
- (2) ii) IANA ID for Registrar as per IANA Registrar IDs [8]; and
- (3) iii) Registrar Name;

**4.7.8** ~~4.6.9 Domain/Status Associations~~. Indicates a file type "DOMSTATUS"

The following fields shall be stored in the DOMSTATUS file:

- (1) i) Domain Handle;
- (2) ii) Status Value, as per the earlier section on Object Statuses; and
- (3) iii) Reason Code.

**4.7.9** ~~4.6.10 Contact/Status Associations~~. Indicates a file type "CONSTATUS"

The following fields shall be stored in the CONSTATUS file:

- (1) i) Contact Handle;
- (2) ii) Status Value, as per the earlier section on Object Statuses; and
- (3) iii) Reason Code.

**4.7.10** ~~4.6.11 Nameserver~~Name server/Status Associations. Indicates a file type "NSSTATUS"

The following fields shall be stored in the NSSTATUS file:

- (1) i) ~~Nameserver~~Name server Handle;
- (2) ii) Status Value, as per the earlier section on Object Statuses; and
- (3) iii) Reason Code.

**4.7.11** ~~4.6.12~~ **Domain/Contact Associations.** Indicates a file type "DOMCONTACT"

The following fields shall be stored in the DOMCONTACT file:

- (1)** ~~i)~~ Domain Handle;
- (2)** ~~ii)~~ Contact Handle; and
- (3)** ~~iii)~~ Contact Type.

<u>Type Possible</u>	<u>Possible Abbreviations</u>
Registrant Contact	R, REG
Administrative Contact	A, ADMIN
Billing Contact	B, BILL
Technical Contact	T, TECH

**4.7.12** ~~4.6.13~~ **Domain /Nameserver Name server Associations.** Indicates a file type "DOMNS"

The following fields shall be stored in the DOMNS file:

- (1)** ~~i)~~ Domain Handle; and
- (2)** ~~ii)~~ Nameserver Name server Handle.

**4.7.13** ~~4.6.14~~ **Domain Deletions.** Indicates a file type "DOMDEL." This file is must be sent only required for incremental escrow deposits (e.g. - file type "inc"); it indicates the list of domains that were in the previous deposit that have since been removed.

- (1) Domain Name; and
- (2) Deletion Date.

**4.7.14** ~~4.6.15~~ **Contact Deletions.** Indicates a file type "CONTDEL." This file is must be sent only required for incremental escrow deposits (e.g. - file type "inc"); it indicates the list of contacts that were in the previous deposit that have since been removed.

- (1) Contact Handle; and
- (2) Deletion Date.

**4.7.15** ~~4.6.16~~ **Nameserver Name server Deletions.** Indicates a file type "NSDEL." This file is must be sent only required for incremental escrow deposits (e.g. -file type "inc"); it indicates the list of nameservers name servers that were in the previous deposit, that have since been removed.

- (1) Nameserver Name server Name; and
- (2) Deletion Date.

~~4.6.17~~ **DNSSEC Delegation Signer Record.** Indicates a file type "DS"

The following fields shall be stored in the DS file:

- ~~i)~~ DNSSEC Delegation Signer Record;
- ~~ii)~~ Creation Date; and
- ~~iii)~~ Registrar Handle of sponsoring registrar.

~~4.6.18~~ **DNSSEC Delegation Signer Record/Status Associations.** Indicates a file type "DSSTATUS"

The following fields shall be stored in the DSSTATUS file:

- ~~i)~~ DNSSEC Delegation Signer Record;
- ~~ii)~~ Status Value, as per the earlier section on Object Statuses; and
- ~~iii)~~ Reason Code.

**4.7.16** ~~4.6.19~~ **Domain/DNSSEC Delegation Signer Record Associations.** Indicates a file type "DOMDS". **Only the first five fields are mandatory, the rest may be left blank. These fields are related to those described in RFC 4310 [10].**

(+)The following fields shall be stored in the ~~DOMDS~~**DSDEL** file:

- (1)** ~~i)-Domain Handle;~~**and**
- (2)** **KeyTag;**
- (3)** **Algorithm;**
- (4)** **Digest Type;**
- (5)** **Digest;**
- (6)** **Maximum Signature Life;**
- (7)** **DNSKey Flags;**
- (8)** **DNSKey Protocol;**
- (9)** **DNSKey Algorithm;**
- (10)** **Public key;**

ii) DNSSEC Delegation Signer Record.

**4.7.17** ~~4.6.20~~ **DNSSEC Delegation Signer Record Deletions.** Indicates a file type "DSDEL". This file ~~is~~**must be sent** ~~only required~~ for incremental escrow deposits (e.g. -file type "inc"); it indicates the list of **domains that used to have** DNSSEC delegation signer records that were **record(s)** in the previous deposit that **no longer** have since been removed **them**.

**The following fields shall be stored in the DSDEL file:**

- (1) DNSSEC Delegation Signer Record **Domain Handle**; and
- (2) Deletion Date.

**4.7.18** **Contact information disclosure.** Indicates a file type "CONDISCL". **With the exception of the Contact Handle, all the fields in this file can only be "true", "false" or empty.**

**The following fields shall be stored in the CONDISCL file:**

- (1)** **Contact Handle;**
- (2)** **Internationalized name;**
- (3)** **Localized name;**
- (4)** **Internationalized organization**
- (5)** **Localized organization**
- (6)** **Internationalized address;**
- (7)** **Localized address;**
- (8)** **Voice**
- (9)** **Fax**
- (10)** **Email**

**4.7.19** **EPP server Data Collection Policies.** Indicates a file type "DCP". **These file type is related with section 2.4 of EPP, see [1]. All the fields shall only be "true", "false" or empty.**

**The following fields shall be stored in the DCP file:**

- (1)** **Access to All;**
- (2)** **Access to None;**
- (3)** **Access Null;**
- (4)** **Access Personal;**
- (5)** **Access Personal and other;**
- (6)** **Access Other;**
- (7)** **Statement Admin;**

- (8) Statement Contact;**
- (9) Statement Provisioning;**
- (10) Statement Other;**
- (11) Recipient Other;**
- (12) Recipient Ours;**
- (13) Recipient Public;**
- (14) Recipient Same;**
- (15) Recipient Unrelated;**
- (16) Retention Business;**
- (17) Retention Indefinite;**
- (18) Retention Legal;**
- (19) Retention None;**
- (20) Retention Stated;**
- (21) Expiry Absolute;**
- (22) Expiry Relative;**

**4.7.20 EPP versions supported. Indicates a file type "EPPVERSIONS". Lists the EPP versions supported by the Registry.**

**The following fields shall be stored in the EPPVERSIONS file:**

- (1) Version Supported;**

**4.7.21 Text response languages. Indicates a file type "LANGS". Lists the identifiers of the text response languages known by the server.**

**The following fields shall be stored in the LANGS file:**

- (1) Language Supported; as RFCs 4646 and 4647.**

**4.7.22 EPP objects supported. Indicates a file type "EPPOBJECTS". Lists the EPP objects the server is capable of managing.**

**The following fields shall be stored in the EPPOBJECTS file:**

- (1) Object Name;**
- (2) Object URI;**

**4.7.23 EPP extensions supported. Indicates a file type "EPPEXTENSIONS". Lists the EPP extensions the Registry supports.**

**The following fields shall be stored in the EPPEXTENSIONS file:**

- (1) Extension Name;**
- (2) Extension URI;**

**4.8 4.6.21-Extensions.** If a particular registry operator's contract requires submission of additional data, not included above, additional "extension" files ~~may~~**shall** be defined **in a case by case base** to represent that data which may use Domain, Contact, ~~Nameserver~~**Name server**, and Registrar ~~handles~~**Handles** in order to associate that data with these objects, and which may introduce new objects, with their own handles that may, in turn, be used to allow extension files to indicate references to these new objects. **ICANN and the respective Registry shall work together to agree on such new objects' data escrow specifications.**

**4.9 4.7-Compression and Encryption. Compression shall be used to reduce transfer times between the Registry and the Escrow agent, and to reduce storage capacity requirements.** Data encryption shall be used to ensure the privacy of registry escrow data.

4.7.1 "**Best practices**" also include the use of data compression, as it reduces transfer time, and strengthens cryptographic security. PGP normally compresses plain text before encrypting it; the OpenPGP message format (RFC 2440) indicates that implementers should support ZIP (RFC 1951) compression, and may implement ZLIB (RFC 1950). Implementations are also free to support additional algorithms; some support BZIP2.

**Files processed for compression and encryption shall be in the binary OpenPGP format as per OpenPGP Message Format - RFC 4880, see [6]. 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 [7], that are also royalty-free.**

4.7.2 Registry Operator should use compression and encryption thus:

**4.10 Processing of data files. The process to follow for a data file in original text format is:**

- (1) The file should be compressed. This specification does not require that this be done either together with or separate from the encryption process. **The suggested algorithm for compression is ZIP as per RFC 4880.**
- (2) The compressed data shall be encrypted using the escrow agent's public key, a. **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) ~~(2)~~ **A digital signature being file shall be generated and signed for every processed file using the registry's Registry's private key. 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) ~~(3)~~ **The encrypted processed files and digital signatures signature files shall then be transferred to the escrow agent. This specification does not require any particular transmission mechanism though electronic delivery is preferred; acceptable options would include (but are not restricted to) electronic delivery via protocols such as FTP, SFTP, etc., or via delivery of a physical medium such as CD-ROMs, DVD-ROMs, or USB storage devices as agreed with the escrow agent.**
- (6) ~~(4)~~ **The escrow agent may shall then validate that the encrypted data was correctly every (processed) transferred by decrypting the files and data file by validating the its digital signatures signature contained in the corresponding signature file. See 7.**

**5. 4.8-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 shall exchange keys by the same procedure.

6. ~~5-~~**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. Escrow Agent will notify ICANN of all Deposits received, within two business days of receipt.

7. ~~6-~~**Verification Procedures****Procedure.**  
**{To be developed in subsequent version.}**

~~6.1~~ Within two business days after receiving each 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 (which may be by authenticated e-mail).

~~6.2~~ If Escrow Agent discovers that any Deposit fails the verification procedures, Escrow Agent must notify, including by email, fax and phone, Registry Operator and ICANN of such nonconformity within forty eight hours of discovery. 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. Escrow Agent must verify the accuracy or completeness of any such corrected Deposit and give ICANN notice of successful verification within twenty four hours.

8. **References.**

[1] Extensible Provisioning Protocol (EPP), <http://www.rfc-editor.org/rfc/rfc4930.txt>

[2] EPP Domain Name Mapping, <http://www.rfc-editor.org/rfc/rfc4931.txt>

[3] EPP Host Mapping, <http://www.rfc-editor.org/rfc/rfc4932.txt>

[4] EPP Contact Mapping, <http://www.rfc-editor.org/rfc/rfc4933.txt>

[5] Common Format and MIME Type for Comma-Separated Values (CSV) Files, <http://www.rfc-editor.org/rfc/rfc4180.txt>

[6] OpenPGP Message Format, <http://www.rfc-editor.org/rfc/rfc4880.txt>

[7] OpenPGP parameters, <http://www.iana.org/assignments/pgp-parameters/pgp-parameters.xhtml>

[8] IANA Registrar IDs, <http://www.iana.org/assignments/registrar-ids/>

[9] IANA IDN Practices Repository, <http://www.iana.org/domains/idn-tables/>

[10] Domain Name System (DNS) Security Extensions Mapping for the Extensible Provisioning Protocol (EPP), <http://www.rfc-editor.org/rfc/rfc4310.txt>

## PART B – LEGAL REQUIREMENTS

1. **Identity of Escrow Agent.** Prior to entering into an escrow agreement, the Registry Operator must contact and inform 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. ICANN must be expressly designated a third-party beneficiary of such agreement.**
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 ~~escrow agreement~~ **Registry Agreement shall** remain with the 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 Deposits are **during the term of the Registry Agreement any Deposit is** released from escrow **to ICANN,** such rights, if 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 and (ii) protect the integrity and confidentiality of the Deposits using all commercially reasonable measures. 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.  
  
**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, ~~at its expense,~~ in order to comply with the terms and provisions of the escrow agreement, **provided that Registry Operator shall bear the expense of such duplication.**
6. **Release of Deposits.** Escrow Agent will deliver to ICANN or its designee, 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~~ **6.1** the Registry Agreement has expired without renewal, or been terminated; or
- ~~6.2~~ **6.2** ICANN failed, with respect to (a) any Full Deposit or (b) five Incremental Deposits within any calendar month, to receive, within five calendar days after the Deposit's scheduled delivery date, notification of receipt from Escrow Agent; ~~and~~ (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~~ **6.3** ICANN has received notification from Escrow Agent of failed verification of a Full Deposit or of failed verification of five Incremental 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 ~~the~~ **such Full Deposit or Incremental** Deposit; or
- ~~6.4~~ **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~~ **6.5** a competent court, arbitral, legislative, or government agency mandates the release of the Deposits to ICANN.
- ~~6.6~~ **6.6** Unless Escrow Agent has previously released the Registry Operator's Deposits to ICANN or its designee, Escrow Agent will deliver all Deposits to ~~Registry Operator~~ **ICANN** upon termination of the Registry Agreement **or the Escrow Agreement**.

**7. Verification of Deposits.**

**7.1 Within two business days after receiving each 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 (which may be by authenticated e-mail).**

**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 forty-eight hours of discovery. 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. Escrow Agent must verify the accuracy or completeness of any such corrected Deposit and give ICANN notice of successful verification within twenty-four hours.**

**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 ~~at two~~ reports per gTLD monthly reports to registry-reports@icann.org with the following content. **ICANN may request in the future that the reports be delivered by other means.** 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 ~~report relates~~ reports relate.

**1. Service Availability Level Agreement Performance.** Compare DNS, EPP and WHOIS/RDPS service availability performance ~~against service availability Performance Requirements~~ for the reporting month **against the SLA as described in section 4 of SPECIFICATION 62. Per Registrar Activity Report.** This report shall be transmitted to ICANN electronically in a comma or pipe-separated-value format, using formatted file as specified in RFC 4180. The file shall be named “gTLD\_sla\_yyyy-mm.csv”, where “gTLD” is the gTLD name; in case of an IDN-TLD, the A-label shall be used; “yyyy-mm” is the year and month being reported. The file shall contain the following fields per registrar:

<u>Field #</u>	<u>Field Name</u>	<u>Notes</u>
<u>01</u>	<u>epp-service-dt-min</u>	<u>EPP service downtime in minutes. It shall be an integer number.</u>
<u>02</u>	<u>epp-session-cmds-rtt-pct</u>	<u>Percentage of sampled EPP session-commands-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>03</u>	<u>epp-query-cmds-rtt-pct</u>	<u>Percentage of sampled EPP query-commands-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>04</u>	<u>epp-transform-cmds-rtt-pct</u>	<u>Percentage of sampled EPP transform-commands-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>05</u>	<u>rdps-dt-min</u>	<u>RDPS downtime in minutes. It shall be an integer number.</u>
<u>06</u>	<u>rdps-query-rtt-pct</u>	<u>Percentage of sampled RDPS query-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>07</u>	<u>rdps-update-time-pct</u>	<u>Percentage of sampled updates to the RDPS that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>08</u>	<u>dns-service-dt-min</u>	<u>DNS service downtime in minutes. It shall be an integer number.</u>
<u>09</u>	<u>dns-tcp-resolution-rtt-pct</u>	<u>Percentage of sampled TCP DNS-query-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>
<u>10</u>	<u>dns-udp-resolution-rtt-pct</u>	<u>Percentage of sampled UDP DNS-query-RTTs that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.</u>





































