To Prospective Applicants for New gTLDs,

ICANN works toward a common good – a stable and secure global Internet. By maintaining the security and stability of the domain name system, it keeps the Internet running and unified.

This Draft Applicant Guidebook provides detailed information about the rules, requirements and processes of applying for a new generic top-level domain (gTLD). It reflects considerable improvements over the previous version, much of the change due to public participation. This feedback is an essential element of the ICANN model and of the new gTLD planning process.

Since its creation more than ten years ago as a not-for-profit, multi-stakeholder organization, ICANN has promoted competition and choice in the domain name marketplace. This includes a lengthy and detailed public consultation process on how best to introduce new gTLDs. Representatives from a wide variety of stakeholders — governments, individuals, civil society, the business and intellectual property constituencies, and the technology community — were engaged in discussions and bottom-up policy development for more than three years.

In October 2007, the Generic Names Supporting Organization (GNSO), one of the groups that coordinate global Internet policy at ICANN, completed its policy development work and approved a set of recommendations. The Board of Directors adopted the policy at ICANN's June 2008 Paris meeting. You can see a thorough brief of the policy process and outcomes at http://gnso.icann.org/issues/new-gtlds/.

Working groups that contributed to the development of the Guidebook comprised a large cross-section of ICANN community members and experts in various fields. For example:

- the Implementation Recommendations Team (IRT) proposed solutions on trademark protections;
- the Special Trademark Issues (STI) group made recommendations for a Uniform Rapid Suspension System and a Trademark Clearinghouse;
- the Vertical Integration (VI) group is working to devise a consensus-based model for addressing registry/registrar separation issues;
- the Zone File Access (ZFA) group recommended a standard zone file access model to combat potential DNS abuse;
- the High Security Top-Level Domain (HSTLD) group has been working on developing a voluntary designation for 'high security TLDs': enhanced security practices and policies; and
- the Temporary Drafting Group (TDG) is working with ICANN to draft selected proposed elements of the registry agreement.

This has been a truly collaborative effort. Special thanks go to the ICANN community and to other volunteers who contributed countless hours of invaluable work to help solve some of the program's most challenging issues. This version of the Draft Applicant Guidebook brings us close to completing the process, and I look forward to receiving your comments.

Sincerely

Rod Beckstrom
CEO and President

Draft Applicant Guidebook, Version 4

Please note that 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.

ICANN

31 May 2010

Preamble

New gTLDs have been in the forefront of ICANN's agenda since its creation. The new gTLD program will open up the top level of the Internet's namespace to foster diversity, encourage competition, and enhance the utility of the DNS.

Currently the gTLD namespace consists of 21 gTLDs and 255 ccTLDs operating on various models. Each of the gTLDs has a designated "registry operator" according to a Registry Agreement between the operator (or sponsor) and ICANN.   The registry operator is responsible for the technical operation of the TLD, including all of the names registered in that TLD. The gTLDs are served by over 900 registrars, who interact with registrants to perform domain name registration and other related services. The new gTLD program will create a means for prospective registry operators to apply for new gTLDs, and create new options for consumers in the market. When the program launches its first application round, ICANN expects a diverse set of applications for new gTLDs, including IDNs, creating significant potential for new uses and benefit to Internet users across the globe.

The program has its origins in carefully deliberated policy development work by the ICANN community. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—formally completed its policy development work on new gTLDs and approved a set of 19 policy recommendations. Representatives from a wide variety of stakeholder groups—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months on such questions as the demand, benefits and risks of new gTLDs, the selection criteria that should be applied, how gTLDs should be allocated, and the contractual conditions that should be required for new gTLD registries going forward. The culmination of this policy development process was a decision by the ICANN Board of Directors to adopt the community-developed policy in June 2008. A thorough brief to the policy process and outcomes can be found at http://gnso.icann.org/issues/new-gtlds.

ICANN's work is now focused on implementation: creating an application and evaluation process for new gTLDs that is aligned with the policy recommendations and provides a clear roadmap for applicants to reach delegation, including Board approval. This implementation work is reflected in the drafts of the applicant guidebook that have been released for public comment, and in the explanatory papers giving insight into rationale behind some of the conclusions reached on specific topics. Meaningful community input has led to revisions of the draft applicant guidebook. In parallel, ICANN is establishing the resources needed to successfully launch and operate the program.

This draft of the Applicant Guidebook is the fourth draft made available for public comment as the work advances through implementation.

For current information, timelines and activities related to the New gTLD Program, please go to http://www.icann.org/en/topics/new-gtld-program.htm.

Draft Applicant Guidebook, v4

Module 1

Please note that 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.

31 May 2010

Module 1

Introduction to the gTLD Application Process

This module gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required, and when and how to submit them.

This module also describes the conditions associated with particular types of applications, and the stages of the application life cycle.

For more about the origins, history and details of the policy development background to the New gTLD Program, please see http://gnso.icann.org/issues/new-gtlds/.

A glossary of relevant terms is included at the end of this Draft Applicant Guidebook.

Prospective applicants are encouraged to read and become familiar with the contents of this entire module, as well as the others, before starting the application process to make sure they understand what is required of them and what they can expect at each stage of the application evaluation process.

For the complete set of supporting documentation and more about the origins, history and details of the policy development background to the New gTLD Program, please see http://gnso.icann.org/issues/new-gtlds/.

1.1 Application Life Cycle and Timelines

This section provides a description of the stages that an application passes through once it is submitted. Some stages will occur for all applications submitted; others will only occur in specific circumstances. Applicants should be aware of the stages and steps involved in processing applications received.

1.1.1 Application Submission Dates

The application submission period opens at [time] UTC [date].

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The application submission period closes at [time] UTC [date].

To receive consideration, all applications must be submitted electronically through the online application system by the close of the application submission period.

An application will not be considered, in the absence of exceptional circumstances, if:

- It is received after the close of the application submission period.

- The application form is incomplete (either the questions have not been fully answered or required supporting documents are missing). Applicants will not ordinarily be permitted to supplement their applications after submission.

- The evaluation fee has not been paid by the deadline. Refer to Section 1.5 for fee information.

ICANN has gone to significant lengths to ensure that the online application system will be available for the duration of the application submission period. In the event that the system is not available, ICANN will provide alternative instructions for submitting applications.

1.1.2 Application Processing Stages

This subsection provides an overview of the stages involved in processing an application submitted to ICANN. In Figure 1-1, the shortest and most straightforward path is marked with bold lines, while certain stages that may or may not be applicable in any given case are also shown. A brief description of each stage follows.
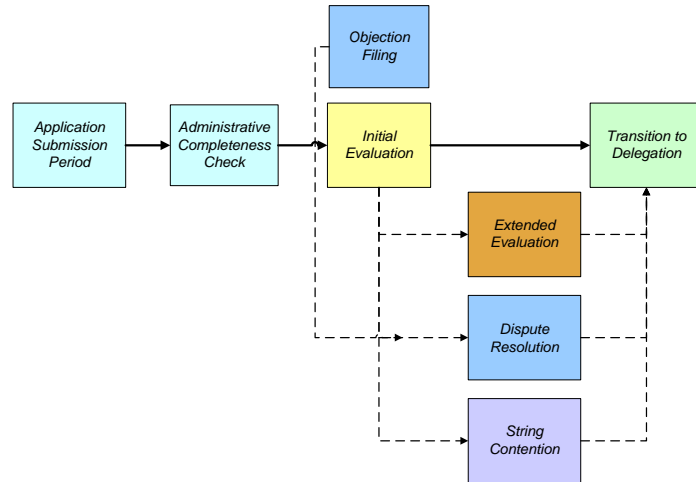
Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

1.1.2.1 *Application Submission Period*

~~Prior to or a~~At the time the application submission period opens, ~~applicants~~ those wishing to submit~~apply for a~~ new gTLD applications can become registered users of the ~~online~~ TLD A~~a~~pplication s~~S~~ystem (TAS). ~~Information provided in the registration process will be used to validate the identity of the registered user.~~

After completing the registration, TAS users will supply a partial deposit for each requested application slot, after which they will receive access codes enabling them to complete the full application form. To complete the application,

~~Through the application system, applicants~~users will answer a series of questions to provide general information, demonstrate financial capability, and demonstrate technical and operational capability. The supporting documents listed in subsection 1.2.2~~3~~ of this module must also be submitted through the application system as instructed in the relevant questions.

Applicants must also submit their evaluation fees during this period. Refer to Section 1.5 of this module for additional information about fees and payments.

Following the close of the application submission period, ICANN will provide applicants with periodic status updates on the progress of their applications.

1.1.2.2 Administrative Completeness Check

Immediately following the close of the application submission period, ICANN will check all applications for completeness. This check ensures that:

- All mandatory questions are answered;

- Required supporting documents are provided in the proper format(s); and

- The evaluation fees have been received.

ICANN will post ~~at one time the~~ all applications considered complete and ready for evaluation as soon as practicable after the close of the application submission period. Certain questions, including selected finance, architecture, and security-related questions, have been designated by ICANN as confidential: applicant responses to these questions will not be posted. Confidential questions are labeled as such in the application form. The remainder of the application as submitted by the applicant will be posted on ICANN's website.

The administrative completeness check is expected to be completed for all applications in a period of approximately 4 weeks, subject to extension depending on volume. In the event that all applications cannot be processed within a 4-week period, ICANN will post updated process information and an estimated timeline.

1.1.2.3 Initial Evaluation

Initial Evaluation will begin immediately after the administrative completeness check concludes. All complete applications will be reviewed during Initial Evaluation. At the beginning of this period, background checks on the applying entity and the individuals named in the application will be conducted. Applications must pass this step before the Initial Evaluation reviews are carried out.

There are two main elements of the Initial Evaluation:

1. String reviews (concerning the applied-for gTLD string). String reviews include a determination that the applied-for gTLD string is not likely to cause security or stability problems in the DNS, including problems caused by similarity to existing TLDs or reserved names.

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2. Applicant reviews (concerning the entity applying for the gTLD and its proposed registry services). Applicant reviews include a determination of whether the applicant has the requisite technical, operational, and financial capability to operate a registry.

By the conclusion of the Initial Evaluation period, ICANN will post notice of all Initial Evaluation results. Depending on the volume of applications received, ~~ICANN may post~~ such notices may be posted in batches over the course of the Initial Evaluation period.

The Initial Evaluation is expected to be completed for all applications in a period of approximately 5 months. If the number of applications is ~~a number~~ in the range of 400-500, this timeframe would increase by 1-3 months. In th~~is~~e event that the volume exceeds this amount, ~~ICANN will construct~~ a method will be constructed for processing applications in batches, which will extend the time frames involved. Applications will be selected randomly for each batch; however, measures will be taken to ensure that all contending strings are in the same batch. In this event, ICANN will post updated process information and an estimated timeline.

1.1.2.4   Objection Filing

Formal objections to applications can be filed on any of four enumerated grounds, by parties with standing to object. The objection filing period will open after ICANN posts the list of complete applications as described in subsection 1.1.2.2, and will last for approximately 5 ½ months.

Objectors must file such formal objections directly with dispute resolution service providers (DRSPs), not with ICANN. ~~Refer to Module 3, Dispute Resolution Procedures, for further details.~~

The objection filing period will close following the end of the Initial Evaluation period (refer to subsection 1.1.2.3), with a two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period. Objections that have been filed during the objection filing period will be addressed in the dispute resolution stage, which is outlined in subsection 1.1.2.7~~6~~ and discussed in detail in Module 3.

All applicants should be aware that third parties have the opportunity to file objections to any application during the objection filing period. Applicants whose applications are

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the subject of a formal objection will have an opportunity to file a response according to the dispute resolution service provider's rules and procedures ~~(refer to Module 3)~~.

An applicant wishing to file a formal objection to another application that has been submitted would do so within the objection filing period, following the objection filing procedures in Module 3.

1.1.2.5 Public Comment

Public comment mechanisms are part of ICANN's policy development, implementation, and operational processes. As a private-public partnership, ICANN is dedicated to: preserving the operational security and stability of the Internet, promoting competition, to achieving broad representation of global Internet communities, and developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

In the new gTLD application process, all applicants should be aware that public comment fora are a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. Anyone may submit a comment in a public comment forum.

ICANN will open a public comment period at the time applications are publicly posted on ICANN's website (refer to subsection 1.1.2.2), which will remain open for 45 calendar days. This period will allow time for the community to review and submit comments on posted application materials, and for consolidation of the received comments, distribution to the panels performing reviews, and analysis of the comments by the evaluators within the timeframe allotted for Initial Evaluation. The public comment period is subject to extension, in accordance with the time allotted for the Initial Evaluation period, should the volume of applications or other circumstances require.

Comments received during the public comment period will be tagged to a specific application. Evaluators will perform due diligence on the comments (i.e., determine their relevance to the evaluation, verify the accuracy of claims, analyze meaningfulness of references cited) and take the information provided in these comments into consideration. Consideration of the applicability of the

information submitted through public comments will be included in the evaluators' reports.

The public comment forum will remain open through the later stages of the evaluation process, to provide a means for the public to bring any other relevant information or issues to the attention of ICANN.

A distinction should be made between public comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on limited areas outside ICANN's evaluation of applications on their merits. Public comments associated with formal objections will not be considered by panels during Initial Evaluation; however, they may be subsequently considered by an expert panel during a dispute resolution proceeding (see subsection 1.1.2.7).

1.1.2.6̶5̶   *Extended Evaluation*

Extended Evaluation is available only to certain applicants that do not pass Initial Evaluation.

Applicants failing certain elements of the Initial Evaluation can request an Extended Evaluation. If the applicant does not pass Initial Evaluation and does not expressly request an Extended Evaluation, the application will proceed no further. The Extended Evaluation period allows for an̲o̶n̶e̶ additional exchange of information between the applicant and evaluators to clarify information contained in the application. The reviews performed in Extended Evaluation do not introduce additional evaluation criteria.

I̶n̶ ̶a̶d̶d̶i̶t̶i̶o̶n̶ ̶t̶o̶ ̶f̶a̶i̶l̶i̶n̶g̶ ̶e̶v̶a̶l̶u̶a̶t̶i̶o̶n̶ ̶e̶l̶e̶m̶e̶n̶t̶s̶,̶ A̲a̶n̶ application may be required to enter an Extended Evaluation if t̶h̶e̶ a̶p̶p̶l̶i̶e̶d̶-̶f̶o̶r̶ ̶g̶T̶L̶D̶ ̶s̶t̶r̶i̶n̶g̶ ̶o̶r̶ one or more proposed registry services raise technical issues that might adversely affect the security or stability of the DNS. The Extended Evaluation period provides a time frame for these issues to be investigated. Applicants will be informed if such a̲ review̶s̶ a̶r̶e̲i̲s̲ required by the end of the Initial Evaluation period.

Evaluators and any applicable experts consulted will communicate the conclusions resulting from the additional review by the end of the Extended Evaluation period.

At the conclusion of the Extended Evaluation period, ICANN will post all evaluator reports from the Initial and Extended Evaluation periods.

If an application passes the Extended Evaluation, it can then proceed to the next relevant stage. If the application does not pass the Extended Evaluation, it will proceed no further.

The Extended Evaluation is expected to be completed for all applications in a period of approximately 5 months, though this timeframe could be increased based on volume. In this event, ICANN will post updated process information and an estimated timeline.

1.1.2.7~~6~~ *Dispute Resolution*

Dispute resolution applies only to applicants whose applications are the subject of a formal objection.

Where formal objections are filed and filing fees paid during the objection filing period, independent dispute resolution service providers (DRSPs) will initiate and conclude proceedings based on the objections received. The formal objection procedure exists to provide a path for those who wish to object to an application that has been submitted to ICANN. Dispute resolution service providers serve as the fora to adjudicate the proceedings based on the subject matter and the needed expertise. Consolidation of objections filed will occur where appropriate, at the discretion of the DRSP.

Public comments may also be relevant to one or more objection grounds. (Refer to Module 3, Dispute Resolution Procedures, for the objection grounds.) The DRSPs will have access to all public comments received, and will have discretion to consider them.

As a result of a dispute resolution proceeding, either the applicant will prevail (in which case the application can proceed to the next relevant stage), or the objector will prevail (in which case either the application will proceed no further or the application will be bound to a contention resolution procedure). In the event of multiple objections, an applicant must prevail in all dispute resolution proceedings concerning the application to proceed to the next relevant stage. Applicants will be notified by the DRSP(s) of the results of dispute resolution proceedings. ~~Refer to Module 3, Dispute Resolution Procedures, for detailed information.~~

Dispute resolution proceedings, where applicable, are expected to be completed for all applications within approximately a 5 -month time frame. In the event that volume is such that this timeframe cannot be accommodated, ICANN will work with the dispute resolution service providers to create processing procedures and post updated timeline information.

1.1.2.87 String Contention

String contention applies only when there is more than one qualified application for the same or similar gTLD strings.

String contention refers to the scenario in which there is more than one qualified application for the identical gTLD string or for gTLD strings that are so similar that they create a probability of detrimental user confusion if more than one is delegated. Applicants are encouraged to resolve string contention cases among themselves prior to the string contention resolution stage. In the absence of resolution by the contending applicants, sString contention cases are resolved either through a community priority (comparative) evaluation (if a community-based applicant elects it) or through an auction.

In the event of contention between applied-for gTLD strings that represent geographical names, the parties may be required to follow a different process to resolve the contention. See subsection 2.12.1.4 of Module 2 for more information.

Groups of applied-for strings that are either identical or confusingly similar are called contention sets. All applicants should be aware that if an application is identified as being part of a contention set, string contention resolution procedures will not begin until all applications in the contention set have completed all aspects of evaluation, including dispute resolution, if applicable.

To illustrate, as shown in Figure 1-2, Applicants A, B, and C all apply for .EXAMPLE and are identified as a contention set. Applicants A and C pass Initial Evaluation, but Applicant B does not. Applicant B requests Extended Evaluation. A third party files an objection to Applicant C's application, and Applicant C enters the dispute resolution process. Applicant A must wait to see whether Applicants B and C successfully complete the Extended Evaluation and dispute resolution phases, respectively, before it can proceed to the string contention resolution stage. In this example, Applicant B passes the Extended Evaluation, but Applicant C does not prevail in the dispute resolution

proceeding. String contention resolution then proceeds between Applicants A and B.
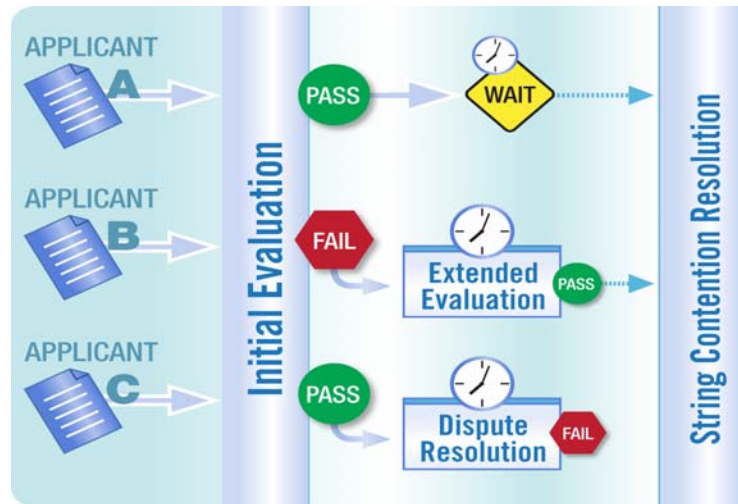

Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

Applicants prevailing in a string contention resolution procedure will proceed toward delegation of the applied-for gTLDs.

In the event of a community priority evaluation (see Module 4, String Contention Procedures), ICANN will provide the comments received during the public comment period to the evaluators with instructions to take the relevant information into account in reaching their conclusions.

String contention resolution for a contention set is estimated to take from 2.5 to 6 months to complete. The time required will vary per case because some contention cases may be resolved in either a community priority (comparative) evaluation or an auction, while others may require both processes.

1.1.2.9*8* *Transition to Delegation*

Applicants successfully completing all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD into the root zone. These steps include execution of a registry agreement with ICANN and completion of a pre-delegation technical test to validate information provided in the application.

Following execution of a registry agreement, the prospective registry operator must complete technical set-up and show satisfactory performance on a set of technical tests before delegation of the gTLD into the root zone may be initiated. If the ~~initial start-up~~pre-delegation testing requirements are not satisfied so that the gTLD can be delegated into the root zone within the time frame specified in the registry agreement, ICANN may in its sole and absolute discretion elect to terminate the registry agreement.

Once all of these steps have been successfully completed, the applicant is eligible for delegation of its applied-for gTLD into the DNS root zone.

It is expected that the transition to delegation steps can be completed in approximately 2 months, though this could take more time depending on the applicant's level of preparedness for the pre-delegation testing and the volume of applications undergoing these steps concurrently.

1.1.3~~2.9~~ Lifecycle Timelines

Based on the estimates for each stage described in this section, the lifecycle for a straightforward application could be approximately 8 months, as follows:
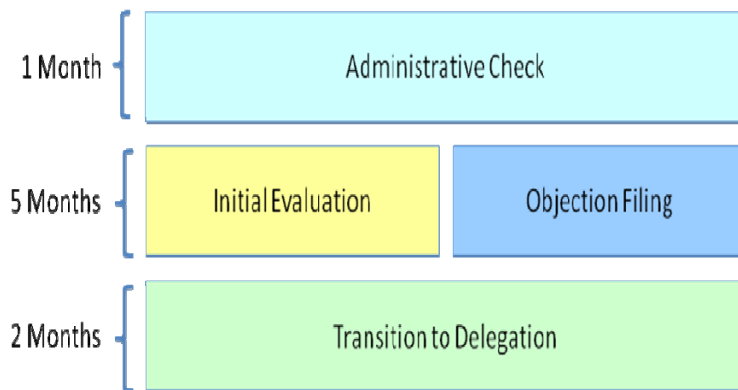

Figure 1-3 – A straightforward application could have an approximate 8-month lifecycle.

The lifecycle for a highly complex application could be much longer, such as 19 months in the example below:
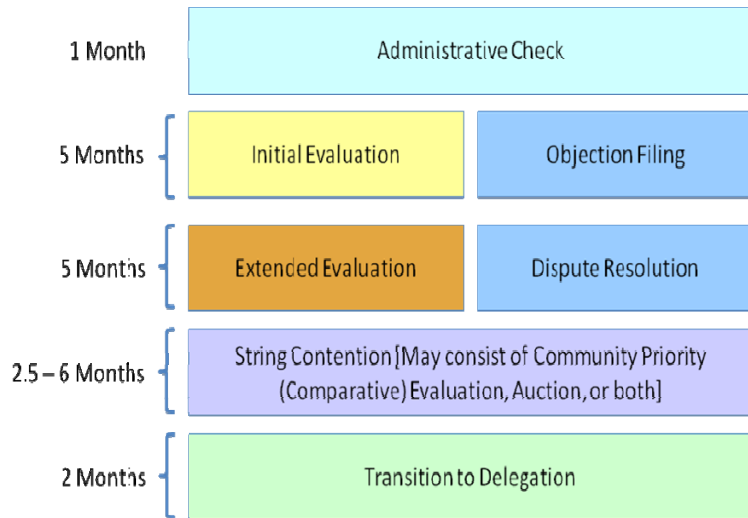
Figure 1-4 – A complex application could have an approximate 19-month lifecycle.

1.1.3 The Role of Public Comment in the Evaluation of Applications

Public comment mechanisms are part of ICANN's policy development and implementation processes. As a private-public partnership, ICANN is dedicated to: preserving the operational security and stability of the Internet, promoting competition, to achieving broad representation of global Internet communities, and developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

In the new gTLD application process, public comments will be a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. ICANN will open a public comment forum at the time the applications are publicly posted on ICANN's website (refer to subsection 1.1.2.2), which will remain open through the evaluation stages described in subsection 1.1.2. Anyone may submit a comment in the public comment forum.

A distinction should be made between public comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on limited areas outside ICANN's evaluation of applications on their merits. A party contacting ICANN to pursue an objection will be referred to the formal objection channels designed specifically for resolving these matters

in the new gTLD application process. More information on the objection and dispute resolution processes is available in Module 3. Public comments received will be provided to the evaluators during the Initial and Extended Evaluation periods. Evaluators will perform take the information provided in these comments into consideration. Consideration of the applicability of the information submitted through public comments will be included in the evaluators' reports.

Public comments may also be relevant to one or more objection grounds. (Refer to Module 3, Dispute Resolution Procedures, for the objection grounds.) ICANN will provide all public comments received to DRSPs, who will have discretion to consider them.

In the event of a community priority (comparative) evaluation (see Module 4, String Contention Procedures), ICANN will provide the comments received to the evaluators with instructions to take the relevant information into account in reaching their conclusions. As the community priority (comparative) evaluation includes assessment of relevant support and opposition, such comments are relevant to the task.

1.1.4 Posting Periods

The results of application reviews will be made available to the public at various stages in the process, as shown below.

Period	Posting Content
End of Administrative Check	All applications that have passed the Administrative Completeness Check are posted (confidential portions redacted).
During Initial Evaluation	Application status is updated with results from the Background Check and DNS Stability review as completed. Results from String Similarity review, including string contention sets, will be posted.
End of Initial Evaluation	Application status is updated with all Initial Evaluation results.
End of Extended Evaluation	Application status is updated with all Extended Evaluation results. Evaluation panelists' summary reports from the Initial and Extended Evaluation periods are posted.
During Objection Filing/Dispute Resolution	Updates to filed objections and status available via Dispute Resolution Service Provider websites. Notice of all objections posted by ICANN

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	after close of Objection Filing period.
During Contention Resolution (Community Priority Evaluation)	Results of each Community Priority Evaluation posted as completed.
During Contention Resolution (Auction)	Results from an auction will be posted as completed.
Transition to Delegation	Registry Agreements will be posted when executed. Pre-delegation testing status will be provided.

1.1.~~5~~4 *Sample Application Scenarios*

The following scenarios briefly show a variety of ways in which an application may proceed through the evaluation process. The table that follows exemplifies various processes and outcomes. This is not intended to be an exhaustive list of possibilities. There are other possible combinations of paths an application could follow.

Estimated time frames for each scenario are also included, based on current knowledge. Actual time frames may vary depending on several factors, including the total number of applications received by ICANN during the application submission period. It should be emphasized that most applications are expected to pass through the process in the shortest period of time, i.e., they will not go through extended evaluation, dispute resolution, or string contention resolution processes. Although most of the scenarios below are for processes extending beyond eight~~8~~ months, it is expected that most applications ~~will be complete~~ will complete the process~~d~~ within the eight-month timeframe.

Scenario Number	Initial Eval-uation	Extended Eval-uation	Objec-tion(s) Filed	String Conten-tion	Ap-proved for Dele-gation Steps	Esti-mated Elapsed Time
1	Pass	N/A	None	No	Yes	8 months
2	Fail	Pass	None	No	Yes	13 months
3	Pass	N/A	None	Yes	Yes	10.5 – 14 months
4	Pass	N/A	Applicant prevails	No	Yes	13 months
5	Pass	N/A	Objector prevails	N/A	No	11 months
6	Fail	Quit	N/A	N/A	No	6 months
7	Fail	Fail	N/A	N/A	No	11 months

Scenario Number	Initial Evaluation	Extended Evaluation	Objection(s) Filed	String Contention	Approved for Delegation Steps	Estimated Elapsed Time
8	Fail	Pass	Applicant prevails	Yes	Yes	15.5 – 19 months
9	Fail	Pass	Applicant prevails	Yes	No	13.5 – 17 months

Scenario 1 – Pass Initial Evaluation, No Objection, No Contention – In the most straightforward case, the application passes Initial Evaluation and there is no need for an Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. As there is no contention for the applied-for gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD. Most applications are expected to complete the process within this timeframe.

Scenario 2 – Extended Evaluation, No Objection, No Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. As with Scenario 1, no objections are filed during the objection period, so there is no dispute to resolve. As there is no contention for the gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 3 – Pass Initial Evaluation, No Objection, Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. No objections are filed during the objection period, so there is no dispute to resolve. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the application prevails in~~wins~~ the contention resolution, and the other contenders are denied their applications, so the ~~winning~~ applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 4 – Pass Initial Evaluation, Win Objection, No Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing (refer to Module 3, Dispute Resolution

Procedures). The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. The applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 5 – Pass Initial Evaluation, Lose Objection – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, multiple objections are filed by one or more objectors with standing for one or more of the four enumerated objection grounds. Each objection is heard by a dispute resolution service provider panel. In this case, the panels find in favor of the applicant for most of the objections, but one finds in favor of the objector. As one of the objections has been upheld, the application does not proceed.

Scenario 6 – Fail Initial Evaluation, Applicant Withdraws – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant decides to withdraw the application rather than continuing with Extended Evaluation. The application does not proceed.

Scenario 7 – Fail Initial Evaluation, Fail Extended Evaluation -- In this case, the application fails one or more aspects of the Initial Evaluation. The applicant requests Extended Evaluation for the appropriate elements. However, the application fails Extended Evaluation also. The application does not proceed.

Scenario 8 – Extended Evaluation, Win Objection, Pass Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the applicant prevails over other applications in the contention resolution procedure, the applicant can enter into a registry agreement, and the application can proceed toward delegation of the applied-for gTLD.

Scenario 9 – Extended Evaluation, Objection, Fail Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate

elements. Here, the application passes the Extended Evaluation. During the objection filing period, an objection is filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider that finds~~rules~~ in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, another applicant prevails in the contention resolution procedure, and the application does not proceed.

Transition to Delegation – After an application has successfully completed Initial Evaluation, and other stages as applicable, the applicant is required to complete a set of steps leading to delegation of the gTLD, including execution of a registry agreement with ICANN, and completion of pre-delegation testing. Refer to Module 5 for a description of the steps required in this stage.

1.1.6~~5~~ Subsequent Application Rounds

ICANN's goal is to launch subsequent gTLD application rounds as quickly as possible. The exact timing will be based on experiences gained and changes required after this round is completed. The goal is for the next application round to begin within one year of the close of the application submission period for this round.

1.2   Information for All Applicants

1.2.1   Eligibility

~~Any e~~Established corporations, organizations, or institutions in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered.

Note that all applicants will be subject to a background check process. The background check is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to ~~may~~ deny an otherwise qualified application, or to contact the applicant with additional questions, based on the information obtained in the background check.

Circumstances where ICANN may deny an otherwise qualified application include, but are not limited to ~~if:~~
~~a.~~ instances where the ~~a~~Applicant, or any partner, officer, director, or manager, or any person or entity owning (or

beneficially owning) fifteen percent or more of the applicant:

i. within the past ten years, has been convicted of a felony, or of a misdemeanor related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that ICANN deemed as the substantive equivalent of any of these;

ii. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of the funds of others;

iii. is currently involved in any judicial or regulatory proceeding that could result in a conviction, judgment, determination, or discipline of the type specified in (ia) or (iib);

iv. is the subject of a disqualification imposed by ICANN and in effect at the time the application is considered; or

v. fails to provide ICANN with the identifying information necessary to confirm identity at the time of application;.

b. Applicant, or any partner, officer, director, or manager, or any person or entity owning (or beneficially owning) fifteen percent or more of applicant

vi. is the subject of a pattern of decisions indicating liability for, or repeated practice of bad faith in regard to domain name registrations, including:

)a) acquiring domain names primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to the owner of a trademark or service mark or to a competitor, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or

)b) registering domain names in order to prevent the owner of the trademark or

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service mark from reflecting the mark in a corresponding domain name; or

~~-~~c) registering domain names primarily for the purpose of disrupting the business of a competitor; or

d) using domain names with intent to attract, for commercial gain, Internet users to a web site or other on-line location, by creating a likelihood of confusion with a trademark or service mark as to the source, sponsorship, affiliation, or endorsement of the web site or location or of a product or service on the web site or location.

All applicants are required to make specific declarations regarding the above events.

Restrictions on Registrar Cross-Ownership[1] -- Applications will not be considered from any of the following:

1.   ICANN-accredited registrars or their Affiliates;

2.   Entities controlling or Beneficially Owning more than 2% of any class of securities of an ICANN-accredited registrar or any of its Affiliates; or

3.   Entities where 2% or more of voting securities are beneficially owned by an ICANN-accredited registrar or any of its Affiliates.

Further, applications where the applicant has engaged an ICANN-accredited registrar, reseller, or any other form of distributor or any of their Affiliates (or any person or entity acting on their behalf) to provide any registry services for the TLD will not be approved.

"Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person or entity specified.

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[1] Note: The text in this section is possible implementation language resulting from the resolutions of the ICANN Board (adopted at the ICANN Meeting in Nairobi) with respect to the separation of registry and registrar functions and ownership <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#5>. During the recent Board Retreat in Dublin during May 2010, the Board reviewed possible issues that might result from a strict interpretation of the Board's resolutions. It was the sense of the Board that: 1) the draft proposed stricter limitations on cross ownership represents a "default position" and they continue to encourage the GNSO to develop a stakeholder-based policy on these issues; 2) a very strict interpretation of the resolutions might create unintended consequences; 3) staff should produce language in the agreement matching a "de minimus" acceptable approach (2% language) while remaining generally consistent with the resolutions; 4) the Board encourages community input and comment on the correct approach to these issues in the absence of GNSO policy; and 5) the Board will review this issue again if no GNSO policy results on these topics.

"Control" (including as used in the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

A person or entity that possesses "Beneficial Ownership" of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares (A) voting power which includes the power to vote, or to direct the voting of, such security; and/or (B) investment power which includes the power to dispose, or to direct the disposition of, such security.

1.2.2   Required Documents

All applicants should be prepared to submit the following documents, which are required to accompany each application[2]:

1. **Proof of legal establishment –** Documentation of the applicant's establishment as a specific type of entity in accordance with the applicable laws of its jurisdiction.

2. **Proof of good standing** – Documentation from the applicable body in the applicant's jurisdiction that the applicant is in good standing.

    Under some laws or jurisdictions, it may be possible to prove both establishment and good standing with a single document. That is, the same document may suffice for items 1 and 2.

    The documents supplied for proof of establishment and good standing should constitute a coherent response for the applicant's jurisdiction.

3. 2. **Financial statements**. Applicants must provide audited or independently certified financial statements for the most recently completed fiscal year for the applicant. In some cases, unaudited financial statements may be provided.

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[2] The proof of good standing documentation has been eliminated as a document requirement since this will be covered during the background check (see Module 2). This also helps to eliminate the complexities for applicants in obtaining particular types of documentation to meet proof of good standing requirements, given that such documentation practices vary widely across global regions.

Supporting documentation should be submitted in the original language. English translations are not required.

All documents must be valid at the time of submission. Refer to the Evaluation Criteria, attached to Module 2, for additional details on the requirements for these documents.

Some types of supporting documentation are required only in certain cases:

1. *Community endorsement –* If an applicant has designated its application as community-based (see section 1.2.3), it will be asked to submit a written endorsement of its application by one or more established institutions representing the community it has named. An applicant may submit written endorsements from multiple institutions. If applicable, this will be submitted in the section of the application concerning the community-based designation.

2. *Government support or non-objection* – If an applicant has applied for a gTLD string that is a geographical name, the applicant is required to submit a statement of support for or non-objection to its application from the relevant governments or public authorities. Refer to subsection 2.2.1.4 for more information on the requirements for geographical names.

3. *Documentation of third-party funding commitments –* If an applicant lists funding from third parties in its application, it must provide evidence of commitment by the party committing the funds. If applicable, this will be submitted in the financial section of the application.

1.2.3 Community-Based Designation

All applicants are required to designate whether their application is **community-based**.

1.2.3.1 Definitions

For purposes of this Applicant Guidebook, a **community-based gTLD** is a gTLD that is operated for the benefit of a clearly delineated community. Designation or non-designation of an application as community-based is entirely at the discretion of the applicant. Any applicant

may designate its application as community-based; however, each applicant making this designation is asked to substantiate its status as representative of the community it names in the application by submission of written endorsements in support of the application. Additional information may be requested in the event of a community priority (comparative) evaluation (refer to Section 4.2 of Module 4). An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a clearly delineated community.

2. Have applied for a gTLD string strongly and specifically related to the community named in the application.

3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD, commensurate with the community-based purpose it has named.

4. Have its application endorsed in writing by one or more established institutions representing the community it has named.

For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as a **standard application.** A standard gTLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. A standard applicant may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designated the application as community-based.[3]

1.2.3.2 *Implications of Application Designation*

Applicants should understand how their designation as community-based or standard will affect application processing at particular stages, and, if the application is successful, execution of the registry agreement and subsequent obligations as a gTLD registry operator, as described in the following paragraphs.

Objection / Dispute Resolution – All applicants should understand that an objection may be filed against any application on community grounds, even if the applicant has not designated itself as community-based or declared

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[3] The term "standard" here replaces the previous terminology of "open" for applications not designated as community-based. "Open" was generally seen as misleading, since an "open" application could in fact impose tight restrictions on registration in its TLD.

the gTLD to be aimed at a particular community. Refer to Module 3, Dispute Resolution Procedures.

String Contention – Resolution of string contention may include one or more components, depending on the composition of the contention set and the elections made by community-based applicants.

- A **settlement between the parties** can occur at any time after contention is identified. The parties will be encouraged to meet with an objective to settle the contention. Applicants in contention always have the opportunity to resolve the contention voluntarily, resulting in the withdrawal of one or more applications, before reaching the contention resolution stage.

- A **community priority (comparative) evaluation** will take place only if a community-based applicant in a contention set elects this option. All community-based applicants in a contention set will be offered this option in the event that there is contention remaining after the applications have successfully completed all previous evaluation stages.

- An **auction** will result infor cases of contention not resolved by community priority (comparative) evaluation or agreement between the parties. Auction occurs as a contention resolution means of last resort. If a community priority (comparative) evaluation occurs but does not produce a clear winner, an auction will take place to resolve the contention.

Refer to Module 4, String Contention Procedures, for detailed discussions of contention resolution procedures.

Contract Execution and Post-Delegation – A community-based gTLD applicant will be subject to certain post-delegation contractual obligations to operate the gTLD in a manner consistent with the restrictions associated with its community-based designation. ICANN must approve all material changes to the contract, including changes to community-based nature of the gTLD and any associated provisions.

Community-based applications are intended to be a narrow category, for applications where there are unambiguousdistinct associations among the applicant, the community served, and the applied-for gTLD string. Evaluation of an applicant's designation as community-

based will occur only in the event of a contention situation that results in a community priority (comparative) evaluation. However, any applicant designating its application as community-based will, if the application is approved, be bound by the registry agreement to implement the community-based restrictions it has specified in the application. This is true even if there are no contending applicants.

1.2.3.3   Changes to Application Designation

An applicant may not change its designation as standard or community-based once it has submitted a gTLD application for processing.

1.2.4   Notice concerning Technical Acceptance Issues with New gTLDs

All applicants should be aware that approval of an application and entry into a registry agreement with ICANN do not guarantee that a new gTLD will immediately function throughout the Internet. Past experience indicates that network operators may not immediately fully support new top-level domains, even when these domains have been delegated in the DNS root zone, since third-party software modification may be required and may not happen immediately.

Similarly, software applications sometimes attempt to validate domain names and may not recognize new or unknown top-level domains. ICANN has no authority or ability to require that software accept new top-level domains although it does prominently publicize which top-level domains are valid and has developed a basic tool to assist application providers in the use of current root-zone data.

ICANN encourages applicants to familiarize themselves with these issues and account for them in their startup and launch plans. Successful applicants may find themselves expending considerable efforts working with providers to achieve acceptance of their new top-level domain.

Applicants should review http://www.icann.org/en/topics/TLD-acceptance/ for background. IDN applicants should also review the material concerning experiences with IDN test strings in the root zone (see http://idn.icann.org/).

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1.2.5   Notice concerning TLD Delegations

ICANN is only able to create TLDs as delegations in the DNS root zone, expressed using NS records with any corresponding DS records and glue records. There is no policy enabling ICANN to place TLDs as other DNS record types (such as A, MX, or DNAME records) in the root zone.

1.2.6~~5~~ Terms and Conditions

All applicants must agree to a standard set of Terms and Conditions for the application process. The Terms and Conditions are available in Module 6 of this guidebook.

1.2.7~~6~~   Notice of Changes to Information

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

1.2.8~~7~~   Voluntary ~~Verification~~ Designation for High Security Zones[4]

ICANN and its stakeholders are currently developing a special designation for "High Security Zone Top Level Domains" ("HSTLDs"), through a separate HSTLD program. This voluntary designation is for top-level domains that demonstrate and uphold enhanced security-minded practices and policies. While any registry operator, including successful new gTLD applicants, will be eligible to participate in this program, its development and operation are beyond the scope of this guidebook. An applicant's election to pursue an HSTLD designation is entirely independent of the evaluation process and will require completion of an additional set of requirements.

For more information on the HSTLD program, including current program development material and activities, please refer to http://www.icann.org/en/topics/new-gtlds/hstld-program-en.htm.

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[4] ~~This section is newly included in the guidebook, for comment, with additional details to follow.~~

An applicant for a new gTLD has the option of taking steps to gain a "verified" status by meeting a set of requirements additional to those that are in place for all applicants. If achieved, this status would allow the new gTLD registry operator to display a seal indicating that it is verified as a high-security zone, to enhance consumer awareness and trust.

The verification opportunity is entirely optional. A choice not to pursue verification at the time of the application does not reflect negatively on the applicant nor affect its scores in the evaluation process. The process for verification is entirely independent of the evaluation process and requires submission of a separate request with supporting information.

To achieve verification, the registry operations must be consistent with the following principles:

1. The registry maintains effective controls to provide reasonable assurance that the security, availability, and confidentiality of systems and information assets supporting critical registry functions (i.e., registration services, registry databases, zone administration, and provision of domain name resolution services) and business operations are maintained.

2. The registry maintains effective controls to provide reasonable assurance that the processing of core registry functions is authorized, accurate, complete, and performed in a timely manner in accordance with established policies and standards. The identity of participating entities is established and authenticated.

3. The registry maintains effective controls to provide reasonable assurance that the processing of core registrar functions by its registrars is authorized, accurate, complete, and performed in a timely manner in accordance with established policies and standards. The identity of participating entities is established and authenticated.

The processes required to achieve this high-security status include verification of both registry operations and supporting registrar operations. The verification assessment is performed by an independent entity, external to the gTLD evaluation process.

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In the event that an applicant wishes to pursue the verification option, it participates in a two phased process.

(1) Prior to delegation of the new gTLD, the applicant participates in an assessment (Phase 1) to establish that the TLD operator has designed and established appropriate technical and procedural controls for operations, in line with the requirements.

(2) After the new gTLD has been delegated and begins operations, a specified period will be given for the registry operator to implement all the pre-approved processes and controls. There will then be a second verification assessment (Phase 2) that will test the processes, controls, and procedures documented in Phase 1 to validate that the registry is operating as planned. If deficiencies are identified by the independent assessment agency, they will be communicated to the registry operator. The registry operator will have a limited time to resolve the problem before the request for verification will be turned down. The registry operator is free to re-apply for verification at a later time.

In the event that any new gTLD application completes the evaluation and the TLD is delegated, the registry operator may choose at a later point to request verification and would then complete the above tests in one step. That is, an applicant may choose to take the steps to obtain verification after it has completed the evaluation process and is operating its new gTLD, rather than concurrently with the evaluation process.

The controls necessary to support verification are assessed through audit on a periodic basis, to retain the gTLD's verified status.

The applicant will be required to pay additional fees for both phases of the verification process. The fees will be revenue neutral and will likely be paid to a third party directly.

See the explanatory memorandum *A Model for a High Security Zone Verification Program* for a detailed discussion of the verification option for high security zones.

1.3 Information for Internationalized Domain Name Applicants

Some applied-for gTLD strings are expected to be Internationalized Domain Names (IDNs) that require the insertion of IDN-encoded A-labels into the DNS root zone. IDNs are domain names including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-). As described below, IDNs require the insertion of A-labels into the DNS root zone.

1.3.1 IDN-Specific Requirements

An applicant for an IDN string must provide accompanying information indicating compliance with the IDNA protocol and other technical requirements. The IDNA protocol is currently under revision and its documentation can be found at http://icann.org/en/topics/idn/rfcs.htmhttp://tools.ietf.org/wg/idnabis/.

Applicants must provide applied-for gTLD strings in the form of both a **U-label** (the IDN TLD in local characters) and an **A-label**.

An A-label is the ASCII form of an IDN label. Every IDN A-label begins with the IDNA ACE prefix, "xn--", followed by a string that is a valid output of the Punycode algorithm, making and hence is a maximum of 6359total ASCII characters in length. The prefix and string together must conform to all requirements for a label that can be stored in the DNS including conformance to the LDH (host name) rule described in RFC 1034, RFC 1123, and elsewhere.

A U-label is the Unicode form of an IDN label, which a user expects to seebe displayed in applications.

For example, using the current IDN test string in Cyrillic script, the U-label is <**испытание**> and the A-label is <**xn--80akhbyknj4f>.** An A-label must be capable of being produced by conversion from a U-label and a U-label must be capable of being produced by conversion from an A-label.

Applicants for IDN gTLDs will also be required to provide the following at the time of the application:

1. Short formMeaning or restatement of string (in English). The applicant will provide a short description of what the string would mean or represent in English.

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2. Language of label (ISO 639-1). The applicant will specify the language of the applied-for TLD string, both according to the ISO's codes for the representation of names of languages, and in English.

3. Script of label (ISO 15924). The applicant will specify the script of the applied-for gTLD string, both according to the ISO codes for the representation of names of scripts, and in English.

4. Unicode code points. The applicant will list all the code points contained in the U-label according to its Unicode form.

   IDN tables. An IDN table provides the list of characters eligible for registration in domain names according to registry policy. It will contain any multiple characters that can be considered "the same" for the purposes of registrations at the second level ("variant characters"). Once in use by an active TLD registry, tables will be lodged in the IANA Repository of IDN Practices. For additional information, see existing tables at http://iana.org/domains/idn-tables/, and submission guidelines at http://iana.org/procedures-idn-repository.html

5. Applicants must further demonstrate that they have made reasonable efforts to ensure that the encoded IDN string does not cause any rendering or operational problems. For example, problems have been identified in strings with characters of mixed right-to-left and left-to-right directionality when numerals are adjacent to the path separator (i.e., thea dot).[5]

   If an applicant is applying for a string with known issues, it should document steps that will be taken to mitigate these issues in applications. While it is not possible to ensure that all rendering problems are avoided, it is important that as many as possible are identified early and that the potential registry operator is aware of these issues. Applicants can become familiar with these issues by understanding the IDNA protocol and in particular the proposed new version of the IDNA protocol (see http://www.icann.org/en/topics/idn/rfcs.htm), and by active participation in the IDN wiki (see http://idn.icann.org/) where some rendering problems are demonstrated.

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[5] See examples at http://stupid.domain.name/node/683

6. **[Optional]** - Representation of label in phonetic alphabet. The applicant may choose to provide its applied-for gTLD string notated according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/). Note that this information will not be evaluated or scored. The information, if provided, will be used as a guide to ICANN in responding to inquiries or speaking of the application in public presentations.

1.3.2 IDN Tables

An IDN table provides the list of characters eligible for registration in domain names according to the registry's policy. It identifies any multiple characters that are considered equivalent for domain name registration purposes ("variant characters"). Variant characters (as defined in RFC 3743) occur where a single conceptual character has two or more graphic representations, which may or may not be visually similar. Examples of IDN tables can be found in the IANA IDN Repository at http://www.iana.org/procedures/idn-repository.html.

In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string (the "top level tables"). IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second or lower levels.

Each applicant is responsible for developing its IDN Tables, including specification of any variant characters. Tables must comply with ICANN's IDN Guidelines[6] and any updates thereto, including:

- Complying with IDN technical standards.

- Employing an inclusion-based approach (i.e., code points not explicitly permitted by the registry are prohibited).

- Defining variant characters.

- Excluding code points not permissible under the guidelines, e.g., line-drawing symbols, pictographic dingbats, structural punctuation marks.

- Developing tables and registration policies in collaboration with relevant stakeholders to address common issues.

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[6] http://www.icann.org/en/topics/idn/idn-guidelines-26apr07.pdf

- Depositing IDN tables with the IANA Repository for IDN Practices (once accepted as a TLD).

An applicant's IDN tables should help guard against user confusion in the deployment of IDN gTLDs. Applicants are strongly urged to consider specific linguistic and writing system issues that may cause problems when characters are used in domain names, as part of their work of defining variant characters.

To avoid user confusion due to differing practices across TLD registries, it is recommended that applicants cooperate with TLD operators that offer domain name registration with the same or visually similar characters.

As an example, languages or scripts are often shared across geographic boundaries. In some cases, this can cause confusion among the users of the corresponding language or script communities. Visual confusion can also exist in some instances between different scripts (for example, Greek, Cyrillic and Latin).

Applicants will be asked to describe the process used in developing the IDN tables submitted. ICANN may compare an applicant's IDN table with IDN tables for the same languages or scripts that already exist in the IANA repository or have been otherwise submitted to ICANN. If there are inconsistencies that have not been explained in the application, ICANN may ask the applicant to detail the rationale for differences. For applicants that wish to conduct and review such comparisons prior to submitting a table to ICANN, a table comparison tool will be available. ICANN will accept the applicant's IDN tables based on the factors above.

Once the applied-for string has been delegated as a TLD in the root zone, the submitted tables will be lodged in the IANA Repository of IDN Practices. For additional information, see existing tables at http://iana.org/domains/idn-tables/, and submission guidelines at http://iana.org/procedures/idn-repository.html.

1.3.3 IDN Variant TLDs[7]

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[7] The topic of variant management at the top level has been discussed in the community for some time. ICANN is working to support the implementation of IDN TLDs as quickly as possible, while developing an approach to address variant issues in the short term given that there is not yet an accepted mechanism for managing variants at the top level. An interim draft for implementing recommendations of the IDN-Implementation Working Team on this topic was published for comment previously (see http://icann.org/en/topics/new-gtlds/idn-variants-15feb10-en.pdf. This section attempts to draw on that work and discussion and advance toward a complete implementation solution that could be incorporated into the final version of the Applicant Guidebook. Under the approach described here, variant TLDs are not delegated in the short term, but variant strings declared by the applicant

A variant string results from the substitution of one or more characters in the applied-for gTLD string with variant characters based on the applicant's IDN table.

Each application contains one applied-for gTLD string. The applicant may also declare in its application any variant strings for the TLD.

Each variant string listed must also conform to the string requirements in section 2.2.1.3.2. Variant strings listed in the application will be reviewed for consistency with the IDN tables submitted in the application. Should any declared variant strings not be based on use of variant characters according to the submitted tables, the applicant will be notified and the declared string will no longer be considered part of the application.

If an application is approved, only the applied-for gTLD string will be delegated as a gTLD. Variant strings listed in successful gTLD applications will be tagged to the specific application and added to a "Declared Variants List" that will be available on ICANN's website. A list of pending (i.e., declared) variant strings from the IDN ccTLD Fast Track is available at http://icann.org/en/topics/idn/fast-track/string-evaluation-completion-en.htm. These lists are in place to preserve the possibility of allocating variant TLD strings to the appropriate entities when a variant management mechanism is developed. Any subsequent applications to ICANN for strings on these lists are subject to denial based on the string similarity review (see Module 2).

Variant TLDs may be delegated only when a mechanism for managing variant TLDs is completed and has been tested by ICANN. At that time, applicants may be required to submit additional information such as implementation details for the variant TLD management mechanism, and may need to participate in a subsequent evaluation process, which could contain additional fees and review steps to be determined.

Declaration of variant strings in an application does not provide the applicant any right or reservation to a particular string. Variant strings on the Declared Variants List may be subject to subsequent additional review per a process and criteria to be defined. It should be noted here that while variants for second and lower-level registrations

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are recorded to preserve the opportunity for delegation of the desired variant TLDs once an appropriate mechanism is developed and tested.

are defined freely by the local communities without any ICANN validation, there may be specific rules and validation criteria specified for variants to be allowed at the top level. It is expected that the variant information provided by applicants in the first application round will contribute to a better understanding of the issues and assist in determining appropriate review steps and fee levels going forward.

Note on Variants -- Currently, the gTLD application process is established so that each application is for one string, whether ASCII or IDN. There has been comment that applications for IDN strings should also accommodate variant strings. Discussions on possible methods of managing variants at the top level have indicated that restricting variants from being delegated in the DNS root zone might disenfranchise certain regions that otherwise would benefit greatly from the introduction of IDN TLDs.

Delegating variant TLDs in the root zone without a mechanism for ensuring that the TLDs are treated in a method that guarantees a good user experience is a stability concern related to confusability for end-users. This can be compared to the "companyname.com" situation, where two domain names (one with all Latin characters and the other with mixed Latin and Cyrillic) look identical, but were different technically. Users clicked on the "wrong" address leading to a site different than expected. This activity resulted in a change in the IDN Guidelines, requiring that scripts not be mixed in domain names unless there is a linguistic reason for doing so (e.g., in the case of Japanese that is represented by mixing of four scripts). This is also a requirement for TLDs, but does not solve the variant issue.

At the same time, disallowing or blocking variant TLDs means that some users will have a very difficult time using the IDN TLDs. In some cases it is not possible for the user to know which character he or she is typing. Some keyboards will offer one or another variant character but not both. In this way, without the variant TLDs in the root, communities may be getting error messages when attempting to reach, for example, a web address with a domain name under one of these IDN TLDs. This is not the intent of IDN deployment. Rather, the objective is to help all communities have equal access to the Internet.

Not all variants are visually confusing. To maximize benefit, ICANN has attempted to define variants in a narrow manner, only including variants that are visually confusing.

The intent was to allow variant TLDs that are not visually confusable with others to be delegated in the DNS root zone while a stable solution was found to address the variants that are similar.

At this time it is an open question whether stability issues include variant TLDs that look different, and are typed differently, but are used interchangeably for the same term by the users.

Another open question is the content of an agreement between the IDN TLD operator and ICANN requiring that registrations under two variant TLDs be handled (say, in a bundled or aliased manner, following RFC 3747, or a different technical solution) in a certain manner.

Finally, there is the question of whether it is necessary to enforce rules required for the development of IDN Tables. IDN Tables hold information about the characters that should be treated as variants. The TLD operators develop IDN tables. Presently, TLD operators are urged to consider linguistic and writing system issues in their work of defining variants, and cooperate with other TLD operators that offer the same or very similar looking characters. This is not always practically possible, and there are currently no rules about defining variants. There also are no defined dispute mechanisms in cases where communities may disagree on a variant definition.

An implementation support team of technical and linguistic experts is examining this set of issues and expects to publish a proposed solution for managing variants at the top level. The proposed solution would then be available for public comment.

1.4 Submitting an Application

Applicants may complete the application form and submit supporting documents using ICANN's TLD Application System (TAS). To access the system, each applicant must first register as a TAS user.

As TAS users, applicants will be able to provide responses in open text boxes and submit required supporting documents as attachments. Restrictions on the size of attachments as well as the file formats are included in the instructions on the TAS site.

ICANN will not accept application forms or supporting materials submitted through other means than TAS (that is, hard copy, fax, email), unless such submission is in

accordance with specific instructions from ICANN to applicants.

1.4.1 Accessing the TLD Application System

The TAS site will be accessible from the New gTLD webpage (http://www.icann.org/en/topics/new-gtld-program.htm), and will be highlighted in communications regarding the opening of the application submission period.

The TAS site is located at [URL to be inserted in final version of Applicant Guidebook].

1.4.1.1 User Registration

TAS user registration requires submission of preliminary information, which will be used to validate the identity of the parties involved in the application. An overview of the information collected in the user registration process is below:

No.	Questions
1	Full legal name of Applicant
2	Principal business address
3	Phone number of Applicant
4	Fax number of Applicant
5	Website or URL, if applicable
6	Primary Contact: Name, Title, Address, Phone, Fax, Email
7	Secondary Contact: Name, Title, Address, Phone, Fax, Email
8	Proof of legal establishment
9	Trading, subsidiary, or joint venture information
10	Business ID, Tax ID, VAT registration number, or equivalent of Applicant
11	Applicant background: previous convictions, cybersquatting activities
12(a)	Deposit payment confirmation

A subset of identifying information will be collected from the entity performing the user registration, in addition to the applicant information listed above. The registered user could be, for example, an agent, representative, or employee who would be completing the application on behalf of the applicant.

The registration process will require the user to request the desired number of application slots. For example, a user intending to submit five gTLD applications would request five TAS slots, and the system would assign the user a unique ID number for each of the five applications.

Users will also be required to submit a deposit of USD 5,000 per application slot. This deposit amount will be credited against the evaluation fee for each application. The deposit requirement is in place to help reduce the risk of frivolous access to the application system.

After completing the registration, TAS users will receive access codes for each application slot, enabling them to enter the rest of the application information into the system.

No new user registrations will be accepted after [date to be inserted in final version of Applicant Guidebook].

ICANN will take commercially reasonable steps to protect all applicant data submitted from unauthorized access, but cannot warrant against the malicious acts of third parties who may, through system corruption or other means, gain unauthorized access to such data.

1.4.1.2 Application Form

Having obtained the requested application slots, the applicant will complete the remaining application questions. The application form encompasses a set of 50 questions. An overview of the areas and questions contained in the form is shown here:

No.	General Questions Application and String Information
1	Full legal name of Applicant
2	Principal business address
3	Phone number of Applicant
4	Fax number of Applicant

~~5~~	~~Email address for Applicant~~
~~6~~	~~Primary Contact: Name, Title, Address, Phone, Fax, Email~~
~~7~~	~~Secondary Contact: Name, Title, Address, Phone, Fax, Email~~
~~8~~	~~Proof of legal establishment~~
~~9~~	~~Proof of good standing~~
~~10~~	~~Business ID, Tax ID, VAT registration number, or equivalent of Applicant~~
~~12~~(b)	~~Evaluation fee~~ Ppayment confirmation for remaining evaluation fee amount
13	Applied-for gTLD string~~,~~
14	IDN string information, if applicable
15	IDN tables, if applicable
16	Mitigation of IDN operational or rendering problems, if applicable
17	Representation of string in International Phonetic Alphabet (Optional)
18	Mission/purpose of the TLD ~~Is the application for a community-based TLD?~~
19	Is the application for a community-based TLD?~~If community based, describe elements of community and proposed policies~~
20	~~Mission/purpose of the TLD~~If community based, describe elements of community and proposed policies
21	Is the application for a geographical name? If geographical, documents of support required
22	~~Provide m~~Measures for protection of geographical names at second level
23	Registry Services: name and full description of all registry services to be provided
No.	**Technical and Operational Questions**
24	Technical overview of proposed registry
25	Architecture (Confidential)

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No.	
26	Database capabilities
27	Geographic diversity
28	DNS service compliance
29	SRS performance
30	EPP
31	Security policy (Confidential)
32	IPv6 reachability
33	Whois
34	Registration life cycle
35	Abuse prevention and mitigation
36	Rights protection mechanisms
37	Data backup policies and procedures
38	Escrow
39	Registry continuity
40	Registry transition (Confidential)
41	Failover testing
42	Monitoring and fault escalation processes
43	DNSSEC
44	IDNs (Optional)
No.	**Financial Questions**
45	Financial statements (Confidential)
46	Projections template: costs and funding (Confidential)
47	Costs: setup and operating (Confidential)

48	Funding and revenue (Confidential)
49	Contingency planning: barriers, funds, volumes (Confidential)
50	Continuity: financial instrument (Confidential)

1.4.~~2~~3 ~~Technical~~ Applicant Support

~~TAS users~~ TAS will also provide applicants with access to support mechanisms during the application process. A support link will be available in TAS where users can refer to reference documentation (such as FAQs or user guides), or contact customer support. ~~the FAQ/knowledge base or contact [email address to be inserted in final version of Applicant Guidebook] for technical help using the system.~~

When contacting customer support, u~~U~~sers can expect to receive a tracking ticket number for a ~~technical~~ support request, and a response within ~~24 to~~ 48 hours. ~~through the TAS submission tool.~~ Support requests will be routed to the appropriate person, depending upon the nature of the request. For example, a technical support request would be directed to the personnel charged with resolving TAS technical issues, while a question concerning the nature of the required information or documentation would be directed to an appropriate contact. The response will be added to the reference documentation available for all applicants.

1.4.~~3~~4 Backup Application Process

If the online application system is not available, ICANN will provide alternative instructions for submitting applications.

1.5 Fees and Payments

This section describes the fees to be paid by the applicant. Payment instructions are also included here.

1.5.1 gTLD Evaluation Fee

The gTLD evaluation fee is required from all applicants. This fee is in the amount of USD 185,000. The evaluation fee is payable in the form of a 5,000 deposit submitted at the time the user registers with TAS, and a payment of the remaining 180,000 submitted with the application. ICANN will not begin its evaluation of an application unless it has received the full gTLD evaluation fee by [time] UTC [date]. The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that

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the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.

The gTLD evaluation fee covers all required reviews in Initial Evaluation and, in most cases, any required reviews in Extended Evaluation. If an extended Registry Services review takes place, an additional fee will be incurred for this review (see section 1.5.2). There is no additional fee to the applicant for Extended Evaluation for DNS stability, geographical names, technical and operational, or financial reviews. The evaluation fee also covers community priority (comparative) evaluation fees in cases where the applicant achieves a passing score.

Refunds -- In certain cases, refunds of a portion of the evaluation fee may be available for applications that are withdrawn before the evaluation process is complete. The amount of the refund will depend on the point in the process at which the withdrawal is made, as follows:

Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
After posting of applications until posting of Initial Evaluation results	70%	USD 130,000
After posting Initial Evaluation results	35%	USD 65,000
After the applicant has completed Dispute Resolution, Extended Evaluation, or String Contention Resolution(s)	20%	USD 37,000

Thus, any applicant that has not been successful is eligible for at least a 20% refund of the evaluation fee if it withdraws its application.

An applicant that wishes to withdraw an application must submit the required form to request a refund, including agreement to the terms and conditions for withdrawal. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN will be deducted from the amount paid.

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Note on 2000 proof-of-concept round applicants --
Participants in ICANN's proof-of-concept application process in 2000 may be eligible for a credit toward the evaluation fee. The credit is in the amount of USD 86,000 and is subject to:

- submission of documentary proof by the applicant that it is the same entity, a successor in interest to the same entity, or an affiliate of the same entity that applied previously;

- a confirmation that the applicant was not awarded any TLD string pursuant to the 2000 proof of concept application round and that the applicant has no legal claims arising from the 2000 proof of concept process; and

- submission of an application, which may be modified from the application originally submitted in 2000, for the same TLD string that such entity applied for in the 2000 proof-of-concept application round.

Each participant in the 2000 proof-of-concept application process is eligible for at most one credit. A maximum of one credit may be claimed for any new gTLD application submitted according to the process in this guidebook. Eligibility for this credit is determined by ICANN.

1.5.2   *Fees Required in Some Cases*

Applicants may be required to pay additional fees in certain cases where specialized process steps are applicable. Those possible additional fees include:

- ***Registry Services Review Fee –*** If applicable, this fee is payable for additional costs incurred in referring an application to the RSTEP for an extended review. Applicants will be notified if such a fee is due. The fee for a three member RSTEP review team is anticipated to be USD 50,000. In some cases, five-member panels might be required, or there might be increased scrutiny at a greater cost. In every case, the applicant will be advised of the cost before initiation of the review. Refer to subsection 2.2.3 of Module 2 on Registry Services review.

- ***Dispute Resolution Filing Fee –*** This amount must accompany any filing of a formal objection and any response that an applicant files to an

objection. This fee is payable directly to the applicable dispute resolution service provider in accordance with the provider's payment instructions. ICANN estimates that non-refundable filing fees could range from approximately USD 1,000 to USD 5,000 (or more) per party per proceeding. Refer to the appropriate provider for the relevant amount. Refer to Module 3 for dispute resolution procedures.

- *Advance Payment of Costs*~~*Dispute Resolution Adjudication Fee*~~ – ~~This fee~~In the event of a formal objection, this is payable directly to the applicable dispute resolution service provider in accordance with that provider's procedures and schedule of costs. Ordinarily, both parties in the dispute resolution proceeding will be required to submit an advance payment of costs in an estimated amount to cover the entire cost of the proceeding. This may be either an hourly fee based on the estimated number of hours the panelists will spend on the case (including review of submissions, facilitation of a hearing, if allowed, and preparation of a decision), or a fixed amount. In cases where disputes are consolidated and there are more than two parties involved, the advance payment ~~of fees~~ will occur according to the dispute resolution service provider's rules.

  The prevailing party in a dispute resolution proceeding will have its advance payment refunded, while the non-prevailing party will not receive a refund and thus will bear the cost of the proceeding. In cases where disputes are consolidated and there are more than two parties involved, the refund of fees will occur according to the dispute resolution service provider's rules.

  ICANN estimates that adjudication fees for a proceeding involving a fixed amount could range from USD 2,000 to USD 8,000 (or more) per proceeding. ICANN further estimates that an hourly rate based proceeding with a one-member panel could range from USD 32,000 to USD 56,000 (or more) and with a three-member panel it could range from USD 70,000 to USD 122,000 (or more). These estimates may be lower if the panel does not call for written submissions beyond the objection and response, and does not allow a hearing. Please refer to the appropriate provider for the

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relevant amounts or fee structures. ~~Refer also to Section 3.3 of Module 3 for further details.~~

- *Community Priority ~~(Comparative)~~ Evaluation Fee –* In the event that the applicant participates in a community priority ~~(comparative)~~ evaluation, this fee is payable as a deposit in an amount to cover the cost of the panel's review of that application (currently estimated at USD 10,000). The deposit is payable to the provider appointed to handle community priority ~~(comparative)~~ evaluations. Applicants will be notified if such a fee is due. Refer to Section 4.2 of Module 4 for circumstances in which a community priority ~~(comparative)~~ evaluation may take place. An applicant who scores at or above the threshold for the community priority ~~(comparative)~~ evaluation will have its deposit refunded.

ICANN will notify the applicants of due dates for payment in respect of additional fees (if applicable). This list does not include fees (annual registry fees) that will be payable to ICANN following execution of a registry agreement.

1.5.3 Payment Method*s*

Payments to ICANN should be submitted by **wire transfer**. Instructions for making a payment by wire transfer will be available in TAS.[8]

Payments to Dispute Resolution Service Providers should be submitted in accordance with the provider's instructions.

1.5.4 Requesting an Invoice

The TAS interface allows applicants to request issuance of an invoice for any of the fees payable to ICANN. This service is for the convenience of applicants that require an invoice to process payments.

1.6 Questions about this Applicant Guidebook

For assistance and questions an applicant may have in the process of completing the application form, applicants should use the support resources available through TAS~~a question and answer forum will be open for the duration of the application submission period~~. Applicants who are

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[8] Wire transfer ~~ishas been identified as~~ is the preferred method of payment as it offers a globally accessible and dependable means for international transfer of funds. This enables ICANN to receive the fee and begin processing applications as quickly as possible.

unsure of the information being sought in a question or the parameters for acceptable documentation are encouraged to communicate these questions through the appropriate support channels before the application is submitted. This helps to avoid the need for exchanges with evaluators to clarify information, which extends the timeframe associated with the application.

Questions may be submitted via the TAS support linkto [email address to be inserted in final version of Applicant Guidebook]. To provide all applicants equitable access to information, ICANN will post all questions and answers on the TAS support page, as well as in a centralized location on its public website.

All requests to ICANN for information about the process or issues surrounding preparation of an application must be submitted in writing viato the designated support channelsemail address. ICANN will not grant requests from applicants for personal or telephone consultations regarding the preparation of an application. Applicants that contact ICANN for clarification about aspects of the application will be referred to the dedicated online question and answer area.

Answers to inquiries will only provide clarification about the application forms and procedures. ICANN will not provide consulting, financial, or legal advice.

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DRAFT - New gTLD Program - Evaluation Process

ICANN

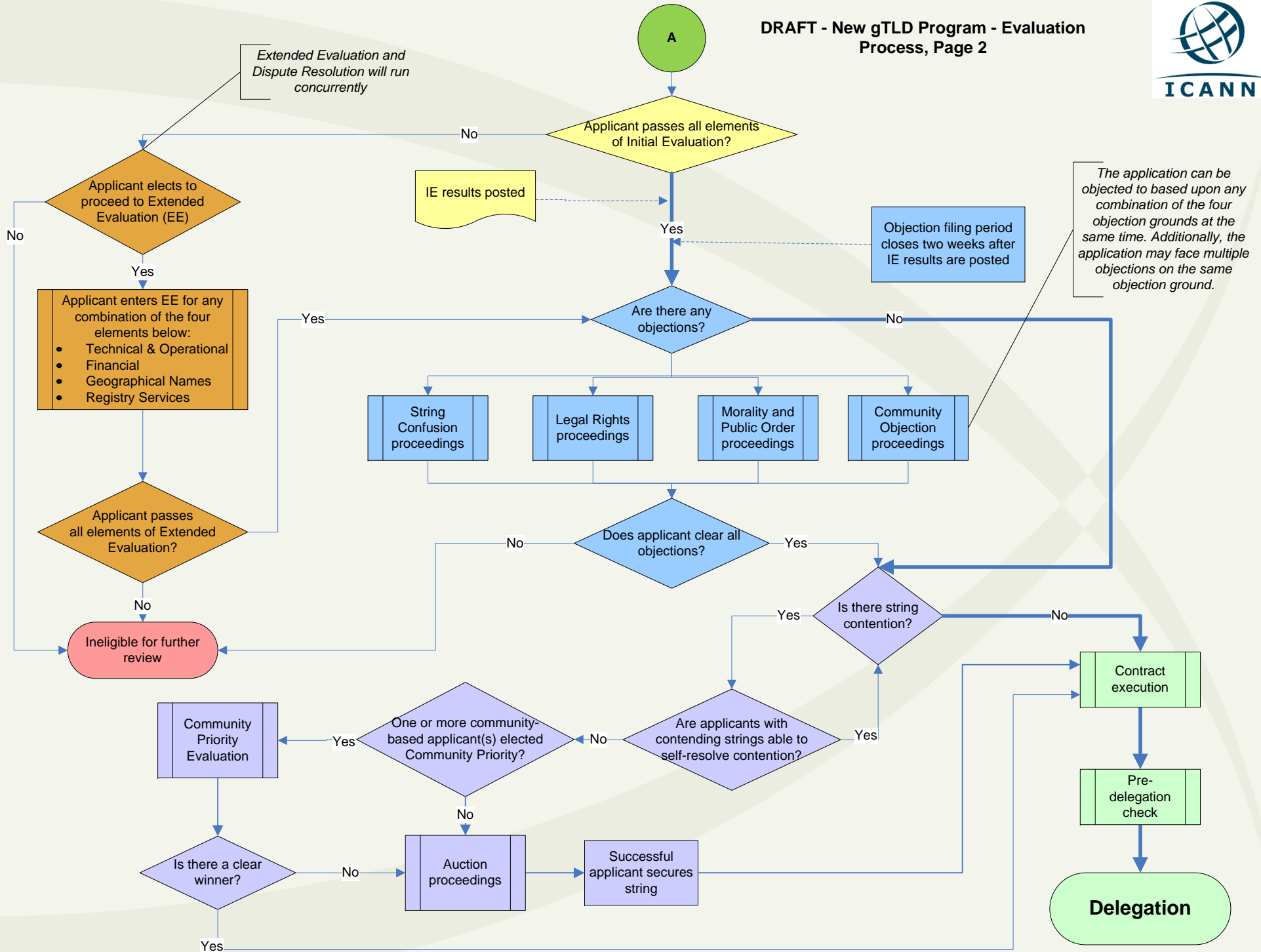**Application period opens** → **Application period closes** → **Applications reviewed for completeness** → **Pass Admin Check?**

Pass Admin Check? — Yes → **Applications posted for public comment**

Pass Admin Check? — No → **Ineligible for further review**

Objection filing period opens
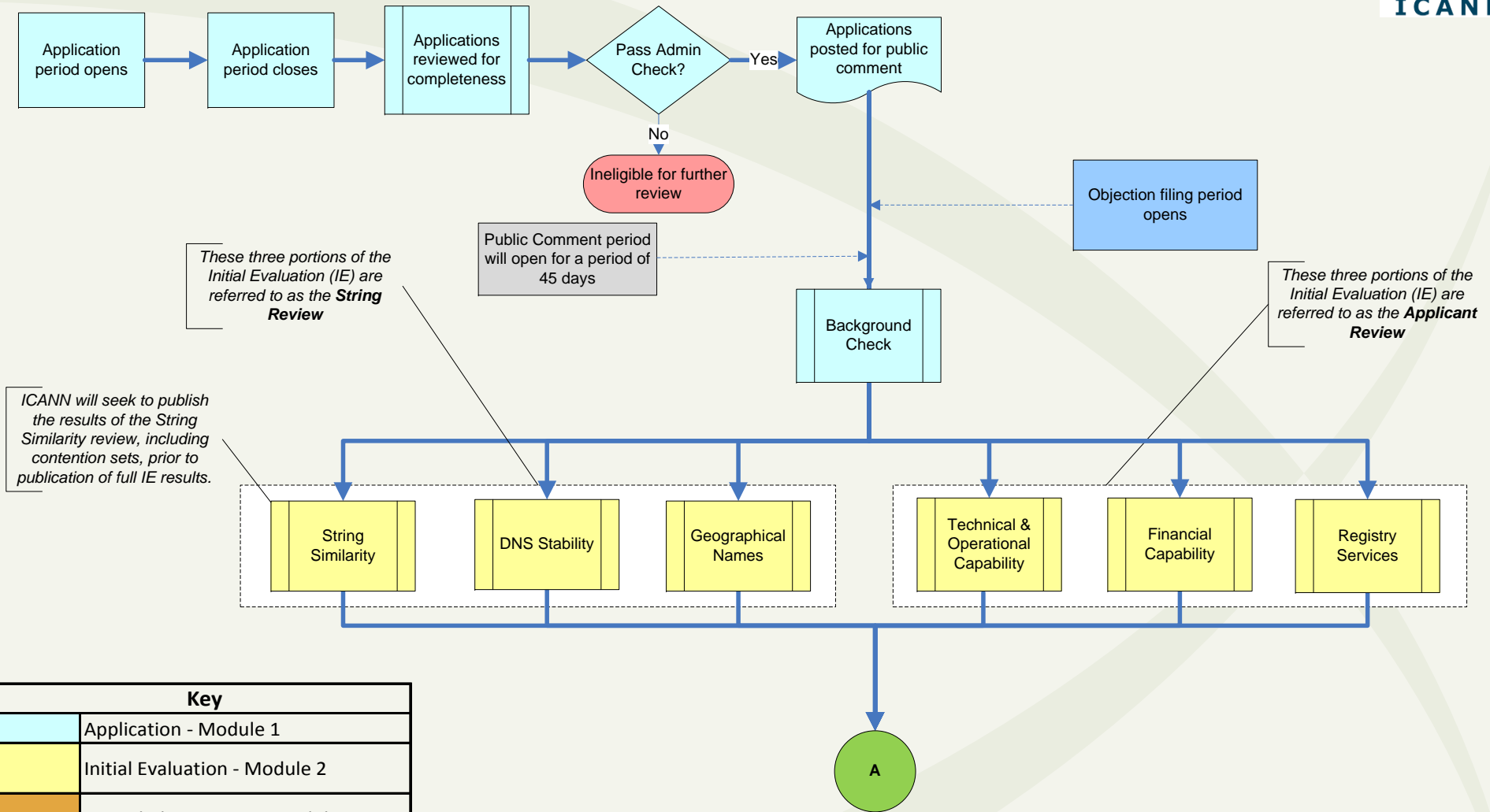
*These three portions of the Initial Evaluation (IE) are referred to as the **String Review***

Public Comment period will open for a period of 45 days

*These three portions of the Initial Evaluation (IE) are referred to as the **Applicant Review***

Background Check

ICANN will seek to publish the results of the String Similarity review, including contention sets, prior to publication of full IE results.

String Similarity | **DNS Stability** | **Geographical Names** | **Technical & Operational Capability** | **Financial Capability** | **Registry Services**

A

Key

	Application - Module 1
	Initial Evaluation - Module 2
	Extended Evauation - Module 2
	Dispute Resolution Proceedings - Module 3
	String Contention - Module 4
	Transition to Delegation - Module 5
Thicker Line	Indicates quickest path to delegation

DRAFT – For Discussion Purposes

A

Extended Evaluation and Dispute Resolution will run concurrently

Applicant passes all elements of Initial Evaluation?

No → Applicant elects to proceed to Extended Evaluation (EE)

IE results posted

The application can be objected to based upon any combination of the four objection grounds at the same time. Additionally, the application may face multiple objections on the same objection ground.

Objection filing period closes two weeks after IE results are posted

Yes

Applicant enters EE for any combination of the four elements below:
- Technical & Operational
- Financial
- Geographical Names
- Registry Services

No

Yes

Are there any objections?

Yes → | No →

String Confusion proceedings

Legal Rights proceedings

Morality and Public Order proceedings

Community Objection proceedings

Applicant passes all elements of Extended Evaluation?

No

Does applicant clear all objections?

No → | Yes →

Ineligible for further review

Is there string contention?

Yes | No →

Contract execution

Community Priority Evaluation

One or more community-based applicant(s) elected Community Priority?

Yes ← | No ←

Are applicants with contending strings able to self-resolve contention?

Yes

No

Is there a clear winner?

No → Auction proceedings

Successful applicant secures string

Yes

Pre-delegation check

Delegation

DRAFT – For Discussion Purposes

ICANN

Draft Applicant Guidebook, v4

Module 2

Please note that 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.

31 May 2010

Module 2

Evaluation Procedures

This module describes the evaluation procedures and criteria used to determine whether applied-for gTLDs are approved for delegation. All applicants will undergo an Initial Evaluation and those that do not pass all elements may request Extended Evaluation.

The first, required evaluation is the **Initial Evaluation**, during which ICANN assesses an applied-for gTLD string, an applicant's qualifications, and its proposed registry services.

The following assessments are performed in the **Initial Evaluation**:

- String Reviews

    - String similarity

    - Reserved names

    - DNS stability

    - Geographical names

- Applicant Reviews

    - Demonstration of technical and operational capability

    - Demonstration of financial capability

    - Registry services reviews for DNS stability issues

An applicant must pass all these reviews to pass the Initial Evaluation. Failure to pass any one of these reviews will result in a failure to pass the Initial Evaluation.

Extended Evaluation may be applicable in cases in which an applicant does not pass the Initial Evaluation. See Section 2.32 below.

2.1   Background Check

The application form requires applicants to provide information on the legal establishment of the applying entity, as well as the identification of directors, officers, partners, and major shareholders of that entity.

Background checks at both the entity level and the individual level will be conducted for all applications, to confirm eligibility. This inquiry is conducted on the basis of the information provided in questions 1-11 of the application form.

The background check may include, but is not limited to, any of the following areas:

- Corruption and bribery

- Terrorism

- Serious and organized crime

- Money laundering

- Corporate fraud and financial regulatory breaches

- Arms trafficking and war crimes

- Intellectual property violations

Identified issues with an individual named in the application will be handled on a case by case basis depending on the individual's position of influence on the applying entity and the registry operations. Examples of scenarios where an application might not pass the background checks include, but are not limited to:

- The applying entity has been found liable in a series of cybersquatting proceedings.

- The application names a corporate officer who has previously been convicted of a felony related to financial activities.

- The background check reveals that the applying entity has been disciplined by the government in its jurisdiction for conduct involving misuse of funds, however, that information was not disclosed in the application.

The background checks will be performed by a third-party firm that can execute these checks based on public information in the various regions of the world. For applications where the background check is not passed, the application will ordinarily be considered ineligible to proceed to the additional Initial Evaluation reviews. However, this will ultimately be at ICANN's discretion.

2.2~~1~~ *Initial Evaluation*

The Initial Evaluation consists of two types of review. Each type is composed of several elements.

String review: The first review focuses on the applied-for gTLD string to test:

- Whether the applied-for gTLD string is so similar to other strings that it would cause user confusion;

- Whether the applied-for gTLD string might adversely affect DNS security or stability; and

- Whether evidence of requisite government approval is provided in the case of certain geographical names.

Applicant review: The second review focuses on the applicant to test:

- Whether the applicant has the requisite technical, operational, and financial capability to operate a registry; and

- Whether the registry services offered by the applicant might adversely affect DNS security or stability.

2.2~~1~~.1 *String Reviews*

In the Initial Evaluation, ICANN reviews every applied-for gTLD string. Those reviews are described in greater detail in the following subsections.

2.2~~1~~.1.1 *String Similarity Review*

This review involves a preliminary comparison of each applied-for gTLD string against existing TLDs, Reserved Names (see subsection 2.2.1.2), and ~~against~~ other applied-for strings. The objective of this review is to prevent user confusion and loss of confidence in the DNS.

The review is to determine whether the applied-for gTLD string is so similar to one of the others that it would create a probability of detrimental user confusion if it were to be delegated into the root zone. The visual similarity check that occurs during Initial Evaluation is intended to augment the objection and dispute resolution process (see Module 3, Dispute Resolution Procedures) that addresses all types of similarity.

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This similarity review will be conducted by an independent String Similarity Panel.

2.2~~1~~.1.1.1 *Review~~s~~ Performed ~~Procedures~~*

The String Similarity Panel's task is to identify visual string similarities that would create a probability of user confusion.

The panel performs this task of assessing similarities that would lead to user confusion in three sets of circumstances, when comparing:

- Applied-for gTLD strings against existing TLDs and reserved names;

- Applied-for gTLD strings against other applied-for gTLD strings; and

- Applied-for gTLD strings against strings requested as IDN ccTLDs.

Similarity to Existing TLDs or Reserved Names – This review involves cross-checking between each applied-for string and the lists of existing TLD strings and Reserved Names to determine whether two strings are so similar to one another that they create a probability of user confusion.

~~All TLDs currently in the root zone can be found at http://iana.org/domains/root/db/.~~

In the simple case in which an applied-for gTLD string is identical to an existing TLD or reserved name, the application system ~~will recognize the existing TLD and~~ will not allow the application to be submitted.

Testing for identical strings also takes into consideration the code point variants listed in any relevant IDN~~language reference~~ table. For example, protocols treat equivalent labels as alternative forms of the same label, just as "foo" and "Foo" are treated as alternative forms of the same label (RFC 3490).

All TLDs currently in the root zone can be found at http://iana.org/domains/root/db/.

IDN tables that have been submitted to ICANN are available at http://www.iana.org/domains/idn-tables/.

Similarity to Other Applied-for gTLD Strings (String Contention Sets) – All applied-for gTLD strings will be reviewed against one another to identify any strings that

are so similar that they create a probability of user confusion if more than one is delegated into the root zone. In performing this~~the string confusion~~ review, the ~~panel of~~ String Similarity Panel~~Examiners~~ will create contention sets that may be used in later stages of evaluation.

A contention set contains at least two applied-for strings identical to one another or so similar that string confusion would result if more than one were delegated into the root zone. Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution.

ICANN will notify applicants who are part of a contention set as soon as the String Similarity Review is completed~~by the conclusion of the Initial Evaluation period~~. (This provides a longer period for contending applicants to reach their own resolution before reaching the contention resolution stage.) These contention sets will also be published on ICANN's website.

Similarity to TLD strings requested as IDN ccTLDs -- Applied-for gTLD strings will also be reviewed for similarity to TLD strings requested in the IDN ccTLD Fast Track process (see http://www.icann.org/en/topics/idn/fast-track/). Should a conflict with a prospective fast-track IDN ccTLD be identified, ICANN will take the following approach to resolving the conflict.

If one of the applications has completed its respective process before the other is lodged, that TLD will be delegated. A gTLD application that has been approved by the Board for entry into a registry agreement will be considered complete, and therefore would not be disqualified by~~based on contention with~~ a newly-filed IDN ccTLD request. Similarly, an IDN ccTLD request that has completed evaluation (i.e., is "validated") will be considered complete and therefore would not be disqualified by~~based on contention with~~ a newly-filed gTLD application.

In the case where neither application has completed its respective process, where~~If~~ the gTLD applicant does not have the required approval from the relevant government or public authority, a validated request for an IDN ccTLD will prevail and the gTLD application will not be approved. The term "validated" is defined in the IDN ccTLD Fast Track Process Implementation, which can be found at http://www.icann.org/en/topics/idn.

In the case where a gTLD applicant has obtained the support or non-objection of the relevant government or public authority, but is eliminated due to contention with a string requested in the IDN ccTLD Fast Track process, a full refund is available to the applicant if the gTLD application was submitted prior to the publication of the ccTLD request.

If both the gTLD applicant and the IDN ccTLD requestor have the required approval from the relevant government or public authority, both applications will be kept on hold until the contention is resolved through agreement between the parties, i.e., resolved by the government.

2.21.1.1.2   *Review Methodology*

The String Similarity Panel is informed in part by an algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs and reserved names. The score will provide one objective measure for consideration by the panel, as part of the process of identifying strings likely to result in user confusion. In general, applicants should expect that a higher visual similarity score suggests a higher probability that the application will not pass the string similarity review. However, it should be noted that the score is only indicative and that the final determination of similarity is entirely up to the Panel's judgment.

The algorithm used supports the most common characters in Arabic, Chinese, Cyrillic, Devanagari, Greek, Japanese, Korean, and Latin scripts. It can also compare strings in different scripts to each other.

The algorithm, user guidelines, and additional background information are available to applicants for testing and informational purposes.[1] Applicants will have the ability to test their strings and obtain algorithmic results through the application system prior to submission of an application.

The algorithm supports the common characters in Arabic, Chinese, Cyrillic, Devanagari, Greek, Japanese, Korean, and Latin scripts. It can also compare strings in different scripts to each other.

The panel will examine all the algorithm data and perform its own review of similarities between strings and whether they rise to the level of string confusion. In cases of strings in scripts not yet supported by the algorithm, the panel's assessment process is entirely manual.

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[1] *See* http://icann.sword-group.com/algorithm/

The panel will use a common standard to test for whether string confusion exists, as follows:

Standard for String Confusion – String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

2.21.1.1.3 ——*Outcomes of the String Similarity Review*

An application that fails the string similarity review due toand is found too similarity to an existing TLD will not pass the Initial Evaluation, and no further reviews will be available. Where an application does not pass the string similarity review, the applicant will be notified as soon as the review is completed.

An application for a string that is found too similar to found at risk for string confusion with another applied-for gTLD string will be placed in a contention set.

An application that passes the string similarity review is still subject to objectionchallenge by an existing TLD operator or by another gTLD applicant in the current application round. That process requires that a string confusion objection be filed by an objector having the standing to make such an objection. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

An applicant may file a formal objection against another gTLD application on string confusion grounds (see Module 3). Such an objection may, if successful, change the configuration of the preliminary contention sets in that the two applied-for gTLD strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

2.21.1.2 Reserved Names ~~Review~~

All applied-for gTLD strings are compared~~The Reserved Names review involves comparison~~ with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

Top-Level Reserved Names List

AFRINIC	*IANA-SERVERS*	*NRO*
ALAC	*ICANN*	*RFC-EDITOR*
APNIC	*IESG*	*RIPE*
ARIN	*IETF*	*ROOT-SERVERS*
ASO	*INTERNIC*	*RSSAC*
CCNSO	*INVALID*	*SSAC*
EXAMPLE*	*IRTF*	*TEST**
GAC	*ISTF*	*TLD*
GNSO	*LACNIC*	*WHOIS*
GTLD-SERVERS	*LOCAL*	*WWW*
IAB	*LOCALHOST*	
IANA	*NIC*	
*Note that in addition to the above strings, ICANN will reserve translations of the terms "test" and "example" in multiple languages. The remainder of the strings are reserved only in the form included above.		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the Reserved Name and will not allow the application to be submitted.

In addition, applied-for gTLD strings are reviewed during the String Similarity review ~~in a process identical to that described in the preceding section~~ to determine whether they are similar to a Reserved Name. An application for a gTLD string that is identified as too similar to a Reserved Name will not pass the Reserved Names review.

2.2~~1~~.1.3 DNS Stability Review

This review determines whether an applied-for gTLD string might cause instability to the DNS. In all cases, this will involve a review for conformance with technical and other requirements for gTLD strings (labels). In some exceptional cases, an extended review may be necessary to investigate possible technical stability problems with the applied-for gTLD string.

2.2~~1~~.1.3.1 DNS Stability: String Review Procedure

New gTLD labels must not adversely affect the security or stability of the DNS. During the Initial Evaluation period,

ICANN will conduct a preliminary review on the set of applied-for gTLD strings to:

- ensure that applied-for gTLD strings comply with the requirements provided in section 2.2~~1~~.1.3.2, and

- determine whether any strings raise significant security or stability issues that may require further review.

There is a very low probability that ~~an~~ extended analysis~~review~~ will be necessary for a string that fully complies with the string requirements in subsection 2.2~~1~~.1.3.2 of this module. However, the string review process provides an additional safeguard if unanticipated security or stability issues arise concerning an applied-for gTLD string.

~~ICANN will notify applicants who have not passed the Initial Evaluation due to security or stability concerns about the applied-for gTLD string by the conclusion of the Initial Evaluation period. Applicants will have 15 calendar days to decide whether to proceed with Extended Evaluation. See Section 2.2 for further information on the Extended Evaluation process.~~

In such a case, the DNS Stability Panel will perform an extended review of the applied-for gTLD string during the Initial Evaluation period. The panel will determine whether the string fails to comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will report on its findings.

If the panel determines that the string complies with relevant standards and does not create the conditions described above, the application will pass the DNS Stability review.

If the panel determines that the string does not comply with relevant technical standards, or that it creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application will not pass the Initial Evaluation and cannot proceed. In the case where a string is determined likely to cause security or stability problems in the DNS, the applicant will be notified as soon as the DNS Stability review is completed.

2.2~~1~~.1.3.2 String Requirements

ICANN will review each applied-for gTLD string to ensure that it complies with the requirements outlined in the following paragraphs.

If an applied-for gTLD string is found to violate any of these rules, the application will be denied. No further reviews are available.

Part I -- Technical Requirements for all Labels (Strings) – The technical requirements for top-level domain labels follow.

1.1   The ASCII label (i.e., the label as transmitted on the wire) must be valid as specified in technical standards *Domain Names: Implementation and Specification* (RFC 1035), and *Clarifications to the DNS Specification* (RFC 2181). This includes the following:

    1.1.1   The label must have no more than 63 characters.

    1.1.2   Upper and lower case characters are treated as identical.

1.2   The ASCII label must be a valid host name, as specified in the technical standards *DOD Internet Host Table Specification* (RFC 952), *Requirements for Internet Hosts — Application and Support* (RFC 1123), and *Application Techniques for Checking and Transformation of Names (RFC 3696).* This includes the following:

    1.2.1   The label must consist entirely of letters, digits and hyphens.

    1.2.2   The label must not start or end with a hyphen.

1.3   There must be no possibility for confusing an ASCII label for an IP address or other numerical identifier by application software. For example, representations such as "255", "o377" (255 in octal) or "0xff" (255 in hexadecimal) as the top-level domain can be interpreted as IP addresses. As such, labels:

    1.3.1   Must not be wholly comprised of digits between "0" and "9."

    1.3.2   Must not commence with "0x" or "x," and have the remainder of the label wholly comprised of hexadecimal digits, "0" to "9" and "a" through "f."

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1.3.3 Must not commence with "0o" or "o," and have the remainder of the label wholly comprised of digits between "0" and "7."

1.4 The ASCII label may only include hyphens in the third and fourth position if it represents a valid internationalized domain name in its A-label form (ASCII encoding as described in Part II).

1.5 The presentation format of the domain (i.e., either the label for ASCII domains, or the U-label for internationalized domain names) must not begin or end with a digit.[2]

Part II -- Requirements for Internationalized Domain Names – These requirements apply only to prospective top-level domains that contain non-ASCII characters. Applicants for these internationalized top-level domain labels are expected to be familiar with the IETF IDNA standards, Unicode standards, and the terminology associated with Internationalized Domain Names.

2.1 The label must be a valid internationalized domain name, as specified in *Internationalizing Domain Names in Applications* (RFC 3490). This includes the following, non-exhaustive, list of limitations:

2.1.1 Must only contain Unicode code points that are defined as "Valid" in The Unicode Codepoints and IDNA (see http://icann.org/en/topics/idn/rfcs.htm~~http://tools.ietf.org/wg/idnabis/~~), and be accompanied by unambiguous contextual rules where necessary.[3]

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[2] The primary concern relating to the use of leading- or trailing-numeric labels is due to issues raised by bi-directional scripts when used in conjunction with those labels. Experience has shown that presentation behavior of strings with leading or trailing numbers in bi-directional contexts can be unexpected and can lead to user confusion. As such, a conservative approach is to disallow numerals leading or trailing top-level domain labels.

This concern also applies to all-numeric strings; however, a larger concern with those strings is the risk of confusion and software incompatibilities due to the fact that a top-level domain of all numbers could result in a domain name that is indistinguishable from an IP address. That is, if (for example) the top-level domain .151 were to be delegated, it would be problematic to programmatically determine whether the string "10.0.0.151" was an IP address or a domain name.

[3] It is expected that ~~the IDNA2008 protocol will be completed and~~ conversion tools for IDNA 2008 will be available before the Application Submission period begins, and that labels will be checked for validity under IDNA2008. In this case, labels valid under the previous version of the protocol (IDNA2003) but not under IDNA2008 will not meet this element of the requirements. Labels that are valid under both versions of the protocol will meet this element of the requirements. Labels valid under IDNA2008 but not under IDNA2003 may meet the requirements; however, applicants are strongly advised to note that the duration of the transition period between the two protocols cannot presently be estimated nor guaranteed in any specific timeframe. The development of

2.1.2 Must be fully compliant with Normalization Form C, as described in *Unicode Standard Annex #15: Unicode Normalization Forms.* See also examples in http://unicode.org/faq/normalization.html.

2.1.3 Must consist entirely of characters with the same directional property.

2.2 The label must meet the relevant criteria of the ICANN *Guidelines for the Implementation of Internationalised Domain Names*. See http://www.icann.org/en/topics/idn/implementation-guidelines.htm. This includes the following, non-exhaustive, list of limitations:

2.2.1 All code points in a single label must be taken from the same script as determined by the Unicode Standard Annex #24: Unicode Script Property.

2.2.2 Exceptions to 2.2.1 are permissible for languages with established orthographies and conventions that require the commingled use of multiple scripts. However, even with this exception, visually confusable characters from different scripts will not be allowed to co-exist in a single set of permissible code points unless a corresponding policy and character table are clearly defined.

Part III - Policy Requirements for Generic Top-Level Domains – These requirements apply to all prospective top-level domain strings applied for as gTLDs.

3.1 Applied-for gTLD strings in ASCII (i.e., strings consisting exclusively of LDH characters) must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.

3.2 Applied-for gTLD strings in IDN scripts (i.e., strings in which the U-label includes at least one non-LDH character) must be composed of two or more visually distinct characters in the script, as

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support for IDNA2008 in the broader software applications environment will occur gradually. During that time, TLD labels that are valid under IDNA2008, but not under IDNA2003, will have limited functionality.

appropriate. Note, however, that a two-character IDN string will not be approved if:

3.2.1   It is visually similar to any one-character label (in any script); or

3.2.2   It is visually similar to any possible two-character ASCII combination.

~~Applied-for gTLD strings must be composed of three or more visually distinct letters or characters in the script, as appropriate.~~ [4]

Two-character strings that consist of Unicode code points in scripts such as the Latin, Greek, and Cyrillic script blocks are intrinsically confusable with currently defined or potential future country code TLD (ccTLD) strings based on the ISO 3166-1 alpha-2 codes. Therefore, a very conservative standard is used to assess applied-for strings that consist of two Greek, Cyrillic, or Latin characters: a default presumption of confusability to which exceptions may be made in specific cases.

In performing the comparison of a two-character string to two-character ASCII combinations, the following rankings are used. The higher the rank, the more likely the applied-for gTLD string presents a significant risk of user confusion.

[6] Both characters are visually identical to an ASCII character.

[5] One character is visually identical to, and one character is visually confusable with, an ASCII character.

[4] Both characters are visually confusable with, but neither character is visually identical to, an ASCII character.

[3] One character is visually distinct from, and one character is visually identical to, an ASCII character.

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[4] ~~The requirement for gTLD strings to consist of at least three visually distinct characters remains under discussion. An implementation support team of technical and linguistic experts is currently engaging in work on a proposed solution to enable gTLDs of fewer than three characters where appropriate. The proposed solutions will then be made available for public comment.~~

[2] One character is visually distinct from, and one character is visually confusable with, an ASCII character.

[1] Both characters are visually distinct from an ASCII character.

These rankings are for guidance only, and the assessment is made based on the rankings and on the expertise of the panelists. The probability of user confusion presented by a given string does not depend strictly on the individual confusability of each character, if considered separately. The assessment of visually distinct and visually confusable takes into account both the individual features of each character and their combined effect.

2.21.1.4 *Geographical Names*

Applications for gTLD strings must ensure that appropriate consideration is given to the interests of governments or public authorities in geographiccountry or territory names, as well as certain other types of place names. The requirements and procedure ICANN will follow are described in the following paragraphs. Applicants should review these requirements even if they do not believe their intended gTLD string is a geographic name.

2.2.1.4.1 *Treatment of Country or Territory Names*[5]

Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to be a country or territory name if:

    i.   it is an alpha-3 code listed in the ISO 3166-1 standard.

    ii.   it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.

    iii.   it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.

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[5] Country and territory names are excluded from the process based on advice from the Governmental Advisory Committee in recent communiqués providing interpretation of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographical strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

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iv.　　　it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.

v.　　　it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.

i. vi.　　　It is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short–form name, for example, "RepublicCzech" or "IslandsCayman."

2.21.1.4.21 ~~Strings Considered~~ *Geographical Names Requiring Government Support*

The following types of appli~~cations~~ed-for strings are considered geographical names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

~~1. An application for any string that is a *country or territory name*. A string shall be considered to be a country or territory name if:~~

~~ii.　　　it is an alpha-3 code listed in the ISO 3166-1 standard.~~

~~iii.　　　it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.~~

~~iv.　　　it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.~~

~~v.　　　it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.~~

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vi. ~~it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.~~

~~It is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short-form name, for example, "RepublicCzech" or "IslandsCayman."~~

1. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard.

   In this case, it is anticipated that the relevant government or public authority would be at the national level.

~~2. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.~~

~~3. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard.~~

2. An application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.

   City names present challenges because city names may also be generic terms or brand names, and in many cases no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.

   An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:

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(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and

(b) The applied-for string is a city name as listed on official city documents.[6]

In the case of an application that meets conditions (a) and (b), documentation of support will be required only from the relevant governments or public authorities of the city named in the application.

4.3. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.

5.4. An application for a string which represents a *continent or UN region* appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.[7]

In the case of an application for a string which represents a continent or UN region, documentation of support will be required from at least 609% of the respectiverelevant national governments in the region, and there may be no more than one written objection to the application from relevant governments in the region and/or public authorities associated with the continent or the UN region.

An applied-for gTLD string that falls into any of 1 through 4 the listed above categories is considered to represent a geographical name. In the event of any doubt, it is in the applicant's interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

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[6] City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string...

[7] *See* http://unstats.un.org/unsd/methods/m49/m49regin.htm.

In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from all the relevant governments or public authorities. It is anticipated that this may apply to the case of a sub-national place name.

It is the applicant's responsibility to:

- identify whether its applied-for gTLD string falls into any of the above categories; and

- determine the relevant governments or -public authorities; and

- identify which level of government support is required.

The requirement to include documentation of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to subsection 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community.

2.21.1.4.32   *Documentation Requirements*

The documentation of support or non-objection should include a signed letter from the relevant government or public authority. Understanding that this will differ across the respective jurisdictions, the letter could be signed by the minister with the portfolio responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister or President of the relevant jurisdiction; or a senior representative of the agency or department responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister. To assist the applicant in determining who the relevant government or public authority may be for a potential geographic name, the applicant may wish to consult with the relevant Governmental Advisory Committee (GAC) representative.[8]

The letter must clearly express the government's or public authority's support for or non-objection to the applicant's application and demonstrate the government's or public authority's understanding of the string being requested and intended use.

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[8] *See* http://gac.icann.org/gac-membershttp://gac.icann.org/index.php?name=Representatives&mode=4.

The letter should also demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available, i.e., entry into a registry agreement with ICANN requiring compliance with consensus policies and payment of fees. (See Module 5 for a discussion of the obligations of a gTLD registry operator.)

A sample letter of support is available as an attachment to this module.

It is important to note that a government or public authority is under no obligation to provide documentation of support or non-objection in response to a request by an applicant.[9]

If there are reasons for doubt about the authenticity of the communication, ICANN will consult with the relevant diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact within their administration for communications.

2.21.1.4.43 *Review Procedure for Geographical Names*

A Geographic Names Panel (GNP) will determineconfirm whether each applied-for gTLD string represents a geographical name, and verify the relevance and authenticity of the supporting documentation where necessary.

The GNP will review all applications received, not only those where the applicant has noted its applied-for gTLD string as a geographical name. For any application where the GNP determines that the applied-for gTLD string is a country or territory name (as defined in this module), the application will not pass the Geographical Names review and will be denied. No additional reviews will be available.

For any applications where the GNP determines that the applied-for gTLD string is not a geographical name requiring government support (as described in this module), the application will pass the Geographical Names review with no additional steps required.

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[9] It is also possible that a government may withdraw its support for an application at a later time, including after the new gTLD has been delegated. For a discussion of the issues and options available in such instances, see the accompanying Explanatory Memorandum, *Withdrawal of Government Support for Registry – Post-Delegation Options.*

For any application where the GNP determines that the applied-for gTLD string is a geographical name requiring government support (as described in this module), the GNP will confirm that the applicant has provided the required documentation from the all relevant governments or public authorities, and that the communication from the government or public authority is legitimate and contains the required content. ICANN may confirm the authenticity of the communication by consulting with the relevant diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact within their administration for communications.

The GNP may communicate with the signing entity of the letter to confirm their intent and their understanding of the terms on which the support for an application is given.

In cases where an applicant has not provided the required documentation, the applicant will be contacted and notified of the requirement, and given a limited time frame to provide the documentation. If the applicant is able to provide the documentation before the close of the Initial Evaluation period, and the documentation is found to meet the requirements, the applicant will pass the geographical names review. If not, the applicant will have additional time to obtain the required documentation; however, if the applicant has not produced the required documentation by the required date (at least 90 days from the date of notice), the application will be considered incomplete and will be ineligible for further review. The applicant may reapply in subsequent application rounds, if desired, subject to the fees and requirements of the specific application rounds.

If there is more than one application for a string representing a certain geographical name as described in this section, and the applications are considered complete (i.e., have requisite government approvals), the applications will be suspended pending resolution by the applicants.

If an application for a string representing a geographical name is in a contention set with applications for similar strings that have not been identified as geographical names, the string contention will be settled using the string contention procedures described in Module 4.

2.~~2~~1.2 *Applicant Reviews*

Concurrent with the applied-for gTLD string reviews described in subsection 2.~~2~~1.1, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections.

2.~~2~~1.2.1 *Technical/Operational Review*

In its application, the applicant will respond to a set of questions (see questions 24 – 44 in the Application Form) intended to gather information about the applicant's technical capabilities and its plans for operation of the proposed gTLD.

Applicants are not required to have deployed an actual gTLD registry to pass the Technical/Operational review. It will be necessary, however, for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of a gTLD registry operation. Subsequently, each applicant that passes the technical evaluation and all other steps will be required to complete a pre-delegation technical test prior to delegation of the new gTLD. Refer to Module 5, Transition to Delegation, for additional information.

2.~~2~~1.2.2 *Financial Review*

In its application, the applicant will respond to a set of questions (see questions 45-50 in the Application Form) intended to gather information about the applicant's financial capabilities for operation of a gTLD registry and its financial planning in preparation for long-term stability of the new gTLD.

Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans identifying system hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment. That is, the evaluation criteria scale with the applicant plans to provide flexibility.

2.~~2~~1.2.3 *Evaluation Methodology*

Dedicated technical and financial panels of evaluators will conduct the technical/operational and financial reviews, according to the established criteria and scoring

methodology included as an attachment to this module. These reviews are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the Application Form.

The evaluators may request clarification or additional information during the Initial Evaluation period. For each application, clarifying questions will be consolidated and sent to the applicant from each of the panels. The applicant will thus have onean additional opportunity to clarify or supplement itsthe application in those areas where a requested is made by the evaluators. These communications will occur via the online application system, rather than by phone, letter, email, or other means. Unless otherwise noted, sSuch communications will include a 3-week deadline for the applicant to respond. Any supplemental information provided by the applicant will become part of the application.

It is the applicant's responsibility to ensure that the questions have been fully answered and the required documentation is attached. Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and are not obliged to take into account any information or evidence that is not made available in the application and submitted by the due date, unless explicitly requested by the evaluators.

2.21.3 Registry Services Review

Concurrent with the other reviews that occur during the Initial Evaluation period, ICANN will review the applicant's proposed registry services for any possible adverse impact on security or stability. The applicant will be required to provide a list of proposed registry services in its application.

2.21.3.1   Definitions

Registry services are defined as:

1. operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement;

2. other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and

3. any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator.

Proposed registry services will be examined to determine if they might raise significant stability or security issues. Examples of services proposed by existing registries can be found at http://www.icann.org/en/registries/rsep/. In most cases, these proposed services successfully pass this inquiry.

Registry services currently provided by gTLD registries can be found in registry agreement appendices. See http://www.icann.org/en/registries/agreements.htm.

A full definition of registry services can be found at http://www.icann.org/en/registries/rsep/rsep.html.

~~The following registry services are customary services offered by a registry operator:~~

- ~~Receipt of data from registrars concerning registration of domain names and name servers~~

- ~~Provision of status information relating to zone servers for the TLD~~

- ~~Dissemination of TLD zone files~~

- ~~Dissemination of contact or other information concerning domain name registrations~~

- ~~Internationalized Domain Names (if applicable)~~

- ~~DNS Security Extensions~~

~~The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.~~

~~Any additional registry services that are unique to the proposed gTLD registry should be described in detail. Directions for describing the registry services are provided at http://www.icann.org/en/registries/rsep/rrs_sample.html.~~

For purposes of this review, security and stability are defined as follows:

Security – an effect on security by the proposed registry service means (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the

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unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

Stability – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.

2.2~~1~~.3.2   *Customary Services~~Methodology~~*

The following registry services are customary services offered by a registry operator:

- Receipt of data from registrars concerning registration of domain names and name servers

- Provision of status information relating to zone servers for the TLD

- Dissemination of TLD zone files

- Dissemination of contact or other information concerning domain name registrations

- DNS Security Extensions

The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.

Any additional registry services that are unique to the proposed gTLD registry should be described in detail. Directions for describing the registry services are provided at http://www.icann.org/en/registries/rsep/rrs_sample.html.

2.2.3.3 *TLD Zone Contents*

ICANN receives a number of inquiries about use of various record types in a registry zone, as entities contemplate different business and technical models. Permissible zone contents for a TLD zone are:

- Apex SOA record.

- Apex NS records and in-bailiwick glue for the TLD's DNS servers.

- NS records and in-bailiwick glue for DNS servers of registered names in the TLD.

- DS records for registered names in the TLD.

- Records associated with signing the TLD zone (i.e., RRSIG, DNSKEY, NSEC, and NSEC3).

An applicant wishing to place any other record types into its TLD zone should describe in detail its proposal in the registry services section of the application. This will be evaluated and could result in an extended evaluation to determine whether the service would create a risk of a meaningful adverse impact on security or stability of the DNS. Applicants should be aware that a service based on use of less-common DNS resource records in the TLD zone, even if approved in the registry services review, might not work as intended for all users due to lack of application support.

2.2.3.4   Methodology

Review of the applicant's proposed registry services will include a preliminary determination of whether any of the proposed registry services raise significant security or stability issues and require additional consideration.

If the preliminary determination reveals that there may be significant security or stability issues (as defined in subsection 2.21.3.1) surrounding a proposed service, the application will be flagged for an extended review by the Registry Services Technical Evaluation Panel (RSTEP), see http://www.icann.org/en/registries/rsep/rstep.html). This review, if applicable, will occur during the Extended Evaluation period (refer to Section 2.32).

In the event that an application is flagged for extended review of one or more registry services, an additional fee to cover the cost of the extended review will be due from the applicant. Applicants will be advised of any additional fees due, which must be received before the additional review begins.

2.21.4 Applicant's Withdrawal of an Application

An applicant who does not pass the Initial Evaluation may withdraw its application at this stage and request a partial refund (refer to subsection 1.5 of Module 1).

2.~~3~~2   *Extended Evaluation*

An applicant may request an Extended Evaluation if the application has failed to pass the Initial Evaluation elements concerning:

> ~~DNS stability – String review (refer to subsection 2.1.1.3). There is no additional fee for an extended evaluation in this instance.~~

- Geographical names (refer to subsection 2.~~1~~2.1.4) – There is no additional fee for an extended evaluation in this instance.

- Demonstration of technical and operational capability (refer to subsection 2.~~1~~2.2.1). There is no additional fee for an extended evaluation in this instance.

- Demonstration of financial capability (refer to subsection 2.~~1~~2.2.2). There is no additional fee for an extended evaluation in this instance.

- Registry services (refer to subsection 2.~~1~~2.3). Note that this investigation incurs an additional fee (the Registry Services Review Fee) if the applicant wishes to proceed. See Section 1.5 of Module 1 for fee and payment information.

An Extended Evaluation does not imply any change of the evaluation criteria. The same criteria used in the Initial Evaluation will be used to review the application in light of clarifications provided by the applicant.

From the time an applicant receives notice of failure to pass the Initial Evaluation, eligible applicants will have 15 calendar days to submit to ICANN the Notice of Request for Extended Evaluation. If the applicant does not explicitly request the Extended Evaluation (and pay an additional fee in the case of a Registry Services inquiry) the application will not proceed.

~~2.2.1   DNS Stability -- Extended Evaluation~~

~~This section applies to an Extended Evaluation of DNS security or stability issues with an applied-for gTLD string, as described in subsection 2.1.1.3.~~

~~If an application is subject to Extended Evaluation, the DNS Stability Panel will review the security or stability issues identified during the Initial Evaluation.~~

~~The panel will review the string and determine whether the string fails to comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will communicate its findings to ICANN and to the applicant.~~

~~If the panel determines that the string does not comply with relevant technical standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application cannot proceed.~~

2.3.1 Geographical Names Extended Evaluation

In the case of an application that has been identified as a geographical name requiring government support, but where the applicant has not provided evidence of support or non-objection from all relevant governments or public authorities by the end of the Initial Evaluation period, the applicant has additional time in the Extended Evaluation period to obtain and submit this documentation.

If the applicant submits the documentation to the Geographic Names Panel by the required date, the GNP will perform its review of the documentation as detailed in section 2.2.1.4. If the applicant has not provided the documentation by the required date (at least 90 days from the date of the notice), the application will not pass the Extended Evaluation, and no further reviews are available.

2.3~~2.2~~2~~3~~ Technical/Operational or Financial Extended Evaluation

The following applies to an Extended Evaluation of an applicant's technical and operational capability or financial capability, as described in subsection 2.2~~1~~.2.

An applicant who has requested Extended Evaluation will again access the online application system and clarify its answers to those questions or sections on which it received a non-passing score. The answers should be responsive to the evaluator report that indicates the reasons for failure. Applicants may not use the Extended Evaluation period to substitute portions of new information for the information submitted in their original applications, i.e., to materially change the application.

An applicant participating in an Extended Evaluation on the Technical / Operational or Financial reviews will have the option to have its application reviewed by the same evaluation panelists who performed the review during the

Initial Evaluation period, or to have a different set of panelists perform the review during Extended Evaluation.

The Extended Evaluation allows an additional exchange of information between the evaluators and the applicant to further clarify information contained in the application. This supplemental information will become part of the application record. Such communications will include a deadline for the applicant to respond.

ICANN will notify applicants at the end of the Extended Evaluation period as to whether they have passed. If an applica~~nt~~tion passes Extended Evaluation, it~~s application~~ continues to the next stage in the process. If an applica~~nt~~tion does not pass Extended Evaluation, it~~the application~~ will proceed no further. No further reviews are available.

2.~~2~~3.3 *Registry Services Extended Evaluation*

This section applies to Extended Evaluation of registry services, as described in subsection 2.~~1~~2.3.

If a proposed registry service has been referred to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review, the RSTEP will form a review team of members with the appropriate qualifications.

The review team will generally consist of 3 members, depending on the complexity of the registry service proposed. In a 3-member panel, the review could be conducted within 30 to 45 days. In cases where a 5-member panel is needed, this will be identified before the extended evaluation starts. In a 5-member panel, the review could be conducted in 45 days or fewer.

The cost of an RSTEP review will be covered by the applicant through payment of the Registry Services Review Fee. Refer to payment procedures in section 1.5 of Module 1. The RSTEP review will not commence until payment has been received.

If the RSTEP finds that one or more of the applicant's proposed registry services may be introduced without risk of a meaningful adverse effect on security or stability, these services will be included in the applicant's contract with ICANN. If the RSTEP finds that the proposed service would create a risk of a meaningful adverse effect on security or stability, the applicant may elect to proceed with its application without the proposed service, or withdraw its application for the gTLD. In this instance, an applicant has 15 calendar days to notify ICANN of its intent

to proceed with the application. If an applicant does not explicitly provide such notice within this time frame, the application will proceed no further.

2.~~4~~3   *Parties Involved in Evaluation*

A number of independent experts and groups play a part in performing the various reviews in the evaluation process. A brief description of the various panels, their evaluation roles, and the circumstances under which they work is included in this section.

2.~~4~~3.1   *Panels and Roles*

The **String Similarity Panel** will assess~~es~~ whether a proposed gTLD string is likely to result in user confusion due to similarity with any reserved name~~word~~, any existing TLD, any requested IDN ccTLD, or any new gTLD string applied for in the current application round. This occurs during the String Similarity review in Initial Evaluation.

The **DNS Stability Panel** will review each applied-for string to determine whether the proposed string might adversely affect the security or stability of the DNS. This occurs during the DNS Stability String Review in Initial Evaluation~~, and may occur again if an applicant does not pass the review in Initial Evaluation and requests Extended Evaluation~~.

The **Geographical Names Panel** will review each application to determine whether the applied-for gTLD represents a geographic name, as defined in this guidebook. In the event that the string represents a geographic name and requires government support, the panel will ensure that the required documentation is provided with the application and verify that the documentation is from the relevant governments or public authorities and is authentic.

The **Technical Evaluation Panel** will review the technical components of each application against the criteria in the Applicant Guidebook, along with proposed registry operations, in order to determine whether the applicant is technically and operationally capable of operating a gTLD registry. This occurs during the Technical/Operational Reviews in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Financial Evaluation Panel** will review each application against the relevant business, financial and organizational criteria contained in the Applicant Guidebook, to determine whether the applicant is financially capable of maintaining a gTLD registry. This occurs during the Financial

Review in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Registry Services Technical Evaluation Panel (RSTEP)** will review the proposed registry services in the application to determine if any registry services might raise significant security or stability issues. This occurs, if applicable, during the Extended Evaluation period.

Depending on the results of additional work concerning IDN variants, IDN tables and variant strings submitted in gTLD applications may be reviewed by a designated panel with the necessary expertise.

Members of theseall panels are required to abide by the established Code of Conduct and Conflict of Interest guidelines included in this module.

2.43.2 *Panel Selection Process*

ICANN is in the process of selecting qualified third-party providers to perform the various reviews.[10] In addition to the specific subject matter expertise required for each panel, specified qualifications are required, including:

- The provider must be able to convene – or have the capacity to convene - globally diverse panels and be able to evaluate applications from all regions of the world, including applications for IDN gTLDs.

- The provider should be familiar with the IETF IDNA standards, Unicode standards, relevant RFCs and the terminology associated with IDNs.

- The provider must be able to scale quickly to meet the demands of the evaluation of an unknown number of applications. At present it is not known how many applications will be received, how complex they will be, and whether they will be predominantly for ASCII or non-ASCII gTLDs.

- The provider must be able to evaluate the applications within the required timeframes of Initial and Extended Evaluation.

It is anticipated that tThe providers will be formally engaged and announcedselected during this year.

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[10] *See* http://icann.org/en/topics/new-gtlds/open-tenders-eoi-en.htm.

Additional updates will be posted on ICANN's website prior to the opening of the Application Submission period.

2.43.3 Code of Conduct Guidelines for Panelists

The purpose of the New gTLD Application Program ("Program") Code of Conduct ("Code") is to prevent real and apparent conflicts of interest and unethical behavior by any Evaluation Panelist ("Panelist").

Panelists shall conduct themselves as thoughtful, competent, well prepared, and impartial professionals throughout the application process. Panelists are expected to comply with equity and high ethical standards while assuring the Internet community, its constituents, and the public of objectivity, integrity, confidentiality, and credibility. Unethical actions, or even the appearance of compromise, are not acceptable. Panelists are expected to be guided by the following principles in carrying out their respective responsibilities. This Code is intended to summarize the principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which Panelists must comply.

Bias -- Panelists shall:

- not advance personal agendas or non-ICANN approved agendas in the evaluation of applications;

- examine facts as they exist and not be influenced by past reputation, media , accounts, or third-party opinions etc about the Aapplicationsnts being evaluated;

- exclude themselves from participating in the evaluation of an application if, to their knowledge, there is some predisposing factor that could prejudice them with respect to such evaluation; and

- exclude themselves from evaluation activities if they are philosophically opposed to or are on record as having made generic criticism about a specific type of applicant or application.

Compensation/Gifts -- Panelists shall not request or accept any compensation whatsoever or any gifts of substance

from the Applicant being reviewed or anyone affiliated with the Applicant. (Gifts of substance would include any gift greater than USD 25 in value).

If the giving of small tokens is important to the Applicant's culture, Panelists may accept these tokens; however, the total of such tokens must not exceed USD 25 in value. If in doubt, the Panelist should err on the side of caution by declining gifts of any kind.

Conflicts of Interest -- Panelists shall act in accordance with the "New gTLD Application Program Conflicts of Interest. Guidelines" (see subsection 2.4.3.1).

Confidentiality -- Confidentiality is an integral part of the evaluation process. Panelists must have access to sensitive information in order to conduct Applicant evaluations. Panelists must maintain confidentiality of information entrusted to them by ICANN and the Applicant and any other confidential information provided to them from whatever source, except when disclosure is legally mandated or has been authorized by ICANN. "Confidential information" includes all elements of the Program and information gathered as part of the process – which includes but is not limited to: documents, interviews, discussions, interpretations, and analyses – related to the review of any new gTLD application.

Enforcement -- Breaches of this Code, whether intentional or not, shall be reviewed by ICANN, which may make recommendations for corrective action, if deemed necessary. Serious breaches of the Code may be cause for dismissal of the person, persons or provider committing the infraction.

Affirmation -- All Panelists shall read this Code prior to commencing evaluation services and shall certify in writing that they have done so and understand the Code.

2.43.3.14 — *Conflict of Interest Guidelines for Panelists*

It is recognized that third-party providers may have a large number of employees in several countries serving numerous clients. In fact, there is it is possibleility that the a number of Panelists may be very well known within the registry / registrar community and have provided professional services to a number of potential applicants.

To safeguard against the potential for inappropriate influence and ensure applications are evaluated in an

objective and independent manner, ICANN has established detailed Conflicts of Interest guidelines and procedures that will be followed by the Evaluation Panelists. To help ensure that the guidelines are appropriately followed ICANN will:

- Require each Evaluation Panelist (provider and individual) to acknowledge and document understanding of the Conflicts of Interest guidelines.

- Require each Evaluation Panelist to disclose all business relationships engaged in at any time during the past six months.

- Where possible, identify and secure primary and , secondary, and contingent third party backup providers for each of the evaluation panels highlighted in the Applicant Guidebook.

- In conjunction with the Evaluation Panelists, develop and implement a process to identify conflicts and re-assign applications as appropriate to secondary or contingent third party providers to perform the reviews.

Compliance Period -- All Evaluation Panelists must comply with the Conflicts of Interest guidelines beginning with the opening date of the Application Submissionpre registration period and ending with the public announcement by ICANN of the final outcomes of all the applications from the Applicant in question.

Guidelines -- The following guidelines are the minimum standards with which all Evaluation Panelists must comply. It is recognized that it is impossible to foresee and cover all circumstances in which a potential conflict of interest might arise. In these cases the Evaluation Panelist should evaluate whether the existing facts and circumstances would lead a reasonable person to conclude that there is an actual conflict of interest.

Evaluation Panelists and Immediate Family Members:

- Must not be under contract, have or be included in a current proposal to provide Professional Services for or on behalf of the Applicant during the Compliance Period.

- Must not currently hold or be committed to acquire any interest in a privately-held Applicant.

- Must not currently hold or be committed to acquire more than 1% of any publicly listed Applicant's outstanding equity securities or other ownership interests.

- Must not be involved or have an interest in a joint venture, partnership or other business arrangement with the Applicant.

- Must not have been named in a lawsuit with or against the Applicant.

- Must not be a:

  o Director, officer, or employee, or in any capacity equivalent to that of a member of management of the Applicant;

  o Promoter, underwriter, or voting trustee of the Applicant; or

  o Trustee for any pension or profit-sharing trust of the Applicant.

Definitions--

Evaluation Panelist: An Evaluation Panelist is any individual associated with the review of an application. This includes any primary, secondary, and contingent third party Panelists engaged by ICANN to review new gTLD applications.identified through the Expressions of Interest (EOI) process.

Immediate Family Member: Immediate Family Member is a spouse, spousal equivalent, or dependent (whether or not related) of an Evaluation Panelist.

Professional Services: include, but are not limited to legal services, financial audit, financial planning / investment, outsourced services, consulting services such as business / management / internal audit, tax, information technology, registry / registrar services.

2.4.3.2 Code of Conduct Violations

Evaluation panelist breaches of the Code of Conduct, whether intentional or not, shall be reviewed by ICANN,

which may make recommendations for corrective action, if deemed necessary. Serious breaches of the Code may be cause for dismissal of the person, persons or provider committing the infraction.

In a case where ICANN determines that a Panelist has failed to comply with the Code of Conduct, the results of that Panelist's review for all assigned applications will be discarded and the affected applications will undergo a review by new panelists.

Complaints about violations of the Code of Conduct by a Panelist may be brought to the attention of ICANN via the public comment and applicant support mechanisms, throughout the evaluation period. Concerns of applicants regarding panels should be communicated via the defined support channels (see subsection 1.4.2). Concerns of the general public (i.e., non-applicants) can be raised via the public comment forum, as described in Module 1.

2.4.43.5 *Communication Channels*

Defined channels for technical support or exchanges of information with ICANN and with evaluation panels arewill be made available to applicants during the Initial Evaluation and Extended Evaluation periods. Contacting individual ICANN staff members, Board members, or other individuals engaged by ICANN to performing an evaluation role in order to lobby for a particular outcome or to obtain confidential information about applications under review is not appropriate. In the interests of fairness and equivalent treatment for all applicants, any such individual contacts will be referred to the appropriate communication channels.

DRAFT - New gTLD Program – Initial Evaluation and Extended Evaluation

Application is confirmed as complete and ready for evaluation during Administrative Completeness Check

Background Check
Third-party provider reviews applicant's background.

Initial Evaluation – *String Review*

Initial Evaluation – *Applicant Review*

String Similarity
Application is reviewed to determine if applied-for string is too similar to exisiting TLDs or Reserved Names.

DNS Stability
All strings reviewed and in extraordinary cases, DNS Stability Panel may determine that string has a strong likelihood of causing DNS instability.

Geographical Names
Geographical Names Panel (GNP) determines if applied-for string is geographical name requiring government support.

Technical and Operational Capability
Technical and Operational panel reviews applicant's answers to questions and supporting documentation.

Financial Capability
Financial panel reviews applicant's answers to questions and supporting documentation.

Registry Services
Registry services panel reviews applicant's registry services and may refer applications to Extended Evaluation for further review.

String Similarity Panel compares all applied-for strings and creates contention sets. ICANN will seek to publish the String Similarity results, including contention sets, prior to publication of full IE results.

The GNP confirms supporting documentation where required.

Extended Evaluation can be for any or all of the four elements below:
- *Technical and Operational Capability*
- *Financial Capability*
- *Geographical Names*
- *Registry Services*
But NOT for String Similarity or DNS Stability

Does applicant pass all elements of Initial Evaluation?
No / Yes

Applicant elects to pursue *Extended Evaluation?*
Yes / No

Extended Evaluation proceedings

Applicant continues to subsequent steps.

Does applicant pass all elements of Extended Evaluation?
No / Yes

Ineligible for further review

Annex: Separable Country Names List

Under various proposed ICANN policies, ~~gTLD application restrictions on~~ ~~eligibility for~~ country ~~or~~ ~~territory~~ name~~s~~ ~~reservation or allocation is~~are tied to listing in property fields of the ISO 3166-1 standard. Notionally, the ISO 3166-1 standard has an "English short name" field which is the common name for a country and can be used for such protections; however, in some cases this does not represent the common name. This registry seeks to add additional protected elements which are derived from definitions in the ISO 3166-1 standard. An explanation of the various classes is included below.

Separable Country Names List

Code	English Short Name	Cl.	Separable Name
ax	Åland Islands	B1	Åland
as	American Samoa	C	Tutuila
		C	Swain's Island
ao	Angola	C	Cabinda
ag	Antigua and Barbuda	A	Antigua
		A	Barbuda
		C	Redonda Island
au	Australia	C	Lord Howe Island
		C	Macquarie Island
		C	Ashmore Island
		C	Cartier Island
		C	Coral Sea Islands
bo	Bolivia, Plurinational State of	B1	Bolivia
ba	Bosnia and Herzegovina	A	Bosnia
		A	Herzegovina
br	Brazil	C	Fernando de Noronha Island
		C	Martim Vaz Islands
		C	Trinidade Island
io	British Indian Ocean Territory	C	Chagos Archipelago
		C	Diego Garcia
bn	Brunei Darussalam	B1	Brunei
		C	Negara Brunei Darussalam
cv	Cape Verde	C	São Tiago
		C	São Vicente
ky	Cayman Islands	C	Grand Cayman
cl	Chile	C	Easter Island
		C	Juan Fernández Islands
		C	Sala y Gómez Island
		C	San Ambrosio Island
		C	San Félix Island
cc	Cocos (Keeling) Islands	A	Cocos Islands
		A	Keeling Islands
co	Colombia	C	Malpelo Island
		C	San Andrés Island
		C	Providencia Island
km	Comoros	C	Anjouan
		C	Grande Comore
		C	Mohéli
ck	Cook Islands	C	Rarotonga
cr	Costa Rica	C	Coco Island
ec	Ecuador	C	Galápagos Islands
gq	Equatorial Guinea	C	Annobón Island
		C	Bioko Island
		C	Río Muni
fk	Falkland Islands (Malvinas)	B1	Falkland Islands

		B1	Malvinas
fo	Faroe Islands	A	Faroe
fj	Fiji	C	Vanua Levu
		C	Viti Levu
		C	Rotuma Island
pf	French Polynesia	C	Austral Islands
		C	Gambier Islands
		C	Marquesas Islands
		C	Society Archipelago
		C	Tahiti
		C	Tuamotu Islands
		C	Clipperton Island
tf	French Southern Territories	C	Amsterdam Islands
		C	Crozet Archipelago
		C	Kerguelen Islands
		C	Saint Paul Island
gr	Greece	C	Mount Athos
gd	Grenada	C	Southern Grenadine Islands
		C	Carriacou
gp	Guadeloupe	C	la Désirade
		C	Marie-Galante
		C	les Saintes
hm	Heard Island and McDonald Islands	A	Heard Island
		A	McDonald Islands
va	Holy See (Vatican City State)	A	Holy See
		A	Vatican
hn	Honduras	C	Swan Islands
in	India	C	Amindivi Islands
		C	Andaman Islands
		C	Laccadive Islands
		C	Minicoy Island
		C	Nicobar Islands
ir	Iran, Islamic Republic of	B1	Iran
ki	Kiribati	C	Gilbert Islands
		C	Tarawa
		C	Banaba
		C	Line Islands
		C	Kiritimati
		C	Phoenix Islands
		C	Abariringa
		C	Enderbury Island
kp	Korea, Democratic People's Republic of	C	North Korea
kr	Korea, Republic of	C	South Korea
la	Lao People's Democratic Republic	B1	Laos
ly	Libyan Arab Jamahiriya	B1	Libya
mk	Macedonia, the Former Yugoslav Republic of	B1	Macedonia
my	Malaysia	C	Sabah
		C	Sarawak
mh	Marshall Islands	C	Jaluit
			Kwajalein
			Majuro
mu	Mauritius	C	Agalega Islands
		C	Cargados Carajos Shoals
		C	Rodrigues Island
fm	Micronesia, Federated States of	B1	Micronesia
		C	Caroline Islands (see also pw)
		C	Chuuk

		C	Kosrae
		C	Pohnpei
		C	Yap
md	Moldova, Republic of	B1	Moldova
		C	Moldava
an	Netherlands Antilles	B1	Antilles
		C	Bonaire
		C	Curaçao
		C	Saba
		C	Saint Eustatius
		C	Saint Martin
nc	New Caledonia	C	Loyalty Islands
mp	Northern Mariana Islands	C	Mariana Islands
		C	Saipan
om	Oman	C	Musandam Peninsula
pw	Palau	C	Caroline Iislands (see also fm)
		C	Babelthuap
ps	Palestinian Territory, Occupied	B1	Palestine
pg	Papua New Guinea	C	Bismarck Archipelago
		C	Northern Solomon Islands
		C	Bougainville
pn	Pitcairn	C	Ducie Island
		C	Henderson Island
		C	Oeno Island
re	Réunion	C	Bassas da India
		C	Europa Island
		C	Glorioso Island
		C	Juan de Nova Island
		C	Tromelin Island
ru	Russian Federation	B1	Russia
		C	Kaliningrad Region
sh	Saint Helena, Ascension, and Tristan de Cunha	A	Saint Helena
		A	Ascension
		A	Tristan de Cunha
		C	Gough Island
		C	Tristan de Cunha Archipelago
kn	Saint Kitts and Nevis	A	Saint Kitts
		A	Nevis
pm	Saint Pierre and Miquelon	A	Saint Pierre
		A	Miquelon
vc	Saint Vincent and the Grenadines	A	Saint Vincent
		A	The Grenadines
		C	Northern Grenadine Islands
		C	Bequia
		C	Saint Vincent Island
ws	Samoa	C	Savai'i
		C	Upolu
st	Sao Tome and Principe	A	Sao Tome
		A	Principe
sc	Seychelles	C	Mahé
		C	Aldabra Islands
		C	Amirante Islands
		C	Cosmoledo Islands
		C	Farquhar Islands
sb	Solomon Islands	C	Santa Cruz Islands
		C	Southern Solomon Islands
		C	Guadalcanal
za	South Africa	C	Marion Island

		C	Prince Edward Island
gs	South Georgia and the South Sandwich Islands	A	South Georgia
		A	South Sandwich Islands
sj	Svalbard and Jan Mayen	A	Svalbard
		A	Jan Mayen
		C	Bear Island
sy	Syrian Arab Republic	B1	Syria
tw	Taiwan, Province of China	B1	Taiwan
		C	Penghu Islands
		C	Pescadores
tz	Tanzania, United Republic of	B1	Tanzania
tl	Timor-Leste	C	Oecussi
to	Tonga	C	Tongatapu
tt	Trinidad and Tobago	A	Trinidad
		A	Tobago
tc	Turks and Caicos Islands	A	Turks Islands
		A	Caicos Islands
tv	Tuvalu	C	Fanafuti
ae	United Arab Emirates	B1	Emirates
us	United States	B2	America
um	United States Minor Outlying Islands	C	Baker Island
		C	Howland Island
		C	Jarvis Island
		C	Johnston Atoll
		C	Kingman Reef
		C	Midway Islands
		C	Palmyra Atoll
		C	Wake Island
		C	Navassa Island
vu	Vanuatu	C	Efate
		C	Santo
ve	Venezuela, Bolivarian Republic of	B1	Venezuela
		C	Bird Island
vg	Virgin Islands, British	B1	Virgin Islands
		C	Anegada
		C	Jost Van Dyke
		C	Tortola
		C	Virgin Gorda
vi	Virgin Islands, US	B1	Virgin Islands
		C	Saint Croix
		C	Saint John
		C	Saint Thomas
wf	Wallis and Futuna	A	Wallis
		A	Futuna
		C	Hoorn Islands
		C	Wallis Islands
		C	Uvea
ye	Yemen	C	Socotra Island

Maintenance

A Separable Country Names Registry will be maintained and published by ICANN Staff.

Each time the ISO 3166-1 standard is updated with a new entry, this registry will be reappraised to identify if the changes to the standard warrant changes to the entries in this registry. Appraisal will be based on the criteria listing in the "Eligibility" section of this document.

Codes reserved by the ISO 3166 Maintenance Agency do not have any implication on this registry, only entries derived from normally assigned codes appearing in ISO 3166-1 are eligible.

If an ISO code is struck off the ISO 3166-1 standard, any entries in this registry deriving from that code must be struck.

Eligibility

Each record in this registry is derived from the following possible properties:

Class A: The ISO 3166-1 English Short Name is comprised of multiple, separable parts whereby the country is comprised of distinct sub-entities. Each of these separable parts is eligible in its own right for consideration as a country name. For example, "Antigua and Barbuda" is comprised of "Antigua" and "Barbuda."

Class B: The ISO 3166-1 English Short Name (1) or the ISO 3166-1 English Full Name (2) contains additional language as to the type of country the entity is, which is often not used in common usage when referencing the country. For example, one such short name is "The Bolivarian Republic of Venezuela" for a country in common usage referred to as "Venezuela."

Class C: The ISO 3166-1 Remarks column containing synonyms of the country name, or sub-national entities, as denoted by "often referred to as," "includes", "comprises", "variant" or "principal islands".

In the first two cases, the registry listing must be directly derivative from the English Short Name by excising words and articles. These registry listings do not include vernacular or other non-official terms used to denote the country.

Eligibility is calculated in class order. For example, if a term can be derived both from Class A and Class C, it is only listed as Class A.

Attachment to Module 2

Sample Letter of Government Support

[This letter should be provided on official letterhead]

ICANN
Suite 330, 4676 Admiralty Way
Marina del Rey, CA 90292

Attention: New gTLD Evaluation Process

Subject: Letter for support for [TLD requested]

This letter is to confirm that [government entity] fully supports the application for [TLD] submitted to ICANN by [applicant] in the New gTLD Program. As the [Minister/Secretary/position] I confirm that I have the authority of the [x government/public authority] to be writing to you on this matter. [Explanation of government entity, relevant department, division, office, or agency, and what its functions and responsibilities are]

The gTLD will be used to [explain your understanding of how the name will be used by the applicant. This could include policies developed regarding who can register a name, pricing regime and management structures.] [Government/public authority/department] has worked closely with the applicant in the development of this proposal.

The [x government/public authority] supports this application, and in doing so, understands that in the event that the application is successful, [applicant] will be required to enter into a Registry Agreement with ICANN. In doing so, they will be required to pay fees to ICANN and comply with consensus policies developed through the ICANN multi-stakeholder policy processes.

[Government / public authority] further understands that the Registry Agreement provides that ICANN will comply with a legally binding decision in the relevant jurisdiction where there has been a dispute between [government/public authority] and the applicant.

[Optional] This application is being submitted as a community-based application, and as such it is understood that the Registry Agreement will reflect the community restrictions proposed in the application. In the event that we believe the registry is not complying with these restrictions, possible avenues of recourse include the Registry Restrictions Dispute Resolution Procedure.

[Optional] I can advise that in the event that this application is successful [xx government/public authority] will enter into a separate agreement with the applicant. This agreement will outline the conditions under which we support them in the operation of the TLD, and circumstances under which we would withdraw that support. ICANN will not be a party to this agreement, and enforcement of this agreement lies fully with [government/public authority].

[Government / public authority] understands that the Geographic Names Panel engaged by ICANN will, among other things, conduct due diligence on the authenticity of this documentation. I would request that if additional information is required during this process, that [name and contact details] be contacted in the first instance.

Thank you for the opportunity to support this application.

Yours sincerely

Signature from relevant government/public authority

Attachment to Module 2

Evaluation Questions and Criteria

Since ICANN was founded 10 years ago as a not-for-profit, multi-stakeholder organization, one of its key mandates has been to promote competition in the domain name market. ICANN's mission specifically calls for the corporation to maintain and build on processes that will ensure competition and consumer interests – without compromising Internet security and stability. This includes the consideration and implementation of new gTLDs. It is ICANN's goal to make the criteria and evaluation as objective as possible.

While new gTLDs are viewed by ICANN as important to fostering choice, innovation and competition in domain registration services, the decision to launch these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community.

Any public or private sector organization can apply to create and operate a new gTLD. However the process is not like simply registering or buying a second-level domain name. Instead, the application process is to evaluate and select candidates capable of running a registry, a business that manages top level domains such as, for example, .COM or .INFO. Any successful applicant will need to meet published operational and technical criteria in order to preserve Internet stability and interoperability.

I. *Principles of the Technical and Financial New gTLD Evaluation Criteria*

- Principles of conservatism. This is the first round of what is to be an ongoing process for the introduction of new TLDs, including Internationalized Domain Names. Therefore, the criteria in this round require applicants to provide a thorough and thoughtful analysis of the technical requirements to operate a registry and the proposed business model.

- The <u>criteria and evaluation should be as objective as possible</u>.

  - With that goal in mind, an important objective of the new TLD process is to <u>diversify the namespace</u>, with different registry business models and target audiences. In some cases, criteria that are objective, but that ignore the differences in business models and target audiences of new registries, will tend to make the process exclusionary. For example, the business model for a registry targeted to a small community need not possess the same robustness in funding and technical infrastructure as a registry intending to compete with large gTLDs. Therefore purely objective criteria such as a requirement for a certain amount of cash on hand will not provide for the flexibility to consider different business models. The process must <u>provide for an objective evaluation framework, but allow for adaptation according to the differing models applicants will present</u>. Within that framework, applicant's responses will be evaluated against the criteria in light of the proposed model.

  - Therefore the <u>criteria should be flexible</u>: able to scale with the overall business approach, providing that the planned approach is consistent and coherent, and can withstand highs and lows.

- Criteria can be <u>objective in areas of registrant protection</u>, for example:
    - Providing for funds to continue operations in the event of a registry failure.
    - Adherence to data escrow, ~~and~~ registry failover, and continuity plan<u>nings</u> <u>requirements</u>.

- The evaluation must strike the correct <u>balance</u> between establishing the business and technical competence of the applicant to operate a registry (to <u>serve the interests of registrants</u>), while not asking for the detailed sort of information or making the judgment that a venture capitalist would. ICANN is not seeking to certify business success but instead seeks to encourage innovation while providing certain safeguards for registrants.

- New registries must be added in a way that maintains <u>DNS stability and security</u>. Therefore, ICANN asks several questions so that the applicant can demonstrate an understanding of the technical requirements to operate a registry. ~~In certain cases,~~ ICANN will ask the applicant to demonstrate actual operational technical compliance prior to delegation. This is in line with current prerequisites for the delegation of a TLD.

- <u>Registrant protection</u> is emphasized in both the criteria and the scoring. Examples of this include asking the applicant to:

    - Plan for the <u>occurrence of contingencies and registry failure</u> by putting in place financial resources to fund the ongoing resolution of names while a replacement operator is found or extended notice can be given to registrants,
    - Demonstrate a capability to understand and plan for business contingencies to afford some <u>protections through the marketplace</u>,
    - Adhere <u>to DNS stability and security requirements</u> as described in the technical section, and
    - Provide <u>access</u> to the widest variety of services.

II. *Aspects of the Questions Asked in the Application and Evaluation Criteria*

The technical and financial questions are intended to inform and guide the applicant in aspects of registry start-up and operation. The established registry operator should find the questions straightforward while inexperienced applicants should find them a natural part of planning.

Evaluation and scoring (detailed below) will emphasize:

- How thorough are the answers? Are they well thought through and do they provide a sufficient basis for evaluation?

- Demonstration of the ability to operate and fund the registry on an ongoing basis:

    - Funding sources to support technical operations in a manner that ensures stability and security and supports planned expenses,
    - Resilience and sustainability in the face of ups and downs, anticipation of contingencies,
    - ~~Bonding or other f~~<u>F</u>unding to carry on operations in the event of failure.

- Demonstration that the technical plan will likely deliver on best practices for a registry and identification of aspectsissues that might raise DNS stability and security issues.

- Ensures plan integration, consistency and compatibility (responses to questions are not evaluated individually but in comparison to others):
  - Funding adequately covers technical requirements,
  - Funding covers costs,
  - Risks are identified and addressed, in comparison to other aspects of the plan.

III. Scoring

Evaluation

- The questions, criteria, scoring and evaluation methodology are to be conducted in accordance with the principles described earlier in section Ithe paper. With that in mind, globally diverse evaluation panelists will staff evaluation panels. The diversity of evaluators and access to experts in all regions of the world will ensure application evaluations take into account cultural, technical and business norms in the regions from which applications originate.

- Evaluation teams will consist of two independent panels. One will evaluate the applications against the financial criteria. The other will evaluate the applications against the technical & operational criteria. Given the requirement that technical and financial planning be well integrated, the panels will work together and coordinate it is likely that one organization will coordinate the information transfer where necessary between panels. Other relevant experts (e.g., technical, audit, legal, insurance, finance) in pertinent regions will provide advice as required.

- Precautions will be taken to ensure that no member of the Evaluation Teams will have any interest or association that may be viewed as a real or potential conflict of interest with an applicant or application. All members must adhere to the Code of Conduct and Conflict of Interest guidelines that are found in Module 2.

- Communications between the evaluation teams and the applicants will be through an online interface. During the evaluation, evaluators may pose a set of clarifying questions to an applicant, to which the applicant may respond through the interface.

- Confidentiality: ICANN will post applications after the close of the application period. The applications consist of the answers to the questions below. The answers to all questions will be published except for:

  - Architecture (Question 25)
  - Security Policy (Question 31)
  - Registry Transition (Question 40) the
  - Demonstration of Financial Capability questions (Questions 45 - 50) and the Registry Transition question (40).

The answers to these questions will be kept confidential.

Scoring

- Responses will be evaluated against each criterion. A score will be assigned according to the scoring schedule linked to each question or set of questions. In nearly all cases, 2

points are awarded for a response that exceeds requirements, 1 point is awarded for a response that meets requirements and 0 points are awarded for a response that fails to meet requirements. In several questions, 1 point is the maximum score that may be awarded. Each question must receive at least a score of "1," making each a "pass/fail" question.

- In the Continuity question in the financial section(see Question #50), up to 3 points are awarded if an applicant provides, at the application stage, a financial instrument that will guarantee ongoing registry operations in the event of a business failure. This extra point can serve to guarantee passing the financial criteria for applicants who score the minimum passing score for each of the individual criteria. The purpose of this weighting is to reward applicants who make early arrangements for the protection of registrants and to accept relatively riskier business plans where registrants are protected.

- There are 21 Technical & Operational questions. Each question has a criterion and scoring associated with it. The scoring for each is 0, 1, or 2 points as described above. One of the questions (IDN implementations) is optional. Other than the optional questions, all Technical & Operational criteria must be scored a 1 or more or the application will fail the evaluation.

- The total technical score must be equal to or greater than 22 for the application to pass. That means the applicant can pass by:

  - Receiving a 1 on all questions, including the optional question, and a 2 on at least one mandatory question; or
  - Receiving a 1 on all questions, excluding the optional question and a 2 on at least two mandatory questions.

  This scoring methodology requires a minimum passing score for each question and a slightly higher average score than the per question minimum to pass.

- There are six Financial questions and six sets of criteria that are scored by rating the answers to one or more of the questions. For example, the question concerning registry operation costs requires consistency between the technical plans (described in the answers to the Technical & Operational questions) and the costs (described in the answers to the costs question).

- The scoring for each of the Financial criteria is 0, 1 or 2 points as described above with the exception of the Continuity question, for which up to 3 points are possible. All questions must receive at least a 1 or the application will fail the evaluation.

- The total financial score on the six criteria must be 8 or greater for the application to pass. That means the applicant can pass by:

  - Scoring a 3 on the continuity criteria, or
  - Scoring a 2 on any two financial criteria.

- Applications that do not pass can enter into an extended evaluation process as described in Module 2the Applicant Guidebook. The scoring is the same.

	#	Question	Notes	Scoring Range	Criteria	Scoring
Applicant Information	1	Full legal name of the Applicant (the established entity that would enter into a registry agreement with ICANN)	Responses to Questions 1 - 12 are required for a complete application. Responses are not scored.			
	2	Address of the principal place of business of the Applicant. This address will be used for contractual purposes. No Post Office boxes are allowed.				
	3	Phone number for the Applicant's principal place of business.				
	4	Fax number for the Applicant's principal place of business.				
-	5	~~Email address for the Applicant's principal place of business.~~ Website or URL, if applicable.				
Primary Contact for this Application	6	Name	The primary contact will receive all communications regarding the application. Either the primary or the secondary contact may respond. In the event of a conflict, the communication received from the primary contact will be taken as authoritative.			
		Title				
		Address				
		Phone number				
		Fax number				
		Email address				
Secondary	7	Name	The secondary contact will be copied on			

Contact for this Application			all communications regarding the application. Either the primary or the secondary contact may respond.			
		Title				
		Address				
		Phone number				
		Fax number				
		Email address				
Proof of Legal Establishment	8	(a) Legal form of the Applicant. (e.g., limited liability partnership, corporation, non-profit institution).				
		(b) State the specific national or other jurisdictional law that defines the type of entity identified in 8(a). Identify any relevant section references and provide a URL to the document if available online.				
		(c) Attach evidence of the applicant's establishment as the type of entity identified in Question 8(a) above, in accordance with the applicable laws identified in Question 8(b).	Applications without valid proof of legal establishment will not be evaluated further.			
	9	(a) If the applying entity is publicly traded, provide the exchange and symbol.				
		(b) If the applying entity is a subsidiary, provide the parent company.				
		(c) If the applying entity is a joint venture, list all joint venture partners.				
Proof of Good Standing	9	(a) Identify the specific organizational or business purpose(s) of the entity specified in Question 8.				

		~~(b) If the applicant operates in a regulated industry where a specific document or license is required to engage in the purpose specified in 9(a) under the laws identified in the applicant's response to question 8(b) (e.g., banking, insurance), the applicant must attach a copy of its current, unrevoked permission or certificate to engage in the activity or operate as the type of business entity identified above.~~ ~~If the applicant's business purpose does not require such permission or certification, the applicant must attach a certificate from the incorporating body or alternative organization authorized by the incorporating body verifying the continued validity of the applicant (e.g., certificate of good standing or affidavit from a notary public). The applicant must clearly explain the chain of authority from the law identified in its response to question 8(b) to the alternative organization providing the documentation.~~	~~It may be possible to satisfy this requirement with the document submitted for proof of legal establishment, i.e., the same document may provide both proof of establishment and good standing. In this case, applicant must note so in its response.~~ ~~Applications without valid proof of good standing will not be evaluated further.~~ Note: The proof of good standing documentation has been eliminated as a document requirement since this will be covered during the background check (see Module 2). This also helps to eliminate the complexities for applicants in obtaining particular types of documentation to meet proof of good standing requirements, given that such documentation practices vary widely across global regions.			
	1 0	Business ID, Tax ID, VAT registration number, or equivalent of the Applicant.				
Applicant Background	1 1	(a) Enter the full name, contact information (permanent residence), and position of all directors.	Background checks may be conducted on individuals named in the applicant's response to question 11. Any material misstatement or misrepresentation (or omission of material information) may cause the application to be rejected.			

		(b) Enter the full name, contact information (permanent residence), and position of all officers and partners.			
		(c)Enter the full name, contact information (permanent residence of individual or principal place of business of entity) and position of all shareholders holding at least 15% of shares, and percentage held by each.			
	1 1	(d) Indicate whether the applicant or any of its directors, officers, partners, or shareholders named above: i. within the past ten years, has been convicted of a felony, or of a misdemeanor related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that is similar or related to any of these.; ii. within the past ten years, has been disciplined by a government for conduct involving dishonesty or misuse of funds of others; iii. is currently involved in any judicial or regulatory proceeding that could result in a conviction, judgment, determination, or discipline of the type specified in (i) or (ii); or iv. is the subject of a disqualification	ICANN may deny an otherwise qualified application for any of the following reasons: Applicant, or any partner, officer, director, or manager, or any person or entity owning (or beneficially owning) fifteen percent or more of applicant: a. within the past ten years, has been convicted of a felony, or of a misdemeanor related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that ICANN deemed as the substantive equivalent of any of these; b. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of the funds of		

		imposed by ICANN and in effect at the time of this application. If any of the above events have occurred, please provide details.	others; c. is currently involved in any judicial or regulatory proceeding that could result in a conviction, judgment, determination, or discipline of the type specified in (a) or (b); d. is the subject of a disqualification imposed by ICANN and in effect at the time the application is considered; or e. fails to provide ICANN with the identifying information necessary to confirm identity at the time of application.		
		(e) Indicate whether the applicant or any of its directors, officers, partners, or shareholders named above have demonstrated a pattern or practice of, or been found liable for, cybersquatting or domain name-related abuses.	ICANN may deny an otherwise qualified application for any of the following reasons: Applicant, or any partner, officer, director, manager, or any person or entity owning (or beneficially owning) fifteen percent or more of applicant is the subject of a pattern of decisions indicating liability for, or repeated practice of bad faith in regard to domain name registrations, including: (i) acquiring domain names primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to the owner of a trademark or service mark or to a competitor, for		

			valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or			
			(ii) registering domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name; or			
			(iii) registering domain names primarily for the purpose of disrupting the business of a competitor; or			
			(iv) using domain names with intent to attract, for commercial gain, Internet users to a web site or other on-line location, by creating a likelihood of confusion with a trademark or service mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.			
		(f) Disclose whether the applicant has been involved in any administrative or other legal proceeding in which allegations of intellectual property infringement of a domain name have been made. Provide an explanation related to each such instance.				
Evaluation Fee	12	(a) Enter the confirmation information for ~~your~~ payment of the evaluation fee (e.g., wire transfer confirmation number).	The evaluation fee is paid in the form of a deposit at the time of user registration, and submission of the remaining amount at the time the full application is			

			submitted. The information in question 12 is required for each payment.			
		(b) Payer name				
		(c) Payer address				
		(d) Wiring bank				
		(e) Bank address				
		(f) Wire date				
Applied-for gTLD string	13	Provide the applied-for gTLD string. If applying for an IDN, provide the A-label (beginning with "xn--").	Responses to Questions 13- 17 are not scored, but are used for database and validation purposes.			
	14	(a) If applying for an IDN, provide the U-label.	-The U-label is an IDNA-valid string of Unicode characters, including at least one non-ASCII character.			
		(b)If an IDN, provide the meaning, or restatementtranslation or transliteration of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.				
		(c)If an IDN, provide the language of the label (both in English and as referenced by ISO-639-1)?				
		(d)If an IDN, provide the script of the label (both in English and as referenced by ISO				

		15924).			
		(e)If an IDN, list all the code points contained in the U-label according to Unicode form.			
	15	(a) If an IDN, upload IDN tables for the proposed registry. An IDN table must include: 1) the applied-for gTLD string relevant to the tables, 2) the script or language designator (as defined in BCP 47), 3) table version number, 4) effective date (DD Month YYYY), and 5) contact name, email address, and phone number. Submission of IDN tables in a standards-based format is encouraged.	In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string. IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second level.		
		(b) Describe the process used for development of the IDN tables submitted, including consultations and sources used.			
		(c) List any variants to the applied-for gTLD string according to the relevant IDN tables.	Variant TLD strings will not be delegated as a result of this application. Variant strings will be checked for consistency and will be entered on a Declared IDN Variants List to allow for future allocation once a variant management mechanism is established for the top level.		

	16	If an IDN, describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.				
	17	OPTIONAL. Provide a representation of the label according to the International Phonetic Alphabet (http://www.langsci.ucl.ac.uk/ipa/).	If provided, this information will be used as a guide to ICANN in communications regarding the application.			
Mission/Purpose	18	Describe the mission/purpose of your proposed gTLD.	Applicants are encouraged to provide a thorough and detailed description to enable informed consultation and comment. Responses to this question are not scored. An applicant wishing to designate this application as community-based should ensure that this response is consistent with its responses for question 20 below.			
Community-based Designation	19 8	Is the application for a community-based TLD?	There is a presumption that the application is a standard application (as defined in the Applicant Guidebook) if this question is left unanswered. The applicant's designation as standard or community-based cannot be changed once the application is submitted.			

	20 ~~19~~	(a) Provide the name and full description of the community that the applicant is committing to serve. In the event that this~~Community-based~~ application~~s~~ is included~~participating~~ in a community priority ~~(comparative)~~ evaluation, it will be scored ~~in that event~~ based on the community identified in response to this question.	Descriptions should include: • How the community is delineated from Internet users generally. Such descriptions may include, but are not limited to, the following: membership, registration, or licensing processes, operation in a particular industry, use of a language. • How the community is structured and organized. For a community consisting of an alliance of groups, details about the constituent parts are required. • When the community was established, including the date(s) of formal organization, if any, as well as a description of community activities to date. • The current estimated size of the community, both as to membership and geographic extent.		Responses to Question 20~~19~~ will be regarded as firm commitments to the specified community and reflected in the registry agreement, provided the application is successful. Responses are not scored in the Initial Evaluation. Responses may be scored in a community priority ~~(comparative)~~ evaluation, if applicable. Criteria and scoring methodology for the community priority ~~(comparative)~~ evaluation are described in Module 4 of the Applicant Guidebook.
		(b) Explain the applicant's relationship to the community identified in 20~~19~~(a).	Explanations should clearly state: • Relations to any community organizations • Relations to the community and its constituent parts/groups		

		(c) Provide a description of the community-based purpose of the applied-for gTLD.	Descriptions should include: • Intended registrants in the TLD. • Intended end-users of the TLD. • Related activities the applicant has carried out or intends to carry out in service of this purpose. • Explanation of how the purpose is of a lasting nature. If filled out, this will automatically populate Question 20, on mission/purpose.			
		(d) Explain the relationship between the applied-for gTLD string and the community identified in 2019(a).	Explanations should clearly state: • relationship to the established name, if any, of the community. • relationship to the identification of community members. • any connotations the string may have beyond the community.			
		(e) Provide a complete description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD. Policies and enforcement mechanisms are expected to constitute a coherent set.	Descriptions should include proposed policies, if any, on the following: • Eligibility: who is eligible to register a second-level name in the gTLD, and how will eligibility be determined. • Name selection: what types of second-level names may be registered in the gTLD. • Content/Use: what restrictions, if any, the registry operator will impose on how a registrant may use its registered name. • Enforcement: what investigation practices and mechanisms exist to			

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			enforce the policies above, what resources are allocated for enforcement, and what appeal mechanisms are available to registrants.			
		(f) Attach any written endorsements for the application from institutions/groups representative of the community identified in 20~~19~~(a). An applicant may submit endorsements by multiple institutions/groups, if relevant to the community.	Endorsements from institutions/groups not mentioned in the response to 20~~19~~(b) should be accompanied by a clear description of each such institution's/group's relationship to the community.			
~~Mission/Purpose~~	~~20~~	~~Describe the mission/purpose of your proposed gTLD.~~	~~Applicants are encouraged to provide a thorough and detailed description to enable informed consultation and comment. Responses to this question are not scored.~~			
Geographical Names	21	(a) Is the application for a geographical name?	An applied-for gTLD string is considered a geographical name requiring government support if it is:~~ (a) a country or territory name as defined in the Applicant Guidebook;~~ (~~b~~a) the capital city name of a country or territory listed in the ISO 3166-1 standard; (b) a city name, where the applicant declares in its response to question 18 that it intends to use the gTLD for purposes associated with the city name; (c) a sub-national place name listed in the ISO 3166-2 standard; ~~(c) the capital city name of a country or territory listed in the ISO 3166 1 standard; (d) a city name, where the applicant declares in its response to question 20 that it intends to use the gTLD for purposes associated with the city name;~~ or (~~d~~e) a continent or			

			UN region. An application for a country or territory name, as defined in the Applicant Guidebook, will not be approved.			
		(b) If a geographical name, attach documentation of support or non-objection from all relevant governments or public authorities.	See the documentation requirements in Module 2 of the Applicant Guidebook.			
Protection of Geographical Names	22	Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD. This should include any applicable rules and procedures for reservation and/or release of such names.	Applicants should consider and describe how they will incorporate Governmental Advisory Committee (GAC) advice in their management of second-level domain name registrations. See "Principles regarding New gTLDs" at http://gac.icann.org/gac-documentshttp://gac.icann.org/index.php?name=Imp–doc.. For reference, applicants may draw on existing methodology developed for the reservation and release of country names			

			in the .INFO top-level domain. ~~See ".info Procedure" at http://gac.icann.org/index.php?name=Imp -doc.~~ Proposed measures will be posted for public comment as part of the application.		
Registry Services	23	Provide name and full description of all the Registry Services to be provided. Descriptions should include both technical and business components of each proposed service, and address any potential security or stability concerns. The following registry services are customary services offered by a registry operator: A. Receipt of data from registrars concerning registration of domain names and name servers. B. Provision of status information relating to zone servers for the TLD. C. Dissemination of TLD zone files. D. Dissemination of contact or other information concerning domain name registrations (Whois service). E. Internationalized Domain Names, where offered. F. DNS Security Extensions (DNSSEC). The applicant must describe whether any of these registry services are intended to	Registry Services are defined as the following: (1) operations of the Registry critical to the following tasks: (i) the receipt of data from registrars concerning registrations of domain names and name servers; (ii) provision to registrars of status information relating to the zone servers for the TLD; (iii) dissemination of TLD zone files; (iv) operation of the Registry zone servers; and (v) dissemination of contact and other information concerning domain name server registrations in the TLD as required by the Registry Agreement; and (2) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy; (3) any other products or services that only a Registry Operator is capable of providing, by reason of its designation as the Registry Operator. A full definition of Registry Services can be found at http://www.icann.org/en/registries/rsep/rsep.html. Security: For purposes of this applicant guidebook, an effect on security by the proposed Registry Service means (1) the		Responses are not scored. A preliminary assessment will be made to determine if there are potential security or stability issues with any of the applicant's proposed Registry Services. If any such issues are identified, the application will be referred for an extended review. See the description of the Registry Services Review process in Module 2 of the Applicant Guidebook. Any information contained in the application may be considered as part of the registry services review. If its application is approved, applicant may engage in only those registry services defined in the application, unless a new request is submitted to ICANN in accordance with the	

		be offered in a manner unique to the TLD. Additional proposed registry services that are unique to the registry must also be described.	unauthorized disclosure, alteration, insertion or destruction of Registry Data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with applicable standards. Stability: For purposes of this applicant guidebook, an effect on stability shall mean that the proposed Registry Service (1) is not compliant with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant Standards-Track or Best Current Practice RFCs and relying on Registry Operator's delegation information or provisioning.		registry agreement.	
Demonstration of Technical & Operational Capability	24	Technical Overview of Proposed Registry: provide a technical overview of the proposed registry. The technical plan must be adequately resourced, with appropriate expertise and allocation of costs. The applicant will	The questions in this section (24-44) are intended to give applicants an opportunity to demonstrate their technical and operational capabilities to run a registry. In the event that an applicant chooses to outsource one or more parts of its registry operations, the applicant should still	0-2	Complete answer demonstrates: (1) complete knowledge and understanding of technical aspects of registry	2 - exceeds requirements: Response includes (1) highly developed and detailed technical plans; (2) provision of a high level of

		provide financial descriptions of resources in the next section and those resources must be reasonably related to these technical requirements. The overview should include information on the estimated scale of the registry's technical operation, for example, estimates for the number of registration transactions and DNS queries per month should be provided for the first two years of operation. In addition, the overview should account for geographic dispersion of incoming network traffic such as DNS, Whois, and registrar transactions. If the registry serves a highly localized registrant base, then traffic might be expected to come mainly from one area. This high-level summary should not repeat answers to questions below.	provide the full details of the technical arrangements.		requirements; (2) an adequate level of resiliency for the registry's technical operations; (3) consistency with currently deployed technical/operational solutions; (4) consistency with the overall business approach and planned size of the registry; and (5) adequate resourcing for technical plan in the planned costs detailed in the financial section.	availabilityresiliency; (3) full interplay and consistency of technical and business requirements; and (4) evidence of technical resources already on hand or fully committed. **1 - meets requirements**: Response includes (1) adequate level of developmentdetail to substantially demonstrate capability and knowledge required to meet this element; (2) technical plans are commensurate with the overall business approach as described in the application; (3) demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.

| 25 | Architecture: provide documentation for ~~details of~~ the system and network architecture that will support registry~~the~~ operations~~ of the registry~~ for the proposed scale of the registry. System and network architecture documentation must clearly demonstrate the applicant's ability to operate, manage, and monitor registry systems. Documentation may include multiple diagrams or other components ~~Answers should~~ sufficient to describe:~~include information such as~~:
• Network and associated systems necessary to support registry operations, including:
o Anticipated TCP / IP addressing scheme
o Hardware (CPU and RAM, Disk space, networking components, virtual machines)
o Operating system and versions
o Software and applications (with version information) necessary to support registry operations, management, and monitoring
• General overview of capacity planning, including bandwidth allocation plans
• List of providers / carriers
• Number and description of personnel roles allocated to this area~~architecture and network diagrams,~~
• ~~details of hardware and software platforms for DNS and other services,~~ | | 0-2 | Complete answer demonstrates:
(1) detailed and coherent network architecture;
(2) architecture providing resiliency for registry systems;
(3) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and
(4) a technical plan that is adequately resourced in the planned costs detailed in the financial section. | **2 - exceeds requirements:**
Response includes
(1) Evidence of highly developed and detailed network architecture;
(2) Evidence of a highly available, ~~level of resiliency,~~ robust, and secure infrastructure;
(3) Network architecture shows full interplay and consistency of technical and business requirements; and
(4) Evidence of technical resources already on hand or fully committed.
1 - meets requirements:
Response includes
(1) Plans for network architecture describe all necessary elements;
(2) Descriptions demonstrate adequate network architecture providing robustness and security of the registry;
(3) Bandwidth and SLA are commensurate with overall business approach as described in the application; and
(4) Demonstrates that technical resources |

						network bandwidth provision and provider diversity. **(Responses to this question will be kept confidential.)**	required to carry through the plans for this element are readily available. **0 - fails requirements:** Does not meet all the requirements to score 1.
	26	Database Capabilities: provide details of database capabilities including: • database software, • storage capacity (both in raw terms [e.g., MB, GB] and in number of registrations / registration transactions), • maximum transaction throughput (in total and by type of transaction), • scalability, • procedures for object creation, editing, and deletion, • high availability, • change notifications, • registrar transfer procedures, • grace period implementation, and • reporting capabilities, and • number and description of personnel roles allocated to this area.		0-2	Complete answer demonstrates: (1) complete knowledge and understanding of database capabilities to meet the registry technical requirements; (2) database capabilities are consistent with the overall business approach, and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	**2 - exceeds requirements:** Response includes (1) Highly developed and detailed description of database capabilities; (2) Evidence of comprehensive database capabilities, including high scalability and redundant database infrastructure, regularly reviewed operational and reporting procedures are reviewed regularly and following leading practices; (3) Database capabilities show full interplay and consistency of technical and business requirements; and (4) Evidence of technical resources already on hand or fully committed. **1 - meets requirements:**

						Response includes (1) Plans for database capabilities describe all necessary elements; (2) Descriptions demonstrate adequate database capabilities (not leading practices), with database throughput, scalability, and database operations with limited operational governance; (3) Database capabilities are commensurate with overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.

| 27 | Geographic Diversity: provide a description of plans for geographic diversity of:

a.   name servers, and
b.   operations centers.

This should include the intended physical locations of systems, primary and back-up operations centers (including security attributes), and other infrastructure. This may include Registry plans to use Anycast or other geo-diversity measures. Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0-2 | Complete answer demonstrates:
(1) geographic diversity of nameservers and operations centers;
(2) proposed geo-diversity measures are consistent with the overall business approach and planned size of the registry; and
(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section. | **2 - exceeds requirements**:
Response includes
(1) Evidence of highly developed measures for geo-diversity of operations, with locations and functions;
(2) A high level of availability~~resiliency~~, security, and bandwidth;
(3) Full interplay and consistency of technical and business requirements; and
(4) Evidence of technical resources already on hand or committed.
1 - meets requirements:
Response includes
(1) Description of geodiversity plans includes all necessary elements;
(2) Plans provide adequate geo-diversity of name servers and operations;
(3) Geo-diversity plans are commensurate with overall business approach as described in the application; and
(4) Demonstrates that technical resources |

					required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.
	28	DNS Service Compliance: describe the configuration and operation of nameservers, including how the applicant will ~~comply with~~comply with RFCs. All name servers used for the new gTLD must be operated in compliance with the DNS protocol specifications defined in the relevant RFCs, ~~-~~including but not limited to: 1034, 1035, 1982, ~~-~~2181, 2182, ~~-~~2671, 3226, 3596, 3597, 3901, 4343, and 4472. Describe the DNS services to be provided, the resources used to implement the services, and demonstrate how the system will function. Suggested information includes: Services. Query rates to be supported at initial operation, and reserve capacity of the system. How will these be scaled as a function of growth in the TLD? Similarly, describe how services will scale for name server update method and performance.	Note that the use of DNS wildcard resource records as described in RFC 4592 or any other method or technology for synthesizing DNS resource records or using redirection within the DNS by the registry is prohibited in the Registry Agreement. Also note that name servers for the new gTLD must comply with IANA Technical requirements for authoritative name servers: <http://www.iana.org/procedures/nameserver-requirements.html>.	0-2	Complete answer demonstrates: (1) adequate description of configurations of nameservers and compliance with respective DNS protocol-related RFCs; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) evidence of compliance with Specification 6 to the Registry Agreement.	**2 - exceeds requirements**: Response includes: (1) Highly developed and detailed plans to ensure compliance with DNS protocols and required performance specifications; (2) A high level of availability~~resiliency~~; (3) Full interplay and consistency of technical and business requirements; and (4) Evidence of technical resources already on hand or committed. **1 - meets requirements**: Response includes: (1) Adequate level of detail to substantially demonstrate capability

		Resources. Describe complete server hardware and software. Describe how services are compliant with RFCs. Are these dedicated or shared with any other functions (capacity/performance) or DNS zones? Describe network bandwidth and addressing plans for servers. Describe resourcing plans (number and description of personnel roles allocated to this area). Describe how the proposed infrastructure will be able to deliver the performance described in the Performance Specification (Specification 6) attached to the draft Registry Agreement. Examples of evidence include: • Server configuration (s)standard (i.e., planned configuration). • Network addressing and bandwidth for query load and update propagation. • Headroom to meet surges.			and knowledge required to meet this element; (2) Plans are sufficient to result in compliance with DNS protocols and required performance specifications; and (3) Plans are commensurate with overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.

| | | 29 | SRS Performance: describe the plan for operation of a robust and reliable Shared Registration System. SRS is a critical registry function for enabling multiple registrars to provide domain name registration services in the TLD. Please refer to the requirements in the Registry Interoperability, Continuity, and Performance Specification (Specification 6) attached to the draft Registry Agreement. Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0-1 | Complete answer demonstrates: (1) a robust plan for operating a reliable SRS; (2) scalability and performance are consistent with the overall business approach, and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) evidence of compliance with Specification 6 to the Registry Agreement. | **1 - meets requirements**: Response includes (1) Evidence of highly developed and detailed plan to operate a robust and reliable SRS; (2) SRS plans are sufficient to result in compliance with the Registry Continuity, Interoperability, and Performance Specifications; (3) Full interplay and consistency of technical and business requirements; and (4) Demonstrates that technical resources are already on hand, or committed or readily available. **0 - fails requirements**: Does not meet all the requirements to score 1. |

| | 30 | EPP: provide a detailed description of the interface with registrars, including how the applicant will comply with Extensible Provisioning Protocol in the relevant RFCs, including but not limited to: RFCs 3915, 3735, and 5730-5734.

Provide the EPP templates and schemas that will be used.

Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0-1 | Complete answer demonstrates:
(1) complete knowledge and understanding of this aspect of registry technical requirements;
(2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and
(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section. | 1 - meets requirements: Response includes
(1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element;
(2) EPP templates and schemas are compliant with RFCs and provide all necessary functionalities for registrar interface;
(3) Full interplay and consistency of technical and business requirements; and
(4) Demonstrates that technical resources are already on hand, or committed or readily available.
0 - fails requirements: Does not meet all the requirements to score 1. |

| | 31 | Security Policy: provide an outline of the security policy and procedures for the proposed registry, including:
• System (data, server, application / services) and network access control, ensuring systems are maintained in a secure fashion, including details of how they are monitored, logged and backed up;
• -provisioning and other measures that mitigate risks posed by denial of service attacks;
• -computer and network incident response policies, plans, and processes;
• plans to minimize the risk of unauthorized access to its systems or tampering with registry data;
• -intrusion detection mechanisms,
• a threat analysis for the proposed registry, and the defenses that will be deployed against those threats, and provision for periodic threat analysis updates;
• -details for auditing capability on all network access;
• physical security approach;
• identification of department or group responsible for the registry's security organization;
• background checks conducted on security personnel;
• -independent assessment report to demonstrate security capabilities, (if any), and provision for periodic independent | | 0-2 | Complete answer demonstrates:
(1) detailed description of processes and solutions deployed to manage logical security across infrastructure and systems, monitoring and detecting threats and security vulnerabilities and taking appropriate steps to resolve them;
(2) security capabilities are consistent with the overall business approach and planned size of the registry;
(3) a technical plan adequately resourced in the planned costs detailed in the financial section; and
(4) security measures are consistent with any commitments made to registrants regarding security levels. | **2 - exceeds requirements**:
Response includes
(1) Evidence of highly developed and detailed security capabilities, with various baseline security levels, independent benchmarking of security metrics, robust periodic security monitoring, and continuous enforcement;
(2) Independent assessment report is provided demonstrating effective security controlsavailable with leading practices being followed;
(3) Full interplay of business and technical requirements;and
(4) Evidence of technical resources already on hand or fully committed.
1 - meets requirements:
Response includes:
(1) Adequate level of detail to substantially demonstrate capability and knowledge to meet this element;
(2) Evidence of adequate security capabilities, enforcement of logical |

		assessment reports to test security capabilities; ● resources to secure integrity of updates between registry systems and nameservers, and between nameservers, if any; and ● number and description of personnel roles allocated to this area). Answers should specify the main security threats to the registry operation that have been identified. **(Responses to this question will be kept confidential.)**			access control, threat analysis, incident response and auditing. Ad-hoc oversight and governance and leading practices being followed; (3) Security capabilities aligned with the overall business approach as described in the application, and any commitments made to registrants; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.

| 32 | IPv6 Reachability: the registry supports access to Whois, Web-based Whois and any other Registration Data Publication Service as described in Specification 6 to the Registry Agreement. The registry also supports DNS servers over an IPv6 network for at least 2 nameservers. IANA currently has a minimum set of technical requirements for IPv4 name service. These include two nameservers separated by geography and by network topology, each serving a consistent set of data, and are reachable from multiple locations across the globe. Describe how the registry will meet this same criterion for IPv6, requiring IPv6 transport to their network. List all services that will be provided over IPv6, and describe the IPv6 connectivity and provider diversity that will be used. Describe resourcing plans (number and description of personnel roles allocated to this area). | -IANA nameserver requirements are available at http://www.iana.org/procedures/nameserver-requirements.html. | 0-12 | Complete answer demonstrates:
(1) complete knowledge and understanding of this aspect of registry technical requirements;
(2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and
(3) a technical plan that is adequately resourced in the planned costs detailed in the financial section. | 2 - exceeds requirements: Response includes: (1) Evidence of highly developed and detailed network architecture and implementation plan, indicating IPv6 reachability allowing IPv6 transport in the network in compliance to IPv4 IANA specifications with at least 2 separated nameservers; (2) A high level of resiliency; (3) Full interplayintegration and consistency of technical and business requirements;and (4) Evidence of technical resources already on hand or fully committed.

1 - meets requirements: Response includes (1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Evidence of adequate implementation plan addressing requirements |

for IPv6 reachability, indicating IPv6 reachability allowing IPv6 transport in the network in compliance to IPv4 IANA specifications with at least 2 separated nameservers; including identification of IPv6 reachable nameservers; (3) IPv6 plans commensurate with overall business approach as described in the application; and demonstrates that technical resources required to carry through the plans for this element are already on hand or readily available.
0 - fails requirements: Does not meet all the requirements to score 1.

| | 3 3 | Whois: describe how the applicant will comply with ICANN's Registry Publicly Available Registration Data (Whois) specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 6 to the baseregistry agreement.: "Specification for Registration Data Publication Services." (Spec 4) Describe how the Applicant's Registry Publicly Available Registration Data (Whois) service will comply with RFC 3912. Describe how the applicant will comply with performance specifications for Whois service as in Specification 6 to the draft registry agreement. Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0 - 1 | Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section. | 1 - meets requirements: Response includes (1) adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Whois services compliant with RFCs and contractual requirements and provide all necessary functionalities for user interface; (3) Whois capabilities commensurate with the overall business approach as described in the application; and (4) demonstrates that technical resources required to carry through the plans for this element are already on hand or readily available. 0 - fails requirements: Does not meet all the requirements to score 1. |

	3 4	Registration Life Cycle: provide a detailed description of the proposed registration lifecycle for domain names in the proposed gTLD. The description must explain the various registration states as well as the criteria and procedures that are used to change state. It must describe the typical registration lifecycle of create/update/delete and all intervening steps such as pending, locked, expired, and transferred that may apply. Any time elements that are involved - for instance details of add-grace or redemption grace periods, or notice periods for renewals or transfers - must also be clearly explained. Describe resourcing plans (number and description of personnel roles allocated to this area).		0- 1	Complete answer demonstrates: (1) complete knowledge and understanding of registration lifecycles and states; and (2) consistency with any specific commitments made to registrants as adapted to the overall business approach for the proposed gTLD.	**1 - meets requirements:** Response includes (1) Evidence of highly developed registration life cycle with definition of various registration states and transition between the states; (2) Consistency of registration lifecycle with any commitments to registrants and with technical and financial plans; and (3) Demonstrates that technical resources required to carry through the plans for this element are already on hand or readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.
	3 5	Abuse Prevention and Mitigation: Applicants should describe the proposed policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. Answers should include: • Safeguards the applicant will implement at the time of registration, policies to reduce opportunities for abusive behaviors using registered domain names in the TLD, and policies for handling complaints regarding abuse. Each		0- 1	Complete answer demonstrates: (1) Comprehensive abuse policies and procedures that will effectively minimize potential for abuse in the TLD; (2) Plans are adequately resourced in the planned costs	**1 - meets requirements** (1) Evidence of highly developed abuse policies and procedures; (2) Plans are consistent with overall business approach and any commitments made to registrants; and

		registry operator will be required to establish and publish on its website a single abuse point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller. • A description of rapid takedown or suspension systems that will be implemented. • Proposed measures for management and removal of orphan glue records for names removed from the zone. • Resourcing plans (number and description of personnel roles allocated to this area).		detailed in the financial section; (3) Policies and procedures identify and address the abusive use of registered names at startup and on an ongoing basis; and (4) When executed in accordance with the Registry Agreement, plans will result in compliance with contractual requirements.	(3) Plans are sufficient to result in compliance with contractual requirements. **0 – fails** ~~r~~Requirements Does not meet all the requirements to score 1.
	3 6	Rights Protection Mechanisms: Applicants should describe how their proposal will comply with~~create~~ policies and practices that minimize abusive registrations and other activities that affect the legal rights of others. Describe how the registry ~~proposal will~~operator will implement safeguards against allowing unqualified registrations, and reduce opportunities for behaviors such as phishing or pharming. At a minimum, the registry operator must offer either a Sunrise period or a Trademark Claims service, and implement decisions rendered under the URS. Answers may also include additional measures such as abusive use policies, takedown procedures, registrant pre-verification, or authentication procedures, or other covenants. Describe resourcing plans (number and description of personnel roles allocated to this	~~Note that requirements for rights protection mechanisms remain under discussion. The applicant questions and criteria included here are expected to evolve as a result of community consideration on an effective approach to rights protection in new gTLDs. In this regard, various proposals and corresponding guidebook language are being published for comment simultaneously with the publication of this draft of the Applicant Guidebook.~~	0- 2	Complete answer describes mechanisms designed to (1) prevent abusive registrations, and to (2) identify & address the abusive use of registered names on an ongoing basis.	**2 - exceeds requirements:** (1) ~~Evidence of highly developed rights protection mechanisms (RPM),specified in detail for inclusion into registry agreement.~~Provides a coherent, well-developed plan for rights protection; ~~(~~2) Mechanisms provide effective protection at least meeting minimum requirements, and may include other protections, beyond the start-up period; ~~pre-registration and post~~

					~~registration (beyond UDRP) protections, and (3) Mechanisms address registry start-up and on-going operations.~~ **1 - meets requirements:** (1) Proposed registry operator commits to and describes protection of rights mechanisms <u>sufficient to comply with minimum requirements;</u>~~and~~ (2) These mechanisms provide protections at least at registry start-up, <u>and may include other protections beyond the start-up period</u>. **0 - fails requirements**: Does not meet <u>all</u> the requirements to score a 1.
	<u>area).</u>				

3 7	Data Backup Policies & Procedures: provide • details of frequency and procedures for backup of data, • hardware, and systems used for backup • data format, • data backup features, • backup testing procedures, and • procedures for retrieval of data/rebuild of database, • storage controls and procedures, and • resourcing plans (number and description of personnel roles allocated to this area).		0- 2	Complete answer demonstrates: (1) detailed backup and retrieval processes deployed, retrieval process and frequency; (2) a backup and retrieval process and frequency are that is consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	**2 – exceeds requirements**: Response includes (1) Evidence of highly developed data backup policies and procedures, with continuous robust monitoring, continuous enforcement of backup security, regular review of backups, regular recovery testing, and recovery analysis. Leading practices being followed; (2) A high level of resiliency; (3) Full interplay and consistency of technical and business requirements; and (4) Evidence of technical resources already on hand or fully committed. **1 - meets requirements**: Response includes (1) Adequate backup procedures, recovery steps, and retrieval capabilities available; (2) Minimal leading practices being followed;

					(3) Backup procedures commensurate with the overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score a 1.

| | | 3 8 | Escrow: describe how the applicant will comply with the escrow arrangements documented in the Registry Data Escrow Specifications (Specification 2 of the draft Registry Agreement). Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0- 2 | Complete answer demonstrates: (1) compliance with Specification 2 of the Registry Agreement; (2) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (3) the escrow arrangement is consistent with the overall business approach and size/scope of the registry. | 2 - exceeds requirements: Response includes (1) Evidence of highly developed and detailed data escrow procedures, including continuous monitoring, archiving, and periodic review for continuous registry operations; (2) Procedures are in place to ensure Evidences compliance with Specification 2 of the Registry Agreement; (3) Full interplay of technical and business requirements;and (4) Evidence of technical resources already on hand or committed. 1 – meets requirements: Response includes (1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Data escrow plans are sufficient to result in compliance with the Data Escrow |

					Specification; (3) Escrow capabilities are commensurate with the overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 – fails requirements:** Does not meet all the requirements to score a 1.
	3 9	Registry Continuity: describe how the applicant will comply with registry continuity obligations as described in the Registry Interoperability, Continuity and Performance Specification, attached to the draft Registry Agreement (Specification 6). This includes conducting registry operations using diverse, redundant servers to ensure continued operation of critical functions in the case of technical failure. Describe resourcing plans (number and	For reference, applicants should review the ICANN gTLD Registry Continuity Plan at http://www.icann.org/en/registries/continuity/gtld-registry-continuity-plan-25apr09-en.pdf.	0-2	Complete answer demonstrates: (1) detailed description showing plans for compliance with registry continuity obligations; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	**2 - exceeds requirements:** Response includes (1) Highly developed and detailed processessystems for maintaining registry continuity; (2) A high level of availabilityresiliency; (3) Full interplay and consistency of technical and business

		description of personnel roles allocated to this area).			requirements, and (4) Evidence of technical resources already on hand or committed. **1 - meets requirements:** Response includes (1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Continuity plans are sufficient to result in compliance with requirements; (3) Continuity plans are commensurate with overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements:** Does not meet all the requirements to score a 1.
	4 0	Registry Transition: provide a plan that could be followed in the event that it becomes necessary to transition the proposed gTLD to a new operator,		0 - 2	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of	**2 - exceeds requirements:** Response includes

		including a transition process. (Responses to this question will be kept confidential.)		registry technical requirements; (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	(1) Evidence of highly developed registry transition plan including time required for transitions, feasibility analysis during transition, robust monitoring the pre- and post-delegation phases; (2) A high level of resiliency; (3) Full interplay and consistency of technical and business requirements; and (4) A transition provider is already on hand. **1 - meets requirements**: (1) Response includes (1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Evidence of adequate registry transition plan with ad hoc monitoring during registry transition; (3) Transition plan is commensurate with the overall business approach as described in the application; and

					(4) Resources for registry transition are fully committed. **0 - fails requirements**: Does not meet all the requirements to score a 1.
	4 1	Failover Testing: provide a description of the failover testing plan, including mandatory annual testing of the plan. Examples may include a description of plans to test failover of data centers or operations to alternate sites, from a hot to a cold facility, or registry data escrow testing. Describe resourcing plans (number and description of personnel roles allocated to this area).		0 - 2	Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.	**2 - exceeds requirements:** Response includes (1) Evidence of highly developed and detailed failover testing plan, including periodic testing, robust monitoring, review, and analysis; (2) A high level of resiliency; (3) Full interplay and consistency of technical and business requirements; (4) Evidence of technical resources for failover testing already on hand or fully committed. **1 - meets requirements:** Response includes (1) Adequate level of detail to substantially demonstrate capability

					and knowledge required to meet this element; (2) Evidence of adequate failover testing plan with ad hoc review and analysis of failover testing results; (3) Failover testing plan is commensurate with the overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score a 1.

| | 4 2 | Monitoring and Fault Escalation Processes: provide a description of the proposed (or actual) arrangements for monitoring critical registry systems (including SRS, database systems, DNS servers, Whois service, network connectivity, routers and firewalls). This description should explain how these systems are monitored and the mechanisms that will be used for fault escalation and reporting, and should provide details of the proposed support arrangements for these registry systems.

Applicant will describe monitoring and communication mechanisms to registrars for detecting and signaling registry entries resulting in DNS response sizes exceeding the common 512-byte threshold and the RFC-3226-mandated 1220-byte threshold once DNSSEC support is provided.

Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0-2 | Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section; and (4) consistency with the commitments made to registrants regarding system maintenance. | 2 - exceeds requirements: Response includes (1) Evidence showing highly developed and detailed fault tolerance/monitoring and redundant systems deployed with real-time monitoring tools / dashboard (metrics) deployed and reviewed regularly; (2) A high level of availability~~resiliency~~; (3) Full interplay and consistency of technical and business requirements;~~,~~ and (4~~3~~) Evidence of technical resources for monitoring and fault escalation already on hand or fully committed. 1 - meets requirements: Response includes (1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element; (2) Evidence showing adequate fault tolerance/monitoring |

					systems planned with ad hoc monitoring and limited periodic review being performed; (3) Plans are commensurate with overall business approach; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score 1.
all					

| | 4 3 | DNSSEC: Describe the policies and procedures the proposed registry will follow, for example, for signing the zone file, for verifying and accepting DS records from child domains, and for generating, exchanging, and storinghow keying material will be securely exchanged and stored. Describe how the DNSSEC implementation will comply with relevant RFCs, including but not limited to: RFCs 4033, 4034, 4035, 43105910, 4509, 4641, and 5155 : (the latter will only be required if Hashed Authenticated Denial of Existence will be offered). Describe resourcing plans (number and description of personnel roles allocated to this area). | | 0-12 | Complete answer demonstrates: (1) complete knowledge and understanding of this aspect of registry technical requirements; (2) a technical plan scope/scale that is consistent with the overall business approach and planned size of the registry; and (3) a technical plan that is adequately resourced in the planned costs detailed in the financial section.. | 2 - exceeds requirements: Response includes (1) Evidence of highly developed and detailed policies and procedures for offering DNSSEC at time of launch, in compliance with required RFCs, and secure encryption key management (exchange and storage); (2) Key management procedures for registrants in the proposed TLD; (3) Full interplay and consistency of technical and business requirements; and (4) Evidence of technical resources already on hand or committed. Applicant must also be able to pass requirements for DNSSEC in pre-delegation testing. 1 - meets requirements: Response includes (1) Adequate level of detail to substantially demonstrate capability |

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and knowledge required to meet the requirement to offer DNSSEC at time of launch, in compliance with required RFCs, and to provide secure encryption key management (generation, exchange, and storage); this element;

(2) Key management procedures for registrants in the proposed TLD; Evidence of an adequate DNSSEC implementation plan that provides a high level of resiliency;

-(3) Technical plan is commensurate with the overall business approach as described in the application-; and

-(4) Demonstrates that technical resources required to carry through the plans for this element are already on hand or readily available.

0 - fails requirements: Does not meet all the requirements to score 1.

| 44 | OPTIONAL.
IDNs: state whether the proposed registry will support the registration of IDN labels in the TLD, and if so, how. For example, explain which characters will be supported, and provide the associated IDN Tables with variant characterss identified, along with a corresponding registration policy. This includes public interfaces to the databases such as Whois and EPP. Describe resourcing plans (number and description of personnel roles allocated to this area). Describe how the IDN implementation will comply with RFCs 3454, 3490, 3491, and 3743 as well as the ICANN IDN Guidelines at <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>. | IDNs are an optional service at time of launch. Absence of IDN implementation or plans will not detract from an applicant's score. Applicants who respond to this question with plans for implementation of IDNs at time of launch will be scored according to the criteria indicated here. | 0-2 | IDNs are an optional service. Complete answer demonstrates:
(1) complete knowledge and understanding of this aspect of registry technical requirements;
(2) a technical plan that is adequately resourced in the planned costs detailed in the financial section;
(3) consistency with the commitments made to registrants in the purpose of the registration and registry services descriptions; and
(4) issues regarding use of scripts are settled and IDN tables are complete and publicly available. | 2 - exceeds requirements:
Response includes
(1) Evidence of highly developed and detailed procedures for IDNs, including complete IDN tables, compliance with IDNA/IDN guidelines and RFCs, periodic monitoring of IDN operations;
(2) Evidence of ability to resolve rendering and known IDN issues or IDN spoofing attacks;
(3) Full interplay and consistency of technical and business requirements; and
(4) Evidence of technical resources are already on hand or committed.

1 - meets requirements:
Response includes
(1) Adequate level of detail to substantially demonstrate capability and knowledge required to meet this element;
(2) Evidence of adequate implementation plans for IDNs in compliance with IDN/IDNA guidelines; |

						(3) IDN plans are consistent with the overall business approach as described in the application; and (4) Demonstrates that technical resources required to carry through the plans for this element are readily available. **0 - fails requirements**: Does not meet all the requirements to score a 1.
Demonstration of Financial Capability	45	Financial Statements: provide audited or independently certified financial statements (balance sheet, income statement, statement of shareholders equity/partner capital, and cash flow statement) for the most recently completed fiscal year for the applicant, and unaudited financial statements for the most recently ended interim financial period for the applicant. For newly-formed applicants, provide the latest available financial statements. Financial statements are used in the analysis of projections and costs. **(Responses to this question will be kept confidential.)**	The questions in this section (45-50) are intended to give applicants an opportunity to demonstrate their financial capabilities to run a registry.	0-1	Audited or certified financial statements are prepared in accordance with IFRS (International Financial Reporting Standards) adopted by the IASB (International Accounting Standards Board) or U.S. GAAP (Generally Accepted Accounting Principles) or nationally recognized accounting standards (e.g., GAAP). This will include a balance sheet and income statement reflecting the applicant's financial position and results of operations. In the event the applicant is an entity newly formed	1 - meets requirements: Complete audited or certified financial statements are provided, at the highest level available in the applicant's jurisdiction. Where such financial statements are not available, such as for newly-formed entities, the applicant has provided an explanation and has provided, at a minimum, unaudited financial statements. **0 - fails requirements**: Does not meet all the requirements to score 1. For example, entity with

					~~entity~~ for the purpose~~s~~ of applying for a gTLD and without an operating history, the applicant must submit pro forma financial statements reflecting the entity's ~~projected~~ capitalization for the registry operator. Funding in this latter case must be verifiable as a true and accurate reflection and cannot include prospective funding. Where audited or **independently** certified statements are not available, applicant has provided adequate explanation as to practices in its jurisdiction and has provided, at a minimum, unaudited financial statements.	an operating history fails to provide audited or certified statements.

| | 46 | Projections Template: provide financial projections for costs and funding using Template 1 (attached) for the most likely scenario. The template is intended to provide commonality among TLD applications and thereby facilitate the evaluation process. Include explanations for any significant variances between years (or expected in years beyond the timeframe of the template) in any category of costing or funding. Describe the basis / assumptions for the numbers provided, and the rationale for the basis / assumptions. This may includeing studies, reference data, or other steps taken to develop the responses and validate any assumptions made.

(Responses to this question will be kept confidential.) | | 0-2 | Applicant has provided a thorough model that demonstrates a sustainable business (even if break-even is not achieved through the first three years of operation).

Applicant's description of projections development is sufficient to show due diligence and basis for projections. | 2 - **exceeds requirements**: -(1) Model is described in sufficient detail to be determined as a conservative balance of cost, funding and risk, i.e., funding and costs are highly consistent and are representative of a robust on-going concern -(2) Demonstrates resources and plan for sustainable operations Anticipated ranges in revenue and cost are explained in detail. All operations are funded even at negative ends of expected ranges; and (3) Lead-up work done in developing projections is described fully and indicates a sound basis for numbers provided. 1 - **meets requirements**: (1) Model is described in sufficient detail to be determined as a reasonable balance of cost, funding and risk, i.e., funding and costs are consistent and are representative of an on-going concern; (21) |

					Demonstrates resources and plan for sustainable operations;
					~~-~~(3<u>2</u>)~~Most important,~~ <u>F</u>~~f~~inancial assumptions about the registry services, funding and market are identified<u>;</u> <u>and</u>
					~~-~~(4<u>3</u>) Financial estimates are defensible; and
					~~(4) Model is described in sufficient detail to be determined as a reasonable balance of cost, funding and risk, i.e., funding and costs are consistent and are representative of an on-going concern.~~
					0 - fails requirements: Does not meet <u>all of</u> the requirements to score a 1.

| 47 | (a) (a) Costs and capital expenditures: describe and explain the expected costs and capital expenditures of setting up and operating the proposed Registry. As described in the Applicant Guidebook, the information provided will be considered in light of the entire application and the evaluation criteria. Therefore, this answer should agree with the information provided in the template to: 1) maintain registry operations, 2) provide registry services described above, and 3) satisfy the technical requirements described in the Demonstration of Technical & Operational Capability section.

Costs should include both fixed and variable costs.

(Responses to this question will be kept confidential.) | -This question is based on the template submitted in question 46. | 0-2 | Costs identified are consistent with the proposed registry services, adequately fund technical requirements, and are consistent with proposed mission/purpose of the registry. A reasonable person with registry technical operations experience would agree the cCosts projected are reasonable for a registry of size and scope described in the application. Costs identified include the financial instrument described in question 50 below. | 2 - exceeds requirements:
(1) Cost elements described are clearly and separately tied to each of the aspects of registry operations: registry services, technical requirements, and other aspects as described by the applicant.
-(2) Estimated costs are conservative and consistent with an operation of the registry volume/scope/size as described by the applicant;
(3) Most estimates are derived from actual examples of previous registry operations or equivalent; and.
(4) Conservative estimates are based on those experiences and describe a range of anticipated costs and use the high end of those estimates.
1 - meets requirements:
(1) Cost elements described reasonably cover all of the aspects of registry operations: |

						registry services, technical requirements and other aspects as described by the applicant; and (2) Estimated costs are consistent and defensible with an operation of the registry volume/scope/size as described by the applicant. **0 - fails requirements**: Does not meet all the requirements to score a 1.
		(b) Describe anticipated ranges in projected costs. Describe factors that affect those ranges. **(Responses to this question will be kept confidential.)**				
	48	(a) Funding and Revenue: Funding can be derived from several sources (e.g., existing capital or proceeds/revenue from operation of the proposed registry). For each source (as applicable), describe: I) How existing funds will provide resources for both: a1) start-up of operations, and b2) ongoing operations, II) a description of the revenue model including projections for transaction volumes (if the applicant does not intend to rely on registration revenue in order to cover the costs of the registry's operation, it must clarify how the funding for the operation will be		0-2	Funding resources are clearly identified and adequately provide for registry cost projections. Sources of capital funding are clearly identified, held apart from other potential uses of those funds and available. The plan for transition of funding sources from available capital to revenue from operations (if applicable) is described. Outside	**2 - exceeds requirements**: (1) Existing funds are quantified, segregated and earmarked for registry operations; (2) If on-going operations are to be resourced from existing funds (rather than revenue from on-going operations) that funding is segregated and earmarked for this purpose only in an

		developed and maintained in a stable and sustainable manner), III) outside sources of funding~~,~~ (the applicant ~~must~~ ~~(where~~must, where applicable~~,)~~ provide evidence of the commitment by the party committing the funds). Secured vs unsecured funding should be clearly identified, including associated sources for each type. **(Responses to this question will be kept confidential.)**			sources of funding are documented and verified and must not include prospective sources of funds. Sources of capital funding required to sustain registry operations on an on-going basis are identified. The projected revenues are consistent with the size and projected penetration of the target markets.	amount adequate for three years operation; (3) Revenues are clearly tied to projected business volumes, market size and penetration; ~~and~~ (4) Assumptions made are ~~regarded as~~ conservative~~ by industry experts~~; (5) Cash flow models are prepared which link funding and revenue assumptions to actual business activity; and (6) Capital is adequately broken down into secured vs pledged and is linked to cash flows. **1 - meets requirements**: (1) Existing funds are quantified, identified as available and budgeted; (2) If on-going operations are to be resourced from existing funds (rather than revenue from on-going operations) that funding is quantified and its sources identified in an amount adequate for three years operation; (3) Revenues are directly related to projected business volumes,

						market size and penetration; and (4) Assumptions made are ~~regarded as~~ reasonable _and defensible_ ~~by industry expert~~. **0 - fails requirements:** Does not meet _all_ the requirements to score a 1.
		(b) Describe anticipated ranges in projected funding and revenue. Describe factors that affect those ranges. **(Responses to this question will be kept confidential.)**				
	49	(a) Contingency Planning: describe your contingency planning: identify any projected barriers to implementation of ~~your~~ the business _approach described in the application_ ~~plan~~ and how they affect cost, funding or timeline in your planning. _Identify_~~E.g.,~~ _the impact of_~~have you identified~~ any particular regulation, law or policy that might impact the Registry Services offering._~~?~~_ _For each contingency, include impact to projected revenue and costs for the 3-year period presented in Template 1._ ~~-~~**(Responses to this question will be kept confidential.)**		0-2	Contingencies and risks are identified and included in the cost and funding analyses. Action plans are identified in the event contingencies occur. The model is resilient in the event those contingencies occur. Responses address the probability and resource impact of the contingencies identified.	**2 - exceeds requirements:** (1) Model identifies thoroughly the key risks and the chances that each will occur: operational, business, legal, and other outside risks; and (2) Action plans and operations _are_ adequately resourced in the existing funding and revenue plan even if contingencies occur. **1 - meets requirements:** (1) Model identifies the key risks with sufficient detail to be understood

						by a business person with experience in this area; (2) Response gives consideration to probability of contingencies identified; and (3) If resources are not available to fund contingencies in the existing plan, funding sources and a plan for obtaining them are identified. **0 - fails requirements**: Does not meet all the requirements to score a 1.
		(b) Describe your contingency planning where funding sources are so significantly reduced~~under run your business plan~~ that material deviations from the~~your~~ implementation model are required. In particular, how will on-going technical requirements be met? Complete a financial projections template (Template 2) for the worst case scenario. **(Responses to this question will be kept confidential.)**				

		(c) Describe your contingency planning where activity volumes so significantly exceed the high projections that material deviation from ~~your~~ the implementation model are required. In particular, how will on-going technical requirements be met? **(Responses to this question will be kept confidential.)**				
	50	(a) Provide a cost estimate for funding ~~basic~~critical registry operations on an annual basis. The ~~basic~~critical functions of a registry which must be supported even if an applicant's business and/or funding fails are: a) ~~Maintenance of TLD nameservers and~~ DNS resolution for registered domain names; b) Operation of the Shared Registration System; ~~c)~~ c) Provision of Whois service ~~Maintenance of registrar billing and accounting processes; Maintenance of data security processes and regular~~ (d) Registry data escrow deposits; and ~~Maintenance of IDN Tables (if IDNs are offered); and~~ (e) Maintenance of a properly signed zone in accordance with ~~Provision of~~ DNSSEC ~~in accordance with technical~~ requirements~~, including storage of key information.~~ List the estimated annual cost for each of	Registrant protection is critical and thus new gTLD applicants are requested to provide evidence indicating that the critical functions will continue to be performed even if the registry fails. Registrant needs are best protected by a clear demonstration that the basic registry functions are sustained for an extended period even in the face of registry failure. Therefore, this section is weighted heavily as a clear, objective measure to protect and serve registrants. The applicant has two tasks associated with adequately making this demonstration of continuity for critical ~~basic~~ registry functions. First, costs for maintaining critical registrant protection functions are to be estimated (Part a). In evaluating the application, the evaluators will adjudge whether the estimate is reasonable given the systems architecture and overall business approach described elsewhere in the application. Second (Part b), methods of securing the funds required to perform those functions	0-3	Figures provided are based on an accurate estimate of costs. Documented evidence or detailed plan for ability to fund on-going critical~~basic~~ registry operations for registrants for a period of three to five years in the event of registry failure, default or until a successor operator can be designated. Evidence of financial wherewithal to fund this requirement prior to delegation. This requirement must be met prior to or concurrent with the execution of the registry agreement.	**3 - exceeds requirements**: (1) Costs are commensurate with technical plans and overall business approach as described in the application; and (2) Financial instrument is secured and in place to provide for on-going operations for at least three years in the event of failure. **1 - meets requirements**: (1) Costs are commensurate with technical plans and overall business approach as described in the application; and (2) Funding is identified and instrument is described to provide for on-going operations of at least three years in the

		these functions (specify currency used).	for at least three to five years following the termination of the registry agreement are to be described by the applicant in accordance with the criteria below. Two types of instruments will fulfill this requirement. The applicant must identify which of the two methods is being described. The instrument is required to be in place at the time of the execution of the registry agreement.			event of failure. **0 - fails requirements**: Does not meet all the requirements to score a 1.
		(b) Applicants must provide evidence as to how the funds required for performing these basiccritical registry functions will be available and guaranteed to fund registry operations (for the protection of registrants in the new gTLD) for a minimum of three years following the termination of the registry agreement. ICANN has identified two methods to fulfill this requirement: (i) (i) Irrevocable standby letter of credit (LOC) issued by a reputable financial institution. • The amount of the LOC must be equal to or greater than the amount required to fund the basic registry operations specified above for at least three years. following the termination of the registry agreement. In the event of a			

draw upon the letter of credit, the actual payout would be tied to the cost of running those functions.

- The LOC must name ICANN or its designee as the beneficiary. Any funds paid out would be provided to the designee who is operating the required registry functions.
- The LOC must have a term of at least five years from the delegation of the TLD. The LOC may be structured with an annual expiration date if it contains an evergreen provision providing for annual extensions, without amendment, for an indefinite number of periods until the issuing bank informs the beneficiary of its final expiration or until the beneficiary releases the LOC as evidenced in writing. If the expiration date occurs prior to the fifth anniversary of the delegation of the TLD, applicant will be required to obtain a replacement instrument.
- The LOC must be issued by a reputable financial institution insured at the highest level in its jurisdiction. This may include a bank or insurance company with a strong international reputation that has a strong credit rating issued by a third party rating agency such as Standard & Poor's (AA or above), Moody's (Aa or above), or A.M. Best (A-X or above). Documentation should indicate by whom the issuing institution is insured.
- The LOC will provide that ICANN or its designee shall be unconditionally

entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee. ~~of the termination of the registry agreement for the TLD~~.

- Applicant should attach an original copy of the executed letter of credit or a draft of the letter of credit containing the full terms and conditions. If not yet executed, the Applicant will be required to provide ICANN with an original copy of the executed LOC prior to or concurrent with the execution of the registry agreement.
- The LOC must contain at least the following required elements:
  o Issuing bank and date of issue.
  o Beneficiary: ICANN / 4676 Admiralty Way, Suite 330 / Marina del Rey, CA 90292 / US, or its designee.
  o Applicant's complete name and address.
  o LOC identifying number.
  o Exact amount in USD.
  o Expiry date.
  o Address, procedure, and required forms whereby presentation for payment is to be made.
  o Conditions:
  ▪ Partial drawings from the letter of credit may be made provided that such payment shall reduce the amount under the standby letter of credit.
  ▪ All payments must be marked with the issuing bank name and the bank's

standby letter of credit number.

- LOC may not be modified, amended, or amplified by reference to any other document, agreement, or instrument.
- The LOC is subject to the International Standby Practices (ISP 98) International Chamber of Commerce (Publication No. 590).

(ii) A deposit into an irrevocable cash escrow account held by a reputable financial institution.

- The amount of the deposit must be equal to or greater than the amount required to fund registry operations for at least three years.
- Cash is to be held by a third party financial institution which will not allow the funds to be commingled with the Applicant's operating funds or other funds and may only be accessed by ICANN or its designee if certain conditions are met.
- The account must be held by a reputable financial institution insured at the highest level in its jurisdiction. This may include a bank or insurance company with a strong international reputation that has a strong credit rating issued by a third party rating agency such as Standard & Poor's (AA or above), Moody's (Aa or above), or A.M. Best (A-X or above). Documentation should indicate by whom the issuing institution is insured.

- The escrow agreement relating to the escrow account will provide that ICANN or its designee shall be unconditionally entitled to a release of funds (full or partial) thereunder upon delivery of written notice by ICANN or its designee ~~of the termination of the registry agreement for the TLD~~.

- The escrow agreement must have a term of five years from the delegation of the TLD.

- The funds in the deposit escrow account are not considered to be an asset of ICANN.

- Any interest earnings less bank fees are to accrue to the deposit, and will be paid back to the applicant upon liquidation of the account to the extent not used to pay the costs and expenses of maintaining the escrow.

- The deposit plus accrued interest, less any bank fees in respect of the escrow, is to be returned to the applicant if the funds are not used to fund registry operations due to a triggering event or after five years, whichever is greater.

- The Applicant will be required to provide ICANN an explanation as to the amount of the deposit, the institution that will hold the deposit, and the escrow agreement for the account at the time of submitting an application.

- Applicant should attach evidence of deposited funds in the escrow account, or

evidence of provisional arrangement for deposit of funds. Evidence of deposited funds and terms of escrow agreement must be provided to ICANN prior to or concurrent with the execution of the registry agreement.

TLD Applicant -- Financial Projections : **Instructions**

Where appropriate, please reference data points and/or formulas used in your calculations

Reference / Formula

	Start-up	Year 1	Year 2	Year 3	Comments / Notes
		Live / Operational			

I) Projected Revenue & Costs
  A) Forecasted registration
  B) Registration fee
  C) Registration revenue
  D) Other revenue
     E) Total Revenue

Projected Cost
  F) Labor:
    i) Marketing Labor
    ii) Customer Support Labor
    iii) Technical Labor
  G) Marketing
  H) Facilities
  I) General & Administrative
  J) Interest and Taxes
  K) Depreciation
  L) Other Costs
     M) Total Costs

     N) Projected Net Operation

II) Break out of Fixed and Variable Costs
  A) Total Variable Costs
  B) Total Fixed Costs   Must equal Total Costs from Section I

III) Projected Capital Expenditures
  A) Hardware
  B) Software
  C) Furniture & Equipment
  D) Other
     E) Total Capital Expenditures

IV) Projected Assets & Liabilities
  A) Cash
  B) Accounts receivable
  C) Other current assets
     D) Total current assets

  E) Accounts payable
  F) Other Accrued Liabilities
     G) Total Current Liabilities

  H) Total Property, Plant & Equipment (PP&E)
  I) Long-term debt

V) Projected Cash flow
  A) Net income (loss)
  B) Add depreciation
  C) Current Year Capital expenditures
  D) Change in Non-cash Current Assets   n/a
  E) Change in Total Current Liabilities   n/a
  F) Debt Adjustments   n/a
  G) Other Adjustments
     E) Net Projected Cash Flow

VI) Sources of funds
  A) Debt:
    i) On-hand at time of application
    ii) Contingent and/or committed but not yet on-hand
  B) Equity:
    i) On-hand at time of application
    ii) Contingent and/or committed but not yet on-hand
     C) Total Sources of funds

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

Comments regarding how the Applicant plans to fund operations:

General Comments regarding contingencies:

Template 1 -- Financial Projections : **Most Likely**

Sec.	Reference / Formula	Start-up Costs	Live / Operational Year 1	Year 2	Year 3	Comments / Notes
I) Projected Revenue & Cost						
A) Forecasted registration						
B) Registration fee						
C) Registration revenue			-	-	-	
D) Other revenue						
E) Total Revenue			-	-	-	
Projected Cost						
F) Labor:						
i) Marketing Labor						
ii) Customer Support Labor						
iii) Technical Labor						
G) Marketing						
H) Facilities						
I) General & Administrative						
J) Interest and Taxes						
K) Depreciation						
L) Other Costs						
M) Total Costs		-	-	-	-	
N) Projected Net Operation (Revenues less Costs)		-	-	-	-	
II) Break out of Fixed and Variable Costs						
A) Total Variable Costs						
B) Total Fixed Costs						
		-	-	-	-	
III) Projected Capital Expenditures						
A) Hardware						
B) Software						
C) Furniture & Other Equipment						
D) Other						
E) Total Capital Expenditures		-	-	-	-	
IV) Projected Assets & Liabilities						
A) Cash						
B) Accounts receivable						
C) Other current assets						
D) Total current assets		-	-	-	-	
E) Accounts payable						
F) Other Accrued Liabilities						
G) Total Current Liabilities		-	-	-	-	
H) Total Property, Plant & Equipment, net of depreciation						
I) Total Long-term Debt						
V) Projected Cash flow						
A) Net income (loss)		-	-	-	-	
B) Add depreciation		-	-	-	-	
C) Capital expenditures		-	-	-	-	
D) Change in Non-Cash Current Assets		n/a	-	-	-	
E) Change in Total Current Liabilities		n/a	-	-	-	
F) Debt Repayment		n/a	-	-	-	
G) Other Adjustments						
F) Projected Net Cash flow		-	-	-	-	
VI) Sources of funds						
A) Debt:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand						
B) Equity:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand						
C) Total Sources of funds		-				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

Comments regarding how the Applicant plans to Fund operations:

General Comments regarding contingencies:

Template 2 -- Financial Projections : **Worst Case**

Sec.	Reference / Formula	Start-up Costs	Year 1	Year 2	Year 3	Comments / Notes
			Live / Operational			
I) Projected Revenue & Cost						
A) Forecasted registration						
B) Registration fee						
C) Registration revenue			-	-	-	
D) Other revenue						
E) Total Revenue			-	-	-	
Projected Cost						
F) Labor:						
i) Marketing Labor						
ii) Customer Support Labor						
iii) Technical Labor						
G) Marketing						
H) Facilities						
I) General & Administrative						
J) Interest and Taxes						
K) Depreciation						
L) Other Costs						
M) Total Costs		-	-	-	-	
N) Projected Net Operation (Revenues less Costs)		-	-	-	-	
II) Break out of Fixed and Variable Costs						
A) Total Variable Costs						
B) Total Fixed Costs		-	-	-	-	
III) Projected Capital Expenditures						
A) Hardware						
B) Software						
C) Furniture & Other Equipment						
D) Other						
E) Total Capital Expenditures		-	-	-	-	
IV) Projected Assets & Liabilities						
A) Cash						
B) Accounts receivable						
C) Other current assets						
D) Total current assets		-	-	-	-	
E) Accounts payable						
F) Other Accrued Liabilities						
G) Total Current Liabilities		-	-	-	-	
H) Total Property, Plant & Equipment, net of depreciation						
I) Total Long-term Debt						
V) Projected Cash flow						
A) Net income (loss)		-	-	-	-	
B) Add depreciation		-	-	-	-	
C) Capital expenditures		-	-	-	-	
D) Change in Non-Cash Current Assets		n/a	-	-	-	
E) Change in Total Current Liabilities		n/a	-	-	-	
F) Debt Repayment		n/a	-	-	-	
G) Other Adjustments						
F) Projected Net Cash flow		-	-	-	-	
VI) Sources of funds						
A) Debt:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand						
B) Equity:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand						
C) Total Sources of funds		-				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

Comments regarding how the Applicant plans to Fund operations:

General Comments regarding contingencies:

TLD Applicant -- Financial Projections : **Sample**

Sec.	Reference / Formula	Start-up Costs	Year 1 (Live / Operational)	Year 2 (Live / Operational)	Year 3 (Live / Operational)	Comments / Notes
I) Projected Revenue & Cost						
A) Forecasted registration		-	62,000	80,600	104,780	Registration was forecasted based on recent market surveys.
B) Registration fee		$ -	$ 5.00	$ 6.00	$ 7.00	We do not anticipate significant increases in Registration Fees subsequent to year 3.
C) Registration revenue	A * B	-	310,000	483,600	733,460	
D) Other revenue		-	35,000	48,000	62,000	Other revenues represent advertising revenue from display ads on our website.
E) Total Revenue		-	345,000	531,600	795,460	
Projected Cost						
F) Labor:						
i) Marketing Labor		25,000	66,000	72,000	81,000	Costs are further detailed and explained in response to question 47.
ii) Customer Support Labor		5,000	68,000	71,000	74,000	
iii) Technical Labor		32,000	45,000	47,000	49,000	
G) Marketing		40,000	44,000	26,400	31,680	
H) Facilities		7,000	10,000	12,000	14,400	
I) General & Administrative		14,000	112,000	122,500	136,000	
J) Interest and Taxes		27,500	29,000	29,800	30,760	
K) Depreciation		51,933	69,333	85,466	59,733	Depreciation reflects total projected capital expenditures ($173k) divided by useful lives: Start up = $130k/3 + $43k/5 = $51,933. Subsequent depreciation amounts reflect previous year's depreciation expense plus depreciation for additional capital expenditures over appropriate useful lives.
L) Other Costs		12,200	18,000	21,600	25,920	
M) Total Costs		214,633	461,333	487,766	502,493	
N) Projected Net Operation (Revenues less Costs)	E - M	(214,633)	(116,333)	43,834	292,967	
II) Break out of Fixed and Variable Costs						
A) Total Variable Costs		92,000	195,250	198,930	217,416	Variable Costs: -Start Up equals all labor plus 75% of marketing. -Years 1 through 3 equal 75% of all labor plus 50% of Marketing, and 30% of G&A and Other costs
B) Total Fixed Costs		122,633	266,083	288,836	285,077	Fixed Costs: equals Total Costs less Variable Costs
= Sec. I) M		214,633	461,333	487,766	502,493	
III) Projected Capital Expenditures						
A) Hardware		98,000	21,000	16,000	58,000	-Hardware & Software have a useful life of 3 years
B) Software		32,000	18,000	24,000	11,000	
C) Furniture & Other Equipment		43,000	22,000	14,000	16,000	-Furniture & other equipment have a useful life of 5 years
D) Other						
E) Total Capital Expenditures		173,000	61,000	54,000	85,000	
IV) Projected Assets & Liabilities						
A) Cash		705,300	556,300	578,600	784,600	
B) Accounts receivable			70,000	106,000	160,000	
C) Other current assets			40,000	60,000	80,000	
D) Total current assets		705,300	666,300	744,600	1,024,600	
E) Accounts payable		41,000	110,000	113,000	125,300	
F) Other Accrued Liabilities						
G) Total Current Liabilities		41,000	110,000	113,000	125,300	
H) Total Property, Plant & Equipment (PP&E)	= Sec III) E: cumulative Prior Years + Cur Yr	173,000	234,000	288,000	373,000	
I) Total Long-term Debt		1,000,000	1,000,000	1,000,000	1,000,000	Principal payments on the line of credit with XYZ Bank will not be incurred until Year 5. Interest will be paid as incurred and is reflected in Sec I) J.
V) Projected Cash flow						
A) Net income (loss)	= Sec. I) N	(214,633)	(116,333)	43,834	292,967	
B) Add depreciation	= Sec. I) K	51,933	69,333	85,466	59,733	
C) Capital expenditures	= Sec. III) E	(173,000)	(61,000)	(54,000)	(85,000)	
D) Change in Non Cash Current Assets	= Sec. IV) (B+C): Prior Yr - Cur Yr	n/a	(110,000)	(56,000)	(74,000)	
E) Change in Total Current Liabilities	= Sec. IV) G: Cur Yr - Prior Yr	41,000	69,000	3,000	12,300	The $41k in Start Up Costs represents an offset of the Accounts Payable reflected in the Projected balance sheet. Subsequent years are based on changes in Current Liabilities where Prior Year is subtracted from the Current year
F) Debt Adjustments	= Sec IV) I: Cur Yr - Prior Yr	n/a	-	-	-	
G) Other Adjustments						
F) Projected Net Cash flow		(294,700)	(149,000)	22,300	206,000	
VI) Sources of funds						
A) Debt:						
i) On-hand at time of application		1,000,000				See below for comments on funding. Revenues are further detailed and explained in response to question 48.
ii) Contingent and/or committed but not yet on-hand						
B) Equity:						
i) On-hand at time of application						
ii) Contingent and/or committed but not yet on-hand		-				
C) Total Sources of funds		1,000,000				

General Comments (Notes Regarding Assumptions Used, Significant Variances Between Years, etc.):

We expect the number of registrations to grow at approximately 30% per year with an increase in the registration fee of $1 per year for the first three years. We anticipate our costs will increase at a controlled pace over the first three years except for marketing costs which will be higher in the start-up and first year as we establish our brand name and work to increase registrations. Our capital expenditures will be greatest in the start-up phase and then our need to invest in computer hardware and software will level off after the start-up period. Our investment in Furniture and Equipment will be greatest in the start-up period as we build our infrastructure and then decrease in the following periods.

Comments regarding how the Applicant plans to Fund operations:

We have recently negotiated a line of credit with XYZ Bank (a copy of the fully executed line of credit agreement has been included with our application) and this funding will allow us to purchase necessary equipment and pay for employees and other Operating Costs during our start-up period and the first few years of operations. We expect that our business operation will be self funded (i.e., revenue from operations will cover all anticipated costs and capital expenditures) by the second half of our second year in operation; we also expect to become profitable with positive cash flow in year three.

General Comments regarding contingencies:

Although we expect to be cash flow positive by the end of year 2, the recently negotiated line of credit will cover our operating costs for the first 4 years of operation if necessary. We have also entered into an agreement with XYZ Co. to assume our registrants should our business model not have the ability to sustain itself in future years. Agreement with XYZ Co. has been included with our application.

ICANN

Draft Applicant Guidebook, v4

Module 3

Please note that 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.

31 May 2010

Module 3

This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging a formal objection to a gTLD application, the general procedures for filing or responding to an objection, and the manner in which dispute resolution proceedings are conducted.

This module also discusses the guiding principles, or standards, that each dispute resolution panel will apply in reaching its expert determination.

All applicants should be aware of the possibility that an objection may be filed against any application, and of the procedures and options available in the event of such an objection.

3.1   *Purpose and Overview of the Dispute Resolution Process*

The independent dispute resolution process is designed to protect certain limited interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows a party with standing to have its objection considered before a panel of qualified experts.

A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection.

3.1.1   *Grounds for Objection*

An objection may be filed on any one of the following four grounds:

String Confusion Objection – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD string in the same round of applications.

Legal Rights Objection – The applied-for gTLD string infringes the existing legal rights of the objector.

Morality and Public Order Objection – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under international principles of law.

Community Objection – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these objection grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm.

3.1.2   Standing to Object

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by a panel of experts designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection ground	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round
Legal rights	Rightsholders
Morality and Public Order	No limitations on who may file – however, subject to a "quick look" designed for early conclusion of frivolous and/or abusive objections
Community	Established institution associated with a clearly delineated community

3.1.2.1   String Confusion Objection

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.

- Any gTLD applicant in this application round may file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied, where string confusion between the two applicants has not already been found in the Initial Evaluation. That is, an applicant does not have standing to object to

another application with which it is already in a contention set as a result of the Initial Evaluation.

In the case where an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4, String Contention Procedures). If an objection by one gTLD applicant to another gTLD application is unsuccessful, the applicants may both move forward in the process without being considered in direct contention with one another.

3.1.2.2 Legal Rights Objection

Only a rightsholder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming (which may include either registered or unregistered trademarks) are infringed by the applied-for gTLD must be included in the filing.

3.1.2.3 Morality and Public Order Objection

Anyone may file a Morality and Public Order Objection. Due to the inclusive standing base, however, objectors are subject to a "quick look" procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.

For more information on the "Quick Look" procedure, refer to the accompanying Explanatory Memorandum.

3.1.2.4 Community Objection

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

It is an established institution – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;

- Length of time the institution has been in existence; and

- Public historical evidence of its existence, such as the presence of formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

It has an ongoing relationship with a clearly delineated community – Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;

- Institutional purpose related to the benefit of the associated community;

- Performance of regular activities that benefit the associated community; and

- The level of formal boundaries around the community.

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

3.1.3 Dispute Resolution Service Providers

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, directly with the appropriate DRSP for each objection ground.

- The International Centre for Dispute Resolution has agreed in principle to administer disputes brought pursuant to string confusion objections.

- The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed in principle to administer disputes brought pursuant to legal rights objections.

- The International Center of Expertise of the International Chamber of Commerce has agreed in principle to administer disputes brought pursuant to Morality and Public Order and Community Objections.

ICANN selected DRSPs on the basis of their relevant experience and expertise, as well as their willingness and ability to administer dispute proceedings in the new gTLD Program. The selection process began with a public call for expressions of interest[1] followed by dialogue with those candidates who responded. The call for expressions of interest specified several criteria for providers, including established services, subject matter expertise, global capacity, and operational capabilities. An important aspect of the selection process was the ability to recruit panelists who will engender the respect of the parties to the dispute.

3.1.4 Options in the Event of Objection

Applicants whose applications are the subject of an objection have the following options:

The applicant can work to reach a settlement with the objector, resulting in withdrawal of the objection or the application;

The applicant can file a response to the objection and enter the dispute resolution process (refer to Section 3.2); or

The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.

If for any reason the applicant does not file a response to an objection, the objector will prevail by default.

3.1.5 Independent Objector

A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Morality and Public Order and Community.

Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.

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[1] *See* http://www.icann.org/en/announcements/announcement-21dec07.htm.

Mandate and Scope - The IO may file objections against "highly objectionable" gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) Morality and Public Order objections and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).

The IO may file a Morality and Public Order objection against an application even if a Community objection has been filed, and vice versa.

The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.

Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.

The IO may consider public comment when making an independent assessment whether an objection is warranted. ~~ICANN will submit comments to t~~The IO will have access to comments from the appropriate time period, running through the Initial Evaluation period until the close of the deadline for the IO to submit an objection.

Selection – The IO will be selected by ICANN, through an open and transparent process, and retained as an independent consultant. The Independent Objector will be an individual with considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

Although recommendations for IO candidates from the community are welcomed, the IO must be and remain independent and unaffiliated with any of the gTLD applicants. The various rules of ethics for judges and international arbitrators provide models for the IO to declare and maintain his/her independence.

The IO's (renewable) tenure is limited to the time necessary to carry out his/her duties in connection with a single round of gTLD applications.

Budget and Funding – The IO's budget would comprise two principal elements: (a) salaries and operating expenses, and (b) dispute resolution procedure costs – both of which should be funded from the proceeds of new gTLD applications.

As an objector in dispute resolution proceedings, the IO is required to pay filing and administrative fees, as well as advance payment of costsincluding panel fees, just as all other objectors are required to do. Those payments will be refunded by the DRSP in cases where the IO is the prevailing party.

In addition, the IO will incur various expenses in presenting objections before DRSP panels that will not be refundedimbursed, regardless of the outcome. These expenses include the fees and expenses of outside counsel (if retained) and the costs of legal research or factual investigations.

3.2   Filing Procedures

The information included in this section provides a summary of procedures for filing:

- Objections; and

- Responses to objections.

For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.

Note that the rules and procedures of each DRSP specific to each objection ground must also be followed.

- For a String Confusion Objection, the applicable DRSP Rules are the ICDR Supplementary Procedures for ICANN's New gTLD Program. These rules are available in draft form and have been posted along with this moduleunder development and should be available shortly.

- For a Legal Rights Objection, the applicable DRSP Rules are the WIPO Rules for New gTLD Dispute Resolution. These rules are available in draft form and have been posted along with this module.

- For a Morality and Public Order Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.[2].

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[2] *See* http://www.iccwbo.org/court/expertise/id4379/index.html

- For a Community Objection, Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.[3]

3.2.1   Objection Filing Procedures

The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. Should an applicant wish to file a formal objection to another gTLD application, it would follow these same procedures.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date. Objections will not be accepted by the DRSPs after this date.

- All objections must be filed in English.

- Each objection must be filed separately. An objector wishing to object to several applications must file a separate objection and pay the accompanying filing fees for each application that is the subject of an objection. If an objector wishes to object to an application on more than one ground, the objector must file separate objections and pay the accompanying filing fees for each objection ground.

Each objection filed by an objector must include:

- The name and contact information of the objector.

- A statement of the objector's basis for standing; that is, why the objector believes it meets the standing requirementshas the right to object.

- A description of the basis for the objection, including:

    - A statement giving the specific ground upon which the objection is being filed.

    - A detailed explanation of the validity of the objection and why it should be upheld.

- Copies of any documents that the objector considers to be a basis for the objection.

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[3] *Ibid.*

Objections are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant, and to ICANN (except that confidential communications between the DRSP and objector shall not be provided to ICANN).

ICANN and/or the DRSPs will publish, and regularly update, a list on its website identifying all objections as they are filed and ICANN is notified.

3.2.2 Objection Filing Fees

At the time an objection is filed, the objector is required to pay a nonrefundable filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid, the DRSP will dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

3.2.3 Response Filing Procedures

Upon notification that ICANN has published the list of all objections filed (refer to subsection 3.2.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.

- Each response must be filed separately. That is, an applicant responding to several objections must file a separate response and pay the accompanying filing fee to respond to each objection.

- Responses must be filed electronically.

Each response filed by an applicant must include:

- The name and contact information of the applicant.

- A point-by-point response to the claims made by the objector.

- Any copies of documents that it considers to be a basis for the response.

Responses are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector and to ICANN (except that confidential communications between the DRSP and ~~applicant~~responder shall not be provided to ICANN).

3.2.4   Response Filing Fees

At the time an applicant files its response, it is required to pay a nonrefundable filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

3.3   Objection Processing Overview

The information below provides an overview of the process by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure (included as an attachment to this module).

3.3.1   Administrative Review

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's right to submit a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for filing an objection.

3.3.2   Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of a circumstance in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

3.3.3 ~~Negotiation and~~ Mediation

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in ~~negotiations and/or~~ mediation aimed at settling the dispute. Each DRSP has experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel constituted to issue an expert determination in the related dispute.

There are no automatic extensions of time associated with the conduct of negotiations or mediation. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. Absent exceptional circumstances, the parties must limit their requests for extension to 30 calendar days.

The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

3.3.4 Selection of Expert Panels

A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted

procedures for requiring such independence, including procedures for challenging and replacing an expert for lack of independence.

There will be one expert in proceedings involving a string confusion objection.

There will be one expert, or, if all parties agree, three experts with relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.

There will be three experts recognized as eminent jurists of international reputation, in proceedings involving a morality and public order objection.

There will be one expert in proceedings involving a community objection.

Neither the experts, the DRSP, ICANN, nor their respective employees, directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

3.3.5 Adjudication

The panel may decide whether the parties shall submit any written statements in addition to the filed objection and response, and may specify time limits for such submissions.

In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the panel may require a party to produce additional evidence.

Disputes will usually be resolved without an in-person hearing. The panel may decide to hold such a hearing only in extraordinary circumstances.

3.3.6 Expert Determination

The DRSPs' final expert determinations will be in writing and will include:

- A summary of the dispute and findings;

- An identification of the prevailing party; and

- The reasoning upon which the expert determination is based.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

The findings of the panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process.

3.3.7 Dispute Resolution Costs

Before acceptance of objections, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while morality and public order and community objection proceedings will involve hourly rates charged by the panelists.

Within ten (10) business days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ten (10) days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DSRP will sustain the objection and no fees paid by the applicant will be refunded.

After the hearing has taken place and the panel renders its expert determination, the DRSP will refund any costs paid in advance to the prevailing party.

3.4 Dispute Resolution Principles (Standards)

Each panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified in the paragraphs that follow. The panel may also refer to other relevant rules of international law in connection with the standards.

The objector bears the burden of proof in each case.

The principles outlined below are subject to evolution based on ongoing consultation with DRSPs, legal experts, and the public.

3.4.1   String Confusion Objection

A DRSP panel hearing a string confusion objection will consider whether the applied-for gTLD string is likely to result in string confusion. String confusion exists where a string so nearly resembles another that it is likely to deceive or cause confusion. For a likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

3.4.2   Legal Rights Objection

In interpreting and giving meaning to GNSO Recommendation 3 ("Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law"), a DRSP panel of experts presiding over a legal rights objection will determine whether the potential use of the applied-for gTLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector's registered or unregistered trademark or service mark ("mark"), or unjustifiably impairs the distinctive character or the reputation of the objector's mark, or otherwise creates an impermissible likelihood of confusion between the applied-for gTLD and the objector's mark, by considering the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound, or meaning, to the objector's existing mark.

2. Whether the objector's acquisition and use of rights in the mark has been bona fide.

3. Whether and to what extent there is recognition in the relevant sector of the public of the sign corresponding

to the gTLD, as the mark of the objector, of the applicant or of a third party.

4. Applicant's intent in applying for the gTLD, including whether the applicant, at the time of application for the gTLD, had knowledge of the objector's mark, or could not have reasonably been unaware of that mark, and including whether the applicant has engaged in a pattern of conduct whereby it applied for or operates TLDs or registrations in TLDs which are identical or confusingly similar to the marks of others.

5. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the gTLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise by the objector of its mark rights.

6. Whether the applicant has marks or other intellectual property rights in the sign corresponding to the gTLD, and, if so, whether any acquisition of such a right in the sign, and use of the sign, has been bona fide, and whether the purported or likely use of the gTLD by the applicant is consistent with such acquisition or use.

7. Whether and to what extent the applicant has been commonly known by the sign corresponding to the gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide.

8. Whether the applicant's intended use of the gTLD would create a likelihood of confusion with the objector's mark as to the source, sponsorship, affiliation, or endorsement of the gTLD.

3.4.3   *Morality and Public Order Objection*

An expert panel hearing a morality and public order objection will consider whether the applied-for gTLD string is contrary to general principles of international law for morality and public order, as reflected in relevant international agreements. Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply.

The grounds upon which an applied-for gTLD string may be considered contrary to morality and public order according to internationally recognized standards are:

- Incitement to or promotion of violent lawless action;

- Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin;

- Incitement to or promotion of child pornography or other sexual abuse of children; or

- A determination that an applied-for gTLD string would be contrary to equally generally accepted identified legal norms relating to morality and public order that are recognized under general principles of international law.

3.4.4   Community Objection

The four tests described here will enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a clearly delineated community; and

- Community opposition to the application is substantial; and

- There is a strong association between the community invoked and the applied-for gTLD string; and

- There is a likelihood of detriment to the community named by the objector if the gTLD application is approved.

Each of these tests is described in further detail below.

Community – The objector must prove that the community expressing opposition can be regarded as a clearly delineated community. A panel could balance a number of factors to determine this, including but not limited to:

- The level of public recognition of the group as a community at a local and/or global level;

- The level of formal boundaries around the community and what persons or entities are considered to form the community;

- The length of time the community has been in existence;

- The global distribution of the community (this may not apply if the community is territorial); and

- The number of people or entities that make up the community.

If opposition by a number of people/entities is found, but the group represented by the objector is not determined to be a clearly delineated community, the objection will fail.

Substantial Opposition – The objector must prove substantial opposition within the community it has identified itself as representing. A panel could balance a number of factors to determine whether there is substantial opposition, including but not limited to:

- Number of expressions of opposition relative to the composition of the community;

- The representative nature of entities expressing opposition;

- Level of recognized stature or weight among sources of opposition;

- Distribution or diversity among sources of expressions of opposition, including:

    - Regional

    - Subsectors of community

    - Leadership of community

    - Membership of community

- Historical defense of the community in other contexts; and

- Costs incurred by objector in expressing opposition, including other channels the objector may have used to convey opposition.

If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

Targeting – The objector must prove a strong association between the applied-for gTLD string and the community represented by the objector. Factors that could be balanced by a panel to determine this include but are not limited to:

- Statements contained in application;

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- Other public statements by the applicant;

- Associations by the public.

If opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the objection will fail.

Detriment – The objector must prove that there is a likelihood of detriment to the rights or legitimate interests of its associated community. Factors that could be used by a panel in making this determination include but are not limited to:

- Damage to the reputation of the community that would result from the applicant's operation of the applied-for gTLD string;

- Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the applicant has not proposed or does not intend to institute effective security protection for user interests;

- Interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string; and

- Dependence of the community on the DNS for its core activities.

If opposition by a community is determined, but there is no likelihood of detriment to the community resulting from the applicant's operation of the applied-for gTLD, the objection will fail.

The objector must meet all four tests in the standard for the objection to prevail.

Defenses to a Community Objection – Satisfaction of the standing requirements for filing a Community Objection (refer to subsection 3.1.2.4) by a community-based applicant is a complete defense to an objection filed on community grounds.

To invoke the complete defense, the community-based applicant must affirmatively prove, in its response to the objection, that it meets all elements of the standing requirements.

A complete defense, based on standing requirements, may not be invoked by a standard applicant whose

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application is the subject of a Community objection. However, a standard applicant may prevail in the event that a Community objection is filed against it, and the applicant can otherwise present a defense to the objection.

The fact that an objector has not chosen to apply for the same or any other string does not constitute any element of a defense to an objection.

DRAFT - New gTLD Program – Objection and Dispute Resolution

No – 7 Days to Correct

Objection filing period opens

Party with standing files objection directly with Dispute Resolution Service Provider (DRSP) for these grounds:
- *String Confusion*
- *Legal Rights*
- *Morality and Public Order; and/or*
- *Community*

Objector pays filing fee directly to DRSP

Objections specific to Morality and Public Order are subject to a "quick look," designed to identify and eliminate frivolous and/or abusive objections

Objection filed with correct DRSP?

Yes

Administrative Review of objections

Objection dismissed ← No — **Objection meets procedural rules?**

Yes

DRSP posts objection details on its website

Objection filing period closes

ICANN posts notice of all objections filed

DRSPs notify applicants of relevant objections

30 Days

Applicant files response and pays filing fee

Consolidation of objections, if applicable → 30 Days → **DRSP appoints panel**

10 Days

DRSP sends estimation of costs to parties

10 Days

Advance payment of costs due

45 Days

Expert Determination

DRSP and ICANN update respective websites to reflect determination

Applicant proceeds to subsequent stage ← Yes — **Does applicant clear all objections?** — No → **Applicant withdraws**

Attachment to Module 3

New gTLD Dispute Resolution Procedure

These Procedures were designed with an eye toward timely and efficient dispute resolution. As part of the New gTLD Program, these Procedures apply to all proceedings administered by each of the dispute resolution service providers (DRSP). Each of the DRSPs has a specific set of rules ~~or will have supplementary procedures~~ that will also apply to such proceedings.

NEW GTLD DISPUTE RESOLUTION PROCEDURE

Article 1.   ICANN's New gTLD Program

(a)   The Internet Corporation for Assigned Names and Numbers ("ICANN") has implemented a program for the introduction of new generic Top-Level Domain Names ("gTLDs") in the internet. There will be a succession of rounds, during which applicants may apply for new gTLDs, in accordance with terms and conditions set by ICANN.

(b)   The new gTLD program includes a dispute resolution procedure, pursuant to which disputes between a person or entity who applies for a new gTLD and a person or entity who objects to that gTLD are resolved in accordance with this New gTLD Dispute Resolution Procedure (the "Procedure").

(c)   Dispute resolution proceedings shall be administered by a Dispute Resolution Service Provider ("DRSP") in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(d)   By applying for a new gTLD, an applicant accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b); by filing an objection to a new gTLD, an objector accepts the applicability of this Procedure and the applicable DRSP's Rules that are identified in Article 4(b). The parties cannot derogate from this Procedure without the express approval of ICANN and from the applicable DRSP Rules without the express approval of the relevant DRSP.

Article 2.   Definitions

(a)   The "Applicant" or "Respondent" is an entity that has applied to ICANN for a new gTLD and that will be the party responding to the Objection.

(b)   The "Objector" is one or more persons or entities who have filed an objection against a new gTLD for which an application has been submitted.

(c)   The "Panel" is the panel of Experts, comprising one or three "Experts", that has been constituted by a DRSP in accordance with this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(d)   The "Expert Determination" is the decision upon the merits of the Objection that is rendered by a Panel in a proceeding conducted under this Procedure and the applicable DRSP Rules that are identified in Article 4(b).

(e)   The grounds upon which an objection to a new gTLD may be filed are set out in full in [●]. Such grounds are identified in this Procedure, and are based upon the Final Report on the Introduction of New Generic Top-Level Domains, dated 7 August 2007, issued by the ICANN Generic Names Supporting Organization (GNSO), as follows:

(i)   "String Confusion Objection" refers to the objection that the string comprising the potential gTLD is confusingly similar to an existing top-level domain or another string applied for in the same round of applications.

(ii)   "Existing Legal Rights Objection" refers to the objection that the string comprising the potential new gTLD infringes the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.

(iii)   "Morality and Public Order Objection" refers to the objection that the string comprising the potential new gTLD is contrary to generally accepted legal norms relating to morality and public order that are recognized under international principles of law.

(iv)   "Community Objection" refers to the objection that there is substantial opposition to the application from a significant portion of the community to which the string may be explicitly or implicitly targeted.

(f)   "DRSP Rules" are the rules of procedure of a particular DRSP that have been identified as being applicable to objection proceedings under this Procedure.

Article 3.   Dispute Resolution Service Providers

The various categories of disputes shall be administered by the following DRSPs:

(a)   String Confusion Objections shall be administered by the International Centre for Dispute Resolution.

(b)   Existing Legal Rights Objections shall be administered by the Arbitration and Mediation Center of the World Intellectual Property Organization.

(c)   Morality and Public Order Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.

(d)   Community Objections shall be administered by the International Centre for Expertise of the International Chamber of Commerce.

Article 4.   Applicable Rules

(a)   All proceedings before the Panel shall be governed by this Procedure and by the DRSP Rules that apply to a particular category of objection. The outcome of the proceedings shall be deemed an Eexpert Ddetermination, and the members of the Panel shall act as experts.

(b)   The applicable DRSP Rules are the following:

(i)   For a String Confusion Objection, the applicable DRSP Rules are the ICDR Supplementary Procedures for ICANN's New gTLD Program.

(ii)   For an Existing Legal Rights Objection, the applicable DRSP Rules are the WIPO Rules for New gTLD Dispute Resolution.

(iii)   For a Morality and Public Order Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.

(iv)   For a Community Objection, Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.

(c)   In the event of any discrepancy between this Procedure and the applicable DRSP Rules, this Procedure shall prevail.

(d)   The place of the proceedings, if relevant, shall be the location of the DRSP that is administering the proceedings.

(e)   In all cases, the Panel shall ensure that the parties are treated with equality, and that each party is given a reasonable opportunity to present its position.

Article 5. Language

(a)   The language of all submissions and proceedings under this Procedure shall be English.

(b)   Parties may submit supporting evidence in its original language, provided and subject to the authority of the Panel to determine otherwise, that such evidence is accompanied by a certified or otherwise officialn English translation of all relevant text.

Article 6. Communications and Time Limits

(a)   All communications by the Parties with the DRSPs and Panels must be submitted electronically and copied to ICANN. A Party that wishes to make a submission that is not available in electronic form (e.g., evidentiary models) shall request leave from the Panel to do so, and the Panel, in its sole discretion, shall determine whether to accept the non-electronic submission.

(b)   The DRSP, Panel, Applicant, and Objector shall provide copies to one another and to ICANN of all correspondence (apart from confidential correspondence between the Panel and the DRSP and among the Panel) regarding the proceedings.

(c)   For the purpose of determining the date of commencement of a time limit, a notice or other communication shall be deemed to have been received on the day that it is transmitted in accordance with paragraphs (a) and (b) of this Article.

(d)   For the purpose of determining compliance with a time limit, a notice or other communication shall be deemed to have been sent, made or transmitted if it is dispatched in accordance with paragraphs (a) and (b) of this Article prior to or on the day of the expiration of the time limit.

(e)   For the purpose of calculating a period of time under this Procedure, such period shall begin to run on the day following the day when a notice or other communication is received.

(f)   Unless otherwise stated, all time periods provided in the Procedure are calculated on the basis of calendar days

Article 7. Filing of the Objection

(a)   A person wishing to object to a new gTLD for which an application has been submitted may file an objection ("Objection"). Any Objection to a proposed new gTLD must be filed before the published closing date for the Objection Filing period.within ninety (90) days from ICANN's publication of a report identifying the application for such gTLD

(b)   The Objection must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Applicant.

(c)   The electronic addresses for filing Objections are the following:

(i)   A String Confusion Objection must be filed at: [●].

(ii)   An Existing Legal Rights Objection must be filed at: [●].

(iii)   A Morality and Public Order Objection must be filed at: [●].

    (iv)   A Community Objection must be filed at: [●].

(d)   All Objections must be filed separately:

    (i)   An Objector who wishes to object to an application on more than one ground must file separate objections with the appropriate DRSP(s).

    (ii)   An Objector who wishes to object to more than one gTLD must file separate objections to each gTLD with the appropriate DRSP(s).

(e)   If an Objection is filed with the wrong DRSP, that DRSP shall promptly notify the Objector and the DRSP with whom the Objection was wrongly filed shall not process the incorrectly filed Objection. The Objector may then cure the error by filing its Objection with the correct DRSP within seven (7) days of its receipt of the error notice, failing which the Objection shall be disregarded. If the Objection is filed with the correct DRSP within seven (7) days of its receipt of the error notice but after the lapse of the time for submitting an Objection stipulation by Article 7(a) of this Procedure, it shall be deemed to be within this time limit.

Article 8. Content of the Objection

(a)   The Objection shall contain, *inter alia*, the following information:

    (i)   The names and contact information (address, telephone number, email address, etc.) of the Objector;

    (ii)   A statement of the Objector's basis for standing; and

    (iii)   A description of the basis for the Objection, including:

        (aa)   A statement of the ground upon which the Objection is being filed, as stated in Article 2(e) of this Procedure;

        (bb)   An explanation of the validity of the Objection and why the objection should be upheld.

(b)   The substantive portion of the Objection shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Objector shall also describe and provide copies of any supporting or official documents upon which the Objection is based.

(c)   At the same time as the Objection is filed, the Objector shall pay a filing fee in the amount set in accordance with the applicable DRSP Rules and include evidence of such payment in the Objection. In the event that the filing fee is not paid within ten (10) days of the receipt of the Objection by the DRSP, the Objection shall be dismissed without prejudice.

Article 9. Administrative Review of the Objection

(a)   The DRSP shall conduct an administrative review of the Objection for the purpose of verifying compliance with Articles 5-8 of this Procedure and the applicable DRSP Rules, and inform the Objector, the Applicant and ICANN of the result of its review within fourteen (14) days of its receipt of the Objection. The DRSP may extend this time limit for reasons explained in the notification of such extension.

(b)   If the DRSP finds that the Objection complies with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall confirm that the Objection shall be registered for processing.

(c)   If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Objection be corrected within five (5) days. If the deficiencies in the Objection are cured within the specified period but after the lapse of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure, the Objection shall be deemed to be within this time limit.

(d)   If the DRSP finds that the Objection does not comply with Articles 5-8 of this Procedure and the applicable DRSP Rules, and the deficiencies in the Objection are not corrected within the period specified in Article 9(c), the DRSP shall dismiss the Objection and close the proceedings, without prejudice to the Objector's submission of a new Objection that complies with this Procedure, provided that the Objection is filed within the deadline for filing such Objections. The DRSP's review of the Objection shall not interrupt the running of the time limit for submitting an Objection stipulated by Article 7(a) of this Procedure.

(e)   Immediately upon registering an Objection for processing, pursuant to Article 9(b), the DRSP shall post the following information about the Objection on its website: (i) the proposed string to which the Objection is directed; (ii) the names of the Objector and the Applicant; (ii) the grounds for the Objection; and (iv) the dates of the DRSP's receipt of the Objection.

Article 10.   ICANN's Dispute Announcement

(a)   Within thirty (30) days of the deadline for filing Objections in relation to gTLD applications in a given round, ICANN shall publish a document on its website identifying all of the admissible Objections that have been filed (the "Dispute Announcement"). ICANN shall also directly inform each DRSP of the posting of the Dispute Announcement.

(b)   ICANN shall monitor the progress of all proceedings under this Procedure and shall take steps, where appropriate, to coordinate with any DRSP in relation to individual applications for which objections are pending before more than one DRSP.

Article 11.   Response to the Objection

(a)   Upon receipt of the Dispute Announcement, each DRSP shall promptly send a notice to: (i) each Applicant for a new gTLD to which one or more admissible Objections have been filed with that DRSP; and (ii) the respective Objector(s).

(b)   The Applicant shall file a response to each Objection (the "Response"). The Response shall be filed within thirty (30) days of the transmission~~Applicant's receipt~~ of the notice sent by the DRSP pursuant to Article 11(a).

(c)   The Response must be filed with the appropriate DRSP, using a model form made available by that DRSP, with copies to ICANN and the Objector.

(d)   The Response shall contain, inter alia, the following information:

    (i)   The names and contact information (address, telephone number, email address, etc.) of the Applicant; and

(ii)   A point-by-point response to the statements made in the Objection.

(e)   The substantive portion of the Response shall be limited to 5,000 words or 20 pages, whichever is less, excluding attachments. The Applicant shall also describe and provide copies of any supporting or official documents upon which the Response is based.

(f)   At the same time as the Response is filed, the Applicant shall pay a filing fee in the amount set and published by the relevant DRSP (which shall be the same as the filing fee paid by the Objector) and include evidence of such payment in the Response. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the DRSP, the Applicant shall be deemed to be in default, any Response disregarded and the Objection shall be deemed successful.

(g)   If the DRSP finds that the Response does not comply with Articles 11(c) and (d)(1) of this Procedure and the applicable DRSP Rules, the DRSP shall have the discretion to request that any administrative deficiencies in the Response be corrected within five (5) days. If the administrative deficiencies in the Response are cured within the specified period but after the lapse of the time limit for submitting a Response pursuant to this Procedure, the Response shall be deemed to be within this time limit.

(g)   If the Applicant fails to file a Response to the Objection within the 30-day time limit, the Applicant shall be deemed to be in default and the Objection shall be deemed successful. No fees paid by the Applicant will be refunded in case of default.

Article 12.   Consolidation of Objections

(a)   The DRSP is encouraged, whenever possible and practicable, and as may be further stipulated in the applicable DRSP Rules, to consolidate Objections, for example, when more than one Objector has filed an Objection to the same gTLD on the same grounds. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice pursuant to Article 11(a) and, where appropriate, shall inform the parties of the consolidation in that notice.

(b)   If the DRSP itself has not decided to consolidate two or more Objections, any Applicant or Objector may propose the consolidation of Objections within seven (7) days of the notice given by the DRSP pursuant to Article 11(a). If, following such a proposal, the DRSP decides to consolidate certain Objections, the deadline for the Applicant's Response in the consolidated proceeding shall be thirty (30) days from the Applicant's receipt of the DRSP's notice of consolidation.

(c)   In deciding whether to consolidate Objections, the DRSP shall weigh the benefits (in terms of time, cost, consistency of decisions, etc.) that may result from the consolidation against the possible prejudice or inconvenience that the consolidation may cause. The DRSP's determination on consolidation shall be final and not subject to appeal.

(d)   Objections based upon different grounds, as summarized in Article 2(e), shall not be consolidated.

Article 13.   The Panel

(a)   The DRSP shall select and appoint the Panel of Expert(s) within thirty (30) days after receiving the Response.

(b)   Number and specific qualifications of Expert(s):

    (i)   There shall be one Expert in proceedings involving a String Confusion Objection.

    (ii)   There shall be one Expert or, if all of the Parties so agree, three Experts with relevant experience in intellectual property rights disputes in proceedings involving an Existing Legal Rights Objection.

    (iii)   There shall be three Experts recognized as eminent jurists of international reputation, one of whom shall be designated as the Chair. The Chair shall be ~~and~~ of a nationality different from the nationalities of the Applicant and of the Objector, in proceedings involving a Morality and Public Order Objection.

    (iv)   There shall be one Expert in proceedings involving a Community Objection.

(c)   All Experts acting under this Procedure shall be impartial and independent of the parties. The applicable DRSP Rules stipulate the manner by which each Expert shall confirm and maintain their impartiality and independence.

(d)   The applicable DRSP Rules stipulate the procedures for challenging an Expert and replacing an Expert.

(e)   Unless required by a court of law or authorized in writing by the parties, an Expert shall not act in any capacity whatsoever, in any pending or future proceedings, whether judicial, arbitral or otherwise, relating to the matter referred to expert determination under this Procedure.

Article 14.   Costs

(a)   Each DRSP shall determine the costs for the proceedings that it administers under this Procedure in accordance with the applicable DRSP Rules. Such costs shall cover the fees and expenses of the members of the Panel, as well as the administrative fees of the DRSP (the "Costs").

(b)   Within ten (10) days of constituting the Panel, the DRSP shall estimate the total Costs and request the Objector and the Applicant/Respondent each to pay in advance the full amount of the Costs to the DRSP. Each party shall make its advance payment of Costs within ten (10) days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the Parties shall be credited against the amounts due for this advance payment of Costs.

(c)   The DRSP may revise its estimate of the total Costs and request additional advance payments from the parties during the proceedings.

(d)   Failure to make an advance payment of Costs:

    (i)   If the Objector fails to make the advance payment of Costs, its Objection shall be dismissed and no fees that it has paid shall be refunded.

    (ii)   If the Applicant fails to make the advance payment of Costs, the Objection will be deemed to have been sustained and no fees that the Applicant has paid shall be refunded.

(e)   Upon the termination of the proceedings, after the Panel has rendered its Expert Determination, the DRSP shall refund to the prevailing party, as determined by the Panel, its advance payment(s) of Costs.

Article 15.   Representation and Assistance

(a)   The parties may be represented or assisted by persons of their choice.

(b)   Each party or party representative shall communicate the name, contact information and function of such persons to ICANN, the DRSP and the other party (or parties in case of consolidation).

Article 16.   Negotiation and Mediation

(a)   The parties are encouraged, but not required, to participate in negotiations and/or mediation at any time throughout the dispute resolution process aimed at settling their dispute amicably.

(b)   Each DRSP shall be able to propose, if requested by the parties, a person who could assist the parties as mediator.

(c)   A person who acts as mediator for the parties shall not serve as an Expert in a dispute between the parties under this Procedure or any other proceeding under this Procedure involving the same gTLD.

(d)   The conduct of negotiations or mediation shall not, *ipso facto*, be the basis for a suspension of the dispute resolution proceedings or the extension of any deadline under this Procedure. Upon the joint request of the parties, the DRSP or (after it has been constituted) the Panel may grant the extension of a deadline or the suspension of the proceedings. Absent exceptional circumstances, such extension or suspension shall not exceed thirty (30) days and shall not delay the administration of any other Objection.

(e)   If, during negotiations and/or mediation, the parties agree on a settlement of the matter referred to the DRSP under this Procedure, the parties shall inform the DRSP, which shall terminate the proceedings, subject to the parties' payment obligation under this Procedure having been satisfied, and inform ICANN and the parties accordingly.

Article 17.   Additional Written Submissions

(a)   The Panel may decide whether the parties shall submit any written statements in addition to the Objection and the Response, and it shall fix time limits for such submissions.

(b)   The time limits fixed by the Panel for additional written submissions shall not exceed thirty (30) days, unless the Panel, having consulted the DRSP, determines that exceptional circumstances justify a longer time limit.

Article 18.   Evidence

In order to achieve the goal of resolving disputes over new gTLDs rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the Panel may require a party to provide additional evidence.

Article 19. Hearings

(a)   Disputes under this Procedure and the applicable DRSP Rules will usually be resolved without a hearing.

(b)   The Panel may decide, on its own initiative or at the request of a party, to hold a hearing only in extraordinary circumstances.

(c)   In the event that the Panel decides to hold a hearing:

   (i)   The Panel shall decide how and where the hearing shall be conducted.

   (ii)   In order to expedite the proceedings and minimize costs, the hearing shall be conducted by videoconference if possible.

   (iii)   The hearing shall be limited to one day, unless the Panel decides, in exceptional circumstances, that more than one day is required for the hearing.

   (iv)   The Panel shall decide whether the hearing will be open to the public or conducted in private.

Article 20. Standards

(a)   The Panel shall apply the standards that have been defined by ICANN for each category of Objection, and identified in Article 2(e).

(b)   In addition, the Panel may refer to and base its findings upon the statements and documents submitted and any rules or principles that it determines to be applicable.

(c)   The Objector bears the burden of proving that its Objection should be sustained in accordance with the applicable standards.

Article 21. The Expert Determination

(a)   The DRSP and the Panel shall make reasonable efforts to ensure that the Expert Determination is rendered within forty-five (45) days of the constitution of the Panel. In specific circumstances such as consolidated cases and in consultation with the DRSP, and if significant additional documentation is requested by the Panel, a brief extension may be allowed.

(b)   The Panel shall submit its Expert Determination in draft form to the DRSP's scrutiny as to form before it is signed, unless such scrutiny is specifically excluded by the applicable DRSP Rules. The modifications proposed by the DRSP to the Panel, if any, shall address only the form of the Expert Determination. The signed Expert Determination shall be communicated to the DRSP, which in turn will communicate that Expert Determination to the Parties and ICANN.

(c)   When the Panel comprises three Experts, the Expert Determination shall be made by a majority of the Experts.

(d)   The Expert Determination shall be in writing, shall identify the prevailing party and shall state the reasons upon which it is based. The remedies available to an Applicant or an Objector pursuant to any proceeding before a Panel shall be limited to the success or dismissal of an Objection and to the refund by the DRSP to the prevailing party, as determined by the Panel in its Expert Determination, of its advance payment(s) of

Costs pursuant to Article 14(e) of this Procedure and any relevant provisions of the applicable DRSP Rules.

(e)   The Expert Determination shall state the date when it is made, and it shall be signed by the Expert(s). If any Expert fails to sign the Expert Determination, it shall be accompanied by a statement of the reason for the absence of such signature.

(f)   In addition to providing electronic copies of its Expert Determination, the Panel shall provide a signed hard copy of the Expert Determination to the DRSP, unless the DRSP Rules provide for otherwise.

(g)   Unless the Panel decides otherwise, the Expert Determination shall be published in full on the DRSP's website.

Article 22.   Exclusion of Liability

In addition to any exclusion of liability stipulated by the applicable DRSP Rules, neither the Expert(s), nor the DRSP and its employees, nor ICANN and its Board members, employees and consultants shall be liable to any person for any act or omission in connection with any proceeding conducted under this Procedure.

Article 23.   Modification of the Procedure

(a)   ICANN may from time to time, in accordance with its Bylaws, modify this Procedure.

(b)   The version of this Procedure that is applicable to a dispute resolution proceeding is the version that was in effect on the day when the relevant application for a new gTLD is submitted.

Draft Applicant Guidebook, v4

Module 4

Please note that 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.

31 May 2010

Module 4

String Contention Procedures

This module describes situations in which contention over applied-for gTLD strings occurs, and the methods available to applicants for resolving such contention cases.

4.1   String Contention

String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or

2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in user confusion, called contending strings. If either situation 1 or 2 above occurs, such applications will proceed to contention resolution through either community priority (comparative) evaluation, in certain cases, or through an auction. Both processes are described in this module. A group of applications for contending strings is referred to as a contention set.

4.1.1   Identification of Contention Sets

Contention sets are groups of applications containing identical or similar applied-for gTLD strings. (In this Applicant Guidebook, "similar" means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.) Contention sets are identified during Initial Evaluation following review of all applied-for gTLD strings. ICANN will publish preliminary contention sets once the String Similarity review is completedby the close of the Initial Evaluation period, and will update the contention sets as necessary during the evaluation and dispute resolution stages.

Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. That is, two or more applicants whose applied-for strings or designated variants are variant strings according to an IDN table submitted to ICANN would be considered in direct contention with one another. For example, if one applicant applies for string A and another applies for string B, and strings A and B are variant TLD strings as defined in Module 1, then the two applications are in direct contention.

The String Similarity Panel will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String Similarity Review described in subsection 2.1.1.1 of Module 2 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Additionally, an applicant may file a String Confusion objection (described in Module 3) against another application alleging that the applied-for string is so similar to its own that the delegation of both would create a probability of user confusion. If the objection is upheld, the contention set will be augmented (see subsection 4.1.2 below).

Two strings are in **direct contention** if they are identical or so similar that there is a probability of user confusion if both were to be delegated as TLDs in the root zone. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. The example that follows explains direct and indirect contention in greater detail.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect contention. C and G both contend with B, but not with one

another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.
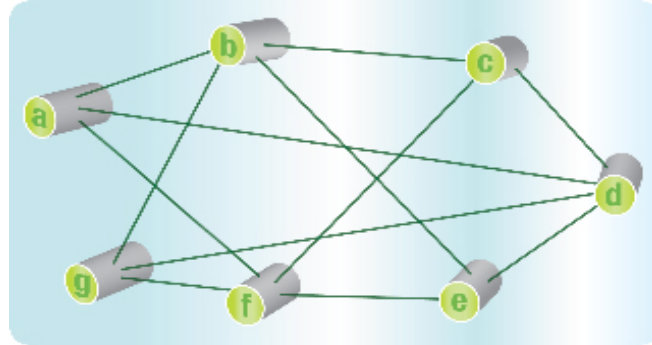
Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.

While preliminary contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process stages have concluded. This is because any application excluded through those processes might modify a contention set identified earlier.

A contention set may be augmented, split into two sets, or it may be eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding. The composition of a contention set may also be modified as some applications may be voluntarily withdrawn throughout the process.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.
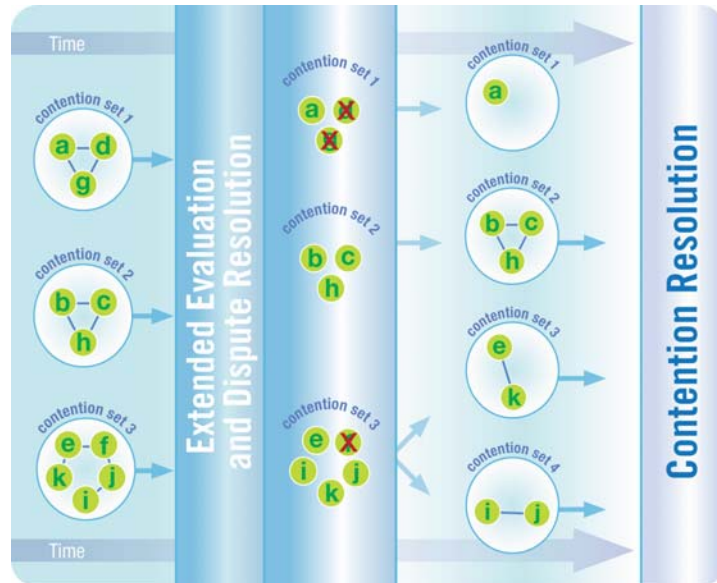
Figure 4-2 – Resolution of string contention cannot begin
until all applicants within a contention set have
completed all applicable previous stages.

The remaining contention cases must then be resolved
through community priority (comparative) evaluation or by
other means, depending on the circumstances. In the
string contention resolution stage, ICANN addresses each
contention set to achieve an unambiguous resolution.

As described elsewhere in this guidebookdocument, cases
of contention might be resolved by community priority
(comparative) evaluation or ansome agreement among
the parties. Absent that, the last-resort contention
resolution mechanism will be an auction.

4.1.2 Impact of **String Confusion** Dispute Resolution Proceedings on Contention Sets

If an applicant files a string confusion objection against
another application (refer to Module 3), and the panel
finds that user confusion is probable (that is, finds in favor of
the objector), the two applications will be placed in direct
contention with each other. Thus, the outcome of a
dispute resolution proceeding based on a string confusion
objection would be a new contention set structure for the
relevant applications, augmenting the original contention
set.

If an applicant files a string confusion objection against another application, and the panel finds that string confusion does not exist (that is, finds in favor of the responding applicant), the two applications ~~may both move forward and~~ will not be considered in direct contention with one another.

A dispute resolution outcome in the case of a string confusion objection filed by another applicant will not result in removal of an application from a previously established~~n earlier identified~~ contention set.

4.1.3   Self-Resolution of String Contention

Applicants that are identified as being in contention are encouraged to reach a settlement or agreement among themselves that resolves the contention. This may occur at any stage of the process, once ICANN publicly posts the applications received and the preliminary contention sets on its website.

Applicants may resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that applicants may seek to establish joint ventures in their efforts to resolve string contention.~~It is understood that joint ventures may result from self-resolution of string contention by applicants.~~ However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might require additional fees or evaluation in a subsequent application round. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the remaining application. Accordingly, new joint ventures must take place in a manner that does not materially change the application, to avoid being subject to re-evaluation.

4.1.4   Possible Contention Resolution Outcomes

An application that has successfully completed all previous stages and is no longer part of a contention set due to changes in the composition of the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next stage.

An application that prevails in a contention resolution procedure, either community priority ~~(comparative)~~ evaluation or auction, may proceed to the next stage.

In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, consider a case where string A is in contention with B, and B is in contention with C, but C is not in contention with A. If A wins the contention resolution procedure, B is eliminated but C can <u>proceed</u>~~go on~~ since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

4.2 Community Priority ~~(Comparative)~~ Evaluation

Community priority ~~(comparative)~~ evaluation will only occur if a community-based applicant selects this option. Community priority ~~(comparative)~~ evaluation can begin once all applications in the contention set have completed all previous stages of the process.

The community priority ~~(comparative)~~ evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the community priority ~~(comparative)~~ evaluation. Each application participating in the community priority ~~(comparative)~~ evaluation begins with a score of zero.

4.2.1 Eligibility for Community Priority ~~(Comparative)~~ Evaluation

As described in subsection 1.2.<u>3</u>~~2~~ of Module 1, all applicants are required to identify whether their application type is:

- Community-based; or

- Standard.

Applicants designating their applications as community-based are also asked to respond to a set of questions in the application form to provide relevant information if a community priority ~~(comparative)~~ evaluation occurs.

Only community-based applicants are eligible to participate in a community priority ~~(comparative)~~ evaluation.

At the start of the contention resolution stage, all community-based applicants within remaining contention sets will be notified of the opportunity to opt for a community priority ~~(comparative)~~ evaluation via submission of a deposit by a specified date. Only those applications for which a deposit has been received by the deadline will be scored in the community priority ~~(comparative)~~ evaluation. <u>Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.</u>

Before the community priority ~~(comparative)~~ evaluation begins, the applicants who have elected to participate may be asked to provide additional information relevant to the community priority ~~(comparative)~~ evaluation. ~~Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.~~

4.2.2 Community Priority ~~(Comparative)~~ Evaluation Procedure

Community priority ~~(comparative)~~ evaluations for each eligible contention set will be performed by a community priority panel appointed by ICANN to review <u>these</u>~~contending~~ applications. The panel's role is to determine whether any of the community-based applications fulfills the community priority criteria. Standard applicants within the contention set, if any, will not participate in the community priority ~~(comparative evaluation)~~.

If a single community-based application is found to meet the community priority criteria (see subsection 4.2.3 below), that applicant will be declared to prevail in the community priority ~~(comparative)~~ evaluation and may proceed. If more than one community-based application is found to meet the criteria, the remaining contention between them will be resolved as follows:

- In the case where the applications are in <u>indirect contention</u> with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage. In this case, applications that are in direct contention with any of these community-based applications will be eliminated.

- In the case where the applications are in <u>direct contention</u> with one another, these applicants will proceed to an auction. If all parties agree and present a joint request, ICANN may postpone the auction for a three-month period while the parties attempt to reach a settlement before proceeding to auction. This is a one-time option; ICANN will grant no more than one such request for each set of contending applications.

If none of the community-based applications are found to meet the criteria, then all of the parties in the contention set (both standard and community-based applicants) will proceed to an auction.

<u>Results of each Community Priority Evaluation will be posted when completed.</u>

<u>Applicants who are eliminated as a result of a community priority evaluation are eligible for a partial refund of the gTLD evaluation fee (see Module 1).</u>

4.2.3 Community Priority ~~(Comparative)~~ Evaluation Criteria

The Community Priority Panel will review and score the one or more community-based applications having elected the community priority ~~(comparative)~~ evaluation against four criteria as listed below.

The scoring process is conceived to identify qualified community-based applications, while preventing both "false positives" (awarding undue priority to an application that refers to a "community" construed merely to get a sought-after generic word as a gTLD string) and "false negatives" (not awarding priority to a qualified community application). This calls for a holistic approach, taking multiple criteria into account, as reflected in the process. <u>The scoring will be performed by a panel and be based on information provided in the application plus other relevant information available (such as public information regarding the community represented). The panel may also perform</u>

independent research, if deemed necessary to reach informed scoring decisions.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below.

The sequence of the criteria reflects the order in which they will be assessed by the panel. The utmost care has been taken to avoid any "double-counting" - any negative aspect found in assessing an application for one criterion should only be counted there and should not affect the assessment for other criteria.

An application must score at least 14 points to prevail in a community priority (comparative) evaluation. The outcome will be determined according to the procedure described in subsection 4.2.2.

Criterion #1: Community Establishment (0-4 points)

A maximum of 4 points is possible on the Community Establishment criterion:

4	3	2	1	0
Community Establishment				

High ⟷ Low
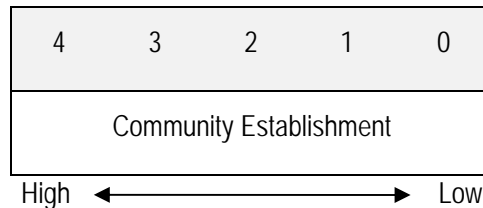
As measured by:

A. <u>Delineation (2)</u>

2	1	0
Clearly delineated, organized, and pre-existing community.	Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.	Insufficient delineation and pre-existence for a score of 1.

B. <u>Extension (2)</u>

2	1	0
Community of considerable size and longevity.	Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.	Community of neither considerable size nor longevity.

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not considered here, but taken into account when scoring Criterion #2, "Nexus between Proposed String and Community.") ~~Explanatory notes: Usage of the expression "community" has evolved considerably from its Latin origin – "communitas" meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest. Notably, there should be an awareness and recognition of a community among its members.~~

~~The scoring for this criterion relates to the community as explicitly addressed according to the application. It should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both delineation and extension above. If in doubt in this or other respects regarding an application, the panel may use information sources outside the application itself to verify the circumstances.~~

Criterion 1 Definitions[1]

- "Community" - Usage of the expression "community" has evolved considerably from its

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[1] The Explanatory Notes for each criterion that were included in draft version 3 of the Applicant Guidebook have been re-organized here into "Definitions," for terminology used in the criteria, and "Guidelines," to assist the Community Priority Panel in assessing an application against the criteria. The previous notes have also been clarified and amplified in some areas in response to comment.

Latin origin – "communitas" meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest. Notably, as "community" is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some understanding of the community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.

- "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.

- "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.

- "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.

- "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.

- "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."

- "Longevity" means that the pursuits of a community are of a lasting, non-transient nature.

Criterion 1 Guidelines

With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both "Delineation" and "Extension."

With respect to "Delineation," if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.

With respect to "Extension," if an application satisfactorily demonstrates both community size and longevity, it scores a 2.

Criterion #2: Nexus between Proposed String and Community (0-4 points)

A maximum of 4 points is possible on the Nexus criterion:

4	3	2	1	0
Nexus between String & Community					

High ←——————→ Low
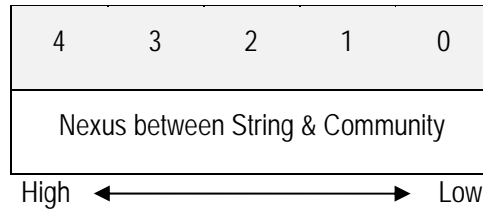
As measured by:

A. -Nexus (3)

3	2	0
The string matches the name of the community or is a well known short-form or abbreviation of the community name.	String identifies the community, but does not qualify for a score of 3.	String nexus does not fulfill the requirements for a score of 2.

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B. Uniqueness (1)

1	0
String has no other significant meaning beyond identifying the community described in the application.	String does not fulfill the requirement for a score of 1.

Explanatory notes:

This section evaluates the relevance of the string to the specific community that it claims to represent.

Criterion 2 Definitions

- ▪ "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.

- ▪ "Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

Criterion 2 Guidelines

With respect to "Nexus," fFor a score of 3, the on A: "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community. The essential aspect is that the applied-for string name is commonly known by others as the identification / name of the community.

With respect to "Nexus," forFor a score of 2, on A: A the applied-for string "identifies" the community if itshould closely describes the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a

globally well-known but local tennis club applying for ".TENNIS") then it would not qualify for a 2.

With respect to "Uniqueness," ~~Regarding B:~~ "~~s~~Significant meaning" relates to the public in general, with consideration of the community language context added.

"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness" implies a requirement that the string does identify the community, i.e. scores 2 or 3 for "Nexus", in order to be eligible for a score of 1 for "Uniqueness."

It should be noted that "Uniqueness" is only about the *meaning* of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."

Criterion #3: Registration Policies (0-4 points)

A maximum of 4 points is possible on the Registration Policies criterion:

4	3	2	1	0
Registration Policies				

High ◄─────────► Low
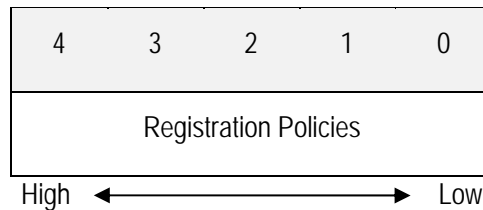
As measured by:

A. Eligibility (1)

1	0
Eligibility restricted to community members.	Largely unrestricted approach to eligibility.

B. Name selection (1)

1	0
Policies include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

C. Content and use (1)

1	0
Policies include rules for content and use consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

D. Enforcement (1)

1	0
Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms.	Policies do not fulfill the requirements for a score of 1.

Explanatory notes:

This section evaluates the applicant's registration policies as indicated in the application. Registration policies are the

conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

Criterion 3 Definitions

- "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.

- "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.

- "Content and use" means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.

- "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

Criterion 3 Guidelines

With respect to "Eligibility," the ~~Regarding A: The~~ limitation to community "members" can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant's physical address is within the boundaries of the location.

With respect to "Name selection," "Content and use," and "Enforcement", ~~Regarding B, C and D: S~~scoring of applications against these sub-criteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. ~~–~~More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and

demonstrate continuing accountability to the community named in the application.

Criterion #4: Community Endorsement (0-4 points)

A maximum of 4 points is possible on the Community Endorsement criterion:

4	3	2	1	0
Community Endorsement

High ⟷ Low

 As measured by:

A. Support (2)

2	1	0
Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community.	Documented support from at least one group with relevance, but insufficient support for a score of 2.	Insufficient proof of support for a score of 1.

B. Opposition (2)

2	1	0
No opposition of relevance.	Relevant opposition from at least one group of non-negligible size.	Strong and Rrelevant opposition from two or more groups of non-negligible size.

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application, with due regard for the communities implicitly addressed by the string.

Criterion 4 Definitions

- "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community.

- "Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied-for string would be considered relevant.

*Criterion 4 Guidelines*Explanatory notes: Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application with due regard taken to the communities implicitly addressed by the string.

With respect to "Support," iIt follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly orientaated to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

Also with respect to "Support," the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.

The applicant will score a 1 for "Support" if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on "Support" if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to

represent the community. ~~However, i~~It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.

~~"Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. The plurals in brackets relate to cases of alliances of multiple communities. In such cases, a score of "2" calls for documented support from institutions/organizations representing a majority of the overall community addressed.~~

~~"Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities implicitly addressed by the string would be considered relevant.~~

When scoring "Opposition," ~~P~~previous objections to the application as well as public comments during the same application round will be taken into account ~~when scoring "Opposition"~~ and ~~be~~ assessed in this context. ~~without any~~ There will be no presumption that such objections or comments would prevent a score of 2 or lead to a~~ny~~ particular score for "Opposition." To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious or unsubstantiated will not be considered relevant.

4.3   Auction: Mechanism of Last Resort

It is expected that most cases of contention will be resolved by the community priority ~~(comparative)~~ evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string contention among the applications within a contention set, if the contention has not been resolved by other means.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching the

auction stage. There is a possibility that significant funding will accrue to ICANN as a result of one or more auctions. [2]

4.3.1 Auction Procedures

An auction of two or more applications within a contention set is conducted as follows. The auctioneer successively increases the prices associated with applications within the contention set, and the respective applicants indicate their willingness to pay these prices. As the prices rise, applicants will successively choose to exit from the auction. When a sufficient number of applications have been eliminated so that no direct contentions remain (i.e., the remaining applications are no longer in contention with one another and all the relevant strings can ~~all~~ be delegated as TLDs), the auction will be deemed to conclude. At the auction's conclusion, the applicants with remaining applications will pay the resulting prices and proceed toward delegation. This procedure is referred to as an "ascending-clock auction."

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. The detailed set of Auction Rules will be available prior to the commencement of any auction proceedings. If any conflict arises between this module~~section~~ and the auction rules ~~issued prior to commencement of any auction proceedings~~, the auction rules will prevail.

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[2] The purpose of an auction is to resolve contention in a clear, objective manner. Proceeds from auctions will be reserved and earmarked until the uses of the proceeds are determined. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Therefore, consideration of a last resort contention mechanism should include the uses of funds. Funds must be earmarked separately and used in a manner that supports directly ICANN's Mission and Core Values and also maintains its not for profit status.

Possible uses include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

Further detail on the potential uses of funds will be provided with ~~the proposed budget for the new gTLD process and~~ updated Applicant Guidebook materials.

For simplicity, this section will describe the situation where a contention set consists of two or more applications for identical strings.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants ("bidders") will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.
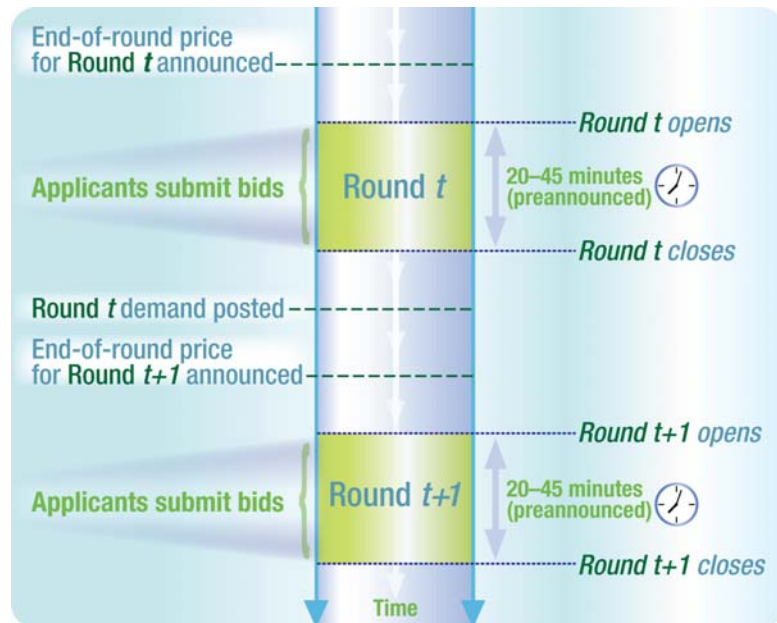
Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.

3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.

4. Bidders may submit their bid or bids at any time during the auction round.

5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.

6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the relevant gTLD strings at prices up to the respective bid amounts, subject to closure of the auction in accordance with

the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.

7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.

- Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.

- If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.

- If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.

- To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.

- No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round. That is, once an application has exited the auction, it may not return.

- If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid

is taken to be an exit bid at the start-of-round price for the current auction round.

8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.
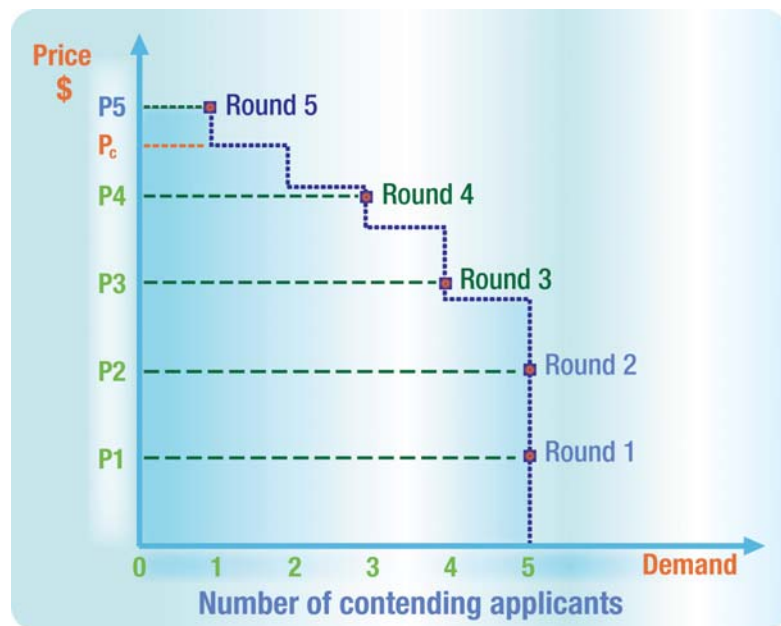
Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price P_1.

- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_1. Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five contending applications remained at P_1 and announces the end-of-round price P_2.

- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_2. The auctioneer discloses that five contending applications remained at P_2 and announces the end-of-round price P_3.

- During Auction round 3, one of the bidders submits an exit bid at slightly below P_3, while the other four bidders submit bids of at least P_3. The auctioneer discloses that four contending applications remained at P_3 and announces the end-of-round price P_4.

- During Auction round 4, one of the bidders submits an exit bid midway between P_3 and P_4, while the other three remaining bidders submit bids of at least P_4. The auctioneer discloses that three contending applications remained at P_4 and announces the end-of-auction round price P_5.

- During Auction round 5, one of the bidders submits an exit bid at slightly above P_4, and one of the bidders submits an exit bid at P_c midway between P_4 and P_5. The final bidder submits a bid greater than P_c. Since the aggregate demand at P_5 does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is P_c, as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations will~~may~~ be conducted simultaneously.

4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined. The bidding deposit must be transmitted by wire transfer to a specified bank account specified by ICANN or its auction provider at a major international bank, to be received in advance of the auction date. The amount of the deposit will determine a bidding limit for

each bidder: the bidding deposit will equal 10% of the bidding limit; and the bidder will not be permitted to submit any bid in excess of its bidding limit.

In order to avoid the need for bidders to pre-commit to a particular bidding limit, bidders may be given the option of making a specified deposit that will provide them with unlimited bidding authority for a given application. The amount of the deposit required for unlimited bidding authority will depend on the particular contention set and will be based on an assessment of the possible final prices within the auction.

All deposits from nondefaulting losing bidders will be returned following the close of the auction.

4.3.2   Winning Bid Payments

Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins (i.e., if its application is approved), and to enter into the prescribed registry agreement with ICANN— together with a specified penalty for defaulting on payment of its winning bid or failing to enter into the required registry agreement.

The winning bidder in any auction will be required to pay the full amount of the final price within 20 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

In the event that a bidder anticipates that it would require a longer payment period than 20 business days due to verifiable government-imposed currency restrictions, the bidder may advise ICANN well in advance of the auction and ICANN will consider applying a longer payment period to all bidders within the same contention set.

Any winning bidder for whom the full amount of the final price is not received within 20 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

Any winning bidder for whom the full amount of the final price is received within 20 business days of the end of an auction retains the obligation to execute the required registry agreement within 90 days of the end of auction. Such winning bidder who does not execute the agreement within 90 days of the end of the auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that execution of the registry agreement is imminent.

4.3.3   Post-Default Procedures

Once declared in default, any winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price. The same default procedures and penalties are in place for any runner-up bidder receiving such an offer.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 20 business days to submit its full payment. A bidder who declines such an offer cannot revert on that statement, has no further obligations in this context and will not be considered in default.

The penalty for defaulting on a winning bid will equal 10% of the defaulting bid.[3]

Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned.

4.4   Contention Resolution and Contract Execution

An applicant that has been declared the winner of a contention resolution process will proceed by entering into

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[3] If bidders were given the option of making a specified deposit that provided them with unlimited bidding authority for a given application and if the winning bidder utilized this option, then the penalty for defaulting on a winning bid will be the lesser of the following: (1) 10% of the defaulting bid, or (2) the specified deposit amount that provided the bidder with unlimited bidding authority.

the contract execution step. (Refer to section 5.1 of Module 5.)

If a winner of the contention resolution procedure has not executed a contract within 90 days of the decision, ICANN has the right to deny that application and extend an offer to the runner-up applicant, if any, to proceed with its application. For example, in an auction, another applicant who would be considered the runner-up applicant might proceed toward delegation. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time.

DRAFT - New gTLD Program - String Contention

ICANN

Application/ Admin Check

Applicant begins application process.

→ Applicant elects whether to designate application as community-based.

→ Applicant completes application process in TLD Application System (TAS).

→ ICANN publishes list of all applications.

Initial Evaluation (IE) String Review

Algorithm run by ICANN for all applied-for gTLDs against all other applied-for gTLDs.

→ String Similarity Panel performs analysis, using algorithm results, to group similar and identical strings into contention sets.

→ ICANN communicates the results of the String Similarity review, including contention sets.

IE + EE + Dispute Res

IE, Extended Evaluation (EE), and Dispute Resolution continue. Some applications may not pass certain elements of the review process, **which may alter the contention sets.**

String Contention

Is the applied-for gTLD in a contention set?

- **Yes** → Have one or more community-based applicant(s) elected community priority?
  - **Yes** → Community priority evaluation → Does one clear winner emerge?
    - **Yes** →
    - **No** →
  - **No** → Applicants with contending strings participate in auction: One or more parties proceed to subsequent stage
- **No** →

Applicants are encouraged to self-resolve string contention anytime prior to the contention resolution process.

Transition to Delegation

Applicant enters Transition to Delegation phase

DRAFT - For Discussion Purposes Only

Draft Applicant Guidebook, v4

Module 5

Please note that 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.

31 May 2010

Module 5

Transition to Delegation

This module describes the final steps required of an applicant for completion of the process, including execution of a registry agreement with ICANN and preparing for delegation of the new gTLD into the root zone.

5.1   Registry Agreement

All applicants that have successfully completed the evaluation process—including, if necessary, the dispute resolution and string contention processes—are required to enter into a registry agreement with ICANN before~~in order to~~ proceed~~ing~~ to delegation.

The draft registry agreement can be reviewed in the attachment to this module. All successful applicants are expected to enter into the agreement substantially as written. It is important to note that the agreement referred to above does not constitute a formal position by ICANN and has not been approved by the ICANN Board of Directors. The agreement is set out in draft form for review and community discussion purposes and as a means to improve the effectiveness of the agreement in providing for increased competition and choice for consumers in a stable, secure DNS.

Prior to entry into a registry agreement with an applicant, ICANN may conduct a pre-contract review. To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit updated documentation and information before entering into the registry agreement. Entry into any registry agreement by ICANN must first be approved by the ICANN Board of Directors.

Prior to or concurrent with the execution of the registry agreement, the applicant must also provide documentary evidence of its ability to fund ~~ongoing basic~~ critical registry functions~~operations~~ for its future registrants for a period of three ~~to five~~ years in the event of registry failure, default or until a successor operator can be designated. This obligation is met by securing a financial instrument

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("continued operations instrument") as described in the Evaluation Criteria.

5.2   Pre-Delegation Testing

Each applicant will be required to complete pre-delegation technical testing as a prerequisite to delegation into the root zone. This pre-delegation test must be completed within the time period specified in the registry agreement.

The purpose of the pre-delegation technical test is to verify the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described in Module 2.

The test is intended to indicate that the applicant can operate the gTLD in a stable and secure manner. All applicants will be tested on a pass/fail basis according to the requirements that follow.

The test elements cover both the DNS server operational infrastructure and registry system operations. In many cases the applicant will perform the test elements as instructed and provide documentation of the results to ICANN to demonstrate satisfactory performance. At ICANN's discretion, aspects of the applicant's self-certification documentation can be audited either on-site at the services delivery point of the registry or elsewhere as determined by ICANN.

5.2.1   Testing Procedures

The applicant may initiate the pre-delegation test by submitting to ICANN the Pre-Delegation form and accompanying documents containing all of the following information:

- All name server names and IPv4/IPv6 addresses to be used in serving the new TLD data;

- If using anycast, the list of names and IPv4/IPv6 unicast addresses allowing the identification of each individual server in the anycast sets;

- If IDN is supported, the complete IDN tables used in the registry system;

- The new TLD zone must be signed at test time and the valid key-set to be used at the time of testing must be provided to ICANN in the documentation, as well as the TLD DNSSEC Policy Statement (DPS);

- The ~~Its~~ executed agreement between the ~~with its~~ selected escrow agent~~;~~ and the applicant;

- Self-certification documentation as described below for each test item.

ICANN will review the material submitted and in some cases perform additional tests. After ~~these cycles of~~ testing, ICANN will assemble a report with the outcome of the tests and provide that report to~~communicate with~~ the applicant.

Any clarification request, additional information request, or ~~general ICANN~~ other request generated in the process will be highlighted and listed in the report sent to the applicant.

ICANN may request the applicant to complete load tests considering an aggregated load where a single entity is performing registry services for multiple TLDs.

Once an applicant has met all of the pre-delegation testing requirements, it is eligible to request delegation of its applied-for gTLD. ~~All delegations to the root zone must also be approved by the ICANN Board of Directors.~~

If an applicant does not complete the pre-delegation steps within the time period specified in the registry agreement, ICANN reserves the right to terminate the registry agreement.

5.2.2 Test Elements: DNS Infrastructure

The first set of test elements concerns the DNS infrastructure of the new gTLD ~~and is described here~~. In all tests of the DNS infrastructure, all requirements are independent of whether IPv4 or IPv6 is used. All tests shall be done both over IPv4 and IPv6, with reports providing results according to both protocols.[1]

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[1] IPv6 capabilities are embedded into multiple testing areas; this is a change from previous versions where IPv6 was specified as an individual test element.

*System performance requirements**UDP Support* -- The DNS infrastructure to which these tests apply comprises the complete set of servers and network infrastructure to be used by the chosen providers to deliver DNS service for the new gTLD to the Internet. The documentation provided by the applicant must include the results from a system performance test indicating available network and server capacity available and an estimate of expected capacity during normal operation to ensure stable service as well as to adequately address Distributed Denial of Service (DDoS) attacks.

Self-certification documentation shall include data on load capacity, latency and network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries responded against an increasing number of queries per second generated from local, (to the servers), traffic generators. The table shall include at least 20 data points and loads of UDP-based queries that will cause up to a 10% query loss against a randomly selected subset of servers within the applicant's DNS infrastructure. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

Query Llatency shallwill be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing information on the transit and peering arrangements for the DNS server locations, listing the AS numbers of the transit providers or peers at each point of presence and available bandwidth at those points of presence.

TCP support -- TCP transport service for DNS queries and responses must be enabled and provisioned for expected load. ICANN will review the capacity self-certification documentation provided by the applicant and will perform TCP reachability and transaction capability tests across a randomly selected subset of the for each applicant listed name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

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Self-certification documentation shall include data on load capacity, latency and external network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries that generated a valid (zone data, NODATA, or NXDOMAIN) response responded against an increasing number of queries per second generated from local , (to the name servers), traffic generators. The table shall include at least 20 data points and loads that will cause up to a 10% query loss (either due to connection timeout or connection reset) against a randomly selected subset of servers within the applicant's DNS infrastructure. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

Query lLatency will be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing records of TCP- based DNS queries from nodes external to the network hosting the servers. These locations may be the same as those used for measuring latency above.

IPv6 support -- Applicant must provision IPv6 service for its DNS infrastructure. ICANN will review the self-certification documentation provided by the applicant and will test IPv6 reachability from various points on the Internet. DNS transaction capacity over IPv6 for all name servers with declared IPv6 addresses will also be checked. In case of use of anycast, each individual server in each anycast set will be tested.

Self-certification documentation shall include data on load capacity, latency and external network reachability.

For the set of DNS servers that support IPv6, load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries responded against an increasing number of queries per second generated from local, to the servers, traffic generators. The table shall include at least 20 data points and loads that will cause up to a 10% query loss. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

~~Latency will be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the servers.~~

~~Reachability will be documented by providing records of DNS queries over IPv6 transport from nodes external to the network hosting the servers. In addition, applicant shall provide details of its IPv6 transit and peering arrangements, including a list of AS numbers with which it exchanges IPv6 traffic.~~

DNSSEC support -- Applicant must demonstrate support for EDNS(0) in its server infrastructure, the ability to return correct DNSSEC-related resource records such as DNSKEY, RRSIG, and NSEC/NSEC3 for the signed zone, and the ability to accept and publish DS resource records from second-level domain administrators. In particular, the applicant must demonstrate its ability to support the full life cycle of KSK and ZSK keys. ICANN will review the self-certification materials as well as test the reachability, response sizes, and DNS transaction capacity for DNS queries using the EDNS(0) protocol extension with the "DNSSEC OK" bit set for ~~each~~ a randomly selected subset of all name server~~s~~ within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Load capacity, query latency, and reachability shall be documented as for UDP and TCP above.

5.2.3   Test Elements: Registry Systems

As documented in the registry agreement, registries must provide support for EPP within their Shared Registration System, and provide Whois service both via port 43 and a web interface, in addition to support for the DNS ~~infrastructure~~. This section details the requirements for testing these registry systems.

System performance -- The registry system must scale to meet the performance requirements described in Specification 6 of the registry agreement and ICANN will require self-certification of compliance. ICANN will review the self-certification documentation provided by the applicant to verify adherence to these minimum requirements.

Whois support -- Applicant must provision Whois services for the anticipated load. ICANN will verify that Whois data is accessible over IPv4 and IPv6 via both TCP port 43 and via a web interface and review self-certification documentation regarding Whois transaction capacity. Response format according to Specification 4 of the registry agreement and Aaccess to Whois (both port 43 and via the web) will be tested by ICANN remotely from various points on the Internet over both IPv4 and IPv6.

Self-certification documents shall describe the maximum number of queries per second successfully handled by both the port 43 servers as well as the web interface, together with an applicant-provided load expectation.

Additionally, a description of deployed control functions to detect and mitigate data mining of the Whois database shall be documented.

EPP Support -- As part of a shared registration service, applicant must provision EPP services for the anticipated load. ICANN will verify conformance to appropriate RFCs (including EPP extensions for DNSSEC). ICANN will also review self-certification documentation regarding EPP transaction capacity.

Documentation shall provide a maximum Transaction per Second rate for the EPP interface with 10 data points corresponding to registry database sizes from 0 (empty) to the expected size after one year of operation, as determined by applicant.

Documentation shall also describe measures taken to handle load during initial registry operations, such as a land-rush period.

IPv6 support -- The ability of the registry to support registrars adding, changing, and removing IPv6 DNS records supplied by registrants will be tested by ICANN. If the registry supports EPP access via IPv6, this will be tested by ICANN remotely from various points on the Internet.

DNSSEC support -- ICANN will review the ability of the registry to support registrars adding, changing, and removing DNSSEC-related resource records as well as the registry's overall key management procedures. In particular, the applicant must demonstrate its ability to

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support the full life cycle of key changes for child domains.
Inter-operation of the applicant's secure communication
channels with the IANA for trust anchor material exchange
will be verified.

The practice and policy document (also known as the
DNSSEC Policy Statement or DPS), describing key material
storage, access and usage for its own keys and the
registrants' trust anchor material, is also reviewed as part of
this step.

IDN support -- ICANN will verify the complete IDN table(s)
used in the registry system. The table(s) must comply with
the guidelines in http://iana.org/procedures/idn-
repository.html.

Requirements related to IDN for Whois are being
developed. After these requirements are developed,
prospective registries will be expected to comply with
published IDN-related Whois requirements as part of pre-
delegation testing.

Escrow deposit -- The applicant-provided samples of
dummy data deposit that include, both a~~one~~ full and~~one~~
an incremental deposit, showing correct type and
formatting of content will be reviewed. Special attention
will be given to the agreement with the applicant escrow
provider to ensure that escrowed data can be released
within 24 hours in case of emergency recovered and the
registry reconstituted within one business day to the point
where it can respond to DNS and Whois queries (both via
port 43 and via the web) should it be necessary. ICANN
may, at its option, ask an independent third party to
demonstrate the reconstitutability of the registry from
escrowed data.

5.3   Delegation Process

Upon notice of successful completion of the ICANN pre-
delegation testing, applicants may initiate the process for
delegation of the new gTLD into the root zone database.
This will include provision of additional information and
completion of additional technical steps required for
delegation. Information about the delegation process is
available at http://iana.org/domains/root/.

5.4   Ongoing Operations

An applicant that is successfully delegated a gTLD will become a "Registry Operator." In being delegated the role of operating part of the Internet's domain name system, the applicant will be assuming a number of significant responsibilities. ICANN will hold all new gTLD operators accountable for the performance of their obligations under the registry agreement, and it is important that all applicants understand these responsibilities.

5.4.1   What is Expected of a Registry Operator

The registry agreement defines the obligations of gTLD registry operators. A breach of the registry operator's obligations may result in ICANN compliance actions up to and including termination of the registry agreement. Prospective applicants are encouraged to review the following brief description of some of these responsibilities.

Note that this is a non-exhaustive list provided to potential applicants as an introduction to the responsibilities of a registry operator. For the complete and authoritative text, please refer to the draft registry agreement.

A registry operator is obligated to:

Operate the TLD in a stable and secure manner. The registry operator is responsible for the entire technical operation of the TLD. As noted in RFC 1591:

"The designated manager must do a satisfactory job of operating the DNS service for the domain. That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence. This includes keeping the central IR[2] (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience."

The registry operator is required to comply with relevant technical standards in the form of RFCs and other guidelines. Additionally, the registry operator must meet

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[2] IR is a historical reference to "Internet Registry," a function now performed by ICANN.

performance specifications in areas such as system downtime and system response times (see Specification 6 of the draft Registry Agreement).

Comply with consensus policies and temporary policies. gTLD registry operators are required to comply with consensus policies. Consensus policies may relate to a range of topics such as issues affecting interoperability of the DNS, registry functional and performance specifications, database security and stability, or resolution of disputes over registration of domain names.

To be adopted as a consensus policy, a policy must be developed by the Generic Names Supporting Organization (GNSO)[3] following the process in Annex A of the ICANN Bylaws.[4] The policy development process involves deliberation and collaboration by the various stakeholder groupsconstituencies participating in the process, with multiple opportunities for input and comment by the public, and can take significant time.

Examples of existing consensus policies are the Inter-Registrar Transfer Policy (governing transfers of domain names between registrars), and the Registry Services Evaluation Policy (establishing a review of proposed new registry services for security and stability or competition concerns), although there are several more, as found at http://www.icann.org/en/general/consensus-policies.htm.

gTLD registry operators are obligated to comply with both existing consensus policies and those that are developed in the future. Once a consensus policy has been formally adopted, ICANN will provide gTLD registry operators with notice of the requirement to implement the new policy and the effective date.

In addition, the ICANN Board may, when required by circumstances, establish a temporary policy necessary to maintain the stability or security of registry services or the DNS. In such a case, all gTLD registry operators will be required to comply with the temporary policy for the designated period of time.

For more information, see Specification 1 of the draft Registry Agreement.

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[3] http://gnso.icann.org
[4] http://www.icann.org/en/general/bylaws.htm#AnnexA

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Implement start-up rights protection measures. The registry operator must implement, at a minimum, either a Sunrise period or a Trademark Claims service during the start-up phases for registration in the TLD. These mechanisms will be supported by the established Trademark Clearinghouse as indicated by ICANN. The Sunrise period allows eligible rightsholders an early opportunity to register names in the TLD. The Trademark Claims service provides notice to potential registrants of existing trademark rights, as well as notice to rightsholders of relevant names registered. Registry operators may continue offering the Trademark Claims service after the relevant start-up phases have concluded. For more information, see Specification 7 of the draft Registry Agreement and the Trademark Clearinghouse model accompanying this module.

Implement post-launch rights protection measures. The registry operator is required to implement decisions made under the Uniform Rapid Suspension (URS) procedure, including suspension of specific domain names within the registry. The registry operator is also required to comply with and implement decisions made according to the Trademark Post-Delegation Dispute Resolution Policy (PDDRP). In addition, the registry operator must comply with the specific rights protection mechanisms developed and included in the registry agreement (See Specification 7 to the draft agreement). The required measures are described fully in the URS and PDDRP procedures accompanying this module. Registry operators may introduce additional rights protection measures relevant to the particular gTLD.

Implement measures for protection of country and territorygeographical names in the new gTLD. All new gTLD registry operators are required to provide certain minimum protections for country and territory names, including an initial reservation requirement and establishment ofany applicable rules and procedures for release of these names. Registry operators are encouraged to implement measures for protection of geographical names in addition to those required by the agreement, according to the needs and interests of each gTLD's particular circumstances. (See Specification 5 of the draft registry agreement).

Pay recurring fees to ICANN. In addition to existing expenditures made to accomplish the objectives set out in ICANN's mission statement, these funds enable the support

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required for new gTLDs, including: contractual compliance, registry liaison, increased registrar accreditations, and other registry support activities. The fees include both a fixed component (USD 25,000 annually) and, once the TLD has passed a threshold size, a variable fee based on transaction volume. See Article 6 of the draft registry agreement.

Regularly deposit data into escrow. This serves an important role in registrant protection and continuity for certain instances where the registry or one aspect of the registry operations experiences a system failure or loss of data. (See Specification 2 of the draft registry agreement.)

Deliver monthly reports in a timely manner. A registry operator must submit a report to ICANN on a monthly basis. The report includes performance statistics for the month, registrar transactions, and other data, and is used by ICANN for compliance purposes as well as calculation of registrar fees. (See Specification 3 of the draft registry agreement.)

Provide Whois service. A registry operator must provide a publicly available Whois service for registered domain names in the TLD. (See Specification 4 of the draft registry agreement.)

Maintain partnerships with ICANN-accredited registrars. A registry operator creates a Registry-Registrar Agreement (RRA) to define requirements for its registrars. This must include certain terms that are specified in the Registry Agreement, and may include additional terms specific to the TLD. A registry operator must provide non-discriminatory access to its registry services to all ICANN-accredited registrars with whom it has entered into an RRA, and who are in compliance with the requirements. This includes providing advance notice of pricing changes to all registrars, in compliance with the time frames specified in the agreement. (See Article 2 of the draft registry agreement.)

Maintain an abuse point of contact. A registry operator must maintain and publish on its website a single point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving

a reseller. (See Specification 6 of the draft registry agreement.)

Cooperate with contractual compliance audits. To maintain a level playing field and a consistent operating environment, ICANN staff performs periodic audits to assess contractual compliance and address any resulting problems. A registry operator must provide documents and information requested by ICANN that are necessary to perform such audits. (See Article 2 of the draft registry agreement.)

Maintain a Continued Operations Instrument. A registry operator must, at the time of the agreement, have in place a continued operations instrument sufficient to fund basic registry operations for a period of three (3) years. This requirement remains in place for five (5) years after delegation of the TLD, after which time the registry operator is no longer required to maintain the continued operations instrument. (See Specification 8 to the draft registry agreement.)

Maintain community-based policies and procedures. If the registry operator designated its application as community-based at the time of the application, the registry operator has requirements in its registry agreement to maintain the community-based policies and procedures it specified in its application. The registry operator is bound by the Registry Restrictions Dispute Resolution Procedure with respect to disputes regarding execution of its community-based policies and procedures. (See Article 2 to the draft registry agreement.)

Have continuity and transition plans in place. This includes designation of a transition provider, as well as performing failover testing on a regular basis. In the event that a transition to a new registry operator becomes necessary, the registry operator is expected to cooperate by consulting with ICANN on the appropriate successor, providing the data required to enable a smooth transition, and complying with the applicable registry transition procedures. (See the "Registry Transition Processes" explanatory memo for a discussion of transition procedures.)

Make TLD zone files available via a standardized process. This includes provision of access to the registry's zone file to credentialed users, according to established access, file, and format standards. The registry operator will enter into a

standardized form of agreement with zone file users and will accept credential information for users via a clearinghouse. For more information, see Specification 4 of the draft Registry Agreement and the "Zone File Access for the Future" strategy proposal.

Implement DNSSEC. The registry operator is required to sign the TLD zone files implementing Domain Name System Security Extensions (DNSSEC) in accordance with the relevant technical standards. The registry must accept public key material from registrars for domain names registered in the TLD, and publish a DNSSEC Policy Statement describing key material storage, access, and usage for the registry's keys and the registrants' trust anchor material. For more information, see Specification 6 of the draft Registry Agreement.

5.4.2 What is Expected of ICANN

ICANN will continue to provide support for gTLD registry operators as they launch and maintain registry operations. ICANN's gTLD registry liaison function provides a point of contact for gTLD registry operators for assistance on a continuing basis.

ICANN's contractual compliance function will also perform audits on a regular basis to ensure that gTLD registry operators remain in compliance with agreement obligations, as well as investigate any complaints from the community regarding the registry operator's adherence to its contractual obligations. See http://www.icann.org/en/compliance/ for more information on current contractual compliance activities.

ICANN's Bylaws require ICANN to act in an open and transparent manner, and to provide equitable treatment among registry operators. ICANN is responsible for maintaining the security and stability of the global Internet, and looks forward to a constructive and cooperative relationship with future gTLD registry operators in furtherance of this goal.

5-14

New gTLD Agreement

Proposed Draft (v.~~3~~4)

This document contains the draft registry agreement associated with the Draft Applicant Guidebook (Draft RFP) for New gTLDs.

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-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.

DELEGATION AND OPERATION
OF TOP–LEVEL DOMAIN; REPRESENTATIONS AND WARRANTIES

1.1   Domain and Designation. The Top-Level Domain to which this Agreement applies is _____ (the "TLD"). Upon the Effective Date and until the end of the Term (as defined in Section 4.1), ICANN designates _____**Registry Operator** as the registry operator for the TLD, subject to the requirements and necessary approvals for delegation of the TLD and entry into the root-zone.

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

1.3   Representations and Warranties.

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

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

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

(iii)   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 laws of the State of California, United States of America. ICANN has all requisite power and authority and obtained all necessary corporate approvals to enter into and duly execute and deliver this Agreement.

ARTICLE 2.

COVENANTS OF REGISTRY OPERATOR

Registry Operator covenants and agrees with ICANN as follows:

2.1 Approved Services; Additional Services. Registry Operator shall be entitled to provide the Registry Services described in clauses (a) and (b) of the first paragraph of Section 2 in ~~Specification 6~~**the specification** 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 **in accordance with the procedures set forth in Specification 1** (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**, which amendment shall be in a form reasonably acceptable to the parties**.

2.2 Compliance with Consensus Policies and Temporary Policies. Registry Operator shall comply with and implement all Consensus Policies and Temporary Policies found at <http://www.icann.org/general/consensus-policies.htm>, as of the Effective Date and as may in the future be developed and adopted in accordance with 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*]* **("Specification 1")**.

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

2.4 Monthly Reporting. Within twenty (20) calendar days following the end of each calendar month, Registry Operator shall deliver to ICANN reports in the format posted **in the specification** at [*see specification 3*]*.

2.5 Publication of Registration Data. Registry Operator shall provide public access to registration data in accordance with the specification posted at [*see specification 4*]* **("Specification 4")**.

2.6 Reserved Names. Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall reserve from initial (i.e. other than renewal) registration all character strings that appear on the Schedule of Reserved Names **in the specification** posted at [*see specification 5*]* **("Specification 5")**. Registry Operator may establish policies concerning the reservation or blocking of additional character strings within the TLD at its discretion. If Registry Operator is the registrant for any domain names in the Registry TLD (other than the Second-Level Reservations for Registry Operations from Specification 5), such registrations must be through an ICANN accredited registrar. Any such registrations will be considered Transactions (as defined in Section 6.1) for purposes of calculating the Registry-Level Transaction Fee to be paid to ICANN by Registry Operator pursuant to Section 6.1.

2.7 Functional and Performance Specifications. Functional and Performance Specifications for operation of the TLD will be as set forth **in the specification** at [*see specification 6*]*. Registry Operator shall comply with such Functional and Performance Specifications and, for a period of

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at least one year, shall keep technical and operational records sufficient to evidence compliance with such specifications.

2.8   Protection of Legal Rights of Third Parties. Registry Operator must specify, and comply with, a process and procedures for launch of the TLD and initial registration-related and ongoing protection of the legal rights of third parties, which shall at a minimum include those provisions **as** set forth **in the specification** at [*see specification 7*]* **("Specification 7"). Registry Operator may, at its election, implement additional protections of the legal rights of third parties**. Any changes or modifications to ~~such~~**the** process and procedures **required by Specification 7** following the Effective Date must be approved in advance by ICANN in writing. **Registry Operator must comply with all determinations and decisions made by ICANN pursuant to Section 2 of Specification 7.**

2.9   *[Use of Registrars* (see note below).*

(a)   2.9 Use of Registrars. *Registry Operator must use only ICANN accredited registrars in registering domain names. Registry Operator **and its Affiliates (or any person or entity acting on their behalf) shall not act as a registrar, reseller or any other form of distributor with respect to the TLD or any other top-level domain. 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 **non-discriminatory** agreement with all registrars authorized to register names in the TLD, ~~which~~**provided that such agreement may set forth non-discriminatory criteria for qualification to register names in the TLD that are reasonably related to the proper functioning of the TLD. Such agreement** may be revised by Registry Operator from time to time, provided however, that any such revisions must be approved in advance by ICANN. **This Section 2.9 shall not preclude Registry Operator from registering names within the TLD to itself through a request made to an ICANN-accredited registrar. [Registry Operator shall not engage or otherwise permit any registrar, reseller or any other form of distributor, or any of their Affiliates (or any person or entity acting on their behalf) to provide Registry Services for the TLD.]***

(b)   *Registry Operator and its Affiliates shall not, directly or indirectly: (i) control any ICANN-accredited registrar or its Affiliates, (ii) control or acquire greater than 2% Beneficial Ownership of any class of securities of any ICANN-accredited registrar or its Affiliates, (iii) be controlled by, or be under common control with, any ICANN-accredited registrar or its Affiliates, or (iv) except as set forth below in this sub-clause (b), sell or otherwise transfer any interest in any security of Registry Operator or its Affiliates to any ICANN-accredited registrar or its Affiliates. Nothing withstanding sub-clause (b)(iv) above, Registry Operator may sell voting securities to any ICANN-accredited registrar or its Affiliates, provided that any such sale will not result in such registrar or its Affiliates owning greater than 2% of Registry Operator's outstanding voting securities.*

(c)   *For the purposes of this Section 2.9: (i) "Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person or entity specified, (ii) "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise, and (iii) a person or entity that possesses "Beneficial Ownership" of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares (A) voting*

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power which includes the power to vote, or to direct the voting of, such security; and/or (B) investment power which includes the power to dispose, or to direct the disposition of, such security.]

> ** Note: The text in this section is possible implementation language resulting from the resolutions of the ICANN Board (adopted at the ICANN Meeting in Nairobi) with respect to the separation of registry and registrar functions and ownership <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#5>. During the recent Board Retreat in Dublin during May 2010, the board reviewed possible issues that might result from a strict interpretation of the Board's resolutions. It was the sense of the Board that: 1) the draft proposed stricter limitations on cross ownership represents a "default position" and they continue to encourage the GNSO to develop a stakeholder based policy on these issues; 2) a very strict interpretation of the resolutions might create unintended consequences; 3) staff should produce language in the agreement matching a "de minimus" acceptable approach (2% language) while remaining generally consistent with the resolutions; 4) the Board encourages community input and comment on the correct approach to these issues in the absence of GNSO policy; and 5) the Board will review this issue again if no GNSO policy results on these topics.*

[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:

> > (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   **Pricing for Registry Services.** Except as set forth in this Section 2.10, Registry Operator shall provide each ICANN accredited registrar that has executed Registry Operator's registry-registrar agreement advance notice of any price increase [(net**including the elimination** of **any** refunds, rebates, discounts, product tying or other programs **which had the effect of reducing the price charged to registrars**)] 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 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

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name registrations, Registry Operator need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to a 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 6.3. [Registry Operator shall offer all domain registration renewals at the same price, unless the registrant agrees **in its registration agreement with a registrar** to a higher price at the time of the initial registration of the domain name following clear and conspicuous disclosure of such renewal price by**to such registrant.** Registry Operator.] Registry Operator shall provide public query-based DNS lookup service for the TLD at its sole expense.

2.11 **Contractual and Operational Compliance Audits.** ICANN may from time to time (not to exceed once**twice** per calendar quarter**year**) 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 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**three** (5**3**) calendar**business** days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its 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. **Notwithstanding the foregoing, if Registry Operator is found not to be in compliance with its covenants contained in Section 2 of this Agreement in two consecutive audits conducted pursuant to this Section 2.11, ICANN may increase the number of such audits to one per calendar quarter.**

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

2.13 **Emergency Transition. Registry Operator agrees that in the event that any of the registry functions set forth in Section 5 of Specification 6 fails for a period longer than the emergency threshold for such function set forth in Section 5 of Specification 6, ICANN may designate an emergency interim registry operator of the registry for the TLD (an "Emergency Operator") in accordance with ICANN's registry transition process (available at _____) (as the same may be amended from time to time, the "Registry Transition Process") until such time as Registry Operator has demonstrated to ICANN's reasonable satisfaction that it can resume operation of the registry for the TLD without the reoccurrence of such failure. Following such demonstration, Registry Operator may transition back into operation of the registry for the TLD pursuant to the procedures set out in the Registry Transition Process, provided that Registry Operator pays all costs incurred (i) by ICANN as a result of the designation of the Emergency Operator and (ii) by the Emergency Operator in connection with the operation of the registry for the TLD. In the event ICANN designates an Emergency Operator pursuant to this Section 2.13 and the Registry Transition Process, Registry Operator shall provide ICANN or any such Emergency Operator with all data (including the data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that**

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may be reasonably requested by ICANN or such Emergency Operator. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event that an Emergency Operator is designated pursuant to this Section 2.13. In addition, in the event of such failure, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

2.14 ~~2.13~~ *[Note: For Community-Based TLDs Only]* **Obligations of Registry Operator to TLD Community.** Registry Operator shall establish registration policies in conformity with the application submitted with respect to the TLD for: (i) naming conventions within the TLD, (ii) requirements for registration by members of the TLD community, and (iii) use of registered domain names in conformity with the stated purpose of the community-based TLD. Registry Operator shall operate the TLD in a manner that allows the TLD community to discuss and participate in the development and modification of policies and practices for the TLD. Registry Operator shall establish procedures for the enforcement of registration policies for the TLD, and resolution of disputes concerning compliance with TLD registration policies, and shall enforce such registration policies. Registry Operator agrees to 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~~**2.14**.]

ARTICLE 3.

COVENANTS OF ICANN

ICANN covenants and agrees with Registry Operator as follows:

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

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

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

3.5   Authoritative Root Database. To the extent that ICANN is authorized to set policy with regard to an authoritative root server system, ICANN shall use commercially reasonable efforts to (a) ensure that the authoritative root will point to the top-level domain nameservers designated by Registry Operator for the TLD, (b) maintain a stable, secure, and authoritative publicly available database of relevant information about the TLD, in accordance with ICANN

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publicly available policies and procedures, and (c) coordinate the Authoritative Root Server System so that it is operated and maintained in a stable and secure manner.

ARTICLE 4.

TERM AND TERMINATION

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

4.2   Renewal.

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

(i)   (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**breach** 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**A**) an arbitrator or court has finally determined that Registry Operator has been in fundamental and material breach of such covenant(s) or in default**breach** of its payment obligations, and (ii**B**) 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

(ii)   (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**breach** of its payment obligations under Article 6 of this Agreement.

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

4.3   Termination by ICANN.

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

(b)   ICANN may, upon notice to Registry Operator, terminate this Agreement, if Registry Operator fails to complete all testing and procedures necessary**(identified by ICANN in writing to Registry Operator prior to the date hereof)** for delegation of the TLD into the root zone within 12

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months of the Effective Date. 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**Agreement** if **(i)** Registry Operator fails to cure a **material** breach of Registry Operator's obligations set forth in Section 2.12 of this Agreement within thirty (30) calendar days of delivery of notice of such breach by ICANN, or if the Continued Operations Instrument is not in effect for greater than sixty (60) consecutive calendar days at any time following the Effective Date.**, (ii) an arbitrator or court has finally determined that Registry Operator is in material breach of such covenant, and (iii) Registry Operator fails cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court.**

(d) ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator makes an assignment for the benefit of creditors or similar act, (ii) attachment, garnishment or similar proceedings are commenced against Registry Operator, (iii) a trustee, receiver, liquidator or equivalent is appointed over Registry Operator or over any of its property, (iv) execution is levied upon any property of Registry Operator, (v) proceedings are instituted by or against Registry Operator under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors, or (vi) Registry Operator liquidates, dissolves or otherwise discontinues its operations or the operation of the TLD.

(e) ICANN may, upon thirty (30) calendar days' notice to Registry Operator, terminate this Agreement pursuant to Section 2 of Specification 7.

(f) [*Applicable to intergovernmental organizations or governmental entities only.*] ICANN may terminate this Agreement pursuant to Section 7.12.

4.4 Termination by Registry Operator.

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

(b) Registry Operator may terminate this Agreement 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.

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

4.5 **Transition of Registry upon Termination of Agreement.** Upon expiration of the Term and**pursuant to Section 4.1 or Section 4.2 or** any termination of this Agreement **pursuant to Section 4.3 or Section 4.4**, Registry Operator shall ~~agree to~~ provide ICANN or any successor registry ~~authority~~**operator** that may be designated by ICANN for the TLD with all data (including ~~that~~**the** data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry ~~authority~~**operator**. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry ~~authority~~**operator** 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~~**Transition Process. Registry Operator agrees that ICANN may make any changes in deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5**. In addition, ICANN or its designee shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable, regardless of the reason for termination or expiration of this Agreement.

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

"Transition of Registry upon Termination of Agreement. Upon expiration of the Term pursuant to Section 4.1 or Section 4.2 or any termination of this Agreement pursuant to Section 4.3 or Section 4.4, in connection with ICANN's designation of a successor registry operator for the TLD, Registry Operator and ICANN agree to consult each other and work cooperatively to facilitate and implement the transition of the TLD in accordance with this Section 4.5. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry operator in its sole discretion and in conformance with the Registry Transition Process. In the event ICANN determines to transition operation of the TLD to a successor registry operator, upon Registry Operator's consent (which shall not be unreasonably withheld, conditioned or delayed), Registry Operator shall provide ICANN or such successor registry operator for the TLD with any data regarding operations of the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator in addition to data escrowed in accordance with Section 2.3 hereof. In the event that Registry Operator does not consent to provide such data, any registry data related to the TLD shall be returned to Registry Operator, unless otherwise agreed upon by the parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5."]

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**7**, 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.

DISPUTE RESOLUTION

5.1   Cooperative Engagement. Before either party may initiate arbitration pursuant to Section 5.2 below, ICANN and Registry Operator, following initiation of communications by either party, must attempt to resolve the dispute by engaging in good faith discussion over a period of at least fifteen (15) calendar days.

5.2   Arbitration. Disputes arising under or in connection with this Agreement, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce ("ICC"). The arbitration will be conducted in the English language in front of a single arbitrator **(unless the parties agree in writing to a greater number of arbitrators)** and will occur in Los Angeles County, California, USA. **In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator determine that a hearing is necessary, the hearing shall be limited to one day**. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator**(s)** shall include in its awards. In any proceeding, ICANN may request the appointed arbitrator**(s)** 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**(s)** determines that Registry Operator 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.

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

"Arbitration. Disputes arising under or in connection with this Agreement, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce ("ICC"). The arbitration will be conducted in the English language in front of a single arbitrator (unless the parties shall agree in writing to a greater number of arbitrators) and will occur in Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator determine that a hearing is necessary, the hearing shall be limited to one day. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in its awards. In any proceeding, ICANN may request the appointed arbitrator(s) 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(s) determines that Registry Operator 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 Geneva, Switzerland, unless an another location is mutually agreed upon by Registry Operator and ICANN; however, the parties

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will also have the right to enforce a judgment of such a court in any court of competent jurisdiction."]

5.3 **Limitation of Liability.** ICANN's aggregate monetary liability for violations of this Agreement will not exceed 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 6.3, if any). Registry Operator's aggregate monetary liability to ICANN for violationsbreaches 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 6.3, if any), and punitive and exemplary damages, if any, awarded in accordance with Section 5.2. In no event shall either party be liable for special, punitive, exemplary or consequential damages arising out of or in connection with this Agreement or the performance or nonperformance of obligations undertaken in this Agreement, except as provided in Section 5.2. **Except as otherwise provided in this Agreement, neither party makes any warranty, express or implied, with respect to the services rendered by itself, its servants or agents, or the results obtained from their work, including, without limitation, any implied warranty of merchantability, non-infringement or fitness for a particular purpose.**

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

ARTICLE 6.

FEES

6.1 **Registry-Level Fees.** Registry Operator shall pay ICANN a Registry-Level Fee equal to (i) the Registry Fixed Fee of US$6,250 per calendar quarter and (ii) the Registry-Level Transaction Fee. The Registry-Level Transaction Fee will be equal to the number of annual increments of an initial or renewal domain name registration (at one or more levels, and including renewals associated with transfers from one ICANN-accredited registrar to another, each a "Transaction"), during the applicable calendar quarter multiplied by US$0.25, provided, however that the Registry-Level Transaction Fee shall not apply until and unless more than 50,000 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 **Cost Recovery for RSTEP.** Requests by Registry Operator for the approval of Additional Services pursuant to Section 2.1 may be referred by ICANN to the Registry Services Technical Evaluation Panel ("RSTEP") pursuant to that process at http://www.icann.org/en/registries/rsep/. In the event that such requests are referred to RSTEP, Registry Operator shall remit to ICANN the invoiced cost of the RSTEP review within ten (10) business days of receipt of a copy of the RSTEP invoice from ICANN, unless ICANN determines, in its sole and absolute discretion, to pay all or any portion of the invoiced cost of such RSTEP review.

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6.3   Variable Registry-Level Fee.

(a)   If the ICANN accredited registrars (as a group) do not approve pursuant to the terms of their registrar accreditation agreements with ICANN the variable accreditation fees established by the ICANN Board of Directors for any ICANN fiscal year, upon delivery of notice from ICANN, Registry Operator shall pay to ICANN a Variable Registry-Level Fee, which shall be paid on a fiscal quarter basis, and shall accrue as of the beginning of the first fiscal quarter of such ICANN fiscal year. The fee will be calculated and invoiced by ICANN on a quarterly basis, and shall be paid by Registry Operator within sixty (60) calendar days with respect to the first quarter of such ICANN fiscal year and within twenty (20) calendar days with respect to each remaining quarter of such ICANN fiscal year, of receipt of the invoiced amount by ICANN. The Registry Operator may invoice and collect the Variable Registry-Level Fees from the registrars who are party to a Registry-Registrar Agreement with Registry Operator, provided that the fees shall be invoiced to all ICANN accredited registrars if invoiced to any. The Variable Registry-Level Fee, if collectible by ICANN, shall be an obligation of Registry Operator and shall be due and payable as provided in this Section 6.3 irrespective of Registry Operator's ability to seek and obtain reimbursement of such fee from registrars. In the event ICANN later collects variable accreditation fees for which Registry Operator has paid ICANN a Variable Registry-Level Fee, ICANN shall reimburse the Registry Operator an appropriate amount of the Variable Registry-Level Fee, as reasonably determined by ICANN. If the ICANN accredited registrars (as a group) do approve pursuant to the terms of their registrar accreditation agreements with ICANN the variable accreditation fees established by the ICANN Board of Directors for a fiscal year, ICANN shall not be entitled to a Variable-Level Fee hereunder for such fiscal year, irrespective of whether the ICANN accredited registrars comply with their payment obligations to ICANN during such fiscal year.

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

6.4   Adjustments to Fees. Notwithstanding any of the fee limitations set forth in this Article 6, commencing upon the expiration of the first year of this Agreement, and upon the expiration of each year thereafter during the Term, the then current fees set forth in Section 6.1 and Section 6.3 may be increased**adjusted**, at ICANN's discretion, by a percentage equal to the percentage increase**change**, if any, in (i) the Consumer Price Index for All Urban Consumers, U.S. City Average (1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index (the "CPI") for the month which is one (1) month prior to the commencement of the applicable year, over (ii) the CPI published for the month which is one (1) month prior to the commencement of the immediately prior year. In the event of any such increase, ICANN shall provide notice to Registry Operator specifying the amount of such increase**adjustment**. Any fee increase**adjustment** under this Section 6.4 shall be effective as of the first day of the year in which the above calculation is made.

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

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ARTICLE 7.

ARTICLE 7. AMENDMENTS

7.1 Amendment of Terms and Specifications. During the term of this Agreement, Article 2 (including the specifications incorporated into this Agreement pursuant to Article 2), Article 6 and Article 8 may be amended 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 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 7 to amend Section 2.1, 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.

7.2 Process for Changes. The process for any amendment to this Agreement pursuant to Section 7.1 shall be as follows:

(a) 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 such amendment;

(b) Following such consultation and consideration, ICANN will publicly post on its website for no less than thirty (30) calendar days formal notice of any proposed 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) Following such public notice period and approval of the amendment by the ICANN Board of Directors, ICANN shall provide Registry Operator notice of the final terms of the amendment (including any amendment to the specifications 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;

(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) In the event that the amendment is disapproved by the affected registry operators pursuant to the process set forth in clause (e) above, the ICANN Board of Directors by a two-thirds vote shall have thirty (30) calendar days to override such disapproval if: (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 (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

7.1 ~~8.1~~ **Indemnification of ICANN.**

(a) Registry Operator shall indemnify and defend ICANN and its directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all third-party claims, damages, liabilities, costs, and expenses, including **reasonable** legal fees and expenses, arising out of or relating to **intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator,** Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services; provided that Registry Operator shall not be obligated to indemnify or defend any Indemnitee to the extent the claim, damage, liability, cost or expense arose 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.

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

"Registry Operator shall use its best efforts to cooperate with ICANN in order to ensure that ICANN does not incur any costs associated with claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services; provided that Registry Operator shall not be obligated to provide such cooperation to the extent the claim, damage, liability, cost or expense arose due to a breach by ICANN of any of its obligations contained in this Agreement or any willful misconduct by ICANN. This section 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~~**7.1**(a) pursuant to this Section ~~8.1~~**7.1**(b), Registry Operator shall have the burden of identifying the other registry operators that are engaged in the same actions or

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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**7.1**(a) above, the number of domains under management by such registry operator(s) shall nonetheless be included in the calculation in the preceding sentence. **[*Note: This Section 7.1(b) is inapplicable to intergovernmental organizations or governmental entities.*]**

   7.2 8.2 **Indemnification Procedures.** If any third-party claim is commenced that is indemnified under Section 8.1**7.1** above, ICANN shall provide notice thereof to Registry Operator as promptly as practicable. Registry Operator shall be entitled, if it so elects, in a notice promptly delivered to ICANN, to immediately take control of the defense and investigation of such claim and to employ and engage attorneys reasonably acceptable to ICANN to handle and defend the same, at Registry Operator's sole cost and expense, provided that in all events ICANN will be entitled to control at its sole cost and expense the litigation of issues concerning the validity or interpretation of ICANN 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 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**7.2**, ICANN will have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Registry Operator. **[*Note: This Section 7.2 is inapplicable to intergovernmental organizations or governmental entities.*]**

   7.3 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.

   7.4 8.4 **No Offset.** All payments due under this Agreement will be made in a timely manner throughout the Term and notwithstanding the pendency of any dispute (monetary or otherwise) between Registry Operator and ICANN.

   7.5 8.5 **Change in Control; Assignment and Subcontracting.** Neither party may assign this Agreement without the prior written approval of the other party, which approval will not be

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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. **For purposes of this Section 7.5, a direct or indirect change of ownership or control of Registry Operator or any material subcontracting arrangement with respect to the operation of the registry for the TLD shall be deemed an assignment. ICANN shall be deemed to have reasonably withheld its consent to any such a direct or indirect change of ownership or control or subcontracting arrangement in the event that ICANN reasonably determines that the person or entity acquiring ownership or control of Registry Operator or entering into such subcontracting arrangement (or the ultimate parent entity of such acquiring or subcontracting entity) does not meet the ICANN-adopted registry operator criteria or qualifications then in effect. In addition, without limiting the foregoing,** Registry Operator must provide no less than thirty (30) calendar days advance notice to ICANN of any material subcontracting arrangements, and any agreement to subcontract portions of the operations of the TLD must mandate compliance with all covenants, obligations and agreements by Registry Operator hereunder. **Without limiting the foregoing,** Registry Operator will**must also** provide no less than ten**thirty** (10**30**) 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.

7.6   Amendments and Waivers.

(a)   **If ICANN determines that an amendment to this Agreement (including to the specifications referred to herein) and all other registry agreements between ICANN and the Applicable Registry Operators (the "Applicable Registry Agreements") is desirable (each, a "Special Amendment"), ICANN may submit a Special Amendment for approval by the Applicable Registry Operators pursuant to the process set forth in this Section 7.6, provided that a Special Amendment is not a Restricted Amendment (as defined below). Prior to submitting a Special Amendment for such approval, ICANN shall first consult in good faith with the Working Group (as defined below) regarding the form and substance of a Special Amendment. The duration of such consultation shall be reasonably determined by ICANN based on the substance of the Special Amendment. Following such consultation, ICANN may propose the adoption of a Special Amendment by publicly posting such amendment on its website for no less than thirty (30) calendar days (the "Posting Period") and notice of such amendment by ICANN to the Applicable Registry Operators in accordance with Section 7.8. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registry Operators).**

(b)   **If, within two (2) calendar years of the expiration of the Posting Period (the "Approval Period"), (i) the ICANN Board of Directors approves a Special Amendment (which may be in a form different than submitted for public comment) and (ii) such Special Amendment receives Registry Operator Approval (as defined below), such Special Amendment shall be deemed approved (an "Approved Amendment") by the Applicable Registry Operators (the last date on which such approvals are obtained is herein referred to as the "Amendment Approval Date") and shall be effective and deemed an amendment to this Agreement upon sixty (60) calendar days notice**

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from ICANN to Registry Operator (the "Amendment Effective Date"). In the event that a Special Amendment is not approved by the ICANN Board of Directors or does not receive Registry Operator Approval within the Approval Period, the Special Amendment will have no effect. The procedure used by ICANN to obtain Registry Operator Approval shall be designed to document the written approval of the Applicable Registry Operators, which may be in electronic form.

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

(d)   8.6 Amendments and Waivers. Except as set forth in Article 7**this Section 7.6**, no amendment, supplement, or modification of this Agreement or any provision hereof will**shall** be binding unless executed in writing by both parties. Irrespective of the provisions of Article 7,**, and nothing in this Section 7.6 shall restrict** ICANN and Registry Operator may at any time and from time to time enter**entering** into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement will**shall** be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement or failure to enforce any of the provisions hereof will**shall** be deemed or will**shall** constitute a waiver of any other provision hereof, nor will**shall** any such waiver constitute a continuing waiver unless otherwise expressly provided.

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(e) **For purposes of this Agreement, the following terms shall have the following meanings:**

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

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

(iii) **"Restricted Amendment" means the following: (i) an amendment of Specification 1, (ii) except to the extent addressed in Section 2.10 hereof, an amendment that specifies the price charged by Registry Operator to registrars for domain name registrations, (iii) an amendment to the definition of Registry Services as set forth in the first paragraph of Section 2 of Specification 6, or (iv) an amendment to the length of the Term.**

(iv) **"Working Group" means representatives of the Applicable Registry Operators and other members of the community that ICANN appoints, from time to time, to serve as a working group to consult on amendments to the Applicable Registry Agreements (excluding bilateral amendments pursuant to Section 7.6(d)).**

7.7 **8.7 No Third-Party Beneficiaries.** This Agreement will not be construed to create any obligation by either ICANN or Registry Operator to any non-party to this Agreement, including any registrar or registered name holder.

7.8 **8.8 General Notices.** Except for notices pursuant to ~~Article 7~~**Section 7.6**, all notices to be given under or in relation to this Agreement will be given either (i) in writing at the address of the appropriate party as set forth below or (ii) via facsimile or electronic mail as provided below, unless that party has given a notice of change of postal or email address, or facsimile number, as provided in this agreement. All notices under ~~Article 7~~**Section 7.6** shall be given by both posting of the applicable information on ICANN's web site and transmission of such information to Registry Operator by electronic mail. Any change in the contact information for notice below will be given by the party within thirty (30) calendar days of such change. Notices, designations, determinations, and specifications made under this Agreement will be in the English language. Other than notices under ~~Article 7~~**Section 7.6**, any notice required by this Agreement will be deemed to have been properly given (i) if in paper form, when delivered in person or via courier service with confirmation of receipt or (ii) if via facsimile or by electronic mail, upon confirmation of receipt by the recipient's facsimile machine or email server, provided, that such notice via facsimile or electronic mail shall be followed by a copy sent by regular postal mail service within two (2) business days. Any notice required by ~~Article 7~~**Section 7.6** will be deemed to have been given when electronically posted on ICANN's website and upon confirmation of receipt by the email server. In the event other means of notice become practically achievable, such as

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notice via a secure website, the parties will work together to implement such notice means under this Agreement.

>If to ICANN, addressed to:
>Internet Corporation for Assigned Names and Numbers
>4676 Admiralty Way, Suite 330
>Marina Del Rey, California 90292
>Telephone: 1-310-823-9358
>Facsimile: 1-310-823-8649
>Attention: President and CEO
>With a Required Copy to: General Counsel
>Email: (As specified from time to time.)
>
>If to Registry Operator, addressed to:
>[_____]
>[_____]
>[_____]
>Telephone:
>Facsimile:
>Attention:
>With a Required Copy to:
>Email: (As specified from time to time.)

7.9 8.9 **Entire Agreement.** This Agreement (including those specifications and documents incorporated by reference to URL locations which form a part of it) constitutes the entire agreement of the parties hereto pertaining to the operation of the TLD and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties on that subject.

7.10 8.10 **English Language Controls.** Notwithstanding any translated version of this Agreement and/or specifications that may be provided to Registry Operator, the English language version of this Agreement and all referenced specifications are the official versions that bind the parties hereto. In the event of any conflict or discrepancy between any translated version of this Agreement and the English language version, the English language version controls. Notices, designations, determinations, and specifications made under this Agreement shall be in the English language.

7.11   Ownership Rights. Nothing contained in this Agreement shall be construed as establishing or granting to Registry Operator any property ownership rights or interests in the TLD or the letters, words, symbols or other characters making up the TLD string.

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

7.12   Special Provision Relating to Intergovernmental Organizations or Governmental Entities.

(a)   ICANN acknowledges that Registry Operator is an entity subject to public international law, including international treaties applicable to Registry Operator (such public international law and treaties, collectively hereinafter the "Applicable Laws"). Nothing in this Agreement and its related specifications shall be construed or interpreted to require Registry Operator to violate Applicable Laws or prevent compliance therewith. The Parties agree that

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Registry Operator's compliance with Applicable Laws shall not constitute a breach of this Agreement.

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

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

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

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

(f)   Notwithstanding any other provision of this Section 7.12, following an ICANN Determination and prior to a finding by an arbitrator pursuant to Section 7.12(d) above, ICANN may, subject to prior consultations with Registry Operator, take such reasonable technical measures as it deems necessary to ensure the Security and Stability of Registry Services, the Internet and the DNS. These reasonable technical measures shall be taken by ICANN on an interim basis, until the earlier of the date of conclusion of the arbitration procedure referred to in Section 7.12(d) above or the date of complete resolution of the conflict with an Applicable Law. In case Registry Operator disagrees with such technical measures taken by ICANN, Registry Operator may submit the matter to binding arbitration pursuant to the provisions of Section 5.2 above, during which process ICANN may continue to take such technical measures. In the event that ICANN takes such measures, Registry Operator shall pay all costs incurred by ICANN as a result of taking such measures. In addition, in the event that ICANN takes such measures, ICANN shall retain and may enforce its rights under the Continued Operations Instrument and Alternative Instrument, as applicable.

* * * * *

* Final text will be posted on ICANN website; agreement reference to be replaced by hyperlink.

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 Polices 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**. Deposits can be of two kinds: Full Deposits or Incremental Deposits. **For both kinds of Deposits, the Universe of Registry objects to be considered for data escrow are those objects necessary in order to offer the approved Registry Services.**

   1.1 "**Full Deposit**" 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~~**00:00** 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 "**Incremental Deposit**" means data that reflects all transactions involving the database that were not reflected in the last previous Full Deposit or Incremental Deposit, as the case may be. Each incremental file will contain all database transactions since the previous Deposit was completed as of ~~0000~~**00:00** 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 delivered in encrypted form to Escrow Agent. The formatted, encrypted and signed Deposit file(s) must be sent, by 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 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 cover the time period since the generation of the previous submission.

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

4.   **Escrow Format Specification.**

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

<{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**compatible form (A-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   <{FILE>} is replaced with the file type as indicated in **sections** 4.8 below**and 4.9**;

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;

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;

4.1.5   4.1.7 <{#>} 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".

4.1.6   4.1.8 <{rev>} is replaced by the number of revision (or resend) of the file beginning with "0";

4.1.7   4.1.9 <{.ext>} is replaced by "data" if the file contains actual data (may be compressed and/or encrypted) or "sig" for the**.sig" if it is a** digital signature file of the corresponding data file.**quasi-homonymous file. Otherwise it is replaced by "" nothing.**

4.2 **Object Handles.** For each of the object types (domains, contacts, 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**shall** contain timestamps indicating the date and time in a format and time zone that is consistent across all such fields in the escrow deposit. Timestamps should**shall** be presented relative to**in** UTC **with no offset from the zero meridian,** consistent with the date/time handling used in EPP RFC 4930**5730, see** [1].

4.4 **CSVFile** Format. Escrow data**Data files containing objects as domains, contacts, name servers, etc.** shall be compiled into CSV **"plain"** text files, as described in RFC 4180**, see** [5].
EPP XML Schema files shall be compiled into "plain" text files.
The character encoding for **both of** these files should**shall** be UTF-8. Once compressed and/or encrypted the data files shall be in binary form. Signature files shall never be compressed nor encrypted.

4.5 **Object Statuses.** RFC 4930 (EPP) and related RFCs **as specified in RFC 5730**, see [1], [2], [3], [4] **and related RFCs** indicate permissible status codes for various registry objects. Additionally**In the case of domains, the status values described in RFC 3915, see [11], plus** the status "reserved" is**are also** allowed for domains; it is used to indicate a reserved name on behalf of the Registry or ICANN**; see section 4.6**.

4.6 **Reserved Name Handling.** Registries typically have a set of names reserved on behalf of themselves or IANA**ICANN**. 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.

4.7 ~~**Variant Handling.** If Registry Operator offers IDNs, the variant table and registration policy must be deposited with the IANA IDN Practices Repository [9]. 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 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 and DOMIDN files, as described 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 **IDN Variants Handling. If Registry Operator offers Internationalized Domain Names (IDN), the Variant Table and Registration Policy must be deposited with the IANA IDN Practices Repository, see [9].**

Depending on the Registration Policy in place in the Registry; for a particular IDN, there may be multiple variant domains either registered, reserved or blocked:

(1) **If the IDN variant is actually registered, bundled with its canonical domain name in the Registry system, the variant shall be tagged as "registered".**

(2) **If only the holder of the canonical domain name is allowed to register the IDN variant but it is not actually registered, the variant shall be tagged as "reserved".**

(3) **If the IDN variant is considered undesirable for registration, the variant shall be tagged as "blocked".**

4.8 **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 **CSV** files must ~~contain the field names.~~**be the "header line" as described in section 2 of RFC 4180, see [5] containing the short names of every field. Such short names are provided below in the specification of each file type contained between "{" and "}".**

4.8.1 **Domains.** Indicates a file type "DOMAIN"**. This file shall contain all the domain names the Registry currently handles, including domains in sub-TLD levels, if the Registry provides Registry services for them. In the case of Internationalized Domain Names (IDN), the A-label shall be used in the "Domain Name" field (e.g. - "xn-11b5bs1di.tld"), not the U-Label.**

The following fields shall be stored in the DOMAIN file:

    (1) **{domainHandle},** Domain Handle;

    (2) **{domainName},** Domain Name;

    (3) **{sponsoringRegistrar},** Registrar Handle for the present sponsoring ~~registrar~~**Registrar**;

    (4) **{creationDate},** Creation Date;

    (5) **{creatorRegistrar},** Registrar Handle for the initial ~~sponsoring registrar~~**/creator Registrar**;

    (6) **{expiryDate},** Expiry Date;

    (7) ~~Authinfo~~**{authInfo}, Authorization information** for the domain; ~~and~~

(8) **{updateRegistrar}, Registrar Handle for the Registrar that updated the domain for the last time, empty if none;**

(9) **{lastUpdate}, Date of last update, empty if none;**

(10) **{lastTransferDate}, Date of last transfer, empty if none; and**

(11) **{deletionDate}, Date of deletion, for domains waiting to be purged or restored see RFC 3915, see [11], empty if none.**

4.8.2 ~~**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).~~

4.8.2 **Internationalized Domain Names (IDNs). Indicates a file type " DOMIDN".**
If an IDN has a corresponding entry in the "DOMAIN" file, the handle for that entry shall be provided in the "Domain Handle" field.
If this IDN is a variant of another IDN (the canonical domain name), the handle for the canonical domain name shall be provided in the "Canonical Domain Handle" field. For IDNs that are canonical domain names, the "Canonical Domain Handle" field shall be left blank.
The field "Variant Tag" indicates the tag of the IDN variant and shall be any of: "registered", "reserved" or "blocked"; see section 4.7. For canonical domain names it shall be left blank.
The "IDN Table ID" field shall contain the internal ID (see 4.8.3) of the IDN Table corresponding to the IDN.
If the Registrar provided the U-Label for the IDN to the Registry, both U-label and A-label shall be escrowed; if not, only the A-Label shall be escrowed.
The following fields shall be stored in the DOMIDN file:

(1) **{domainHandle},** Domain Handle;

(2) **{canonicalDomainHandle}, Canonical Domain Handle;**

(3) **{variantTag}, Variant Tag;**

(4) **{idnTableId}, IDN Table ID;**

(5) **{aLabel}, A-Label; and**

(6) ~~(2) Unicode Label/~~**{uLabel},** U-Label;

~~(3) Language Tag (based on ISO 639-1); and~~

~~(4) Script Tag (based on ISO 15924).~~

4.8.3 **IANA IDN Tables index. Indicates a file type "IDNTABLES". This is a file containing a listing of the different IDN Table URIs in IANA used for the IDNs in the TLD. The "IDN Table ID" field shall contain a sequential number that will serve as internal ID for the IDN Table.**
The following fields shall be stored in the IDNTABLES file:

(1) {idnTableId}, IDN Table ID; and

(2) {idnTableUri}, IDN Table URI in IANA Repository.

4.8.4 ~~4.8.3~~ **Contacts.** Indicates a file type "CONTACT". **This file contains all the contact objects linked to any of the domain names escrowed in the DOMAIN file.**
The following fields shall be stored in the CONTACT file:

(1) **{contactHandle},** Contact Handle;

(2) **{ sponsoringRegistrar },** Registrar Handle for the sponsoring registrar;

(3) **{creationDate},** Creation Date;

(4) ~~Authinfo~~**{authInfo}, Authorization information** for the contact;

(5) **{voiceNumber},** Voice Telephone Number;
(6) **{voiceExt},** Voice Telephone Extension;
(7) **{faxNumber},** Fax Telephone Number;
(8) **{faxExt},** Fax Extension;
(9) **{email},** Email Address.
(10)   **{creatorRegistrar},** Registrar Handle of the creator ~~registrar~~**Registrar**;
(11)   **{updateRegistrar},** Registrar Handle of the registrar who last updated the
    contact;
(12)   **{lastUpdate},** Last update Date; **and**
(13)   **{lastTransferDate},** Last transfer Date~~;~~**.**

4.8.5   ~~4.8.4~~ **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) **{contactHandle},** Contact Handle;
    (2) **{addressType},** Address type~~:~~**, shall be "**int~~/~~**" or "**loc**"**; ~~see~~ RFC ~~4933~~**5733, see** [4];
    (3) **{contactName},** Contact Name;
    (4) **{contactOrganization},** Contact Organization;
    (5) **{postalAddress1},** Postal Address 1;
    (6) **{postalAddress2},** Postal Address 2;
    (7) **{postalAddress3},** Postal Address 3;
    (8) **{city},** City;
    (9) **{stateProvinceOrRegion},** State/Province/Region;
    (10)   **{postalCode},** Postal Code; **and**
    (11)   **{**Country~~:~~**}, Country.**

Notes for ~~4.8.3 and~~ 4.8.4 and 4.8.5:
The following fields are ones where standards documents may be able to indicate requirements
appropriate to validation. In particular, the EPP Contact Mapping **in RFC 5733, see** [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~~*Internet Message Format* **[12]**.

4.8.6   ~~4.8.5~~ **Name servers.** Indicates a file type "NAMESERVER".
    The following fields shall be stored in the NAMESERVER file:
    (1) **{nameServerHandle},** Name server Handle;
    (2) **{nameServerName},** Name server Name;
    (3) **{creationDate},** Creation Date; and
    (4) **{sponsoringRegistrar},** Registrar Handle of sponsoring registrar.

4.8.7   ~~4.8.6~~ **Name server IP Addresses.** Indicates a file type "NSIP"
    The following fields shall be stored in the NSIP file:
    (1) **{nameServerHandle},** Name server Handle; and

(2) **{ip},** IP Address.

Notes. IP addresses **syntax** must conform either to, ~~RFC 791~~*Internet Protocol* **[13]**, for IPv4 addresses, or ~~RFC 4291~~*IP Version 6 Addressing Architecture* **[14]**, for IPv6 addresses.

4.8.8 ~~4.8.7~~ **Registrars.** Indicates a file type "REGISTRAR"**. This file contains information for every Registrar linked with any domain name included in DOMAIN.**
The following fields shall be stored in the REGISTRAR file:
(1) **{registrarHandle},** Registrar Handle;
(2) **{ianaId},** IANA ID for Registrar as per IANA Registrar IDs [8]; and
(3) **{registrarName},** Registrar Name;

4.8.9 ~~4.8.8~~ **Domain/Status Associations.** Indicates a file type "DOMSTATUS"**. Contains all the statuses for every domain in DOMAIN.**
The following fields shall be stored in the DOMSTATUS file:
(1) **{domainHandle},** Domain Handle;
(2) **{statusValue},** Status Value, as per the earlier section on Object Statuses; and
~~(3) Reason Code.~~

4.8.10 ~~4.8.9~~ **Contact/Status Associations.** Indicates a file type "CONSTATUS"**. Contain all the statuses for every contact in CONTACT.**
The following fields shall be stored in the CONSTATUS file:
(1) **{contactHandle},** Contact Handle;
(2) **{statusValue},** Status Value, as per the earlier section on Object Statuses; and
~~(3) Reason Code.~~

4.8.11 ~~4.8.10~~ **Name server/Status Associations.** Indicates a file type "NSSTATUS"**. Contain all the statuses for every name server in NAMESERVER.**
The following fields shall be stored in the NSSTATUS file:
(1) **{nameServerHandle},** Name server Handle;
(2) **{statusValue},** Status Value, as per the earlier section on Object Statuses; and
(3) **{reasonCode},** Reason Code.

4.8.12 ~~4.8.11~~ **Domain/Contact Associations.** Indicates a file type "DOMCONTACT"**. Contain all the associations between contacts and domains.**
The following fields shall be stored in the DOMCONTACT file:
(1) **{domainHandle},** Domain Handle;
(2) **{contactHandle},** Contact Handle; and
(3) **{contactType},** Contact Type**; shall be one of the abbreviations provided in the following table**.

Type Possible	Abbreviations
Registrant Contact	~~R, REG~~**reg**
Administrative Contact	~~A, ADMIN~~**admin**
Billing Contact	~~B, BILL~~**billing**
Technical Contact	~~T, TECH~~**tech**

4.8.13 ~~4.8.12~~ **Domain / Name server Associations.** Indicates a file type "DOMNS"**. Contain all the associations between domain names and their respective name servers.**

The following fields shall be stored in the DOMNS file:
- (1) **{domainHandle},** Domain Handle; and
- (2) **{nameServerHandle},** Name server Handle.

4.8.14 4.8.13 **Domain Deletions.** Indicates a file type "DOMDEL." This file must be sent only 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) **{domainHandle},** Domain Name**Handle**; and
- (2) **{deletionDate},** Deletion Date.

4.8.15 4.8.14 **Contact Deletions.** Indicates a file type "CONTDEL." This file must be sent only 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) **{contactHandle},** Contact Handle; and
- (2) **{deletionDate},** Deletion Date.

4.8.16 4.8.15 **Name server Deletions.** Indicates a file type "NSDEL." This file must be sent only for incremental escrow deposits (e.g. file type "inc"); it indicates the list of name servers that were in the previous deposit, that have since been removed.
- (1) **{nameServerHandle},** Name server Name**Handle**; and
- (2) **{deletionDate},** Deletion Date.

4.8.17 4.8.16 **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**5910, see** [10].
The following fields shall be stored in the DSDEL file:
- (1) **{domainHandle},** Domain Handle;
- (2) **{keyTag},** KeyTag;
- (3) **{algorithm},** Algorithm;
- (4) **{digestType},** Digest Type;
- (5) **{digest},** Digest;
- (6) **{maximumSigLife},** Maximum Signature Life;
- (7) **{dnskeyFlags},** DNSKey Flags;
- (8) **{dnskeyProtocol},** DNSKey Protocol;
- (9) **{dnskeyAlgorithm},** DNSKey Algorithm;
- (10) **{publicKey},** Public key;

4.8.18 4.8.17 **DNSSEC Delegation Signer Record Deletions.** Indicates a file type "DSDEL". This file must be sent only for incremental escrow deposits (e.g. file type "inc"); it indicates the list of domains that used to have DNSSEC delegation signer record(s) in the previous deposit that no longer have them.
The following fields shall be stored in the DSDEL file:
- (1) **{domainHandle},** Domain Handle; and
- (2) **{dsDeletionDate}, DS record(s)** Deletion Date.

4.8.19 4.8.18 **Contact information disclosure.** Indicates a file type "CONDISCL"**. Contains exceptional disclosure information for contacts as specified in RFC 5733 [4]**. 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) **{contactHandle},** Contact Handle;
(2) **{intName},** Internationalized name;
(3) **{locName},** Localized name;
(4) **{intOrganization},** Internationalized organization**;**
(5) **{locOrganization},** Localized organization**;**
(6) **{intAddress},** Internationalized address;
(7) **{locAddress},** Localized address;
(8) **{voice},** Voice**;**
(9) **{fax},** Fax**; and**
(10)   **{email},** Email**.**

4.8.20 ~~4.8.19~~ **EPP server Data Collection Policies.** Indicates a file type "DCP". These file type is related with section 2.4 of EPP, see **RFC 5730, see** [1]. All the fields shall only be "true", "false" or empty.
The following fields shall be stored in the DCP file:
(1) **{accessAll},** Access to All;
(2) **{accessNone},** Access to None;
(3) **{accessNull},** Access Null;
(4) **{accessPersonal},** Access Personal;
(5) **{accessPersonalAndOther},** Access Personal and other;
(6) **{accessOther},** Access Other;
(7) **{statementAdmin},** Statement Admin;
(8) **{statementContact},** Statement Contact;
(9) **{statementProvisioning},** Statement Provisioning;
(10)   **{statementOther},** Statement Other;
(11)   **{recipientOther},** Recipient Other;
(12)   **{recipientOurs},** Recipient Ours;
(13)   **{recipientPublic},** Recipient Public;
(14)   **{recipientSame},** Recipient Same;
(15)   **{recipientUnrelated},** Recipient Unrelated;
(16)   **{retentionBusiness},** Retention Business;
(17)   **{retentionIndefinite},** Retention Indefinite;
(18)   **{retentionLegal},** Retention Legal;
(19)   **{retentionNone},** Retention None;
(20)   **{retentionStated},** Retention Stated;
(21)   **{expiryAbsolute},** Expiry Absolute; **and**
(22)   **{expiryRelative},** Expiry Relative~~;~~**.**

4.8.21 ~~4.8.20~~ **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) **{eppVersion}, EPP** Version Supported;

4.8.22 ~~4.8.21~~ **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},** Language Supported; as ~~RFCs 4646 and 4647~~**specified in section 2.4 of RFC 5730, see [1]**.

4.8.23 ~~4.8.22~~ **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) **{objectName},** Object Name;
- (2) **{namespaceObjectUri}, Namespace** Object URI; **and**
- **(3) {xmlSchemaFilename}, XML Schema Filename URL.**

4.8.24 ~~4.8.23~~ **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) **{extensionName},** Extension Name;
- (2) **{namespaceExtUri}, Namespace** Extension URI; **and**
- **(3) {xmlSchemaFilename}, XML Schema Filename URL.**

4.9 **EPP XML Schemas. For each of the EPP Objects and Extensions supported by the Registry, there shall be an XML Schema file in the escrow deposits. The file types for the base EPP objects and extensions are presented now.**

4.9.1 **EPP Object - Domain Name XML Schema. Indicates a file type "XSDOBJDOMAIN". Holds the EPP XML Schema for Domain Names used by the Registry.**

4.9.2 **EPP Object - Contact XML Schema. Indicates a file type "XSDOBJCONTACT". Holds the EPP XML Schema for Contacts used by the Registry.**

4.9.3 **EPP Object - Host XML Schema. Indicates a file type "XSDOBJHOST". Holds the EPP XML Schema for Hosts (Name servers) used by the Registry.**

4.9.4 **EPP Extension - Domain Registry Grace Period XML Schema. Indicates a file type "XSDEXTDRGP". Holds the EPP XML Schema for Domain Registry Grace Period Extension used by the Registry.**

4.9.5 **EPP Extension - DNSSEC XML Schema. Indicates a file type "XSDEXTDNSSEC". Holds the EPP XML Schema for DNSSEC Extension used by the Registry.**

4.10 **Required file types. The following table summarizes the required file types according to the kind of Deposit. A file type being required means that it shall be present in the Deposit if there is corresponding data in the Registry database. "yes" means the file type is required. "IDN" means the file type is required if the Registry supports IDNs. "thick" means the file type is required if the Registry is of type thick. "DNSSEC" means the file is required if the Registry supports DNSSEC. "disclosure" means the file type is required if the Registry supports contact disclosure controls. "no" means the file type shall not be present in the Deposit.**

File type	Full Deposit	Incremental Deposit
DOMAIN	yes	yes
DOMIDN	IDN	IDN
IDNTABLES	IDN	IDN
CONTACT	thick	thick
CONADR	thick	thick

NAMESERVER	**yes**	**yes**
NISP	**yes**	**yes**
REGISTRAR	**yes**	**yes**
DOMSTATUS	**yes**	**yes**
CONSTATUS	**thick**	**thick**
NSSTATUS	**yes**	**yes**
DOMCONTACT	**thick**	**thick**
DOMNS	**yes**	**yes**
DOMDEL	**no**	**yes**
CONTDEL	**no**	**thick**
NSDEL	**no**	**yes**
DOMDS	**DNSSEC**	**DNSSEC**
DSDEL	**no**	**DNSSEC**
CONDISCL	**disclosure**	**disclosure**
DCP	**yes**	**yes**
EPPVERSIONS	**yes**	**yes**
LANGS	**yes**	**yes**
EPPOBJECTS	**yes**	**yes**
EPPEXTENSIONS	**yes**	**yes**
XSDOBJDOMAIN	**yes**	**yes**
XSDOBJCONTACT	**yes**	**yes**
XSDOBJHOST	**yes**	**yes**
XSDEXTDRGP	**yes**	**yes**
XSDEXTDNSSEC	**yes**	**yes**

4.11 4.9 **Extensions.** If a particular registry operator's contract**agreement** requires submission of additional data, not included above, additional "extension" files shall be defined in a case by case base to represent that data which may use Domain, Contact, Name server, and Registrar 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.

4.12 4.10 **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.
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**, see** [7], that are also royalty-free.

4.13 4.11 **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. The suggested algorithms for Public-key encryption are Elgamal and RSA as per RFC 4880. The suggested algorithms for Symmetric-key encryption are TripleDES, AES128 and CAST5 as per RFC 4880.

(3) The file may be split as necessary if, once compressed and encrypted is larger than the file size limit agreed with the escrow agent. Every part of a split file, or the whole file if split is not used, will be called a processed file in this section.

(4) A digital signature file shall be generated for every processed file using the Registry's private key**. The digital signature file shall be in binary OpenPGP format as per RFC 4880 [6], and shall neither be compressed nor encrypted**. The suggested algorithms for Digital signatures are DSA and RSA as per RFC 4880. The suggested algorithm for Hashes in Digital signatures is SHA256.

(5) The processed files and digital signature files 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 SFTP or via delivery of a physical medium such as CD-ROMs, DVD-ROMs, or USB storage devices as agreed with the escrow agent.

(6) The ~~escrow agent~~**Escrow Agent** shall then validate every (processed) transferred data file ~~by validating its digital signature contained in the corresponding signature file. See~~**using the procedure described in section** 7.

5. **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. **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. **Verification Procedure**.
   ~~{To be developed in subsequent version.}~~
   (1) The signature file of each processed file is validated.
   (2) If processed files are pieces of a bigger file, it is put together.
   (3) Each file obtained in the previous step is then decrypted and uncompressed.
   (4) Each data file contained in the previous step is then validated against the format defined in this specification.
   If any discrepancy is found in any of the steps, the deposit will be considered incomplete.

8. **References**.

[1] Extensible Provisioning Protocol (EPP), http://www.rfc-editor.org/rfc/rfc~~4930~~**5730**.txt
[2] EPP Domain Name Mapping, http://www.rfc-editor.org/rfc/rfc~~4931~~**5731**.txt
[3] EPP Host Mapping, http://www.rfc-editor.org/rfc/rfc~~4932~~**5732**.txt
[4] EPP Contact Mapping, http://www.rfc-editor.org/rfc/rfc~~4933~~**5733**.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/rfc~~4310~~**5910**.txt

[11] Domain Registry Grace Period Mapping for the EPP, http://www.rfc-editor.org/rfc/rfc3915.txt

[12] Internet Message Format, http://www.rfc-editor.org/rfc/rfc5322.txt

[13] Internet Protocol, http://www.rfc-editor.org/rfc/rfc791.txt

[14] IP Version 6 Addressing Architecture, http://www.rfc-editor.org/rfc/rfc4291.txt

PART B – LEGAL REQUIREMENTS

1. **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 Registry Agreement shall remain with Registry Operator at all times. Thereafter, Registry Operator shall assign any such ownership rights (including intellectual property rights, as the case may be) in such Deposits to ICANN. In the event that during the term of the Registry Agreement any Deposit is released from escrow to ICANN, any intellectual property rights held by Registry Operator in the Deposits will automatically be licensed on a non-exclusive, perpetual, irrevocable, royalty-free, paid-up basis to ICANN or to a party designated in writing by ICANN.

4. **Integrity and Confidentiality**. Escrow Agent will be required to (i) hold and maintain the Deposits in a secure, locked, and environmentally safe facility which is accessible only to authorized representatives of Escrow Agent and (ii) protect the integrity and confidentiality of the Deposits using 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. **Registry Operator will be provided with the right to designate a third-party auditor to audit Escrow Agent's compliance with the technical specifications and maintenance requirements of this Specification 2 no more than once per calendar year.**

    If Escrow Agent receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposits, Escrow Agent will promptly notify the Registry Operator and ICANN unless prohibited by law. After notifying the Registry Operator and ICANN, Escrow Agent shall allow sufficient time for Registry Operator or ICANN to challenge any such order, which shall be the responsibility of Registry Operator or ICANN; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order. Escrow Agent will cooperate with the Registry Operator or ICANN to support efforts to quash or limit any subpoena, at such party's expense. Any party requesting additional assistance shall pay Escrow Agent's standard charges or as quoted upon submission of a detailed request.

5. **Copies**. Escrow Agent may be permitted to duplicate any Deposit, in order to comply with the terms and provisions of the escrow agreement, provided that Registry Operator shall bear the expense of such duplication.

6. **Release of Deposits**. Escrow Agent will deliver to ICANN or its designee**, within twenty four hours**, at the Registry Operator's expense, all Deposits in Escrow Agent's possession in the event

that the Escrow Agent receives a request from Registry Operator to effect such delivery to ICANN, or receives one of the following written notices by ICANN stating that:

6.1 the Registry Agreement has expired without renewal, or been terminated; or

6.2 ICANN failed, with respect to (a) any Full Deposit or (b) five 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; (x) ICANN gave notice to Escrow Agent and Registry Operator of that failure; and (y) ICANN has not, within seven calendar days after such notice, received notice from Escrow Agent that the Deposit has been received; or

6.3 ICANN has received notification from Escrow Agent of failed verification of a Full Deposit or of failed verification of five 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 such Full Deposit or Incremental Deposit; or

6.4 Registry Operator has: (i) ceased to conduct its business in the ordinary course; or (ii) filed for bankruptcy, become insolvent or anything analogous to any of the foregoing under the laws of any jurisdiction anywhere in the world; or

6.5 Registry Operator has experienced a failure of critical registry functions and ICANN has asserted its rights pursuant to Section 2.13 of the Registry Agreement; or

6.5**6.6** a competent court, arbitral, legislative, or government agency mandates the release of the Deposits to ICANN.

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 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 two monthly reports per gTLD 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 reports relate.

1. Service Level Agreement Performance. Compare DNS, EPP and RDPS service performance for the reporting month against the SLA as described in section 4 of SPECIFICATION 6. This report shall be transmitted to ICANN electronically in a comma separated-value 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:

Field #	Field Name	Notes
01	epp-service-dt-min	EPP service downtime in minutes. It shall be an integer number.
02	epp-session-cmds-rtt-pct	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.
03	epp-query-cmds-rtt-pct	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.
04	epp-transform-cmds-rtt-pct	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.
05	rdps-dt-min	RDPS downtime in minutes. It shall be an integer number.
06	rdps-query-rtt-pct	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.
07	rdps-update-time-pct	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.
08	dns-service-dt-min	DNS service downtime in minutes. It shall be an integer number.
09	dns-tcp-resolution-rtt-pct	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.
10	dns-udp-resolution-rtt-pct	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.
11	dns-update-time-pct	Percentage of sampled updates to the DNS that complied with the related SLR. It shall be a real number: one or two digits with two decimals with no % sign.
12	dns-ns-dt-min-<name1>-<ip1>	Name server IP address downtime in minutes. It shall be an integer number. The name of the field shall be constructed substituting <name1> by the name of one of the name servers and <ip1> by one of its corresponding IP address.

13	dns-ns-dt-min-<name1>-<ip2>	" "
14	dns-ns-dt-min-<name2>-<ip1>	" "
…	…	" "

The first line shall include the field names exactly as described in the table above as a "header line" as described in section 2 of RFC 4180. Fields of the type "dns-ns-dt-min…" shall be added as needed to include all the name server's names and corresponding IP addresses. No other lines besides the ones described above shall be included.

2. Per-Registrar Activity Report. This report shall be transmitted to ICANN electronically in a comma separated-value formatted file as specified in RFC 4180. The file shall be named "gTLD_activity_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:

Field #	Field Name	Notes
01	registrar-name	registrar's full corporate name as registered with IANA
02	iana-id	http://www.iana.org/assignments/registrar-ids
03	total-domains	total domains under sponsorship
04	total-nameservers	total name servers registered for TLD
05	net-adds-1-yr	number of domains successfully registered with an initial term of one year (and not deleted within the add grace period)
06	net-adds-2-yr	number of domains successfully registered with an initial term of two years (and not deleted within the add grace period)
07	net-adds-3-yr	number of domains successfully registered with an initial term of three years (and not deleted within the add grace period)
08	net-adds-4-yr	etc.
09	net-adds-5-yr	" "
10	net-adds-6-yr	" "
11	net-adds-7-yr	" "
12	net-adds-8-yr	" "
13	net-adds-9-yr	" "
14	net-adds-10-yr	" "
15	net-renews-1-yr	number of domains successfully renewed either automatically or by command with a new renewal period of

		one year (and not deleted within the renew grace period)
16	net-renews-2-yr	number of domains successfully renewed either automatically or by command with a new renewal period of two years (and not deleted within the renew grace period)
17	net-renews-3-yr	number of domains successfully renewed either automatically or by command with a new renewal period of three years (and not deleted within the renew grace period)
18	net-renews-4-yr	etc.
19	net-renews-5-yr	" "
20	net-renews-6-yr	" "
21	net-renews-7-yr	" "
22	net-renews-8-yr	" "
23	net-renews-9-yr	" "
24	net-renews-10-yr	" "
25	transfer-gaining-successful	transfers initiated by this registrar that were ack'd by the other registrar – either by command or automatically
26	transfer-gaining-nacked	transfers initiated by this registrar that were n'acked by the other registrar
27	transfer-losing-successful	transfers initiated by another registrar that this registrar ack'd – either by command or automatically
28	transfer-losing-nacked	transfers initiated by another registrar that this registrar n'acked
29	transfer-disputed-won	number of transfer disputes in which this registrar prevailed
30	transfer-disputed-lost	number of transfer disputes this registrar lost
31	transfer-disputed-nodecision	number of transfer disputes involving this registrar with a split or no decision
32	deleted-domains-grace	domains deleted within the add grace period
33	deleted-domains-nograce	domains deleted outside the add grace period
34	restored-domains	domain names restored from redemption period
35	restored-noreport	total number of restored names for which the registrar failed to submit a restore report
36	agp-exemption-requests	total number of AGP (add grace period) exemption requests
37	agp-exemptions-granted	total number of AGP (add grace period) exemption requests granted
38	agp-exempted-names	total number of names affected by granted AGP (add grace period) exemption requests

The first line shall include the field names exactly as described in the table above as a "header line" as described in section 2 of RFC 4180. The last line of each report should include totals for each column across all registrars; the first field of this line shall read "Totals" while the second field shall be left empty. No other lines besides the ones described above shall be included.

SPECIFICATION 4

SPECIFICATION FOR REGISTRATION DATA PUBLICATION SERVICES

1. **WHOIS Service.** Until ICANN specifies a different format and protocol, Registry Operator will operate a registration data publication service available via both port 43 and a website at <whois.nic.~~(TLD)~~> in accordance with RFC 3912 providing free public query-based access to at least the following elements in the following format. ICANN reserves the right to specify alternative formats and protocols, ~~including the Internet Registry Information Service ("IRIS" RFC 3981 and related RFCs),~~ and upon such specification, the Registry Operator will implement such alternative specification as soon as reasonably practicable.

1.1. The format of responses shall follow a semi-free text format outline below, followed by a blank line and a legal disclaimer specifying the rights of Registry Operator, and of the user querying the database.

1.2. Each data object shall be represented as a set of key/value pairs, with lines beginning with keys, followed by a colon and a space as a delimiters, followed by the value.

1.3. For fields where more than one value exists, multiple key/value pairs with the same key shall be allowed (for example to list multiple name servers). The first key/value pair after a blank line should be considered the start of a new record, and should be considered as identifying that record, and is used to group data, such as hostnames and IP addresses, or a domain name and registrant information, together.

~~1.1~~**1.4**. **Domain Name Data:**

~~1.1.1~~**1.4.1**. **Query format:** whois EXAMPLE.TLD

~~1.1.2~~**1.4.2**. **Response format:**

Domain Name: EXAMPLE.TLD
Domain ID: D1234567-TLD
~~Whois~~**WHOIS** Server: whois.example.tld
Referral URL: http://www.example.tld
Updated Date: 2009-05-29T20:13:00Z
Creation Date: 2000-10-08T00:45:00Z
Expiration Date: 2010-10-08T00:44:59Z
Sponsoring Registrar: EXAMPLE REGISTRAR LLC
Sponsoring Registrar IANA ID: 5555555
Domain Status:~~DELETE PROHIBITED~~ **clientDeleteProhibited**
Domain Status:~~RENEW PROHIBITED~~ **clientRenewProhibited**
Domain Status:~~TRANSFER PROHIBITED~~ **clientTransferProhibited**
Domain Status:~~UPDATE PROHIBITED~~ **serverUpdateProhibited**
Registrant ID: 5372808-ERL
Registrant Name: EXAMPLE REGISTRANT
Registrant Organization: EXAMPLE ORGANIZATION
Registrant Street~~1~~: 123 EXAMPLE STREET
Registrant City: ANYTOWN
Registrant State/Province: AP
Registrant Postal Code: A1A1A1

Registrant Country: EX
Registrant Phone: +~~1.555.555.1212~~**1.5555551212**
Registrant Phone Ext: 1234
Registrant Fax: ~~:+1.555.555.1213~~**1.5555551213**
Registrant Fax Ext: 4321
Registrant Email: EMAIL@EXAMPLE.TLD
Admin ID: 5372809-ERL
Admin Name: EXAMPLE REGISTRANT ADMINISTRATIVE
Admin Organization: EXAMPLE REGISTRANT ORGANIZATION
Admin Street~~1~~: 123 EXAMPLE STREET
Admin City: ANYTOWN
Admin State/Province: AP
Admin Postal Code: A1A1A1
Admin Country: EX
Admin Phone: +~~1.555.555.1212~~**1.5555551212**
Admin Phone Ext: 1234
Admin Fax: +~~1.555.555.1213~~**1.5555551213**
Admin Fax Ext:
Admin Email: EMAIL@EXAMPLE.TLD
Tech ID: 5372811-ERL
Tech Name: EXAMPLE REGISTRAR TECHNICAL
Tech Organization: EXAMPLE REGISTRAR LLC
Tech Street~~1~~: 123 EXAMPLE STREET
Tech City: ANYTOWN
Tech State/Province: AP
Tech Postal Code: A1A1A1
Tech Country: EX
Tech Phone: +1.1235551234
Tech Phone Ext: 1234
Tech Fax: +1.5555551213
Tech Fax Ext: 93
Tech Email: EMAIL@EXAMPLE.TLD
Name Server: NS01.EXAMPLEREGISTRAR.TLD
Name Server: NS02.EXAMPLEREGISTRAR.TLD
DNSSEC: signedDelegation
DNSSEC: unsigned
>>> Last update of ~~whois~~**WHOIS** database: 2009-05-29T20:15:00Z <<<

~~1.2~~**1.5**. **Registrar Data:**

~~1.2.1~~**1.5.1**. **Query format:** whois "registrar Example Registrar, Inc."

~~1.2.2~~**1.5.2**. **Response format:**

Registrar Name: Example Registrar, Inc.
~~Address~~**Street**: 1234 Admiralty Way~~,~~
City: Marina del Rey~~, CA 90292,~~
State/Province: CA
Postal Code: 90292
Country: US
Phone Number: +~~1.310.555.1212~~**1.3105551212**

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Fax Number: +~~1.310.555.12131~~**.3105551213**
Email: registrar@example.tld
~~Whois~~**WHOIS** Server: whois.example-registrar.tld
Referral URL: **http://**www. example-registrar.tld
Admin Contact: Joe Registrar
Phone Number: +~~1.310.555.1213~~**1.3105551213**
Fax Number: +~~1.310.555.1213~~**1.3105551213**
Email: joeregistrar@example-registrar.tld
Admin Contact: Jane Registrar
Phone Number: +~~1.310.555.1214~~**1.3105551214**
Fax Number: +~~1.310.555.1213~~**1.3105551213**
Email: janeregistrar@example-registrar.tld
Technical Contact: John Geek
Phone Number: +~~1.310.555.1215~~**1.3105551215**
Fax Number: +~~1.310.555.1216~~**1.3105551216**
Email: johngeek@example-registrar.tld
>>> Last update of ~~whois~~**WHOIS** database: 2009-05-29T20:15:00Z <<<

~~1.3~~**1.6**. **Nameserver Data:**

~~1.3.1~~**1.6.1**. **Query format:** whois "NS1.EXAMPLE.TLD" or whois "nameserver (IP Address)"

~~1.3.2~~**1.6.2**. **Response format:**

Server Name: NS1.EXAMPLE.TLD
IP Address: ~~192.65.123.56~~**192.0.2.123**
IP Address: 2001:0DB8::1
Registrar: Example Registrar, Inc.
~~Whois~~**WHOIS** Server: whois.example-registrar.tld
Referral URL: http://www. example-registrar.tld
>>> Last update of ~~whois~~**WHOIS** database: 2009-05-29T20:15:00Z <<<

1.7. The format of the following data fields: domain status, individual and organizational names, address, street, city, state/province, postal code, country, telephone and fax numbers, email addresses, date and times should conform to the mappings specified in EPP RFCs 5730-5734 so that the display of this information (or values return in WHOIS responses) can be uniformly processed and understood.

[1.8. In order to assist complainants under the UDRP to determine whether a pattern of "bad faith" has been demonstrated by a particular registrant, the information set forth above will be available on a publicly accessible database, subject to applicable privacy policies, which will be searchable by domain name, registrant's name, registrant's postal address, contacts' names, Registrars Contact IDs and Internet Protocol address without arbitrary limit. In order to provide an effective WHOIS database, Boolean search capabilities may be offered.] [*Note: This clause has been provisionally added for comment into the draft registry agreement as it provides an additional tool to those involved in identifying and confronting malicious conduct in the namespace, providing that the methods and standards used to perform searches have a control structure designed to reduce the malicious use of the searching capability itself. This clause exists in some current registry agreements (.ASIA, .MOBI, .POST) and is included in this draft of the new gTLD registry agreement for discussion.*

As a point of reference, .NAME
(http://www.icann.org/en/tlds/agreements/name/appendix-05-15aug07.htm) has had an "extensive
WHOIS" searching function available since its inception. The searching function is based on a tiered
access model that helps reduce the potential malicious use of the function. Comment is invited in
particular on how this requirement could help address certain types of malicious conduct, and on
alternate solutions whereby use of Whois data for registered names can be an effective tool in the context
of mitigating malicious conduct in new gTLDs. If the requirement is supported, suggestions on
development a uniform technical specification for the search function exists are also sought.]

2. **Zone File Access**

2.1. **Third-Party Access**

2.1.1   **Zone File Access Agreement.** Registry Operator will enter into an agreement
with any Internet user that will allow such user to access an Internet host server or servers designated by
Registry Operator and download zone file data. The ~~terms and conditions of such~~ agreement ~~shall be on~~
~~commercially reasonably terms as determined by~~**will be standardized, facilitated and administered by**
an independent third party provider established pursuant to the Zone File Access Implementation
Plan available at <LINK> (the "ZFA Provider"). Registry Operator ~~in good faith.~~
will cooperate with the CFA Provider in establishing uniform access to zone file data.
Notwithstanding the foregoing, (a)
Registry Operator may reject the request for access of any user that Registry Operator reasonably believes
will violate the terms of ~~specification 2.1.4 below.~~**Section 2.1.5 below, and (b) the ZFA Provider may**
reject the request for access of any user that does not pass all the credentialing requirements
established pursuant to the Zone File Access Implementation Plan available at <LINK>.

2.1.2. **User Information.** Registry Operator ~~may~~**, through the facilitation of the ZFA**
Provider, will request each user to provide it with information sufficient to identify the user and its
designated server. Such user information will include, without limitation, company name, contact name,
address, telephone number, facsimile number email address and the Internet host machine name and IP
address.

2.1.3. **Grant of Access.** Registry Operator will grant the User a nonexclusive,
non-transferable, limited right to access Registry Operator's Server, and to transfer a copy of the top-level
domain zone files, and any associated cryptographic checksum files to its Server no more than once per 24
hour period using FTP ~~or~~**,** HTTP**, or other data transport and access protocols that may be prescribed**
by ICANN.

2.1.4. File Format Standards. Registry Operator will provide as BIND-compatible
zone master files using one of the formats defined in the Zone File Access Implementation Plan
available at <LINK>.

~~2.1.4~~**2.1.5**. **Use of Data by User.** Registry Operator will permit user to use the zone file for
lawful purposes; provided that, (a) user takes all reasonable steps to protect against unauthorized access to
and use and disclosure of the data, and (b) under no circumstances will **Registry Operator be required to**
allow user **to** use the data to, (~~x~~**i**) allow, enable, or otherwise support the transmission by e-mail, telephone,
or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than user's own
existing customers, or (~~y~~**ii**) enable high volume, automated, electronic processes that send queries or data to
the systems of Registry Operator or any ICANN-accredited registrar.

2.1.5**2.1.6**. **Term of Use.** Registry Operator**, through ZFA Provider,** will provide each user with access to the zone file for a period of not less than three (3) months.

2.1.6**2.1.7**. **No Fee for Access.** Registry Operator will provide**, and ZFA Provider will facilitate,** access to the zone file to user at no cost.

[Note: This Section 2.1 has been modified following conclusion of the Zone File Access Advisory Group's work and its recommendation to ICANN that a service provider be established to enhance access to zone file information in new TLDs. The implementation of the recommendation is under development and subject to community input before inclusion in the final gTLD Registry Agreement.]

2.2 **ICANN Access.**

2.2.1. **General Access.** Registry Operator shall provide bulk access to the zone files for the registry for the TLD to ICANN or its designee on a continuous basis in the manner ICANN may reasonably specify from time to time.

[2.2.2. **Central Zone File Depository.** In the event that ICANN or its designee establishes a central zone file depository, Registry Operator will provide all zone file data to ICANN or to a third party operator of such depository designated by ICANN upon request by ICANN. Should such central zone file depository be established, ICANN may waive, at ICANN's sole discretion, compliance with Section 2.1 of this Specification 4. [**Note: This Section 2.2.2 is included for community discussion purposes as a result of prior community discussions regarding mitigation of malicious conduct. Under this provision, ICANN could take on the responsibility currently carried out by registry operators of vetting and monitoring access to zone file data by responsible parties for legitimate purposes.**]

SPECIFICATION 5

SCHEDULE OF RESERVED NAMES AT THE SECOND LEVEL IN GTLD REGISTRIES

Except to the extent that ICANN otherwise expressly authorizes in writing, the Registry Operator shall reserve names formed with the following labels from initial (i.e. other than renewal) registration within the TLD:

1. **Example. The label "EXAMPLE**" shall be reserved at the second level and at all other levels within the TLD at which Registry Operator makes registrations.

2. **Two-character labels**. All two-character labels shall be initially reserved. The reservation of a two-character label string shall be released to the extent that Registry Operator reaches agreement with the government and country-code manager. The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.

3. **Tagged Domain Names.** Labels may only include hyphens in the third and fourth position if they represent valid internationalized domain names in their ASCII encoding (for example "xn--ndk061n").

4. **Second-Level Reservations for Registry Operations.** The following names are reserved for use in connection with the operation of the registry for the TLD. Registry Operator may use them, but upon conclusion of Registry Operator's designation as of the registry for the TLD they shall be transferred as specified by ICANN: NIC, WWW, IRIS and WHOIS.

5. **Country and Territory Names.** The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:

     5.1. the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time;

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

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

SPECIFICATION 6

REGISTRY INTEROPERABILITY, CONTINUITY, AND PERFORMANCE SPECIFICATIONS

1. **Standards Compliance**

Registry Operator shall implement and comply with relevant existing RFCs and those published in the future by the Internet Engineering Task Force (IETF) including all successor standards, modifications or additions thereto relating to (i) the DNS and name server operations including without limitation RFCs 1034, 1035, 1982, 2181, 2182, 2671, 3226, 3596, 3597, 3901, 4343, and 4472; and (ii) provisioning and management of domain names using the Extensible Provisioning Protocol (EPP) in conformance with RFCs 3735, **5910,** 3915, 5730, 5731, 5732, 5733 and 5734. **If Registry Operator requires the use of functionality outside the base EPP RFCs, Registry Operator must document EPP extensions in Internet-Draft format following the guidelines described in RFC 3735.**

Registry Operator shall ~~implement~~**sign its TLD zone files implementing** Domain Name System Security Extensions ("DNSSEC"). During the Term, Registry Operator shall comply with RFCs 4033, 4034, 4035, 4509 ~~and 4310~~ and their successors, and follow the best practices described in RFC 4641 and its successors. If Registry Operator implements Hashed Authenticated Denial of Existence for DNS Security Extensions, it shall comply with RFC 5155 and its successors. Registry Operator shall accept public-key material from child domain names in a secure manner according to industry best practices. Registry shall also publish in its website the ~~practice and policy document (also known as the DNSSEC Policy Statement or~~**DNSSEC Practice Statements (**DPS) describing **critical security controls and procedures for** key material storage, access and usage for its own keys and ~~the~~**secure acceptance of** registrants' ~~trust anchor~~**public-key** material.

If the Registry Operator offers Internationalized Domain Names ("IDNs"), it shall comply with RFCs 3490, 3491, and 3492 and their successors and the ICANN IDN Guidelines at <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>, as they may be amended, modified, or superseded from time to time. Registry Operator shall publish and keep updated its IDN Tables and IDN Registration Rules in the IANA Repository of IDN Practices as specified in the ICANN IDN Guidelines.

Registry Operator shall be able to accept IPv6 addresses as glue records in its Registry System and publish them in the DNS. Registry Operator shall offer public IPv6 transport for, at least, two of the Registry's name servers listed in the root zone with the corresponding IPv6 addresses registered with IANA. Registry Operator should follow "DNS IPv6 Transport Operational Guidelines" as described in BCP 91. Registry Operator shall offer public IPv6 transport for its Registration Data Publication Services as defined in Specification 4 of this Agreement; e.g. Whois (RFC 3912), Web based Whois~~, IRIS (RFC 3981 and related RFCs)~~. Registry Operator shall offer public IPv6 transport for its Shared Registration System (SRS) to any Registrar, no later than six months after receiving the first request in writing from a TLD accredited Registrar willing to operate the SRS over IPv6.

2. **Registry Services and Continuity**

"Registry Services" are, for purposes of the Registry Agreement, defined as the following: (a) those services that are operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry DNS servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement; (b) other products or services that the Registry Operator is required

to provide because of the establishment of a Consensus Policy as defined in Specification 1; (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.

Registry Operator will conduct its operations using network and geographically diverse, redundant servers (including network-level redundancy, end-node level redundancy and the implementation of a load balancing scheme) to ensure continued operation in the case of technical failure (widespread or local), business insolvency or an extraordinary occurrence or circumstance beyond the control of the Registry Operator.

Registry Operator will use commercially reasonable efforts to restore the critical functions of the registry within 24 hours after the termination of an extraordinary event beyond the control of the Registry Operator and restore full system functionality within a maximum of 48 hours following such event, depending on the type of critical function involved. Outages due to such an event will not be considered a lack of service availability.

Registry Operator shall have a contingency plan including the designation of a registry services continuity provider, and must inform ICANN of the designated provider.

In the case of an extraordinary event beyond the control of the Registry Operator where the Registry Operator cannot be contacted, Registry Operator consents that ICANN may contact the designated registry services continuity provider.

Registry Operator shall conduct registry services continuity testing at least once per year.

For domain names which are either not registered ~~by a registrant~~, or the registrant has not supplied valid records such as NS records for listing in the DNS zone file, or their status does not allow them to be published in the DNS, the use of DNS wildcard Resource Records as described in ~~RFC~~**RFCs 1034 and** 4592 or any other method or technology for synthesizing DNS Resources Records or using redirection within the DNS by the Registry is prohibited. When queried for such domain names the authoritative name servers must return a "Name Error" response (also known as NXDOMAIN), RCODE 3 as described in RFC 1035 and related RFCs. This provision applies for all DNS zone files at all levels in the DNS tree for which the Registry Operator (or an affiliate engaged in providing Registration Services) maintains data, arranges for such maintenance, or derives revenue from such maintenance.

Registry Operator shall provide on its website its accurate contact details including a valid email and mailing address as well as a primary contact for handling inquires related to malicious conduct in the TLD, and will provide ICANN with prompt notice of any changes to such contact details.

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

Initial registrations of registered names may be made in the registry in one (1) year increments for up to a maximum of ten (10) years.

Renewal registrations of registered names may be made in one (1) year increments for up to a maximum of ten (10) years.

4. **Performance Specifications**

	Parameter	SLR (monthly basis)
DNS	DNS service availability	0 min downtime = 100% availability
	DNS name server availability	≤ ~~43~~**432** min of downtime (≈ ~~99.9~~**99**%)
	TCP DNS resolution RTT	≤ 1500 ms, for at least ~~99~~**95**% of the queries
	UDP DNS resolution RTT	≤ 400 ms, for at least ~~99~~**95**% of the queries
	DNS update time	≤ 15 min, for at least ~~99~~**95**% of the updates
RDPS	RDPS availability	≤ ~~43~~**432** min of downtime (≈ ~~99.9~~**99**%)
	RDPS query RTT	≤ 1500 ms, for at least ~~99~~**95**% of the queries
	RDPS update time	≤ 15 min, for at least ~~99~~**95**% of the updates
EPP	EPP service availability	≤ ~~43~~**432** min of downtime (≈ ~~99.9~~**99**%)
	EPP session-command RTT	≤ 3000 ms, for at least ~~99~~**95**% of the commands
	EPP query-command RTT	≤ 1500 ms, for at least ~~99~~**95**% of the commands
	EPP transform-command RTT	≤ 3000 ms, for at least ~~99~~**95**% of the commands

SLR. Service Level Requirement is the level of service expected for certain parameter being measured in a Server Level Agreement (SLA).

RTT. Round-Trip Time or **RTT** refers to the time measured from the sending of the first bit of the first packet of the sequence of packets needed to make a request until the reception of the last bit of the last packet of the sequence needed to receive the response. If the client does not receive the whole sequence of packets needed to consider the response as received, the time will be considered undefined.

IP address. Refers to IPv4 or IPv6 address without making any distinction between the two. When there is need to make a distinction, IPv4 or IPv6 is mentioned.

DNS. Refers to the Domain Name System as specified in RFCs 1034, 1035 and related RFCs.

DNS service availability. Refers to the ability of the group of listed-as-authoritative name servers of a particular domain name (e.g. a TLD), to answer DNS queries from an Internet user. For the service to be considered available at some point in time, at least, two of the name servers registered in the DNS must have defined results from "**DNS tests**" to each of their public-DNS registered "**IP addresses**" over both (UDP and TCP) transports. If 51% or more of the DNS testing probes see the service as unavailable over any of the transports (UDP or TCP) during a given time, the DNS service will be considered unavailable.

DNS name server availability. Refers to the ability of a public-DNS registered "**IP address**" of a particular name server listed as authoritative for a domain name, to answer DNS queries from an Internet user. All the public DNS-registered "**IP address**" of all name servers of the domain name being monitored shall be tested individually. If 51% or more of the DNS testing probes get undefined results from "**DNS tests**" to a name server "**IP address**" over any of the transports (UDP or TCP) during a given time, the name server "**IP address**" will be considered unavailable.

UDP DNS resolution RTT. Refers to the **RTT** of the sequence of two packets, the UDP DNS query and the corresponding UDP DNS response. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

TCP DNS resolution RTT. Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the DNS response for only one DNS query. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

DNS resolution RTT. Refers to either "**UDP DNS resolution RTT**" or "**TCP DNS resolution RTT**".

DNS update time. Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, up until all the name servers of the parent domain name answer "**DNS queries**" with data consistent with the change made. This only applies for changes to DNS information.

DNS test. Means one non-recursive DNS query sent to a particular "**IP address**" (via UDP or TCP). If DNSSEC is offered in the queried DNS zone, for a query to be considered answered, the signatures must be positively verified against a corresponding DS record published in the parent zone or, if the parent is not signed, against a statically configured Trust Anchor. The query shall be about existing domain names. The answer to the query must contain the corresponding information from the Registry System, otherwise the query will be considered unanswered. If the answer to a query has the TC bit set, the query will be considered unanswered. A query with a "**DNS resolution RTT**" 5-times higher than the corresponding SLR, will be considered unanswered. The possible results to a DNS test are: a number in milliseconds corresponding to the "**DNS resolution RTT**" or, undefined/unanswered.

Measuring DNS parameters. Every minute, every DNS probe shall make an UDP and a TCP "**DNS test**" to each of the public-DNS registered "**IP addresses**" of the name servers of the domain named being monitored. If a "**DNS test**" gets unanswered, the tested IP will be considered as unavailable for the corresponding transport (UDP or TCP) from that probe until it is time to make a new test. The minimum number of active testing probes to consider a measurement valid is 20 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

Placement of DNS probes. Probes for measuring DNS parameters shall be placed as near as possible to the DNS resolvers on the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

RDPS. Registration Data Publication Services refers to the collective of WHOIS and Web based WHOIS services as defined in "SPECIFICATION 4" of this Agreement.

RDPS availability. Refers to the ability of all the RDPS services for the TLD, to respond to queries from an Internet user with appropriate data from the Registry System. For the RDPS to be considered available at some point in time, one IPv4 and one IPv6 address for each of the RDPS services must have defined results from "**RDPS tests**". If 51% or more of the RDPS testing probes see any of the RDPS services as unavailable during a given time, the RDPS will be considered unavailable.

WHOIS query RTT. Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the WHOIS response. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

Web-based-WHOIS query RTT. Refers to the **RTT** of the sequence of packets from the start of the TCP connection to its end, including the reception of the HTTP response for only one HTTP request. If Registry

Operator implements a multiple-step process to get to the information, only the last step shall be measured. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

RDPS query RTT. Refers to the collective of "**WHOIS query RTT**" and "**Web-based-WHOIS query RTT**".

RDPS update time. Refers to the time measured from the reception of an EPP confirmation to a transform command on a domain name, up until all the "**IP addresses**" of all the servers of all the RDPS services reflect the changes made.

RDPS test. Means one query sent to a particular "**IP address**" for one of the servers of one of the RDPS services. Queries shall be about existing objects in the Registry System and the responses must contain the corresponding information otherwise the query will be considered unanswered. Queries with an **RTT** 5-times higher than the corresponding SLR will be considered as unanswered. The possible results to an RDPS test are: a number in milliseconds corresponding to the **RTT** or undefined/unanswered.

Measuring RDPS parameters. Every minute, every RDPS probe shall randomly select one IPv4 and one IPv6 addresses from all the public-DNS registered "**IP addresses**" of the servers for each RDPS service of the TLD being monitored and make an "**RDPS test**" to each one. If an "**RDPS test**" gets unanswered, the corresponding RDPS service over IPv4 or IPv6, as the case may be, will be considered as unavailable from that probe until it is time to make a new test. The minimum number of active testing probes to consider a measurement valid is 10 at any given measurement period, otherwise the measurements will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

Placement of RDPS probes. Probes for measuring RDPS parameters shall be placed inside the networks with the most users across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

EPP. Refers to the Extensible Provisioning Protocol as specified in RFC 5730 and related RFCs.

EPP service availability. Refers to the ability of the TLD EPP servers as a group, to respond to commands from the Registry accredited Registrars, who already have credentials to the servers. The response shall include appropriate data from the Registry System. An EPP command with " **EPP command RTT**" 5-times higher than the corresponding SLR will be considered as unanswered. For the EPP service to be considered available at during a measurement period, at least, one IPv4 and one IPv6 (if EPP is offered over IPv6) address of the set of EPP servers must have defined results from "**EPP tests**". If 51% or more of the EPP testing probes see the EPP service as unavailable during a given time, the EPP service will be considered unavailable.

EPP session-command RTT. Refers to the **RTT** of the sequence of packets that includes the sending of a session command plus the reception of the EPP response for only one EPP session command. For the login command it will include packets needed for starting the TCP session. For the logout command it will include packets needed for closing the TCP session. EPP session commands are those described in section 2.9.3 of EPP RFC 5730. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

EPP query-command RTT. Refers to the **RTT** of the sequence of packets that includes the sending of a query command plus the reception of the EPP response for only one EPP query command. It does not include packets needed for the start nor close of neither the EPP nor the TCP session. EPP query commands are those described in section 2.9.2 of EPP RFC 5730. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

EPP transform-command RTT. Refers to the **RTT** of the sequence of packets that includes the sending of a transform command plus the reception of the EPP response for only one EPP transform command. It does not include packets needed for the start nor close of neither the EPP nor the TCP session. EPP transform commands are those described in section 2.9.3 of EPP RFC 5730. If the **RTT** is 5-times or more the corresponding SLR, the **RTT** will be considered undefined.

EPP command RTT. Refers to "**EPP session-command RTT**", "**EPP query-command RTT**" or "**EPP transform-command RTT**".

EPP test. Means one EPP command sent to a particular "**IP address**" for one of the EPP servers. Query and transform commands, with the exception of "create", shall be about existing objects in the Registry System. The response shall include appropriate data from the Registry System. The possible results to an EPP test are: a number in milliseconds corresponding to the "**EPP command RTT**" or undefined/unanswered.

Measuring EPP parameters. Every 5 minutes, every EPP probe shall randomly select one IPv4 and one IPv6 addresses from all the "**IP addresses**" of the EPP servers of the TLD being monitored and make an "**EPP tests**" to each one (IPv6 will be tested only if that transport is offered); every time it should randomly alternate between the 3 different types of commands and between the commands inside each type for testing. If an "**EPP test**" gets unanswered, the EPP service will be considered as unavailable from that probe until it is time to make a new test. The minimum number of active testing probes to consider a measurement valid is 10 at any given measurement period, otherwise the measurments will be discarded and will be considered inconclusive; during this situation no fault will be flagged against the SLRs.

Placement of EPP probes. Probes for measuring EPP parameters shall be placed inside or close to Registrars points of access to the Internet across the different geographic regions; care shall be taken not to deploy probes behind high propagation-delay links, such as satellite links.

Listing of probes. The current list of probes for DNS, RDPS and EPP can be consulted in <reference>. Registry Operator is responsible to take the necessary steps to ensure that the listed probes do not get their tests blocked by its network equipment. The list can be updated from time to time by ICANN provided it gives, at least, a 60-day notice to the Registry Operator before making the change. During that period the Registry Operator will have access to the readings for new probes, if any, without considering those measurements for SLA purposes.

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

5. Emergency Thresholds

Critical Function	Emergency Thresholds	
DNS (all servers)	4-hour continuous downtime	4-hour downtime / week
DNSSEC	4-hour continuous downtime	4-hour downtime / week
SRS (EPP)	5-day continuous downtime	5-day downtime / month
WHOIS/Web-based WHOIS	7-day continuous downtime	7-day downtime / month
Data Escrow	Breach of the Registry Agreement caused by missing escrow deposits	

SPECIFICATION 7

MINIMUM REQUIREMENTS FOR RIGHTS PROTECTION MECHANISMS

1. ~~Development of~~ **Rights Protection Mechanisms.** Registry Operator shall implement and adhere to any rights protection mechanisms ("RPMs") that may be mandated from time to time by ICANN. In addition to such RPMs, Registry Operator may develop and implement additional RPMs that discourage or prevent registration of domain names that violate or abuse another party's legal rights. Registry Operator will include all ICANN mandated and independently developed RPMs in the registry-registrar agreement entered into by ICANN-accredited registrars authorized to register names in the TLD.

~~**2.**~~ ~~**Dispute Resolution Mechanisms.**~~ Registry Operator ~~will adopt and implement dispute resolution mechanisms under which third parties may challenge registration of domain names by other parties. Such dispute resolution mechanisms shall include participation in, and adherence~~**shall implement at least one of the following RPMs in accordance with requirements established by ICANN for the Trademark Clearinghouse (which may be revised from time** ~~to,~~ **time):**

   a. **A pre-launch claims service provided in association with the Trademark Clearinghouse established by ICANN with respect to registrations in the TLD pursuant to which notices concerning the registration of domain names will be sent to both: (a) potential registrants of domain names that identically match trademarks contained within the Trademark Clearinghouse; and (b) owners of trademarks contained within the Trademark Clearinghouse; or**

   b. **A sunrise registration procedure pursuant to which, during an exclusive period of time prior to the general registration of domain names in the TLD, the owners of trademarks and service marks that have registered with the Trademark Clearinghouse shall have an opportunity to register domain names in the TLD.**

   Registry Operator shall not mandate that any owner of applicable intellectual property rights use any other trademark information aggregation, notification, or validation service in addition to or instead of the ICANN-designated Trademark Clearinghouse.

2. **Dispute Resolution Mechanisms. Registry Operator will comply with the following dispute resolution mechanisms as they may be revised from time to time:**

   ~~2.~~ the ~~ICANN~~ Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) ~~approved and implemented~~**and the Registration Restriction Dispute Resolution Procedure (RRDRP) adopted** by ICANN (posted at [~~url~~**urls** to be inserted when final procedure is adopted]),~~ as revised from time to time, including implementation of any determinations or decisions by any Post-Delegation Dispute Resolution Provider.~~

   i. **Registry Operator agrees to reimburse the PDDRP complainant for any fees that the complainant had to pay to the provider in cases where the panel deems the complainant to be the prevailing party.**

   ii. **Also, Registry Operator agrees to implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for**

the avoidance of doubt, the termination of the Registry Agreement pursuant to Section 4.3(e) of the Registry Agreement) following a determination by any PDDRP or RRDRP panel.

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

SPECIFICATION 8

CONTINUED OPERATIONS INSTRUMENT

1. The Continued Operations Instrument shall (a) provide for sufficient financial resources to ensure the continued operation of the basic registry functions related to the TLD set forth in Section [__] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (which is hereby incorporated by reference into this Specification 8) for a period of three (3) years following any termination of this Agreement on or prior to the fifth **anniversary of the Effective Date or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6)** anniversary of the Effective Date, and (b) shall be in the form of either (i) an irrevocable standby letter of credit, or (ii) an irrevocable cash escrow deposit, each meeting the requirements set forth in Section [__] of the Applicant Guidebook posted at [url to be inserted upon finalization of Applicant Guidebook] (which is hereby incorporated by reference into this Specification 8). Registry Operator shall use its best efforts to take all actions necessary or advisable to maintain in effect the Continued Operations Instrument for a period of ~~five~~**six** (~~5~~**6**) years from the Effective Date, and to maintain ICANN as a third party beneficiary thereof. Registry Operator shall provide to ICANN copies of all final documents relating to the Continued Operations Instrument and shall keep ICANN reasonably informed of material developments relating to the Continued Operations Instrument. Registry Operator shall not agree to, or permit, any amendment of, or waiver under, the Continued Operations Instrument or other documentation relating thereto without the prior written consent of ICANN (such consent not to be unreasonably withheld). **The Continued Operations Instrument shall expressly state that ICANN may access the financial resources of the Continued Operations Instrument pursuant to Section 2.13 or Section 4.5 [*insert for government entity*: or Section 7.12] of the Registry Agreement.**

2. If, notwithstanding the use of best efforts by Registry Operator to satisfy its obligations under the preceding paragraph, the Continued Operations Instrument expires or is terminated by another party thereto, in whole or in part, for any reason, prior to the ~~fifth~~**sixth** anniversary of the Effective Date, Registry Operator shall promptly (i) notify ICANN of such expiration or termination and the reasons therefor and (ii) arrange for an alternative instrument that provides for sufficient financial resources to ensure the continued operation of the Registry Services related to the TLD for a period of three (3) years following any termination of this Agreement on or prior to the fifth anniversary of the Effective Date **or for a period of one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6) anniversary of the Effective Date (an "Alternative Instrument")**. Any such ~~replacement instrument~~**Alternative Instrument** shall be on terms no less favorable to ICANN than the Continued Operations Instrument and shall otherwise be in form and substance reasonably acceptable to ICANN.

3. Notwithstanding anything to the contrary contained in this Specification 8, at any time, Registry Operator may replace the Continued Operations Instrument with an alternative instrument that (i) provides for sufficient financial resources to ensure the continued operation of the Registry Services related to the TLD for a period of three (3) years following any termination of this Agreement on or prior to the fifth **anniversary of the Effective Date or for a period one (1) year following any termination of this Agreement after the fifth anniversary of the Effective Date but prior to or on the sixth (6)** anniversary of the Effective Date, and (ii) contains terms no less favorable to ICANN than the Continued Operations Instrument and is otherwise in form and substance reasonably acceptable to ICANN. In the event Registry Operation

replaces the Continued Operations Instrument either pursuant to paragraph 2 or this paragraph 3, the terms of this Specification 8 shall no longer apply with respect to the Continuing Operations Instrument, but shall thereafter apply with respect to such replacement instrument(s).

TRADEMARK CLEARINGHOUSE
DRAFT – MAY 2010

1.   **INTRODUCTION**

The proposal for establishment for the Trademark Clearinghouse was among the potential solutions to trademark protection issues in new gTLDs. It was developed through community consultations including the recommendations of the Implementation Recommendations Team (see http://icann.org/en/topics/new-gtlds/irt-final-report-trademark-protection-29may09-en.pdf) and others, and feedback gathered in online fora and public meetings. (The Implementation Recommendation Team (IRT) was assembled to help identify and propose rights protection mechanisms (RPMs) for trademark holders within the New gTLD Program.)
http://www.icann.org/en/minutes/resolutions-06mar09.htm#07.)

After receiving recommendations from the IRT relating to the proposed Clearinghouse and extensive comments and consultation with the broader community, a revised proposal for the Clearinghouse was developed.

Given that the original GNSO Policy direction was very general in nature, the ICANN Board provided the GNSO council with the opportunity to offer input on the specific rights protection mechanism of a Trademark Clearinghouse. The GNSO promptly took on this task and established to Special Trademark Issues Review Team ("STI") to review the proposal and offer its input upon which the GNSO would be able to reach consensus.

While the STI could not reach unanimous consensus on every specific detail, it did reach such consensus on many aspects and broad consensus on many others. The GNSO unanimously approved the concept of a Trademark Clearinghouse as well as the GNSO-STI Model that was developed. (*see* http://www.icann.org/en/announcements/announcement-2-17dec09-en.htm).

This revision to the Draft Trademark Clearinghouse proposal is based upon the version of the proposal posted in February 2010. That earlier version reflected the recommendations in the GNSO-STI Model. This version of the draft proposal incorporates changes based upon comments that have been raised in the most recent public comment period that closed on 1 April 2010. In balancing competing comments, not all suggested revisions have been, or could have been adopted since they often reflected opposite viewpoints and many of those viewpoints had been considered in the IRT and STI.

In addition to the revisions below, please see the summary of comments and analysis in response to public comments made to the Trademark Clearinghouse proposal that was posted before the Nairobi International Public Meeting.

2.   **TREATMENT OF MARKS**

The major ~~discussion point surrounding~~purpose for the creation of the Trademark Clearinghouse is the treatment of trademark registrations during Sunrise or Trademark Claims services. Significant numbers of comments ~~were generated about the GNSO-STI Model in that it provides registries the~~concerned Clearinghouse discretion ~~whether~~ to recognize trademark registrations from countries that do not perform substantive review. The IPC submitted a Minority Statement on this issue and significant opposing comments were submitted by a variety of others, including trademark holder associations and several large trademark holders. Compromise ~~is~~was sought.

~~The~~Is the STI-GNSO Model, the exclusion of marks that have not undergone substantive review ~~allows~~allowed registries to treat registered trademarks differently depending on where they were registered. ~~The new~~ The approach suggested in the February 2010 proposal ~~suggests an approach~~was to ensure that all nationally or multi-nationally registered trademarks could be eligible for the Sunrise or Trademark Claims services. The proposal ~~recommends~~recommended the availability of additional validation processes for trademarks from countries that do not conduct substantive review. Namely, such a validation would confirm that those marks have been used in connection with the applicable goods and services for which they were registered.

~~Specifically,~~Additional significant comments on this topic were received to the February 2010 proposal ~~now suggests~~. Again, no uniform approach was suggested and compromise is required.

This Trademark Clearinghouse proposal requires that~~, in addition to recognizing court-validated marks, registries must choose to recognize in Sunrise or~~:

A. For Trademark Claims services ~~either:~~ Registries must recognize all text marks that have been or are: (i) ~~all~~nationally or multi-nationally registered ~~trademarks~~ (regardless of whether the country of registration conducts a substantive review); ~~or (ii~~(ii) court-validated; or (iii) protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008 .

~~A.~~B. For Sunrise services - Registries must recognize all text marks: (i) nationally or multi-nationally registered ~~AND validated trademarks in the Trademark Clearinghouse database. (Such validation could be satisfied either at time~~in a jurisdiction that conducts a substantive examination of trademark applications prior to registration~~, as in some countries that conduct substantive review, or by subsequent validation by the~~; or (ii) that have been court- or Trademark Clearinghouse ~~or its agents to determine whether the trademark holder has used the registered trademarks~~validated; or (iii) that are protected by a statute or treaty currently in effect and that was in ~~connection with the goods and services applicable to the registration.)~~effect on or before 26 June 2008.

This proposal is an attempt to address the goal of the GNSO-STI Model, as well as those that are concerned that marks in non-substantive review countries can simply be excluded by registries from pre-launch Sunrise or Trademark Claim services. As always, community input is sought on this compromise or any other suggestions to address these competing concerns.

3.   PURPOSE OF CLEARINGHOUSE

The Trademark Clearinghouse is ~~proposed as~~ a central repository for information to be authenticated, stored, and disseminated pertaining to the rights of trademark holders. As such, ~~the recommendation is that a~~ICANN will contract with service provider or providers ~~be awarded~~, awarding the right to serve as a Trademark Clearinghouse Service Provider, i.e., to accept, authenticate and facilitate the transmission of information related to certain trademarks. This entity or these entities will ~~be separate from~~have an "arms-length" relationship with ICANN ~~to the full extent possible~~. ICANN will not perform these tasks.

The Clearinghouse will be required to separate its two primary functions: (i) authentication or validation of the trademarks included in the Clearinghouse, and (ii) serving as a database to provide information to the new gTLD registries to support pre-launch Sunrise or Trademark Claims Services. Whether the same provider could serve both functions or whether two providers ~~would be more appropriate is to~~will be determined~~. However,~~ in the tender process.

The Trademark Clearinghouse Service Provider ~~should~~will be required to maintain a separate Trademark Clearinghouse database, and may not store any data in the Clearinghouse database related to its provision of ancillary services, if any.

The Registry ~~should~~shall only need to connect with one centralized database to obtain the information it needs to conduct its Sunrise or Trademark Claims Services regardless of the details of the Trademark Clearinghouse Service Provider's contract(s) with ICANN.

As set forth more fully below, there had been some suggestions that the role of the Clearinghouse be expanded beyond trademark rights and ~~that~~ the data ~~which~~that can be submitted be expanded beyond trademarks and service marks. As described below, there is no prohibition against the Trademark Clearinghouse Service Provider providing ancillary services, ~~if any,~~ as long as those services and any data used for those services are kept separate from the Clearinghouse database.

The Clearinghouse will simply be a repository of authenticated information and disseminator of the information to a limited number of recipients. Its functions will be performed in accordance with a limited charter, and will not have any discretionary powers~~.~~ other than what will be set out in the charter with respect to authentication and validation. The Clearinghouse administrator(s) cannot create policy. Before ~~any~~material changes are made to the Clearinghouse functions, they will ~~undergo~~be reviewed through the ~~same~~ ICANN public ~~comment period as is now being conducted.~~ participation model.

Inclusion in the Clearinghouse is not proof of any right, nor does it create any legal rights ~~Further, failure~~. Failure to submit trademarks into the Clearinghouse should not be perceived to be lack of

vigilance by ~~Trademark~~trademark holders or a waiver of any rights, nor can any negative influence be drawn from such failure. ~~""~~

4.   SERVICE PROVIDERS

The selection of Trademark Clearinghouse Service Provider(s) ~~would necessarily encompass a variety of~~will be subject to predetermined criteria, but the foremost considerations should be the ability to store, authenticate, validate and disseminate the data at the highest level of technical stability and security without interference with the integrity or timeliness of the registration process or registry operations.

      4.1   Functions – Authentication/Validation; Database Administration. Public commentary has suggested that the best way to protect the integrity of the data and to avoid concerns that arise through sole-source providers would be to separate the functions of database administration and data ~~authenticaation. One entity would authenticate registrations ensuring they qualify as registered or court-validated marks. The other would maintain the database and provide Sunrise and Trademark Claims Services (described below). Discretion will be used in balancing efficiencies as to whether separate entities will be used, one to "authenticate" and the other to, "administer" in order to preserve integrity of the data. It is thought that with separation, the authenticator will have less incentive to approve applications for registration.~~authentication/validation.

      4.1.1   One entity will authenticate registrations ensuring they qualify as registered. court-validated marks or marks that are protected by statute or treaty. This entity would also be asked to validate marks that are from jurisdictions that do not conduct substantive review before registration.

      4.1.2   The second entity will maintain the database and provide Sunrise and Trademark Claims Services (described below).

Discretion will be used, balancing effectiveness, security and other important factors, to determine whether ICANN will contract with one or two entities. one to authenticate and validate, and the other to, administer in order to preserve integrity of the data

      4.2   Contractual Relationship. The Clearinghouse should be separate and independent from ICANN~~: not be operated by ICANN and clear and distinct from ICANN.~~. It should operate based on market needs and collect fees from those who use its services. ICANN may coordinate or specify interfaces used by registries and registrars, and provide some oversight or quality assurance function to ensure rights protection goals are appropriately met. The Trademark Clearinghouse Service Provider(s) (authenticator/validator and administrator) will be selected through an open and transparent process to ensure low costs and reliable, consistent service for all those utilizing the Clearinghouse services.

The Service Provider(s) providing the authentication of the trademarks submitted into the Clearinghouse ~~should~~shall adhere to rigorous standards and requirements that would be specified in an ICANN contractual agreement. The suggested model to be suggested for this contractual relationship would be similar to the detailed registrar accreditation agreement, rather than the ~~minimal accreditation~~current approval practice adopted by ICANN for UDRP providers. The contract should include service level ~~agreement metrics~~requirements, customer service availability (seven days per week, 24 hours per day, 365 days per year), data escrow requirements, and equal access requirements for all persons and entities required to access the Trademark Clearinghouse database. To the extent practicable, the ~~Agreement~~contract should also include indemnification by Service Provider for errors such as false positives for participants such as Registries, ICANN, Registrants and Registrars.

4.3.   Service Provider Requirements. The Clearinghouse Service Provider(s) should utilize regional marks authentication service providers (whether directly or through sub contractors) to take advantage of local experts who understand the nuances of the trademark in question. ~~The~~Examples of specific performance criteria details ~~would be addressed~~ in the contract ~~awarded to the~~award criteria and service ~~provider but, should at least require that the provider:~~ level-agreements are:

a) provide 24 hour accessibility seven days a week (database administrator);
b) employ systems that are technically reliable and secure (database administrator);
c) use globally accessible and scalable systems so that multiple marks from multiple sources in multiple languages can be accommodated and sufficiently cataloged (database administrator and validator);
d) accept submissions from all over the world - the entry point for trademark holders to submit their data into the Clearinghouse database could be regional entities or one entity;
e) allow for multiple languages, with exact implementation details to be determined;
f) provide access ~~by~~to the ~~Registrant~~Registrants to verify and research Trademark Claims Notices;
g) have the relevant experience in database administration, validation or authentication, as well as accessibility to and knowledge of the various relevant trademark laws (database administrator and authenticator); and
h) ~~must~~ensure through performance requirements, including those involving interface with registries and registrars, that neither domain name registration timeliness, nor registry or registrar operations will be hindered (database administrator).

5.   CRITERIA FOR TRADEMARK INCLUSION IN CLEARINGHOUSE

The trademark holder ~~would only be required to~~ will submit to one ~~entry point~~entity – a single ~~point of~~entity for entry will ~~lead to~~facilitate access to the entire Clearinghouse database. If regional entry points are used, ICANN ~~should host~~will publish an information page describing how to locate regional submission points. Regardless of the entry point into the Clearinghouse, the authentication procedures established will be uniform.

The ~~current~~proposed standards for inclusion in the Clearinghouse are:

a) Nationally or multi-nationally registered "text ~~mark"~~ trademarks from all jurisdictions (including from countries where there is no substantive review).
b) Any text mark that has been validated through a court of law or other judicial proceeding.
c) Any text marks protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008.

No Common law rights should be included in the Trademark Clearinghouse Database, except for court-validated common law marks. This shall not preclude any gTLD registry from entering into a separate agreement, with no ICANN involvement, with the Clearinghouse Service Provider to collect and verify other information for ancillary services, provided that any such information ~~be~~is held separate from the Trademark Clearinghouse Database.

The type of data supporting an application for a registered mark ~~would be~~might include a copy of the registration or the relevant ownership information, including, the requisite registration number(s), the jurisdictions where the registrations have issued and the name of the owner of record. Data supporting a judicially validated mark would include the court documents, properly entered by the court, evidencing the validation of a given mark.— Data supporting marks protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008, would include a copy of the relevant portion of the statute or treaty and evidence of its effective date.

Registrations that include top level extensions such as ~~".com~~"icann.org" as part of the trademark or service mark will not be permitted in the Clearinghouse regardless of whether a trademark registration has issued ~~(i.~~or it has been otherwise validated or protected as a trademark (e.g., if a trademark existed for ~~example.com, example.com~~icann.org, icann.org would not be permitted in the Clearinghouse).

All trademark holders seeking to have their marks included in the Clearinghouse ~~would~~will be required to submit a declaration, affidavit or other sworn statement that the information provided is true and current and has not been supplied for an improper purpose. The trademark holder ~~would~~will also be required to attest that it will keep the information supplied to the Clearinghouse current so that if, during the time the mark is included in the Clearinghouse, a trademark registration gets cancelled or is transferred to another entity, or in the case of a ~~common law~~court- or Clearinghouse-validated trademark the holder abandons use of the trademark, the trademark holder has an affirmative obligation to notify the Clearinghouse. There ~~would~~will be penalties for failing to keep information current. Moreover, it is anticipated that there will be a process whereby registrations can be removed from the Clearinghouse if it is discovered that the trademarks are procured by fraud or if the data is inaccurate.

As an additional safeguard, the data ~~authentication would~~will have to be renewed periodically by any trademark holder wishing to remain in the Clearinghouse. Electronic submission should facilitate ~~the~~ this process and ~~outweigh any perceived burden~~minimize the cost associated with it. The reason for periodic authentication is to streamline the efficiencies of the Clearinghouse and the information the registry operators will need to process and limit the marks at issue to the ones that are in use.

6. USE OF CLEARINGHOUSE DATA

All trademark holders seeking to have their marks included in the Clearinghouse, will have to consent to the use of ~~the~~their information by the Clearinghouse. However, such consent would extend only to use in connection with the stated purpose of the Trademark Clearinghouse Database. The reason for such a provision would be to prevent the Clearinghouse from using the data in other ways. There should be no bar on the Trademark Clearinghouse Service Provider or other third party service providers providing ancillary services on a non-exclusive basis. For example, additional information might consist of a list of generic words or common typographical variations of its trademark to be used in a post-launch Trademarks Claims Service or Trademark Watch Service.

In order not to have a competitive advantage over competitors, the Trademark Clearinghouse database (as well as other relevant data obtained by the Trademark Clearinghouse to perform ancillary services) should be licensed to competitors interested in providing ancillary services on equal and non-discriminatory terms and on commercially reasonable terms. Accordingly, two licensing options ~~would~~will be offered to the trademark holder: (a) a license to use its data for all required features of the Trademark Clearinghouse, with no permitted use of such data for ancillary services either by the Trademark Clearinghouse Service provider or any other entity; or (b) license to use its data for the mandatory features of the Trademark Clearinghouse and for any ancillary uses reasonably related to the protection of trademarks in new gTLDs, which would include a license to allow the Clearinghouse to license the use and data in the Trademark Clearinghouse to competitors that also provide those ancillary services. The specific implementation details will be determined, and all terms and conditions related to the provision of such services shall be included in the Trademark Clearinghouse Service Provider's ~~agreement~~contract with ICANN and subject to ICANN review.

If the Trademark Clearinghouse Service Provider does provide ancillary services, any information should be stored in a separate database. Access by the Registrant to verify and research Trademark Claims Notices shall not be considered an ancillary service, and shall be provided ~~without~~at no cost to the Registrant. ~~Obviously, centralized data of this kind could have appeal for sale for marketing purposes, etc. but misuse~~ Misuse of the data by the service providers would be grounds for immediate termination.

7. DATA AUNTHENTICATION AND VALIDATION GUIDELINES

One core function for inclusion in the Clearinghouse would be to authenticate that the data meets certain minimum criteria. As such, the following minimum criteria are suggested:

a) An acceptable list of data ~~authentications~~authentication sources, i.e. the web sites of patent and trademark offices throughout the world, third party providers who can obtain information from various trademark offices~~, etc.;~~;

b) Name, address and contact information of the applicant is accurate, current and matches that of the registered owner of the trademarks listed;

c) Electronic contact information is provided and accurate;

d) The registration numbers and countries match the information in the respective trademark office ~~data base~~database for that registration number~~; and~~ .

~~Mandatory Pre-Launch Use of the Trademark Clearinghouse~~For validation of marks by the Clearinghouse that were not previously validated at registration or protected via a court, statute or treaty, the trademark holder shall be required to provide evidence of continuous use of the mark in connection with the bona fide offering for sale of goods or services prior to application for inclusion in the Clearinghouse. Acceptable evidence of use might be labels, tags, containers, advertising, brochures, screen shots, and something that evidences continued use.

8. MANDATORY PRE-LAUNCH SERVICES

All new gTLD registries will be required to use the Trademark Clearinghouse to support its pre-launch rights protection mechanisms (RPMs) that must, at a minimum, consist of either a Sunrise or ~~a pre-launch~~ Trademark Claims Service. Such services shall meet the minimum standards specified in the IRT Report~~.~~ (*see* http://www.icann.org/en/topics/new-gtlds/irt-final-report-trademark-protection-29may09-en.pdf.) There is no requirement that a registry adopt both of these RPMs.

The Trademark Claims Notice ~~should~~is intended to provide clear notice to the Registrant of the scope of the trademark holder's rights in order to minimize the chilling effect on registrants. A form that describes the required elements is attached. The specific statement by Registrant warrants that: (i) the Registrant has received notification that the trademark(s) is included in the Clearinghouse; (ii) the Registrants has received and understood the notice; and (iii) to the best of the Registrant's knowledge, the registration and use of the requested domain name will not infringe on the trademark rights that are the subject of the notice.

~~If feasible, the~~The Trademark Claims Notice should provide ~~links, or provide alternative methods of providing~~ Registrant access~~,~~ to the ~~Registrant for accessing the~~ Trademark Clearinghouse Database information ~~reference~~referenced in the Trademark Claims Notice ~~for a better~~to enhance understanding of the Trademark rights being claimed by the trademark holder. These links (or other sources) shall be provided in real time without cost to the Registrant. The implementation details are to be determined. Preferably, the Trademark Claims Notice should be provided in the language used for the rest of the interaction with the registrar or registry, but it is anticipated that at the very least in the most appropriate UN-sponsored language (as specified by the prospective registrant or registrar/registry). Then, if the domain name is registered, the registrar (again through an interface with the Clearinghouse) will notify the trademark holders(s) of the registration. This notification should not be before the registration is effectuated so as not to provide an opportunity for a trademark holder to inappropriately attempt to block a legitimate registrant from registering a name in which the registrant has legitimate rights.

The Trademark Clearinghouse Database ~~should~~will be structured to report to registries domain names that are considered an "Identical Match" with the validated trademarks. "Identical Match" means that the domain name consists of the complete and identical textual elements of the trademark. In this regard: (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) only certain special characters contained within a trademark are spelled out with appropriate words describing it (@ and &); (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name may either be (i) omitted or (ii) replaced by spaces, hyphens or underscores and still be considered identical matches; and (d) no plural and no "marks contained" would qualify for inclusion.

Notification should be limited to identical marks so as to ensure operational integrity, limitation of overly broad notifications and an unmanageable volume of processing by the Clearinghouse.

9.   PROTECTION FOR TRADEMARKS IN CLEARINGHOUSE

New gTLD registries must provide Sunrise or Trademark Claims services for ~~all~~ trademarks in the Trademark Clearinghouse~~, except as follows:~~

~~In~~ . As described below, the scope of registered marks used by the Claims Service is broader than those used for Sunrise periods.

   a) For Trademark Claims services~~, registries~~ - Registries must recognize ~~either~~all text marks that have been or are: (i) ~~or (ii):~~

   a)   ~~all~~ nationally or multi-nationally registered ~~trademarks in the Trademark Clearinghouse Database~~(regardless of whether the country of registration conducts a substantive review); (ii) court-validated; or (iii) protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008.

   b)   ~~all~~For Sunrise services - Registries must recognize all text marks: (i) nationally or multi-nationally registered ~~AND validated trademarks in the Trademark Clearinghouse database. (Such validation could be satisfied either at time~~in a jurisdiction that conducts a substantive examination of trademark applications prior to registration~~, as in some countries,~~; or ~~by subsequent validation by the Trademark Clearinghouse~~(ii) that have been court- or ~~its agents to determine whether the trademark holder has used the registered trademarks in connection with the goods~~Trademark Clearinghouse-validated; or (iii) that are protected by a statute or treaty currently in effect and ~~services applicable to the registration.)~~ that was in effect on or before 26 June 2008.

> **NOTE: The GNSO STI Model for section 7.a. would read as follows "trademarks from a country where there is no substantive review upon registration (protection may be provided to these trademarks at registry discretion)." The alternative approach developed in response to various comments and suggestions is meant to accomplish the goals of the GNSO and satisfy the concerns that have been raised.**

~~or~~

In ~~a gTLD with eligibility requirements (i.e., registration restrictions),~~certain cases, registries shall have discretion whether to include additional trademarks that do not satisfy ~~such~~these eligibility requirements.

The Trademark Clearinghouse or its agent shall develop and publish a list of the countries that conduct substantive review upon trademark registration.

~~1.~~9.1   Sunrise Registration Process

~~In lieu of a pre-launch Trademark Claims Service, the IRT proposes that each new gTLD~~. In cases where the registry ~~operator be required~~opts to provide a Sunrise registration ~~process that applies~~service, sunrise eligibility requirements (SERs) will be met as a ~~floor~~minimum requirement, verified by Clearinghouse data, and incorporates a Sunrise Dispute Resolution Policy (SDRP).

The proposed SER's include: (i) ownership of a trademark ~~of national effect that issued~~(that satisfies the criteria in section 2 above) on or before the effective date of the registry agreement and was applied for on or before ICANN publishes new gTLD application list that is an identical match (as defined in section ~~6~~8 above) to the applied for domain name; (ii) optional registry elected requirements re: international class of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document ~~trademark registration or facilitate its authentication to the Clearinghouse~~rights in the trademark.

The proposed SRDP must allow challenges based on at least the following four grounds: (i) at time the challenged domain name was registered, the registrant did not own a trademark registration of national effect; (ii) the domain name is not identical to the trademark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect; and (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

The Clearinghouse will maintain the SERs, validate and authenticate trademarks, as applicable, and hear challenges.

10.   **COSTS OF CLEARINGHOUSE**

Costs should be completely borne by the parties utilizing the services. ~~ICANN~~The Clearinghouse should not be expected to ~~fund the costs of operating the Trademark Clearinghouse. The Clearinghouse should not be expected to fund ICANN from its~~pay fees~~.~~ to ICANN. For a Clearinghouse to be effective, the new

gTLD registry operators would need to have certain obligations to use the information provided to it by the Clearinghouse. Part of the registry agreement ~~would~~shall require the operator to use the information provided by the Clearinghouse.

TRADEMARK NOTICE

[In English and the language of the registration agreement]

You have received this Trademark Notice because you have applied for a domain name which matches at least one trademark record submitted to the Trademark Clearinghouse.

You may or may not be entitled to register the domain name depending on your intended use and whether it is the same or significantly overlaps with the trademarks listed below. ***Your rights to register this domain name may or may not be protected as noncommercial use or "fair use" by the laws of your country. [in bold italics or all caps]***

Please read the trademark information below carefully, including the trademarks, jurisdictions, and goods and service for which the trademarks are registered. Please be aware that not all jurisdictions review trademark applications closely, so some of the trademark information below may exist in a national or regional registry which does not conduct a thorough or substantive review of trademark rights prior to registration. ***If you have questions, you may want to consult an attorney or legal expert on trademarks and intellectual property for guidance.***

If you continue with this registration, you represent that, you have received and you understand this notice and to the best of your knowledge, your registration and use of the requested domain name will not infringe on the trademark rights listed below.
The following [number] Trademarks are listed in the Trademark Clearinghouse:

1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

[with links to the TM registrations as listed in the TM Clearinghouse]

2. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant:

Trademark Registrant Contact:
****** [with links to the TM registrations as listed in the TM Clearinghouse]

X. 1. Mark: Jurisdiction: Goods: [click here for more if maximum character count is exceeded] International Class of Goods and Services or Equivalent if applicable: Trademark Registrant: Trademark Registrant Contact:

DRAFT UNIFORM RAPID SUSPENSION SYSTEM ("URS")
Draft – May 2010

INTRODUCTION

The proposal for establishment of a mandatory Uniform Rapid Suspension System (URS) was among the potential solutions to trademark protections in new gTLDs. It was developed through community consultations, primarily through the recommendations of the Implementation Recommendations Team (see http://icann.org/en/topics/new-gtlds/irt-final-report-trademark-protection-29may09-en.pdf) and others, and feedback gathered in online fora and public meetings. (The Implementation Recommendation Team (IRT) was assembled to help identify and propose rights protection mechanisms (RPMs) for trademark holders within the New gTLD Program http://www.icann.org/en/minutes/resolutions-06mar09.htm#07.)

After receiving recommendations from the IRT relating to the proposed URS, extensive comments and consultation with the broader community, a revised proposal for the URS was developed.

Given that the original GNSO Policy direction was very general in nature, the Board provided the GNSO council with the opportunity to offer input on the specific rights protection mechanism of the URS (*SEE* http://gnso.icann.org/mailing-lists/archives/council/msg07609.html). The GNSO promptly took on this task and established the Special Trademark Issues Review Team ("STI") to review the URS proposal and offer its input upon which the GNSO would be able to reach consensus.

While the STI could not reach unanimous consensus on every specific detail, it did reach full consensus on many aspects and broad consensus on many others. The GNSO unanimously approved the implementation of a URS and the GNSO-STI Model (*see* http://www.icann.org/en/announcements/announcement-2-17dec09-en.htm).

This version of the Draft URS Procedure is based upon the version of the proposal posted in February 2010. That earlier version largely reflected the recommendations in the GNSO-STI Model. This version incorporates changes based upon comments in the most recent public comment period that closed on 1 April 2010. In balancing competing interests, not all suggested revisions have been, or could have been adopted since they often reflected opposite viewpoints and those viewpoints had been discussed in the IRT and STI.

In addition to the revisions below, please see the summary of comments and analysis in response to public comments made to the URS proposal that was posted before the Nairobi International Public Meeting.

DRAFT PROCEDURE

1.   Complaint

   1.1   Filing the Complaint

   a)   Proceedings are initiated by electronically filing with a URS Provider (Provider) a Complaint outlining the trademark rights and the actions complained of entitling the trademark holder to relief.

   b)   Each Complaint must be accompanied by the appropriate fee, which is under consideration. The fees will be non-refundable.

   c)   One Complaint is acceptable for multiple related companies against one Registrant, but only if the companies complaining are related. Multiple Registrants can be named in one Complaint only if it can be shown that they are in some way related. There will not be a minimum number of domain names imposed as a prerequisite to filing.

   1.2   Contents of the Complaint

   The form of the Complaint will be simple and as formulaic as possible. There will be ~~reasonable limits on the length of~~ a 5,000 word limit, excluding attachments, for the Complaint ~~and Response.~~. The Complaint ~~will allow space for some explanation and will not be solely a check box.~~ must include:

   a)   Name, email address and other contact information for the Complaining Party (Parties~~);~~).

   b)   Name, email address and contact information for any person authorized to act on behalf of Complaining Parties~~; Name of Registrant (i.e. relevant information available from Whois) and any available contact information;~~.

   c)   Name of Registrant (i.e. relevant information available from Whois) and Whois listed available contact information for the relevant domain name(s).

   ~~c)~~d)   The specific domain name(s) that are the subject of the Complaint. For each domain, the Complainant should include a copy of the currently available Whois information and a description and copy, if available, of the ~~web site~~offending portion of the website content associated with each domain name that is the subject of the Complaint~~;~~.

   ~~d)~~e)   The specific trademark/service marks upon which the Complaint is based and pursuant to which the Complaining Parties are asserting their rights to them, for which goods and in connection with what services.

f)   A description of the grounds upon which the Complaint is based setting forth facts showing that the Complaining Party is entitled to relief. The standard is similar to the UDRP standard, but with a higher burden of proof, i.e., , namely:

 i. that the registered domain name is identical or confusingly similar to a mark in which the Complainant holds a valid registration issued by a jurisdiction that conducts a substantive examination of trademark applications prior to registration; and that the Registrant has no legitimate right or interest to the domain name and; the domain was registered and is being used in bad faith.

 ii. and that the Registrant has no legitimate right or interest to the domain name and;

 iii. the domain was registered and is being used in bad faith.

g)   A list of non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

 i. Circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of pocket costs directly related to the domain name; or

 ii. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or

 iii. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or

 iv. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location….

h)   Finally, the Complainant will attest that the Complaint is not being filed for any improper basis and that there is a sufficient good faith basis for filing the Complaint.

2. **Fees**

Fees will be charged by the URS Provider. Fees are thought to be in the range of USD $300 per proceeding, but will ultimately be set by the Provider. (The tender offer for potential service

providers will indicate that price will be a factor in the award decision.) This is based upon estimation of experts, including panelists making decisions in similar environments, and the Nominet ~~summary~~Summary Decision model~~, and the opportunity to streamline through re-registration. Fees are not~~ .

A "loser pays~~.~~" model has not been adopted for the URS. Given the nature of expected disputes ~~in~~ through this ~~venue~~mechanism, it is thought, more often than not, that no response to complaints will be submitted and the costs of recovering the ~~relatively small~~ fees actually received will exceed their value.

3. **Administrative Review**

3.1   Complaints will be subjected to an initial administrative review ~~or examination~~ by the ~~URS DRP~~Provider for compliance with the filing requirements. This is ~~simply~~ a review to determine that the Complaint contains all of the necessary information, and is not a determination as to whether a *prima facie* case has been established.

3.2   The Administrative Review shall be conducted within three (3) business days of submission of the Complaint to the Provider.

3.3   Given the rapid nature of this Procedure, and the intended low level of required fees, there will be no opportunity to correct inadequacies in the filing requirements.

3.4   If a Complaint is deemed non-compliant with filing requirements, the Complaint will be dismissed without prejudice to the Complainant filing a new complaint. The initial filing fee shall not be refunded in these circumstances.

4. **Notice and Locking of Domain**

4.1   ~~Notices should be clear to the Registrant and understandable to Registrants located globally. Implementation options shall be determined, and they must include consideration of language issues, in an efficient and effective manner; specifically, the notice should be in the language used by the registrant during the registration process.~~

4.2   ~~The~~   Upon completion of the Administrative Review, the URS Provider must first notify the registry operator (via email ~~and possibly other method(s) under consideration)~~) ("Notice of Complaint") within 24 hours after the Complaint has been deemed compliant with the filing requirements. Within 24 hours of receipt of ~~that~~the Notice of Complaint from the URS Provider, the registry operator shall "lock" the domain, meaning the registry shall restrict all changes to the registration data, including transfer and deletion of the domain names, but the name will continue to resolve. The registry operator will notify the URS Provider immediately upon locking the domain name~~.~~ ("Notice of Lock").

4.~~3~~2   Within 24 hours after receiving ~~notice~~Notice of Lock from the registry operator ~~that the domain name is locked~~, the URS Provider shall notify the Registrant of the Complaint,

atsending a hard copy of the Notice of Complaint to the addresses listed in the Whois contact information, and providing aan electronic copy of the Complaint, and advising of the locked status, as well as the effects if the registrant fails to respond and defend againagainst the Complaint. Notices must be clear and understandable to Registrants located globally. The Notice of Complaint shall be in English and translated by the Provider into the predominant language used in the registrant's country or territory.

4.3   All Notices to the Registrant shall be sent through email, fax (where available) and certified copy via postal mail. The Complaint and accompany exhibits, if any, shall be served electronically. The URS Provider shall also notify the registrar of record for the domain name at issue via the addresses the registrar has on file with ICANN.

5.   The Response

5.1   A Registrant will have 20 days from the date the URS Provider sent its Notice of Complaint to the Registrant to electronically file and serve a Response. with the Provider. Upon receipt, the Provider will electronically send a copy of the Response, and accompanying exhibits, if any, to the Complainant.

5.2   No filing fee will be charged if the Registrant files its Response prior to being declared in default or not more than thirty (30) days following a Determination. For Responses filed more than thirty (30) days after a Determination, the Registrant should pay a reasonable fee for re-examination.

5.23   Upon request by the Registrant, a limited extension of time to respond may be granted by the URS Provider if there is a good faith basis for doing so and it does not harm the Complainant.. In no event shall the extension be for more than seven (7) calendar days.

5.4   The Response shall be no longer than 5,000 words, excluding attachments, and the content of the Response should include the following:

a)   Confirmation of Registrant data.

b)   Specific admission or denial of each claim;of the grounds upon which the Complaint is based.

c)   Any defense which contradicts the Complainant's claims;.

d)   A statement that the contents are true and accurate.

5.45   In keeping with the intended expedited nature of the URS and the remedy afforded to a successful Complainant, affirmative claims for relief by the Registrant will not be permitted except for an allegation that the Complainant has filed an abusive Complaint.

5.56   Once the Response is filed, and the URS Provider determines that the Response is compliant with the filing requirements of a Response, the Complaint, Response and supporting materials will be sent to a qualified Examiner, selected by the URS Provider, for review and Determination. All materials submitted are considered by the Examiner.

5.~~6~~7   The Response can contain any facts refuting the claim of bad faith registration by setting out any of the following circumstances:

   a)   Before any notice to Registrant of the dispute, Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

   b)   Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if Registrant has acquired no trademark or service mark rights; or

   c)   Registrant is making a legitimate ~~non-commercial~~ or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

   Such claims, if found by the Examiner to be proved based on its evaluation of all evidence, shall result in a finding in favor of the Registrant.

5.~~7~~8   The Registrant may also assert Defenses[1] to the Complaint to demonstrate that the Registrant's use of the domain name is not in bad faith by showing, for example, one of the following ~~factors~~:

   a)   The domain name is generic or descriptive and the Registrant is making fair use of it.

   b)   The domain name sites operated solely in tribute to or in criticism of a person or business that is found by the Examiner to be fair use.

   c)   Registrant's holding of the domain name is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.

   (d)   The domain name is not part of a wider pattern or series of abusive registrations because the Domain Name is of a significantly different type or character to ~~the~~ other domain names registered by the Registrant.

5.~~8~~9   Other considerations that are examples of bad faith for the Examiner:

   a)   Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves not indicia of bad faith under ~~this policy.~~the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will review each case on its merits.

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[1] ~~The GNSO STI Model called these Safe Harbor provisions. Further independent legal analysis suggests these bullets may be more accurately termed as defenses. Although slightly reorganized, the bullets in section 5.7 and 5.8 are the same as and are consistent with the GNSO STI Model.~~

b) Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute ~~abuse~~bad faith under the ~~Policy.~~URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will take into account:

    i.   the nature of the domain name;

    ii.   the nature of the advertising links on any parking page associated with the domain name; and

    iii.   that the use of the domain name is ultimately the Registrant's responsibility

6. Default

6.1   If at the expiration of the 20-day answer period (or ~~extension~~extended period if granted), the Registrant does not submit an answer, the Complaint proceeds to Default. ~~If the answer is determined not to be in compliance with the filing requirements, Default is also appropriate.~~

6.2   In either case, the ~~URS DPR~~Provider shall provide ~~notice~~Notice of Default via email to the Complainant and Registrant, and via mail and fax to Registrant. During the Default period, the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use and will also be prohibited from changing the Whois information.

6.3   All Default cases~~, however,~~ proceed to Examination. ~~If~~ for review on the ~~Registrant fails to file an answer within twenty (20) days and~~merits of the claim.

6.4   If after Examination in Default cases, the Examiner rules in favor of Complainant, Registrant shall have the right to seek relief from Default via de novo review by filing ~~an answer~~a Response at any time ~~during the life of the registration, but not to exceed~~ up to two years after the date of the ~~Determination. Upon~~Notice of Default. If such ~~an answer being received~~a Response is filed, and proper notice is provided in accordance with the notice requirements set forth above, the ~~Domain Name~~domain name shall again resolve to the original IP address as soon as practical, but shall remain locked as if the Response had been filed in a timely manner before Default. The filing of ~~an answer~~a Response after Default is not an appeal~~.~~, the case is considered as if responded to in a timely manner.

6.5   If after Examination in Default case, the Examiner rules in favor of Registrant, the Provider shall notify the Registry Operator to unlock the name and return full control of the domain name registration to the Registrant.

7. Examiners

7.1   One Examiner selected by the Provider will preside over a URS proceeding.

7.2   Examiners should have legal background and ~~should~~shall be trained and certified in URS proceedings. ~~ICANN should provide the~~ Examiners shall be provided with instructions on the URS ~~Elements~~elements and ~~Defenses~~defenses and how to conduct the examination of a URS proceeding.

~~ICANN should discourage forum shopping among URS Providers through its~~ 7.3   URS ~~implementation and contracts.~~ Provider(s) shall agree that Examiners within a service provider shall be rotated to avoid "forum or examiner shopping~~. The URS Service Providers shall~~," so as to avoid ~~"cherry picking" examiners~~selection of Examiners that are thought to be likely to rule in a certain way. Service Providers ~~should be required to, and~~ are strongly encouraged to~~,~~ work equally with all certified Examiners, with reasonable exceptions (such as language needs, non-performance, or malfeasance) with such reasonable exceptions to be determined ~~as an implementation detail.~~on a case by case analysis.

~~7.2   One Examiner will preside over a URS proceeding.~~

8.   Examination Standards and Burden of Proof

8.1   The standards that the qualified Examiner shall apply when rendering its Determination are whether:

   a)   The registered domain name is identical or confusingly similar to a mark: (i) in which the Complainant holds a valid registration issued by a jurisdiction that conducts a substantive examination of trademark applications prior to registration; ~~and~~or (ii) that has been validated through court proceedings or the Trademark Clearinghouse; or (iii) that is protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008; and

   b)   The Registrant has no legitimate right or interest to the domain name; and

   c)   The domain was registered and is being used in a bad faith.

~~While the standards set out above are the same as for a UDRP proceeding, the~~8.2   The burden of proof ~~calling for~~shall be clear and convincing evidence. (This burden of proof is intentionally higher than the UDRP given that the URS is meant only for the most clear-cut blatant case of infringing conduct~~.~~.)

8.3   For a URS matter to conclude in favor of the Complainant, the Examiner shall render a Determination that there is no genuine issue of material fact. Such Determination may include that: ~~(A~~(i) the Complainant has rights to the name; and (~~B~~ii) the Registrant has no rights or legitimate interest in the name.

 This means that the Complainant must present adequate evidence to substantiate its trademark rights in the domain name (e.g., evidence of a trademark registration and evidence that the domain name was registered and is being used in bad faith in violation of the URS).

8.4   If the Examiner finds that the Complainant has not met its burden, or that genuine issues of material fact remain in regards ~~any of the elements, the Examiner will reject the complaint as inappropriate for URS.~~ to any of the elements, the Examiner will reject the Complaint under the relief available under the URS. That is, the URS Complaint shall be dismissed if the Examiner finds that: (1) evidence was presented to indicate that the use of the domain name in question is a non-infringing use or fair use of the trademark; or (2) under the circumstances, and no Response was submitted, a defense would have been possible to show that the use of the domain name in question is a non-infringing use or fair use of the trademark.[2]

~~In the absence of a clear belief of 1) or 2) below, the URS shall be rejected:~~

~~1) (if a response was received) No evidence was presented to indicate that the use of the domain name in question is a non-infringing or fair use of the TM.~~

~~or~~

~~2) (if a response was not received) No defense can be imagined to indicate that the use of the domain name in question is a non-infringing or fair use the TM.~~

8.5   Where there is any genuine contestable issue as to whether a domain name registration and use ~~is an abusive use~~ of a trademark are in bad faith, the Complaint will be denied ~~terminating,~~ the URS proceeding will be terminated without prejudice ~~to further action~~, e.g., a UDRP ~~or,~~ court proceeding or another URS may be filed. The URS is not intended for use in any ~~questionable~~ proceedings with open questions of fact, but only clear cases of trademark abuse.

~~If~~8.6   To restate in another way, if the Examiner finds that all three ~~elements~~standards are satisfied by clear and convincing evidence and that there is no genuine contestable issue, then the Examiner shall issue a Determination in favor of the Complainant. If the Examiner finds that ~~this test is~~any of the standards have not ~~met~~been satisfied, then the Examiner shall deny the relief requested, thereby terminating the URS proceeding without prejudice to ~~the ability of~~ the Complainant to proceed with an action in court of competent jurisdiction or under the UDRP.

9.   Determination

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[2] In response to comments, this revised language attempts to clarify the prior language used, which read as follows: In the absence of a clear belief of a) or b) below, the URS complaint shall be rejected:
    a) (if a response was received) No evidence was presented to indicate that the use of the domain name in question is a non-infringing or fair use of the TM,
     or
    b) (if a response was not received) No defense can be imagined by the Examiner to indicate that the use of the domain name in question is a non-infringing or fair use of the TM.

9.1 There will be no discovery or hearing; the evidence will be the materials submitted with the Complaint and the ~~Answer~~Response, and those materials will serve as the entire record used by the Examiner to make a Determination.

9.2 If the Complainant satisfies the burden of proof, the Examiner will issue a Determination in favor of the Complainant. The Determination will be published on the URS Provider's website. However, there should be no other preclusive effect of the Determination other than the URS proceeding to which it is rendered.

9.3 If the Complainant does not satisfy the burden of proof, the URS proceeding is terminated and full control of the domain name registration shall be returned to the Registrant.

9.4 Determinations resulting from URS proceedings will be ~~publicly available thereby giving further~~published by the service provider in a format specified by ICANN, in order to provide notice to the next potential Registrant that the domain was the subject of a URS proceeding.

9.5 ~~Evaluation of a~~To conduct URS ~~proceeding should be conducted~~proceedings on an expedited basis~~. Evaluation~~, examination should begin immediately upon the earlier of the expiration of a twenty (20) day ~~answer~~Response period, or upon the submission of ~~answer.~~the Response. A ~~decision should~~Determination shall be rendered on an expedited basis, with the stated goal that ~~a decision should~~it be rendered within three (3) business days from when ~~evaluation~~Examination began. Absent extraordinary circumstances, however, Determinations must be issued no later than 14 days after the Response is filed. Implementation details will be developed to accommodate the needs of service providers~~.~~ once they are selected. (The tender offer for potential service providers will indicate that timeliness will be a factor in the award decision.)

10. Remedy

10.1 If the Determination is in favor of the Complainant, the domain name shall be suspended for the balance of the registration period and would not resolve to the original web site. The nameservers ~~are~~shall be redirected to an informational web page provided by the URS Provider about the URS. The URS Provider shall not be allowed to offer any other services on such page, nor shall it directly or indirectly use the web page for advertising purposes (either for itself or any other third party). The Whois for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the Whois shall reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration.

10.2 There shall be an option for a successful ~~complainant to pay~~Complainant to extend the registration period for one additional year at commercial rates. No other remedies should be available in the event of a ~~decision~~Determination in favor of the ~~complainant~~Complainant.

11.   Abusive Complaints

11.1   The URS shall incorporate penalties for abuse of the process by trademark holders. ~~.~~

11.2   In the event a party is deemed to have filed two (2) abusive ~~complaints~~Complaints, or one (1) "deliberate material falsehood," that party shall be barred from utilizing the URS for one-year following the date ~~the last of the three Complaints was determined to be abusive. [Defining Abusive Complaints remains under consideration.]~~of issuance of a Determination finding a complainant to have: (i) filed its second abusive complaint; or (ii) filed a deliberate material falsehood.

11.3   A Complaint may be deemed abusive if the Examiner determines:

a)   it was presented solely for improper purpose such as to harass, cause unnecessary delay or needlessly increase the cost of doing business; and
b)   (i) the claims or other assertions were not warranted by any existing law or the URS standards; or (ii) the factual contentions lacked any evidentiary support

11.4   An Examiner may find that Complaint contained a deliberate material falsehood if it contained an assertion of fact, which at the time it was made, was made with the knowledge that it was false and which, if true, would have an impact on the outcome on the URS proceeding.

11.5   Two findings of "deliberate material falsehood" shall permanently bar the party from utilizing the URS.

11.6   URS Providers shall be required to develop a process for identifying and tracking barred parties, and parties whom Examiners have determined submitted abusive complaints or deliberate material falsehoods.

11.7   The dismissal of a complaint for administrative reasons or a ruling on the merits, in itself, shall not be evidence of filing an abusive complaint.

11.8   A finding ~~of abuse~~that filing of a complaint was abusive or contained a deliberate materially falsehood can be appealed ~~and will be reviewed to determine~~ solely ~~if~~on the grounds that an Examiner abused his/her discretion, or acted in an arbitrary or capricious manner.

12.   Appeal

12.1   Either party shall have a right to seek a de novo appeal of the Determination based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal.

12.2   The fees for an appeal ~~should~~shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of

the Complaint. The Appeal Panel, to be selected by the Provider, may request, ~~it~~in its sole discretion, further statements or documents from either of the Parties.

12.3   Filing an appeal ~~should~~shall not change the domain name's resolution. For example, if the domain name no longer resolves to the original nameservers because of a Determination in favor or the Complainant, ~~it continues~~the domain name shall continue to point to the informational page provided by the URS ~~service provider.~~Provider. If the domain name resolves to the original nameservers because of a Determination in favor of the registrant, it ~~continues~~shall continue to resolve during the appeal process.

12.4   An appeal must be filed within 20 days after a Determination is issued. If, however, a respondent has sought relief from Default by filing a Response within two years of issuance of initial Determination, an appeal must be filed within 20 days from date the second Determination is issued.

12.5   The Providers rules and procedures for appeals shall apply.

13.   Other Available Remedies

The URS Determination ~~should~~shall not preclude any other remedies available to the appellant, such as UDRP (if appellant is the Complainant), or other remedies as may be available in a court of competition jurisdiction. A URS Determination for or against a party ~~should~~shall not prejudice the party in UDRP or any other proceedings.

14.   Review of URS

A review of the URS procedure will be initiated one year after the first Examiner Determination is issued. Upon completion of the review, a report shall be published regarding the usage of the procedure, including statistical information, and posted for public comment on the usefulness and effectiveness of the procedure.

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE (TRADEMARK PDDRP)
REVISED – MAY 2010

INTRODUCTION

Several community participants, including the Implementation Recommendation Team (IRT) and the World Intellectual Property Organization (WIPO) suggested that one of the rights protection mechanisms (RPM) for trademark holders should be a trademark post-delegation dispute resolution procedure (Trademark PDDRP). Various recommendations as to how such a process would be implemented have been discussed and analyzed. One point that seems to be generally accepted, is that such a procedure should only afford trademark holders the right to proceed against registry operators who have acted in bad faith, with the intent to profit from the systemic registration of infringing domain names (or systemic cybersquatting) or who have otherwise set out to use the gTLD for an improper purpose. The procedure is not intended to hold liable a registry operator that simply happens to have or knows of infringing domain names within its gTLD. Affirmative conduct is required.

It must be ensured that a post-delegation procedure challenging registry operator conduct does not confer third-party beneficiary rights upon non-signatories to the Registry Agreement. Further, questions have arisen as to the rights of bona fide registrants and registrars who are not a party to the post-delegation dispute resolution proceedings. Such concerns are understood and can be addressed through remedies for violations of trademark rights at the top level and at the second level.

It is important to note that this Trademark PDDRP is not intended to replace ICANN's contractual compliance responsibilities. ICANN will continue to pursue its contractual compliance activities and enforcement for all of its contracted parties. This Trademark PDDRP is meant to enhance such activities and provide ICANN with independent judgment it disputes between two parties as required.

At the top level, the rights of a trademark holder to proceed against a gTLD operator for trademark infringement exist separate and apart from any contract between ICANN and a registry operator. The Trademark PDDRP simply provides en efficient avenue in which to pursue rights that already exist.

Since the Nairobi meeting ICANN has held an open public participation process to discuss potential revisions to the PDDRP. The consultation has included a face-to-face meeting, two telephonic conferences and a robust exchange of ideas and suggestions via email. With suggestions from a variety of community representatives, this public participation process has been extremely productive. The results can be seen in the significant revisions to this version of the PDDRP. Although a great majority of suggestions have been adopted, albeit some in slightly revised form, not all suggested revisions have or could have been included in that some were directly at odds with each other or not implementable.

ICANN thanks all who have been instrumental in helping this public consultation process work.

DRAFT PROCEDURE

1.   Parties to the Dispute

- The parties to the dispute will be the trademark holder and the gTLD registry operator. ~~(Although there has been some suggestion that prior to commencing such a procedure, that ICANN first be notified and asked to investigate, from a practical standpoint, it does not make sense to add this layer to the procedure. It would unnecessarily slow the process.)~~ ICANN shall not be a party.

2.   Applicable Rules

- This procedure is intended to cover Trademark post-delegation dispute resolution proceedings generally. To the extent more than one Trademark PDDRP provider ~~((~~"Provider~~)~~") is selected to implement the Trademark PDDRP, each Provider may have additional rules that must be followed when filing a Complaint. The following are general procedures to be followed by all Providers.

- In the Registry Agreement, the registry operator agrees to participate in all post-delegation procedures and be bound by the resulting Determinations.

3.   Language

- The language of all submissions and proceedings under the procedure will be English.

- Parties may submit supporting evidence in their original language, provided and subject to the authority of the ~~panel~~Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

4.   Communications and Time Limits

- All communications with the Provider must be submitted electronically.

- For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

- For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched~~.~~ (e.g., time stamped email or fax, postmark).

- For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

- All references to day limits shall be considered as calendar days unless otherwise specified.

5. **Standing**

- The mandatory administrative proceeding will commence when a third-party complainant ("Complainant") has filed a Complaint with a Provider asserting that the Complainant is a trademark holder (which may include either registered or unregistered marks as defined below) claiming ~~to~~ that one or more of its marks have been ~~injured~~infringed, and thereby the Complainant has been harmed, by the registry operator's manner of operation or use of the gTLD.

  Before proceeding to the merits of a dispute, and before the Respondent is required to submit a substantive Response, or pay any fees, the Provider shall appoint a special one-person Panel to perform an initial "threshold" review ("Threshold Review Panel").

- ~~The Provider shall perform an initial "quick look" review to ascertain, before a Response is due, that the Complainant is in fact a trademark holder. (Explanatory Note: This quick look process, inserted in response to public comment as a measure to screen out frivolous Complaints, is still under development.)~~

- ~~If the Provider finds that the Complainant is not a trademark holder, the Provider will end the proceedings on the grounds that the Complainant lacks standing.~~

6. **Standards**[1]

~~(Explanatory Note: Parties have suggested that registry operators be held liable for infringing conduct within their registry both at the top level and the second level. Contemplation of holding registry operators accountable for registrations in its gTLD has resulted in a number of comments regarding the standard to be applied to the registry operator, whether intervention rights should be permitted, and whether the net result of extension to the second level has a *de facto* effect of requiring registries to police all domain names and content of websites for trademark infringement. The standards below take into account the various and often competing comments and suggestions.)~~

- **Top Level**:

A complainant must assert and prove, by clear and convincing evidence, that

the registry operator's affirmative conduct in its operation or use of its gTLD string that is identical or confusingly similar to the complainant's mark, causes or materially contributes to the gTLD doing one of the following:

(a) taking unfair advantage of the distinctive character or the reputation of the complainant's mark; or

(b) unjustifiably impairing the distinctive character or the reputation of the complainant's mark; or

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[1] ~~This section was moved to this placement and slightly reformatted. Only the parts that have been revised, and not those that have been reformatted, are reflected in redline.~~

(c) creating an impermissible likelihood of confusion with the complainant's mark.

An example of infringement at the top-level is where a TLD string is identical to a trademark and then~~, contrary to declared intentions not to infringe the rights of the mark holder,~~ the registry operator holds itself out as the beneficiary of the mark.

- **Second Level**

Complainants are required to prove, by clear and convincing evidence that, through the registry operator's affirmative conduct:

> *(a) there is a substantial pattern or practice of specific bad faith intent by the registry operator to profit from the sale of trademark infringing domain names; and*
>
> *(b) the registry operator's bad faith intent to profit from the systematic registration of domain names within the gTLD that are identical or confusingly similar to the complainant's mark, which:*
>
>> *(i) takes unfair advantage of the distinctive character or the reputation of the complainant's mark; or*
>>
>> *(ii) unjustifiably impairs the distinctive character or the reputation of the complainant's mark, or*
>>
>> *(iii) creates an impermissible likelihood of confusion with the complainant's mark.*

In other words, it ~~would~~is not ~~be enough~~sufficient to show that the registry operator ~~was~~is on notice of possible trademark infringement through registrations in the gTLD.~~–~~ The registry operator is not liable under the PDDRP solely because: (i) infringing names are in its registry; or (ii) the registry operator knows that infringing names are in its registry; or (iii) the registry operator did not monitor the registrations within its registry.

A registry operator is not liable under the PDDRP for any domain name registration that: (i) is registered by a person or entity that is unaffiliated with the registry operator; (ii) is registered without the direct or indirect encouragement, inducement, initiation or direction of any person or entity affiliated with the registry operator; and (iii) provides no direct or indirect benefit to the registry operator other than the typical registration fee.

An example of infringement at the second level is where a registry operator has a pattern or practice of actively and systematically encouraging registrants to register second level domain names and to take unfair advantage of the trademark to the extent and degree that bad faith is apparent. Another example of infringement at the second level is where a registry operator has a pattern or practice of acting as the registrant or beneficial user of infringing registrations, to monetize and profit in bad faith.

7.   **Complaint**

- **Filing:**

    The Complaint will be filed electronically. Once reviewed for technicalthe Administrative Review has been completed and the Provider deems the Complaint be in compliance, the Provider will electronically serve the Complaint and serve a paper notice on the registry operator that is the subject of the Complaint ("Notice of Complaint") consistent with the contact information listed in the Registry Agreement.

- **Content:**

    - The name and contact information, including address, phone, and email address, of the Complainant, and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

    - The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.

    - A statement of the nature of the dispute, which should include:

        - The particular legal rights claim being asserted, the marks that form the basis for the dispute and a short and plain statement of the basis upon which the Complaint is being filed.

        - A detailed explanation of how the Complainant's claim meets the requirements for filing a claim pursuant to that particular ground or standard.

        - A detailed explanation of the validity of the Complaint and why the Complainant is entitled to relief.

        - A statement that the Complainant has at least 30 days prior to filing the Complaint notified the registry operator in writing of: (i) its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks and (ii) it willingness to meet to resolve the issue.

        - An explanation of how the mark is used by the Complainant (including the type of goods/services, period and territory of use – including all on-line usage) or otherwise protected by statute, treaty or has been validated by a court or the Clearinghouse.

- • Copies of any documents that the Complainant considers to evidence its basis for relief, including web sites and domain name registrations.

- • A statement that the proceedings are not being brought for any improper purpose.

• Complaints will be limited ~~to~~ 5,000 words ~~or~~and 20 pages~~, whichever is less~~, excluding attachments, unless the Provider determines that additional material is necessary.

• At the same time the Complaint is filed, the Complainant will pay a non-refundable filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice.

8. **Administrative Review of the Complaint**

• All Complaints will be reviewed by the Provider within five (5) business days of submission to the Provider to determine whether the Complaint contains all necessary information and complies with the procedural rules.

• If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue~~.~~ to the Threshold Review. If the Provider finds that the Complaint does not comply with procedural rules, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded.

• If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve the Notice of Complaint consistent with the contact information listed in the Registry Agreement.

9. **Threshold Review**

• Provider shall establish a Threshold Review Panel for each proceeding within five (5) business days after completion of Administrative Review and the Complaint has been deemed compliant with procedural rules.

• The Threshold Review Panel shall be tasked with determining whether the Complainant satisfies the following criteria:

1. The Complainant is a holder of a mark: (i) issued by a jurisdiction that conducts a substantive examination of trademark applications prior to registration; or (ii) that has been court- or Trademark Clearinghouse-validated; or (iii) that is protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008;

2. The Complainant has asserted that it has been materially harmed as a result of trademark infringement;

3.   The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Top Level Standards herein
OR
The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Second Level Standards herein;

4.   The Complainant has asserted that: (i) at least 30 days prior to filing the Complaint the Complainant notified the registry operator in writing of its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks, and it willingness to meet to resolve the issue; (ii) whether the registry operator responded to the Complainant's notice of specific concerns; and (iii) if the registry operator did respond, that the Complainant attempted to engage in good faith discussions to resolve the issue prior to initiating the PDDRP.

- Within ten (10) business days of date Provider served Notice of Complaint, the registry operator shall have the opportunity, but is not required, to submit papers to support its position as to the Complainant's standing at the Threshold Review stage. If the registry operator chooses to file such papers, it must pay a filing fee.

- If the registry operator submits papers, the Complainant shall have ten (10) business days to submit an opposition.

- The Threshold Review Panel shall have ten (10) business days from due date of Complainant's opposition or the due date of the registry operator's papers if none were filed, to issue Threshold Determination.

- Provider shall electronically serve the Threshold Determination on all parties.

- If the Complainant has not satisfied the Threshold Review criteria, the Provider will dismiss the proceedings on the grounds that the Complainant lacks standing.

- If the Threshold Review Panel determines that the Complainant has standing and satisfied the criteria then the Provider to will commence the proceedings on the merits

10.   Response to the Complaint

- The registry operator will file a Response to each Complaint. The Response will be filed within ~~twenty (20) days of service the Complaint. Service will be deemed effective, and the time will start to run, upon confirmation that the electronic Complaint and the written notice was sent by the Provider to the last known address of the registry operator~~forty-five (45) days of after the date of the Threshold Review Panel Declaration.

- The Response will comply with the rules for filing of a Complaint and will contain the name and contact information for the registry operator, as well as a point--by--point response to the statements made in the Complaint.

- The Response should be filed with the Provider and the Provider should serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

- Service of the Response will be deemed effective, and the time will start to run for a Reply, upon confirmation that the electronic Response and hard-copy notice of the Response was sent by the Provider to the addresses provided by the Complainant.

- Along with the Response, the registry operator will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the Provider, the Response will be deemed improper and not considered in the proceedings.

- If the registry operator believes the Complaint is without merit, it will affirmatively plead in its Response the specific grounds for the claim.

11. Reply

- The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not "without merit." A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.

- Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

12. Default

- If the registry operator fails to respond to the Complaint, it will be deemed to be in default.

- Limited rights to set aside the finding of default will be established by the Provider, but in no event will they be permitted absent a showing of good cause to set aside the finding of default.

- The Provider shall provide notice of Default via email to the Complainant and registry operator.

- All Default cases shall proceed to Expert Determination on the merits.

14. Expert Panel

- Appropriately qualified panelist(s) will be selected and appointed to each proceeding by the designated Provider within (21) days after receiving the response and/or reply as applicable.

- The Provider will appoint ashall establish an Expert Panel, which shall consist of one Expert Panel member selected by the Provider, unless all parties agree that there should be any party requests a three Panelists. member Expert Panel.

- In the case where all Parties agree toeither party requests a three Panelists, member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection of those Panelists willshall be made pursuant to the Providers rules or procedures.

- Panelists must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing a panelist for lack of independence.

15. Costs

- The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider rules. Such costs will be estimated to cover the administrative fees of the Provider and for the Expert Panel, and are intended to be reasonable.

- The ComplaintComplainant shall be required to pay the filing fee as set forth above in the "Complaint" section, and shall be required to submit the full amount of the Provider estimated administrative fees and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant's share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator's share if the registry operator prevails.

- AfterIf the quick look examination and Panel declares the Complainant is deemed a trademark holder, to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred. Failure to do shall be required to pay 50%deemed a violation of the Trademark PDDRP and the Panel fees to cover the registry operator's share ofa breach of the Registry Agreement, subject to remedies available under the proceedings. To the extent the Complainant prevails,Agreement up to and including termination.

- If the Provider deems the registry operator will be required to payto be the prevailing party, the remaining 50% to the Provider to cover Complainant's share of the proceedings. Failure to pay that amountRegistry Operator shall be deemedentitled to a breachrefund of the registry agreementits filing fees.

- The Provider shall refund the full amount to the prevailing party, as determined by the Panel.

16.   Discovery

- Whether and to what extent discovery is allowed is at the discretion of the Panel, whether made on the Panel's own accord, or upon request from the Parties~~..~~.

- If permitted, discovery will be limited to that for which each Party has a substantial need.

- ~~Without a specific request from the Parties~~In extraordinary circumstances, the Provider may appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

- At the close of discovery, if permitted, the Parties will make a final evidentiary submission to the Expert Panel, the timing and sequence to be determined by the Provider in consultation with the Expert Panel.

17.   Hearings

- Disputes under this Procedure will be resolved without a hearing unless~~, in the discretion of the Panel, extraordinary circumstances require~~ either party requests a hearing~~.~~

- ~~The~~ or the Expert Panel ~~may decide~~determines on its own initiative~~, or at the request of a Party, to hold a hearing if, extraordinary circumstances exist. However, the presumption is~~ that ~~the Panel will render Determinations based on written submissions and without a hearing.~~ one is necessary.

- If a ~~request for a~~ hearing is ~~granted~~held, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the Parties cannot agree.

- Hearings should last no more than one day, except in the most extraordinary circumstances.

- ~~If the Expert grants one party's request for a hearing, notwithstanding the other party's opposition, the Expert is encouraged to apportion the hearing costs to the requesting party.~~

- All dispute resolution proceedings will be conducted in English.

18.   Burden of Proof

- The Complainant bears the burden of proving the allegations in the Complaint; the burden ~~should~~must be by clear and convincing evidence.

19.   Remedies

- Since registrants of domain names registered in violation of the agreement restriction are not a party to the action, a recommended remedy cannot take the form of deleting,

<u>transferring or suspending</u> registrations that were made in violation of the agreement restrictions.

- <u>Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 15.</u>

- The Panel ~~can~~<u>may</u> recommend a variety of graduated enforcement tools against the registry ~~if it~~<u>operator if it the Expert Panel</u> determines that the registry operator is ~~deemed to be~~ liable under this Trademark PDDRP, including:

  - Remedial measures for the registry to employ to ensure against allowing future infringing registrations, which may be in addition to what is required under the <u>registry agreement, except that the remedial measures shall not:</u>

  - ~~Monetary sanctions intended to equal the financial harm to the complainant;~~

    - <u>Require the Registry Operator to monitor registrations not related to the names at issue in the PDDRP proceeding; or</u>

    - <u>Direct actions by the registry operator that are contrary to those required under the Registry Agreement;</u>

  - Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) <u>identified in the Determination</u> is<u>(are)</u> cured or a set period of time; ~~or~~

    <u>OR</u>, in extraordinary circumstances <u>where the registry operator acted with malice</u>,

  - Providing for the termination of a Registry Agreement.

- In making its recommendation of the appropriate remedy, the <u>Expert</u> Panel will consider the ongoing harm to the Complainant.

- ~~While still under consideration, the~~<u>The Expert</u> Panel may also determine whether the Complaint was filed "without merit," and, if so, award the appropriate sanctions on a graduated scale, including:

  - Temporary bans from filing Complaints;

  - Imposition of costs of registry operator, including reasonable attorney fees;

  - ~~Penalty fees paid directly to Provider;~~

  - Permanent bans from filing Complaints after being banned temporarily.

20.   The Expert Panel Determination

- The Provider and the Expert Panel will make reasonable efforts to ensure that the PanelExpert Determination is renderedissued within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.

- The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for that Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

- The Expert Determination willmay further include a recommendation of specific remedies and state specifically when those remedies should take effect.. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert'sExpert Panel's Determination.

- The Expert Determination shall state which party is the prevailing party.

- While the Panel'sExpert Determination that a registry operator is liable under the standards of the Trademark PDDRP shall be considered, ICANN will review, approve and enforcehave the recommended authority to impose the remedies found in the Panel Determination, or as those remedies are amended by, if any, that ICANN deems appropriate given the circumstances of each matter.

- If ICANN decides to implement a remedy for violation of the Trademark PDDRP, ICANN will wait ten (10) business days (as observed in the location of its principal office) after notifying the registry operator of its decision. ICANN will then implement the decision unless it has received from the registry operator during that ten (10) business-day period official documentation that the registry operator has either: (a) commenced a lawsuit against the Complainant in a court of competent jurisdiction challenging the Expert Determination of liability against the registry operator, or (b) challenged the remedy by initiating dispute resolution under the provisions of its Registry Agreement. If ICANN receives such documentation within the ten (10) business day period, it will not seek to implement its decision under the Trademark PDDRP until it receives: (i) evidence of a resolution between the Complainant and the registry operator; (ii) evidence that registry operator's lawsuit against Complainant has been dismissed or withdrawn; or (iii) a copy of an order from the dispute resolution provider selected pursuant to the Registry Agreement dismissing the dispute against ICANN whether by reason of agreement of the parties or upon determination of the merits.

21.   Appeal of Expert Determination

- Either party shall have a right to seek a de novo appeal of the Expert Determination of liability based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal.

- The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The three-member Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.

- An appeal must be filed within 20 days after an Expert Determination is issued.

- The Providers rules and procedures for appeals shall apply.

22. **Challenge of a Remedy**

- The registry operator may challenge ICANN's imposition of a remedy imposed in furtherance of an Expert Determination that the registry operator is liable under the PDDRP, to the extent a challenge is warranted, by initiating dispute resolution under the provisions of its Registry Agreement.

23. **Availability of Court or Other Administrative Proceedings**

- The Trademark PDDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of ~~a~~an Expert Determination as to liability.

- In those cases where a Party provides the Provider with documented proof that a Court action was instituted prior to the filing date of the Complaint in the post-delegation dispute proceeding, the Provider ~~may~~shall suspend or terminate the post-delegation dispute resolution proceeding.

REGISTRY RESTRICTIONS DISPUTE RESOLUTION PROCEDURE (RRDRP)
REVISED - MAY 2010

INTRODUCTION

Since the early implementation stages of the new gTLD Program, implementation of a Registry Restrictions Dispute Resolution Procedure (RRDRP) has been discussed. The purpose of the RRDRP is handling complaints from a harmed organization or individual alleging that a community-based restricted gTLD registry operator was not meeting its obligations to police the registration and use of domains within the restrictions stated in the terms of the gTLD registry agreement. The need for such a procedure is based on the idea that it would not be fair to give a preference in the new gTLD Program allocation process to an applicant based on a commitment to restrict use of a TLD to a particular community, and then not require the applicant to keep its commitment." The improper acts of the registry operator might result in harm to the community or its member organizations or groups.

As stated in its 30 May 2009 Explanatory Memorandum introducing the RRDRP (http://www.icann.org/en/topics/new-gtlds/rrdrp-30may09-en.pdf), ICANN has generally avoided becoming directly involved in policing the use of domain names at the registrant level. This is appropriate in light of ICANN's mission (to coordinate the DNS "at the overall level") and in keeping with ICANN's core values (e.g., "[r]especting the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination.").

Instituting a RRDRP (an independent post-delegation review process) for deciding questions of compliance with community-based domain eligibility requirements and use restrictions would have the benefit of removing ICANN from particularized decisions on Internet content and the use of domains. In the absence of an RRDRP, ICANN would be called upon to expend significant resources on gray areas of eligibility and content restrictions. Such a procedure is not intended to replace ICANN's contractual compliance responsibilities. ICANN will continue to pursue its contractual compliance activities and enforcement for all of its contracted parties, scaling up with the introduction of new top-level domains. A robust RRDRP will, however, be an additional avenue for protecting the interests of legitimate and eligible registrants within community-based restricted TLDs who otherwise could see their interests in their registrations tarnished by registrations made in violation of the promised restrictions associated with the TLD. The procedure will also provide independent judgment when it is required.

An objection complaint-based RRDRP will also be advantageous since decisions on use and eligibility will be made only when there is a real party in interest that claims to be harmed through the operation of the registry. It will limit actions to instances where a party is claiming actual harm to the community because a registry operator is not complying with restrictions in the agreement. While there may be a concern that this will create a new class of potential claimants under a theory that they are third party beneficiaries to the registry agreement between ICANN and the registry operator, that is not the intent. Indeed, the Complainant shall not be allowed to claim to be the third-party beneficiary of the registry agreement, and ICANN will ensure that its registry agreements with registry operators do not expressly or tacitly make any person a third-party beneficiary.

Registry operators will be obliged, pursuant to the registry agreement, to accept the RRDRP. ICANN would not be a party to the proceedings.

Initial complaints by those claiming to be harmed by the non-compliance of community restricted TLDs might be processed through an online form similar to the Whois Data Problem Report System at InterNIC.net. A nominal processing fee could serve to decrease frivolous complaints. The registry operator would receive a copy of the complaint and would be required to take reasonable steps to investigate (and remedy if warranted) the reported non-compliance. Implementation of such an online complaint process is under investigation and consideration.

The Complainant would have the option, however, to escalate the complaint if the alleged non-compliance continues. If escalated, a neutral dispute resolution panel would issue a Determination as to whether the registration complained about was inappropriate given the registration restrictions under which the registry operator agreed to operate.

This Draft RRDRP incorporates revisions attempting to address concerns and suggestions that have been raised. In order to balance competing comments and efficiencies, however, not all suggested revisions have been, or could have been, adopted. In addition to the revisions below, please see the summary of comments and analysis in response to public comments made to the RRDRP proposal that was posted before the Nairobi International Public Meeting.

DRAFT PROCEDURE

1.   **Parties to the Dispute**

- The parties to the dispute will be the harmed organization or individual and the gTLD registry operator. ICANN shall not be a party.

2.   **Applicable Rules**

- This procedure is intended to cover these dispute resolution proceedings generally. To the extent more than one RRDRP provider (("Provider)") is selected to implement the RRDRP, each Provider may have additional rules and procedures that must be followed when filing a Complaint. The following are the general procedure to be followed by all Providers.

- In any new gTLD registry agreement, the registry operator shall be required to agree to participate in the RRDRP and be bound by the resulting Determinations.

3.   **Language**

- The language of all submissions and proceedings under the procedure will be English.

- Parties may submit supporting evidence in their original language, provided and subject to the authority of the RRDRP expert panelExpert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

4.   **Communications and Time Limits**

- All communications with the RRDRP providerProvider must be filed electronically.

- For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted.

- For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched.

- For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

- All references to day limits shall be considered as calendar days unless otherwise specified.

5. **Standing**

- The mandatory administrative proceeding will commence when a third-party complainant ("Complainant") has filed a Complaint with a ~~RRDRP provider~~Provider asserting that the ~~complainant~~Complainant is a harmed organization or individual as a result of the community-based gTLD registry operator not complying with the restrictions set out in the Registry Agreement.

- Established institutions, and individuals associated with defined communities, are eligible to file a community objection. The "defined community" must be a community related to the gTLD string in the application that is the subject of the ~~objection.~~dispute. To qualify for standing for a community claim, the ~~objector~~Complainant must prove both: it is an established institution or an individual, and ~~it~~ has an ongoing relationship with a defined community that consists of a restricted population that the gTLD supports.

~~**Standard**~~

- The Panel will determine standing and the Expert Determination will include a statement of the Complainant's standing.

6. **Standards**

- For an claim to be successful, the claims must prove that:

  o The community invoked by the objector is a defined community;

  o There is a strong association between the community invoked and the gTLD label or string;

  o The TLD operator violated the terms of the community-based restrictions in its agreement;

o   There is a measureable harm to the Complainant and the community named by the objector.

7.   Complaint

- **Filing:**

    The Complaint will be filed electronically. Once ~~reviewed for technical~~the Administrative Review has been completed and the Provider deems the Complaint to be in compliance, ~~it~~the Provider will ~~be served~~ electronically~~, with~~ serve the Complaint and serve a hard copy and fax notice~~, by the RRDRP provider~~ on the registry operator consistent with the contact information listed in the Registry Agreement.

- **Content:**

    - The name and contact information, including address, phone, and email address, of the Complainant, the registry operator and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

    - The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant~~.~~.

    - A statement of the nature of the dispute, which must include:

        - The particular restrictions in the Registry Agreement with which the registry operator is failing to comply; and

        - A detailed explanation of how the registry operator's failure to comply with the identified restrictions has caused harm to the complainant.

    - A statement that the proceedings are not being brought for any improper purpose.

- Complaints will be limited to 5,000 words ~~or~~and 20 pages~~, whichever is less~~, excluding attachments, unless the Provider determines that additional material is necessary.

- Any supporting documents should be filed with the Complaint.

- At the same time the Complaint is filed, the Complainant will pay a ~~non-refundable~~ filing fee in the amount set in accordance with the applicable ~~RRDRP provider~~Provider rules. In the event that the filing fee is not paid ~~within10~~within 10 days of the receipt of the Complaint by the ~~RRDRP~~Provider, the Complaint will be dismissed without prejudice to the Complainant to file another complaint.

8. **Administrative Review of the Complaint**

- All Complaints will be reviewed within five (5) business days of submission by panelists designated by the applicable ~~RRDRP provider~~Provider to determine whether the Complainant ~~has standing to request relief and~~ has complied with the procedural rules.

- If the ~~RRDRP provider~~Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue. If the ~~RRDRP provider~~Provider finds that the Complaint does not comply with procedural rules, the Complaint will be dismissed and the proceedings closed without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded if the Complaint is deemed not in compliance.

- If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve a paper notice on the registry operator that is the subject of the Complaint consistent with the contact information listed in the Registry Agreement.

9. **Response to the Complaint**

- The registry operator will file a response to each Complaint. The response will be filed within ~~twenty (20~~thirty (30) days of service the Complaint. Service will be deemed effective, and the time will start to run, upon ~~confirmation that the written materials sent by the Provider have been received at the last known address of~~electronic transmission of the Complaint to the registry operator.

- The Response will comply with the rules for filing of a Complaint and will contain the names and contact information for the registry operator, as well as a point by point response to the statements made in the Complaint~~, should be filed with the Provider and served upon the Complainant in paper and electronic form. The filing fee must accompany the filing or the allegations in the Complaint will be sustained~~.

- The Response should be electronically filed with the Provider and the Provider shall serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

- Service of the Response will be deemed effective, and the time will start to run for a Reply, upon electronic transmission of the Response.

- At the same time the Response is filed, the registry operator will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Response by the Provider, the Response will be deemed improper and not considered in the proceedings, but the matter will proceed to Determination.

10. **Default**

- If the registry operator fails to respond to the Complaint, it will be deemed to be in default~~..~~.

- Limited rights to set aside the finding of default will be established by the Provider, but in no event will it be permitted absent a showing of good cause to set aside the finding of ~~default~~Default.

- The Provider shall provide ~~notice~~Notice of Default via email to the Complainant and registry operator.

- All Default cases shall proceed to Determination on the merits.

11.   Expert Panel

- The Provider shall select and appoint a single-member Expert Panel within (21) days after receiving the ~~response~~Response.

- The Provider will appoint a one-person Expert Panel unless any party requests a three-member Expert Panel. In the case where either party requests a three-member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection shall be made pursuant to the Provider's rules or procedures.

- Experts must be independent of the parties to the post-delegation challenge. Each Provider (if more than one is selected) will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an Expert for lack of independence.

12.   Costs

- The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider Rules. Such costs will cover the administrative fees of the Provider and for the Expert Panel, and are intended to be reasonable.

- The Provider will estimate the costs for the proceeding and request that both the Complainant and the registry operator pay in advance the full amount of the costs. The filing fees will be credited toward the advance payment of costs.

- When the proceedings are terminated, the prevailing party will be refunded its advanced payment of costs.

13.   Discovery/Evidence

- In order to achieve the goal of resolving disputes rapidly and at a reasonable cost, discovery will generally not be permitted. In exceptional cases, the Expert Panel may require a party to provide additional evidence.

- If permitted, discovery will be limited to that for which each Party has a substantial need.

- Without a specific request from the Parties, the Expert Panel may request that the Provider ~~may~~ appoint ~~experts~~Experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

14.   Hearings

- Disputes under this RRDRP will usually be resolved without a hearing.

- The Expert Panel may decide on its own initiative, or at the request of a party, to hold a hearing. However, the presumption is that the Expert Panel will render Determinations based on written submissions and without a hearing.

- If a request for a hearing is granted, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the parties cannot agree.

- Hearings should last no more than one day, except in the most exceptional circumstances.

- If the Expert Panel grants one party's request for a hearing, notwithstanding the other party's opposition, the Expert Panel is encouraged to apportion the hearing costs to the requesting party as the Expert Panel deems appropriate.

- All dispute resolution proceedings will be conducted in English.

15.   Burden of Proof

- The Complainant bears the burden of proving its claim; the burden should be by a preponderance of the evidence.

16.   Remedies

- Since registrants of domain names registered in violation of the agreement restriction are not a party to the action, a recommended remedy cannot take the form of deleting, transferring or suspending registrations that were made in violation of the agreement restrictions.

- The Expert ~~will have at its disposal~~ Panel may recommend a variety of graduated enforcement tools ~~to recommend~~ against the registry operator if ~~it is deemed to have~~the Expert Panel determines that the registry operator allowed registrations outside the scope of its promised limitations, including:

  - Remedial measures, which may be in addition to requirements under the registry agreement, for the registry to employ to ensure against allowing future registrations that do not comply with community-based limitations; except that

> the remedial measures may not direct actions by the registry operator that are contrary to those required under the registry agreement

- Monetary sanctions;

- Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured; or a set period of time;

  OR, in extraordinary circumstances where the registry operator acted with malice;

- Providing for the termination of a registry agreement.

- In making its recommendation of the appropriate remedy, the ExpertsExpert Panel will consider the ongoing harm to the Complainant.

17.   The Expert Determination

- The Provider and the Expert Panel will make reasonable efforts to ensure that the Expert Determination is rendered within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.

- The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for its Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

- The Expert Determination willmay further include a recommendation of specific remedies and state specifically when those remedies should take effect.. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the Expert'sExpert Determination.

- While the Expert Determination that a community-based restricted gTLD registry operator was not meeting its obligations to police the registration and use of domains within the applicable restrictions shall be followed absent extraordinary circumstancesconsidered, ICANN will review, approve and enforceshall have the recommend authority to impose the remedies found in the Expert Determination, or as those remedies are amended by ICANN deems appropriate, given the circumstances of each matter.

18.   Availability of Court or Other Administrative Proceedings

- The RRDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law.

- The parties are encouraged, but not required to participate in informal negotiations and/or mediation at any time throughout the dispute resolution process but the conduct of any such settlement negotiation is not, standing alone, a reason to suspend any deadline under the proceedings.

ICANN

Draft Applicant Guidebook, v4

Module 6

Please note that 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.

31 May 2010

Module 6

Top-Level Domain Application –
Terms and Conditions

By submitting this application through ICANN's online interface for a generic Top Level Domain (gTLD) (this application), applicant (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on its behalf) agrees to the following terms and conditions (these terms and conditions) without modification. Applicant understands and agrees that these terms and conditions are binding on applicant and are a material part of this application.

1.   Applicant warrants that the statements and representations contained in the application (including any documents submitted and oral statements made and confirmed in writing in connection with the application) are true and accurate and complete in all material respects, and that ICANN may rely on those statements and representations fully in evaluating this application. Applicant acknowledges that any material misstatement or misrepresentation (or omission of material information) may cause ICANN and the evaluators to reject the application without a refund of any fees paid by Applicant. Applicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading.

2.   Applicant warrants that it has the requisite organizational power and authority to make this application on behalf of applicant, and is able to make all agreements, representations, waivers, and understandings stated in these terms and conditions and to enter into the form of registry agreement as posted with these terms and conditions.

3.   Applicant acknowledges and agrees that ICANN has the right to determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to review and consider an application to establish one or more gTLDs is entirely

at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.

4. Applicant agrees to pay all fees that are associated with this application. These fees include the evaluation fee (which is to be paid in conjunction with the submission of this application), and any fees associated with the progress of the application to the extended evaluation stages of the review and consideration process with respect to the application, including any and all fees as may be required in conjunction with the dispute resolution process as set forth in the application. Applicant acknowledges that the initial fee due upon submission of the application is only to obtain consideration of an application. ICANN makes no assurances that an application will be approved or will result in the delegation of a gTLD proposed in an application. Applicant acknowledges that if it fails to pay fees within the designated time period at any stage of the application review and consideration process, applicant will forfeit any fees paid up to that point and the application will be cancelled. Except as expressly provided in this Application Guidebook, ICANN is not obligated to reimburse an applicant for or to return any fees paid to ICANN in connection with the application process.

5. Applicant shall indemnify, defend, and hold harmless ICANN (including its affiliates, subsidiaries, directors, officers, employees, consultants, evaluators, and agents, collectively the ICANN Affiliated Parties) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including legal fees and expenses, arising out of or relating to: (a) ICANN's consideration of the application, and any approval or rejection of the application; and/or (b) ICANN's reliance on information provided by applicant in the application.

6. Applicant hereby releases ICANN and the ICANN Affiliated Parties from any and all claims by applicant that arise out of, are based upon, or are

in any way related to, any action, or failure to act, by ICANN or any ICANN Affiliated Party in connection with ICANN's review of this application, investigation or verification, any characterization or description of applicant or the information in this application, or the decision by ICANN to recommend, or not to recommend, the approval of applicant's gTLD application. APPLICANT AGREES NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION, AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED IN COURT OR ANY OTHER JUDICIAL FOR A ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES AND ACCEPTS THAT APPLICANT'S NONENTITLEMENT TO PURSUE ANY RIGHTS, REMEDIES, OR LEGAL CLAIMS AGAINST ICANN OR THE ICANN AFFILIATED PARTIES IN COURT OR ANY OTHER JUDICIAL FORA WITH RESPECT TO THE APPLICATION SHALL MEAN THAT APPLICANT WILL FOREGO ANY RECOVERY OF ANY APPLICATION FEES, MONIES INVESTED IN BUSINESS INFRASTRUCTURE OR OTHER STARTUP COSTS AND ANY AND ALL PROFITS THAT APPLICANT MAY EXPECT TO REALIZE FROM THE OPERATION OF A REGISTRY FOR THE TLD.

7.   Applicant hereby authorizes ICANN to publish on ICANN's website, and to disclose or publicize in any other manner, any materials submitted to, or obtained or generated by, ICANN and the ICANN Affiliated Parties in connection with the application, including evaluations, analyses and any other materials prepared in connection with the evaluation of the application; provided, however, that information will not be disclosed or published to the extent that this Applicant Guidebook expressly states that such information will be kept confidential, except as required by law or judicial process. Except for information afforded confidential treatment, applicant understands and acknowledges that ICANN does not and will not keep the remaining portion of the application or materials submitted with the application confidential.

8.   Applicant certifies that it has obtained permission for the posting of any personally identifying information included in this application or materials submitted with this application. Applicant acknowledges that the information that ICANN posts may remain in the public domain in perpetuity, at ICANN's discretion.

9.   Applicant gives ICANN permission to use applicant's name and/or logo in ICANN's public announcements (including informational web pages) relating to Applicant's application and any action taken by ICANN related thereto.

10.   Applicant understands and agrees that it will acquire rights in connection with a gTLD only in the event that it enters into a registry agreement with ICANN, and that applicant's rights in connection with such gTLD will be limited to those expressly stated in the registry agreement. In the event ICANN agrees to recommend the approval of the application for applicant's proposed gTLD, applicant agrees to enter into the registry agreement with ICANN in the form published in connection with the application materials. Applicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application.

11.   Applicant authorizes ICANN to:

   a.   Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;

   b.   Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession, provided, however, that ICANN will use reasonable efforts to ensure that such persons maintain the confidentiality of information in the application that this Applicant Guidebook expressly states will be kept confidential.

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12.   For the convenience of applicants around the world, the application materials published by ICANN in the English language have been translated into certain other languages frequently used around the world. Applicant recognizes that the English language version of the application materials (of which these terms and conditions is a part) is the version that binds the parties, that such translations are non-official interpretations and may not be relied upon as accurate in all respects, and that in the event of any conflict between the translated versions of the application materials and the English language version, the English language version controls.

Glossary

Terms Applicable to this Guidebook and to the New gTLD Application Process

A-Label	The ASCII form of an IDN label. All operations defined in the DNS use A-labels exclusively.
Applicant	An entity that has applied to ICANN for a new gTLD by submitting its application form through the online application system.
Application	An application for a new gTLD lodged in connection with the terms and conditions of this guidebook. An application includes the completed Application Form, any supporting documents, and any other information that may be submitted by the applicant at ICANN's request.
Application form	The set of questions to which applicants provide responses, included in draft form as an attachment to Module 2.
Application interface	The web-based interface operated by ICANN, available at [URL to be inserted in final version of guidebook]
Application round	The complete succession of stages for processing the applications received during one application submission period for gTLDs. The terms and conditions of this guidebook are for one application round. Any subsequent application rounds will be the subject of updated guidebook information.
Application submission period	The period during which applicants may submit applications through the application interface.
Applied-for gTLD string	A gTLD string that is subject of an application.
American Standard Code for Information Interchange (ASCII)	A character encoding based on the English alphabet. ~~ASCII codes represent text in computers, communications equipment, and other devices that work with text. Most modern character encodings—which support many more characters than did the~~

original—have a historical basis in ASCII.

Auction	A method for allocating property or goods to the highest bidder.
Auction round	Within an auction, the period of time commencing with the announcement of a start-of-round price and concluding with the announcement of an end-of-round price.
AXFR	Asynchronous full transfer, a DNS protocol mechanism through which a DNS zone can be replicated to a remote DNS server.
Bidder	An applicant who participates in an auction.
Business ID	A number such as a federal tax ID number or employer information number.
ccTLD	Two letterA class of top-level domains corresponding withdomain only assignable to represent countries and territories listed in the ISO 3166-1 country code list.standard. See http://iana.org/domains/root/db/.
Community-based TLD	A community-based gTLD is a gTLD that is operated for the benefit of a clearly delineated community. An applicant designating its application as community-based must be prepared to substantiate its status as representative of the community it names in the application.
Community objection	An objection based on the grounds that there is substantial opposition to a gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.
Community Priority (comparative) evaluation	A process to resolve string contention, which may be elected by a community-based applicant.
Consensus policy	A policy created through the GNSO policy development process listed in Annex A of the ICANN Bylaws. See http://www.icann.org/en/general/bylaws.htm#AnnexA. A list of current consensus policies is available at http://www.icann.org/en/general/consensus-policies.htm.

Contention sets	A group of applications containing identical or similar applied-for gTLD strings.
Country-code TLD	See ccTLD.
Delegation	The process through which the root zone is edited to include a new TLD, and the management of domain name registrations under such TLD is turned over to the registry operator.
Digit	Any digit between "0" and "9" (Unicode code points U+0030 to U+0039).
Dispute Resolution Service Provider (DRSP)	An entity engaged by ICANN to adjudicate dispute resolution proceedings in response to formally filed objections.
Domain name	A name consisting of two or more (for example, john.smith.name) levels, maintained in a registry database.
Domain Name System (DNS)	~~The Internet Domain Name System. The DNS helps users find their way around the Internet. Every computer on the Internet has a unique address—just like a telephone number—which is a rather complicated string of numbers. Called an IP address (IP stand for Internet Protocol), the string of numbers is hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the domain name) to be used instead of the arcane IP address. So instead of typing 207.151.159.3, a user can type www.internic.net. It is a mnemonic device that makes addresses easier to remember.~~ <u>The global hierarchical system of domain names.</u>
Domain Name System Security Extensions (DNSSEC)	DNSSEC secures domain name lookups on the Internet by incorporating a chain of digital signatures into the DNS hierarchy.
<u>EPP</u>	<u>See Extensible Provisioning Protocol.</u>
Existing TLD	A string included on the list at http://iana.org/domains/root/db.
Extended Evaluation	The second stage of evaluation applicable for applications that do not pass ~~the~~ Initial Evaluation, but

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are eligible for further review.

Extended Evaluation period	The period that may follow the Initial Evaluation period, for eligible applications which do not pass the Initial Evaluation.
Extensible Provisioning Protocol	A protocol used for electronic communication between a registrar and a registry for provisioning domain names.
Evaluator	The individuals or organization(s) appointed by ICANN to perform review tasks within Initial Evaluation and , Extended Evaluation, and Community Priority under ICANN direction.
Evaluation fee	The fee due from each applicant to obtain consideration of its application. The evaluation fee consists of a deposit and final payment per application. A deposit allows the applicant access to the secure online application system.
Geographic Names Panel (GNP)	A panel of experts charged by ICANN with reviewing applied-for TLD strings that relate to geographical names.
Generic Names Supporting Organization (GNSO)	ICANN's policy-development body for generic TLDs and the lead in developing the policy recommendations for the introduction of new gTLDs.
Generic top-level domain	See gTLD.
Glue record	An explicit notation of the IP address of a name server, placed in a zone outside of the zone that would ordinarily contain that information.
gTLD	A TLD with three or more characters that does not correspond to any country code.
Hyphen	The hyphen "-" (Unicode code point U+0029).
Internet Assigned Numbers Authority (IANA)	IANA is the authority originally responsible for overseeing IP address allocation, coordinating the assignment of protocol parameters provided for in Internet technical standards, and managing the DNS, including delegating top-level domains and overseeing the root name server system. Under ICANN, IANA distributes addresses to the Regional Internet Registries, coordinate with the IETF and other technical bodies to assign protocol parameters,

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and oversees DNS operation.

ICANN	Internet Corporation for Assigned Names and Numbers
ICANN-accredited registrar	~~A company that registers domain names for Internet users. There are more than 900 ICANN-accredited registrars who provide domains to Internet users. The list of ICANN-accredited registrars is available at http://www.icann.org/en/registrars/accredited-list.html.~~ An entity that has entered into a Registrar Accreditation Agreement with ICANN. The registrar has access to make changes to the registry by adding, deleting, or updating domain name records.
Internationalized Domain Name (IDN)	A domain name including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-).
Internationalizing Domain Names in Applications (IDNA)	The technical protocol used for processing domain names containing non-ASCII characters in the DNS.
IDN ccTLD Fast Track	The process for introducing a limited number of IDN ccTLDs associated with the ISO-3166 two-letter codes. See http://www.icann.org/en/topics/idn/fast-track/.
IDN table	A table listing all those characters that a particular TLD registry supports. If some of these characters are considered ~~variants~~variant characters, this is indicated next to those characters. The IDN tables usually hold characters representing a specific language, or they can be characters from a specific script. Therefore the IDN table is sometimes referred to as "language variant table", "language table", "script table" or something similar.
IGO	Inter-governmental organization.
Internet Engineering Task Force (IETF)	The IETF is a large, open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet.
Initial Evaluation period	The period during which ICANN will review an applied-for gTLD string, an applicant's technical and financial

	capabilities, and an applicant's proposed registry services.
International Phonetic Alphabet	A notational standard for phonetic representation in multiple languages. See http://www.langsci.ucl.ac.uk/ipa/.
IP address	A unique identifier for a device on the Internet, used to accurately route traffic to that device.
IPv4	Internet Protocol version 4. Refers to the version of the Internet protocol that supports 32-bit IP addresses.
IPv6	Internet Protocol version 6. Refers to the version of the Internet protocol that supports 128-bit IP addresses.
IXFR	Incremental Zone Transfer, a DNS protocol mechanism through which a partial copy of a DNS zone can be replicated to a remote DNS server.
LDH (Letter Digit Hyphen)	The hostname convention defined in RFC 952, as modified by RFC 1123.
Legal Rights objection	An objection on the grounds that the applied-for gTLD string infringes existing legal rights of the objector.
Letter	Any character between "a" and "z" (in either case) (Unicode code points U+0061 to U+007A or U+0041 to U+005A).
LLC	Limited liability corporation.
Morality and public order objection	An objection made on the grounds that the applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under international principles of law.
NS record	A type of record in a DNS zone that signifies that part of that zone is delegated to a different set of authoritative name servers.
Objection	A formal objection filed with a Dispute Resolution Service Provider in accordance with that provider's procedures.
Objection filing period	The period during which formal objections may be filed concerning a gTLD application submitted to ICANN.

Objector	One or more persons or entities that have filed a formal objection against a new gTLD application with the appropriate DRSP.
Pre-delegation test	A technical test required of applicants before delegation of the applied-for gTLD string into the root zone.
Primary contact	The person named by the applicant as the main contact for the application, and having authority to execute decisions concerning the application.
Principal place of business	The location of the head office of a business or organization.
<u>Registrant</u>	<u>An entity that has registered a domain name.</u>
Registrar	See ICANN-accredited registrar.
Registry	~~A registry is the~~<u>The</u> authoritative, master database of all domain names registered in each top-level domain. The registry operator keeps the master database and also generates the zone file that allows computers to route Internet traffic to and from top-level domains anywhere in the world.
Registry Agreement	The agreement executed between ICANN and successful gTLD applicants, which appears in draft form as an attachment to Module 5.
Registry operator	The entity entering into the Registry Agreement with ICANN, responsible for setting up and maintaining the operation of the registry.
Registry services	(1) Operations of the registry critical to the following tasks: (i) the receipt of data from registrars concerning registrations of domain names and name servers; (ii) provision to registrars of status information relating to the zone servers for the TLD; (iii) dissemination of TLD zone files; (iv) operation of the registry zone servers; and (v) dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement; and (2) other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and (3) any other products or services that only a registry operator is capable of providing, by reason of its

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designation as the registry operator.

Registry Services Technical Evaluation Panel (RSTEP)	The Registry Services Technical Evaluation Panel is a group of experts in the design, management, and implementation of the complex systems and standards-protocols used in the Internet infrastructure and DNS. RSTEP members are selected by its chair. All RSTEP members and the chair have executed an agreement requiring that they consider the issues before the panel neutrally and according to the definitions of security and stability.
Reserved Name	A string included on the Top-Level Reserved Names List (Refer to subsection 2.1.1.2 of Module 2.)
Request for Comments (RFC)	The RFC document series is the official publication channel for Internet standards documents and other publications of the IESG, IAB, and Internet community.
Rightsholder	The person or entity that maintains a set of rights to a certain piece of property.
Root Zone	The root zone database represents the delegation details of top-level domains, including gTLDs and country-code TLDs. As manager of the DNS root zone, IANA is responsible for coordinating these delegations in accordance with its policies and procedures.
Round	See application round.
Script	A collection of symbols used for writing a language. There are three basic kinds of script. One is the alphabetic (e.g. Arabic, Cyrillic, Latin), with individual elements termed "letters". A second is ideographic (e.g. Chinese), the elements of which are "ideographs". The third is termed a syllabary (e.g. Hangul), with its individual elements represent syllables. The writing systems of most languages use only one script but there are exceptions such as for example, Japanese, which uses four different scripts, representing all three of the categories listed here.
	It is important to note that scripts which do not appear in the Unicode Code Chart are completely unavailable for inclusion in IDNs.
Second level name	A domain name that has been registered in a given top-

level domain. For example, <icann.org> is a second-level name. "ICANN" is the second-level label.

Security	In relation to a proposed registry service, an effect on security by the proposed Registry Service means (1) unauthorized disclosure, alteration, insertion, or destruction of registry data, or (2) unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.
Shared Registry System (SRS)	A system that allows multiple registrars to make changes to a registry simultaneously.
Slot request	A step within the application submission period in which the applicant requests slots in the online application system. One slot is designated per application.
Stability	In relation to a proposed registry service, an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF; or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.
Standard application	An application that has not been designated by the applicant as community-based.
String	The string of characters comprising an applied-for gTLD.
String confusion objection	An objection filed on the grounds that the applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD.
String Similarity Algorithm	An algorithmic tool used to identify applied-for gTLD strings that may result in string confusion.

String Similarity Panel	A panel charged with identifying applied-for gTLD strings that may result in string confusion.
String contention	The scenario in which there is more than one qualified applicant for the same gTLD or for gTLDs that are so similar that detrimental user confusion would be the probable result if more than one were to be delegated to the root zone.
TLD Application System (TAS)	The online interface for submission of applications to ICANN.
Top-level domain (TLD)	TLDs are the names at the top of the DNS naming hierarchy. They appear in domain names as the string of letters following the last (right-most) dot, such as "net" in www.example.net. The TLD administrator controls what second-level names are recognized in that TLD. The administrators of the root domain or root zone control what TLDs are recognized by the DNS.
U-Label	The Unicode form of an IDN label, i.e., the string which a user expects to ~~be~~see displayed in applications.
Unicode	~~Unicode is a commonly used single encoding scheme that provides a unique number for each character across a wide variety of languages and scripts.~~ A standard describing a repertoire of characters used to represent most of the world's languages in written form.
	The Unicode standard contains tables that list the "code points" (unique numbers) for each local character identified. ~~These tables continue to expand as more and more characters are digitalized~~ The collection of scripts used to do this is maintained by the Unicode Consortium.
	~~In Unicode, characters are assigned codes that uniquely define every character in many of the scripts in the world. These "code points" are unique numbers for a character or some character aspect such as an accent mark or ligature.~~ Unicode supports more than a million code points, which are written with a "U" followed by a plus sign and the unique number in hexadecimal notation; for example, the word "Hello" is written U+0048 U+0065 U+006C U+006C U+006F.
Uniform Domain Name Dispute Resolution Policy	A policy for resolving disputes arising from alleged abusive registrations of domain names (for example,

(UDRP)	cybersquatting), allowing expedited administrative proceedings that a trademark rights holder initiates by filing a complaint with an approved dispute resolution service provider.
~~User registration fee~~Variant characters	~~The fee paid by prospective applicants for new TLDs to obtain access to the TLD Application System (TAS).~~ Variant characters occur where a single conceptual character has two or more graphic representations, which may or may not be visually similar.
Whois	Records containing registration information about registered domain names.

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE (TRADEMARK PDDRP)
REVISED – MAY 2010

INTRODUCTION

Several community participants, including the Implementation Recommendation Team (IRT) and the World Intellectual Property Organization (WIPO) suggested that one of the rights protection mechanisms (RPM) for trademark holders should be a trademark post-delegation dispute resolution procedure (Trademark PDDRP). Various recommendations as to how such a process would be implemented have been discussed and analyzed. One point that seems to be generally accepted, is that such a procedure should only afford trademark holders the right to proceed against registry operators who have acted in bad faith, with the intent to profit from the systemic registration of infringing domain names (or systemic cybersquatting) or who have otherwise set out to use the gTLD for an improper purpose. The procedure is not intended to hold liable a registry operator that simply happens to have or knows of infringing domain names within its gTLD. Affirmative conduct is required.

It must be ensured that a post-delegation procedure challenging registry operator conduct does not confer third-party beneficiary rights upon non-signatories to the Registry Agreement. Further, questions have arisen as to the rights of bona fide registrants and registrars who are not a party to the post-delegation dispute resolution proceedings. Such concerns are understood and can be addressed through remedies for violations of trademark rights at the top level and at the second level.

It is important to note that this Trademark PDDRP is not intended to replace ICANN's contractual compliance responsibilities. ICANN will continue to pursue its contractual compliance activities and enforcement for all of its contracted parties. This Trademark PDDRP is meant to enhance such activities and provide ICANN with independent judgment it disputes between two parties as required.

At the top level, the rights of a trademark holder to proceed against a gTLD operator for trademark infringement exist separate and apart from any contract between ICANN and a registry operator. The Trademark PDDRP simply provides en efficient avenue in which to pursue rights that already exist.

Since the Nairobi meeting ICANN has held an open public participation process to discuss potential revisions to the PDDRP. The consultation has included a face-to-face meeting, two telephonic conferences and a robust exchange of ideas and suggestions via email. With suggestions from a variety of community representatives, this public participation process has been extremely productive. The results can be seen in the significant revisions to this version of the PDDRP. Although a great majority of suggestions have been adopted, albeit some in slightly revised form, not all suggested revisions have or could have been included in that some were directly at odds with each other or not implementable.

ICANN thanks all who have been instrumental in helping this public consultation process work.

DRAFT PROCEDURE

1. **Parties to the Dispute**

- The parties to the dispute will be the trademark holder and the gTLD registry operator. ~~(Although there has been some suggestion that prior to commencing such a procedure, that ICANN first be notified and asked to investigate, from a practical standpoint, it does not make sense to add this layer to the procedure. It would unnecessarily slow the process.)~~ ICANN shall not be a party.

2. **Applicable Rules**

- This procedure is intended to cover Trademark post-delegation dispute resolution proceedings generally. To the extent more than one Trademark PDDRP provider (("Provider)") is selected to implement the Trademark PDDRP, each Provider may have additional rules that must be followed when filing a Complaint. The following are general procedures to be followed by all Providers.

- In the Registry Agreement, the registry operator agrees to participate in all post-delegation procedures and be bound by the resulting Determinations.

3. **Language**

- The language of all submissions and proceedings under the procedure will be English.

- Parties may submit supporting evidence in their original language, provided and subject to the authority of the ~~panel~~Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

4. **Communications and Time Limits**

- All communications with the Provider must be submitted electronically.

- For the purpose of determining the date of commencement of a time limit, a notice or other communication will be deemed to have been received on the day that it is transmitted to the appropriate contact person designated by the parties.

- For the purpose of determining compliance with a time limit, a notice or other communication will be deemed to have been sent, made or transmitted on the day that it is dispatched~~.~~ (e.g., time stamped email or fax, postmark).

- For the purpose of calculating a period of time under this procedure, such period will begin to run on the day following the date of receipt of a notice or other communication.

- All references to day limits shall be considered as calendar days unless otherwise specified.

5.   **Standing**

- The mandatory administrative proceeding will commence when a third-party complainant ("Complainant") has filed a Complaint with a Provider asserting that the Complainant is a trademark holder (which may include either registered or unregistered marks as defined below) claiming ~~to~~ that one or more of its marks have been ~~injured~~infringed, and thereby the Complainant has been harmed, by the registry operator's manner of operation or use of the gTLD.

   Before proceeding to the merits of a dispute, and before the Respondent is required to submit a substantive Response, or pay any fees, the Provider shall appoint a special one-person Panel to perform an initial "threshold" review ("Threshold Review Panel").

- ~~The Provider shall perform an initial "quick look" review to ascertain, before a Response is due, that the Complainant is in fact a trademark holder. (Explanatory Note: This quick look process, inserted in response to public comment as a measure to screen out frivolous Complaints, is still under development.)~~

- ~~If the Provider finds that the Complainant is not a trademark holder, the Provider will end the proceedings on the grounds that the Complainant lacks standing.~~

6.   **Standards**[1]

~~(Explanatory Note: Parties have suggested that registry operators be held liable for infringing conduct within their registry both at the top level and the second level. Contemplation of holding registry operators accountable for registrations in its gTLD has resulted in a number of comments regarding the standard to be applied to the registry operator, whether intervention rights should be permitted, and whether the net result of extension to the second level has a *de facto* effect of requiring registries to police all domain names and content of websites for trademark infringement. The standards below take into account the various and often competing comments and suggestions.)~~

- **Top Level**:

A complainant must assert and prove, by clear and convincing evidence, that

> *the registry operator's affirmative conduct in its operation or use of its gTLD string that is identical or confusingly similar to the complainant's mark, causes or materially contributes to the gTLD doing one of the following:*
>
> > *(a) taking unfair advantage of the distinctive character or the reputation of the complainant's mark; or*
> >
> > *(b) unjustifiably impairing the distinctive character or the reputation of the complainant's mark; or*

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[1] ~~This section was moved to this placement and slightly reformatted. Only the parts that have been revised, and not those that have been reformatted, are reflected in redline.~~

(c) creating an impermissible likelihood of confusion with the complainant's mark.

An example of infringement at the top-level is where a TLD string is identical to a trademark and then~~, contrary to declared intentions not to infringe the rights of the mark holder,~~ the registry operator holds itself out as the beneficiary of the mark.

- **Second Level**

Complainants are required to prove, by clear and convincing evidence that, through the registry operator's affirmative conduct:

> *(a) there is a substantial pattern or practice of specific bad faith intent by the registry operator to profit from the sale of trademark infringing domain names; and*
>
> *(b) the registry operator's bad faith intent to profit from the systematic registration of domain names within the gTLD that are identical or confusingly similar to the complainant's mark, which:*
>
> > *(i) takes unfair advantage of the distinctive character or the reputation of the complainant's mark; or*
> >
> > *(ii) unjustifiably impairs the distinctive character or the reputation of the complainant's mark, or*
> >
> > *(iii) creates an impermissible likelihood of confusion with the complainant's mark.*

In other words, it ~~would~~is not ~~be enough~~sufficient to show that the registry operator ~~was~~is on notice of possible trademark infringement through registrations in the gTLD.~~–~~ The registry operator is not liable under the PDDRP solely because: (i) infringing names are in its registry; or (ii) the registry operator knows that infringing names are in its registry; or (iii) the registry operator did not monitor the registrations within its registry.

A registry operator is not liable under the PDDRP for any domain name registration that: (i) is registered by a person or entity that is unaffiliated with the registry operator; (ii) is registered without the direct or indirect encouragement, inducement, initiation or direction of any person or entity affiliated with the registry operator; and (iii) provides no direct or indirect benefit to the registry operator other than the typical registration fee.

An example of infringement at the second level is where a registry operator has a pattern or practice of actively and systematically encouraging registrants to register second level domain names and to take unfair advantage of the trademark to the extent and degree that bad faith is apparent. Another example of infringement at the second level is where a registry operator has a pattern or practice of acting as the registrant or beneficial user of infringing registrations, to monetize and profit in bad faith.

7. **Complaint**

- **Filing:**

   The Complaint will be filed electronically. Once reviewed for technicalthe Administrative Review has been completed and the Provider deems the Complaint be in compliance, the Provider will electronically serve the Complaint and serve a paper notice on the registry operator that is the subject of the Complaint ("Notice of Complaint") consistent with the contact information listed in the Registry Agreement.

- **Content:**

   - The name and contact information, including address, phone, and email address, of the Complainant, and, to the best of Complainant's knowledge, the name and address of the current owner of the registration.

   - The name and contact information, including address, phone, and email address of any person authorized to act on behalf of Complainant.

   - A statement of the nature of the dispute, which should include:

      - The particular legal rights claim being asserted, the marks that form the basis for the dispute and a short and plain statement of the basis upon which the Complaint is being filed.

      - A detailed explanation of how the Complainant's claim meets the requirements for filing a claim pursuant to that particular ground or standard.

      - A detailed explanation of the validity of the Complaint and why the Complainant is entitled to relief.

      - A statement that the Complainant has at least 30 days prior to filing the Complaint notified the registry operator in writing of: (i) its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks and (ii) it willingness to meet to resolve the issue.

      - An explanation of how the mark is used by the Complainant (including the type of goods/services, period and territory of use – including all on-line usage) or otherwise protected by statute, treaty or has been validated by a court or the Clearinghouse.

- 5 -

- Copies of any documents that the Complainant considers to evidence its basis for relief, including web sites and domain name registrations.

- A statement that the proceedings are not being brought for any improper purpose.

- Complaints will be limited ~~to~~ 5,000 words ~~or~~and 20 pages~~, whichever is less~~, excluding attachments, unless the Provider determines that additional material is necessary.

- At the same time the Complaint is filed, the Complainant will pay a non-refundable filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within 10 days of the receipt of the Complaint by the Provider, the Complaint will be dismissed without prejudice.

8. **Administrative Review of the Complaint**

- All Complaints will be reviewed by the Provider within five (5) business days of submission to the Provider to determine whether the Complaint contains all necessary information and complies with the procedural rules.

- If the Provider finds that the Complaint complies with procedural rules, the Complaint will be deemed filed, and the proceedings will continue~~.~~ to the Threshold Review. If the Provider finds that the Complaint does not comply with procedural rules, it will dismiss the Complaint and close the proceedings without prejudice to the Complainant's submission of a new Complaint that complies with procedural rules. Filing fees will not be refunded.

- If deemed compliant, the Provider will electronically serve the Complaint on the registry operator and serve the Notice of Complaint consistent with the contact information listed in the Registry Agreement.

9. **Threshold Review**

- Provider shall establish a Threshold Review Panel for each proceeding within five (5) business days after completion of Administrative Review and the Complaint has been deemed compliant with procedural rules.

- The Threshold Review Panel shall be tasked with determining whether the Complainant satisfies the following criteria:

  1. The Complainant is a holder of a mark: (i) issued by a jurisdiction that conducts a substantive examination of trademark applications prior to registration; or (ii) that has been court- or Trademark Clearinghouse-validated; or (iii) that is protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008;

  2. The Complainant has asserted that it has been materially harmed as a result of trademark infringement;

3.   The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Top Level Standards herein
OR
The Complainant has asserted facts with sufficient specificity that, if everything the Complainant asserted is true, states a claim under the Second Level Standards herein;

4.   The Complainant has asserted that: (i) at least 30 days prior to filing the Complaint the Complainant notified the registry operator in writing of its specific concerns and specific conduct it believes is resulting in infringement of Complainant's trademarks, and it willingness to meet to resolve the issue; (ii) whether the registry operator responded to the Complainant's notice of specific concerns; and (iii) if the registry operator did respond, that the Complainant attempted to engage in good faith discussions to resolve the issue prior to initiating the PDDRP.

- Within ten (10) business days of date Provider served Notice of Complaint, the registry operator shall have the opportunity, but is not required, to submit papers to support its position as to the Complainant's standing at the Threshold Review stage. If the registry operator chooses to file such papers, it must pay a filing fee.

- If the registry operator submits papers, the Complainant shall have ten (10) business days to submit an opposition.

- The Threshold Review Panel shall have ten (10) business days from due date of Complainant's opposition or the due date of the registry operator's papers if none were filed, to issue Threshold Determination.

- Provider shall electronically serve the Threshold Determination on all parties.

- If the Complainant has not satisfied the Threshold Review criteria, the Provider will dismiss the proceedings on the grounds that the Complainant lacks standing.

- If the Threshold Review Panel determines that the Complainant has standing and satisfied the criteria then the Provider to will commence the proceedings on the merits

10.   Response to the Complaint

- The registry operator will file a Response to each Complaint. The Response will be filed within ~~twenty (20) days of service the Complaint. Service will be deemed effective, and the time will start to run, upon confirmation that the electronic Complaint and the written notice was sent by the Provider to the last known address of the registry operator~~forty-five (45) days of after the date of the Threshold Review Panel Declaration.

- The Response will comply with the rules for filing of a Complaint and will contain the name and contact information for the registry operator, as well as a point-by-point response to the statements made in the Complaint.

- The Response should be filed with the Provider and the Provider should serve it upon the Complainant in electronic form with a hard-copy notice that it has been served.

- Service of the Response will be deemed effective, and the time will start to run for a Reply, upon confirmation that the electronic Response and hard-copy notice of the Response was sent by the Provider to the addresses provided by the Complainant.

- Along with the Response, the registry operator will pay a filing fee in the amount set in accordance with the applicable Provider rules. In the event that the filing fee is not paid within ten (10) days of the receipt of the Response by the Provider, the Response will be deemed improper and not considered in the proceedings.

- If the registry operator believes the Complaint is without merit, it will affirmatively plead in its Response the specific grounds for the claim.

11.   Reply

- The Complainant is permitted ten (10) days from Service of the Response to submit a Reply addressing the statements made in the Response showing why the Complaint is not "without merit." A Reply may not introduce new facts or evidence into the record, but shall only be used to address statements made in the Response. Any new facts or evidence introduced in a Response shall be disregarded by the Expert Panel.

- Once the Complaint, Response and Reply (as necessary) are filed and served, a Panel will be appointed and provided with all submissions.

12.   Default

- If the registry operator fails to respond to the Complaint, it will be deemed to be in default.

- Limited rights to set aside the finding of default will be established by the Provider, but in no event will they be permitted absent a showing of good cause to set aside the finding of default.

- The Provider shall provide notice of Default via email to the Complainant and registry operator.

- All Default cases shall proceed to Expert Determination on the merits.

14.   Expert Panel

- Appropriately qualified panelist(s) will be selected and appointed to each proceeding by the designated Provider within (21) days after receiving the response and/or reply as applicable.

- The Provider ~~will appoint a~~shall establish an Expert Panel, which shall consist of one Expert Panel member selected by the Provider, unless ~~all parties agree that there should be~~ any party requests a three ~~Panelists.~~ member Expert Panel.

- In the case where ~~all Parties agree to~~either party requests a three ~~Panelists,~~ member Expert Panel, each party (or each side of the dispute if a matter has been consolidated) shall select an Expert and the two selected Experts shall select the third Expert Panel member. Such selection ~~of those Panelists will~~shall be made pursuant to the Providers rules or procedures.

- Panelists must be independent of the parties to the post-delegation challenge. Each Provider will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing a panelist for lack of independence.

15. Costs

- The Provider will estimate the costs for the proceedings that it administers under this procedure in accordance with the applicable Provider rules. Such costs will be estimated to cover the administrative fees of the Provider and for the Expert Panel, and are intended to be reasonable.

- The ~~Complaint~~Complainant shall be required to pay the filing fee as set forth above in the "Complaint" section, and shall be required to submit the full amount of the Provider estimated administrative fees and the Expert Panel fees at the outset of the proceedings. Fifty percent of that full amount shall be in cash (or cash equivalent) to cover the Complainant's share of the proceedings and the other 50% shall be in either cash (or cash equivalent), or in bond, to cover the registry operator's share if the registry operator prevails.

- ~~After~~If the ~~quick look examination and~~ Panel declares the Complainant ~~is deemed a trademark holder,~~ to be the prevailing party, the registry operator is required to reimburse Complainant for all Panel and Provider fees incurred. Failure to do ~~required to pay 50%~~shall be deemed a violation ~~and the Panel fees to cover the registry operator's share of~~ of the Trademark PDDRP and ~~the Panel fees to cover the registry operator's share of~~a breach of the Registry Agreement, subject to remedies available under the ~~proceedings. To the extent the Complainant prevails,~~Agreement up to and including termination.

- If the Provider deems the registry operator ~~will be required to pay~~to be the prevailing party, the ~~remaining 50% to the Provider to cover Complainant's share of the proceedings. Failure to pay that amount~~Registry Operator shall be ~~deemed~~entitled to a ~~breach~~refund of ~~the registry agreement~~its filing fees.

- ~~The Provider shall refund the full amount to the prevailing party, as determined by the Panel.~~

16.   **Discovery**

- Whether and to what extent discovery is allowed is at the discretion of the Panel, whether made on the Panel's own accord, or upon request from the Parties~~..~~.

- If permitted, discovery will be limited to that for which each Party has a substantial need.

- ~~Without a specific request from the Parties~~In extraordinary circumstances, the Provider may appoint experts to be paid for by the Parties, request live or written witness testimony, or request limited exchange of documents.

- At the close of discovery, if permitted, the Parties will make a final evidentiary submission to the Expert Panel, the timing and sequence to be determined by the Provider in consultation with the Expert Panel.

17.   **Hearings**

- Disputes under this Procedure will be resolved without a hearing unless~~, in the discretion of the Panel, extraordinary circumstances require~~ either party requests a hearing~~.~~

- ~~The~~ or the Expert Panel ~~may decide~~determines on its own initiative~~, or at the request of a Party, to hold a hearing if, extraordinary circumstances exist. However, the presumption is~~ that ~~the Panel will render Determinations based on written submissions and without a hearing.~~ one is necessary.

- If a ~~request for a~~ hearing is ~~granted~~held, videoconferences or teleconferences should be used if at all possible. If not possible, then the Expert Panel will select a place for hearing if the Parties cannot agree.

- Hearings should last no more than one day, except in the most extraordinary circumstances.

- ~~If the Expert grants one party's request for a hearing, notwithstanding the other party's opposition, the Expert is encouraged to apportion the hearing costs to the requesting party.~~

- All dispute resolution proceedings will be conducted in English.

18.   **Burden of Proof**

- The Complainant bears the burden of proving the allegations in the Complaint; the burden ~~should~~must be by clear and convincing evidence.

19.   **Remedies**

- Since registrants of domain names registered in violation of the agreement restriction are not a party to the action, a recommended remedy cannot take the form of deleting,

transferring or suspending registrations that were made in violation of the agreement restrictions.

- Recommended remedies will not include monetary damages or sanctions to be paid to any party other than fees awarded pursuant to section 15.

- The Panel ~~can~~may recommend a variety of graduated enforcement tools against the registry ~~if it~~operator if it the Expert Panel determines that the registry operator is ~~deemed to be~~ liable under this Trademark PDDRP, including:

  - Remedial measures for the registry to employ to ensure against allowing future infringing registrations, which may be in addition to what is required under the registry agreement, except that the remedial measures shall not:

  - ~~Monetary sanctions intended to equal the financial harm to the complainant;~~

    - Require the Registry Operator to monitor registrations not related to the names at issue in the PDDRP proceeding; or

    - Direct actions by the registry operator that are contrary to those required under the Registry Agreement;

  - Suspension of accepting new domain name registrations in the gTLD until such time as the violation(s) identified in the Determination is(are) cured or a set period of time; ~~or~~

    OR, in extraordinary circumstances where the registry operator acted with malice,

  - Providing for the termination of a Registry Agreement.

- In making its recommendation of the appropriate remedy, the Expert Panel will consider the ongoing harm to the Complainant.

- ~~While still under consideration, the~~The Expert Panel may also determine whether the Complaint was filed "without merit," and, if so, award the appropriate sanctions on a graduated scale, including:

  - Temporary bans from filing Complaints;

  - Imposition of costs of registry operator, including reasonable attorney fees;

  - ~~Penalty fees paid directly to Provider;~~

  - Permanent bans from filing Complaints after being banned temporarily.

20. **The Expert Panel Determination**

- The Provider and the Expert Panel will make reasonable efforts to ensure that the ~~Panel~~Expert Determination is ~~rendered~~issued within 45 days of the appointment of the Expert Panel and absent good cause, in no event later than 60 days after the appointment of the Expert Panel.

- The Expert Panel will render a written Determination. The Expert Determination will state whether or not the Complaint is factually founded and provide the reasons for that Determination. The Expert Determination should be publicly available and searchable on the Provider's web site.

- The Expert Determination ~~will~~may further include a recommendation of specific remedies ~~and state specifically when those remedies should take effect.~~. Costs and fees to the Provider, to the extent not already paid, will be paid within thirty (30) days of the ~~Expert's~~Expert Panel's Determination.

- The Expert Determination shall state which party is the prevailing party.

- While the ~~Panel's~~Expert Determination that a registry operator is liable under the standards of the Trademark PDDRP shall be considered, ICANN will ~~review, approve and enforce~~have the ~~recommended~~ authority to impose the remedies ~~found in the Panel Determination, or as those remedies are amended by~~, if any, that ICANN deems appropriate given the circumstances of each matter.

- If ICANN decides to implement a remedy for violation of the Trademark PDDRP, ICANN will wait ten (10) business days (as observed in the location of its principal office) after notifying the registry operator of its decision. ICANN will then implement the decision unless it has received from the registry operator during that ten (10) business-day period official documentation that the registry operator has either: (a) commenced a lawsuit against the Complainant in a court of competent jurisdiction challenging the Expert Determination of liability against the registry operator, or (b) challenged the remedy by initiating dispute resolution under the provisions of its Registry Agreement. If ICANN receives such documentation within the ten (10) business day period, it will not seek to implement its decision under the Trademark PDDRP until it receives: (i) evidence of a resolution between the Complainant and the registry operator; (ii) evidence that registry operator's lawsuit against Complainant has been dismissed or withdrawn; or (iii) a copy of an order from the dispute resolution provider selected pursuant to the Registry Agreement dismissing the dispute against ICANN whether by reason of agreement of the parties or upon determination of the merits.

21. **Appeal of Expert Determination**

- Either party shall have a right to seek a de novo appeal of the Expert Determination of liability based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal.

- The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The three-member Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.

- An appeal must be filed within 20 days after an Expert Determination is issued.

- The Providers rules and procedures for appeals shall apply.

22. Challenge of a Remedy

- The registry operator may challenge ICANN's imposition of a remedy imposed in furtherance of an Expert Determination that the registry operator is liable under the PDDRP, to the extent a challenge is warranted, by initiating dispute resolution under the provisions of its Registry Agreement.

23. Availability of Court or Other Administrative Proceedings

- The Trademark PDDRP is not intended as an exclusive procedure and does not preclude individuals from seeking remedies in courts of law, including, as applicable, review of ~~a~~an Expert Determination as to liability.

- In those cases where a Party provides the Provider with documented proof that a Court action was instituted prior to the filing date of the Complaint in the post-delegation dispute proceeding, the Provider ~~may~~shall suspend or terminate the post-delegation dispute resolution proceeding.