

INDEPENDENT REVIEW PROCESS

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION ICDR CASE NO.  
01-16-0000-2315

COMMERCIAL CONNECT, LLC  
CLAIMANT,

AND

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS,  
RESPONDENT

INDEX TO EXHIBITS TO ICANN'S RESPONSE TO CLAIMANT'S  
AMENDED  
REQUEST FOR INDEPENDENT REVIEW

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Resp. Ex. 35

RESPONDENT'S EXHIBIT

**INDEPENDENT REVIEW PROCESS**  
**INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

ICDR Case No. 01-16-0000-2245

In the matter of an Independent Review Process

Between:

COMMERCIAL CONNECT, LLC

Claimant

-and-

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Respondent

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**PROCEDURAL ORDER No. 1**

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September 6, 2016

IRP Panel:

Geert Glas  
Stephen L. Drymer  
Christopher S. Gibson (Chair)

1. This Independent Review Process (“IRP”) arises pursuant to Article IV, Section 3 of the Bylaws of the Internet Corporation for Assigned Names and Numbers (“ICANN”; “Bylaws”). In accordance with the Bylaws, the conduct of this IPR is governed by the International Centre for Dispute Resolution’s (“ICDR”) International Dispute Resolution Procedures (“Rules”), amended and effective June 1, 2014, as supplemented by the Supplementary Procedures for Internet Corporation for Assigned Names and Numbers Independent Review Process ("Supplementary Procedures") dated December 21, 2011.
2. On February 10, 2016, Commercial Connect LLC (“Claimant”) submitted a Request for Independent Review Process ("Request") in respect of ICANN's treatment of Claimant's applications for the generic top-level domain (“gTLD”) string, “.shop”.
3. On March 11, 2016, the Internet Corporation for Assigned Names and Number (“Respondent”) submitted a Response ("Response") to the Request.
4. Having been duly constituted, the IRP Panel ("IRP Panel") convened a preparatory hearing with the parties on September 5, 2016 (by conference call) for the purpose of discussing the matters in dispute and related organizational matters.
5. Having heard the parties and deliberated, the IRP Panel orders as follows and establishes the following timetable:

**TIMETABLE**

ACTION	DATE
<p>Claimant may file an amended Request for IRP (“Amended Request”). The Amended Request should:</p> <p>(i) include and make reference to all arguments and evidence on which Claimant relies (there is no need to re-file evidence that was previously submitted in the case);</p> <p>(ii) respond to all points and arguments raised by Respondent in its initial Response, to the extent relevant;</p> <p>(iii) provide an update on facts and circumstances in respect of the .shop gTLD, in so far as they are relevant to this case; and</p> <p>(iv) in light of all of the above, specify the relief requested bearing in mind the scope of the IRP Panel’s authority.</p> <p>The IRP Panel <u>emphasizes</u> that Claimant should present its entire case in this submission. At this stage, the IRP Panel does not anticipate requesting any additional filings from Claimant.</p>	<p>On or before September 21, 2016</p>

<p>Respondent may file an amended Response (“Amended Response”). The Amended Response should:</p> <p>(i) include and make reference to all arguments and evidence on which Claimant relies (there is no need to re-file evidence that was previously submitted in the case);</p> <p>(ii) respond to all points and arguments raised and relief requested by Claimant in its Amended Request, to the extent relevant; and</p> <p>(iii) provide an update on facts and circumstances in respect of the .shop gTLD, in so far as they are relevant to this case.</p> <p>The IRP Panel <u>emphasizes</u> that Respondent should present its entire Response in this submission. At this stage, the IRP Panel does not anticipate requesting any additional filings from Respondent.</p>	<p>On or before                  October 5, 2016</p>
<p>Telephonic hearing limited to oral argument and answers to any questions from IRP Panel.</p>	<p>Proposed for October 20,                  2016 at 11:00am Eastern                  Time</p>

6. Claimant's Amended Request and Respondent’s Amended Response shall each be limited to 25 pages (double-spaced, 12 point font).
7. Oral argument during the telephonic hearing shall be limited to 25 minutes for each party’s presentation, subject to the IRP Panel's right to extend time as it deems appropriate, ask questions of the parties, and any right of oral reply or sur-reply as the IRP Panel may request at that time.
8. The terms of this Procedural Order No. 1 may be varied by the IRP Panel on its own motion or upon application by a party.

Signed on behalf of the Panel

DATE: September 6, 2015



Christopher Gibson  
 IRP Panel, Chair

[End of document]

Resp. Ex. 36

RESPONDENT'S EXHIBIT



Commercial Connect, LLC V. ICANN - Case 01-16-0000-2245: Update from Panel Chair and Grant of Extension

Chris Gibson <Contact Information Redacted>

to:

Eric P. Enson, Bart Lieben, Kathryn E Kelly

09/23/2016 09:48 AM

Cc:

Tom Simotas, "Contact Information Redacted", Geert Glas

Hide Details

From: Chris Gibson <Contact Information Redacted>

To: "Eric P. Enson" <Contact Information Redacted>, Bart Lieben <Contact Information Redacted>,

Kathryn E Kelly <Contact Information Redacted>

Cc: Tom Simotas <Contact Information Redacted>, "Contact Information Redacted "

Contact Information Redacted>, Geert Glas <Contact Information Redacted>

History: This message has been forwarded.

Dear Parties:

Yesterday afternoon Mr. Simotas sent an email (see [Email 1](#) below) to all of you indicating that Commercial Connect had requested a one-week extension to file Claimant's Amended Request for IRP, until September 28, 2016.

Following that email, yesterday Mr. Lieben sent an email to this same group (see [Email 2](#) below), in which he forwarded the email of Mr. Jeffrey Smith (president of Commercial Connect) to Mr. Simotas (see [Email 3](#) below), which (i) requested a one-week extension, and (ii) attached a draft Amended Request for Independent Review following Procedural Order #1.

The Chair has conferred with the IRP Co-Panelists and agrees to amend Procedural Order No. 1 as follows:

- (1) Claimant's request for a one-week extension is granted. Claimant may file an Amended Request on or before Wednesday, September 28, 2016.
- (2) Respondent may file an amended Response on or before Wednesday, October 12, 2016.
- (3) The telephonic hearing (limited to oral argument and answers to any questions from IRP Panel) remains scheduled for Thursday, October 20, 2016 at 11:00am Eastern Time.

All other terms of Procedural Order No. 1 remain in place.

Having spoken with Mr. Simotas of the ICDR, he reports that he did not receive Email 2 and Email 3. (The ICDR's IT department is looking into this technical issue). With respect to Email 3 below, the Chair directs that all communications from the parties in this case should be made by and through the parties' legal representatives and should copy the IRP Panel and all parties in this case.

Thank you,

Christopher Gibson

---

**Christopher Gibson**

Professor of Law & Director  
Business Law & Financial Services Concentration

Suffolk University Law School  
120 Tremont Street  
Boston, MA 02108



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**[Email 1]**

**From:** Tom Simotas [<mailto:Contact Information Redacted>]  
**Sent:** Thursday, September 22, 2016 3:34 PM  
**To:** Eric P. Enson; Chris Gibson; Bart Lieben; Kathryn E Kelly  
**Cc:** Contact Information Redacted; Geert Glas; Jeffrey Smith (Contact Information Redacted)  
**Subject:** RE: Commercial Connect, LLC V. ICANN - Case 01-16-0000-2245 Procedural Order No. 1  
**Importance:** High

Dear Parties and Panel Members,

Please be advised that I have been informed by Mr. Lieben that for medical reasons, Mr. Smith and Commercial Connect are requesting for a one week extension to be granted so that they may file the Amended Request for IRP (on or before September 28, 2016). Please see attached email from Mr. Lieben.

By copy of this email, I am requesting that Mr. Smith resend his request copying the Panel and ICANN as I cannot locate it in my system.

Furthermore, Commercial Connect has agreed to an extension of each of the timeframes for ICANN to respond and the hearing to take place by one week.

Thank you for your attention to this matter.

Best,

Tom Simotas

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**[Email 2]**

**From:** Bart Lieben [<mailto:Contact Information Redacted.com>]  
**Sent:** Thursday, September 22, 2016 4:43 PM  
**To:** Eric P. Enson; Chris Gibson; Geert Glas; Stephen Drymer; Contact Information Redacted; Tom Simotas  
**Cc:** Jeffrey Smith  
**Subject:** Fwd: .SHOP IRP - ICDR Case Number 01-16-0000-2315

Dear All,

Please see below.

Many thanks and best regards,

Bart Lieben

Sent from my iPad

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**[Email 3]**

**From:** JeffySmith <Contact Information Redacted >  
**Date:** 22 September 2016 at 04:28:31 GMT+2  
**To:** "'Tom Simotas'" <Contact Information Redacted >  
**Cc:** <Contact Information Redacted >  
**Subject:** RE: .SHOP IRP - ICDR Case Number 01-16-0000-2315

Dear Mr Simotas,

In order to be compliant with Procedural Order #1 I am sending you the draft submission and respectfully request that we may extend the timeframe for providing a final Amended Request with one week from today (i.e. on or before September 28, 2016), as I underwent surgery and have been recovering over the past two weeks.

It goes without saying that Commercial Connect agrees to an extension of each of the timeframes for ICANN to respond and the hearing to take place each with at least one week.

Would you please forward this communication to the IRP Panel and ICANN's counsel?

Thank you for your time and attention to this issue,

Jeffrey S. Smith  
President  
Commercial Connect, LLC.

Resp. Ex. 37

RESPONDENT'S EXHIBIT

GET  
STARTEDNEWS &  
MEDIA

POLICY

PUBLIC  
COMMENT

RESOURCES

COMMUNITY

IANA  
STEWARDSHIP  
& ACCOUNTABILITY

## Details

ICANN  
Announcements

26 Feb 2013

New gTLDs

gTLD

## New gTLD Program: String Similarity Contention Sets

This page is available in:

English | [Español](#) | [Français](#) | [العربية](#) | [Русский](#) | [中文](#)

ICANN is publishing today the contention sets identified by the string similarity review for applications submitted as part of the New gTLD Program. Review the full list of contention sets here: [PDF](#) [162 KB], [CSV](#) [65 KB] or from the [Applicants' Corner](#) page on the new gTLD microsite.

## Overall statistics about Contention Sets

- 2 Non-Exact Match Contention Sets
  - .hotels & .hoteis
  - .unicorn & .unicom
- 230 Exact Match Contention Sets
- 754 Total Applications in contention

The [Current Application Status](#) page on the new gTLD microsite will be updated to reflect these contention sets.

The role of the String Similarity Panel is to assess whether a proposed gTLD string creates a probability of user confusion due to similarity with any reserved name, any existing TLD, any requested IDN ccTLD, or any new gTLD string applied for in the current application round.

Per the Applicant Guidebook, a contention set is a group of two or more applications containing identical or visually similar applied-for gTLD strings. For more information on string contention procedures, please refer to [Module 4](#) [PDF, 428 KB] of the Applicant Guidebook.

As a reminder, the objection filing period is open until 13 March 2013. For

more information refer to the [Objection & Dispute Resolution](#) page.

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## More Announcements

[Economic Study on New gTLD Program's Competitive Effects: Phase II Results Available for Public Comment](#)

[ICANN 2016 Nominating Committee Announces Members of the NomCom2 Review Working Party](#)

[COMTECO, LACNIC and ICANN Work Together to Enhance Latin American Internet Infrastructure](#)

[Pre-ICANN57 Policy Update Webinar](#)



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			Correspondence	

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Resp. Ex. 38

RESPONDENT'S EXHIBIT



# New Generic Top-Level Domains



## About the Program

The New generic Top-Level Domain Program was developed to increase competition and choice in the domain name space.

A gTLD is a domain name extension such as the familiar .com, .net, or .org. There are roughly two dozen now, but soon, there could be hundreds.

### About the Program →

Evaluation Panels

Selection Process

Benefits and Risks of Operating a New gTLD

Historical Documents

Internationalized Domain Names

Program Materials

### Featured Video



Get Ready for the Next Big .Thing

Applicants' Corner

GNSO Policy Work on New gTLDs

GNSO Final Report on the Introduction of New gTLDs - Part A

## ABOUT THE PROGRAM

The Internet Corporation for Assigned Names and Numbers, founded in 1998, has as its mission to ensure a stable and unified global Internet. One of its key responsibilities is introducing and promoting competition in the registration of domain names, while ensuring the security and stability of the domain name system (DNS).

In 2005, ICANN's Generic Names Supporting Organization (GNSO) began a policy development process to consider the introduction of new gTLDs, based on the results of trial rounds conducted in 2000 and 2003. The GNSO is the main policy-making body for generic top-level domains, and encourages global participation in the technical management of the Internet.

The two-year policy development process included detailed and lengthy consultations with the many constituencies of ICANN's global Internet community, including governments, civil society, business and intellectual property stakeholders, and technologists.

In 2008, the ICANN Board adopted 19 specific GNSO policy recommendations for implementing new gTLDs, with certain allocation criteria and contractual conditions.

After approval of the policy, ICANN undertook an open, inclusive, and transparent implementation process to address stakeholder concerns, such as the protection of intellectual property and community interests, consumer protection, and DNS stability. This work included public consultations, review, and input on multiple draft versions of the Applicant Guidebook.

In June 2011, ICANN's Board of Directors approved the Guidebook and authorized the launch of the New gTLD Program. The program's goals include enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new gTLDs, including both new ASCII and internationalized domain name (IDN) top-level domains.

The application window opened on 12 January 2012, and ICANN received 1,930 applications for new gTLDs. On 17 December 2012, ICANN held a prioritization draw to determine the order in which applications would be processed during Initial Evaluation and subsequent phases of the program. These applications were processed by ICANN staff and evaluated by expert,

- GNSO Final Report on the Introduction of New gTLDs - Part B
- GNSO Quick Reference Guide
- Year 2000 gTLD Application Round
- Year 2003 gTLD Application Round

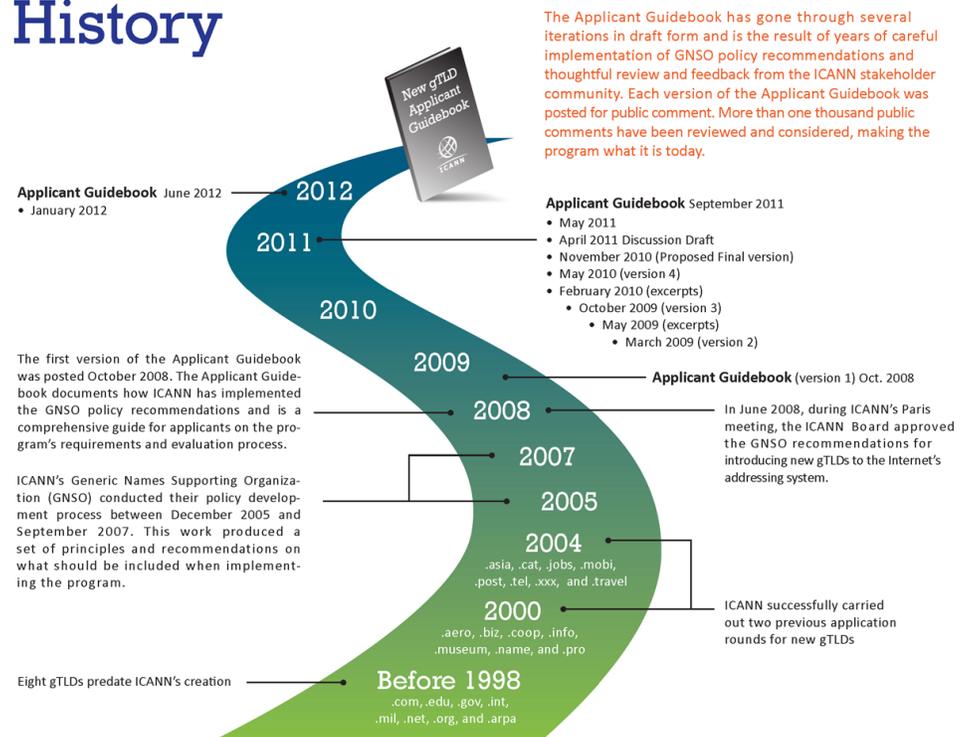
independent third-party evaluators according to priority numbers.

On 22 March 2013, ICANN released the first set of Initial Evaluation results to applicants and the public. ICANN anticipates that Initial Evaluation results for all applications will be published by the end of August 2013.

Applications that pass Initial Evaluation (and that do not face any objections or string contention) will be eligible to proceed to contracting. It is anticipated that contracting will begin in mid 2013, and the first new gTLDs will be delegated soon afterwards.

New gTLD Fast Facts

# History



Resp. Ex. 39

RESPONDENT'S EXHIBIT



**AUCTION RULES FOR  
NEW gTLDs:  
INDIRECT CONTENTIONS EDITION  
VERSION 2015-02-24**

**PREPARED FOR ICANN**

**BY POWER AUCTIONS LLC**



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## Auction Rules for New gTLDs: Indirect Contentions Edition

1. This document (“Auction Rules”) sets out the auction rules for resolving string contention among applicants for new gTLDs by the Internet Corporation for Assigned Names and Numbers (“ICANN”), for Contention Sets containing one or more Indirect Contention relationships.
2. Auctions for resolving string contention among applicants for new gTLDs will occur in a series of auction events. In each auction event (“Auction”), bidding will occur for one or more Contention Sets. If bidding occurs for at least two Contention Sets within an Auction, the bidding will occur simultaneously.
3. ICANN will be assisted in the implementation of these Auctions by its independent auction consultant, Power Auctions LLC (the “Auction Manager”).

### Definitions and Interpretation

4. The definitions are set out in the Glossary at the end of the Auction Rules. The majority of the terms are explained in the body of the Auction Rules. Terms used but not otherwise defined herein shall have the meanings ascribed to them in the gTLD Applicant Guidebook (the “Applicant Guidebook”) or the “Bidder Agreement” (defined below). In the event of any inconsistency between the Bidder Agreement and the Applicant Guidebook or the Auction Rules, the Bidder Agreement shall prevail.
5. All prices in the Auction are expressed in whole numbers of United States dollars (\$US).
6. All references to time, unless otherwise stated, are to time defined under the UTC time standard.
7. Text boxes containing additional explanations and examples have been included in this document to assist applicants. The contents of these text boxes are not formally part of the Auction Rules.

 *Text boxes like these contain additional explanation and examples.*

### Participation in the Auction

8. Prior to the scheduling of an Auction, an Intent to Auction notice will be provided to all members of an eligible Contention Set via the ICANN Customer Portal. To be eligible to receive an Intent to Auction notice from ICANN, requirements a-d below must be met:

All active applications in the Contention Set have:

- a) Passed evaluation
- b) Resolved any applicable GAC advice
- c) Resolved any objections

## d) No pending ICANN Accountability Mechanisms

*ICANN intends to initiate the Auction process once the composition of the contention set has stabilized. ICANN reserves the right not to send Intent to Auction notices and/or to postpone a scheduled Auction if a change request by one or more applicants in the Contention Set is pending, but believes that in most instances the Auction should be able to proceed without further delay.*

9. [Reserved for future use.]
10. After an applicant receives the Intent to Auction notice from ICANN pursuant to the eligibility requirements described in clause 8, if each and every member of the Contention Set submits a postponement request through the ICANN Customer Portal, ICANN at its sole discretion may postpone the Auction for that Contention Set to a future date. Postponement requests must be submitted by all members of the Contention Set by the due date specified within the ICANN Customer Portal, generally twenty eight (28) days after receipt of Intent to Auction notice from ICANN. If a postponement request is not submitted by the due date specified within the ICANN Customer Portal or is not accommodated by ICANN, an applicant may request an advancement/postponement request via submission of the Auction Date Advancement/Postponement Request Form. The form must be submitted at least 45 days prior to the scheduled Auction Date and ICANN must receive a request from each member of the contention set. Without limiting the foregoing, ICANN reserves the right at its sole discretion to postpone the Auction for any Contention Set to a future date regardless of whether each and every member of the Contention Set has submitted a postponement request.
11. Eligible Contention Sets containing one or more Indirect Contention relationships, pursuant to clauses 8 -10, will generally be notified of ICANN's Intent to Auction the contention set priority order. ICANN in its sole discretion will determine the scheduling of each Auction.

*It is anticipated that Auctions for Contention Sets containing one or more Indirect Contention relationships will be scheduled in separate Auction events from Contention Sets involving Direct Contention relationships only. Each Auction event will include only one or two Contention Sets with Indirect Contention relationships. The scheduling may not necessarily be based upon the priority order of these Contention Sets, but may be based on operational issues relating to the conduct of the Auctions, including the complexity of a given Contention Set.*

12. Before an Auction, each Qualified Applicant may designate a party to bid on its behalf ("Designated Bidder"). Each Qualified Applicant or its Designated Bidder must execute a Bidder Agreement with the Auction Manager. The Bidder Agreement must be signed and returned to ICANN by the deadline specified in the Intent to Auction notice. A Qualified Applicant or its Designated Bidder, after executing a Bidder Agreement with Auction Manager, will henceforth be referred to as a "Bidder". Participation in an Auction is limited to Bidders. Failure to execute a Bidder Agreement by the deadline specified in the Intent to Auction notice and to submit a Deposit which is received into the Auction Bank Account by the Deposit Deadline may result in the inability to participate in the Auction

for the Contention Set, which will result in the rejection of the Qualified Applicant's application for the Contention String and the Contention String not being assigned or delegated to the relevant Qualified Applicant.

13. Before each Auction, each Bidder shall nominate up to two people ("Authorized Individuals") to bid on its behalf in the Auction.

*✍ Training materials will be made available to Authorized Individuals in advance of each Auction. In addition, Authorized Individuals will be invited and encouraged to participate in a mock auction, which will be conducted on the Auction Site prior to the live Auction.*

14. The first time in each Auction that an Authorized Individual accesses the Auction Site, he/she will be required to confirm acceptance of the Bidder Agreement and the Auction Rules.
15. All actions of Authorized Individuals on the Auction Site will be attributed to the Bidder that nominated the Authorized Individual to bid on its behalf.

## Auction Process

16. Bidding will take place online at the Auction Site. Authorized Individuals will be given the web address of the Auction Site and will be provided with individual user names and passwords in order to access it. Authorized Individuals shall be obligated to keep this information confidential. The public will not have any access to the Auction Site.
17. Each Auction will take place in a number of Rounds, using an auction format known as an ascending clock auction. Each Round of an Auction will have a Starting Time and an Ending Time designated by the Auction Manager. There will be a Recess after each Round. Bids will be submitted between the Starting Time and Ending Time of the Round, subject to clause 39, and the results of the Round will be posted during the Recess after the Round.
18. These Auction Rules set out the rules for Contention Sets containing one or more Indirect Contention relationships. The changes introduced into the current document are not applicable to the substantial majority of Auctions, in which there are Direct Contention relationships only.

## Auction Information and Scheduling

19. Prior to the Commencement Date of the Auction, ICANN or the Auction Manager will inform Bidders of relevant information relating to the Auction, including:
  - (a) The Contention Set or Sets that will be the subject of the Auction;
  - (b) confirmation of the Commencement Date; and
  - (c) the Starting Time, Ending Time and duration of Round 1.
20. The first Round of an Auction will start on the Commencement Date and last 30 minutes, the recess after the first Round will last 20 minutes, and all subsequent Rounds and recesses will last 20 minutes

each. The Auction Manager may open Round 1 for Early Bidding, a time period prior to the standard 30 minutes of bidding for Round 1 of a duration designated by the Auction Manager. A Bid submitted during Early Bidding has the same effect as a Bid submitted during the standard 30 minutes of Round 1. All Contention Sets within a single Auction event will follow the same Auction Schedule. The Auction Manager may lengthen the Round or Recess timescales on an ad hoc basis at its sole discretion. The Auction Manager may also shorten the Round or Recess timescales on an ad hoc basis, but only with the electronic written consent of all remaining participants in an Auction.

21. The Auction Site will contain a schedule showing the indicative times for each Round and each Recess (the "Auction Schedule"). The Auction Schedule will be updated as necessary during the course of the Auction. When applicable, the Early Bidding Starting Time will be announced by the Auction Manager.

*✍ The Auction Manager intends to provide Early Bidding for most Auction events. Early bidding will provide an additional period of time prior to the standard bidding time allotted in Round 1 to accommodate Bidders in various time zones who may prefer to submit a Proxy Bid. The Auction Manager generally intends to open Early Bidding approximately 8 hours prior to the start of Round 1. The opening for early bidding may take place on the day prior to the official Commencement Date of the Auction. ICANN or the Auction Manager will communicate the opening of Round 1 to Bidders, pursuant to clause 19.*

*It should be noted, the Auction Manager does not intend to provide live customer support throughout the Early Bidding period. Live customer support will begin approximately 1 hour prior to the start of Round 1.*

## Auction Bank Account and Deposits

22. In advance of an Auction, each Bidder will receive wire instructions for an Auction Bank Account, which will be established for auction purposes by ICANN and Power Auctions LLC at a major US commercial bank. The funds in the Auction Bank Account will be held in escrow and segregated on a Bidder-by-Bidder basis.
23. All Deposits to the Auction Bank Account must be made by bank wire. All bank wires to the Auction Bank Account must be denominated in \$US. All bank wires to the Auction Bank Account must clearly identify the relevant Bidder and the relevant Contention Set. All Deposits to the Auction Bank Account and all payments of the net balance of the aggregate Winning Prices to the Auction Bank Account must be net of all taxes, tariffs and duties of any kind and all wire and service fees, all of which are the sole responsibility of the Bidder.
24. All bank wires to the Auction Bank Account must be made from a bank account owned by the Bidder. If the Qualified Applicant is an entity that does not own a bank account, it is required to designate a Designated Bidder that owns a bank account. All refunds from the Auction Bank Account will be made only to the same bank account from which the associated deposit was made, except for exceptional circumstances and at the sole discretion of the Auction Manager.

## Bidding Limits

25. Each Bidder will be assigned a Bidding Limit applicable to a Contention Set within an Auction based on the amount of the Deposit, net of any bank fees, submitted by the Bidder for such Contention Set.
26. The Bidding Limit will be determined by the amount of the Deposit applicable to the Contention Set received from the Bidder. If the Deposit is less than \$2,000,000, the Bidding Limit will be set at ten (10) times the Deposit. If the Deposit is \$2,000,000 or greater, the Bidding Limit will be deemed to be "Unlimited".
27. If a Bidder is eligible to bid for more than one Application within an Auction, the Bidder will be assigned a separate Bidding Limit for each such Application, and the Bidding Limits will be non-transferable among Applications. If any wire to the Auction Bank Account is intended to provide Deposits for more than one Application, the Bidder must provide clear instructions in a specified form to the Auction Manager as to the allocation of Deposits among the Applications.
28. All wires and all instructions associated with Deposits, including instructions regarding the allocation of funds among Contention Sets from wires and funds rolled over from previous Auctions, must be received no later than 16:00 UTC on the day that is seven (7) calendar days prior to the Commencement Date of the relevant Auction (the "Deposit Deadline"), unless this deadline is waived, at the Auction Manager's sole discretion.

## Participation in an Auction

29. To place Bids on an Application within an Auction, a Bidder must submit a Deposit and thereby establish a positive Bidding Limit pursuant to clauses 25 – 28. In the event that no Qualified Applicant in a given Contention Set submits a Deposit by the Deposit Deadline, ICANN reserves the right to reject all Applications subject to the Contention Set and not delegate any of the Contention Strings.
30. A Bidder who has submitted a Deposit for an Application in a Contention Set is required to participate in the Auction for the Contention Set unless the Bidder sends ICANN and the Auction Manager written notice that it has withdrawn from the Auction for the Contention Set. Such notification must be received by ICANN and the Auction Manager no later than the Deposit Deadline. In the absence of written notification or non-participation in the Auction, a default bid of one dollar (\$1), pursuant to clauses 31 and 42, will be entered automatically on the Bidder's behalf.

## Bidding

31. For each Round and for each Open Contention Set, a Start-of-Round Price and an End-of-Round Price will be announced to Bidders for the Contention Set. The Start-of-Round Price for each Contention Set in Round 1 will be one dollar (\$1). The Start-of-Round and End-of-Round Prices will increase as the Auction progresses, pursuant to clauses 44(d), 45 and 48.
32. A Bid represents a price, which a Bidder is willing to pay to resolve string contention within a Contention Set in favor of its Application.
33. There are two types of Bids:

- (a) *Continue Bids:* A Continue Bid is a Bid for an Application at the End-of-Round Price for the relevant Contention Set (or a Proxy Bid at a specified greater price, see clauses 37 and 38 for further explanation of Proxy Bids); and
- (b) *Exit Bids:* An Exit Bid is a Bid for an Application at a specified price, which is less than the End-of-Round Price but at least the amount of the previous Bid for the Application (or \$1 in Round 1).

*✍ The Auction Site will include a link to make it very easy to submit a Continue Bid. Clicking on this link will generate a bid at the End-of-Round Price. Bids may also be typed at other allowable prices.*

34. After each Round of the Auction, it is determined whether each Application that was eligible for bidding in the Round is Enduring, by sequentially applying conditions 34(a), 34(b) and 34(c) below. Only Enduring Applications may force the Auction to go to a next Round:
- (a) An Application that was eligible for bidding in the Round and received a Continue Bid is deemed to be Enduring;
  - (b) An Application that was eligible for bidding in the Round is deemed not to be Enduring if an Exit Bid was received for this Application and if a higher Bid has been received for another Application that was Positioned the Same or Better than this Application; and
  - (c) Under the assumption that conditions (a) and (b) are not satisfied: An Application that was eligible for bidding in the Round is deemed to be Enduring *if and only if* an Exit Bid was received for this Application, but this Application was part of a Feasible Set of Applications eligible for bidding in the Round whose Bids summed to at least the End-of-Round Price of the Round.

*✍ The purpose of the bidding restriction in clause 34 is to prevent "bid sniping": a Bidder is not permitted to wait until the very end of the Auction to bid. Instead, the Bidder is required to bid sufficiently much for its Application in each and every Round (or to place a Proxy Bid that has the same effect).*

*✍ A Continue Bid guarantees that the Bidder's Application will not be eliminated from the Open Contention Set in the then current Round. By contrast, an Exit Bid may result in the Application being eliminated from the Auction or remaining in the Auction, in accordance with conditions (b) and (c), respectively.*

35. After the processing of Round  $n$  ( $n \geq 1$ ) pursuant to clause 34:
- (a) The Auction proceeds to Round  $n + 1$  *if and only if* there remain two or more Enduring Applications that are in a Direct Contention relationship with one another—see clauses 44 and 46 below; and

- (b) Any Enduring Application that is no longer in a Direct Contention relationship with any other Enduring Application will be deemed to be a Winning Application, and will be removed from the list of Enduring Applications. Any Winning Application will no longer be treated as part of the Auction beginning in Round  $n + 1$ , if applicable; and
  - (c) Any Enduring Application that is in a Direct Contention relationship with another Enduring Application will be eligible for bidding in Round  $n + 1$ ,
36. Bids may only be submitted during a Round (i.e. between the Starting Time and the Ending Time). During a Round, a Bidder may edit or cancel its Bids as often as desired, subject to the conditions set out in these Auction Rules. The valid Bids residing on the Auction Site at the Ending Time of the Round are binding on the respective Bidders and may not be amended or removed except pursuant to clause 39.
37. The End-of-Round Price for a Round is only the minimum price for a Continue Bid. Subject to limitations in clause 40, Continue Bids may be placed at prices higher than the End-of-Round Price. These are often referred to as Proxy Bids.
38. A Proxy Bid submitted by a Bidder in a prior Round, will be treated the same as a Bid that has been placed in the current Round, subject to clauses 34 and 35. It will be treated as an Exit Bid if its price is less than the relevant End-of-Round Price of the current Round, or otherwise as a Continue Bid.

*The Proxy Bid capability makes it possible to submit a Bid in Round 1 and to take no further active part in the auction. In other words, it is not necessary to bid in real time in each Round. Proxy Bids submitted in a given Round will be processed by the auction software in each subsequent Round in exactly the same way as equivalent bids submitted during the Round. A Proxy Bid entered in one Round may also be amended during a subsequent Round, so long as the price was sufficiently large to keep the Bidder in the Auction until the subsequent Round.*

39. In the event that an Authorized Individual loses access to the Internet or is otherwise unable to place a Bid, the Auction Manager, at its sole discretion, may permit the submission of Bids by alternative means, generally by fax. The Auction Manager will provide forms for any submissions by fax. All such submissions by alternative means must be validated by an Authorized Individual. Any Authorized Individual who submits Bids by alternative means shall be deemed to have confirmed acceptance of the Bidder Agreement and the Auction Rules as if he or she had accepted them on the Auction Site pursuant to clause 14.

## Validity of Bids

40. In order to be valid, a Bid must satisfy each and all of the following conditions:
- (a) the Bid must have been submitted no earlier than the Starting Time of the relevant Round and no later than the Ending Time of the relevant Round, with the exception of Bids permitted by the Auction Manager pursuant to clause 39;
  - (b) the Bid must be placed by a Bidder for its Application in an Open Contention Set;

- (c) in Round 2 or later, the Bid must be placed by a Bidder for an Application that is deemed to be eligible for bidding pursuant to clause 35;
  - (d) the price of the Bid must be a whole number of \$US that is not less than the Bid of the previous Round (or \$1 in the first Round); and
  - (e) the price of the Bid must not exceed the Bidding Limit assigned to the Bidder for the Contention Set—this clause will not place any constraint if the Bidding Limit is “Unlimited”.
41. The Auction Site will enforce the conditions of clause 40 on Bid submissions.
42. If a Bidder who is eligible to bid for a Contention Set in a given Round does not submit a valid Bid during the Round and is unable to correct this omission pursuant to clause 39, then a Bid equal to the amount of the Bid of the previous Round (or \$1 in the first Round) will be entered automatically on the Bidder’s behalf.

### Processing of Bids after a Round

43. During the Recess after each Round, the Auction Manager will process the Bids for each Open Contention Set and post the following results on the Auction Site to Bidders for the Contention Set:
- (a) the Number of Applications remaining eligible for bidding in the next Round , i.e., the Number of Enduring Applications, and the number of Enduring Applications that received Continue Bids in the Round (“Aggregate Demand”), but not the identities of the Enduring Applications or the Applications that received Continue Bids; and
  - (b) Start-of-Round Price and an End-of-Round Price for the next round of the Auction.
44. An Open Contention Set will remain Open in the next Round if there remain two or more Enduring Applications that are in a Direct Contention relationship with one another. In this event:
- (a) the number of Enduring Applications and the Aggregate Demand (but not the identities of the Enduring Applications or the Applications that received Continue Bids), will be posted to Bidders for the Contention Set;
  - (b) if any Application is eliminated after a Round, thereby causing another Application to be deemed a Winning Application pursuant to clause 35(b), or, if any Application is eliminated, thereby causing the Contention Set to divide into two or more disjoint subsets, this information (including the position of the eliminated Application in the Contention Set, as well as the Winning Application’s identity) will be communicated to Bidders for the Contention Set;
  - (c) the next Round’s Start-of-Round Price for the Contention Set, equal to the current Round’s End-of-Round Price, will be announced to Bidders for the Contention Set; and
  - (d) the next Round’s End-of-Round Price for the Contention Set, strictly greater than the current Round’s End-of-Round Price, will be announced to Bidders for the Contention Set.
45. The price increment used to obtain the End-of-Round Price in clause 44(d) will be set by the Auction Manager taking into account Aggregate Demand for the Contention Set and other information

relevant to the likely level of prices for the Contention Set, but the actual level of increment that is selected will be at the Auction Manager's sole discretion.

*Aggregate Demand is defined as the number of Continue Bids for Applications received in a Round, aggregated over all Applications that remained eligible for bidding in the Contention Set after a Round. It does not attempt to describe commercial demand for the gTLD.*

46. An Open Contention Set will close after a Round if there do not remain two or more Enduring Applications that are in a Direct Contention relationship with one another. In this event:
- (a) The Auction Manager will select the Feasible Set of Applications for which the sum of the associated Bids is maximized.
  - (b) In the event that the maximization problem of clause (a) has a unique solution, the Applications in the selected Feasible Set will be deemed to be Winning Applications; and
  - (c) the Bidder(s) associated with Winning Applications will be deemed the Winner(s) of the Contention Set.
47. The Winning Prices will be determined by "second-price principles," specified as follows:
- (a) The sum of the Winning Prices associated with a set of Winning Applications shall not be less than the sum of the Bids for a non-winning set of Applications, evaluated in the Round in which the set of Winning Applications caused the non-winning set of Applications to be eliminated from the Auction.
  - (b) In applying clause (a), to the extent that the Bids of non-winning Applications need to be allocated among two or more Winning Applications, they shall be allocated proportionally. For example, suppose that Applications A and C together eliminate Application B in Round 3, and suppose that the Bids for these Applications in Round 3 are  $p_A$ ,  $p_C$  and  $p_B$ , respectively. Then we require:
    - The Winning Price of Application A is not less than  $\left(\frac{p_A}{p_A+p_C}\right)p_B$ ; and
    - The Winning Price of Application C is not less than  $\left(\frac{p_C}{p_A+p_C}\right)p_B$ .
  - (c) For the avoidance of doubt, the Bid amounts used in the calculation of clause (b) shall be the Bid amounts in the Round in which the Winning Applications caused the non-winning Applications to be eliminated.
  - (d) In particular, the Winning Price associated with a Winning Application shall not be less than any Bid, submitted in any Round of the Auction, for any other Application that is Positioned the Same or Better than the Winning Application.
  - (e) If applying these second-price principles generates two or more constraints on the Winning Price of a Winning Application, then each and every one of these constraints is required to

be satisfied. For example, if these rules determine that the Winning Price shall be not less than X and that the Winning Price shall not be less than Y, then the Winning Price shall not be less than the maximum of X and Y.

- (f) Similarly, in the event that a non-winning set of Applications can be eliminated by a set that includes either of two Enduring Applications, then the constraints generated on Winning Prices are required to hold in relation to each choice of these Enduring Applications, including the Enduring Application whose Bid is the minimum.
  - (g) In no event will the Winning Price for a Winning Application exceed the highest Bid submitted for the Winning Application. Additionally, in no event will the Winning Price for a Winning Application be less than \$1.
  - (h) The fact that the Contention Set has Closed, and the amounts of the Winning Prices, will be announced to all Bidders for the Contention Set when the Contention Set Closes.
  - (i) Greater detail on applying the second-price principles is provided in the paper, "Auction Design for Indirect Contentions."
  - (j) If ICANN or the Auction Manager feels there is any ambiguity in applying the second-price principles to a Contention Set, ICANN and the Auction Manager may issue an Addendum giving more detailed examples for the Contention Set. Such Addendum, if issued, will be provided to Bidders prior to the Deposit Deadline for the Contention Set and will be deemed to provide the definitive interpretation of the pricing rules for the Contention Set.
48. In the event that that the maximization problem of clause 46(a) has two or more solutions (i.e. there is a tie), the Contention Set will enter a single Tie-Breaking Round, which will be conducted as follows:
- (a) only those Bidders whose Exit Bids for the Contention Set were part of the tie are eligible to bid in the Tie-Breaking Round;
  - (b) the price of the Bid must be a whole number of \$US that is not less than the Bidder's previous Bid amount; and
  - (c) the price of the Bid must not exceed the Bidding Limit assigned to the Bidder for the Contention Set by more than \$50,000—this clause will not place any constraint if the Bidding Limit is "Unlimited".
49. If a Bidder who is eligible to bid in a Tie-Breaking Round does not submit a valid Bid during the Round and is unable to correct this omission pursuant to clause 39, then a Bid at the Bidder's previous Bid amount will be entered automatically on the Bidder's behalf.
50. The solution to the maximization problem of clause 46(a), as solved using the Bids from the Tie-Breaking Round including automatic bids entered pursuant to clause 49, shall determine the Winning Applications after the Tie-Breaking Round, if applicable. The Winning Prices shall be determined by applying clause 47 to the full set of Bids, including the Bids from the Tie-Breaking Round. In the event that there is a tie for Winner of the Tie-Breaking Round, the tie will be broken by means of a quasi-random number generator accessed by the Auction Site.

*✍ The probability of ties can be reduced by utilizing the full richness of allowable prices, rather than bidding round numbers. For example, instead of placing a Bid at \$250,000, consider placing a Bid at \$250,017.*

*The use of quasi-random numbers to break ties is a well-established practice in spectrum auctions organized by various national telecommunications regulators around the world.*

## Conclusion of the Auction

51. The Auction concludes when every Contention Set in the Auction has Closed.
52. After a Contention Set has Closed, the Winning Bidder will be informed that it has won and will be informed of the Winning Price. All other Bidders for the Contention Set will be informed of the Winning Price only.
53. After the Auction has concluded, the Auction Manager will provide a complete, confidential report about the Auction to ICANN.
54. After receiving the Auction Manager's report, ICANN will make the following information publicly available on its website within seven (7) Calendar Days:
  - (a) the Start-of-Round and End-of-Round Prices of each Round, for each Contention Set;
  - (b) the number of Enduring Applications and the Aggregate Demand for each Round (except the final Round) for each Contention Set (but not the identities of the participants in each Round);
  - (c) the additional information, if any, implied by clause 44(b);
  - (d) the Winning Price for each Winning Application; and
  - (e) the identity of each Winning Application.

## Payments, Defaults and Penalties

55. If a Bidder has one or more Winning Applications in the Auction, each Deposit will be applied to the respective Winning Application and any unused part of its aggregate Deposit for the Auction will be automatically applied toward payment of its aggregate Winning Prices. To the extent the aggregate Deposit exceeds the aggregate Winning Prices and any penalties, if applicable, the Bidder will be entitled to a refund.
56. The Winner of any Contention Set is required to pay the net balance of the aggregate Winning Prices by bank wire to the Auction Bank Account. Payment must be received within twenty (20) Business Days of the Close of the Auction for the Contention Set. In the event that a Bidder anticipates that it would require a longer payment period than twenty (20) Business Days due to verifiable government-imposed currency restrictions, the Bidder may advise Auction Manager well in advance of the Auction and Auction Manager will consider applying a longer payment period to all Bidders within the same Contention Set.

57. Any Winner from whom the net balance owed of the Winning Price(s) is not received within twenty (20) Business Days of the Close of the Auction for the Contention Set is subject to being declared in default. The Auction Manager, at its sole discretion, may delay the declaration of default for a brief period, but only if the Auction Manager determines in its sole discretion that receipt of full payment appears to be imminent.
58. Once declared in default, any Winner is subject to immediate forfeiture of its position in the Auction and assessment of default penalties.
59. After a Winner is declared in default, the remaining Applications (that have not been withdrawn from the New gTLD Program) which are not in a Direct Contention relationship with any of the non-defaulting Winning Applications will receive offers to have their Applications accepted, one at a time, in descending order of and subject to payment of its respective final Exit Bid. In this way, the next Bidder would be declared the winner subject to payment of its Exit Bid. In the event that there is a tie between two or more of the remaining Bidders that are next in descending order, the tie will be broken by means of a quasi-random number generator accessed by the Auction Site to determine the order in which the tied Bidders will receive offers to have their Applications accepted. Each Bidder that is offered the relevant gTLD will be given four (4) Business Days to respond as to whether it wants its Application to win. A Bidder who responds in the affirmative will have four (4) Business Days after its response to submit a 10% deposit and an additional sixteen (16) Business Days to submit the balance of its payment. The same default procedures and penalties are in place for any runner-up Bidder receiving such an offer. A Bidder who declines such an offer cannot rescind its decision to decline the offer, has no further obligations in this context and will not be considered in default.
60. The penalty for defaulting on the Winning Price will equal 10% of the Winning Price, but not to exceed two million dollars (\$2,000,000). Default penalties will be forfeited on an individual Contention String basis and charged against the Bidder's aggregate Deposit for the Auction. In the event a Bidder participates in multiple Contention Sets in an Auction and defaults on its net balance owed, the Bidder must provide by written notice the order of allocation of the aggregate Deposit net of penalties to those Contention Sets it has won.
61. A Bidder will be subject to a penalty of up to the full amount of the Deposit forfeiture of its Applications and/or termination of any or all of its registry agreements for a serious violation of the Auction Rules or Bidder Agreement. Without limiting the foregoing, violations of clause 68 (the anti-collusion clause) shall be considered to be serious violations of the Auction Rules.

### **Effect of Ineligibility of Winner To Sign a Registry Agreement or To Be Delegated the Contention String**

62. If, at any time following the conclusion of an Auction, the Winner is determined by ICANN to be ineligible to sign a Registry Agreement for the Contention String that was the subject of the Auction, the remaining Bidders (with applications that have not been withdrawn from the New gTLD Program) will receive offers to have their Applications accepted, one at a time, in descending order of and subject to payment of its respective Exit Bid. In this way, the next Bidder would be declared the Winner subject to payment of its Exit Bid. Each Bidder that is offered the relevant gTLD will be given four (4) Business Days to respond as to whether it wants its Application to win. A Bidder who responds in the affirmative will have four (4) Business Days after its response to submit a 10% deposit and an additional sixteen (16) Business Days to submit the balance of its payment. The same procedures and

penalties are in place for any runner-up Bidder receiving such an offer. A Bidder who declines such an offer cannot rescind its decision to decline the offer, has no further obligations in this context and will not be considered in default.

## Refunds and Rollovers

63. If a Bidder did not win any Contention Sets in an Auction, its Deposits will be eligible for a refund. All refunds are denominated in \$US.
64. If a Bidder wins at least one Contention Set in an Auction, and the Bidder's aggregate Deposit exceed its aggregate Winning Prices for an auction and any applicable Penalties, the Bidder will be entitled to a refund of the excess funds.
65. If a Winner is determined by ICANN following the conclusion of the Auction to be ineligible to sign a Registry Agreement, it will be eligible for a refund of the amount of any Deposit and Winning Price paid by the Winner for the Contention String. Nothing contained in this clause 65 limits any of ICANN's rights or remedies under the Applicant Guidebook in the event the Winner (a) fails to pay the full amount of the Winning Price within 20 business days of the end of an auction or (b) fails to fulfil its obligation to execute the required Registry Agreement within 90 days of the end of the auction for any reason other than a determination by ICANN that the Winner is ineligible to sign the Registry Agreement.
66. All refunds are net of any associated wire fees and will be initiated to the Bidder within seven (7) calendar days after the conclusion of the Auction unless the Bidder requests the funds be committed to Deposits for a future Auction, subject to clause 67.
67. Upon the Bidder's request and to the extent practical, the Auction Manager will work with the Bidder to roll over the Deposit to a future Auction. Such a request must be received no later than 16.00 UTC two (2) calendar days following the day on which the Auction concluded.

*✍ Rollover: After the conclusion of an Auction a Bidder may request the excess funds from its Deposit to be applied toward a future Auction. This request is due to the Auction Manager by 16.00 UTC 2 calendar days after the conclusion of the Auction.*

*The allocation of the Rollover to various Contention Sets must be provided to the Auction Manager prior to the Deposit Deadline for the next applicable Auction.*

## General Terms and Conditions

68. For each Contention Set in an Auction, there will be a Blackout Period, extending from the Deposit Deadline for the Auction until full payment has been received in the Auction Bank Account from the Winner of the Contention Set, pursuant to clause 55, or another Bidder, pursuant to clauses 57-59, and that the following rules relate to the Blackout Period:
  - (a) During the Blackout Period, all applicants for Contention Strings within the Contention Set are prohibited from cooperating or collaborating with respect to, discussing with each other, or disclosing to each other in any manner the substance of their own, or each other's, or any other competing applicants' bids or bidding strategies, or discussing or negotiating

settlement agreements or post-Auction ownership transfer arrangements, with respect to any Contention Strings in the Auction. The provisions of this section shall not prohibit cooperation or collaboration among two or more Applications in the same Contention Set that were filed by the same applicant or were filed by applicants under the common control of the same entity, provided that the same Bidder has been designated for each Application.

- (b) The prohibition against these activities applies only with respect to Contention Strings that are within Blackout Periods; during the same time periods, applicants are permitted to engage in these activities with respect to other Contention Strings that are not within Blackout Periods and applicants are permitted to engage in discussions unrelated to Contention Strings.
  - (c) ICANN and the Auction Manager shall be permitted to disclose to other Bidders for the Contention Set that multiple Applications were filed by the same applicant or were under the common control of the same entity.
69. ICANN or the Auction Manager may terminate, suspend and resume, re-run a round, or change all or any part of an Auction, if ICANN or the Auction Manager determines in its sole discretion that such decision is justified by a technical or operational reason. ICANN or the Auction Manager will, without undue delay, give notice to each Bidder of any decision taken under this clause 69 and the respective reason(s).
70. ICANN shall be entitled, in its sole reasonable discretion, to amend these Auction Rules for any Auction at any time at least fifteen (15) days prior to that Auction. Any amendments to these Auction Rules will be published to the New gTLD microsite.
71. (a) The Bidder agrees to indemnify, defend and hold Auction Manager harmless from and against any and all claims, damages, losses, liabilities, costs or expenses, including reasonable attorneys' fees, whether direct or indirect, which may arise from or be related to the actual or alleged acts or omissions of the Bidder respecting (i) its participation in the Auction, (ii) its performance under the Bidder Agreement, or (iii) any other transaction in which the Bidder participates to which the Bidder Agreement relates.
- (b) Except to the extent set forth in Section 71(c) below, the Bidder expressly releases Auction Manager from any liability for (i) any and all claims, damages, losses, liabilities, costs or expenses, including reasonable attorneys' fees and costs, whether direct or indirect, which may arise from or be related to any Auction, the Bidder Agreement, or any other transaction to which the Bidder Agreement relates, including without limitation the conduct of the Auction, the quality or availability of the Auction Site or any tools or materials provided by the Auction Manager, any disturbance in the technical process, the receipt, storage and/or security of bids, or the award or failure to award a Contention String to any Bidder or other person, and (ii) any incidental or consequential damage, lost profits or lost opportunity which may arise from or be related to any Auction, the Bidder Agreement, or any other transaction to which the Bidder Agreement relates.
- (c) Auction Manager agrees to indemnify and hold harmless the Bidder from any and all third-party claims (including all damages, losses, liabilities, costs or expenses and claims thereof) which may arise from a claim that the Bidder's use of the Auction-Manager-provided Auction Site or participation in the Auction-Manager-provided Auction, as such use or participation is intended within the scope of

the Bidder Agreement, infringes, violates or misappropriates a valid third-party patent, copyright or other intellectual property right, provided that: (1) Auction Manager is notified promptly in writing of any such claim or action; (2) Bidder has neither reached any compromise or settlement of such claim or action nor made any admissions in respect of the same; (3) Auction Manager, at its option and expense, has sole control over the defense of any such claim or action and any related settlement negotiations; and (4) Bidder provides all requested reasonable assistance to defend the same (including, without limitation, by making available to Auction Manager all documents and information in Bidder's possession or control that are relevant to the infringement or misappropriation claims, and by making Bidder's personnel available to testify or consult with Auction Manager or its attorneys in connection with such defense). For the avoidance of doubt, this Section applies only in relation to claims of infringement, violation or misappropriation of intellectual property rights in auction technology or auction software arising directly from an Auction administered by the Auction Manager on behalf of ICANN, and, without limitation, this Section does not apply to any claims involving ownership rights, trademark rights or other rights to (or third-party agreements or rights involving) any gTLD.

(d) The Auction-Manager-Provided Auction Site and Auction-Manager-Provided Auction are provided "As Is" without warranty of any kind, either express or implied, including without limitation of any implied warranties of condition, uninterrupted use, merchantability, and fitness for a particular purpose.

72. If any dispute or disagreement arises in connection with these Auction Rules, including the interpretation or application of these Auction Rules, or the form, content, validity or time of receipt of any Bid, ICANN's decision shall be final and binding.

## Schedule – Table of Definitions

Item	Applies to	Definition
<b>Active</b>	Round	A Round status denoting the Round is open for bidding.
<b>Aggregate Demand</b>	Contention Set, with respect to a Round	The number of Continue Bids for Applications received in a Round, aggregated over all Applications that remain eligible to be bid in the Contention Set in the next Round.
<b>Application</b>	Contention Set	An application for a specific gTLD string.
<b>Auction</b>	Bidders	The ICANN auction event for resolving string contention among Applications for one or more Contention Sets, governed by a Bidder Agreement and the Auction Rules as set out in this document.
<b>Auction Bank Account</b>	Auction	A bank account maintained by Power Auctions or ICANN to receive Deposits.
<b>Auction Manager</b>	Auction	Power Auctions LLC.
<b>Auction Schedule</b>	Auction	A schedule showing the indicative timing of each Round and each Recess in relation to an Auction.
<b>Auction Site</b>	Auction	The website at which Bids will be submitted
<b>Authorized Individuals</b>	Bidder	Up to two individuals nominated by a Bidder to bid on its behalf.
<b>Blackout Period</b>	Contention Set	A time period, extending from the Deposit Deadline until full payment has been received, during which applicants are prohibited from engaging in the activities described in clause 68.
<b>Bid</b>	Contention Set during a Round	A Bidder's binding willingness to secure its Application within the Contention Set at prices up to the specified price.
<b>Bidder</b>	Auction	A Qualified Applicant or its Designated Bidder identified as the Bidder in the ICANN Registration Form.
<b>Bidder Agreement</b>	Auction	The Agreement entered into between Bidders and the Auction Manager that provides terms and conditions for participation in the Auction.

Item	Applies to	Definition
<b>Bidding Limit</b>	Bidder, for a Contention Set	An upper limit on the price that a Bidder can specify for its Bid on an Application within a Contention Set, based on the Deposit submitted by the Bidder for that Contention Set.
<b>Business Day</b>		Monday to Friday, excluding days that banks are closed in New York City, New York
<b>Closed</b>	Contention Set	A status for a Contention Set indicating that the condition set out in clauses 46 has been met. Bidding on Applications in the Contention Set is no longer permitted.
<b>Commencement Date</b>	Auction	The date on which the standard 30 minutes of Round 1 of the Auction is scheduled to occur. If applicable, Early Bidding may start prior to the Commencement Date.
<b>Contention Set</b>	Auction	A group of Applications that are connected by a series of Direct Contention relationships.
<b>Continue Bid</b>	Application during a Round	A Bid for an Application within a Contention Set at the End-of-Round Price for that Contention Set or any higher price.
<b>Deposit</b>	Bidder, for a Contention Set	Money deposited into the Auction Bank Account by a Bidder for a nominated Contention Set.
<b>Deposit Deadline</b>	Bidder, for a Contention Set	16:00 UTC on the day that is seven calendar days prior to the Commencement Date of the relevant Auction.
<b>Designated Bidder</b>	Qualified Applicant	A party designated by a Qualified Applicant to bid on its behalf in an Auction
<b>Direct Contention</b>	Applications	The relationship between two Applications for strings that are identical or confusingly similar to one another and so both cannot be awarded.

Item	Applies to	Definition
<b>Early Bidding</b>	Auction	A time period prior to the standard 30 minutes of Round 1 that allows for Bidders to submit bids. Bids placed during Early Bidding will have the same effect as Bids submitted during the standard 30 minutes of Round 1. During this time period, the Auction Manager may not be available by phone or email, subject to the Auction Manager's standard business hours (i.e. 1 hour before an Auction, and Monday to Friday 8:30 AM to 5:00 PM US Eastern Time Zone). Offering Early Bidding for any particular Auction event is in the Auction Managers discretion, as is the duration of the Early Bidding period.
<b>End-of-Round Price</b>	Contention Set during a Round	The lowest price at which a Continue Bid for an Application within a Contention Set may be placed in a Round.
<b>Ending Time</b>	Round	The time at which any particular Round ends.
<b>Enduring Application</b>	Application	An Application for which a Continue Bid has been submitted or which satisfies the condition of clause 34(c), but which has not been deemed to be a Winning Application pursuant to clause 35(b).
<b>Exit Bid</b>	Application during a Round	A Bid for an Application at any price less than the End-of-Round Price but greater than or equal to the amount of the previous Bid for the Application (or \$1 in Round 1).
<b>Feasible Set</b>	Applications	A collection of Applications such that no two of the Applications are in a Direct Contention relationship with one another.
<b>ICANN</b>		Internet Corporation for Assigned Names and Numbers
<b>Indirect Contention</b>	Applications	The relationship between two Applications that are in the same Contention Set but are not in a Direct Contention relationship with one another.
<b>Open</b>	Contention Set during Round	A status indicating that any eligible Bidder for that Contention Set may place a Bid on its Application, if that Bid meets the requirements in clause 40. All Contention Sets are Open in Round 1.

Item	Applies to	Definition
<b>Positioned Better</b>	Applications	The position of a first Application relative to a second Application if the two Applications are in a Direct Contention relationship with one another, and if the set of all other Applications that are in a Direct Contention relationship with the first Application is a subset of the set of all other Applications that are in a Direct Contention relationship with the second Application.
<b>Positioned the Same</b>	Applications	The position of a first Application relative to a second Application if the two Applications are in a Direct Contention relationship with one another, and if the set of all other Applications that are in a Direct Contention relationship with the first Application is the same as the set of all other Applications that are in a Direct Contention relationship with the second Application.
<b>Posted</b>	Round	A Round status indicating that the Bids from the most recent Round have been processed and that the results have been made available to Bidders. When a Round is Posted, Bidders will be able to see the number of Enduring Applications and the Aggregate Demand for the Contention Sets that they have Applications within, whether any of these Contention Sets have Closed, the Applications that they have secured and the associated Winning Prices.
<b>Proxy Bid</b>	Application during a Round	A Bid for an Application within a Contention Set at a price higher than the End-of-Round Price for that Contention Set.
<b>Qualified Applicant</b>	Auction	An entity that has submitted an Application for a new gTLD, has received all necessary approvals from ICANN, and which is included within a Contention Set to be resolved by an Auction
<b>Recess</b>	Auction	The time interval between Rounds when Bids are processed, during which no bids may be submitted.
<b>Round</b>	Auction	The time interval during which Bids may be submitted.
<b>Starting Time</b>	Round	The time at which any particular Round starts.
<b>Start-of-Round Price</b>	Contention Set during a Round	In Round 1, \$1; in Round 2 or later, the End-of-Round Price of the previous Round.
<b>Tie-Breaking Round</b>	Contention Set	A single Round that is held in the case where there is a tie among the highest Exit Bids.

Item	Applies to	Definition
<b>Tying Bid Price</b>	Contention Set	The price of the highest Exit Bids that were tied.
<b>Unlimited</b>	Bidding Limit	The absence of any Bidding Limit for a Bidder for a Contention Set that has submitted a Deposit of \$2,000,000 or greater amount for that Contention Set.
<b>Winner</b>	Contention Set	A Bidder that secures its Application in the Contention Set.
<b>Winning Application</b>	Contention Set	An Application that prevails contention.
<b>Winning Price</b>	Contention Set	The price to be paid by a Winner to secure its Winning Application.