

DATA RETENTION SPECIFICATION

1. During the Term of this Agreement, for each Registered Name sponsored by Registrar within a gTLD, Registrar shall collect and securely maintain in its own electronic database (as updated from time to time) the data specified below:
 - 1.1. Registrar shall collect the following information from registrants at the time of registration of a domain name (a “Registration”) and shall maintain that information for the duration of Registrar’s sponsorship of the Registration and for a period of two additional years thereafter:
 - 1.1.1. First and last name or full legal name of registrant;
 - 1.1.2. First and last name or, in the event registrant is a legal person, the title of the registrant’s administrative contact, technical contact, and billing contact;
 - 1.1.3. Postal address of registrant, administrative contact, technical contact, and billing contact;
 - 1.1.4. Email address of registrant, administrative contact, technical contact, and billing contact;
 - 1.1.5. Telephone contact for registrant, administrative contact, technical contact, and billing contact;
 - 1.1.6. WHOIS information, as set forth in the WHOIS Specification;
 - 1.1.7. Types of domain name services purchased for use in connection with the Registration; and
 - 1.1.8. To the extent collected by Registrar, “card on file,” current period third party transaction number, or other recurring payment data.
 - 1.2. Registrar shall collect the following information and maintain that information for no less than one hundred and eighty (180) days following the relevant interaction:
 - 1.2.1. Information regarding the means and source of payment reasonably necessary for the Registrar to process the Registration transaction, or a transaction number provided by a third party payment processor;
 - 1.2.2. Log files, billing records and, to the extent collection and maintenance of such records is commercially practicable or consistent with industry-wide generally accepted **standard** practices within the industries in which Registrar operates, other records containing communications source and destination information, including, depending on the method of transmission and without limitation: (1)

Source IP address, HTTP headers, (2) the telephone, text, or fax number; and (3) email address, Skype handle, or instant messaging identifier, associated with communications between Registrar and the registrant about the Registration; and

- 1.2.3. Log files and, to the extent collection and maintenance of such records is commercially practicable or consistent with ~~the best~~ **industry-wide generally accepted standard** practices within the industries in which Registrar operates, other records associated with the Registration containing dates, times, and time zones of communications and sessions, including initial registration.
2. If [~~trigger event to be determined~~] (the “Applicable Law”), Registrar shall, **based on the receipt of either (i) a written legal opinion from a nationally recognized law firm in the applicable jurisdiction that states that the collection and/or retention of any data element specified herein by Registrar is reasonably likely to violate applicable law (the “Opinion”) or (ii) a ruling of, or written guidance from, a governmental body of competent jurisdiction providing that compliance with the data collection and/or retention requirements of this Specification violates applicable law, Registrar determines in good faith that the collection and/or retention of any data element specified in this Specification violates applicable law, Registrar may** provide ~~prompt~~ written notice of such determination to ICANN, **and request a waiver from compliance with specific terms and conditions of this Specification (a “Waiver Request”).** Such written notice shall ~~include:~~ **(i) specify the relevant applicable law, the allegedly offending data collection and retention elements, the manner in which the collection and/or retention of such data violates applicable law, and** a reasonable description of such determination and ~~the~~ **any other** facts and circumstances related thereto, ~~and shall~~ **(ii) be accompanied by a copy of the Opinion and governmental ruling or guidance, as applicable, and (iii) be accompanied by any documentation provided to any governmental authority by Registrar or received by Registrar from any governmental authority, in each case, related to such determination, and such other documentation reasonably requested by ICANN.** Following receipt of such ~~written~~ notice, ICANN and Registrar shall discuss the matter in good faith in an effort to reach a mutually acceptable resolution of the matter. ~~If following such discussion, ICANN and Registrar are unable to reach mutual agreement as to the appropriate resolution of such matter within~~ **Until such time as ICANN’s Procedure for Handling Whois Conflicts with Privacy Law is modified to include conflicts relating to the requirements of this Specification and if ICANN agrees with Registrar’s determination, ICANN’s office of general counsel may temporarily or permanently suspend compliance and enforcement of the affected provisions of this Specification and grant the Wavier Request. Prior to granting any exemption hereunder, ICANN will post its determination on its website for a period of** thirty (30) calendar days, ~~the matter shall be resolved pursuant to,~~ **Following such modification of** ICANN’s Procedure for Handling Whois Conflicts

with Privacy Law,⁺ as modified from time to time. Nothing in this Data Retention Specification prohibits Registrar from consulting with ICANN regarding the requirements of this Data Retention Specification or requesting a waiver from ICANN with respect to such requirements. **all Wavier Requests (whether granted or denied) shall be resolved pursuant to such modified procedures.**

3. If (i) ICANN has previously ~~modified~~ **waived compliance with** the requirements of ~~any requirement of this~~ Data Retention Specification in response to a request **Waiver Request** from a registrar that is located in the same jurisdiction as Registrar and (ii) Registrar is subject to the same ~~Applicable Law~~ **applicable law** that gave rise to ICANN's agreement to ~~make~~ **grant** such ~~modification~~ **wavier**, Registrar may request that ICANN ~~modify this Data Retention Specification in the same manner~~ **to grant a similar waiver**, which request shall be approved by ICANN, unless ICANN provides Registrar with a reasonable justification for not approving such request, in which case Registrar may thereafter ~~seek a modification~~ **make an Wavier Request** pursuant to Section 2 of this Data Retention Specification.
4. Any modification of this Data Retention Specification to address violations of ~~Applicable Law~~ **applicable law** shall only apply during the period of time that the specific provisions of the ~~Applicable Law~~ **applicable law** giving rise to such violations remain in effect. If the ~~Applicable Law~~ **applicable law** is repealed or ~~revised~~ **modified (or preempted)** in a manner that would no longer prohibit the collection and/or retention of data and information as originally specified in this Data Retention Specification, Registrar agrees that the original version of this Specification will apply to the maximum extent permitted by such modified ~~Applicable Law~~ **applicable law**.
5. ~~If any modification of this Data Retention Specification is made pursuant to Sections 2 or 3 hereof and thereafter the Applicable Law is modified in a manner that thereafter would not prohibit the collection and/or retention of data and information as originally specified in this Data Retention Specification, Registrar agrees to modify the then current version of this Specification to provide for the requirements specified in the original version of this Data Retention Specification to the maximum extent permitted by such modified Applicable Law.~~

⁺ Revisions to this policy to include data retention matters are under consideration by ICANN and the Registrar Stakeholder Group

Summary Report:	
Litera Change-Pro ML IC 6.5.0.313 Document Comparison done on 4/22/2013 2:16:47 PM	
Style Name: JD Blackline	
Original Filename:	
Original DMS: iw://IRI/IRI/33673/7	
Modified Filename:	
Modified DMS: iw://IRI/IRI/33673/9	
Changes:	
<u>Add</u>	24
<u>Delete</u>	29
<u>Move From</u>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<u>Table Delete</u>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Total Changes:	53