

Summary of Changes to Registry Agreement for New gTLDs

The table below sets out the proposed changes to the draft base registry agreement for new gTLDs. Additions are reflected in bold double underline and deletions are reflected in strike through. These changes were made in response to comments received from the community on the February 2013 discussion draft base agreement for new gTLDs (the “Agreement”) and further review of the contractual needs of the new gTLD program. Note that non-substantive, purely technical and stylistic changes to the draft base agreement for new gTLDs are not reflected in the below table. To review all changes to the agreement, please see the full redline comparison posted with this summary.

Summary of Proposed Changes to Base gTLD Agreement

Section	Change to Text	Comments and Rationale
2.6	<p>Reserved Names. Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall comply with the restrictions on registration of character strings set forth in Specification 5 attached hereto (“Specification 5”). Registry Operator may establish policies concerning Registry Operator’s ability to reserve (i.e., not register to third parties, delegate, use, or otherwise make available) or block 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 Operator’s use pursuant to Section 4 of 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; provided that Registry Operator may register names in its own name without the use of an ICANN accredited registrar in order to withhold reserve or block such names from delegation or use in accordance with this Section 2.6, and such registrations will not be considered Transactions.</p>	<p>Clarified the existing language to further clarify that if Registry Operator registers names to itself as a means to reserve or block names, such registrations will not result in a fee under the Agreement.</p>
2.9(a)	<p>All domain name registrations in the TLD must be registered through an ICANN accredited registrar; provided, that Registry Operator need not use a registrar if it registers names in its own name in order to withhold such names from delegation or use in accordance with Section 2.6. <u>Subject to the requirements of Specification 11,</u> Registry Operator must provide non-discriminatory access to Registry Services to all ICANN accredited registrars that enter into and are in compliance with the registry-registrar agreement for the TLD; provided that Registry Operator may establish non-discriminatory criteria for qualification to register names in the TLD</p>	<p>Clarified the provision so that Registry Operator’s obligation to provide access to all registrars is subject to the requirements of Specification 11.</p>

Section	Change to Text	Comments and Rationale
	<p>that are reasonably related to the proper functioning of the TLD. Registry Operator must use a uniform non-discriminatory agreement with all registrars authorized to register names in the TLD. Such agreement may be revised by Registry Operator from time to time; provided, however, that any such revisions must be approved in advance by ICANN.</p>	
2.9(b)	<p>If Registry Operator (i) becomes an Affiliate or reseller of an ICANN accredited registrar, or (ii) subcontracts the provision of any Registry Services to an ICANN accredited registrar, registrar reseller or any of their respective Affiliates, then, in either such case of (i) or (ii) above, Registry Operator will give ICANN prompt notice of the contract, transaction or other arrangement that resulted in such affiliation, reseller relationship or subcontract, as applicable, including, if requested by ICANN, copies of any contract relating thereto; provided, that ICANN will not disclose such contracts to any third party other than <u>treat such contract or related documents that are appropriately marked as confidential (as required by Section 7.14) as Confidential Information of Registry Operator in accordance with Section 7.14 (except that ICANN may disclose such contract and related documents to</u> relevant competition authorities or as required by applicable law or legal process). ICANN reserves the right, but not the obligation, to refer any such contract, <u>related documents,</u> transaction or other arrangement to relevant competition authorities in the event that ICANN determines that such contract, <u>related documents,</u> transaction or other arrangement might raise competition issues.</p>	<p>Revisions provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as confidential information subject to Section 7.14.</p>
2.11(a)	<p>ICANN may from time to time (not to exceed twice per calendar year) conduct, or engage a third party to conduct, contractual compliance audits to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement. Such audits shall be tailored to achieve the purpose of assessing compliance, and ICANN will (a) give reasonable advance notice of any such audit, which notice shall specify in reasonable detail the categories of documents, data and other information requested by ICANN, and (b) use commercially reasonable efforts to conduct such audit in such a manner as to not unreasonably disrupt the operations of Registry Operator. As part of such audit and upon request by ICANN, Registry Operator</p>	<p>Changed from business days to calendar days in response to a comments explaining the lack of uniformity of “business days” in a global environment.</p> <p>Revisions also provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as confidential information subject to Section 7.14.</p>

Section	Change to Text	Comments and Rationale
	<p>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<u>ten (510)</u> business<u>calendar</u> days notice (unless otherwise agreed to by Registry Operator), ICANN may, as part of any contractual compliance audit, conduct site visits during regular business hours to assess compliance by Registry Operator with its representations and warranties contained in Article 1 of this Agreement and its covenants contained in Article 2 of this Agreement. <u>ICANN will treat any information obtained in connection with such audits that is appropriately marked as confidential (as required by Section 7.14) as Confidential Information of Registry Operator in accordance with Section 7.14.</u></p>	
2.15	<p>Cooperation with Economic Studies. If ICANN initiates or commissions an economic study on the impact or functioning of new generic top-level domains on the Internet, the DNS or related matters, Registry Operator shall reasonably cooperate with such study, including by delivering to ICANN or its designee conducting such study all data <u>related to the operation of the TLD</u> reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold <u>(a) any internal analyses or evaluations prepared by Registry Operator with respect to such data and (b) any data to the extent that the delivery of such data would be in violation of applicable law.</u> Any data delivered to ICANN or its designee pursuant to this Section 2.15 shall be fully aggregated and anonymized by <u>that is appropriately marked as confidential (as required by Section 7.14) shall be treated as Confidential Information of Registry Operator in accordance with Section 7.14, provided that, if ICANN aggregates and makes anonymous such data,</u> ICANN or its designee prior to any disclosure of <u>may disclose</u> such data to any third party. <u>Following completion of an economic study for which Registry Operator has provided data, ICANN will destroy all data provided by Registry Operator that has not been aggregated and made anonymous.</u></p>	<p>Revisions:</p> <ul style="list-style-type: none"> • Clarify that information to be provided in connection with economic studies is limited to TLD, and not other business interests of Registry Operator. • Provide that no information is required to be provided if the provision of such information would violate applicable law. • Provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as confidential information subject to Section 7.14, unless ICANN aggregates and make the information anonymous, subject to a specified exception. • Require ICANN to destroy such information that has not been aggregated and made anonymous by ICANN following completion of the

Section	Change to Text	Comments and Rationale
		study.
4.2(a)(i)	Following notice by ICANN to Registry Operator of a fundamental and material breach of Registry Operator’s covenants set forth in Article 2 or breach of its payment obligations under Article 6 of this Agreement, which notice shall include with specificity the details of the alleged breach, and such breach has not been cured within thirty (30) calendar days of such notice, (A) an arbitrator or court <u>of competent jurisdiction</u> has finally determined that Registry Operator has been in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (B) Registry Operator has failed to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court <u>of competent jurisdiction</u> ; or	Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”
4.2(a)(ii)	During the then current Term, Registry Operator shall have been found by an arbitrator (pursuant to Section 5.2 of this Agreement) <u>or a court of competent jurisdiction</u> on at least three (3) separate occasions to have been in <u>(A)</u> fundamental and material breach (whether or not cured) of Registry Operator’s covenants set forth in Article 2 or <u>(B)</u> breach of its payment obligations under Article 6 of this Agreement.	Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”
4.3(a)	ICANN may, upon notice to Registry Operator, terminate this Agreement if: (i) Registry Operator fails to cure (A) any fundamental and material breach of Registry Operator’s representations and warranties set forth in Article 1 or covenants set forth in Article 2, or (B) any breach of Registry Operator’s payment obligations set forth in Article 6 of this Agreement, each within thirty (30) calendar days after ICANN gives Registry Operator notice of such breach, which notice will include with specificity the details of the alleged breach, (ii) an arbitrator or court <u>of competent jurisdiction</u> has finally determined that Registry Operator is in fundamental and material breach of such covenant(s) or in breach of its payment obligations, and (iii) Registry Operator fails to comply with such determination and cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court <u>of competent jurisdiction</u> .	Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”
4.3(c)	ICANN may, upon notice to Registry Operator, terminate this Agreement if	Revisions clarify that references to a “court”

Section	Change to Text	Comments and Rationale
	<p>(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 <u>of competent jurisdiction</u> has finally determined that Registry Operator is in material breach of such covenant, and (iii) Registry Operator fails to cure such breach within ten (10) calendar days or such other time period as may be determined by the arbitrator or court <u>of competent jurisdiction</u>.</p>	<p>is a reference to a “court of competent jurisdiction.”</p>
4.3(d)	<p>ICANN may, upon notice to Registry Operator, terminate this Agreement if (i) Registry Operator makes an assignment for the benefit of creditors or similar act, (ii) attachment, garnishment or similar proceedings are commenced against Registry Operator, which proceedings are a material threat to Registry Operator’s ability to operate the registry for the TLD, and are not dismissed within sixty (60) <u>calendar</u> days of their commencement, (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registry Operator or maintains control over any of Registry Operator’s property, (iv) execution is levied upon any property of Registry Operator, (v) proceedings are instituted by or against Registry Operator under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within thirty (30) <u>calendar</u> days of their commencement, or (vi) Registry Operator files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations or the operation of the TLD.</p>	<p>Changed to clarify that the applicable reference is to calendar days.</p>
4.4(a)	<p>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 <u>of competent jurisdiction</u> 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</p>	<p>Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”</p>

Section	Change to Text	Comments and Rationale
	determined by the arbitrator or court <u>of competent jurisdiction.</u>	
4.5	<p>Transition of Registry upon Termination of Agreement. Upon expiration of the Term pursuant to Section 4.1 or Section 4.2 or any termination of this Agreement pursuant to Section 4.3 or Section 4.4, Registry Operator shall provide ICANN or any successor registry operator that may be designated by ICANN for the TLD in accordance with this Section 4.5 with all data (including the data escrowed in accordance with Section 2.3) regarding operations of the registry for the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator. After consultation with Registry Operator, ICANN shall determine whether or not to transition operation of the TLD to a successor registry operator in its sole discretion and in conformance with the Registry Transition Process; provided, however, that <u>(i) ICANN will take into consideration any intellectual property rights of Registry Operator (as communicated to ICANN by Registry Operator) in determining whether to transition operation of the TLD to a successor registry operator and (ii) if</u> Registry Operator demonstrates to ICANN’s reasonable satisfaction that <u>(#A)</u> all domain name registrations in the TLD are registered to, and maintained by, Registry Operator for its own exclusive use, <u>(#B)</u> Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and <u>(#C)</u> transitioning operation of the TLD is not necessary to protect the public interest, then ICANN may not transition operation of the TLD to a successor registry operator upon the expiration or termination of this Agreement without the consent of Registry Operator (which shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, the foregoing sentence shall not prohibit ICANN from delegating the TLD pursuant to a future application process for the delegation of top-level domains, subject to any processes and objection procedures instituted by ICANN in connection with such application process intended to protect the rights of third parties. Registry Operator agrees that ICANN may make any changes it deems necessary to the IANA database for DNS and WHOIS records with respect to the TLD in the event of a transition of the TLD pursuant to this Section 4.5. In addition, ICANN or its designee shall retain and may enforce its rights under the Continued Operations Instrument <u>for the maintenance and operation of the TLD,</u> regardless of the</p>	<p>In response to public comments expressing concerns over the transition of certain TLDs, the revised language provides that ICANN will take into account the intellectual property rights of the Registry Operator when determining whether to transition the TLD.</p> <p>Revisions also clarify the intent to use the Continued Operations Instruments to secure the maintenance and operation of the TLD.</p>

Section	Change to Text	Comments and Rationale
	reason for termination or expiration of this Agreement.	
5.1(a)	<p>A party shall submit a dispute to mediation by written notice to the other party. The mediation shall be conducted by a single mediator selected by the parties. If the parties cannot agree on a mediator within fifteen (15) calendar days of delivery of written notice pursuant to this Section 5.1, the parties will promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity’s selection, designate a mediator, who is a licensed attorney with general knowledge of contract law <u>and, to the extent necessary to mediate the particular dispute, general knowledge of the domain name system.</u></p> <p>Any mediator must confirm in writing that he or she is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, or security holder of ICANN or Registry Operator. If such confirmation is not provided by the appointed mediator, then a replacement mediator shall be appointed pursuant to this Section 5.1(a).</p>	Inserts a requirement that, to the extent necessary to mediate any particular dispute, the mediator will have general knowledge of the DNS.
5.1(b)	<p>The mediator shall conduct the mediation in accordance with the rules and procedures that he or she determines <u>following consultation with the parties.</u> The parties shall discuss the dispute in good faith and attempt, with the mediator’s assistance, to reach an amicable resolution of the dispute. The mediation shall be treated as a settlement discussion and shall therefore be confidential and may not be used against either party in any later proceeding relating to the dispute, including any arbitration pursuant to Section 5.2. The mediator may not testify for either party in any later proceeding relating to the dispute.</p>	Change inserted to provide that the mediator must consult with the parties prior to establishing the applicable rules and procedures.
5.1(c)	<p>Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator. <u>Each party shall treat information received from the other party pursuant to the mediation that is appropriately marked as confidential (as required by Section 7.14) as Confidential Information of such other party in accordance with Section 7.14.</u></p>	Revisions provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as confidential information subject to Section 7.14.
5.2	<p>Arbitration. Disputes arising under or in connection with this Agreement that are not resolved pursuant to Section 5.1, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the</p>	Revisions provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as

Section	Change to Text	Comments and Rationale
	<p>International Court of Arbitration of the International Chamber of Commerce. The arbitration will be conducted in the English language and will occur in Los Angeles County, California. Any arbitration will be in front of a single arbitrator, unless (i) ICANN is seeking punitive or exemplary damages, or operational sanctions, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) in the preceding sentence, the arbitration will be in front of three arbitrators with each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator(s) determine that a hearing is necessary, the hearing shall be limited to one (1) calendar day, provided that in any arbitration in which ICANN is seeking punitive or exemplary damages, or operational sanctions, the hearing may be extended for one (1) additional calendar day if agreed upon by the parties or ordered by the arbitrator(s) based on the arbitrator(s) independent determination or the reasonable request of one of the parties thereto. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in the awards. In the event the arbitrators determine that Registry Operator has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 or Section 5.4 of this Agreement, ICANN may request the arbitrators award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator's right to sell new registrations). <u>Each party shall treat information received from the other party pursuant to the arbitration that is appropriately marked as confidential (as required by Section 7.14) as Confidential Information of such other party in accordance with Section 7.14.</u> In any litigation involving ICANN concerning this Agreement, jurisdiction and exclusive venue for such litigation will be in a court located in Los Angeles County, California; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.</p>	<p>confidential information subject to Section 7.14.</p>
<p>5.2 (alternate)</p>	<p>Arbitration. Disputes arising under or in connection with this Agreement that are not resolved pursuant to Section 5.1, including requests for specific performance, will be resolved through binding arbitration conducted pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce. The</p>	<p>Revisions provide that information provided and marked as confidential (as required by a new Section 7.14) will be treated as confidential information subject to Section</p>

Section	Change to Text	Comments and Rationale
	<p>arbitration will be conducted in the English language and will occur in Geneva, Switzerland, unless another location is mutually agreed upon by Registry Operator and ICANN. Any arbitration will be in front of a single arbitrator, unless (i) ICANN is seeking punitive or exemplary damages, or operational sanctions, or (ii) the parties agree in writing to a greater number of arbitrators. In either case of clauses (i) or (ii) in the preceding sentence, the arbitration will be in front of three arbitrators with each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator. In order to expedite the arbitration and limit its cost, the arbitrator(s) shall establish page limits for the parties' filings in conjunction with the arbitration, and should the arbitrator(s) determine that a hearing is necessary, the hearing shall be limited to one (1) calendar day, provided that in any arbitration in which ICANN is seeking punitive or exemplary damages, or operational sanctions, the hearing may be extended for one (1) additional calendar day if agreed upon by the parties or ordered by the arbitrator(s) based on the arbitrator(s) independent determination or the reasonable request of one of the parties thereto. The prevailing party in the arbitration will have the right to recover its costs and reasonable attorneys' fees, which the arbitrator(s) shall include in the awards. In the event the arbitrators determine that Registry Operator has been repeatedly and willfully in fundamental and material breach of its obligations set forth in Article 2, Article 6 or Section 5.4 of this Agreement, ICANN may request the arbitrators award punitive or exemplary damages, or operational sanctions (including without limitation an order temporarily restricting Registry Operator's right to sell new registrations). <u>Each party shall treat information received from the other party pursuant to the arbitration that is appropriately marked as confidential (as required by Section 7.14) as Confidential Information of such other party in accordance with Section 7.14.</u> 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 another location is mutually agreed upon by Registry Operator and ICANN; however, the parties will also have the right to enforce a judgment of such a court in any court of competent jurisdiction.</p>	7.14.
5.3	<p>Limitation of Liability. ICANN's aggregate monetary liability for violations of this Agreement will not exceed an amount equal to the Registry-Level Fees paid by Registry Operator to ICANN within the preceding twelve-month period pursuant to</p>	Clarification added in response to a public comment that suggested that the limitation on liability in Section 5.3 are applicable to

Section	Change to Text	Comments and Rationale
	<p>this Agreement (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any). Registry Operator’s aggregate monetary liability to ICANN for breaches of this Agreement will be limited to an amount equal to the fees paid to ICANN during the preceding twelve-month period (excluding the Variable Registry-Level Fee set forth in Section 6.3, if any), and punitive and exemplary damages, if any, awarded in accordance with Section 5.2, <u>except with respect to Registry Operator’s indemnification obligations pursuant to Section 7.1 and Section 7.2.</u> 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.</p>	<p>Registry Operator’s obligations under Section 7.1, which is not the intent of the provision and is inconsistent with the operation of the provision under ICANN’s existing registry agreements.</p>
5.4	<p>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 or court <u>of competent jurisdiction</u> specific performance of the terms of this Agreement (in addition to any other remedy to which each party is entitled).</p>	<p>Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”</p>
6.1	<p>Registry-Level Fees. Registry Operator shall pay ICANN a Registry level fee equal to (i) the Registry fixed fee of US\$6,250 per calendar quarter and (ii) the Registry level transaction fee. The Registry level transaction fee will be equal to the number of annual increments of an initial or renewal domain name registration (at one or more levels, and including renewals associated with transfers from one ICANN-accredited registrar to another, each a “Transaction”), during the applicable calendar quarter multiplied by US\$0.25; provided, however that the Registry level transaction fee shall not apply until and unless more than 50,000 Transactions have occurred in the TLD during any calendar quarter or any consecutive four calendar quarter period in the aggregate (the “Transaction Threshold”) and shall apply to each Transaction that occurred during each quarter in which the Transaction</p>	<p>Changed to clarify that the applicable reference is to calendar days.</p>

Section	Change to Text	Comments and Rationale
	Threshold has been met, but shall not apply to each quarter in which the Transaction Threshold has not been met. Registry Operator shall pay the Registry level fees on a quarterly basis by the 20th calendar 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 fourteen (10 14) business calendar 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.	Changed from business days to calendar days in response to comments explaining the lack of uniformity of business days in a global environment.
6.4	<u>Pass Through Fees. Registry Operator shall pay to ICANN any fees required to be paid to ICANN pursuant to the RPMs described in Specification 7, on the schedule and in accordance with the terms and conditions set forth in such mandatory RPMs.</u>	Added to clarify that fees charged to Registry Operator for further payment to third party under rights protection mechanisms
7.1(a)	Registry Operator shall indemnify and defend ICANN and its directors, officers, employees, and agents (collectively, “Indemnitees”) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including reasonable legal fees and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator’s operation of the registry for the TLD or Registry Operator’s provision of Registry Services, provided that Registry Operator shall not be obligated to indemnify or defend any Indemnitee to the extent the claim, damage, liability, cost or expense arose: (i) due to the actions or omissions of ICANN, its subcontractors, panelists or evaluators specifically related to and occurring during the registry TLD application process (other than actions or omissions requested by or for the benefit of Registry Operator), or (ii) due to a breach by ICANN of any obligation contained in this Agreement or any willful misconduct by ICANN. This	Revisions clarify that references to a “court” is a reference to a “court of competent jurisdiction.”

Section	Change to Text	Comments and Rationale
	<p>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 <u>of competent jurisdiction</u> or arbitrator.</p>	
7.1(b)	<p>Registry Operator shall use its best efforts to cooperate with ICANN in order to ensure that ICANN does not incur any costs associated with claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to intellectual property ownership rights with respect to the TLD, the delegation of the TLD to Registry Operator, Registry Operator's operation of the registry for the TLD or Registry Operator's provision of Registry Services, provided that Registry Operator shall not be obligated to provide such cooperation to the extent the claim, damage, liability, cost or expense arose due to a breach by ICANN of any of its obligations contained in this Agreement or any willful misconduct by ICANN. This Section shall not be deemed to require Registry Operator to reimburse or otherwise indemnify ICANN for costs associated with the negotiation or execution of this Agreement, or with monitoring or management of the parties' respective obligations hereunder. Further, this Section shall not apply to any request for attorney's fees in connection with any litigation or arbitration between or among the parties, which shall be governed by Article 5 or otherwise awarded by a court <u>of competent jurisdiction</u> or arbitrator.</p>	
7.5	<p>Change in Control; Assignment and Subcontracting. Except as set forth in this Section 7.5, neither party may assign this Agreement without the prior written approval of the other party, which approval will not be unreasonably withheld. For purposes of this Section 7.5, a direct or indirect change of control of Registry Operator or any material subcontracting arrangement with respect to the operation of the registry for the TLD shall be deemed an assignment. 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</p>	<p>The provision has been revised in response to public comment to clarify that assignment is subject to the terms specified therein, and to provide that Registry Operator may assign the Agreement to a wholly-owned subsidiary.</p>

Section	Change to Text	Comments and Rationale
	<p>and agreements by Registry Operator hereunder, and Registry Operator shall continue to be bound by such covenants, obligations and agreements. Registry Operator must also provide no less than thirty (30) calendar days advance notice to ICANN prior to the consummation of any transaction anticipated to result in a direct or indirect change of control of Registry Operator. Such change of control notification shall include a statement that affirms that the party acquiring such control and the ultimate parent entity of the party acquiring such control meets the ICANN-adopted specification or policy on registry operator criteria then in effect, and affirms that Registry Operator is in compliance with its obligations under this Agreement. Within thirty (30) calendar days of either such notification, ICANN may request additional information from Registry Operator establishing (a) compliance with this Agreement and (b) that the party acquiring such control or entering into such subcontracting arrangement (in either case, the “Contracting Party”) and the ultimate parent entity of the Contracting Party meets the ICANN-adopted specification or policy on registry operator criteria then in effect, in which case Registry Operator must supply the requested information within fifteen (15) calendar days. In connection with ICANN’s consideration of any such transaction, ICANN may request (and Registry Operator shall provide and shall cause the Contracting Party to provide) additional information that will allow ICANN to evaluate whether the proposed Contracting Party (or its ultimate parent entity) meets such specification or policy, including with respect to financial resources and operational and technical capabilities. Registry Operator agrees that ICANN’s consent to any proposed transaction will also be subject to background checks on any proposed Contracting Party (and such Contracting Party’s Affiliates). Following such review, ICANN shall be deemed to have reasonably withheld its consent to any <u>assignment</u>, direct or indirect change in control or subcontracting arrangement in the event that ICANN reasonably determines that the Contracting Party (or the ultimate parent entity of the Contracting Party) does not meet the ICANN-adopted specification or policy on registry operator criteria then in effect. If ICANN fails to expressly provide or withhold its consent to any <u>assignment</u>, direct or indirect change of control of Registry Operator or any material subcontracting arrangement within thirty (30) calendar days of ICANN’s receipt of notice of such transaction (or, if ICANN has requested additional information from Registry Operator as set forth above, sixty (60) calendar days of the receipt of all requested</p>	

Section	Change to Text	Comments and Rationale
	<p>written information regarding such transaction) from Registry Operator, ICANN shall be deemed to have consented to such transaction. In connection with any such transaction, Registry Operator shall comply with the Registry Transition Process. Notwithstanding the foregoing, (i) ICANN may assign this Agreement without the consent of Registry Operator upon approval of the ICANN Board of Directors in conjunction with a reorganization, reconstitution or re-incorporation of ICANN <u>upon such assignee's express assumption of the terms and conditions of this Agreement.</u> (ii) <u>Registry Operator may assign this Agreement without the consent of ICANN to a wholly-owned subsidiary of Registry Operator upon such subsidiary's express assumption of the terms and conditions of this Agreement.</u> and (iii) ICANN shall be deemed to have consented to any <u>assignment,</u> material subcontracting arrangement or change of control transaction in which the Contracting Party is an existing operator of a generic top-level domain pursuant to a registry agreement between such Contracting Party and ICANN (provided that such Contracting Party is then in compliance with the terms and conditions of such registry agreement in all material respects), unless ICANN provides to Registry Operator a written objection to such transaction within ten (10) calendar days of ICANN's receipt of notice of such transaction pursuant to this Section 7.5.</p>	
7.6	<p>(a) If <u>the ICANN Board of Directors</u> 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 <u>adopt</u> a Special Amendment for approval by the Applicable Registry Operators pursuant to the process set forth in this Section 7.6; <u>provided that a Special Amendment is may not be a Restricted Amendment, (as defined below).</u></p> <p>b) Prior to submitting a Special Amendment for such approval <u>Registry Operator Approval</u>, ICANN shall first consult in good faith with the Working Group (as defined below) regarding the form and substance of a <u>such</u> Special Amendment. The duration of such consultation shall be reasonably determined by ICANN based on the substance of the</p>	<p>In response to public comment, the amendment provision has been significantly revised to provide enhanced checks and balances on the ICANN board's ability to adopt amendments to the Agreement despite the objection from applicable Registry Operators. These checks and balances include the following:</p> <ul style="list-style-type: none"> • Requiring amendments on topics that may be the subject of Consensus Policies to proceed through the Policy Development Process, and be subject to the consensus reached by the GNSO (for

Section	Change to Text	Comments and Rationale
	<p>Special Amendment. Following such consultation, ICANN may propose the adoption of a Special Amendment by publicly posting such amendment on its website for no less than thirty (30) calendar days (the “Posting Period”) and providing notice of such amendment by ICANN to the Applicable Registry Operators in accordance with Section 7.8. ICANN will consider the public comments submitted on a Special Amendment during the Posting Period (including comments submitted by the Applicable Registry Operators).</p> <p>(b) <u>(c)</u> If, within two <u>one hundred eighty (180)</u> calendar years of days <u>following</u> 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), but must be substantially related to the subject to Section 7.6(e) <u>matter of the Special Amendment posted for public comment), ICANN shall provide notice of, and submit, such Special Amendment for approval or disapproval by the Applicable Registry Operators. If, during the sixty (60) calendar day period following the date ICANN provides such notice to the Applicable Registry Operators,</u> 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 <u>on the date that is sixty (60) calendar days notice from ICANN following the date ICANN provided notice of the approval of such Approved Amendment</u> 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, subject to Section 7.6(e), the Special <u>Amendment shall be deemed not approved by the Applicable Registry Operators (a “Rejected Amendment”). A Rejected</u> Amendment will have no effect. The procedure</p>	<p>or against amendment)</p> <ul style="list-style-type: none"> • Requiring each of the following for the ICANN board to move forward with an amendment rejected by Registry Operators: <ul style="list-style-type: none"> ○ reasonably determine that such rejected amendment is (i) justified by a “Substantial and Compelling Reason Related to the Public Interest” and the subject matter thereof is within the scope of ICANN’s mission and core values (as described in ICANN’s Bylaws), (ii) is as narrowly tailored as reasonably possible to address such Substantial and Compelling Reason Related to the Public Interest and (iii) to the extent the rejected amendment prohibits conduct or activities, is the least restrictive means reasonably available address the Substantial and Compelling Reason Related to the Public Interest • Submitting the amendment, along with a written explanation of the reasoning related to its determination above, for public comment for a period of no less than 30 days

Section	Change to Text	Comments and Rationale
	<p>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. <u>on the terms and conditions of this Agreement, except as set forth below.</u></p> <p><u>(d)If the ICANN Board of Directors determines that a Rejected Amendment falls within the subject matter categories set forth in Section 1.2 of Specification 1, the ICANN Board of Directors may adopt a resolution (the date such resolution is adopted is referred to herein as the “Resolution Adoption Date”) requesting an Issue Report (as such term is defined in ICANN’s Bylaws) by the Generic Names Supporting Organization (the “GNSO”) regarding the substance of such Rejected Amendment. The policy development process undertaken by the GNSO pursuant to such requested Issue Report is referred to herein as a “PDP.” If such PDP results in a GNSO Supermajority (as defined in ICANN’s Bylaws) recommendation that is adopted by the Board regarding either implementation of the Rejected Amendment or abandonment of the Rejected Amendment, upon adoption of any such Consensus Policy, Registry Operator shall comply with its obligations pursuant to Section 2.2 of this Agreement. If the Consensus Policy is adopted, the Rejected Amendment will have no effect on the terms and conditions of this Agreement. Notwithstanding the foregoing provisions of this Section 7.6(d), the ICANN Board of Directors shall not be required to initiate a PDP with respect to a Rejected Amendment if, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registry Operator Approval pursuant to Section 7.6(c), the subject matter of such Rejected Amendment was the subject of a PDP that did not result in a GNSO Supermajority recommendation.</u></p> <p><u>(e)If the ICANN Board of Directors determines that (i) a Rejected Amendment does not fall within the subject matter categories set forth</u></p>	<ul style="list-style-type: none"> • Engaging in consultation with the “Working Group”, subject matter experts, members of the GNSO, relevant advisory committees and other interested stakeholders with respect to the amendment for a period of no less than 30 days • Reapproving the amendment by the affirmative vote of at least two-thirds of the members of the ICANN board eligible to vote on the matter • Providing a mechanism for registry operators to introduce and implement an alternative to a board approved amendment if certain conditions are met • Removing the requirement that a registry operator must have voted against an amendment in order to seek an exemption from its operation

Section	Change to Text	Comments and Rationale
	<p><u>in Section 1.2 of Specification 1, (ii) the subject matter of a Rejected Amendment was, at any time in the twelve (12) month period preceding the submission of such Rejected Amendment for Registry Operator Approval pursuant to Section 7.6(c), the subject of a PDP that did not result in a GNSO Supermajority recommendation, or (iii) a Rejected Amendment that is subject to a PDP pursuant to Section 7.6(d) has not achieved adoption pursuant to a GNSO Supermajority recommendation that is adopted by the ICANN Board of Directors with respect to such Rejected Amendment's implementation or abandonment within twelve (12) months of the Resolution Adoption Date (or such PDP has otherwise been terminated for any reason), then, in any such case, such Rejected Amendment may still be adopted and become effective. In order for the Rejected Amendment to be adopted, the ICANN Board of Directors must: (A) reasonably determine that such Rejected Amendment is (i) justified by a Substantial and Compelling Reason Related to the Public Interest and the subject matter thereof is within the scope of ICANN's mission and core values (as described in ICANN's Bylaws), (ii) is as narrowly tailored as reasonably possible to address such Substantial and Compelling Reason Related to the Public Interest and (iii) to the extent the Rejected Amendment prohibits conduct or activities, is the least restrictive means reasonably available to address the Substantial and Compelling Reason Related to the Public Interest; (B) submit the Rejected Amendment, along with a written explanation of the reasoning related to its determination under subclause (A), which articulates the relationship to ICANN's mission and the balancing of ICANN's core values with respect to the Rejected Amendment, for public comment for a period of no less than thirty (30) calendar days; (C) following such public comment period, engage in consultation (or direct ICANN management to engage in consultation) with the Working Group, subject matter experts, members of the GNSO, relevant advisory committees and other interested stakeholders with respect to such Rejected Amendment for a period of no less than thirty (30) calendar</u></p>	

Section	Change to Text	Comments and Rationale
	<p><u>days; and (D) following such consultation, reapprove the Rejected Amendment (which may be in a form different than submitted for Registry Operator Approval, but must be substantially related to the subject matter of the Rejected Amendment) by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN’s Conflict of Interest Policy (a “Board Amendment”). Such Board Amendment shall, subject to Section 7.6(f), be deemed an Approved Amendment, and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Board Amendment to Registry Operator (which effective date shall be deemed the Amendment Effective Date hereunder). Notwithstanding the foregoing, a Board Amendment may not amend the registry fees charged by ICANN hereunder, or amend this Section 7.6.</u></p> <p>(e) Notwithstanding the provisions of Section 7.6(b), in the event that a Special <u>Notwithstanding the provisions of Section 7.6(b), in the event that a Special</u> a Board Amendment shall not be deemed an Approved Amendment if, during the thirty (30) calendar day period following the approval by the ICANN Board of Directors of the Board Amendment, the Working Group, on the behalf of the Applicable Registry Operators, submits to the ICANN Board of Directors an alternative to the Board Amendment (an “Alternative Amendment”) that (i) sets forth the precise text proposed by the Working Group to amend this Agreement in lieu of the Board Amendment, (ii) addresses the Substantial and Compelling Reason Related to the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment, (iii) is as narrowly tailored as reasonably possible to address such Substantial and Compelling Reason Related to the Public Interest, and (iv) to the extent the Alternative Amendment prohibits conduct or activities, is the least restrictive means reasonably available <u>a Board Amendment shall not be deemed an Approved Amendment if, during the thirty (30) calendar day period following the approval by the ICANN Board of Directors of the Board Amendment, the Working Group, on the behalf of the Applicable Registry Operators, submits to the ICANN Board of Directors an alternative to the Board Amendment (an “Alternative Amendment”) that (i) sets forth the precise text proposed by the Working Group to amend this Agreement in lieu of the Board Amendment, (ii) addresses the Substantial and Compelling Reason Related to the Public Interest identified by the ICANN Board of Directors as the justification for the Board Amendment, (iii) is as narrowly tailored as reasonably possible to address such Substantial and Compelling Reason Related to the Public Interest, and (iv) to the extent the Alternative Amendment prohibits conduct or activities, is the least restrictive means reasonably available</u></p>	

Section	Change to Text	Comments and Rationale
	<p><u>to address the Substantial and Compelling Reason Related to the Public Interest. Any proposed amendment that does not meet the requirements of subclauses (i) through (iv) in the immediately preceding sentence shall not be considered an Alternative Amendment hereunder and therefore shall not supersede or delay the effectiveness of the Board Amendment. If, following the submission of the Alternative Amendment to the ICANN Board of Directors, the Alternative Amendment obtains Registry Operator Approval, the Alternative Amendment shall supersede the Board Amendment and shall be deemed an Approved Amendment hereunder (and shall be effective and deemed an amendment to this Agreement on the date that is sixty (60) calendar days following the date ICANN provided notice of the approval of such Alternative Amendment to Registry Operator, which effective date shall deemed the Amendment Effective Date hereunder), unless, within a period of sixty (60) calendar days following the date that the Working Group notifies the ICANN Board of Directors of Registry Operator Approval of such Alternative Amendment (during which time ICANN shall engage with the Working Group with respect to the Alternative Amendment), the ICANN Board of Directors by the affirmative vote of at least two-thirds of the members of the ICANN Board of Directors eligible to vote on such matter, taking into account any ICANN policy affecting such eligibility, including ICANN’s Conflict of Interest Policy, rejects the Alternative Amendment. If (A) the Alternative Amendment does not receive Registry Operator Approval, such Special <u>within thirty (30) days of submission of such Alternative Amendment shall still be deemed an “Approved Amendment” if, following the failure to receive to the Applicable Registry Operator Approval, Operators (and the Working Group shall notify ICANN of the date of such submission), or (B) the ICANN Board of Directors reapproves such Special rejects the Alternative Amendment (which may be in a form different than submitted for approval by the Applicable Registry Operators, including any revisions thereto based on comments from the Applicable Registry Operators) by <u>such</u> two-</u></u></p>	

Section	Change to Text	Comments and Rationale
	<p>thirds vote (a “Supermajority Board Approval”) and such Special, <u>the Board Amendment is justified by a substantial and compelling need. The “(and not the Alternative Amendment Effective Date” of any such Approved Amendment) shall be effective and deemed an amendment to this Agreement on</u> the date that is ninetysixty (9060) calendar days following the date on which ICANN providesprovided notice to Registry Operator of the Supermajority Board Approval(which effective date shall deemed the Amendment Effective Date hereunder).</p> <p><u>(g)In the event that Registry Operator believes an Approved Amendment has been adopted in contravention of any provisions of this Section 7.6, Registry Operator may challenge the adoption of such Special Amendment pursuant to the dispute resolution provisions 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.</u></p> <p>(dh)Registry Operator (so long as it did not vote in favor of the Approved Amendment) may applymay request in writing to ICANN for an exemption from the Approved Amendment (each such request submitted by Registry Operator hereunder, an “Exemption Request”) during the thirty (30) calendar day period following either the Amendment Approval Date or the date on whichICANN provided notice to Registry Operator received notice of the Supermajority Board Approval, as applicableof such Approved Amendment. 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</p>	

Section	Change to Text	Comments and Rationale
	<p>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; provided, that any conditions, alternatives or variations of the Approved Amendment required by ICANN shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. 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(ej), agreed to by ICANN following mediation pursuant to Section 5.1 or through an arbitration decision pursuant to Section 5.2 shall exempt Registry Operator from any Approved Amendment, and no exemption request 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.</p> <p>(ej)Except as set forth in this Section 7.6, no amendment, supplement</p>	

Section	Change to Text	Comments and Rationale
	<p>or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties, and nothing in this Section 7.6 shall restrict ICANN and Registry Operator from entering into bilateral amendments and modifications to this Agreement negotiated solely between the two parties. No waiver of any provision of this Agreement shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement or failure to enforce any of the provisions hereof shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided. For the avoidance of doubt, nothing in this Section 7.6 shall be deemed to limit Registry Operator’s obligation to comply with Section 2.2.</p> <p>¶i) For purposes of this Section 7.6, the following terms shall have the following meanings:</p> <p>(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.</p> <p>(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 <u>the</u> 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.</p>	

Section	Change to Text	Comments and Rationale
	<p>(iii) “Restricted Amendment” means the following: (iiiA) an amendment of Specification 1, (iiiB) 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, (iiiC) an amendment to the definition of Registry Services as set forth in the first paragraph of Section 2.1 of Specification 6, or (iivD) an amendment to the length of the Term.</p> <p><u>(iv) “Substantial and Compelling Reason Related to the Public Interest” means a reason that is related to an interest that is important to ICANN’s performance of its mission as guided by ICANN’s core values as defined in ICANN’s Bylaws.</u></p> <p>(iivv) “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(di)).</p>	
7.8	<p>General Notices. Except for notices pursuant to Section 7.6, all notices to be given under or in relation to this Agreement will be given either (i) in writing at the address of the appropriate party as set forth below or (ii) via facsimile or electronic mail as provided below, unless that party has given a notice of change of postal or email address, or facsimile number, as provided in this agreement. All notices under Section 7.6 shall be given by both posting of the applicable information on ICANN’s web site and transmission of such information to Registry Operator by electronic mail. Any change in the contact information for notice below will be given by the party within thirty (30) calendar days of such change. Notices, designations, determinations, and specifications made under this Agreement will be in the English language. Other than notices under Section 7.6, any notice required by this Agreement will be deemed to have been properly given (i) if in paper form, when delivered in person or via courier service with confirmation of receipt or (ii) if via facsimile or by electronic mail, upon confirmation of receipt by the recipient’s</p>	<p>Changed from business days to calendar days in response to a comments explaining the lack of uniformity of business days in a global environment.</p>

Section	Change to Text	Comments and Rationale
	<p>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 twothree (23) businesscalendar days. Any notice required by Section 7.6 will be deemed to have been given when electronically posted on ICANN’s website and upon confirmation of receipt by the email server. In the event other means of notice become practically achievable, such as notice via a secure website, the parties will work together to implement such notice means under this Agreement.</p>	
7.11	<p>Ownership Rights. Nothing contained in this Agreement shall be construed as <u>(a)</u> establishing or granting to Registry Operator any property ownership rights or interests <u>of Registry Operator</u> in the TLD or the letters, words, symbols or other characters making up the TLD string, <u>or (b) affecting any existing intellectual property or ownership rights of Registry Operator.</u></p>	<p>In response to public comments, the provision was revised to clarify that, while the Agreement does not confer ownership rights, it also does not take away any rights held by the Registry Operator.</p>
7.14	<p><u>Confidentiality</u></p> <p><u>(a) Subject to Section 7.14(c), during the Term and for a period of two (2) years thereafter, each party shall, and shall cause its and its Affiliates’ officers, directors, employees and agents to, keep confidential and not publish or otherwise disclose to any third party, directly or indirectly, any information that the disclosing party has marked as, or has otherwise designated in writing to the receiving party as, “confidential trade secret,” “confidential commercial information” or “confidential financial information” (collectively, “Confidential Information”), except to the extent such disclosure is permitted by the terms of this Agreement.</u></p> <p><u>(b) The confidentiality obligations under Section 7.14(a) shall not apply to any Confidential Information that (i) is or hereafter becomes part of the public domain by public use, publication, general knowledge or the like through no fault of the receiving party in breach of this Agreement, (ii) can be demonstrated by documentation or other competent proof to have been in the receiving party’s possession prior to disclosure by the disclosing party without any obligation of confidentiality with respect to such information, (iii) is subsequently received by the receiving party from a third party who is not bound by any obligation of confidentiality with respect to such information, (iv) has been published by a third party or otherwise enters the public domain</u></p>	<p>Inserted a new confidentiality provision in response to public comments expressing the view that information exchanged between the parties should be subject to confidentiality requirements.</p>

Section	Change to Text	Comments and Rationale
	<p><u>through no fault of the receiving party, or (v) can be demonstrated by documentation or other competent evidence to have been independently developed by or for the receiving party without reference to the disclosing party's Confidential Information.</u></p> <p><u>(c) Each party shall have the right to disclose Confidential Information to the extent that such disclosure is (i) in the case of disclosures by ICANN, expressly permitted by any policy of ICANN with respect to the disclosure of information (including ICANN's Documentary Information Disclosure Policy, as such policy may be amended from time to time), (ii) made in response to a valid order of a court of competent jurisdiction or, if in the reasonable opinion of the receiving party's legal counsel, such disclosure is otherwise required by applicable law; provided, however, that the receiving party shall first have given notice to the disclosing party and given the disclosing party a reasonable opportunity to quash such order or to obtain a protective order or confidential treatment order requiring that the Confidential Information that is the subject of such order or other applicable law be held in confidence by such court or other third party recipient, or (iii) made by the receiving party or any of its Affiliates to its or their attorneys, auditors, advisors, consultants, contractors or other third parties for use by such person or entity as may be necessary or useful in connection with the performance of the activities under this Agreement, provided that such third party is bound by confidentiality obligations at least as stringent as those set forth herein, either by written agreement or through professional responsibility standards.</u></p>	
Spec. 1	<p>If the period of time for which the Temporary Policy is adopted exceeds 90 calendar days, the Board shall reaffirm its temporary adoption every 90 calendar 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.</p>	<p>Changed to clarify that the applicable reference is to calendar days.</p>
Spec. 2,	<p>Deposit's Format. Registry objects, such as domains, contacts, name servers,</p>	<p>Changed to clarify that the applicable</p>

Section	Change to Text	Comments and Rationale
Part A	registrars, etc. will be compiled into a file constructed as described in draft-arias-noguchi-registry-data-escrow, see Section 9, reference 1. The aforementioned document describes some elements as optional; Registry Operator will include those elements in the Deposits if they are available. Registry Operator will use the draft version available at the time of signing the Agreement, if not already an RFC. Once the specification is published as an RFC, Registry Operator will implement that specification, no later than 180 <u>calendar</u> days after. UTF-8 character encoding will be used.	reference is to calendar days.
Spec. 2, Part B	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 <u>fifteen calendar</u> 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.	Changed from business days to calendar days in response to a comments explaining the lack of uniformity of business days in a global environment.
Spec. 4	Query format: whois “NS1.EXAMPLE.TLD”, <u>whois “nameserver (nameserver name)”</u> , or whois “nameserver (IP Address)”	Changed in response to public comment.
Spec. 4	Within one hundred twenty (120) days of ICANN's request, Registry shall implement and comply with the new or revised model for gTLD data directory services that may be adopted by the ICANN Board of Directors after public comment based upon the recommendations of the Expert Working Group on gTLD Directory Services ("Next Generation Model") and as specified and implemented by ICANN, unless Registry can demonstrate to ICANN's satisfaction that implementation would be commercially unreasonable. Registry Operator agrees to execute, at ICANN's request, amendments to this Specification and the Registry Agreement reasonably necessary or appropriate to modify, eliminate, or update the WHOIS related obligations consistent with the Next Generation Model. The implementation of such recommendations may be superseded by Consensus Policies adopted by ICANN pursuant to Specification 1.	Deleted the requirement that Registry Operator implement the recommendations of the expert working group on gTLD directory services.

Section	Change to Text	Comments and Rationale
Spec. 4	Registry Operator shall provide a link on the primary website for the TLD <u>(i.e. the website provided to ICANN for publishing on the ICANN website)</u> to a web page designated by ICANN containing WHOIS policy and education materials.	In response to public comment, revisions clarify that the “primary website” is the website provided to ICANN by Registry Operator.
Spec. 4	Exceptional Access to Thick Registration Data. In case of a registrar failure, deaccreditation, court order, etc. that prompts the temporary or definitive transfer of its domain names to another registrar, at the request of ICANN, Registry Operator will provide ICANN with up-to-date data for the domain names of the losing registrar. The data will be provided in the format specified in Specification 2 for Data Escrow. The file will only contain data related to the domain names of the losing registrar. Registry Operator will provide the data within 2-business three calendar days. Unless otherwise agreed by Registry Operator and ICANN, the file will be made available for download by ICANN in the same manner as the data specified in Section 3.1 of this Specification.	Changed from business days to calendar days in response to a comments explaining the lack of uniformity of business days in a global environment.
Spec. 11	Registry Operator will use only ICANN accredited registrars that are party to the Registrar Accreditation Agreement approved by the ICANN Board of Directors on _____, 2013 (or any subsequent form of Registrar Accreditation Agreement approved by the ICANN Board of Directors) in registering domain names. A list of such registrars shall be maintained by ICANN on ICANN’s website.	Revisions clarify that applicable obligation extends only to the 2013 Registrar Accreditation Agreement, and not to any subsequent form of the agreement.