

AMENDMENT TO NEW gTLD QUALIFIED APPLICANT / BIDDER AGREEMENT

This AMENDMENT TO NEW gTLD QUALIFIED APPLICANT / BIDDER AGREEMENT (the "Amendment") shall be effective as of the first date of signature below by and between Auction Manager and the Bidder identified in the signature block below, and amends the parties' previously executed New gTLD Qualified Applicant/Bidder Agreement (the "Bidder Agreement") in the manner described herein. Unless otherwise defined in this Amendment, all capitalized terms have the meaning given to them in the Agreement.

The parties now mutually agree to amend Article 4 (INDEMNIFICATION, WAIVERS OF LIABILITY AND RELEASE) and Article 7 (MISCELLANEOUS) of the Bidder Agreement as follows:

1. Section 4.2 Indemnification [Old Text] is hereby deleted and replaced by Section 4.2 Indemnification and Waiver [New Text] as set forth below. The Section previously numbered 4.3 Exceptions [Old Text] is hereby deleted.

[OLD TEXT]

Section 4.2 Indemnification. The Bidder expressly releases, indemnifies and holds harmless the Auction Manager from any and all claims, including all damages, losses, liabilities, costs or expenses and claims thereof, whether direct or indirect, which may arise from, or be related to the Auction, including but not limited to: (i) the quality or availability of the Auction Site, any disturbance in the technical process, the receipt, storage and/or security of bids, or the Bidder being awarded a Contention String or not; (ii) reasonable attorneys' fees and expenses and other professional fees and expenses, which the Auction Manager may suffer or incur by reason of any action, claim or proceeding brought against Auction Manager arising out of or relating in any way to this Bidder Agreement or any transaction to which this Bidder Agreement relates; and (iii) any incidental or consequential damage, lost profits or lost opportunity.

Section 4.3 Exceptions. The indemnification set forth in Section 4.2 shall not apply to cases of gross negligence or willful misconduct by the Auction Manager.

[NEW TEXT]

Section 4.2 Indemnification and Waiver.

(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 this Bidder Agreement, or (iii) any other transaction in which the Bidder participates to which this Bidder Agreement relates.

(b) Except to the extent set forth in Section 4.2(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, this Bidder Agreement, or any other transaction to which this 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, this Bidder Agreement, or any other transaction to which this 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 this 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 ANY IMPLIED WARRANTIES OF CONDITION, UNINTERRUPTED USE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

2. The previously numbered Section 4.4 and Section 4.5 will be renumbered accordingly as Section 4.3 and Section 4.4, respectively.
3. Section 7.6 Auction Rules [Old Text] is hereby deleted and replaced by Section 7.6 Auction Rules [New Text] as set forth below.

[OLD TEXT]

Section 7.6 Auction Rules. ICANN shall be entitled to amend the Auction Rules for any Auction at any time at least fifteen (15) days prior to that Auction. ICANN will inform the Bidder of such changes via electronic written notice and the changes will be effective immediately. Such amendments will be published to the ICANN website. If any dispute or disagreement arises in connection with the Auction Rules, including the interpretation or application of the Auction Rules, or the form, content, validity or time of receipt of any Bid, ICANN's decision shall be final and binding.

[NEW TEXT]

Section 7.6 Auction Rules. ICANN shall be entitled, in its sole reasonable discretion, to amend the Auction Rules for any Auction at any time at least fifteen (15) days prior to that Auction. ICANN will inform the Bidder of such changes via electronic written notice and the changes will be effective immediately. Such amendments will be published to the ICANN website. If any dispute or disagreement arises in connection with the Auction Rules, including the interpretation or application of the Auction Rules, or the form, content, validity or time of receipt of any Bid, ICANN’s decision shall be final and binding.

Except to the extent modified by the provisions of this Amendment, the terms and conditions of the Agreement will otherwise will continue with full force and effect.

Power Auctions, LLC

Signature: _____

Print Name: _____

Title: _____

Date: _____

Bidder

Name of Bidder: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____