



**AUCTION RULES FOR  
NEW gTLDs  
VERSION 2014-11-03**

**PREPARED FOR ICANN**

**BY POWER AUCTIONS LLC**



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## **Auction Rules for New gTLDs**

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”).
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 proceed without further delay.*

9. If ICANN has not yet made the Name Collision Occurrence Management Framework for each applied for gTLD in the Contention Set available, ICANN will defer the Auction upon the request of any applicant in the Contention Set until the Name Collision Occurrence Management Framework is made available.

*✍ The deferment of an Auction until receipt of the Name Collision Occurrence Management Framework provides applicants an opt-out mechanism to postpone the Auctions prior to the Framework finalization.*

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, pursuant to clauses 8 -10, will generally be notified in priority order by using the lowest priority number of an application within a Contention Set.
12. Before an Auction to resolve a given Contention Set, 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 without “indirect contention” relationships. That is, the rules set forth within this document assume that there are direct contention relationships only, a condition that holds for the substantial majority of Auctions. In the event that an Auction will include a Contention Set that does not satisfy this condition, ICANN or the Auction Manager may issue an Addendum to the Auction Rules to address Contention Sets with both direct and indirect contention relationships. Such an Addendum will have the same force as these Auction Rules.

### 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.

*It is anticipated that Auctions will be conducted once per month to resolve 20 Contention Sets per Auction, with the intention to complete all Auctions within one (1) year from the date of the first Auction. ICANN and Power Auctions may modify the frequency of Auctions and the number of Contention Sets to be resolved per Auction based on ICANN's and Power Auctions' mutual discretion.*

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 modify the Round or Recess timescales on an ad hoc basis 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. Due to the rotating Auction start times (13:00, 16:00 or 20:00 UTC), 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 Contention Set within an Auction, the Bidder will be assigned a separate Bidding Limit for each such Contention Set, and the Bidding Limits will be non-transferable among Contention Sets. If any wire to the Auction Bank Account is intended to provide Deposits for more than one Contention Set, the Bidder must provide clear instructions in a specified form to the Auction Manager as to the allocation of Deposits among the Contention Sets.
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 a Contention Set 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 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 Bidders 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(c), 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 Start-of-Round Price.

*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. A Bidder is permitted to submit a Bid for an Application in Round  $n$  ( $n \geq 2$ ) if and only if the Bidder submitted a Continue Bid for the same Application in Round  $n - 1$ .
35. Thus, a Continue Bid guarantees that the Bidder's Application will not be eliminated from the Contention Set in the then current Round. By contrast, an Exit Bid is the final bid that the Bidder will be permitted to place for its Application, subject to clause 48.

*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 for its Application in each and every Round (or to place a Proxy Bid that has the same effect).*

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, at a price of at least the relevant Start-of-Round Price for the current Round, will be treated the same as a Bid that has been placed in the current Round. 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 who submitted a Continue Bid for the same Application in the previous Round;
  - (d) the price of the Bid must be a whole number of \$US that is not less than the Start-of-Round Price for the 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 at the Start-of-Round Price 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) Number of eligible Bidders for next round (but not the identity of the remaining eligible Bidders); 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 and only if valid Continue Bids were received for Applications within the Contention Set from at least two (2) Bidders. In this event:
- (a) the number of Bidders remaining in the Contention Set at the End-of-Round Price (i.e. the number of Bidders who submitted Continue Bids) ("Aggregate Demand") (but not the identity of the remaining eligible Bidders) will be posted to Bidders for the Contention Set;
  - (b) 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
  - (c) 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(c) 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 Bidders for the Contention Set. It does not attempt to describe commercial demand for the gTLD.*

46. An Open Contention Set will close after a Round if valid Continue Bids for the Contention Set were received from only one (1) Bidder. In this event:
- (a) the Bidder who submitted the only Continue Bid for the Contention Set will be deemed the Winner of the Contention Set;
  - (b) the Winning Price will be deemed to be the amount of the highest Exit Bid for the Contention Set, including automatic bids entered pursuant to clauses 30 and 42 and
  - (c) the fact that the Contention Set has closed, and the amount of the Winning Price, will be announced to all Bidders for the Contention Set.
47. An Open Contention Set will also close after a Round if no valid Continue Bid was received for the Contention Set from any Bidder. In this event:
- (a) the Bidder who submitted the highest Exit Bid for the Contention Set, including automatic bids entered pursuant to clauses 30 and 42, will be deemed the Winner of the Contention Set, subject to clauses 48 – 50;
  - (b) the Winning Price will be deemed to be the amount of the second-highest Exit Bid for the Contention Set, including automatic bids entered pursuant to clauses 30 and 42 and
  - (c) the fact that the Contention Set has closed, and the amount of the Winning Price, will be announced to all Bidders for the Contention Set.

48. In the event that there is a tie among the highest Exit Bids (“Tying Bid Price”) in the application of clause 47, 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 equalled the Tying Bid Price 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 Tying Bid Price; 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 Tying Bid Price will be entered automatically on the Bidder’s behalf.
50. The highest Bidder wins the Tie-Breaking Round and the Winning Price is deemed to be the amount of the second-highest Bid of the Tie-Breaking Round, including automatic bids entered pursuant to clause 49. 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 Aggregate Demand of each Round (except the final Round) for each Contention Set (but not the identities of the participants in each Round);

- (c) the Winning Price for each Contention Set; and
- (d) the identity of the Winner.

### Payments, Defaults and Penalties

55. If a Bidder wins the Auction for one or more Contention Sets, 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 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. 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. 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 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.
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 Bidders for the Contention Set.
<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.



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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 one of the conditions set out in clauses 46 and 47 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 strings that are identical or similar to one another.
<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>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>Ending Time</b>	Round	The time at which any particular Round ends.

Item	Applies to	Definition
<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>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 Start-of-Round Price for that Contention Set.
<b>ICANN</b>		Internet Corporation for Assigned Names and Numbers
<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 34. All Contention Sets are Open in Round 1.
<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 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	The lowest price at which an Exit Bid may be placed for an Application within a Contention Set in a 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.

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<b>Item</b>	<b>Applies to</b>	<b>Definition</b>
<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	The Bidder that secures its Application in the Contention Set.
<b>Winning Price</b>	Contention Set	The highest Exit Bid that did not win or \$1 if there are no such Exit Bids. This is the price paid by the Winner to secure its Application.