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 blue double underline, moved text in green, and deletions are reflected in red strike through. These changes were made in response to comments received from the community on the April 2011 discussion draft base agreement for new gTLDs and further review of the contractual needs of the new gTLD program. Note that non-substantive and stylistic changes to the draft base agreement for new gTLDs are not reflected in the below table.

Summary of Proposed Changes to Base gTLD Agreement

Section	Change to Text	Comments and Rationale
2.1	Registry Operator shall be entitled to provide the Registry Services described in clauses (a) and (b) of the first paragraph of Section 2.1 in the specification at [*see specification 6*] ("Specification 6") and such other Registry Services set forth on Exhibit A (collectively, the "Approved Services"). If Registry Operator desires to provide any Registry Service that is not an Approved Service or is a modification to an Approved Service (each, an "Additional Service"), Registry Operator shall submit a request for approval of such Additional Service pursuant to the Registry Services Evaluation Policy at http://www.icann.org/en/registries/rsep/rsep.html, as such policy may be amended from time to time in accordance with the bylaws of ICANN (as amended from time to time, the "ICANN Bylaws") applicable to Consensus Policies (the "RSEP"). Registry Operator may offer Additional Services only with the written approval of ICANN, and, upon any such approval, such Additional Services shall be deemed Registry Services under this Agreement. In its reasonable discretion, ICANN may require an amendment to this Agreement reflecting the provision of any Additional Service which is approved pursuant to the RSEP, which amendment shall be in a form	This provision has been revised to clarify that approved "Additional Services" will be deemed "Registry Services" for all purposes under the Registry Agreement.

Section	Change to Text	Comments and Rationale
	reasonably acceptable to the parties.`	
2.8	Registry Operator must specify, and comply with, a process and procedures for launch of the TLD and initial registration-related and ongoing protection of the legal rights of third parties as set forth in the specification at [*see specification 7*]* ("Specification 7"). Registry Operator may, at its election, implement additional protections of the legal rights of third parties. Any changes or modifications to the process and procedures required by Specification 7 following the Effective Date must be approved in advance by ICANN in writing. Registry Operator must comply with all remedies imposed by ICANN pursuant to Section 2 of Specification 7, subject to Registry Operator's right to challenge such remedies as set forth in the applicable procedure described therein. Registry Operator shall take reasonable steps to investigate and respond to any reports (including reports from law enforcement and governmental and quasi-governmental agencies) of illegal conduct in connection with the use of the TLD. In responding to such reports, Registry Operator will not be required to take any action in contravention of applicable law.	This provision has been revised in response to community comments to limit its scope to reports from law enforcement and governmental agencies. ICANN acknowledges that certain non-governmental organizations play an important role in combating malicious conduct in the DNS , and those organizations could work with ICANN and law enforcement to explore ways to facilitate cooperation between such organizations and governments in order to ensure that such reports receive all due attention.
2.9(b)	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 relevant competition authorities. ICANN reserves	This provision has been revised to require Registry Operator (if requested by ICANN) to furnish ICANN with copies of any agreements resulting in affiliation relationships with registrars and registrar resellers. The review of such agreements may be necessary in order for ICANN to determine if the arrangements contemplated by such agreements raise competition issues.

Section	Change to Text	Comments and Rationale
	the right, but not the obligation, to refer any such contract, transaction or other arrangement to relevant competition authorities in the event that ICANN determines that such contract, transaction or other arrangement might raise competition issues.	
2.10(b)	With respect to renewal of domain name registrations, Registry Operator shall provide each ICANN accredited registrar that has executed ~~Registry Operator's~~the registry-registrar agreement for the TLD advance written notice of any price increase (including as a result of the elimination of any refunds, rebates, discounts, product tying, Qualified Marketing Programs or other programs which had the effect of reducing the price charged to registrars) of no less than one hundred eighty (180) calendar days. Notwithstanding the foregoing sentence, with respect to renewal of domain name registrations: (i) Registry Operator need only provide thirty (30) calendar days notice of any price increase if the resulting price is less than or equal to (A) for the period beginning on the Effective Date and ending twelve (12) months following the Effective Date, the initial price charged for registrations in the TLD, or (B) for subsequent periods, a price for which Registry Operator provided a notice ~~required by~~pursuant to the first sentence of this Section 2.10(b) within ~~that past~~the twelve (12) ~~months~~month period preceding the effective date of the proposed price increase; and (ii) Registry Operator need not provide notice of any price increase for the imposition of the Variable Registry-Level Fee set forth in Section 6.3. Registry Operator shall offer registrars the option to obtain domain name registration renewals at the current price (i.e. the price in place prior to any noticed increase) for periods of one to ten years at the discretion of the registrar, but no greater than ten years.	This provision has been revised in response to community comments in order to clarify the notice requirements with respect to domain name registration pricing increases.

Section	Change to Text	Comments and Rationale
2.10(c)	In addition, Registry Operator must have uniform pricing for registration renewals of domain name registrations ("Renewal Pricing"). For the purposes of determining Renewal Pricing, the price for each domain registration renewal must be identical to the price of all other domain name registration renewals in place at the time of such renewal, and such price must take into account universal application of any refunds, rebates, discounts, product tying or other programs; provided, that Registry Operator may offer discounted Renewal Pricing pursuant to a Qualified Marketing Program (as defined below)in place at the time of renewal. The foregoing sentencerequirements of this Section 2.10(c) shall not apply for (i) purposes of determining Renewal Pricing if the registrar has provided Registry Operator with documentation that demonstrates that the applicable registrant expressly agreed in its registration agreement with registrar to a higher renewal priceRenewal Pricing at the time of the initial registration of the domain name following clear and conspicuous disclosure of such renewal priceRenewal Pricing to such registrant, and (ii) discounted Renewal Pricing pursuant to a Qualified Marketing Program (as defined below). The parties acknowledge that the purpose of this Section 2.10(c) is to prohibit abusive and/or discriminatory Renewal Pricing practices imposed by Registry Operator without the written consent of the applicable registrant at the time of the initial registration of the domain and this Section 2.10(c) will be interpreted broadly to prohibit such practices. For purposes of this Section 2.10(c), a "Qualified Marketing Program" is a marketing program pursuant to which Registry Operator offers discounted Renewal Pricing, provided that each of the following criteria is satisfied: (i) the program and related discounts are offered for a period of time not to exceed 90one hundred eighty (180) calendar days (with consecutive substantially similar programs	This provision has been revised in response to community comments to clarify the definition of "Qualified Marketing Programs" and to further clarify the intent of the renewal pricing restrictions. Pursuant to this provision, renewal pricing reductions resulting from Qualified Marketing Programs will not be taken into account in determining the price for which all other renewal registrations must be offered. The provision will also not apply if the registrant has agreed with the registrar for a particular domain name to differing renewal pricing terms.

A Registry Operator conducting a Qualified Marketing Program will still be required to comply with the notice provisions or Section 2.10(b) with respect to pricing increases. |

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	aggregated for purposes of determining the number of calendar days of the program), (ii) ~~the programs are made available to~~ all ICANN accredited registrars ~~and registrations~~are provided the same opportunity to qualify for such discounted Renewal Pricing; and (iii) the intent or effect of the program is not to exclude any particular class(es) of registrations (e.g., registrations held by large corporations) or increase the renewal price of any particular class(es) of registrations. Nothing in this Section 2.10(c) shall limit Registry Operator's obligations pursuant to Section 2.10(b).	
2.15	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 ~~Registry~~ data ~~(including confidential data of Registry Operator)~~reasonably necessary for the purposes of such study requested by ICANN or its designee, provided, that Registry Operator may withhold any internal analyses or evaluations prepared by Registry Operator with respect to such data. Any data delivered to ICANN or its designee ~~shall aggregate and anonymize such data~~pursuant to this Section 2.15 shall be fully aggregated and anonymized by ICANN or its designee prior to any ~~public~~ disclosure of such data to any third party.	This provision has been revised in response to community comment to clarify that disclosure of internal analyses and work product of Registry Operator is not required and to further clarify that ICANN will not make public disclosure of registry data provided under this provision unless such data has been aggregated and made anonymous.
2.17 (NEW)	Registry Operator shall (i) notify each ICANN-accredited registrar that is a party to the registry-registrar agreement for the TLD of the purposes for which data about any identified or identifiable natural person ("Personal Data") submitted to Registry Operator by such registrar is collected and used under this Agreement or otherwise and the intended recipients (or categories of recipients) of such	This provision has been added in response to community comments to ensure that Registry Operator takes necessary steps to obtain the consent of registrants for the use of personal data that may be required to be transmitted by Registry

Section	Change to Text	Comments and Rationale
	Personal Data, and (ii) require such registrar to obtain the consent of each registrant in the TLD for such collection and use of Personal Data. Registry Operator shall take reasonable steps to protect Personal Data collected from such registrar from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars.	Operator to ICANN or other third parties pursuant to the terms of the Registry Agreement and the Specifications to the Registry Agreement (e.g. Specification 2 - the data escrow specification). This provision was derived from similar provisions in existing gTLD registry agreements.
4.5	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 if ~~all sub-domains in the registry for~~Registry Operator demonstrates to ICANN's reasonable satisfaction that (i) all domain name registrations in the TLD are registered ~~or licensed~~ to, and ~~used exclusively~~maintained by, Registry Operator ~~or individuals or entities that are Affiliates~~for its own exclusive use, (ii) 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 (iii) 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	This provision has been revised in response to community comment to further specify the criteria that must be met and demonstrated to ICANN in order for Regisry Operator to have the right to consent to re-delegation of the TLD. The provision has been further revised to clarify that ICANN might delegate prior TLDs meeting these criteria in future TLD rounds, subject to the original TLD operator's objection rights. This provision would prevent the immediate re-delegation of a TLD meeting the specified criteria (without the consent of the registry operator) in the event of a termination or expiration of the Registry Agreement, while recognizing that without further review and discussion it is not possible to guarantee that such terminated TLD strings would be automatically reserved or blocked in all future application rounds.

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	<u>termination of this Agreement</u> without the consent of Registry Operator (which shall not be unreasonably withheld, conditioned or delayed)<u>. 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</u>. 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 and Alternative Instrument, as applicable, regardless of the reason for termination or expiration of this Agreement.	
Alt. 4.5	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, in connection with ICANN's designation of a successor registry operator for the TLD, Registry Operator and ICANN agree to consult each other and work cooperatively to facilitate and implement the transition of the TLD in accordance with this Section 4.5. 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. In the event ICANN determines to transition operation of the TLD to a successor registry operator, upon Registry Operator's consent (which shall not be unreasonably withheld, conditioned or delayed), Registry Operator shall provide ICANN or such successor registry operator for the TLD with any data regarding	This alternative provision, which will be applicable only under special circumstances, has been revised to conform to the provision applicable to all other new TLDs with respect to the availability of the Continued Operations Instrument.

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	operations of the TLD necessary to maintain operations and registry functions that may be reasonably requested by ICANN or such successor registry operator in addition to data escrowed in accordance with Section 2.3 hereof. In the event that Registry Operator does not consent to provide such data, any registry data related to the TLD shall be returned to Registry Operator, unless otherwise agreed upon by the 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 and Alternative Instrument, as applicable, regardless of the reason for termination or expiration of this Agreement."	
6.1	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 domain names are registeredTransactions have occurred in the TLD during any calendar quarter or any four calendar quarter period (the "Transaction Threshold") and shall apply thereafter to each Transaction that occurred during each quarter in which the Transaction Threshold has been met, but shall not apply to each quarter in which the	This provision has been revised to clarify the application of transaction based registry-level fees. This is because implementation of fees, and especially transaction fees triggered on registration volume, is difficult on a "volume of names" basis and more straightforward and fair on a "transaction volume" basis. Registry operators that operate TLDs with fewer than 50,000 transactions per year will not be required to pay transaction-based fees. For each quarter of billing, once a TLD exceeds 50,000 transactions over the past four quarters, transaction fees will be charged for the current quarter. In the odd case where transactions in the TLD fall back below the

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	Transaction Threshold has not been met. Registry Operator shall pay the Registry-Level Fees on a quarterly basis comprised of four equal payments by the 20th 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.	threshold (i.e. there are less than 50,000 transactions over the past four quarters), then Registry Operator will not be required to pay transaction-based registry fees in that current quarter.
7.6(c)	… 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; provided, that any such conditions, alternatives or variations shall be effective and, to the extent applicable, will amend this Agreement as of the Amendment Effective Date. If the Exemption Request is approved by ICANN, the Approved Amendment will not amend this Agreement. 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(c) or through an arbitration decision pursuant to Article 5 shall exempt Registry Operator from	The provision was revised to clarify the effect of ICANN action with respect to Exemption Requests from future Registry Agreement amendments. In the event that ICANN approves an Exemption Request subject to conditions or alternative amendments, those conditions or alternative amendments shall take effect as of the Amendment Effective Date, subject to Registry Operator's right to challenge ICANN's conditions or alternatives pursuant to the dispute resolution procedures in Article 5 of the Registry Agreement.

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	any Approved Amendment, and no 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.	