



## Registry-Registrar Agreement

This Registry-Registrar Agreement (the "**Agreement**") is between fTLD Registry Services, LLC., a Delaware Limited Liability Company, with its principal place of business located at 600 13<sup>th</sup> Street, NW, Suite 400, Washington, DC 20005 USA ("**Registry Operator**"), and \_\_\_\_\_, a \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ (the "**Registrar**"), through their authorized representatives, and takes effect on the date executed by the final Party (the "**Effective Date**"). Registry Operator and Registrar may be referred to individually as a "**Party**" and collectively as the "**Parties**."

**WHEREAS**, Registry Operator has entered into a Registry Agreement with the Internet Corporation for Assigned Names and Numbers to operate a shared registration system, TLD nameservers, and other equipment for the .BANK top-level domain;

**WHEREAS**, multiple registrars provide Internet domain name registration services within the .BANK top-level domain;

**WHEREAS**, Registrar wishes to act as a registrar for domain names within the .BANK top-level domain;

**NOW, THEREFORE**, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Registry Operator and Registrar, intending to be legally bound, hereby agree as follows:

### 1. DEFINITIONS

**1.1.** "**Affiliate**" means a person or entity that, directly or indirectly, through one or more intermediaries, or in combination with one or more other persons or entities, controls, is controlled by, or is under common control with, the person or entity specified. For purposes of this definition, "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

**1.2.** "**APIs**" means the application program interfaces by which Registrar may interact with the Registry System.

- 1.3. "Certification Authority"** means a third-party entity that issues and manages security credentials and public keys which are used for authenticating and encrypting online communications.
- 1.4. "Confidential Information"** means all information and materials, including, without limitation, computer software, data, information, databases, protocols, reference implementation and documentation, and functional and interface specifications, provided by the Disclosing Party to the Receiving Party under this Agreement and marked or otherwise identified as Confidential, provided that if a communication is oral, the Disclosing Party will notify the Receiving Party in writing within fifteen (15) days of the disclosure of its confidentiality.
- 1.5. "DNS"** means the Internet domain name system.
- 1.6. "Effective Date"** means the date this Agreement is executed by the final Party.
- 1.7. "Emergency Circumstances"** means that conditions exist that require the immediate attention on the part of the Registry Operator and/or Registrar and/or Registered Name Holder in order to protect the security, stability or integrity of the Registry System.
- 1.8. "EPP"** means the extensible provisioning protocol, which is the protocol used by the Registry System.
- 1.9. "Fees"** has the meaning set forth in Subsection 4.1.
- 1.10. "ICANN"** means the Internet Corporation for Assigned Names and Numbers.
- 1.11. "IP"** means Internet Protocol.
- 1.12. "Licensed Product"** means the Registry Operator's intellectual property rights in and to the Supported Protocol, the Registry Tool Kits, any other software provided to Registrar in connection with this Agreement, the Registry Operator's name and logo, and in each case, any supporting documentation or materials.
- 1.13. "OTE"** means Operational Test and Evaluation system.
- 1.14. "Personal Data"** means data about any identified or identifiable natural person.
- 1.15. "RAA"** means a duly executed registrar accreditation agreement by and between a registrar and ICANN. For purposes of clarity, "Registrar's RAA" means a duly executed and effective RAA by and between Registrar and ICANN or its successor, and if the context so requires, "RAA" shall be interpreted to mean "Registrar's RAA".
- 1.16. "RDDS" or "Registration Data Directory Service"** means the collective of WHOIS and Web-based WHOIS services as defined in Specification 4 of the Registry Agreement.

**1.17. "Registered Name"** means a domain name within the domain of the Registry TLD, whether consisting of two or more (e.g., first.state.bank) levels, about which Registry Operator or an Affiliate engaged in providing Registry Services maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance. A name in a Registry Database may be a Registered Name even though it does not appear in a TLD zone file (e.g., a registered but inactive name).

**1.18. "Registered Name Holder" or "Registrant"** means the holder of a Registered Name, which can be a person or entity owning or otherwise controlling a Registered Name by virtue of a registration agreement with an ICANN-accredited registrar.

**1.19. "Registration Agreement"** means an agreement between Registrar and Registered Name Holder, which governs the Registered Name Holder's registration and use of a Registered Name within the domain of the Registry TLD.

**1.20. "Registry Agreement"** means the Registry Agreement between Registry Operator and ICANN dated September 25, 2014, for the operation of the .BANK TLD, as the same may be amended or supplemented from time to time, or any successor thereto.

**1.21. "Registry Database"** means a database comprised of data about one or more DNS domain names within the domain of the Registry TLD that is used to generate either DNS resource records that are published authoritatively or responses to domain-name availability lookup requests or RDDS queries, for some or all of those names.

**1.22. "Registry Operations"** will be performed by Registry Service Provider, who will have primary responsibility for operating and managing the Registry Services for the Registry Operator in compliance with the Registry Agreement.

**1.23. "Registry Operator's Operational Requirements"** means the operational requirements, policies, procedures, and practices for the Registry TLD as set forth in the Registry Agreement, and as established from time to time by Registry Operator in a non-arbitrary manner applicable to all registrars.

**1.24. "Registry Operator's Security Requirements"** means those security requirements described at <https://www.ftld.com/enhanced-security>, which are approved by Registry Operator and incorporated by reference into this Agreement as well as any Registration Agreement.

**1.25. "Registry Service Provider"** means the entity that provides Registry System (as defined below) functionality for Registry Operator.

**1.26. "Registry Services"** means, for purposes of this Agreement, the following: (a) those services that are both (i) operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the Registry TLD; dissemination of Registry TLD zone files; operation of the Registry TLD zone servers; and dissemination of contact and other information concerning domain name server registrations in the Registry TLD as required by this Agreement; and (ii) provided

by the Registry Operator for the Registry TLD as of the Effective Date of the Registry Agreement; (b) other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy, Specification and/or Temporary Policy (as defined in the Registry Agreement); (c) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator; and (d) material changes to any Registry Service within the scope of (a), (b) or (c) above.

**1.27. "Registry System"** means the registry system for Registered Names in the Registry TLD.

**1.28. "Registry TLD"** means the .BANK TLD.

**1.29. "Registry Tool Kits"** enable the Registrar to access the Registry System and Verification Services and includes the Supported Protocol, the APIs, and software (including any reference client software), and in each case all related supporting documentation, provided to Registrar pursuant to this Agreement.

**1.30. "Registry Verification Agent"** means the entity that provides Verification Services (as defined below) for Registry Operator.

**1.31. "Supported Protocol"** means Registry Operator's implementation of the EPP, or any successor protocols, supported by the Registry System.

**1.32. "Term"** means the term of this Agreement, as set forth in Subsection 8.1.

**1.33. "TLD"** means a top-level domain of the DNS.

**1.34. "Transfer Policy"** means ICANN's Inter-Registrar Transfer Policy, as may be amended from time to time by ICANN.

**1.35. "URS"** means the Uniform Rapid Suspension System adopted by ICANN, as may be modified from time to time, or any successor system or policy designed to provide rapid relief to trademark holders in certain infringement cases.

**1.36. "Verification Services"** means the Registry Verification Agent's process to verify the Registered Name Holder meets the eligibility requirements for registering/maintaining a .BANK domain name registration.

Other terms used in this Agreement as defined terms shall have the meanings ascribed to them in this Agreement, or if not defined within this Agreement, the meanings ascribed to them in the Registry Agreement or Registrar's RAA.

## **2. OBLIGATIONS OF REGISTRY OPERATOR**

**2.1. System Operation and Access to Registry System.** Throughout the Term, Registry Operator shall provide Registrar with access to the Registry System to transmit domain name registration information for the Registry TLD to the Registry System,

according to its agreements with Registry Service Provider and ICANN. Nothing in this Agreement entitles Registrar to enforce any agreement between Registry Operator and Registry Service Provider and/or Registry Operator and ICANN. Registry Operator shall have an OTE available to Registrar so that Registrar can test and evaluate all current and proposed functions for a sufficient period of time before they are implemented in the Registry System.

**2.2. Maintenance of Registrations Sponsored by Registrar.** Subject to the provisions of this Agreement, ICANN requirements, and Registry Operator requirements authorized by ICANN, Registry Operator shall maintain the registrations of Registered Names sponsored by Registrar in the Registry System for the Registry TLD during the Term for which Registrar has paid the Fees required by Subsection 4.1.

**2.3. Provision of Registry Tool Kits; License.**

**2.3.1. Distribution of Registry Tool Kits.** Promptly after the Effective Date, Registry Operator shall make available to Registrar a copy (or hyperlink to a copy which can be downloaded) of the Registry Tool Kits, which shall provide sufficient technical specifications to allow Registrar to develop its system to interface with the Registry System and employ its features that are available to registrars to register second-level domain names through the Registry System for the Registry TLD and to allow Registrar to develop its system to interface with the Verification Services system via the Registry Verification Agent's API. If Registry Operator elects to modify or upgrade the APIs and/or Supported Protocol included in the Registry Tool Kits, Registry Operator shall provide Registrar with ninety (90) days prior written notice to the implementation of such modifications or upgrades, and shall provide updated software and documentation to the Supported Protocol to Registrar promptly as such updates become available.

**2.3.2. License.**

**2.3.2.1. Term.** Subject to the terms and conditions of this Agreement, Registry Operator hereby grants Registrar and Registrar accepts a non-exclusive, royalty-free, non-transferable, worldwide limited license to use solely during the Term and solely for purposes of this Agreement, the Licensed Product, as well as updates and redesigns thereof, to provide domain name registration services in the Registry TLD only and for no other purpose. The Licensed Product, as well as updates and redesigns thereof, will enable Registrar to register domain names in the Registry TLD the data elements consisting of the Registered Name, the IP addresses of nameservers, the identity of the registering registrar, and other data required or permitted by technical specification of the Registry System as made available to Registrar by Registry Operator, on behalf of its Registered Name Holders, from time to time, for propagation of and the provision of authorized access to the TLD zone files or as otherwise required or permitted by Registry Operator's Registry Agreement with ICANN concerning the operation of the Registry TLD, as may be amended from time-to-time.

**2.3.2.2. Limitations on Use.** Notwithstanding any other provisions in this Agreement, except with the written consent of Registry Operator, Registrar shall not: (i) sublicense the

Licensed Product or otherwise permit any use of the Licensed Product by or for the benefit of any third party, (ii) publish, distribute or permit disclosure of the Licensed Product other than to employees, contractors, and agents of Registrar for use in Registrar's domain name registration business, (iii) decompile, reverse engineer, copy or re-engineer the Licensed Product for any unauthorized purpose, (iv) use or permit use of the Licensed Product in violation of any federal, state or local rule, regulation or law, or for any unlawful purpose, or (v) create modifications, improvements, translations, or other derivative works using or incorporating elements of the Licensed Product. Registrar agrees to employ the necessary measures to prevent its access to the Registry System granted hereunder from being used to (i) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than Registrar's customers; or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Registry or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations. This license may not be assigned or sublicensed by Registrar to any third party.

**2.3.2.3. Registry Operator's Name and Logo.** Registrar agrees that Registry Operator's name and logo, as licensed to Registrar as part of the Licensed Product, shall be used solely in accordance with Registry Operator's Style Guidelines provided to Registrar by Registry Operator, and solely for the purpose of identifying itself as an accredited registrar for Registry TLD.

**2.4. Changes to System.** Registry Operator may from time to time make modifications or additions to the Licensed Product that will revise or augment the features of the Registry System. Registry Operator will provide Registrar with at least ninety (90) days' notice prior to the implementation of any material changes to the Licensed Product.

**2.5. Engineering, Technical and Customer Service Support.** Registry Operator agrees to provide Registrar with reasonable telephone, web-based and e-mail support for issues solely relating to Registrar's use of the Registry System. Further information regarding Engineering, Technical and Customer Service Support can be found on the Registry Operator's website at <https://www.ftld.com/registrars>, or such subsequent address as may be provided to Registrar by Registry Operator.

**2.5.1.** Customer and engineering support will be provided by Registry Service Provider. Customer support is available via telephone on a 24x7x365 basis. Engineering support is provided under the terms set forth by Registry Service Provider. Support from Registry Service Provider does not extend to Registered Name Holders; support to Registered Name Holders is the exclusive obligation of Registrar.

**2.5.2.** Customer and technical support in connection with Registry Operator TLD verification eligibility will be provided by Registry Verification Agent. Customer support is available via telephone on a 24x7x365 basis to Registry Operator, Registrar and prospective Registered Name Holders. Technical support is available via telephone on a 24x7x365 basis to Registry Operator and Registrar.

**2.6. Handling of Personal Data.** Registry Operator shall notify Registrar of the purposes for which Personal Data submitted to Registry Operator, via Registry Service Provider, by Registrar is collected, the intended recipients (or categories of recipients) of such Personal Data, and the mechanism for access to and correction of such Personal Data. Registry Operator and Registry Service Provider shall take reasonable steps to protect Personal Data from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator and Registry Service Provider shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars. Personal Data submitted to Registry Operator by Registrar under this Agreement will be collected and used by Registry Operator for the purposes of providing Registry Services as defined in ICANN's Registry Agreements (including but not limited to publication of registration data in RDDS), utilizing Verification Services to verify the eligibility of Registrants attempting to register or renew Registered Names, and to protect the security and stability of the Registry Services and Systems. Notwithstanding the above, Registry Operator may from time to time use the demographic data collected for internal statistical analysis, provided that this analysis will not disclose individual Personal Data and provided such use is compatible with the notices provided to registrars regarding the purpose and procedures for such use. Except as set forth herein, Registry Operator will not share, sell, rent, or otherwise disclose such Personal Data to any third parties, other than Registry Service Provider, Registry Verification Agent, other contractually obligated vendors, ICANN, and ICANN's authorized agents, without Registrar's prior written consent, which shall not be unreasonably withheld.

**2.7. Service Level Agreement.** Registry Operator shall use commercially reasonable efforts to meet the performance specifications set forth in Specification 10 to the Registry Agreement. The remedies set forth in Specification 10 to the Registry Agreement shall be the sole and exclusive remedies available to Registrar for the failure to meet such performance specifications.

**2.8. ICANN Requirements.** Registry Operator's obligations hereunder are subject to modification at any time as a result of requirements, Consensus Policies, Specifications and/or Temporary Policies established, mandated, adopted, and/or approved by ICANN, through the processes set forth in the Registry Agreement. Notwithstanding anything in this Agreement to the contrary, Registrar shall comply with any such ICANN requirements in accordance with the timeline defined by ICANN.

**2.9. New Registry Services.** Registry Operator shall provide Registrar no less than thirty (30) days written notice of any new Registry Service that has been approved by ICANN according to the procedures set forth in the Registry Agreement. Such notice shall include the provision of information on pricing, starting date and any additional terms and conditions regarding the new Registry Service. Such notice shall not be a substitute for the notice required in Subsection 2.4 above.

**2.10. Compliance Actions.** Registry Operator acknowledges that all ICANN-accredited registrars must enter into an RAA by and between the registrar and ICANN, and ICANN may take certain compliance actions in response to an emergency or in accordance with the terms of the RAA, including suspension or termination of a registrar's accreditation or

suspension of a registrar's ability to create new registered names or initiate inbound transfers of registered names. ICANN may require Registry Operator to take specific actions consistent with ICANN's authority under the terms of the RAA to: (i) suspend or terminate a registrar's ability to create new registered names or (ii) transfer registered names to a registrar designated by ICANN.

**2.11. IDNs.** Registry Operator may offer registration of IDNs at the second and lower levels provided that Registry Operator complies with applicable ICANN requirements.

**2.12. Dispute Resolution Mechanisms.** Registry Operator will comply with the following dispute resolution mechanisms, as they may be revised from time to time: (i) the Trademark Post-Delegation Dispute Resolution Procedure (PDDRP); (ii) the Registration Restriction Dispute Resolution Procedure (RRDRP); (iii) Public Interest Commitments Dispute Resolution Procedure (PICDRP) adopted by ICANN; (iv) Registrant Eligibility Dispute Resolution Policy (REDRP); (v) the Reserved Names Challenge Policy; and (vi) Sunrise Dispute Resolution Policy. Registry Operator agrees to (i) implement and adhere to any remedies ICANN imposes (which may include any reasonable remedy, including for the avoidance of doubt, the termination of the Registry Agreement pursuant to Subsection 4.3(e) of the Registry Agreement) following a determination by any PDDRP, RRDRP or PICDRP panel and to be bound by any such determination; and (ii) the URS, including the implementation of determinations issued by URS examiners.

**2.13. Abuse Contact.** Registry Operator shall publish on its website its accurate contact details, including a valid email and mailing address, as well as a primary contact for handling inquiries related to malicious conduct in the TLD.

**2.14. Rights Protection Mechanisms.** Registry Operator shall comply with the Trademark Clearinghouse Rights Protection Mechanism Requirements, or any successor document related to the same as approved and published by ICANN.

**2.15. Reserved List.** Registry Operator will maintain the reserved list of unavailable domain names (which will only include domain names that are not available to be registered at the discretion of Registry Operator and/or ICANN as set forth in the Registry Agreement for the Registry TLD). Registry Operator will, upon written request, provide the then current reserved list to the requesting registrar.

### **3. OBLIGATIONS OF REGISTRAR**

**3.1. Accredited Registrar.** During the Term, Registrar shall maintain in full force and effect its accreditation by ICANN, as a registrar for the Registry TLD. Registrar agrees to comply at all times with its obligations under an executed RAA between ICANN and Registrar, dated after May 13, 2013, or any amendment or successor thereto, as well as any applicable Consensus Policies, Specifications and/or Temporary Policies(as defined in the RAA) implemented by ICANN.

**3.2. Registrar Responsibility for Customer Support.** Registrar is responsible for, and shall provide customer support to, all of Registrar's Registered Name Holders in the Registry TLD, including support to accept (i) orders for registration, cancellation,



modification, renewal, deletion, redemptions, or transfer of Registered Names, and (ii) customer service (including domain name record support) and billing and technical support to Registered Name Holders. Notwithstanding the foregoing, Registrar reserves the right to stop sponsoring new registrations of Registered Names, and in such event, Registrar will not be required to provide registrations, renewals, redemptions, or transfers to the Registrar of Registered Names, provided that Registrar shall continue to provide customer support to Registrar's existing Registered Name Holders as required by this Subsection 3.2. Registrar shall, consistent with ICANN policy, provide Registered Name Holders with emergency abuse and transfer emergency contacts available on a 24/7 basis for obtaining information and support during critical situations such as abuse (i.e., domain name hijacking, spamming, phishing, pharming, etc.). Registrar shall publish on its website its accurate contact details, including a valid email and mailing address as well as a primary contact for handling inquiries related to malicious conduct related to the Registry TLD.

### **3.3. Registrar's Registration Agreement and Domain Name Dispute Policy**

**3.3.1. Registration Agreement.** At all times while it is sponsoring the registration of any Registered Name within the Registry System, Registrar shall have in effect an electronic or paper Registration Agreement with the Registered Name Holder in the form of the Registration Agreement attached as Exhibit A (which may contain multiple alternative forms of the Registration Agreement). Registrar may from time to time amend those forms of Registration Agreement or add alternative forms of Registration Agreement, provided that Registrar shall first provide Registry Operator a copy of the amended or alternative Registration Agreement no less than three (3) business days in advance of the first use of such amended Registration Agreement. Registrar may provide a URL to its Registration Agreement on Exhibit A instead of a copy of the Registration Agreement, provided that Registry Operator must be able to access the current version of the Registration Agreement at the link provided and Registrar shall provide Registry Operator with an updated link in the event the URL is changed. Registrar shall include in its Registration Agreement those terms required by this Agreement, other terms that are consistent with Registrar's obligations to Registry Operator under this Agreement, and all provisions required by Registrar's RAA.

**3.3.2. Obligations of Registered Name Holder.** Registrar shall require all Registered Name Holders to enter into a Registration Agreement with Registrar. In such Registration Agreement, Registrar shall require such Registered Name Holder to acknowledge and agree that the Registry Operator reserves the right to deny, cancel or transfer any Registered Name registration or transaction, or place any Registered Name (s) on registry lock, hold or similar status, as it deems necessary, in its unlimited and sole discretion: (i) to comply with specifications adopted by any industry group generally recognized as authoritative with respect to the Internet (e.g., RFCs), (ii) to correct mistakes made by Registry Operator or any Registrar in connection with a domain name registration, or (iii) for the non-payment of Fees to Registry Operator. In addition, Registrar shall obtain the consent of each Registered Name Holder in the Registry TLD for such collection and use of Personal Data.

**3.3.3. Acceptable Use and Anti-Abuse Policies.** Registrar shall include in its Registration Agreement a provision prohibiting the Registered Name Holder from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name. Registrar shall provide the Registered Name Holder with a description of potential consequences for such activities, including suspension of the domain name. Registrar shall not enable, contribute to, or willfully aid the efforts of any Registered Name Holder or other third party to evade or circumvent such prohibitions.

**3.3.4. Domain Name Dispute Resolution.** During the Term, Registrar shall have in place a policy and procedures for resolution of disputes concerning Registered Names. Until ICANN adopts an alternative Consensus Policy, Specification and/or Temporary Policy, approved by ICANN, with respect to the resolution of disputes concerning Registered Names, Registrar shall comply with the Uniform Domain Name Dispute Resolution Policy ("**UDRP**") identified on ICANN's website ([www.icann.org/general/consensus-policies.htm](http://www.icann.org/general/consensus-policies.htm)), as may be modified from time to time. Registrar shall also comply with URS procedure, as well as with any other applicable dispute resolution procedure as required by a Registry Operator for which Registrar is providing Registry Services.

**3.3.5. Time of Entry Disputes.** Registrar agrees that in the event of any dispute concerning the time of the entry of a Registered Name registration into the Registry System, the timestamp shown in the Registry System records shall control. In addition, Registrar shall require each Registered Name Holder to agree that in the event of any dispute concerning the time of the entry of a Registered Name registration into the Registry System, the timestamp shown in the Registry System records shall control.

**3.3.6. Additional Requirements.** Registrar shall require Registered Name Holder to agree to and comply with Registry Operator's policies and procedures, as they may be instituted or updated from time to time and published on the Registry Operator's website at <https://www.ftld.com/policies/>, including but not limited to:

- Acceptable Use / Anti-Abuse Policy
- Name Allocation Policy
- Name Selection Policy
- Privacy Policy
- Registrant Eligibility Policy
- Registrant Eligibility Dispute Resolution Policy
- Reserved Names Challenge Policy
- Sunrise Dispute Resolution Policy
- Whois Access Policy

**3.4. Registrar's Registration Agreement and Indemnification.** In its Registration Agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to indemnify, defend and hold harmless the Registry Operator, Registry

Service Provider, Registry Verification Agent, and other contractually obligated vendors, and in each case, their Affiliates, partners, subcontractors, subsidiaries, divisions, shareholders, directors, officers, employees, accountants, attorneys, insurers, agents, predecessors, successors, and assigns, from and against any and all claims, demands, damages, losses, costs, expenses, causes of action, or other liabilities of any kind, whether known or unknown, including reasonable legal and attorney's fees and expenses, in any way arising out of, relating to, or otherwise in connection with, the Registered Name Holder's domain name registration. The Registration Agreement shall further require that this indemnification obligation of Registered Name Holder shall survive the termination or expiration of the Registration Agreement.

**3.5. Data Submission Requirements.** As part of its registration and sponsorship of Registered Names in the Registry TLD, Registrar shall submit complete data as required by the technical specifications of the Registry System that are made available to Registrar from time to time. Registrar shall provide to Registry Operator the full and accurate contact data for each Registered Name Holder. Registrar shall submit any corrections or updates from a Registered Name Holder relating to the registration information for a Registered Name to the Registry Operator, consistent with the provisions of the Registrar's RAA.

**3.6. Security.** Registrar shall comply with Registry Operator's Security Requirements for the Registry TLD, as may be established by Registry Operator and communicated to Registrar from time to time. In addition, Registrar agrees to develop and employ in its domain name registration business all reasonable technology and restrictions to ensure that its connection to the Registry System is secure. All data exchanged between Registrar's system and the Registry System shall be protected to avoid unintended disclosure of information. Registrar agrees to employ commercially reasonable measures to prevent its access to the Registry System granted hereunder from being used by any person or entity to (1) allow, enable, or otherwise support the transmission by e-mail, telephone, facsimile or other means of mass unsolicited, commercial advertising or solicitations to entities other than its own existing customers; or (2) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator, any other registry operated under an agreement with ICANN, or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations. Each EPP session shall be authenticated and encrypted using two-way secure socket layer ("SSL") protocol. Registrar agrees to authenticate every EPP client connection with the Registry System using both (i) a certificate issued by a commercial Certification Authority, which shall include any current commercial Certification Authority of Registrar's choice, and (ii) the Registrar's password, which shall be disclosed only to its employees in positions requiring access to such password to perform essential job functions. Registrar agrees to use commercially reasonable efforts notify Registry Operator within four (4) hours, but in any event to notify Registry Operator within twenty-four (24) hours, of learning that its Registrar password has been compromised in any way or that its server certificate has been revoked by the issuing Certification Authority or otherwise compromised in any way.

**3.7. Resolution of Technical Problems.** Registrar agrees to employ necessary employees, contractors, or agents with sufficient technical training and experience to respond to and fix all technical problems concerning Registrar's use of the Supported

Protocol, the APIs, and the systems of the Registry Operator in conjunction with Registrar's systems. Registrar agrees that in the event of significant degradation of the Registry System or other emergency, or upon Registrar's violation of Registry Operator's Operational Requirements or breach of this Agreement, Registry Operator may, in its sole discretion, temporarily suspend or restrict access to the Registry System. Such temporary suspensions shall be applied in a non-arbitrary manner and shall apply fairly to any registrar similarly situated, including Affiliates of Registry Operator. Except in the event of an emergency, Registry Operator will provide advance notice via email and phone call to Registrar's designated technical contact prior to any temporary suspension or restriction.

**3.8. Transfer of Sponsorship of Registrations.** Registrar agrees to implement transfers of Registered Name registrations from another registrar to Registrar or vice versa in accordance with the Transfer Policy.

**3.9. Compliance with Terms and Conditions.** Registrar shall comply with, and shall include in its Registration Agreement with each Registered Name Holder, as applicable, an obligation for such Registered Name Holder to comply with, each of the following requirements:

**3.9.1.** ICANN standards, policies, procedures, and practices for which Registry Operator has monitoring responsibility in accordance with the Registry Agreement or other arrangement with ICANN.

**3.9.2.** Registry Operator's Operational Requirements, including those set forth on Registry Operator's website at <https://www.ftld.com/resources> Registrar acknowledges that any additional or updated Registry Operator's Operational Requirements shall be effective upon Registry Operator's notification to Registrar of the establishment of such addition or update.

**3.9.3.** Registrar agrees to comply with, and shall require Registered Name Holder to comply with, any and all applicable national, state or local law, regulation or court order in relation to its operations and registrations of the Registry TLD.

**3.9.4.** Registrar shall not represent to anyone that Registrar enjoys access to any of the Registry Operator's Registry System that is superior to that of any other registrar accredited for the Registry TLD.

**3.9.5.** Registrar shall comply with, and shall require Registered Name Holder to comply with, all Public Interest Commitments (as set forth in Specification 11 to the Registry Agreement, as amended from time-to-time) and community registration policies (as set forth in Specification 12 to the Registry Agreement, as amended from time-to-time).

**3.9.6.** Registrar shall not provide, and shall not permit an Affiliate or third party to provide, the use of privacy or proxy registration services by the Registered Name Holder in registering or maintaining domain name registrations with the TLD.

**3.10. Prohibited Domain Name Registration.** In addition to complying with ICANN standards, policies, procedures, and practices limiting domain names that may be

registered, Registrar agrees to comply with applicable statutes and regulations limiting the domain names that may be registered.

**3.11. Authorization Codes.** Registrar shall not provide identical Registrar-generated authorization <authinfo> codes for domain names registered by different Registrants with the same Registrar. Registry Operator in its sole discretion may choose to modify <authinfo> codes for a given domain and shall notify the sponsoring registrar of such modifications via EPP compliant mechanisms (i.e., EPP<poll> or EPP<domain:Info>). Registry Operator will notify Registrar of modifications made by the Registry Operator to the Registrar's domain name registrations, via email or other method as may be mutually agreed upon by the Parties, within twenty four (24) hours of any change. Documentation of these mechanisms shall be made available to Registrar by Registry Operator. The Registrar shall provide the Registered Name Holder with timely access to the authorization code along with the ability to modify the authorization code. Registrar shall respond to any inquiry by a Registered Name Holder regarding access to and/or modification of an authorization code within five (5) calendar days. In addition, Registrar may not employ any mechanism for complying with a Registrant's request to obtain the applicable "AuthInfo Code" that is more restrictive than the mechanisms used for changing any aspect of the Registrant's contact or name server information. Registrar must not refuse to release an "AuthInfo Code" to the Registered Name Holder solely because there is a dispute between the Registered Name Holder and the Registrar over payment.

**3.12. Cooperation.** Registrar agrees to cooperate with Registry Operator and share data as required by this Agreement. In the event of any inquiry or dispute for any reason involving a domain name registered by Registrar in the Registry TLD, Registrar shall provide all reasonable assistance to Registry Operator and/or any Court, Arbitrator, law enforcement and governmental and quasi-governmental agencies and/or any other relevant authority considering the issue or dispute.

**3.13. Records.** During the Term, Registrar shall store and maintain records related to Registered Names of the Registry TLD in accordance with this Agreement and the Registrar's RAA.

**3.14. Domain Name Lookup Capability.** Registrar agrees to employ in its domain name registration business Registry Operator 's domain name lookup capability to determine if a requested domain name is available or currently unavailable for registration. If required by ICANN, Registrar also agrees, at its expense, to provide an interactive web page and a port 43 WHOIS service providing free public query-based access to up-to-date (i.e., updated at least daily) data concerning all active Registered Names sponsored by Registrar for the Registry TLD. The data accessible shall consist of elements that are designated from time to time according to Registrar's RAA and any applicable Consensus Policy, Specification and/or Temporary Policy (as defined in the RAA).

~~**3.15. Resellers Prohibited.** Registrar is prohibited from using its own resellers in connection with this Agreement or to perform any of the activities contemplated herein.~~

**3.15. Registrar's Resellers.** Registrar may allow its resellers to facilitate the registration of domain names in the Registry TLD. Registrar shall expressly and contractually bind its resellers in writing to all obligations of Registrar under the Registry-Registrar Agreement. Registrar's resellers are prohibited from any direct engagement with Registry Verification Agent for Verification Services in the Registry TLD. Notwithstanding any contract or agreement with the reseller, Registrar remains fully responsible for satisfying all obligations under the Registry-Registrar Agreement.

**3.16. Rights Protection Mechanisms.** Registrar shall comply with the Trademark Clearinghouse Rights Protection Mechanism Requirements or any successor document related to the same as approved and published by ICANN. Registrar shall complete the Trademark Clearinghouse integration testing and compliance with any other Trademark Clearinghouse requirements and processes prior to enabling any Registry TLDs.

**3.17. Registry Service Provider Access.** Registrar shall complete all requirements of the Registry Service Onboarding Process as specified at [http://www.verisigninc.com/en\\_US/channel-resources/become-a-registrar/index.xhtml](http://www.verisigninc.com/en_US/channel-resources/become-a-registrar/index.xhtml). Registrar acknowledges that completing this process is a prerequisite to obtaining access to the Registry.

## **4. FEES**

### **4.1. Amount of Registry Operator Fees.**

**4.1.1.** Registrar shall pay Registry Operator the non-refundable fees set forth in Exhibit B for initial and renewal registrations and other incidental and ancillary services provided by Registry Operator (collectively, "**Registration Fees**"). The sole exception to this provision is Registry Operator may refund a portion of the Registration Fees (but not to include any Registrant-Verification Fees) to the Registrar in accordance with the terms set forth in Exhibit B if Registry Operator rejects a registration in the pending create status with Registry Service Provider. Registry Operator reserves the right to increase the Registration Fees prospectively upon six (6) months prior notice to Registrar ~~(by e-mail, hand, by registered mail, or by courier or express delivery service);~~ in accordance with Section 10.2 below, and provided that such adjustments are consistent with the terms of the Registry Agreement. ~~Current prices and effective dates of price increases always will be found in the "registrar" section of the Registry Operator's website.~~

**4.1.2.** In addition, Registrar shall pay Registry Operator the applicable variable-level fees assessed to Registry Operator by ICANN (collectively, "Variable Registry-Level Fees"), as permitted by Subsection 6.3 of the Registry Agreement, by no later than thirty (30) days after the date of receipt of an invoice from Registry Operator for such Variable Registry-Level Fees. Variable Registry-Level Fees shall be secured by any balance maintained by Registrar in Registry Service Provider's system. The Variable Registry-Level Fees will consist of two components to be calculated by ICANN for each registrar: (a) The transactional component of the Variable Registry-Level Fees shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each fiscal year but shall not exceed the amount set forth in the Registry

Agreement; (b) The per-registrar component of the Variable Registry-Level Fee shall be specified by ICANN in accordance with the budget adopted by the ICANN Board of Directors for each fiscal year, but the sum of the per registrar fees calculated for all registrars shall not exceed the total per-registrar variable funding established pursuant to the approved ICANN Budget.

**4.1.3.** The Registration Fees and Variable Registry-Level Fees are referred to collectively herein as the "Fees".

**4.2. Minimum Balance Obligations.** Registry Operator or Registry Service Provider may require Registrar to maintain a minimum balance against which payment of Fees is debited. In the event such a balance is required, Registrar's credit limit will be based on a payment security comprised of an irrevocable Letter of Credit, Cash Deposit or combination thereof maintained at Registry Operator's direction. As domain names are registered, the Registrar's account is reduced. Invoices may be issued monthly. Registrar must pay this invoice upon receipt in order to ensure timely processing of future domain name registrations. In the event that payment for Registration Fees is made via Registry Service Provider, Registrar will comply with Registry Service Provider's payment requirements (including a minimum balance if required) and Registrar will comply with additional payment guidelines set forth by Registry Operator, from time to time, regarding such payments. If Registrar should fail to pay the invoice within terms, fail to make payments as required by Registry Service Provider, or if a minimum balance is required and not maintained, registration of Registered Names sponsored by Registrar will be suspended and new registrations will not be accepted until all invoices are paid in full, payments to the Registry Service Provider are made in full, and the minimum balance is replenished or maintained, as applicable.

**4.3. Fees Due / Non-Payment of Fees.** Registrar acknowledges and agrees that Registrar's timely payment of Fees is a material condition of Registry Operator's obligations under this Agreement. In the event payment of Fees is not timely (i.e., is not made within five (5) days of when due), Registry Operator may take any or all of the following actions: (i) stop accepting new initial or renewal registrations from Registrar; (ii) delete the Registered Names associated with invoices not paid in full from the Registry database; (iii) provide Registrar with written notice of termination of this Agreement pursuant to Section 8 of this Agreement; (iv) assess interest fees at the maximum amount allowed under law; and (v) pursue any other remedy under this Agreement or available under applicable law.

**4.4. Taxes.** The Fees due under this Agreement are exclusive of tax. All taxes, duties, fees and other governmental charges of any kind (including sales, turnover, services, use and value-added taxes, but excluding taxes based upon the net income of Registry Operator) which are imposed by or under the authority of any government or any political subdivision thereof on the fees for any services, software and/or hardware shall be borne by Registrar and shall not be considered a part of, a deduction from or an offset against such Registration Fees. All payments due to Registry Operator shall be made without any deduction or withholding on account of any tax, duty, charge or penalty except as required by law, in which case, the sum payable by Registrar from which such deduction or

withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, Registry Operator receives and retains (free from any liability with respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required.

**4.5. Credit Facility or Payment Security.** The terms of the Credit Facility or Payment Security shall be determined by Registry Operator, in its sole discretion, in a separate policy provided to Registrar and may be amended from time to time with no less than thirty (30) days written notice to Registrar.

**4.6. Change in Registrar Sponsoring Domain Name.** For each transfer of the sponsorship of a Registered Name in accordance with Subsection 3.8 (Transfer of Sponsorship of Registrations), Registrar shall pay Registry Operator the renewal registration fee associated with a one-year extension, as set forth above. The losing registrar's Registration Fees will not be refunded as a result of any such transfer. For a transfer approved by ICANN under Part B of the Transfer Policy, Registrar shall pay Registry Operator \$0 (zero dollars) for transfers of 50,000 names or fewer, or \$50,000 (fifty thousand dollars) for transfers of more than 50,000 names. Fees under this Subsection 4.6 shall be due immediately upon receipt of Registry Operator's invoice.

## **5. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

**5.1. Use of Confidential Information.** During the Term, each Party (the "**Disclosing Party**") may be required to disclose its Confidential Information to the other Party (the "**Receiving Party**"). Each Party's use and disclosure of the Confidential Information of the other Party shall be subject to the following terms and conditions:

**5.1.1.** The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of, all Confidential Information of the Disclosing Party, including implementing reasonable physical security measures and operating procedures of the Registry Operator, Registry Service Provider, Registry Verification Agent, and/or other contractually obligated vendors.

**5.1.2.** The Receiving Party agrees that it will use any Confidential Information of the Disclosing Party solely for the purpose of exercising its right or performing its obligations under this Agreement and for no other purposes whatsoever.

**5.1.3.** The Receiving Party shall make no disclosures whatsoever of any Confidential Information of the Disclosing Party to others; provided, however, that if the Receiving Party is a corporation, partnership, or similar entity, disclosure is permitted to the Receiving Party's officers, employees, contractors and agents who have a demonstrable need to know such Confidential Information, provided the Receiving Party shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality thereof, and shall require them to acknowledge in writing that they have read, understand, and agree to be individually bound by the confidentiality terms of this Agreement.



**5.1.4.** The Receiving Party shall not modify or remove any confidentiality legends and/or copyright notices appearing on any Confidential Information of the Disclosing Party.

**5.1.5.** The Receiving Party agrees not to prepare any derivative works based on the Confidential Information.

**5.1.6.** Notwithstanding the foregoing, this Subsection 5.1 imposes no obligation upon the parties with respect to information that (i) is disclosed with the Disclosing Party's prior written approval; or (ii) is or has entered the public domain through no fault of the Receiving Party; or (iii) is known by the Receiving Party prior to the time of disclosure; or (iv) is independently developed by the Receiving Party without use of the Confidential Information; or (v) is made generally available by the Disclosing Party without restriction on disclosure.

**5.1.7.** In the event the Receiving Party is required by law, regulation or court order to disclose any of Disclosing Party's Confidential Information, Receiving Party will promptly notify Disclosing Party in writing prior to making any such disclosure in order to facilitate Disclosing Party seeking a protective order or other appropriate remedy from the proper authority, at the Disclosing Party's expense. Receiving Party agrees to cooperate with Disclosing Party in seeking such order or other remedy. Receiving Party further agrees that if Disclosing Party is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which is legally required.

**5.1.8.** Confidential Information excludes any information that the receiving Party can demonstrate: (a) at the time of disclosure, was in the public domain; (b) after disclosure, is published or otherwise becomes part of the public domain through no fault of the Receiving Party; (c) was received from a third party who had a lawful right to disclose such information to the Receiving Party without any obligation to restrict its further use of disclosure; (d) was independently developed by Receiving Party without reference to Confidential Information of the Disclosing Party; or (e) was required to be disclosed to satisfy legal requirement of a competent government body or a court of competent jurisdiction.

**5.1.9.** The Receiving Party's duties under this Subsection 5.1 shall expire five (5) years after the information is received or earlier, upon written agreement of the parties.

## **5.2. Intellectual Property.**

**5.2.1.** Subject to Subsection 2.3, each Party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property. In addition, Registry Operator, Registry Service Provider, and/or their suppliers and/or licensees, shall own all right, title and interest in and to the EPP, APIs, Registry Tool Kits, and any software incorporated into the Registry System, as well as all intellectual property appurtenant thereto.

**5.2.2.** Without limiting the generality of the foregoing, no commercial use rights or any licenses under any patent, patent application, copyright, trademark, know-how, trade secret, or any other intellectual proprietary rights are granted by the Disclosing Party to the Receiving Party by this Agreement, or by any disclosure of any Confidential Information to the Receiving Party under this Agreement.

**5.2.3.** Any tools provided hereunder and any tools, software (both in object code and source code form), documentation, technical information, databases, designs, algorithms, techniques, reports, drawings, charts, text or other information and works of authorship, and all ideas, inventions, discoveries, concepts, ideas, know-how, methods, processes, improvements and derivatives, whether or not patentable or copyrightable, used or developed by Registry Operator, Registry Service Provider, Registry Verification Agent and/or other contractually obligated vendors to provide the Services shall be and remain the sole and exclusive property of Registry Operator, Registry Service Provider, Registry Verification Agent, and other contractually obligated vendors which shall have and retain all intellectual property rights therein.

**5.2.4.** Registrar will not, and shall not allow others to, reverse engineer or otherwise attempt to derive source code from Registry Operator, Registry Service Provider, Registry Verification Agent or other contractually obligated vendors tools or software accessed as part of the Services.

**5.2.5.** Neither Party shall use the trade names, trademarks, service marks, or the proprietary marks of the other Party in any advertising, sales presentation, news releases, advertising, or other promotion or marketing materials without such other Party's prior written consent, which shall not be unreasonably withheld; provided, however, that (i) Registry Operator shall have the right without prior approval to identify Registrar as a customer of Registry Operator's services related to the Registry TLD and (ii) the Registrar is permitted to use Registry Operator's name and logo as specified in Subsection 2.3.2.3 above. In addition, the Parties agree that it would be mutually beneficial to issue a joint press release regarding their relationship and shall work together to issue a mutually agreed upon press release within a reasonable time after the Effective Date.

## **6. INDEMNITIES AND LIMITATION OF LIABILITY**

**6.1. Indemnification.** Registrar, at its own expense and within thirty (30) days after presentation of a demand by Registry Operator under this Section 6, will indemnify, defend and hold harmless Registry Operator and Registry Service Provider, and in each case their employees, directors, officers, representatives, agents, partners and Affiliates, against any of the foregoing based on or arising from any claim or alleged claim: (i) relating to any product or services of such Registrar; (ii) relating to any agreement, including Registrar's dispute policy, with any Registered Name Holder; or (iii) relating to such Registrar's domain name registration business, including, but not limited to, such Registrar's advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service; provided that in any such case: (i) Registry Operator provides Registrar with prompt notice of any such claim, and (ii) upon Registrar's written request, Registry Operator will provide to Registrar all available information and

assistance reasonably necessary for Registrar to defend such claim, provided that Registrar reimburses Registry Operator and/or Registry Service Provider for their actual and reasonable attorneys' fees and costs incurred by the Registry Operator and/or Registry Service Provider in connection with or arising from any such indemnifiable claim, suit, action or proceeding. Registrar will not enter into any settlement or compromise of any such indemnifiable claim without Registry Operator and/or Registry Service Provider, if applicable, without prior written consent, which consent shall not be unreasonably withheld. Registrar will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by Registry in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

**6.2. Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PARTY OR PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR A BREACH OF SECTION 5 OR THE INDEMNIFICATION OBLIGATIONS OF SECTION 6, IN NO EVENT SHALL THE MAXIMUM AGGREGATE LIABILITY OF THE PARTIES EXCEED THE GREATER OF (I) THE TOTAL AMOUNT PAID TO REGISTRY UNDER THE TERMS OF THIS AGREEMENT FOR THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD, OR (ii) \$100,000.**

**6.3. Performance Credits.** Registry Operator will not provide a credit to Registrar for failure to meet applicable performance standards set forth in this Agreement.

## **7. DISPUTE RESOLUTION.**

**7.1. Dispute Resolution; Choice of Law; Venue.** The Parties shall attempt to resolve any disputes between them prior to resorting to litigation. This Agreement is to be construed in accordance with and governed by the laws of the State of Virginia without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the laws of the State of Virginia to the rights and duties of the Parties. Any legal action or other legal proceeding relating to this Agreement or the enforcement of any provision of this Agreement shall be brought or otherwise commenced in a court located in the State of Virginia.

Each Party to this Agreement expressly and irrevocably consents and submits to the jurisdiction and venue of each court of competent jurisdiction within the State of Virginia in connection with any such legal proceeding.

## **8. TERM AND TERMINATION**

**8.1. Term of the Agreement; Revisions.** The duties and obligations of the Parties under this Agreement shall apply from the Effective Date through and including the last day of the calendar month sixty (60) months from the Effective Date (the "Initial Term"). Upon conclusion of the Initial Term, all provisions of this Agreement will automatically renew for successive five (5) year renewal periods (each a "Renewal Term") until the Agreement has been terminated as provided herein, unless Registrar elects not to renew, or Registry Operator ceases to operate the registry for the Registry TLD. In the event that revisions to Registry Operator's approved form of Registry-Registrar Agreement are approved or adopted by ICANN, Registrar will either execute an amendment substituting the revised agreement in place of this Agreement or, at its option exercised within thirty (30) days after receiving notice of such amendment, terminate this Agreement immediately by giving written notice to Registry Operator. In the event that Registry Operator does not receive such executed amendment or notice of termination from Registrar within such thirty (30) day period, Registrar shall be deemed to have terminated this Agreement effective immediately. The Initial Term, together with any Renewal Terms in effect, are referred to collectively herein as the "Term".

**8.2. Termination.** This Agreement may be terminated as follows:

**8.2.1. Termination for Cause.** In the event that either Party materially breaches any of its obligations under this Agreement, including any of its representations and warranties hereunder, and such breach is not substantially cured within thirty (30) calendar days after written notice thereof is given by the other Party, then the non-breaching Party may, by giving written notice thereof to the other Party, terminate this Agreement as of the date specified in such notice of termination.

**8.2.2. Termination at Option of Registrar.** Registrar may terminate this Agreement at any time by giving Registry Operator thirty (30) days' prior written notice of termination.

**8.2.3. Termination upon Loss of Registrar's Accreditation.** This Agreement shall immediately terminate in the event ICANN or its successor terminates Registrar's accreditation pursuant to Registrar's RAA, or in the event Registrar's RAA expires without renewal.

**8.2.4. Termination in the Event of Termination of Registry Agreement.** This Agreement shall terminate in the event that Registry Operator's Registry Agreement with ICANN is terminated or expires without entry of a subsequent Registry Agreement with ICANN and this Agreement is not assigned under Subsection 10.1.1. In addition, the Agreement shall terminate in the event ICANN designates another entity to operate the registry for all of the Registry TLD.

**8.2.5. Termination in the Event of Insolvency or Bankruptcy.** Either Party may terminate this Agreement if the other Party is adjudged insolvent or bankrupt, or if proceedings are instituted by or against a Party seeking relief, reorganization or arrangement under any laws relating to insolvency, or seeking any assignment for the benefit of creditors, or seeking the appointment of a receiver, liquidator or trustee of a Party's property or assets or the liquidation, dissolution or winding up of a Party's business.

**8.3. Effect of Termination.** Upon the expiration or termination of this Agreement for any reason:

**8.3.1.** Registry Operator will, to the extent it has the authority to do so, complete the registration of all domain names processed by Registrar prior to the effective date of such expiration or termination, provided that Registrar's payments to Registry Operator for Fees are current and timely.

**8.3.2.** Registrar shall, upon any expiration or termination of this Agreement, immediately transfer its sponsorship of Registered Name registrations to another ICANN-accredited registrar of the Registry TLD, in compliance with Registrar's RAA and any policies and/or procedures established, mandated, adopted, and/or approved by ICANN.

**8.3.3.** Registrar, as appropriate, shall either return to Registry Operator or certify to Registry Operator the destruction of all Confidential Information in its possession or has received under this Agreement. In the event of termination, Registry Operator reserves the right to immediately contact any and all Registered Name Holders to facilitate the orderly and stable transition of Registered Name Holders to other ICANN-accredited registrars.

**8.3.4.** All Fees owing to Registry Operator shall become immediately due and payable.

**8.4. Termination for Non-Payment of Fees.** Notwithstanding the provisions of Subsection 8.3 above, in the event that this Agreement is terminated because of Registrar's non-payment of Fees, Registry Operator shall have the first right, but not the obligation, to transfer the sponsorship of Registered Names to a wholly owned subsidiary of Registry Operator, accredited by ICANN as a registrar.

**8.5. Survival.** In the event of termination of this Agreement, the following shall survive: (i) Sections 5, 6, and 7 and Subsections 2.3.2, 2.6, 2.10, 3.4, 3.5, 3.13, 8.3, 8.4, 8.5, 9.3, 10.2, 10.3, 10.4, 10.6, 10.7, 10.8, 10.9, and 10.11, and (ii) the Registered Name Holder's indemnification obligation under Subsection 3.4; (iii) Registrar's obligations in connection with any license granted hereunder or any Confidential Information received by Registrar and (iv) Registrar's payment obligations as set forth in Section 4 with respect to Fees incurred during the Term.

**8.6. *Neither Party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms, but each Party shall be liable for any damage arising from or in connection with such Party's breach of this Agreement.***

## **9. REPRESENTATIONS AND WARRANTIES**

**9.1. Registrar.** Registrar represents and warrants that: (i) it is a corporation duly incorporated, validly existing and in good standing under the law of its jurisdiction of formation or organization; (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement; (iii) it is, and during the Term will continue to be, accredited by ICANN or its successor, pursuant to an RAA dated after May 13, 2013; (iv) the execution, performance and delivery of this Agreement has been

duly authorized by Registrar; and ( v) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Registrar in order for it to enter into and perform its obligations under this Agreement.

**9.2. Registry Operator.** Registry Operator represents and warrants that: (i) it is a limited liability company duly incorporated, validly existing and in good standing under the laws of the State of Delaware; (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement; (iii) the execution, performance and delivery of this Agreement has been duly authorized by Registry Operator; and (iv) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Registry Operator in order for it to enter into and perform its obligations under this Agreement.

**9.3. Disclaimer of Warranties.** THE LICENSED PRODUCT, REGISTRY TOOL KITS, REGISTRY SYSTEM AND ANY COMPONENT THEREOF ARE PROVIDED "AS-IS" AND WITHOUT ANY WARRANTY OF ANY KIND. REGISTRY OPERATOR EXPRESSLY DISCLAIMS ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. REGISTRY OPERATOR DOES NOT WARRANT THAT THE LICENSED PRODUCT, REGISTRY TOOL KITS, REGISTRY SYSTEM OR ANY COMPONENT THEREOF WILL MEET REGISTRAR'S REQUIREMENTS, OR THAT THE OPERATION OF THE LICENSED PRODUCT, REGISTRY TOOL KITS, THE REGISTRY SYSTEM OR ANY COMPONENT THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT, REGISTRY TOOL KITS, REGISTRY SYSTEM OR ANY COMPONENT THEREOF WILL BE CORRECTED. FURTHERMORE, REGISTRY OPERATOR DOES NOT WARRANT NOR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE LICENSED PRODUCT, REGISTRY TOOL KITS, REGISTRY SYSTEM OR ANY COMPONENT THEREOF OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SHOULD THE LICENSED PRODUCT, REGISTRY TOOL KITS, THE REGISTRY SYSTEM OR ANY COMPONENT THEREOF PROVE DEFECTIVE, REGISTRAR ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING AND REPAIR OR CORRECTION OF REGISTRAR'S OWN SYSTEMS AND SOFTWARE.

**9.4. Insurance.** During the Term, Registrar shall have and maintain at least \$1,000,000 in comprehensive general liability insurance from a reputable insurance provider with a rating equivalent to an A.M. Best rating of "A" or better naming Registry Operator and Registry Operator's Affiliates, including in each case all successors and permitted assigns, as additional insureds. Registrar shall provide a certificate of insurance to Registry Operator upon Registry Operator's reasonable request.

## **10. MISCELLANEOUS**

**10.1. Assignment.**

**10.1.1. Assignment to Successor Registry Operator.** In the event the Registry Operator's Registry Agreement is terminated (and such termination is deemed final under the Registry Agreement) or expires without entry by Registry Operator and ICANN into a subsequent registry agreement, Registry Operator's rights under this Agreement may be assigned to a company with a subsequent registry agreement covering the Registry TLD upon ICANN's giving Registrar written notice within sixty (60) days of the termination or expiration, provided that the subsequent registry operator assumes the duties of Registry Operator under this Agreement.

**10.1.2. Assignment in Connection with Assignment of Agreement with ICANN.** In the event that Registry Operator's Registry Agreement with ICANN for the Registry TLD is validly assigned, Registry Operator's rights under this Agreement shall be automatically assigned to the assignee of the Registry Agreement, provided that the assignee assumes the duties of Registry Operator under this Agreement. In the event that Registrar's RAA with ICANN for the Registry TLD is validly assigned, Registrar's rights under this Agreement shall be automatically assigned to the assignee of Registrar's RAA, provided that the subsequent registrar assumes the duties of Registrar under this Agreement.

**10.1.3. Other Assignments.** Except as otherwise expressly provided herein, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and permitted assigns of the Parties hereto. Neither Party shall assign, sublicense or transfer its rights or obligations under this Agreement to any third person without the prior written consent of the other Party, provided that Registry Operator may assign its rights or obligations under this Agreement to its Affiliate without first obtaining the consent of Registrar.

**10.2. Notices.** Any notice or other communication required or permitted to be delivered to any Party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service, by e-mail or by facsimile during business hours) to the address or facsimile number set forth beneath the name of such Party below, unless Party has given a notice of a change of address in writing:

**If to Registrar:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

with copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**If to Registry Operator:**

fTLD Registry Services, LLC  
600 13th Street, NW  
Suite 400  
Washington, DC 20005

Attn: Craig Schwartz, Managing Director

**10.3. Third-Party Beneficiaries.** This Agreement shall not be construed to create any obligation by either Party to any non-party to this Agreement, including the Registry Service Provider and/or any Registered Name Holder or provide such non-party with any remedy, claim, and/or cause of action or privilege. Registrar acknowledges that nothing in this Agreement, including those requirements in this Agreement that incorporate the Registry Agreement, shall confer upon Registrar the status of an intended third-party beneficiary to the Registry Agreement.

**10.4. Relationship of the Parties.** Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the Parties. The Parties each hereby expressly disclaim such relationship, agree that they are acting solely as independent contractors hereunder, and agree that the Parties have no fiduciary duty to one another or any other special or implied duties that are not expressly stated herein.

**10.5. Force Majeure.** Neither Party shall be liable to the other for any loss or damage resulting from any cause beyond its reasonable control (a "**Force Majeure Event**") including, but not limited to, any Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees), earthquake, fire, lightning, explosion, flood, subsidence, weather of exceptional severity or other natural disaster, equipment or facilities shortages which are being experienced by providers of telecommunications services generally, or other similar force beyond such Party's reasonable control, and acts or omissions of persons for whom neither Party is responsible. Upon occurrence of a Force Majeure Event and to the extent such occurrence interferes with either Party's performance of this Agreement, such Party shall be excused from performance of its obligations (other than payment obligations) during the first six (6) months of such interference, provided that such Party uses best efforts to avoid or remove such causes of nonperformance as soon as possible.

**10.6. Amendments in Writing.** Except as otherwise provided in this Agreement, any amendment or supplement to this Agreement shall be in writing and duly executed by both Parties. Any new services approved and/or mandated by ICANN and purchased by Registrar will be subject to such terms and conditions as may be established by Registry Operator through an appendix to this Agreement or such other agreement executed by Registrar and Registry Operator.



**10.7. Delays or Omissions; Waivers.** No failure on the part of either Party to exercise any power, right, privilege, or remedy under this Agreement, and no delay on the part of either Party in exercising any power, right, privilege, or remedy under this Agreement, shall operate as a waiver of such power, right, privilege, or remedy; and no single or partial exercise or waiver of any such power, right, privilege, or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege, or remedy. Neither Party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege, or remedy under this Agreement, unless the waiver of such claim, power, right, privilege, or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

**10.8. Attorneys' Fees.** If any legal action or other legal proceeding (including arbitration) relating to the performance under this Agreement or the enforcement of any provision of this Agreement is brought against either Party hereto, the prevailing Party shall be entitled to recover reasonable attorneys' fees, costs and disbursements (in addition to any other relief to which the prevailing Party may be entitled).

**10.9. Construction and Interpretation.** The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement. All references to 'days' shall mean calendar days unless otherwise specified. All references to the singular will include the plural where applicable. All currency shall be in U.S. Dollars. Use of the words 'includes' or 'including', 'for example', or 'e.g.' (and their derivatives) means includes or including, without limitation, and the word 'or' is not exclusive. Headings and titles as used in this Agreement are used for convenience only and do not define, limit or enlarge the scope of this Agreement or any of the obligations herein.

**10.10. Further Assurances.** Each Party hereto shall execute and/or cause to be delivered to each other Party hereto such instruments and other documents, and shall take such other actions, as such other Party may reasonably request for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

**10.11. Entire Agreement; Severability.** This Agreement (including its exhibits, which are expressly incorporated herein by this reference) constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to effect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.

**10.12. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The exchange of fully executed signature pages (in counterparts or otherwise) by electronic transmission in portable document format (PDF) or facsimile shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date set forth in the first paragraph hereof.

**FTLD Registry Services, LLC**

By:

Name: Craig Schwartz

Title: Managing Director

Date:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**  
**Registrar's Registration Agreement**

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**Exhibit B**  
**Registration Fees**

**1. Domain-Name Initial Registration Fee**

Registrar agrees to pay in US currency; the non-refundable amount set forth in the table below, per annual increment of an initial domain name registration, or such other amount as may be established in accordance with Section 4 above. Registrar shall register domain names to Registrants only for fixed periods according to ICANN and Registry Operator policies.

Sunrise Registration Fee	Initial Registration Fee
\$675	\$675

**2. Domain-Name Renewal Fee**

Registrar agrees to pay in U.S. currency; the non-refundable amount set forth in the table below, per annual increment of a domain name registration renewal, or such other amount as may be established in accordance with Section 4 above. At the conclusion of the registration period the failure by or on behalf of the Registrant to pay a renewal fee within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration. Registrar shall accept and process payments for the renewal of a domain name by a URS complainant in cases where the URS complainant prevailed. Registrar shall not renew a domain name to a URS complainant who prevailed for longer than one year, if allowed under the Registry TLD maximum validity period.

Renewal Fee
\$675

**3. Domain-Name Transfer**

Registrar agrees to pay in US currency; the non-refundable amount set forth in the table below, per domain name that is transferred to Registrar from another ICANN-accredited registrar, or such other amount as may be established in accordance with Section 4 above.

Transfer Fee
\$675

Where the sponsorship of a domain name is transferred from an ICANN-accredited registrar to another ICANN-accredited registrar, other than an ICANN approved bulk transfer, Registry Operator may require the Registrar receiving the sponsorship to request a

renewal of one year for the name. In connection with that extension, Registry Operator may charge a Renewal Fee for the requested extension as provided in the renewal schedule set forth above. The transfer shall result in an extension according to the renewal request, subject to a ten (10) year maximum on the future term of any domain-name registration. The Renewal Fee shall be paid in full at the time of the transfer by the ICANN-accredited registrar receiving sponsorship of the domain name.

For a bulk transfer approved by ICANN, Registry Operator will charge the gaining registrar \$0 (for transfers of 50,000 names or fewer) or \$50,000 (for transfers of more than 50,000 names).

#### **4. Registrant-Verification Fee**

Registrar agrees to pay in US currency; the non-refundable amount set forth in the table below in the event Registry Operator rejects a registration in the pending create status with Registry Service Provider, or such other amount as may be established in accordance with Section 4 above. Registry Operator shall invoice Registrar on a monthly basis for such fees.

Verification Fee

\$100

#### **4.5. EPP Update to Restore a Name**

Registrar agrees to pay \$40.00 per use of the EPP Update command to restore a domain name, or such other amount as may be established in accordance with Section 4 above.

Registry Operator may charge registrars the following maximum price for each Registered Name that is restored pursuant to the Redemption Grace Period Policy set forth in the Registry Agreement:

- The cost of restoring an unintentionally deleted domain name in the Redemption Grace Period must not exceed \$40.00 per domain name.
- Registry Operator will waive the fee for restoring any Registered Name that was deleted, contrary to the wishes of the Registered Name Holder, as the result of a mistake of the Registry Operator.

*Note: the fee for restoring deleted names is separate from, and in addition to, any Renewal Fees that may be charged as set forth above.*

#### **56. Sync**

Registrar agrees to pay \$63.00 per month of the sync, for each use of the Supported Protocol Sync command, or such other amount as may be established in accordance with the terms of this Agreement.

## **67. Add Grace Period Threshold**

Registrar agrees to ICANN's AGP (Add Grace Period) Limits Policy, found at <http://www.icann.org/en/resources/registries/agp/agp-policy-17dec08-en.htm>, which details amounts, thresholds, limitations, qualifications, and exemptions related to a Registrar's domain name deletions and refunds during the AGP. No refunds or credits will be issued to Registrar for deletions within the AGP related to the Sunrise Period.

During any given month, Registry Operator shall not offer any refund to Registrar for any domain names deleted during the AGP that exceed (i) 10% of Registrar's net new registrations (calculated as the total number of net adds of one-year through ten (10) year registrations as defined in the monthly reporting requirement of Registry Operator Agreements) in that month, or (ii) fifty (50) domain names, whichever is greater, unless an exemption has been granted by an Operator.

Registrar may seek an exemption from Registry Operator from the application of such restrictions in a specific month, upon the documented showing of extraordinary circumstances. For any exemption request, Registrar must confirm in writing to the Registry Operator how, at the time the names were deleted, these extraordinary circumstances were not known, reasonably could not have been known, and were outside the Registrar's control. Acceptance of any exemption will be at the sole and reasonable discretion of the Registry Operator, provided that "extraordinary circumstances" which reoccur regularly for the same Registrar will not be deemed extraordinary.

In addition to all other reporting requirements to ICANN, Registry Operator shall identify each registrar (including Registrar) that has sought an exemption, along with a brief descriptive identification of the type of extraordinary circumstance and the action, approval or denial that was taken by the Registry Operator.

## **78. Notification of Increase in Fees**

Registry Operator reserves the right to increase the Fees set forth above prospectively upon six (6) months advance notice to Registrar, in accordance with the Registry Agreement.

## **9. Registry Operator Direct Invoicing for Reimbursements**

Registry Operator reserves the right to invoice Registrar directly for any non-refundable fees incurred by Registrar as set forth in Section 4 or Exhibit B of this Agreement, including but not limited to Registrant-Verification Fees.