**ESCROW AGREEMENT**

This Escrow Agreement dated this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_ (the “**Escrow Agreement**”), is entered into by and among [COMPANY], a gTLD registry located in [COMPANY ADDRESS], (the “**Company**”), The Internet Corporation for Assigned Names and Numbers a California non-profit corporation with its executive offices in Los Angeles, California (“**ICANN**”), and together with the Company, each a “**Party**” and collectively, the “**Parties**”, and [ESCROW AGENT] as escrow agent (“**Escrow Agent**”).

**RECITALS**

**WHEREAS**, a requirement of the application and as a condition to ICANN’s approval of the [STRING] top level domain application, ICANN requires that an irrevocable escrow be established for the deposit of certain funds to be held for the benefit of ICANN and in accordance with a ICANN Registry Agreement (“**RA**”) that would be executed between ICANN and the Company subsequent to ICANN’s approval of the [STRING] application; and

**WHEREAS**, the Company agrees to place in escrow certain funds and the Escrow Agent agrees to hold and distribute such funds in accordance with the terms of this Escrow Agreement;

**NOW, THEREFORE,** in consideration of the promises, and agreements of the Parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties and the Escrow Agent agree as follows:

**ARTICLE 1**

**ESCROW DEPOSIT**

* 1. Receipt of Escrow Property.
1. Upon execution of this Escrow Agreement by each of the parties hereto, the Company shall deposit US $[AMOUNT] into an account (the “**Escrow Account**”) established by the Escrow Agent. The Escrow Account is set forth below:

[ESCROW AGENT]

ABA#

A/C# [\_\_\_\_\_]

A/C Name: [\_\_\_\_\_]

Attn:

1. The Escrow Agent will hold the deposit in the Escrow Account, together with all investments thereof and all interest accumulated thereon and proceeds therefrom (the “**Escrow Property**”), in escrow upon the terms and conditions set forth in this Escrow Agreement and shall not disburse funds from the Escrow Account except as provided herein.
	1. Investments.
2. The Escrow Agent shall invest the Escrow Property in accordance with the written instructions provided to the Escrow Agent and signed by the Company. In the absence of written investment instructions from the Parties, the Escrow Agent shall hold the Escrow Property uninvested and in cash. The Escrow Agent shall make no disbursement, investment or other use of funds until and unless it has collected funds. The Escrow Agent shall not be liable for collection items until such proceeds have been received or the Federal Reserve has given the Escrow Agent credit for the funds.
3. The Escrow Agent is hereby authorized and directed to sell or redeem any such investments as it deems necessary to make any payments or distributions required under this Escrow Agreement. The Escrow Agent shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Escrow Agreement. The Escrow Agent is hereby authorized, in making or disposing of any investment permitted by this Escrow Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Escrow Agent or for any third person or dealing as principal for its own account. The Parties acknowledge that the Escrow Agent is not providing investment supervision, recommendations, or advice.
	1. Disbursements.
4. The Escrow Property may be disbursed as follows:
	1. ICANN shall be unconditionally entitled to a release of the Escrow Property, in whole or in part, in the amount designated in a written notice which amount shall not exceed the amount of funds deposited in the Escrow Property. To request a release of the funds in the Escrow Property, ICANN shall submit to Escrow Agent a written request executed by their Authorized Representatives in a form substantially similar to the disbursement request form Exhibit A (an “**ICANN** **Written Direction**”), and the requested Escrow Property shall be released as instructed in accordance with the terms of this Agreement.
	2. The Company shall be entitled to a release of the Escrow Property, in whole or in part, in the amount designated in a joint written notice which amount shall not exceed the amount of funds deposited in the Escrow Property. To request a release of the funds in the Escrow Property, the Company shall submit to Escrow Agent a joint written request executed by their Authorized Representatives and an ICANN Authorized Representative substantially similar to the disbursement request form Exhibit B (a “**Joint Written Direction**”, and as used herein, the term “**Written Direction**” may refer to an ICANN Written Direction or a Joint Written Direction, as the context may require) and the requested Escrow Property shall be released as instructed in accordance with the terms of this Agreement.
5. In the event that Escrow Agent makes any payment to any other party pursuant to this Escrow Agreement and for any reason such payment (or any portion thereof) is required to be returned to the Escrow Account or another party or is subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a receiver, trustee or other party under any bankruptcy or insolvency law, other federal or state law, common law or equitable doctrine, then the recipient shall repay to the Escrow Agent upon written request the amount so paid to it.
6. The Escrow Agent shall, in its sole discretion, comply with judgments or orders issued or process entered by any court with respect to the Escrow Property, including without limitation any attachment, levy or garnishment, without any obligation to determine such court's jurisdiction in the matter and in accordance with its normal business practices. If the Escrow Agent complies with any such judgment, order or process, then Escrow Agent shall not be liable to either Party or any other person by reason of such compliance, regardless of the final disposition of any such judgment, order or process.
7. Each Party understands and agrees that the Escrow Agent shall have no obligation or duty to act upon a Written Direction (as defined above) delivered to the Escrow Agent for the disbursement of Escrow Property under this Escrow Agreement if such Written Direction is not (i) in writing, (ii) signed by, in the case of the Company, any individual designated by Company on Exhibit C-2 hereto or, in the case of ICANN, any individual designated by ICANN on Exhibit C-1 hereto (in each case, each such individual an “**Authorized Representative**” of such Party), and (iii) delivered to, and able to be authenticated by, the Escrow Agent in accordance with Section 1.6.
8. Upon request, the Escrow Agent will furnish monthly statements to each Party setting forth the activity in the Escrow Account.
9. If none of the Escrow Property has been disbursed by the Termination Date (as hereinafter defined), the Escrow Agent shall return the Escrow Property to the Company, after which this Escrow Agreement shall terminate in accordance with Section 1.8 below.
	1. Treatment of Escrow Property.

The monies constituting the Escrow Property shall be deposited in a segregated account pursuant to the terms of this Escrow Agreement. Such account shall be titled as the “[COMPANY] ICANN Escrow Account”. Subject to the withdrawal, access and disbursement rights granted to ICANN hereunder, the ownership of the funds in the Escrow Property, including interest or other income accruing thereon, shall remain the property of and accrue to Company. Escrow Agent shall not commingle any Escrow Property with personal accounts or other funds held by Escrow Agent in any other capacity, and said Escrow Property may only be accessed by ICANN (pursuant to an ICANN Written Direction) and the Company (pursuant to a Joint Written Direction).

* 1. Written Direction and Other Instruction.
1. With respect to any Written Direction or any other notice, direction or other instruction required to be delivered by a Party to the Escrow Agent under this Escrow Agreement, the Escrow Agent is authorized to follow and rely upon any and all such instructions given to it from time to time if the Escrow Agent believes, in good faith, that such instruction is genuine and to have been signed by an Authorized Representative of such Party. The Escrow Agent shall have no duty or obligation to verify that the person who sent such instruction is, in fact, a person duly authorized to give instructions on behalf of a Party, other than to verify that the signature of the Authorized Representative on any such instruction appears to be the signature of such person. Each Party acknowledges and agrees that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Escrow Agent, and that there may be more secure methods of transmitting instructions other than the method selected by such Party. The Escrow Agent shall have no responsibility or liability for any loss which may result from:
	1. any action taken or not taken by the Escrow Agent in good faith reliance on any such signatures or instructions;
	2. as a result of a Party’s reliance upon or use of any particular method of delivering instructions to the Escrow Agent, including the risk of interception of such instruction and misuse by third parties; or
	3. any officer or Authorized Representative of a Party named in an incumbency certificate, Exhibit C-1 or Exhibit C-2 delivered hereunder prior to actual receipt by the Escrow Agent of a more current incumbency certificate or an updated Exhibit C-1 or Exhibit C-2 and a reasonable time for the Escrow Agent to act upon such updated or more current certificate or Exhibit.
2. Company may, at any time, update Exhibit C-2 and ICANN may, at any time, update Exhibit C-1 by signing and submitting to the Escrow Agent an updated Exhibit. Any updated Exhibit shall not be effective unless the Escrow Agent countersigns a copy thereof. The Escrow Agent shall be entitled to a reasonable time to act to implement any changes on an updated Exhibit.
	1. Delivery and Authentication of Written Direction.
3. A Written Direction must be delivered to the Escrow Agent by one of the delivery methods set forth in Section 4.3.
4. Each Party and the Escrow Agent hereby agree that the following security procedures will be used to verify the authenticity of a Written Direction delivered by any Party to the Escrow Agent under this Escrow Agreement:
	1. The Written Direction must include the name and signature of the person delivering the disbursement request to the Escrow Agent. The Escrow Agent will check that the name and signature of the person identified on the Written Direction appears to be the same as the name and signature of an Authorized Representative of such Party;
	2. The Escrow Agent will make a telephone call to an Authorized Representative of the Party purporting to deliver the Written Direction (which Authorized Representative may be the same as the Authorized Representative who delivered the Written Direction) at any telephone number for such Authorized Representative as set forth on Exhibit C-1 or Exhibit C-2, as applicable, to obtain oral confirmation of delivery of the Written Direction. If the Written Direction is a joint written notice of the Parties, the Escrow Agent shall call back an Authorized Representative of both of those Parties; and
	3. If the Written Direction is sent by email to the Escrow Agent, the Escrow Agent also shall review such email address to verify that it appears to have been sent from an email address for an Authorized Representative of such Party as set forth on Exhibit C-1 or Exhibit C-2, as applicable, or from an email address for a person authorized under Exhibit C-1 or Exhibit C-2, as applicable, to email a Written Direction to the Escrow Agent on behalf of the Authorized Representative.
5. Each Party acknowledges and agrees that given its particular circumstances, including the nature of its business, the size, type and frequency of its instructions, transactions and files, internal procedures and systems, the alternative security procedures offered by the Escrow Agent and the security procedures in general use by other customers and banks similarly situated, the security procedures set forth in this Section 1.6 are a commercially reasonable method of verifying the authenticity of a payment order in a Written Direction.
6. The Escrow Agent is authorized to execute, and each Party expressly agrees to be bound by any payment order in a Written Direction issued in its name (and associated funds transfer) (i) that is accepted by the Escrow Agent in accordance with the security procedures set forth in this Section 1.6, whether or not authorized by such Party and/or (ii) that is authorized by or on behalf of such Party or for which such Party is otherwise bound under the law of agency, whether or not the security procedures set forth in this Section 1.6 were followed, and to debit the Escrow Account for the amount of the payment order. Notwithstanding anything else, the Escrow Agent shall be deemed to have acted in good faith and without negligence, gross negligence or misconduct if the Escrow Agent is authorized to execute the payment order under this Section 1.6. Any action taken by the Escrow Agent pursuant to this Section 1.6 prior to the Escrow Agent’s actual receipt and acknowledgement of a notice of revocation, cancellation or amendment of a Written Direction shall not be affected by such notice of revocation, cancellation or amendment of a Written Direction***.***
7. The security procedures set forth in this Section 1.6 are intended to verify the authenticity of payment orders provided to the Escrow Agent and are not designed to, and do not, detect errors in the transmission or content of any payment order. The Escrow Agent is not responsible for detecting an error in the payment order, regardless of whether either Party believes the error was apparent, and the Escrow Agent is not liable for any losses arising from any failure to detect an error.
8. When instructed to credit or pay a party by both name and a unique numeric or alpha-numeric identifier (e.g. ABA number or account number), the Escrow Agent, and any other banks participating in the funds transfer, may rely solely on the unique identifier, even if it identifies a party different than the party named. Each Party agrees to be bound by the rules of any funds transfer network used in connection with any payment order accepted by the Escrow Agent hereunder.
9. The Escrow Agent shall not be obliged to make any payment requested under this Escrow Agreement if it is unable to validate the authenticity of the request by the security procedures set forth in this Section 1.6. The Escrow Agent’s inability to confirm a payment order may result in a delay or failure to act on that payment order. Notwithstanding anything else in this Escrow Agreement, the Escrow Agent shall not be required to treat a payment order as having been received until the Escrow Agent has authenticated it pursuant to the security procedures in this Section 1.6 and shall not be liable or responsible for any losses arising in relation to such delay or failure to act.
	1. Income Tax Allocation and Reporting.
10. Each Party agrees that, for tax reporting purposes, the Escrow Property shall be deemed to be the property of Company and all interest and other income from investment of the Escrow Property shall, as of the end of each calendar year and to the extent required by the Internal Revenue Service, be reported as having been earned by such Party, whether or not such income was disbursed during such calendar year. Notwithstanding anything to the contrary herein, the Escrow Agent shall have no duty to prepare or file any Federal or state tax report or return with respect to the Escrow Property, except for the delivery and filing of tax information reporting forms required to be delivered and filed with the Internal Revenue Service. With respect to the preparation, delivery and filing of such required tax information reporting forms and all matters pertaining to the reporting of earnings on the Escrow Property, the Escrow Agent shall be entitled to request and receive written instructions from the Company, and the Escrow Agent shall be entitled to rely conclusively and without further inquiry on such written instructions. With respect to any other payments made under this Escrow Agreement, the Escrow Agent shall not be deemed the payer and shall have no responsibility for performing tax reporting. The Escrow Agent’s function of making such payments is solely ministerial and upon express direction of the Parties.

1. Prior to the execution of this Escrow Agreement, or within two days thereafter, each Party shall provide the Escrow Agent with certified tax identification numbers by furnishing appropriate forms W-9 or W-8 and such other forms and documents that the Escrow Agent may request. Each Party understands that if such tax reporting documentation is not provided and certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to withhold a portion of any interest or other income earned on the investment of the Escrow Property.
2. To the extent that the Escrow Agent becomes liable for the payment of any taxes in respect of income derived from the investment of the Escrow Property, the Escrow Agent shall satisfy such liability to the extent possible from the Escrow Property. The Parties, jointly and severally, hereby indemnify, defend and hold the Escrow Agent harmless from and against any tax, late payment, interest, penalty or other cost or expense that may be assessed against the Escrow Agent on or with respect to the Escrow Property and the investment thereof unless such tax, late payment, interest, penalty or other expense was finally adjudicated to have been directly caused by the gross negligence or willful misconduct of the Escrow Agent. The indemnification provided by this Section 1.7(c) is in addition to the indemnification provided in Section 3.1 and shall survive the resignation or removal of the Escrow Agent and the termination of this Escrow Agreement.
	1. Termination. This Escrow Agreement shall terminate on December 31, 2019 (the “**Termination Date**”), at which time the Escrow Agent is authorized and directed to disburse the Escrow Property in accordance with Section 1.3 to the Company via wire transfer and this Escrow Agreement shall be of no further force and effect, except that the provisions of Sections 1.7 (Tax Allocation and Reporting), 3.1(Indemnification) and 3.2(Limitation of Liability) hereof shall survive termination.

**ARTICLE 2
DUTIES OF THE ESCROW AGENT**

* 1. Scope of Responsibility. Notwithstanding any provision to the contrary, the Escrow Agent is obligated only to perform the duties expressly and specifically set forth in this Escrow Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will the Escrow Agent be deemed to be a fiduciary to either Party or any other person under this Escrow Agreement or otherwise. The Escrow Agent will not be responsible or liable for the failure of either Party to perform in accordance with this Escrow Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Escrow Agreement, whether or not an original or a copy of such agreement has been provided to the Escrow Agent; and the Escrow Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Escrow Agreement to any other agreement, instrument, or document are for the convenience of the parties and the Escrow Agent has no duties or obligations with respect thereto. The Escrow Agent acts hereunder as escrow agent only, and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject matter of this Escrow Agreement or any part thereof. The Escrow Agent shall have no responsibilities (except as expressly set forth herein) as to the validity, sufficiency, value, genuineness, ownership or transferability of the Escrow Property, written instructions, or any other documents in connection therewith, and will not be regarded as making nor be required to make, any representations thereto. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred or implied from the terms of this Escrow Agreement, any other agreement or otherwise.
	2. Rights of the Escrow Agent. No provision of this Escrow Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement. The Escrow Agent shall not be obligated to take any legal action or to commence any proceedings in connection with this Escrow Agreement or any property held hereunder or to appear in, prosecute or defend in any such legal action or proceedings. The Escrow Agent shall be protected in acting upon any written instruction, notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other paper or document which the Escrow Agent in good faith believes to be genuine and what it purports to be, including, but not limited to, items directing investment or non-investment of funds, items requesting or authorizing release, disbursement or retainage of the subject matter of this Escrow Agreement and items amending the terms of this Escrow Agreement.
	3. Attorneys and Agents. The Escrow Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Escrow Agent in accordance with the advice of counsel or other professionals retained or consulted by the Escrow Agent. The Escrow Agent shall be reimbursed as set forth in Section 3.1 for any and all compensation (fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. The Escrow Agent may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees and shall not be responsible for the acts or omissions of such agents, representatives, attorneys, custodians or nominees appointed with due care.
	4. Right Not Duty Undertaken. The permissive rights of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties.

 **ARTICLE 3
PROVISIONS CONCERNING THE ESCROW AGENT**

* 1. Indemnification. The Parties, jointly and severally, hereby indemnify and defend the Escrow Agent and its directors, officers, employees and agents (collectively, the “**Indemnified Parties**”), and hold the Indemnified Parties harmless from any and against all liabilities, losses, actions, suits or proceedings at law or in equity, and any other expenses, fees or charges of any character or nature, (including, without limitation, attorney's fees and expenses and the costs of enforcement of this Escrow Agreement or any provision thereof), which an Indemnified Party may incur or with which it may be threatened by reason of acting as or on behalf of the Escrow Agent under this Escrow Agreement or arising out of the existence of the Escrow Account, except to the extent the same shall be have been finally adjudicated to have been directly caused by the Escrow Agent's gross negligence or willful misconduct. The Escrow Agent shall have a first lien against the Escrow Account to secure the obligations of the Parties hereunder and shall be entitled to deduct funds from the Escrow Account prior to seeking indemnification from the Parties in accordance with this Section 3.1. The terms of this paragraph shall survive termination of this Escrow Agreement.
	2. Limitation of Liability. the escrow agent SHALL NOT be liable, directly or indirectly, for any (i) damages, Losses or expenses arising out of OR IN CONNECTION WITH THIS ESCROW AGREEMENT, THE ESCROW ACCOUNT, THE ESCROW PROPERTY, OR the services provided hereunder, other than damages, losses or expenses which have been finally adjudicated to have DIRECTLY resulted from the escrow agent’s gross negligence or willful misconduct, (ii) special, Indirect or consequential damages or LOSSES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION LOST PROFITS), even if the escrow agent has been advised of the possibility of such LOSSES OR damages AND REGARDLESS OF THE FORM OF ACTION, OR (III) ANY AMOUNT IN EXCESS OF THE VALUE OF THE ESCROW PROPERTY.
	3. Resignation or Removal. The Escrow Agent may, at any time, resign as escrow agent hereunder by furnishing written notice of its resignation to each Party. At such time, all fees and expenses to which the Escrow Agent is entitled shall be immediately due and payable to Escrow Agent. The Parties may remove the Escrow Agent by furnishing to the Escrow Agent a joint written notice of its removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective sixty (60) days after the delivery of such notice or upon the earlier appointment of a successor, and the Escrow Agent’s sole responsibility thereafter shall be to safely keep the Escrow Property and to deliver the same to a successor escrow agent as shall be appointed by the Parties, as evidenced by a joint written notice filed with the Escrow Agent or in accordance with a court order. If the Parties have failed to appoint a successor escrow agent prior to the expiration of sixty (60) days following the delivery of such notice of resignation or removal, the Escrow Agent shall be entitled, at its sole discretion and at the expense of the Company, to (a) return the Escrow Property to the Company, or (b) petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the Parties.
	4. Compensation. The Escrow Agent shall be entitled to compensation for its services as stated in the fee schedule attached hereto as Exhibit D, which compensation shall be paid by the Company. Such compensation is intended for the Escrow Agent's services as contemplated by this Escrow Agreement. In addition to such compensation, in the event that the conditions for the disbursement of funds under this Escrow Agreement are not fulfilled, or the Escrow Agent renders any service not contemplated in this Escrow Agreement, or there is any assignment of interest in the subject matter of this Escrow Agreement, or any material modification hereof, or if any material controversy arises hereunder, or the Escrow Agent is made a party to any litigation pertaining to this Escrow Agreement or the subject matter hereof, then the Escrow Agent shall be compensated for such extraordinary services and any services or work performed by Escrow Agent in connection with any delay, controversy, litigation or event, and reimbursed for all costs and expenses, including reasonable attorneys’ fees and expenses, occasioned by any such delay, controversy, litigation or event. If any amount due to the Escrow Agent hereunder is not paid within thirty (30) days of the date due, the Escrow Agent in its sole discretion may charge interest on such amount up to the highest rate permitted by applicable law. The terms of this paragraph shall survive termination of this Escrow Agreement.
	5. Disagreements. If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Escrow Agreement, or the Escrow Agent is in doubt as to the action to be taken hereunder, the Escrow Agent may, at its option, retain the Escrow Property until the Escrow Agent (a) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the Escrow Property or (b) receives a written instruction, executed by each of the Parties involved in such disagreement or dispute, in a form reasonably acceptable to the Escrow Agent, directing delivery of the Escrow Property. The Escrow Agent will be entitled to act on any such written instruction or final, non-appealable order of a court of competent jurisdiction without further question, inquiry or consent. The Escrow Agent may file an interpleader action in a state or federal court, and upon the filing thereof, the Escrow Agent will be relieved of all liability as to the Escrow Property and will be entitled to recover reasonable and documented out-of-pocket attorneys’ fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. In the event the Escrow Agent receives conflicting instructions hereunder, the Escrow Agent shall be fully protected in refraining from acting until such conflict is resolved to the satisfaction of the Escrow Agent.
	6. Merger or Consolidation. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Escrow Agent is a party, shall be and become the successor escrow agent under this Escrow Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.
	7. Attachment of Escrow Property; Compliance with Legal Orders. In the event that any Escrow Property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the Escrow Property, the Escrow Agent is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to any Party or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.
	8. Force Majeure. The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligation under this Escrow Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; acts of terrorism; civil or military disturbances; sabotage; epidemic; riots; interruptions; loss or malfunctions of utilities including but not limited to, computer (hardware or software), payment systems, or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.
	9. Compliance with Legal Orders. The Escrow Agent shall be entitled to consult with legal counsel in the event that a question or dispute arises with regard to the construction of any of the provisions hereof, and shall incur no liability and shall be fully protected in acting in accordance with the advice or opinion of such counsel.
	10. No Financial Obligation. The Escrow Agent shall not be required to use its own funds in the performance of any of its obligations or duties or the exercise of any of its rights or powers, and shall not be required to take any action which, in the Escrow Agent's sole and absolute judgment, could involve it in expense or liability unless furnished with security and indemnity which it deems, in its sole and absolute discretion, to be satisfactory.

**ARTICLE 4
MISCELLANEOUS**

* 1. Successors and Assigns. This Escrow Agreement shall be binding on and inure to the benefit of each Party and the Escrow Agent and their respective successors and permitted assigns. No other persons shall have any rights under this Escrow Agreement.  No assignment of the interest of any of the Parties and the Escrow Agent shall be binding unless and until written notice of such assignment shall be delivered to the other Party and the Escrow Agent and shall require the prior written consent of the other Party and the Escrow Agent (such consent not to be unreasonably withheld).
	2. Escheat. Each Party is aware that under applicable state law, property which is presumed abandoned may under certain circumstances escheat to the applicable state. The Escrow Agent shall have no liability to either Party or any other party, should any or all of the Escrow Property escheat by operation of law.
	3. Notices. All notices, requests, demands, and other communications required under this Escrow Agreement shall be in writing, in English, and shall be deemed to have been duly given if delivered (i) personally, (ii) by facsimile transmission with written confirmation of receipt, (iii) by overnight delivery with a reputable national overnight delivery service, (iv) by mail or by certified mail, return receipt requested, and postage prepaid, or (v) by electronic transmission; including by way of e-mail (as long as such email is accompanied by a PDF or similar version of the relevant document bearing the signature of an Authorized Representative for the Party sending the notice)with email confirmation of receipt. If any notice is mailed, it shall be deemed given five business days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth below. It shall be the responsibility of each Party to notify the Escrow Agent and the other Party in writing of any name or address changes. In the case of communications delivered to the Escrow Agent, such communications shall be deemed to have been given on the date received by the Escrow Agent.

If to [COMPANY]:

NAME

ADDRESS

CITY, STATE, ZIP CODE

Attention:

Telephone:

Facsimile:

Email address:

If to ICANN:

NAME

ADDRESS

CITY, STATE, ZIP CODE

Attention:

Telephone:

Facsimile:

Email address:

If to the Escrow Agent:

[ESCROW AGENT]

[ESCROW AGENT ADDRESS]

[ESCROW AGENT CITY, STATE, ZIP CODE]

Attention: [NAME]

Telephone: [ESCROW AGENT TELEPHONE]

Facsimile:[ESCROW AGENT FACSIMILE]

Email address:[NAME EMAIL]

* 1. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of [JURISDICTION] without regard to any laws relating to choice of laws (whether of [JURISDICTION] or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than [JURISDICTION].
	2. Venue. Each Party and the Escrow Agent hereby consent to the exclusive personal jurisdiction of the courts located in [JURISDICTION] in the event of a dispute arising out of or under this Escrow Agreement. Each Party and the Escrow Agent hereby irrevocably waives any objection to the laying of the venue of any suit, action or proceeding and irrevocably submits to the exclusive jurisdiction of such court in such suit, action or proceeding.
	3. Entire Agreement. This Escrow Agreement and the exhibits hereto set forth the entire agreement and understanding of the parties related to the Escrow Property and supersedes all prior agreements and understandings, oral or written. If a court of competent jurisdiction declares a provision invalid, it will be ineffective only to the extent of the invalidity, so that the remainder of the provision and Escrow Agreement will continue in full force and effect. In the event of any direct conflict of the terms of this Escrow Agreement with the terms of the RA, as with respect to the rights of the Company and ICANN, the terms of the RA shall control and prevail; provided, in no event shall the Escrow Agent be bound by the terms of the RA. This Escrow Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies.
	4. Amendment. This Escrow Agreement may be amended, modified, supplemented, superseded, rescinded, or canceled only by a written instrument executed by the Parties and the Escrow Agent; provided that Exhibit C-1 or Exhibit C-2, as applicable, may be amended at any time in accordance with Section 1.4.
	5. Waivers. The failure of any party to this Escrow Agreement at any time or times to require performance of any provision under this Escrow Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any party to this Escrow Agreement of any such condition or breach of any term, covenant, representation, or warranty contained in this Escrow Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Escrow Agreement.
	6. Interpretation. Section headings of this Escrow Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions of this Escrow Agreement. Unless otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Any reference to an Exhibit is a reference to an Exhibit of this Escrow Agreement.
	7. Counterparts. This Escrow Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.
	8. Waiver of Jury Trial. **EACH OF THE PARTIES HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN RESOLVING ANY CLAIM OR COUNTERCLAIM RELATING TO OR ARISING OUT OF THIS ESCROW AGREEMENT.**

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of the date first written above.

[COMPANY]

By:

Name:

Title:

 Date:

THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

By:

Name:

Title:

 Date:

[ESCROW AGENT] as Escrow Agent

By:

Name:

Title:

 Date:

**EXHIBIT A**

**Form of ICANN Written Direction**

***[Form to be provided by ICANN]***

***Example for reference purposes only:***

[date]

[ESCROW AGENT]

[ESCROW AGENT ADDRESS]

[ESCROW AGENT CITY, STATE, ZIP CODE]

Attention: [NAME]

**Re: Escrow Account No.: [##], [escrow account name]**

Ladies and Gentlemen:

Reference is made to the Escrow Agreement, dated as of \_\_\_\_\_\_\_, 20\_\_ entered into by and among THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS a California non- profit corporation with its executive offices in Los Angeles, California (“**ICANN**”), [COMPANY], a gTLD registry located in [COMPANY ADDRESS], (the “**Company**”)and [ESCROW AGENT] a national banking association, as escrow agent (the “**Escrow Agent**”). Capitalized terms defined in the Escrow Agreement shall have the same meanings when used herein. This letter is an ICANN Written Direction referred to in Section 1.3(a)(i) of the Escrow Agreement.

 ICANN hereby instructs the Escrow Agent to release the funds in the Escrow Account in the amounts, and to the account(s), as follows:

|  |  |
| --- | --- |
| Amount: |  |
| Beneficiary Bank Name: |  |
| Beneficiary Bank AddressLine 1: |  |
| Beneficiary Bank AddressLine 2: |  |
| Beneficiary Bank AddressLine 3: |  |
| ABA#: |  |
| SWIFT#: |  |
| Beneficiary Account Title: |  |
| Beneficiary Account No./IBAN: |  |
| Beneficiary AddressLine 1: |  |
| Beneficiary AddressLine 2: |  |
| Beneficiary AddressLine 3: |  |
| Additional Information: |  |

THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

By:

Name:

Title:

Date:

**EXHIBIT B**

**Form of Joint Written Direction**

***[Form to be provided by ICANN/Company]***

***Example for reference purposes only:***

[date]

[ESCROW AGENT]

[ESCROW AGENT ADDRESS]

[ESCROW AGENT CITY, STATE, ZIP CODE]

Attention: [NAME]

**Re: Escrow Account No.: [##], [escrow account name]**

Ladies and Gentlemen:

Reference is made to the Escrow Agreement, dated as of \_\_\_\_\_\_\_, 20\_\_ entered into by and among [COMPANY], a gTLD registry located in [COMPANY ADDRESS], (the “**Company**”), THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS, a California non- profit corporation with its executive offices in Los Angeles, California (“**ICANN**”), and [ESCROW AGENT] a national banking association, as escrow agent (the “**Escrow Agent**”). Capitalized terms defined in the Escrow Agreement shall have the same meanings when used herein. This letter is a Joint Written Direction referred to in Section 1.3 (a)(ii) of the Escrow Agreement.

ICANN and Company hereby jointly instruct the Escrow Agent to release the funds in the Escrow Account in the amounts, and to the account(s), as follows:

|  |  |
| --- | --- |
| Amount: |  |
| Beneficiary Bank Name: |  |
| Beneficiary Bank AddressLine 1: |  |
| Beneficiary Bank AddressLine 2: |  |
| Beneficiary Bank AddressLine 3: |  |
| ABA#: |  |
| SWIFT#: |  |
| Beneficiary Account Title: |  |
| Beneficiary Account No./IBAN: |  |
| Beneficiary AddressLine 1: |  |
| Beneficiary AddressLine 2: |  |
| Beneficiary AddressLine 3: |  |
| Additional Information: |  |

**[icann]**

By:

Name:

Title:

Date:

**[Company]**

By:

Name:

Title:

Date:

**EXHIBIT C**

**EXHIBIT C-1**

**Certificate as to Authorized Signatures**

**of ICANN**

ICANN hereby designates each of the following persons as its Authorized Representative for purposes of this Escrow Agreement, and confirms that the title, contact information and specimen signature of each such person as set forth below is true and correct. Each such Authorized Representative is authorized to initiate and approve transactions of all types for the Escrow Account established under this Escrow Agreement to which this Exhibit C-1is attached, on behalf of ICANN.

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

**COMPLETE BELOW TO UPDATE EXHIBIT C-1**

If ICANN wishes to change the names or details of any of its Authorized Representatives, ICANN must complete, sign and send to Escrow Agent an updated copy of this Exhibit C-1 with such changes. Any updated Exhibit C-1 shall be effective once signed by ICANN and Escrow Agent and shall entirely supersede and replace any prior Exhibit C-1 attached to this Escrow Agreement or submitted to Escrow Agent.

**ICANN**

By:

Name:

Title:

Date:

**[ESCROW AGENT]**

By:

Name:

Title:

Date:

*Internal Use Only:*

□ Updated details of Authorized Representatives completed in full

□ Signed by a representative of ICANN per relevant board resolutions/certificate of incumbency on file (if relevant).

□ Call-back performed to I to confirm authenticity of updated Exhibit C-1:

Person Called: Date of Call: Time of Call: am/pm

Reviewed by (name): Signature: Date:

**EXHIBIT C-2**

**Certificate as to Authorized Signatures**

**of company**

Company hereby designates each of the following persons as its Authorized Representative for purposes of this Escrow Agreement, and confirms that the title, contact information and specimen signature of each such person as set forth below is true and correct. Each such Authorized Representative is authorized to initiate and approve transactions of all types for the Escrow Account[s] established under this Escrow Agreement to which this Exhibit C-2 is attached, on behalf of Company.

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

|  |  |
| --- | --- |
| **Name** (print): |  |
| **Specimen Signature:** |  |
| **Title:** |  |
| **Telephone Number** (required): *If more than one, list all* | Office:Cell: Home:Other: |
| **E-mail** (required):*If more than one, list all* | Email 1: Email 2: |
| **Facsimile:** |  |

**COMPLETE BELOW TO UPDATE EXHIBIT C-2**

If Company wishes to change the names or details of any of its Authorized Representatives, Company must complete, sign and send to Escrow Agent an updated copy of this Exhibit C-2 with such changes. Any updated Exhibit C-2 shall be effective once signed by Company and Escrow Agent and shall entirely supersede and replace any prior Exhibit C-2 attached to this Escrow Agreement or submitted to Escrow Agent.

**[Company]**

By:

Name:

Title:

Date:

**[ESCROW AGENT]**

By:

Name:

Title:

Date:

*Internal Use Only:*

□ Updated details of Authorized Representatives completed in full

□ Signed by a representative of Company per relevant board resolutions/certificate of incumbency on file (if relevant).

□ Call-back performed to Company to confirm authenticity of updated Exhibit C-2:

Person Called: Date of Call: Time of Call: am/pm

Reviewed by (name): Signature: Date:

**EXHIBIT D**

**Fees of Escrow Agent**

|  |  |
| --- | --- |
| **Acceptance Fee:** | **TBD** |

Initial Fees as they relate to [ESCROW AGENT] acting in the capacity of Escrow Agent – includes review of the Escrow Agreement; acceptance of the Escrow appointment; setting up of Escrow Account(s) and accounting records; and coordination of receipt of funds for deposit to the Escrow Account(s). **Acceptance Fee payable prior to, or within one business day after, the Escrow Agreement is executed by all parties.**

|  |  |
| --- | --- |
| **Escrow Agent Administration Fee:** | **$3,000.00** |

For ordinary administrative services by Escrow Agent – includes daily routine account management; investment transactions; cash transaction processing (including wire and check processing); monitoring claim notices pursuant to the agreement; disbursement of funds in accordance with the agreement; and mailing of trust account statements to all applicable parties. This fee shall be payable annually**.**

***[ESCROW AGENT]’s fees are based on the following assumptions:***

* Number of Escrow Accounts to be established: One (1)
* Estimated Term of Escrow Agreement: TBD
* Investment of Escrow Property in: TBD

|  |  |
| --- | --- |
|  |  |

**Out-of-Pocket Expenses: Billed At Cost**