

usTLD Dispute Resolution Policy

(Approved by the U. S. Dept. of Commerce on February 21, 2002)

1.Purpose—This usTLD Dispute Resolution Policy (the “Policy”) has been adopted by the United States Department of Commerce (“DOC”). It is incorporated by reference into the usTLD Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you (as the registrant) and any party other than us (as the registrar) or the registry administrator for the usTLD (as the “Registry”) over the registration and use of an Internet domain name registered by you. Proceedings under Paragraph 4 of this Policy will be conducted according to the Rules for the usTLD Dispute Resolution Policy (the “Rules”), which are attached hereto, and the selected administrative-dispute-resolution service provider’s supplemental rules.

2.Your Representations—By applying to register a domain name, registering a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your usTLD Registration Agreement are complete and accurate; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else’s rights.

3.Cancellations, Transfers, and Changes—We will cancel, transfer or otherwise make changes to a domain name registration that is subject to this Policy under the following circumstances:

- a.Subject to the provisions of Paragraph 8, our receipt of written or appropriate electronic instructions from you or your authorized agent to take such action;
- b.Our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction in the United States, requiring such action; and/or
- c.Our receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy or a later version of this Policy adopted by the DOC.

We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your usTLD Registration Agreement or other legal requirements.

4.Mandatory Administrative Proceeding—This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at http://www.neustar.us/policies/dispute_providers.html (each, a “Provider”).

a.**Applicable Disputes**—You are required to submit to a mandatory administrative proceeding in the event that a third party (a “Complainant”) asserts to the applicable Provider, in compliance with the Rules, that:

i. Your domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

ii. You have no rights or legitimate interests in respect of the domain name; and

iii. Your domain name has been registered in bad faith or is being used in bad faith.

In the administrative proceeding, the Complainant must prove that each of these three elements is present.

b.**Evidence of Registration or Use in Bad Faith**—For the purposes of Paragraph 4(a)(1)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration or use of a domain name in bad faith:

i. Circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name;

ii. You have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name;

iii. You have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

iv. By using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation,

or endorsement of your web site or location or of a product or service on your web site or location.

c. How to Demonstrate Your Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint—When you receive a complaint, you should refer to the Rules in determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- i. You are the owner or beneficiary of a trade or service mark that is identical to the domain name;
- ii. Before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
- iii. You (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- iv. You are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

d. Selection of Provider—The Complainant shall select the Provider from among those approved by DOC by submitting the complaint to that Provider. The selected Provider will administer the proceeding, except in cases of consolidation as described in Paragraph 4(f).

e. Initiation of Proceeding and Process and Appointment of Administrative Panel—The Rules state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute (the “Administrative Panel”).

f. Consolidation—In the event of multiple disputes between you and a Complainant, either you or the Complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by DOC.

g. Fees—All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the Complainant, except in cases where you elect to expand the Administrative Panel from one to three panelists as provided in Paragraph 5(b)(iv) of the Rules, in which case all fees will be split evenly by you and the Complainant.

h. Our Involvement in Administrative Proceedings—We do not, and will not, participate in the administration or conduct of any proceeding before an Administrative Panel. In addition, we will not be liable as a result of any decisions rendered by the Administrative Panel.

i. Remedies—The remedies available to a Complainant pursuant to any proceeding before an Administrative Panel shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the Complainant; **provided, however, that a transfer of the domain name registration to the Complainant may only be made if the Complainant has also demonstrated its compliance with the usTLD Nexus Requirements [Proposed new Text].**

j. Notification and Publication—The Provider shall notify us of any decision made by an Administrative Panel with respect to a domain name you have registered with us. All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.

k. Availability of Court Proceedings—The mandatory administrative proceeding requirements set forth in Paragraph 4 shall not prevent either you or the Complainant from submitting the dispute to a court of competent jurisdiction in the United States for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If an Administrative Panel decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by the applicable Provider of the Administrative Panel's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the Complainant in a jurisdiction to which the Complainant has submitted under Paragraph 3 of the Rules. (In general, that jurisdiction is either the location of our principal office or of your address as shown in our Whois database. If we receive such documentation within the ten (10) business day period, we will not implement the Administrative Panel's decision, and we will take no

further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

5.All Other Disputes and Litigation—All other disputes between you and any party other than us regarding your domain name registration that are not brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

6.Our Involvement in Disputes—We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include us in any such proceeding. In the event that we are named as a party in any such proceeding, we reserve the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend ourselves.

7.Maintaining the Status Quo—We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8.Transfers During a Dispute

a.Transfers of a Domain Name to a New Holder—You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

b.Changing Registrars—You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this

Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

9. Policy Modifications—We reserve the right to modify this Policy at any time with the permission of DOC. We will post our revised Policy at <URL> at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to a Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of the change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your domain name registration.

Rules for the usTLD Domain Name Dispute Resolution Policy (the “Rules”)

Administrative proceedings for the resolution of disputes under the Uniform Dispute Resolution Policy adopted by DOC shall be governed by these Rules and also the Supplemental Rules of the Provider administering the proceedings, as posted on its web site.

1. Definitions

In these Rules:

Complainant means the party initiating a complaint concerning a domain name registration.

DOC refers to the United States Department of Commerce.

Mutual Jurisdiction means a court jurisdiction in the United States at the location of either (a) the principal office of the Registrar of the domain name in question, or (b) the domain name holder’s address as shown for the registration of the domain name in Registrar’s Whois database at the time a complaint is submitted to a Provider. If neither (a) or (b) are located within the United States, then Mutual Jurisdiction shall lie in solely in the Commonwealth of Virginia.

Panel means an administrative panel appointed by a Provider to decide a complaint concerning a domain name registration.

Panelist means an individual appointed by a Provider to be a member of a Panel.

Party means a Complainant or a Respondent.

Policy means the usTLD Dispute Resolution Policy that is incorporated by reference and made a part of the Registration Agreement.

Provider means a dispute-resolution service provider approved by DOC. A list of such Providers appears at http://www.neustar.us/policies/dispute_providers.html.

Registrar means the entity with which the Respondent has registered a domain name that is the subject of a complaint.

Registration Agreement means the agreement between a Registrar and a domain name holder.

Respondent means the holder of a domain name registration against which a complaint is initiated.

Reverse Domain Name Hijacking means using the Policy in bad faith to attempt to deprive a registered domain name holder of a domain name.

Supplemental Rules means the rules adopted by the Provider administering a proceeding to supplement these Rules. Supplemental Rules shall not be inconsistent with the Policy or these Rules and shall cover such topics as fees, word and page limits and guidelines, the means for communicating with the Provider and the Panel, and the form of cover sheets.

2. Communications

- a. Any written communication required under these Rules shall be made by the means specified by the Complainant or the Respondent, respectively, or in the absence of such specification:
 - i. By facsimile with a confirmation of transmission;
 - ii. By postal or courier service, postage pre-paid and return receipt requested; and/or
 - iii. Electronically via the Internet, provided a record of its transmission is available.
- b. Any communication to the Provider or the Panel shall be made in accordance with the Provider's Supplemental Rules.
- c. All communications shall be made in the language prescribed in Paragraph 11.
- d. Either Party may update its contact details by notifying the other Party, the Provider and the Registrar.
- e. Except as otherwise provided in these Rules, or decided by a Panel, all communications provided for under these Rules shall be deemed to have been made:
 - i. If delivered by facsimile transmission, on the date shown on the confirmation of transmission;

- ii. If by postal or courier service, on the date marked on the receipt; or
 - iii. If via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable.
- f. Except as otherwise provided in these Rules, all time periods calculated under these Rules shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Paragraph 2(e).
- g. Except as otherwise provided in these Rules, any communication by:
- i. A Panel to any Party shall be copied to the Provider and to the other Party;
 - ii. The Provider, following the commencement of an administrative proceeding pursuant to Paragraph 4(c), to any Party shall be copied to the other Party; and
 - iii. A Party shall be copied to the other Party, the Panel and the Provider, as the case may be.
- h. It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes.
- i. In the event that a Party sending a communication receives notification of non-delivery of the communication, that Party shall promptly notify the Provider of the circumstances of the notification.

3. The Complaint

- a. Any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules to any Provider approved by DOC. (Due to capacity constraints or for other reasons, a Provider's ability to accept complaints may be suspended at times. In that event, the Provider shall refuse the submission. The person or entity may submit the complaint to another Provider.)
- b. The complaint shall be submitted in hard copy (with annexes) and in electronic form (without annexes).
- c. The complaint shall:
 - i. Request that the complaint be submitted for decision in accordance with the Policy and Rules and describe why the domain name registration should be considered subject to the Policy;

- ii. Provide the full name, postal and e-mail addresses, and the telephone and telefax numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;
- iii. Specify a preferred method for communications directed to the Complainant in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy;
- iv. Designate whether Complainant elects to have the dispute decided by a single-member or a three-member Panel and, in the event Complainant elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any DOC-approved Provider's list of panelists);
- v. Provide the full name of the Respondent and, if different from the contact details available in the Whois database for the domain name, provide all information known to the Complainant regarding how to contact Respondent or any representative of Respondent, including contact information based on pre-complaint dealings;
- vi. Specify the domain name(s) that is/are the subject of the complaint;
- vii. Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the complaint is filed;
- viii. Specify the trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which the mark is used (the Complainant may also separately describe other goods and;
- ix. Describe, in accordance with the Policy, the grounds on which the complaint is made including,
 - (1) The extent to which the domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
 - (2) Why the Respondent (domain name holder) should be considered as having no rights or legitimate interests in respect of the domain name(s) that is/are the subject of the complaint; and
 - (3) Why the domain name(s) should be considered as having been registered or used in bad faith.

(The description should, for elements (2) and (3), discuss any aspects of Paragraphs 4(b) and 4(c) of the Policy that are applicable. The description shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

- x. Specify, in accordance with the Policy, the remedies sought. **In the event that Complainant seeks a transfer of the domain name, Complainant shall include demonstrable evidence that it satisfies all Nexus Requirements [Proposed new text];**
- xi. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
- xii. State that a copy of the complaint, together with the cover sheet as prescribed by the Provider's Supplemental Rules, has been sent or transmitted to the Respondent (domain name holder), in accordance with Paragraph 2(b);
- xiii. Identify the Mutual Jurisdiction to which the Complainant(s) will submit, with respect to any challenges to a decision in the administrative proceeding to transfer the domain name as follows:

“The Complainant hereby designates [identify precisely the court jurisdiction] as the Mutual Jurisdiction, for the purposes of challenges to a decision in the administrative proceeding to cancel or transfer the domain name.”

- xiv. Conclude with the following statement followed by the signature of the Complainant or its authorized representative:

“Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against (a) the dispute-resolution provider and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Department of Commerce, as well as their directors, officers, employees, and agents.”

“Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument”; and

- xv. Annex any documentary or other evidence, including a copy of the Policy applicable to the domain name(s) in dispute and any trademark or service mark registration upon which the complaint relies, together with a schedule indexing such evidence.
- c. The complaint may relate to more than one domain name, provided that the same domain name holder registers the domain names.

4. Notification of Complaint

- a. The Provider shall review the complaint for formal compliance with the Policy and the Rule. If the complaint is found to be in compliance, the Provider shall notify it to the Respondent, in the manner prescribed by Paragraph 2(a). For the purposes of notifying the Complainant, the Provider shall not be required to use any contact details other than those available in the Whois database for the domain name(s) in dispute.
- b. If the Provider finds the complaint to be formally deficient, it shall promptly notify the Complainant of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.
- c. The date of commencement of the administrative proceeding shall be the date on which the Provider completes its responsibilities under Paragraph 2(a) in connection with forwarding the Complaint to the Respondent.
- d. The Provider shall immediately notify the Complainant, the Respondent, the concerned Registrar(s), and DOC of the date of commencement of the administrative proceeding.

5. The Response

- a. Within twenty (20) calendar days of the date of commencement of the administrative proceeding the Respondent shall submit a response to the Provider.
- b. The response shall be submitted in hard copy (with annexes) and in electronic form (without annexes).
- c. The response shall:
 - i. Specifically respond to the statements and allegations contained in the complaint and include any and all bases for the Respondent to retain registration and use of the disputed domain name;

- ii. Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Respondent and of any representative authorized to act for the Respondent in the administrative proceeding;
 - iii. Specify a preferred method for communications directed to the Respondent in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy;
 - iv. If Complainant has elected a single-member panel in the Complaint (see Paragraph 3(b)(iv)), state whether Respondent elects instead to have the dispute decided by a three-member panel;
 - v. If either Complainant or Respondent elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any DOC-approved Provider's list of panelists);
 - vi. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
 - vii. Conclude with the following statement followed by the signature of the Respondent or its authorized representative:

“Respondent certifies that the information contained in this Response is to the best of Respondent’s knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.”; and
 - viii. Annex any documentary or other evidence upon which the Respondent relies, together with a schedule indexing such documents.
- d. If Complainant has elected to have the dispute decided by a single-member Panel and Respondent elects a three-member Panel, Respondent shall be required to pay one-half of the applicable fee for a three-member Panel as set forth in the Provider’s Supplemental Rules. This payment shall be made together with the submission of the response to the Provider. In the event that the required payment is not made, the dispute shall be decided by a single-member Panel.
 - e. At the request of the Respondent, the Provider may, in exceptional cases, extend the period of time for the filing of the response. The period may also be extended by written stipulation between the Parties, provided the Provider approves the stipulation.

- f. If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.

6. Appointment of the Panel and Timing of Decision

- a. Each Provider shall maintain and publish a publicly available list of panelists and their qualifications.
- b. If neither the Complainant nor the Respondent has elected a three-member Panel (Paragraphs 3(b)(iv) and 5(b)(iv)), the Provider shall appoint, within five (5) calendar days following receipt of the response by the Provider, or the lapse of the time period for the submission thereof, a single Panelist from its list of panelists. The fees for a single-member Panel shall be paid entirely by the Complainant.
- c. If either the Complainant or the Respondent elects to have the dispute decided by a three-member Panel, the Provider shall appoint three Panelists in accordance with the procedures identified in Paragraph 6(e). The fees for a three-member Panel shall be paid in their entirety by the Complainant, except where the election for a three-member Panel was made by the Respondent, in which case the applicable fees shall be shared equally between the Parties.
- d. Unless it has already elected a three-member Panel, the Complainant shall submit to the Provider, within five (5) calendar days of communication of a response in which the Respondent elects a three-member Panel, the names and contact details of three candidates to serve as one of the Panelists. These candidates may be drawn from any DOC-approved Provider's list of panelists.
- e. In the event that either the Complainant or the Respondent elects a three-member Panel, the Provider shall endeavor to appoint one Panelist from the list of candidates provided by each of the Complainant and the Respondent. In the event the Provider is unable within five (5) calendar days to secure the appointment of a Panelist on its customary terms from either Party's list of candidates, the Provider shall make that appointment from its list of panelists. The third Panelist shall be appointed by the Provider from a list of five candidates submitted by the Provider to the Parties, the Provider's selection from among the five being made in a manner that reasonably balances the preferences of both Parties, as they may specify to the Provider within five (5) calendar days of the Provider's submission of the five-candidate list to the Parties.
- f. Once the entire Panel is appointed, the Provider shall notify the Parties of the Panelists appointed and the date by which, absent exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider.

7. Impartiality and Independence—A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances

giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Panelist.

8. Communication Between Parties and the Panel—No Party or anyone acting on its behalf may have any unilateral communication with the Panel.

9. Transmission of the File to the Panel—The Provider shall forward the case file as soon as the last Panelist is appointed in the case of a three-member Panel.

10. General Powers of the Panel

- a. The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.
- b. In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.
- c. The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel.
- d. The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.
- e. A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

11. Language of Proceedings—All communications shall be made in English.

12. Further Statements—In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties.

13. In-Person Hearings—There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panel determines, in its sole discretion and as an exceptional matter, that such a hearing is necessary for deciding the complaint.

14. Default

- a. In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint.

- b. If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences there from as it considers appropriate.

15. Panel Decisions

- a. A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.
- b. In the absence of exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider within fourteen (14) days of its appointment pursuant to Paragraph 6.
- c. In the case of a three-member Panel, the majority shall make the Panel's decision.
- d. The Panel's decision shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered and identify the name(s) of the Panelist(s).
- e. Panel decisions and dissenting opinions shall normally comply with the guidelines as to length set forth in the Provider's Supplemental Rules. Any dissenting opinion shall accompany the majority decision. If the Panel concludes that the dispute is not within the scope of Paragraph 4(a) of the Policy, it shall so state. If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

16. Communication of Decision to Parties

- a. Within three (3) calendar days after receiving the decision from the Panel, the Provider shall communicate the full text of the decision to each Party, the concerned Registrar(s), and DOC. The concerned Registrar(s) shall immediately communicate to each Party, the Provider, and DOC the date for the implementation of the decision in accordance with the Policy.
- b. Except if the Panel determines otherwise (see Paragraph 4(j) of the Policy), the Provider shall publish the full decision and the date of its implementation on a publicly accessible web site. In any event, the portion of any decision determining a complaint to have been brought in bad faith (see Paragraph 15(e) of these Rules) shall be published.

17. Settlement or Other Grounds for Termination

- a. If, before the Panel's decision, the Parties agree on a settlement, the Panel shall terminate the administrative proceeding.
- b. If, before the Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panel.

18. Effect of Court Proceedings

- a. In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision.
- b. In the event that a Party initiates any legal proceedings during the pendency of an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, it shall promptly notify the Panel and the Provider. See Paragraph 8 above.

19. Fees

- a. The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Provider's Supplemental Rules, within the time and in the amount required. A Respondent electing under Paragraph 5(b)(iv) to have the dispute decided by a three-member Panel, rather than the single-member Panel elected by the Complainant, shall pay the Provider one-half the fixed fee for a three-member Panel. See Paragraph 5(c). In all other cases, the Complainant shall bear all of the Provider's fees, except as prescribed under Paragraph 19(d). Upon appointment of the Panel, the Provider shall refund the appropriate portion, if any, of the initial fee to the Complainant, as specified in the Provider's Supplemental Rules.
- b. The Provider shall not take any action on a complaint until it has received from Complainant the initial fee in accordance with Paragraph 19(a).
- c. If the Provider has not received the fee within ten (10) calendar days of receiving the complaint, the complaint shall be deemed withdrawn and the administrative proceeding terminated.
- d. In exceptional circumstances, for example in the event an in-person hearing is held, the Provider shall request the Parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.

20. Exclusion of Liability—Except in the case of deliberate wrongdoing, neither the Provider nor a Panelist shall be liable to a Party for any act or omission in connection with any administrative proceeding under the Policy and the Rules.

21. Amendments—The version of these Rules in effect at the time of the submission of the complaint to the Provider shall apply to the administrative proceeding commenced thereby. These Rules may not be amended without the express written approval of DOC.

Agreement #2

usDRP DISPUTE PROVIDER AGREEMENT

(Approved by the U. S. Dept. of Commerce on February 21, 2002)

This Contract to provide dispute resolution services for .us domain space (“Contract”) sets forth the basic terms and conditions of the agreement between _____ (“Dispute Provider”) and NeuStar, Inc. (collectively with its affiliates, “NeuStar”), each of which is referred to as a “Party” and collectively the “Parties.” The full execution of this Contract creates a binding agreement between the Parties.

1. General Purpose

The U.S. Department of Commerce, National Institute of Standards and Technology (“NIST”) selected NeuStar to manage and administer the .us domain space, otherwise known as the country code top level domain of the Internet domain name system corresponding to the United States. NeuStar had previously agreed with representatives of the Dispute Provider that, if awarded this contract (Purchase Order No. SB 1335-02-W-0175) (the “Government Contract”), the Dispute Provider would adopt NeuStar’s .US Dispute Resolution Policy and Rules, as approved by the U.S. Department of Commerce (the “NeuStar Policy”) and provide certain dispute resolution services to domain name registrants in the .US top-level domain (“Dispute Resolution Services”). This agreement with Dispute Provider was part of NeuStar’s response to the Request for Quotations of NIST.

2 Term

The term of this contract shall run concurrently with the term of the Government Contract. In the event that either party hereto materially defaults in the performance of any of its duties or obligations hereunder and does not substantially cure such default within thirty (30) days after being given written notice specifying the default, or, with respect to those defaults which cannot reasonably be cured within thirty (30) days, if the defaulting party fails to proceed promptly after being given notice to commence curing the default and thereafter proceed to cure the same, then the party not in default may, by giving written notice thereof to the defaulting party, terminate this contract as of a date specified in such notice of termination.

3 Dispute Resolution Services

3.1 NeuStar Policy

Dispute Provider shall adopt the NeuStar Policy and make available, on a non-exclusive basis, Dispute Resolution Services in accordance with such NeuStar Policy.

3.2 Supplements.

Dispute Provider may supplement the NeuStar Policy with changes to time periods and similar matters, as required for effective administration, provided that such changes do not materially affect the substance of the NeuStar Policy.

3.3 Fees.

Except for the limitation set forth in Section 3.4 below, Dispute Provider may set, at its discretion, the fee structure for providing the Dispute Resolution Services in accordance with the NeuStar Policy. Dispute Provider acknowledges that NeuStar is not responsible, financially or otherwise, for the parties that avail themselves of the Dispute Resolution Services in accordance with the NeuStar Policy.

3.4 Restrictions

Dispute Provider shall set fee structures and time frames for its provision of the Dispute Resolution Services in accordance with the NeuStar Policy that are commercially reasonable and similar to those offered by other available dispute resolution services for similar disputes under the Internet Corporation for Assigned Names and Numbers' Uniform Dispute Resolution Policy.

4 Confidentiality

4.1 The Parties acknowledge that, in performance of this Contract, they may be furnished with, receive, or otherwise have access to Confidential Information. "Confidential Information" shall mean all information, in any form, disclosed by the disclosing Party to the other Party which the receiving Party knows or might reasonably expect is regarded by the disclosing Party as the Confidential Information of the disclosing Party, or which is otherwise designated as confidential, restricted, proprietary, or with similar designation. Confidential Information excludes any particular information that the receiving Party can demonstrate (a) at the time of disclosure, was in the public domain or in the possession of the receiving Party; (b) after disclosure, is published or otherwise becomes part of the public domain through no fault of the receiving Party; (c) was received after disclosure 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 or disclosure; (d) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; or (e) was required to be disclosed to satisfy a legal requirement of a competent government body.

4.2 Each Party shall use the same efforts to prevent unauthorized disclosure of Confidential Information as it employs to avoid unauthorized disclosure of its own Confidential Information of a similar nature. Each Party shall take reasonable steps to ensure that its employees comply with this Article. In the event of any disclosure or loss of, or inability to account for, any Confidential Information of the disclosing Party, the receiving Party shall immediately, and at its own expense notify the disclosing Party in writing, and take such actions as may be necessary and cooperate in all reasonable respects with the disclosing Party to minimize the violation and any damage resulting there from.

4.3 Except as otherwise permitted, the Parties may disclose such information to entities performing obligations required hereunder where: (1) such disclosure is

necessary or otherwise naturally occurs in that entity's scope of responsibility, and (2) the entity agrees in writing to assume the obligations described in this Article, or (3) where obligated by law to make such disclosure. Any disclosure to such entity shall be under the terms and conditions of this Article.

Notwithstanding this subsection 4.3, the Parties may disclose the terms and conditions of this MoU to the Department of Commerce.

4.4 Each Party's Confidential Information shall remain the property of that Party except as otherwise expressly provided in the Contract. The obligations contained herein with respect to Confidential Information shall survive the expiration or termination of this Contract for a period of three (3) years or such longer period as required by regulation, law or court order.

5 Press Release

The Parties shall consult with each other and must agree on the timing, content, and form before issuing any press release or other public disclosure related to this Contract, unless law requires such disclosure.

6 No Conflicts

Each Party represents and warrants that it is not a party to any agreement or understanding with any other party that would prevent such Party from entering into or performing under this Contract.

7 Expenses

Each Party shall bear its own legal, accounting and other expenses in connection with this Contract and with performance of all necessary obligations under this Contract and under the Government Contract.

8 Mutual Cooperation

Each Party agrees to cooperate fully in litigation by a third party involving one or both of the Parties; however, this provision is not a guaranty or warranty by either Party of the other's performance and is not an indemnification.

9 Dispute Resolution

9.1 Mediation

If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the Dispute Provider under its Commercial Mediation Rules.

9.2 Arbitration

Any controversy or claim arising out of or relating to this contract, or the breach thereof, which remains unresolved more than 60 days after initiation of a demand for mediation shall be settled by arbitration in the District of Columbia before a single arbitrator. The arbitration shall be conducted pursuant to the Dispute Provider's Commercial Arbitration Rules, but shall not be administered by the Dispute Provider. Any and all determinations normally made by the Dispute Provider under the Commercial Arbitration Rules shall instead be made by the appointed arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction.

The Parties shall first attempt to identify a mutually acceptable arbitrator. However, if the Parties are unable to identify a mutually acceptable arbitrator within twenty (20) days after service of the demand for arbitration upon all of the Parties to the dispute, the either party may request that the arbitrator be appointed by the president of the Association of the Bar of the District of Columbia.

The arbitrator's fees shall be deposited equally by the parties, but may be awarded by the arbitrator as provided in the Commercial Arbitration rules. However, under no circumstances shall any Party to this agreement be responsible for the payment of any administrative fees to the Dispute Provider in connection with this arbitration agreement.

10 Survival

All terms of this Contract remain in effect until fulfilled and apply to respective successors and assigns.

11 Governing Law

This Contract, including its interpretation and performance there under, shall be construed in accordance with the laws of the District of Columbia, without regard to its conflict of laws principles. Each Party hereby consents to the personal jurisdiction of the District of Columbia.

12 Indemnification.

Dispute Provider, at its own expense and within thirty (30) days after presentation of a demand by NeuStar under this Section, will indemnify, defend and hold harmless NeuStar and its employees, directors, officers, representatives, agents and affiliates, against any claim, suit, action, or other proceeding brought against NeuStar or any affiliate of NeuStar based on or arising from claims or alleged claims directly related to Dispute Provider's provision of Dispute Resolution Services. NeuStar, at its own expense and within thirty (30) days after presentation of a demand by Dispute Provider under this Section, will indemnify, defend and hold harmless Dispute Provider and its employees, directors, officers, representatives, agents and affiliates, against any claim, suit, action, or other proceeding brought against Dispute Provider or any affiliate of Dispute Provider based on or arising from any claim or alleged claim relating to NeuStar's operation, management or administration of the .US top-level domain, other than those directly related to the provision of Dispute Resolution Services by Dispute Provider. In any such case: (a) the indemnified party shall provide the indemnifying

party with prompt notice of any such claim, and (b) upon the indemnified party's written request, the indemnifying party will provide the indemnified party all information and assistance reasonably necessary for indemnifying party to defend such claim, provided that the indemnifying party reimburses the indemnified party for its actual and reasonable costs incurred in connection with providing such information and assistance. The indemnifying party will not enter into any settlement or compromise of any such indemnifiable claim without the indemnified party's prior written consent, which consent shall not be unreasonably withheld. The indemnifying party 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 the indemnified party in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

13 Notices, Designations and Specifications.

All notices (including determinations, designations, and specifications) to be given under this Agreement shall be given in writing at the address of the appropriate party as set forth below, unless that party has given a notice of change of address in writing. Any notice required by this Agreement shall be deemed to have been properly given when delivered in person, when sent by electronic facsimile, or when scheduled for delivery by an internationally recognized courier service.

If to NeuStar, addressed to:

NeuStar, Inc.
46000 Center Oak Plaza
Sterling, VA 20166

Telephone: +1 571 434 5400
Facsimile: +1 703 738 7965
Attention: Sr. Director, Law, Advanced Services and Business Development

If to Dispute Provider, addressed to:

Telephone:
Facsimile:
Attention:

14 Disclaimer of Warranties.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITSELF, ITS SERVANTS, OR ITS AGENTS OR THE RESULTS OBTAINED FROM THEIR WORK INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

15 Limitation of Liability.

In no event shall either party be liable for special, indirect, incidental, punitive, exemplary, or consequential damages arising out of or in connection with this Agreement or the performance or nonperformance of obligations undertaken in this Agreement.

16 Assignment.

Any assignment of this Agreement shall be effective only upon written assignment by the assignee with the other party to assume the assigning party's obligations under this Agreement. Moreover, neither party may assign this Agreement without the prior written approval of the other party and the U.S. Department of Commerce.

17 No Third-Party Beneficiaries.

This Agreement shall not be construed to create any obligation by either NeuStar or Dispute Provider to any non-party to this Agreement.

18 Amendments and Waivers.

No amendment, supplement, or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties. No waiver of any provision of this Agreement shall be binding unless evidenced by a writing signed by the party waiving compliance with such provision. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

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19 Entire Agreement.

This Agreement (including the documents and policies specifically referenced herein) constitutes the entire agreement of the parties hereto pertaining to the Dispute Resolution Services and supercedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties on that subject.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives.

NeuStar, Inc.

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Agreement #3

Information Concerning Approval Process for .US Dispute-Resolution Service Providers

On 21 February 2002, the United States Department of Commerce adopted the [United States Dispute Resolution Policy \(usDRP\)](#) for all registrars serving the .us domain. The policy will become fully operational on 24 April 2002.

Although the policy provides that most domain-name disputes will be resolved by the courts, it also calls for administrative dispute-resolution proceedings to enable streamlined, economical resolution of disputes arising from alleged "abusive registrations." Under the policy, each administrative proceeding will be administered by a dispute-resolution service provider approved by NeuStar.

Organizations seeking provisional approval as service providers under the dispute resolution policy should take the following steps:

1. Become familiar with the [United States Dispute Resolution Policy and the Rules for United States Dispute Resolution Policy](#).
2. Contact Jeffrey J. Neuman (jeff.neuman@neustar.us; +1 571 434 5400) to discuss the procedures for submitting an application for approval.
3. After discussing procedures with Mr. Neuman, submit an application to him by e-mail (jeff.neuman@neustar.us) and postal mail:

Jeffrey J. Neuman, Esq.
NeuStar, Inc.
46000 Center Oak Plaza
Sterling, VA 20166

Applications should contain:

- An overview of the applicant's capabilities and background in providing alternative dispute-resolution (ADR) services, including a description of the applicant's track record of handling the clerical aspects of expedited ADR proceedings.
- A list of the names and qualifications of the panelists the applicant proposes to include on its published list and a description of the screening requirements applicant has used in selecting panelists to be included on its list.
- A description of training and educational measures the applicant proposes to employ for listed panelists with respect to domain-name disputes, the usDRP Policy, and the usDRP Rules.
- A commitment by the applicant not to prevent or discourage any of its listed panelists from serving as panelists for domain-name disputes administered by other approved providers.
- A copy of the applicant's proposed supplemental rules (including fee schedule).
- Documentation of applicant's proposed internal operating procedures. If requested, NeuStar will hold this documentation in confidence.

- A proposed schedule for applicant's implementation of its program for administering proceedings under the policy, including a statement of applicant's administrative capacity in terms of number of proceedings initiated on a monthly basis.
- A statement of any requested limitations on the number of proceedings that applicant handles, either during a start-up period or on a permanent basis.
- A description of how the applicant proposes to administer proceedings, including its interactions with parties, registrars, NeuStar, and other approved providers.
- A description of how the applicant intends to publish decisions of panels in proceedings it administers and a commitment to provide NeuStar with copies of all portions of decisions of panels not published.

In general, NeuStar examines the applications to determine whether the applicant has demonstrated its ability to handle proceedings in an expedited, global, online context in an orderly and fair manner. Attributes that are especially important include:

1. Applicant should have a track record in competently handling the clerical aspects of ADR proceedings. NeuStar considers proper review of pleadings for administrative compliance and reliable and well-documented distribution of documents to the parties and panels to be essential capabilities for providers. In the absence of a well-established track record in handling the clerical function, a detailed plan for providing those abilities ordinarily must be submitted.
2. Applicant should propose a list of highly qualified neutrals who have agreed to serve as panelists. Applicant's list should include at least twenty persons. Applicants are expected thoroughly to train the listed neutrals concerning the policy, the uniform rules, the technology of domain names, and the basic legal principles applicable to domain-name disputes. Accordingly, excessively long lists of neutrals are discouraged. The applicant should either present a list of panelists from multiple countries or, if the applicant initially presents a single-country list, propose a plan to expand its list to become multinational.
3. Applicant's supplemental rules and internal procedures should demonstrate that applicant understands the workings of the policy and uniform rules.

Please also note that NeuStar's top priority is to ensure that the usDRP operates in a fair and orderly manner. NeuStar's intent is to only add providers when the fair and orderly operation of the usDRP requires that a particular provider be added. Even then, NeuStar's intent is to add providers only at a measured pace.