



.SHOP

## Registry-Registrar Agreement

<http://www.icann.org/en/about/agreements/registries/pro/pro-appendix-8-22apr10-en.htm>

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### Registry-Registrar Agreement

This Registry-Registrar Agreement (this "Agreement") is between Commercial Connect LLC dba Commercial Connect, a Delaware corporation, with its principal place of business located in Louisville, KY, USA ("Registry Operator"), and [Registrar's name], a [jurisdiction and type of organization], with its principal place of business located at [Registrar's location] ("Registrar").

WHEREAS, Registry Operator has entered a Registry Agreement with the Internet Corporation for Assigned Names and Numbers to operate a shared registration system and related services, TLD nameservers, and other equipment for the .shop top-level domain and the .shop second-level domains (collectively the ".shop TLD");

WHEREAS, multiple registrars will provide Internet domain name registration services within the .shop TLD; and

WHEREAS, Registrar wishes to act as a registrar for domain names within the .shop TLD,

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

#### 1. DEFINITIONS

**1.1.** The "APIs" are the application program interfaces by which Registrar may interact, through the RRP, with the Registry System.

**1.2.** "Confidential Information" means all information and materials, including, without limitation, computer software, data, information, intellectual property, databases, protocols, reference implementation and documentation, financial information, statistics and functional and interface specifications, provided by the Disclosing Party to the Receiving Party under this Agreement and marked or otherwise identified as Confidential, provided that if a communication is oral, the Disclosing Party will notify the Receiving Party in writing within 15 days of the disclosure that it is confidential.

**1.3.** "DNS" means the Internet domain name system.

**1.4.** The "Effective Date" shall be the date on which this Agreement is first executed by both parties.

**1.5.** "ICANN" means the Internet Corporation for Assigned Names and Numbers.

**1.6.** "Personal Data" refers to data about any identified or identifiable natural person.

**1.7.** "Registered Name" refers to a domain name within the domain of the Registry TLD, .shop. A name in a Registry Database may be a Registered Name even though it does not appear in a TLD zone file (e.g., a registered but inactive name).

**1.8.** "Registered Name Holder" means the holder of a Registered Name.

**1.9.** The "Registrar Toolkit" comprises the items described in our Registrar Toolkit, including but not limited to a verification toolkit,

**1.10.** "Registry Agreement" means the Registry Agreement between Registry Operator and ICANN for the operation of the .shop TLD.

**1.11.** "Registry Services" means services provided as an integral part of the operation of the Registry TLD, including all sub-domains in which Registered Names are registered. In determining whether a service is integral to the operation of the Registry TLD, consideration will be given to the extent to which the Registry Operator has been materially advantaged in providing the service by its designation as such under this Agreement. The development of technology, expertise, systems, efficient operations, reputation (including identification as Registry Operator), financial strength, or relationships with registrars and third parties shall not be deemed an advantage arising from the designation. Registry Services include: receipt of data concerning registration of domain names and nameservers from registrars, provision to registrars of status information relating to the Registry TLD, dissemination of TLD zone files, operation of the Registry TLD zone servers, and dissemination of contact and other information concerning domain-name and nameserver registrations in the Registry TLD. Registry Services shall not include the provisions of name service for a domain name used by a single entity under a Registered Name registered through an ICANN-Accredited Registrar.

**1.12.** The "Registry System" means the multiple registrar system operated by Registry Operator for Registered Names in the Registry TLD.

**1.13.** "RRP" means the registry-registrar protocol used by the Registry System.

**1.14.** "Sunrise Period" means a registration period in the period during which registered trademark and service mark owners may register their marks as domain names in order to allow them to protect their intellectual property.

**1.15.** "Term" shall have the meaning of timeframe defined by the signatures and dates listed in this document executed.

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

**1.17.** The "Verification Toolkit" may be used to verify the right of an applicant for a Registered Name to register in the .shop TLD.

**1.18.** "TOU" means the Terms of Use Agreement between Registrar and Registered Name Holder.

Other terms used in this Agreement as defined terms shall have the meanings ascribed to them in the context in which they are defined.

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

**2.1. Access to Registry System.** Throughout the Term, Registry Operator shall provide Registrar with access as a registrar to the Registry System that Registry Operator operates according to its arrangements with ICANN. Nothing in this Agreement entitles Registrar to enforce any agreement between Registry Operator and ICANN.

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

### **2.3. Provision of Toolkit; License.**

**2.3.1.** After the Effective Date and at least seven days prior to the date on which Registrar will begin operations in the .shop TLD, Registry Operator shall provide to Registrar a copy of the Registrar Toolkit, which shall provide sufficient technical specifications to allow Registrar to interface with the Registry System and employ the features of the Registry System that are available to Registrars for purposes of offering Registry Services. Subject to the terms and conditions of this Agreement, Registry Operator hereby grants Registrar and Registrar accepts a non-exclusive, non-transferable, worldwide limited license to use for the Term and purposes of this Agreement all components owned by or licensed to Registry Operator in and to the RRP, APIs, any reference client software and any other intellectual property included in the Registrar Toolkit, as well as updates and redesigns thereof, to provide domain name registration services in the .shop TLD only and for no other purpose.

**2.3.2.** After the Effective Date, Registry Operator may offer additional Toolkits described herein. Subject to the terms and conditions of this Agreement, Registry Operator hereby grants Registrar and Registrar accepts a non-exclusive, non-transferable worldwide limited license to use for the Term and purposes of this Agreement all components owned by or licensed to Registry Operator in and to the software and any other intellectual property included in such Toolkits, as well as updates and redesigns thereof, for the following purposes only and for no other purpose.

- a. Verification Toolkit: for purposes of verifying domain name registration in the .shop TLD only and for no other purpose.
- b. Additional Toolkits that Registry Operator may offer from time to time, to be provided on a basis and subject to licensing provisions of this Agreement. Registry Operator shall promptly notify Registrar regarding the Toolkit as such Toolkit becomes available.

**2.4. Changes to System.** Registry Operator may from time to time make modifications to the RRP, APIs, or other software licensed hereunder that will modify, revise or augment the features of the Registry System. Registry Operator will provide Registrar with at least ninety days notice prior to the implementation of any material changes to the RRP, APIs or software licensed hereunder. This notice period shall not apply in the event Registry Operator's system is subject to the imminent threat of failure or a material security threat, or there is the discovery of a major security vulnerability or a Denial of Service (DoS) attack where the Registry Operator's systems are rendered inaccessible by being subject to (i) excessive levels of data traffic, (ii) unauthorized traffic, or (iii) data traffic not conforming to the protocols used by the Registry Operator's system.

**2.5. Engineering and Customer Service Support.** Registry Operator shall provide Registrar with engineering and customer service support.

**2.6. Handling of Personal Data.** Registry Operator shall notify Registrar of the purposes for which Personal Data submitted to Registry Operator by Registrar is collected, the intended recipients (or categories of recipients) of such Personal Data, and the mechanism for access to and correction of such Personal Data. Registrar shall provide all such information to holders of Registered Names it sponsors in the .shop TLD promptly upon receipt from Registry Operator. Registry Operator shall take reasonable steps to protect Personal Data from loss, misuse, unauthorized disclosure, alteration or destruction. Registry Operator shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to registrars.

**2.7. Service Level Agreement.** Registry Operator shall issue credits to Registrar as described in, and shall otherwise comply with its known obligations.

**2.8. ICANN Requirements.** Registry Operator's obligations hereunder are subject to modifications from time to time as the result of ICANN-mandated requirements and consensus policies. Notwithstanding anything in this Agreement to the contrary, Registrar shall comply with any such ICANN requirements and shall require any Registered Name Holder to comply with such requirements in accordance with implementation schedules and arrangements established by ICANN or the Registry Operator.

**2.9. TOU.** Registry Operator shall provide to Registrar a TOU. Registry Operator shall conduct random tests on samples of registered names to ensure compliance with the terms of The TOU.

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

**3.1. Accredited Registrar.** During the Term of this Agreement, Registrar shall maintain in full force and effect its accreditation by ICANN as a registrar for the Registry TLD.

**3.2. Registrar Responsibility for Customer Support.** Registrar shall at a minimum provide (i) support to accept orders for Registered Names, including registrations, cancellations, deletions, and transfers, and (ii) customer service (including domain name record support) and billing and technical support to Registered Name Holders.

**3.3. Registrar's Registration Agreement.** At all times while it is sponsoring the registration of any Registered Name within the Registry System, Registrar shall have in effect an electronic or paper registration agreement with the Registered Name Holder. Registrar may from time to time amend those forms of registration agreement or add alternative forms of registration agreement, provided a copy of the amended or alternative registration agreement is furnished to the Registry Operator fourteen (14) calendar days in advance of the use of such amended registration agreement. Registrar shall include in its registration agreement with each Registered Name Holder those terms required by this Agreement and other terms that are consistent with Registrar's obligations to Registry Operator under this Agreement.

**3.4. Indemnification Required of Registered Name Holders.** In its registration agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to indemnify, defend and hold harmless Registry Operator, its subsidiaries, affiliates, divisions, shareholders, directors, officers, employees, accountants, attorneys, insurers, agents, predecessors, successors and assigns, from any and all claims, demands, losses, costs, expenses, causes of action or other liabilities of any kind, whether known or unknown, in any way arising out of, relating to, or otherwise in connection with the Registered Name Holder's domain name registration. The registration agreement shall further require that this indemnification obligation survive the termination or expiration of the registration agreement.

**3.5. Data Submission Requirements.** As part of its registration and sponsorship of Registered Names in the Registry TLD, Registrar shall submit complete data as required by technical and policy specifications of the Registry System that are made available to Registrar from time to time. Registrar shall be responsible for verifying the accuracy of the data submitted to the Registry Operator. Registrar hereby grants Registry Operator a non-exclusive, non-transferable, limited license to such data for propagation of and the provision of authorized access to the TLD zone files and as otherwise required in Registry Operator's operation of the Registry TLD. This Subsection 3.5 does not limit the Registry Operator's ability to directly receive data from Registered Name Holders.

**3.6. Security.** Registrar shall develop and employ in its domain name registration business all necessary technology and restrictions to ensure that its connection to the Registry System is secure and that all data exchanged between Registrar's system and the Registry System shall be protected to avoid unintended disclosure of information. Each RRP session shall be authenticated and encrypted using two-way secure socket layer protocol. Registrar agrees to authenticate every RRP client connection with the Registry System using both an X.509 server certificate issued by a commercial Certificate Authority identified by Registry Operator and its Registrar password, which it shall disclose only to its employees and contractors with a need to know and an

obligation not to disclose. Registrar agrees to notify Registry Operator within four hours of learning that its Registrar password has been compromised in any way or if its server certificate has been revoked by the issuing Certificate Authority or compromised in any way. Registrar shall employ the necessary measures to prevent its access to the Registry System granted hereunder from being used to (i) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than its own existing customers; or (ii) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator, any other registry operated under an agreement with ICANN, or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations.

**3.7. Resolution of Technical Problems.** Registrar shall employ necessary employees, contractors, or agents with sufficient technical training and experience to respond to and fix all technical problems concerning the use of the RRP, the APIs and the systems of Registry Operator in conjunction with Registrar's systems. In the event of significant degradation of the Registry System or other emergency, Registry Operator may, in its sole discretion, temporarily suspend Registrar's access to the Registry System. Such temporary suspensions shall be applied in a non-arbitrary manner and shall apply fairly to any registrar similarly situated, including affiliates of Registry Operator.

**3.8. Time.** In the event of any dispute concerning the time of the entry of a domain name registration into the Registry database, the time shown in the Registry records shall control.

**3.9. Change in Registrar Sponsoring Domain Name.** Registrar may assume sponsorship of a Registered Name Holder's existing domain name registration from another registrar by following the policy. When transferring sponsorship of a Registered Name to or from another registrar, Registrar shall comply with the requirements.

**3.10. Compliance with Terms and Conditions.** Registrar shall comply with, and shall include in its registration agreement with each Registered Name Holder as appropriate, all of the following:

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

**3.10.2.** operational standards, policies, procedures, and practices for the Registry TLD established from time to time by Registry Operator in a manner consistent with the Registry Agreement and its Appendices, and consistent with ICANN's standards, policies, procedures, and practices. Among Registry Operator's operational standards, policies, procedures, and practices. Additional or revised Registry Operator operational standards, policies, procedures, and practices for the Registry TLD shall be effective upon thirty days notice by Registry Operator to Registrar; and

**3.10.3.** the TOU.

**3.11. Restrictions on Registered Names.** In addition to complying with ICANN and Registry Operator standards, policies, procedures, and practices limiting domain names that may be registered, Registrar agrees to comply with applicable statutes and regulations limiting the domain names that may be registered.

**3.12. Service Level Agreement.** Registrar shall comply with its obligations.

**3.13. Compliance Monitoring and Enforcement.** Registrar agrees to comply with and facilitate random tests on samples of registered names to ensure compliance with the TOU. In addition, Registrar agrees to enforce the terms of the TOU as they relate to the Registered Name Holder as directed by the Registry Operator. In the event of a dispute between the Registry Operator and the Registrar, Registrar agrees to defer to the opinion of the Registry Operator.

## **4. FEES**

**4.1. Amount of Registry Operator Fees.** Registrar agrees to pay Registry Operator the fees set for initial and renewal registrations and other Registry Services provided by Registry Operator to Registrar (collectively, "Fees"). Registry Operator reserves the right to revise the Fees prospectively upon thirty days notice to Registrar, provided that such adjustments are consistent with Registry Operator's Registry Agreement with ICANN. In addition, Registrar agrees to pay Registry Operator the applicable variable fees assessed to Registry Operator by ICANN, as permitted by Subsection 7.2(c) of the Registry Agreement by no later ten (10) days after the date of an invoice from Registry Operator for such fees.

**4.2. Payment of Registry Operator Fees.** In advance of incurring Fees, Registrar shall establish a letter of credit, deposit account, or other credit terms accepted by Registry Operator, which acceptance will not be unreasonably withheld. Registry Operator will invoice Registrar monthly in arrears for the Fees incurred by Registrar in the month. All Fees are due immediately upon receipt of Registry Operator's invoice pursuant to the letter of credit, deposit account, or other credit terms.

**4.3. Non-Payment of Fees.** Registrar's timely payment of Fees is a material condition of Registry Operator's obligations under this Agreement. In the event that Registrar fails to pay its Fees within five days of the date when due, Registry Operator may do any or all of the following: (i) stop accepting new initial or renewal registrations from Registrar; (ii) delete the domain names associated with invoices not paid in full from the Registry database; (iii) give written notice of termination of this Agreement and (iv) pursue any other remedy under this Agreement.

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

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

**5.1.1.** The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of, all Confidential Information of the Disclosing Party, including implementing reasonable physical security measures and operating procedures.

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

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

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

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

**5.1.6.** Notwithstanding the foregoing, this imposes no obligation upon the parties with respect to information that (i) is or was disclosed in the absence of a confidentiality agreement and such disclosure is or was with the Disclosing Party's prior written approval; or (ii) is or has entered the public domain through no fault of the Receiving Party; or (iii) is known by the Receiving Party prior to the time of disclosure; or (iv) is independently developed by the Receiving Party without use of the Confidential Information; or (v) is made generally available by the Disclosing Party without restriction on disclosure; or (vi) is necessarily disclosed to verify compliance with the restrictions for registration within the .shop TLD or (vii) is required to be disclosed by order of a court of competent jurisdiction, to the extent required by the order.

**5.1.7.** The Receiving Party's duties under this shall expire two (2) years after the information is received or earlier, upon written agreement of the Parties.

**5.1.8.** EXCEPT AS MAY OTHERWISE BE SET FORTH IN A SIGNED, WRITTEN AGREEMENT BETWEEN THE PARTIES, THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE ACCURACY, COMPLETENESS, CONDITION, SUITABILITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY OF ANY CONFIDENTIAL INFORMATION, AND THE PARTIES SHALL HAVE NO LIABILITY WHATSOEVER TO ONE ANOTHER RESULTING FROM RECEIPT OR USE OF THE CONFIDENTIAL INFORMATION.



## **5.2. Intellectual Property.**

**5.2.1.** Each party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property.

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

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

**6.1. Indemnification.** Registrar, at its own expense and within thirty days after presentation of a demand by Registry Operator under this Section, will indemnify, defend and hold harmless Registry Operator and its subsidiaries, affiliates, divisions, shareholders, directors, officers, employees, accountants, attorneys, insurers, agents, predecessors, successors and assigns, from any and all claims, demands, losses, costs, expenses, causes of action or other liabilities of any kind, arising out of, relating to, or otherwise in connection with any claim, suit, action, or other proceeding brought against Registry Operator or any subsidiary, affiliate, division, shareholder, director, officer, employee, accountant, attorney, insurer, agent, predecessor, successor or assignee of Registry Operator: (i) relating to any product or service of Registrar; (ii) relating to any agreement, including Registrar's dispute policy, with any Registered Name Holder or Registrar; (iii) relating to Registrar's failure to comply with its obligations, or breach of representations and warranties under this Agreement; (iv) relating to Registrar's access or use of the Registry System in a manner that is inconsistent with the terms of this Agreement; or (v) relating to Registrar's domain name registration business, including, but not limited to, Registrar's advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service. Registry Operator shall provide Registrar with prompt notice of any such claim, and upon Registrar's written request, Registry Operator will provide to Registrar all available information and assistance reasonably necessary for Registrar to defend such claim, provided that Registrar reimburses Registry Operator for Registry Operator's actual and reasonable costs incurred in connection with providing such information and assistance. Registrar will not enter into any settlement or compromise of any such indemnifiable claim without Registry Operator's prior written consent, which consent shall not be unreasonably withheld. Registrar will pay any and all costs, damages, and expenses, including, but not limited to, reasonable attorneys' fees awarded against or otherwise incurred by Registry Operator in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

**6.2. Representation and Warranty.** Registrar represents and warrants that: (i) it is a corporation, limited liability company, partnership or other form of entity, as applicable, duly incorporated, organized or formed, and validly existing and in good standing under the laws of its jurisdiction of incorporation, organization or formation, (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (iii)

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

**6.3. Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL A PARTY'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID TO REGISTRY OPERATOR UNDER THE TERMS OF THIS AGREEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, THE PARTIES' LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### **6.4. Disclaimer of Warranties.**

**6.4.1.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, REGISTRY OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE REGISTRAR TOOL KIT OR OTHER TOOL KITS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, REGISTRY OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT THE FUNCTIONS CONTAINED IN THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL MEET REGISTRAR'S REQUIREMENTS, OR THAT THE OPERATION OF THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE REGISTRAR TOOL KIT OR OTHER TOOL KITS WILL BE CORRECTED. FURTHERMORE, REGISTRY OPERATOR DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE REGISTRAR TOOL KIT OR OTHER TOOL KITS OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SHOULD THE REGISTRAR TOOL KIT, OTHER TOOL KITS, OR CERTIFICATE AND VERIFICATION SERVICES PROVE DEFECTIVE, REGISTRAR ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF REGISTRAR'S OWN SYSTEMS AND SOFTWARE.

**6.4.2.** Notwithstanding anything contained herein to the contrary, the Registrar Tool Kit and other toolkits are provided "as-is" and without any warranty of any kind.

## **7. INSURANCE**

Registrar shall acquire, prior to the Effective Date, at least US\$2,000,000 in comprehensive general liability insurance from a reputable insurance provider with an A.M. best rating of "A" or better and shall maintain insurance meeting these requirements throughout the Term of this Agreement. If Registrar is providing verification and digital security services through means independent of the toolkits provided by the Registry Operator or a Competitive Toolkit Provider (see Appendix L), the amount of the insurance required shall increase to US\$5,000,000. Registrar shall name Registry Operator as an additional insured and shall maintain insurance meeting these requirements throughout the Term of this Agreement. Registrar shall on Registry Operator's written request provide a copy of the insurance policy to Registry Operator.

## **8. DISPUTE RESOLUTION**

Disputes arising under or in connection with this Agreement, including requests for specific performance, shall be resolved through binding arbitration conducted as provided in this Section pursuant to the rules of the International Court of Arbitration of the International Chamber of Commerce ("ICC"). The arbitration shall be conducted in the English language and shall occur in KY, USA. There shall be three arbitrators: each party shall choose one arbitrator and, if the two arbitrators are not able to agree on a third arbitrator, the third shall be chosen by the ICC. The parties shall bear the costs of the arbitration in equal shares, subject to the right of the arbitrators to reallocate the costs in their award as provided in the ICC rules. The parties shall bear their own attorneys' fees in connection with the arbitration, and the arbitrators may not reallocate the attorneys' fees in conjunction with their award. The arbitrators shall render their decision within ninety days of the initiation of arbitration. Any litigation brought to enforce an arbitration award shall be brought in a court located in Jefferson County, KY, USA; however, the parties shall also have the right to enforce a judgment of such a court in any court of competent jurisdiction. For the purpose of aiding the arbitration and/or preserving the rights of a Party during the pendency of an arbitration, each Party shall have the right to seek temporary or preliminary injunctive relief from the arbitration panel or a court located in Jefferson County, KY, USA, which shall not be a waiver of this arbitration agreement.

## **9. TERM AND TERMINATION**

**9.1. Term of the Agreement; Revisions.** The term of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the provisions of this Agreement, shall expire on the last day of the calendar month which is sixty months after the Effective Date (the "Term"). In the event that revisions to Registry Operator's approved form of Registry-Registrar Agreement are approved or adopted by ICANN, Registrar will either execute an amendment substituting the revised agreement in place of this Agreement or, at its option exercised within fifteen days after receiving notice of such amendment, terminate this Agreement immediately by giving written notice to Registry Operator. In the event that Registry Operator does not receive such executed amendment or notice of termination of this Agreement from Registrar within such fifteen-day period, Registrar shall be deemed to have accepted such amendment.

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

**9.2.1. Termination For Cause.** In the event that either party materially breaches any of its obligations under this Agreement and such breach is not substantially cured within thirty calendar days after written notice thereof is given by the other party, then the non-breaching party may, by giving written notice thereof to the other party, terminate this Agreement as of the date specified in such notice of termination.

**9.2.2. Termination at Option of Registrar.** Registrar may terminate this Agreement at any time by giving Registry Operator thirty days notice of termination.

**9.2.3. Termination Upon Loss of Registrar's Accreditation.** This Agreement shall terminate in the event Registrar's accreditation by ICANN is terminated or expires without renewal. Notwithstanding the foregoing, Registrar may assign this Agreement.

**9.2.4. Termination in the Event of Termination of Registry Agreement.** This Agreement shall terminate in the event that Registry Operator's Registry Agreement with ICANN is terminated or expires without entry of a subsequent Registry Agreement with ICANN and this Agreement is not assigned.

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

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

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

**9.3.2.** Registrar shall immediately transfer its sponsorship of all Registered Names to another Authorized Registrar in compliance with any procedures established or approved by ICANN. The Authorized Registrar receiving sponsorship of the Registered Names shall be responsible for all unpaid fees, if any.

**9.3.3.** All Confidential Information of the Disclosing Party in the possession of the Receiving Party shall be immediately returned to the Disclosing Party.

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

**9.4. Survival.** In the event of termination of this Agreement, the following shall survive: (i) Subsections 2.6, 3.5, 5.1, 5.2, 6.1, 6.3, 6.4, 8.1, 9.4, 10.2, 10.3, 10.4, 10.6, 10.7, 10.9 and 10.10, and (ii) the Registered Name Holder's indemnification obligation. Neither Party shall be liable to

the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms.

## 10. MISCELLANEOUS

### 10.1. Assignments.

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

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

**10.1.3. Other Assignments.** Except as otherwise expressly provided in this Agreement, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and permitted assigns of the parties. Registrar shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Registry Operator, which shall not be unreasonably withheld.

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

If to Registrar:

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with copy to:

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If to Registry Operator:

Registry Services Corporation dba Commercial Connect LLC, a Kentucky corporation  
1416 S. Third St.  
Louisville, KY USA 40208-2117  
Attention: CEO  
Telephone: + 1 502 636-3091  
Facsimile: + 1 502 634-1484

with a copy to:

Registry Services Corporation dba Commercial Connect, a Kentucky corporation  
1416 S. Third St.  
Louisville, KY USA 40208-2117  
Attention: Policy Director  
Telephone: + 1 502 636-3091  
Facsimile: + 1 502 634-1484

**10.3. Third-Party Beneficiaries.** The Parties expressly agree that ICANN is an intended third-party beneficiary of this Agreement. Otherwise, this Agreement shall not be construed to create any obligation by either party to any non-party to this Agreement, including any holder of a Registered Name. Registrar expressly acknowledges that it is not a third party beneficiary of the Registry Agreement and does not by reason of this Agreement obtain any rights thereunder in any respect.

**10.4. Relationship of the Parties.** Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the parties.

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

**10.6. Amendments.** Except as otherwise expressly stated in this Agreement, no amendment, supplement, or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both parties.

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

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

**10.9. Entire Agreement.** This Agreement (including its exhibits, which form a part of it) constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

**10.10. Governing Law.** This Agreement is governed by the laws of the State of Kentucky, USA.

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

- Registry Services Corporation dba Commercial Connect, a Kentucky corporation.
- By:
- Name:
- Title:
  
- [Registrar]
- 
- By:
- Name:
- Title: