

Third Review of ICANN's Accountability and Transparency (ATRT3) Conflicts of Interest Policy – Dated __ January 2019

ARTICLE I -- PURPOSE AND ADMINISTRATION

Section 1.1. The purpose of the Conflicts of Interest Policy (the “Policy”) is to ensure the integrity and independence of the third Accountability and Transparency Review Team (the “RT”) and to ensure that the deliberations, decisions, and work product of the RT are objective, fair, and made in the interests of the global Internet community as a whole.

Section 1.2. No member of the RT, nor any person engaged by or on behalf of the RT to provide services to the RT (a “Covered Person”) may use his or her position with respect to the RT, or confidential corporate information obtained by him or her relating to ICANN, in order to achieve a financial benefit for himself or herself or for a third person, including another nonprofit or charitable organization.

Section 1.3. This Policy is intended to supplement but not to replace any applicable laws governing conflicts of interest in nonprofit and charitable corporations. Additionally, this Policy is not intended to impair the ability of the Covered Persons from consulting with their own legal counsel about whether an outside activity must be disclosed.

Section 1.4. The Chair of the RT shall administer and monitor compliance with this Policy, except with respect to a Potential Conflict of Interest involving the Chair, in which one of the team leads of the RT shall administer and monitor compliance.

ARTICLE II –DEFINITIONS

As used in this Policy, the following terms shall have the meanings set forth below.

(a) A “Conflict of Interest” arises when the RT, following the procedures set forth in this Policy, determines that a Covered Person has a Potential Conflict that may in the judgment of a majority of the disinterested members of the RT, adversely impact the Covered Person’s ability to act fairly and independently and in a manner that furthers the independence, integrity, fairness, and objectivity of the work of the RT.

(b) The “Family” of any Covered Person shall include the Covered Person’s spouse; domestic partner; siblings and their spouses or domestic partners; ancestors and their spouses or domestic partners; and descendants and their spouses or domestic partners. Refer to Attachment 1 for additional clarification on the definition of “Family”.

(c) A “Financial Interest” exists whenever a Covered Person has or it engaged in discussions to have, directly or indirectly, through business, investment, or Family: (i) an ownership or investment interest in any entity with which ICANN has an existing or proposed transaction, contract, dispute, or other arrangement, which shall include any current or prospective new gTLD applicant or entity related to a current or prospective new gTLD applicant; (ii) a compensation arrangement with any entity or individual with which ICANN has a transaction,

contract, dispute, or other arrangement, which shall include any current or prospective new gTLD applicant or entity related to a current or prospective new gTLD applicant; and (iii) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which ICANN is negotiating a transaction, contract, dispute, or other arrangement, which shall include any current or prospective new gTLD applicant or entity related to a current or prospective new gTLD applicant. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Transactions, contracts, and arrangements include grants or other donations as well as business arrangements. A Financial Interest is a Potential Conflict but is not necessarily a Conflict of Interest. A Financial Interest does not become a Conflict of Interest until the RT, following the procedures set forth in this Policy, determines that the Financial Interest constitutes a Conflict of Interest.

(d) A “Person” includes an individual, corporation, limited liability company, partnership, trust, unincorporated association, or other entity.

(e) A “Potential Conflict” means any one or more of the following: (i) a direct or indirect Financial Interest of a Covered Person or a member of a Covered Person’s Family, in a transaction, contract, dispute, or other arrangement involving or being considered by ICANN; or (ii) a close personal relationship between the Covered Person, or a member of a Covered Person's Family, with an individual who is, directly or indirectly through business, investment, or Family, a party to a transaction, contract or arrangement involving or being considered by ICANN.

PROCEDURES REGARDING CONFLICTS OF INTEREST

Section 2.1. Duty to Disclose.

(a) A Covered Person shall promptly disclose to the RT the existence of his or her Potential Conflict that may give rise to a Conflict of Interest with respect to the work of the RT. All matters identified on the Statement of Interests and Affirmation regarding Conflicts of Interest Policy (“Statement of Interests”) shall be considered when disclosing the existence of a Potential Conflict. Any time there is a change in circumstance that would require an update to a Covered Persons’ Statement of Interests or would lead to the development of a new Potential Conflict, that update and further disclosure shall be made as soon as possible.

(b) If any Covered Person has reason to believe that another Covered Person has a Potential Conflict, the Covered Person with such belief shall inform the Chair of the RT, including disclosing all relevant facts relating thereto.

Section 2.2. Determining Whether a Conflict of Interest Exists.

(a) Any disclosure made under Section 2.1 of this Policy shall be distributed to the members of the RT.

(b) At the request of any member of the RT, the RT shall have a discussion with the Covered Person regarding the material facts with respect to the Potential Conflict and the Covered Person

may make a presentation to the RT regarding the facts, transaction, contract, dispute, or arrangement that gives rise to the Potential Conflict.

(c) Thereafter, in the absence of the Covered Person who has disclosed a Potential Conflict, disinterested members of the RT shall determine whether or not the circumstances regarding the Potential Conflict constitute a Conflict of Interest. The determination by the disinterested members in this regard is conclusive and may not be challenged by the Covered Person.

(d) Members of the RT have direct experience in the area of policies relating to the consistency, efficiency, and effectiveness of mechanisms for public input, accountability, and transparency and bring value to the RT because of those experiences. These members might represent specific groups or interests that have a direct financial interest in security-related items, and there should be a presumption of participation of all members, after proper disclosures are made. It is anticipated that all members of the RT will participate in discussions and voting on matters before the RT, except in the exceptional case that the disinterested members of the RT have determined that a Conflict of Interest exists pursuant to procedures in this Section 2.2. It would be unlikely for the RT to determine that a Covered Person has a Potential Conflict that may in the judgment of a majority of the disinterested members of the RT, adversely impact the Covered Person's ability to act fairly and independently and in a manner that furthers the independence, integrity, fairness, and objectivity of the work of the RT.

Section 2.3. Duty to Abstain

(a) No member of the RT shall vote on any matter with respect to which he or she has been determined by the RT to have a Conflict of Interest. The determination of a Conflict of Interest that requires abstention should take all considerations into account, including the issues discussed in Section 2.2(d). Requiring abstention is anticipated to be in extraordinary cases.

(b) In the event of such an abstention, the abstaining RT member shall state the reason for the abstention, which shall be noted in the notes of the meeting in which the abstention occurred.

(c) No member of the RT shall participate in deliberations on any matter in which he or she has been determined by the RT to have a Conflict of Interest requiring abstention.

Section 2.4. Violations of the Conflicts of Interest Policy.

If any member of the RT has reasonable cause to believe a Covered Person has failed to disclose an actual Conflict of Interest or Potential Conflict, the Chair of the RT (or, if the Covered Person is the Chair, then the Vice Chair) shall inform the Covered Person, and initiate the procedures described in this Policy.

ARTICLE III-- RECORDS OF PROCEEDINGS

Section 3.1. The written or electronic records of the RT relating to Conflicts of Interest shall contain:

- (a) The names of Covered Persons who disclosed or otherwise were found to have a Potential Conflict in connection with a proposed transaction, contract, or arrangement;
- (b) The nature of the Potential Conflict;
- (c) Any action taken to determine whether a Conflict of Interest was present;
- (d) The RT's decision as to whether a Conflict of Interest in fact existed;
- (e) The names of the persons who were present for discussions and votes relating to the transaction, contract, disputes, or arrangement giving rise to the Conflict of Interest;
- (f) The content of the discussion; and
- (g) A record of any votes taken in connection therewith.

ARTICLE IV -- STATEMENTS

Each Covered Person shall sign a statement that affirms such Covered Person: (i) has received a copy of this Policy; (ii) has read and understands this Policy; and (iii) has agreed to comply with this Policy.

Attachment 1

As used in this Conflicts Policy, the term “Family” includes relatives, which may be a child, parent, grandchild, grandparent, brother, sister, spouse or civil partner of the Review Team Member or any person living with the Review Team Member as his or her partner.

Affirmation

I, _____, hereby affirm that I have received a copy of the Third Review of ICANN's Accountability and Transparency (ATRT3) Conflict of Interest Policy; have read and understand the Policy; and agree to comply with the Policy.

By: _____

Name: _____

Date: _____