

**.eu Registration Policy and Terms and Conditions for Domain
Name Applications made during the Phased Registration
Period**

“Sunrise Rules”

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DEFINITIONS

The definitions set out below and the terms and conditions included herein will apply for all Applications made during the Phased Registration Period.

<i>.eu Dispute Resolution Rules</i>	means the rules for the Alternative Dispute Resolution (ADR) procedure referred to in Article 22 of the Public Policy Rules;
<i>.eu Regulation</i>	means Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain, <i>OJ L</i> , 113, 30 April 2002, pp. 1-5;
<i>Application</i>	means a complete, technically correct request for a Domain Name registration submitted to the Registry, which complies with all the requirements provided for in (a) Section 3 of these Sunrise Rules and (b) the Registration Guidelines;
<i>Applicant</i>	means a natural person, company, or organisation filing an Application with the Registry via a Registrar;
<i>Confirmation Notice</i>	means the e-mail sent by the Registry to the Applicant (and the person indicated by the Applicant in the Application, if any) upon receipt of an Application;
<i>Cover Letter</i>	means the pre-formatted electronic document that the Registry makes available to the Applicant (or the person indicated by the Applicant in the Application, if any) upon receipt by the Registry of an Application;
<i>Document Handling Agent</i>	means the party appointed by the Applicant in accordance with Section 5(2), being the party responsible for submitting the Documentary Evidence to the Processing Agent;
<i>Documentary Evidence</i>	means the mer m

<i>Government Validation Points</i>	means the entities appointed in accordance with Article 13, second paragraph, of the Public Policy Rules that shall provide for validation concerning the names mentioned in Article 10(3) of the Public Policy Rules;
<i>Phased Registration Period</i>	means the four-month period, referred to in Chapter IV of the Public Policy Rules and announced in accordance therewith, preceding the start of the general registration of Domain Names during which only holders of prior rights recognised or established by national and/or Community law and Public Bodies are eligible to register Domain Names;
<i>Prior Rights</i>	means the prior rights protected by national and/or Community law, as referred to in Article 10(1), second paragraph, of the Public Policy Rules;
<i>Processing Agent</i>	means the Validation Agent appointed by the Registry for the processing of Documentary Evidence as described in Section 9 hereof;
<i>Public Bodies</i>	has the meaning ascribed thereto in Article 10(1), third paragraph, of the Public Policy Rules;
<i>Public Policy Rules</i>	means Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration, <i>OJ L</i> , 162, 30 April 2004, pp. 40-50;
<i>Registrar</i>	means a person or entity that, via a contract with the Registry, provides domain name registration services to Applicants;
<i>Registration Policy</i>	means the document .eu Domain Name Registration Policy available on the Website of the Registry
<i>Registry</i>	means EUR/d vzw/asbl, a not-for-profit organisation duly incorporated and validly existing under the laws of Belgium and having its registered office at Park Station, Woluwelaan 150, 1831 Diegem, Belgium;
<i>Regulations</i>	means the .eu Regulation and the Public Policy Rules;

Rules	means the Terms and Conditions, the Registration Policy, the .eu Dispute Resolution Rules, the Sunrise Rules, the Registration Guidelines and the Regulations, which shall be deemed the terms and conditions for registration referred to under Article 3 of the Public Policy Rules;
Sunrise Rules	means the terms and conditions contained herein, including the Annexes hereto;
Terms and Conditions	means the .eu Domain Name Registration Terms and Conditions available on the Website on the Registry
Validation Agent	means the party appointed by the Registry to validate the Documentary Evidence of Prior Rights claimed by Applicants.

Other terms with a capital letter that are used herein are defined in the Terms & Conditions, the Registration Policy, the .eu Dispute Resolution Rules and/or the Regulations.

OBJECT AND SCOPE

These Sunrise Rules contain, together with the Terms and Conditions and the Registration Policy, a detailed description of all the technical and administrative measures that the Registry shall use to ensure proper, fair, technically sound administration of the Phased Registration Period and set out the terms of registration, including the basic rules and procedures applicable to:

- (i) Applicants that, via a Registrar, file an Application;
- (ii) the Registrars;
- (iii) any party, including Document Handling Agents, submitting Documentary Evidence in relation to an Application;
- (iv) the Processing Agent, for the processing of Documentary Evidence as referred to in Section 9 hereof;
- (v) the Validation Agents, when examining Documentary Evidence;
- (vi) the Registry, when deciding whether or not to register a Domain Name;
- (vii) Panellist(s) deciding on a Complaint against a decision of the Registry to register or not to register a Domain Name.

These Sunrise Rules apply to all Applications made during the Phased Registration Period.

The Terms and Conditions and the Registration Policy apply to any and all Applications, as well as to the rights and obligations of the Applicant and the

Registry regarding such Applications. In the event these Sunrise Rules conflict with, contradict or are inconsistent with the Registration Policy and/or the Terms and Conditions, these Sunrise Rules prevail over the Registration Policy and the Terms and Conditions.

However, Chapters V and VI of these Sunrise Rules do not apply where the Applicant is a Public Body applying for registration of a name referred to in Article 10(3) of the Public Policy Rules. Public Bodies applying for such names may be subject to specific rules imposed by the European Commission, the member state of the Applicant and/or the competent Government Validation Points.

CHAPTER I GENERAL

Section 1. Eligibility Requirements

Only such natural persons, companies and organisations as meet at least one of the eligibility requirements set out in Article 4(2)(b) of the .eu Regulation are eligible to apply for registration of a Domain Name.

Section 2. First Come, First Served Principle; Technical Requirements; Blocked and Reserved Names

1. The first come, first served principle referred to in Article 2 of the Public Policy Rules during the Phased Registration Period means that the Registry effects registration of a particular Domain Name in response to the first Application received by the Registry in respect of that Domain Name (whereby the date and time of receipt by the Registry's systems of such Application is the sole reference point), subject to:
 - (i) the receipt of Documentary Evidence by the Processing Agent within 40 calendar days following the date of receipt of the Application by the Registry; and
 - (ii) validation of the existence of the Prior Right or right to a name referred to in Article 10(3) of the Public Policy Rules claimed by the Applicant, on the terms and conditions included herein.

2. The Registry only accepts Applications for names that meet the requirements set forth in Section 2(2) of the Terms and Conditions. Nevertheless, it is possible to file an Application for a Domain Name that has been registered but not yet activated, as set forth under Section 22(2) hereof.

Section 3. Obligations of the Applicant

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1. An Application is only considered complete when the Applicant provides the Registry, via a Registrar, with at least the following information:
 - (i) the full name of the Applicant; where no name of a company or organisation is specified, the individual requesting registration of the Domain Name is considered the Applicant; if the name of the company or the organisation is specified, then the company or organisation is considered the Applicant;
 - (ii) address and country within the Community
 - i. where the registered office, central administration or principal place of business of the undertaking of the Applicant is located or
 - ii. where the organisation of the Applicant is established or
 - iii. where the Applicant resides;
 - (iii) e-mail address of the Applicant (or his representative);
 - (iv) the telephone number where the Applicant (or his representative) can be contacted;
 - (v) the Domain Name applied for;
 - (vi) the language for the ADR Proceedings;
 - (vii) the complete name for which a Prior Right is claimed;
 - (viii) the type of Prior Right claimed by the Applicant, as referred to in Article 10(1), second paragraph, of the Public Policy Rules;
 - (ix) the country in which the Prior Right claimed is protected;
 - (x) the language in which the Documentary Evidence to be provided to the Validation Agent will be couched.

The information referred to (viii) and (ix) above is deemed to constitute the legal basis in national or Community law for the claimed Prior Right to the name.

2. The Domain Name applied must consist of the complete name for which a Prior Right is claimed, however taking into account (i) Article 11 of the Public Policy Rules, and (ii) Section 19 hereof.
3. The Registry is entitled to exchange the above information with the Validation Agent(s) (including their agents and subcontractors) and/or the Government Validation Points in order to effect validation of the rights claimed.

Section 4. Representations and Warranties of the Applicant

1. In addition to the representations and warranties contained in Section 4 of the Terms and Conditions, the Applicant represents and warrants that:
 - (i) it is the owner, right-holder or licensee (where applicable) of the Prior Right claimed;

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- (ii) the Prior Right claimed is, on the date of the Application, a legally valid right; and
 - (iii) the Documentary Evidence that will be submitted to the Processing Agent will comprise true and genuine copies of the relevant original documents and will provide proof of the existence of the Prior Right claimed, be complete, accurate, up-to-date and not fraudulent, and be drawn up in accordance with the Sunrise Rules.
 2. Specific conditions, imposed by the European Commission, the Member state of the Applicant and/or the competent Government Validation Point, may apply to Public Bodies filing an Application for a name referred to in Article 10(3) of the Public Policy Rules.

CHAPTER II THE APPLICATION PROCESS

Section 5. Registrar and Document Handling Agent Selection

1. Domain Names can only be applied for from the Registry through a Registrar, which acts on behalf of the Applicant but for its own account.

Therefore, in order to file an Application, the Applicant must select a Registrar accredited by the Registry from the list available on the Website of the Registry
2. The Applicant may appoint a Document Handling Agent by indicating the e-mail address of the Document Handling Agent in the Application.
3. The Registry, Validation Agents and the Government Validation Points are not party to the agreement between the Applicant and his Registrar or to the agreement between the Applicant and his Document Handling Agent and therefore cannot incur any obligation or liability under these agreements.

Section 6. Confirmation Notice

1. Following receipt of an Application, the Registry sends a Confirmation Notice by e-mail to the Applicant, and its Document Handling Agent (if any) containing:
 - (i) the Domain Name applied for;
 - (ii) the date and time of receipt of the Application by the Registry;
 - (iii) the position of the Applicant's Application in the queue for the Domain Name concerned;
 - (iv) the due date for receipt by the Processing Agent of the requisite Documentary Evidence.

This Confirmation Notice is sent to the e-mail address of the Applicant and, if a Document Handling Agent has been appointed, to the e-mail address of that Document Handling Agent. The e-mail address of the Document Handling Agent will be used by the Registry for this purpose only.

2. Unless otherwise stated herein, the Confirmation Notice that is sent to the Applicant (or the Document Handling Agent, if any) furthermore contains a hyperlink to a web page made available by the Registry, where a pre-formatted Cover Letter is generated (in .pdf format) in the official language of the European Union selected by the Applicant when submitting the Application. If the Applicant has appointed his Registrar as his Document Handling Agent and that Registrar has been authorised in writing by the Processing Agent to submit Documentary Evidence electronically, the Confirmation Notice does not contain such hyperlink.

CHAPTER III SUNRISE WHOIS DATABASE

Section 7. Sunrise WHOIS Database

1. Following receipt of a complete and technically correct Application, the Registry makes relevant information with respect to the Application available in the Sunrise WHOIS Database. The Sunrise WHOIS Database may contain the following information for each Application received:
 - (i) the Domain Name applied for;
 - (ii) the order in which and the date and time when the Application was received by the Registry and the position of the Application in the queue for the Domain Name concerned;
 - (iii) the full name of the Applicant;
 - (iv) the relevant contact information for the Applicant;
 - (v) the type of Prior Right claimed by the Applicant;
 - (vi) the complete name for which a Prior Right is claimed;
 - (vii) the country in which the Prior Right claimed is protected;
 - (viii) a first status field giving information on whether or not Documentary Evidence has been received by the Processing Agent and the date of receipt of Documentary Evidence (where applicable);
 - (ix) a second status field giving information on whether or not the Registry has taken a decision to register the Domain Name in the name of the Applicant and, if a decision has been taken, the outcome of that decision;
 - (x) a third status field indicating whether, to the knowledge of the Registry, judicial or non-judicial proceedings are pending concerning the Domain Name;
 - (xi) language selected for the ADR Proceedings.

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2. In the status field referred to in Section 7(1)(viii) above, the date of receipt of Documentary Evidence is mentioned (if applicable).

The indication that the Processing Agent has received Documentary Evidence shall not be construed as implying that the Documentary Evidence received meets the conditions set out in these Sunrise Rules.

3. It is the obligation of the Processing Agent to inform the Registry of a change in status within a reasonable timeframe following receipt by the Processing Agent of the first set of Documentary Evidence relating to a particular Application. No other communication is given by the Processing Agent on whether or not the Documentary Evidence has been received and the date of receipt thereof.

The Sunrise WHOIS Database is the only point of reference for verifying whether the Processing Agent has received Documentary Evidence.

4. With respect to the status field referred to in Section 7(1)(ix) above, the following statuses can be given:
 - (i) Initiated;
 - (ii) Domain Name registered but not activated;
 - (iii) Domain Name registered and activated;
 - (iv) Application rejected;
 - (v) Expired (no or non-compliant Documentary Evidence received in time);
 - (vi) Expired (owing to no decision being given by the Government Validation Point within 90 calendar days following the Registry's request to validate the relative Documentary Evidence);
 - (vii) Not considered (due to registration and activation of the Domain Name in the name of another Applicant).

The "Initiated" status is the default status for any Application. All changes in status are the exclusive responsibility of the Registry.

CHAPTER IV DOCUMENTARY EVIDENCE

Section 8. Official Requirements for Documentary Evidence

1. On the web page indicated by the Registry in the hyperlink referred to in Section 6(2) hereof, the Applicant
 - (i) is required to inform the Registry of the number of pages his Documentary Evidence amounts to; and
 - (ii) has the option of selecting another official language of the European Union than the language selected by the Registrar

when submitting the Application to the Registry for the Cover Letter.

2. Upon receipt of this information, the Registry makes available an electronic Cover Letter in .pdf format, containing at least the following information:
 - (i) the name and address of the Processing Agent;
 - (ii) the following information, extracted from the Sunrise WHOIS Database:
 - (a) the Domain Name applied for;
 - (b) the full name of the Applicant;
 - (c) the relevant contact information for the Applicant;
 - (d) the type of Prior Right claimed by the Applicant;
 - (e) the country in which the Prior Right claimed is protected;
 - (f) the complete name for which a Prior Right is claimed by the Applicant;
 - (g) the language in which the Documentary Evidence to be provided to the Validation Agent will be couched;
 - (h) the date of receipt of the Application by the Registry;
 - (i) a unique bar code.
3. The Applicant or its Document Handling Agent shall be required to:
 - (i) print out the Cover Letter generated on the web site of the Registry;
 - (ii) indicate on the Cover Letter the official language in which the Documentary Evidence is being submitted where such Documentary Evidence is submitted in another official language of the European Union than the language chosen in the Application. In the case that another official language is selected in the Cover Letter, any and all Documentary Evidence submitted must be in the language selected in the Cover Letter;
 - (iii) sign the Cover Letter;
 - (iv) enclose the relevant Documentary Evidence referred to in Chapter V; and
 - (v) initial the said Documentary Evidence.

Unless otherwise expressly provided herein, it is not permissible to modify the wording of the Cover Letter; Documentary Evidence submitted without a Cover Letter or with a modified Cover Letter or a Cover Letter that is not duly signed will be rejected, with the exception of Documentary Evidence submitted electronically by the Registrar (in which case no Cover Letter needs to be submitted to the Processing Agent).

4. Documentary Evidence in another language than the language chosen in accordance with these Sunrise Rules will not be considered. If any of the Documentary Evidence is not in the official language selected by

the Applicant, it must be accompanied by a translation made by a certified translator in the language selected in the Application or, as the case may be, in the Cover Letter.

5. The duly signed Cover Letter and the Documentary Evidence enclosed therewith must be sent to the address indicated in the Cover Letter. Documents sent to any address other than the address indicated in the Cover Letter will not be considered.

The Documentary Evidence must be sent by regular mail, registered or recorded delivery mail or courier.

It is not permissible to transmit Documentary Evidence by any other means than those described in this Section 8(5) (*e.g.* by fax or e-mail), except via a Registrar who is authorised in writing by the Processing Agent to submit Documentary Evidence electronically to the Processing Agent.

Documentary Evidence must be received by the Processing Agent within forty (40) calendar days following receipt of the Application by the Registry, failing which the Application will be considered to have expired.

The Documentary Evidence can only be received by the Processing Agent between 08.00 hours and 17.00 hours (Belgian time) on general business days in Belgium. For the avoidance of doubt, Saturdays, Sundays and public holidays in Belgium are not considered a general business day in Belgium.

As a consequence, in case the forty day period referred to in Article 14, fourth paragraph of the Public Policy Rules expires on a Saturday, Sunday or public holiday in Belgium, Documentary Evidence not received on the last general business day in Belgium prior to such Saturday, Sunday or public holiday in Belgium will be considered not received by the expiry date.

6. The Cover Letter sent by or on behalf of the Applicant and the enclosed Documentary Evidence must meet the following requirements:
- (i) each Application must be supported by one (1) set of Documentary Evidence; it is not permissible to combine different sets of Documentary Evidence for different Applications in one single package or envelope;
 - (ii) the size of the sheets of paper must be DIN A4 (29.7 cm x 21 cm) or Letter (27,94 cm x 21,59 cm) format;
 - (iii) documents must be printed on opaque white paper;
 - (iv) the pages must be consecutively numbered, starting with page no. 1, not including the Cover Letter;

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- (v) paper must be printed on one side only;
 - (vi) documents must be humanly readable when scanned;
 - (vii) the Documentary Evidence must not be retouched or otherwise altered;
 - (viii) sheets of paper may not be folded, stapled, glued or in any other way attached to each other.

It is the sole responsibility of the Applicant to ensure that these requirements are complied with. Documentary Evidence sent to the Processing Agent by a third party in the name and on behalf of the Applicant is deemed to have been sent by the Applicant.

7. The Processing Agent is not obliged to process or consider any information or documentation received that does not meet all of the requirements set out in Section 8(6) above.

The Registry and the Processing Agent are not obliged to inform the Applicant of whether the Documentary Evidence has or has not met any or all of the requirements stated in this Section.

8. No communication or acknowledgement from the Processing Agent and/or the Registry that Documentary Evidence has been received may be construed as implying that the information provided by (or on behalf of) the Applicant meets the conditions set out in this Chapter.

Section 9. Processing of Documentary Evidence

1. Following receipt of the Cover Letter together with the Documentary Evidence submitted to the Processing Agent, the Processing Agent:
 - (i) time-stamps the Documentary Evidence with the date it is received;
 - (ii) scans the information and documentation received, unless the Documentary Evidence is received by the Processing Agent in an electronic format via a Registrar authorised in writing by the Processing Agent to provide Documentary Evidence in an electronic format.
2. The Registry and the Processing Agent are entitled, at their sole discretion, not to consider any information or documentation received where the Processing Agent has already received a set of Documentary Evidence relating to the same Application; however, the Processing Agent may, via the Registry, request the Applicant to submit a new set of Documentary Evidence if the original Documentary Evidence received is accidentally damaged or destroyed during or after transmission thereof.

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3. The Processing Agent informs the Registry of the date of receipt of each set of Documentary Evidence, save for sets received as set forth in Section 9(2), above; this information is provided in a manner agreed between the Registry and the Processing Agent.
 4. It is not possible for the Applicant to inspect the Documentary Evidence after the Processing Agent has received it.

The Applicant acknowledges and agrees that the Documentary Evidence received by the Processing Agent becomes the sole property of the Processing Agent; neither the Registry nor the Processing Agent will return any Documentary Evidence to the Applicant, the Registrar or any other person appointed by the Applicant.

5. The Registry and the Processing Agent will only disclose Documentary Evidence to the extent required by any court of competent jurisdiction, or by any governmental or regulatory authority, or where there is a legal duty or requirement to do so. Furthermore, Documentary Evidence will be disclosed in electronic format by or upon instructions given by the Registry acting as a Respondent in an ADR Proceeding in the context of a Complaint against a decision by the Registry.

CHAPTER V. VALIDATION OF PRIOR RIGHTS

Section 10. The Validation Process

1. Upon instructions from the Registry, the Validation Agent validates whether the Documentary Evidence substantiates the Prior Right claimed by the Applicant in the Application.
2. The Validation Agent examines Documentary Evidence for identical Domain Names in the order in which Applications are received by the Registry, in accordance with the procedure set forth in Article 14 of the Public Policy Rules.

For non-identical Domain Names, the Validation Agent may – for efficiency purposes – determine the order in which Documentary Evidence is examined as it sees fit, depending on, for instance,

- (i) the number of Applications received for non-identical Domain Names,
- (ii) the languages in which Documentary Evidence for the various Applications is provided,
- (iii) the time and resources required for actually validating the existence of Prior Rights on the basis of the Documentary Evidence produced.

Validation Agents are subcontractors of the Registry, which is the only party to decide whether or not a Domain Name is registered in the name of an Applicant.

Section 11. Prior Rights – General

1. During the first phase of the Phased Registration Period, only Domain Names that correspond to
 - (i) registered Community or national trade marks or
 - (ii) geographical indications or designations of originmay be applied for by the holder and/or licensee (where applicable) of the Prior Right concerned, without prejudice to the names that may be applied for by Public Bodies, as referred to in Article 10(3) of the Public Policy Rules.
2. During the second phase of the Phased Registration Period, Domain Names that correspond to
 - (i) the types of Prior Rights listed in Section 11(1), above or
 - (ii) other types of Prior Rightsmay be applied for by the holder of the Prior Right concerned.
3. The Applicant must be the holder (or licensee, where applicable) of the Prior Right claimed no later than the date on which the Application is received by the Registry, on which date the Prior Right must be valid, which means that it must be in full force and effect.

Section 12. Documentary Evidence – General Substantive Requirements

1. Unless otherwise provided under Sections 13 to 18 of these Sunrise Rules, the Applicant must submit Documentary Evidence containing
 - (i) an affidavit signed by a competent authority, legal practitioner¹ or professional representative² declaring that the type of Prior Right claimed by the Applicant is protected under the laws of the relevant member state, including
 - a. references to the relevant legal provisions, scholarly works and court decisions and

¹ A legal practitioner is a person who is qualified to practise law in one of the member states and who has his place of business within the Community (cf. Directive 98/5/EC of 16 February 1998, OJ EC L 77 of 14. 3. 1998, p. 36).

² A professional representative is a person who is entitled to represent clients before the respective national industrial property offices, the OHIM or the EPO.

2. *DOCUMENTARY EVIDENCE FOR REGISTERED TRADE MARKS*

Unless otherwise provided for in Annex 1 hereto, it is sufficient to submit the following Documentary Evidence for a registered trade mark:

- (i) a copy of an official document issued by the competent trade mark office indicating that the trade mark is registered (certificate of registration, renewal certificate, official extract from the register, declaration by the trade mark office, publication of the fact of registration in an official journal, etc.); or
- (ii) an extract from an official (on-line) database operated and/or managed by the relevant national trade mark office, the Benelux Trade Marks Office, the OHIM or the WIPO. Extracts from commercial databases are not acceptable even if they reproduce exactly the same information as the official extracts.

In the foregoing cases, the Documentary Evidence must clearly evidence that the Applicant is the reported owner of the registered trade mark.

In case the Applicant is a licensee or transferee of a registered trade mark referred to in Section 13(1) above, Section 20 hereof shall apply.

Section 14. *Geographical Indications and Designations of Origin*

1. *GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN – GENERAL*

If the Prior Right claimed by an Applicant is a geographical indication or a designation of origin, the geographical indication or designation of origin must be protected in at least one of the member states of the European Union.

2. *DOCUMENTARY EVIDENCE FOR GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN*

Unless otherwise provided in Annex 1 hereto, it is sufficient to submit the following Documentary Evidence for a geographical indication or designation of origin:

- (i) a copy of an act, decree or decision of a competent official authority conferring protection on a particular name as a geographical indication or designation of origin; or
- (ii) a copy of the official publication of an act, decree or decision referred to in (i) above; or

- (iii) an extract from the relevant register (if available).

Such Documentary Evidence must clearly indicate that the name for which the Prior Right is claimed is a geographical indication or designation of origin of which the Applicant is the holder.

Section 15. Unregistered Trade Marks

If an Applicant claims a Prior Right to a name on the basis of

- (i) a well-known unregistered trade mark as provided for in Article 6*bis* of the Paris Convention on the Protection of Industrial Property (as amended), or
- (ii) an unregistered trade mark other than one falling under (i) above that is protected under the law of one of the member states referred to in Annex 1 as being a member state protecting unregistered trade marks,

it is sufficient to prove the existence of such Prior Right in accordance with Sections 12(2) or 12(3) hereof, without there being an obligation to provide the Documentary Evidence referred to in Section 12(1).

Section 16. Company Names, Trade Names and Business Identifiers

1. COMPANY NAMES – GENERAL

A company name is an official name of a company, i.e. the name under which the company is incorporated or under which the company is registered. In member states where no company-name protection exists, the name of the company may still be protected as a trade name (as referred to in Section 16(2)) or a business identifier (as referred to in Section 16(3)).

If an Applicant claims a Prior Right to a name on the basis of a company name protected under the law of one of the member states mentioned in Annex 1 as being a member state protecting company names, it is sufficient to prove the existence of such Prior Right in accordance with Section 16(4) below.

2. TRADE NAMES – GENERAL

Since trade names are protected in all member states of the European Union, it is sufficient to provide the Validation Agent with the Documentary Evidence referred to in Section 16.5 below.

3. *BUSINESS IDENTIFIERS – GENERAL*

If an Applicant claims a Prior Right to a name on the basis of a business identifier protected under the law of one of the member states mentioned in Annex 1 as being a member state protecting such business identifier, it is sufficient to prove the existence of such Prior Right in accordance with Section 16(5) below.

4. *DOCUMENTARY EVIDENCE FOR COMPANY NAMES*

Unless otherwise provided in Annex 1 hereto, it shall be sufficient to submit the following Documentary Evidence for company names referred to under Section 16(1):

- (i) an extract from the relevant companies or commercial register;
- (ii) a certificate of incorporation or copy of a published notice of the incorporation or change of name of the company in the official journal or government gazette; or
- (iii) a signed declaration (*e.g.* a certificate of good standing) from an official companies or commercial register, a competent public authority or a notary public.

Such Documentary Evidence must clearly indicate that the name for which the Prior Right is claimed is the official company name, or one of the official company names of the Applicant.

5. *DOCUMENTARY EVIDENCE FOR TRADE NAMES AND BUSINESS IDENTIFIERS*

Unless otherwise provided in Annex 1 hereto, it is sufficient to submit the following Documentary Evidence for trade names and business identifiers referred to in Section 16(2) respectively 16(3):

- (i) where it is obligatory and/or possible to register the relevant trade name or business identifier in an official register (where such a register exists in the member state where the business is located):
 - a. an extract from that official register, mentioning the date on which the trade name was registered; and
 - b. proof of public use of the trade name or business identifier prior to the date of Application (such as, but not limited to, proof of sales volumes, copies of advertising or promotional materials, invoices on which the trade name or business identifier is mentioned etc., proving public use of the name in the relevant member state);
- (ii) where registration is not obligatory, the Documentary Evidence referred to in Section 12(3) hereof.

The Documentary Evidence for a trade name or a business identifier must clearly indicate that the name for which the Prior Right is claimed is the trade name or business identifier of the Applicant.

Section 17. Family Names

1. If an Applicant claims a Prior Right to a name on the basis of a trade name, business identifier or company name that corresponds with a family name, it must select the “trade name, business identifier or company name” type of Prior Right in its Application and prove the existence of such Prior Right in accordance with Sections 16(4) and 16(5) respectively.
2. If an Applicant claims a Prior Right to a name on the basis of his family name, in as far as it is protected in the member state of which he is a resident of, he must select the “other” type of Prior Right in his Application and it must prove the existence of such Prior Right in accordance with Sections 12(1) or (2) hereof.

Section 18. Distinctive Titles of Protected Literary and Artistic Works

1. DISTINCTIVE TITLES – GENERAL

If an Applicant claims a Prior Right to a name on the basis of a distinctive title of a protected literary and artistic work protected under the law of one of the member states listed in Annex 1 as being a member state protecting distinctive titles of protected literary and artistic works, it is sufficient to prove the existence of such Prior Right in accordance with Section 18(2) hereof.

2. DOCUMENTARY EVIDENCE FOR DISTINCTIVE TITLES OF PROTECTED LITERARY AND ARTISTIC WORKS

Unless otherwise provided for in Annex 1 hereto, it is sufficient to submit the following Documentary Evidence for a distinctive title of a literary and artistic work referred to under Section 18(1):

- (i) a copy of the cover or image of the literary and artistic work containing the title concerned (together with a brief description of (a) the work, or (b) the content of the work, a photograph of the work, etc.), and
- (ii) an affidavit signed by a competent authority, legal practitioner or professional representative stating that the Applicant holds the claimed rights in respect of the said title on the date of the Application, that the work in question has lawfully been made public and that the title is distinctive

whereby such Documentary Evidence must clearly indicate that the Applicant is holder of the distinctive title of the literary and artistic work.

Section 19. Complete name for which the Prior Right exists

1. As stated in Article 10(2) of the Public Policy Rules, registration of a Domain Name on the basis of a Prior Right consists in the registration of the complete name for which the Prior Right exists, as manifested by the Documentary Evidence. It is not possible for an Applicant to obtain registration of a Domain Name comprising part of the complete name for which the Prior Right exists.
2. Documentary Evidence must clearly depict the name for which a Prior Right is claimed. A Prior Right claimed to a name included in figurative or composite signs (signs including words, devices, pictures, logos, etc.) will only be accepted if
 - (i) the sign exclusively contains a name, or
 - (ii) the word element is predominant, and can be clearly separated or distinguished from the device element,provided that
 - (a) all alphanumeric characters (including hyphens, if any) included in the sign are contained in the Domain Name applied for, in the same order as that in which they appear in the sign, and
 - (b) the general impression of the word is apparent, without any reasonable possibility of misreading the characters of which the sign consists or the order in which those characters appear.
3. For trade marks, the references “TM”, “SM”, “®” and the like do not form part of the complete name for which the relevant Prior Right exists.
4. For trade names, company names and business identifiers, the company type (such as, but not limited to, “SA”, “GmbH”, “Ltd.”, or “LLP”) may be omitted from the complete name for which the Prior Right exists.
5. If an Applicant claims a Prior Right to a name that includes an internet top-level domain (such as, but not limited to, .com, .net or .eu), the complete name for which a Prior Right exists includes that domain suffix.
6. For names in other than standard Latin script, the Application must contain a transliteration into standard Latin script of the name for which

the Prior Right is claimed. The transliteration must be done according to generally accepted transliteration standards. No transliteration of a script not generally used in an official language of the European Union will be accepted.

Section 20. Licences, Transfers and Changes as regards the Applicant

- 20.1 If an Applicant has obtained a licence for a registered trade mark referred to in Section 13(1)(i) above in respect of which it claims a Prior Right, it must enclose with the Documentary Evidence an acknowledgement and declaration form, a template of which is contained in Annex 2 hereto, duly completed and signed by both the licensor of the relevant registered trade mark and the Applicant (as licensee). If the Applicant is a sublicensee, it must enclose a second acknowledgement and declaration duly completed and signed by the ultimate owner of the registered trade mark concerned and the latter's licensee.
- 20.2 If an Applicant is the transferee of a Prior Right and the Documentary Evidence submitted does not clearly indicate that the Prior Right claimed has been transferred to the Applicant, it shall submit an acknowledgement and declaration form, a template of which is contained in Annex 3 hereto, duly completed and signed by both the transferor of the relevant Prior Right and the Applicant (as transferee).
- 20.3 If, for any reasons other than as are referred to in Section 20(1) and 20(2) hereof, the Documentary Evidence provided does not clearly indicate the name of the Applicant as being the holder of the Prior Right claimed (*e.g.* because the Applicant has become subject to a name change, a merger, the Prior Right has become subject to a *de iure* transfer, etc.), the Applicant must submit official documents substantiating that it is the same person as or the legal successor to the person indicated in the Documentary Evidence as being the holder of the Prior Right.

CHAPTER VI EXAMINATION OF PRIOR RIGHT CLAIMS, DOCUMENTARY EVIDENCE AND DECISIONS BY THE REGISTRY

Section 21. Examination by the Validation Agent

1. On the instructions of the Registry, the Validation Agent appointed by the Registry shall verify:
 - (i) whether the official requirements set out in Section 8 have been complied with; and
 - (ii) whether the requirement for the existence of a Prior Right to the name claimed by the Applicant in the Application is fulfilled.

The Validation Agent and the Registry shall not be obliged to notify the Applicant where the above requirements are not complied with.

2. The Validation Agent examines whether the Applicant has a Prior Right to the name exclusively on the basis of a *prima facie* review of the first set of Documentary Evidence received and scanned by the Processing Agent (including the Documentary Evidence received electronically, where applicable) and in accordance with the provisions of these Sunrise Rules.
3. The Validation Agent is not obliged, but it is permitted in its sole discretion, to conduct its own investigations into the circumstances of the Application, the Prior Right claimed and the Documentary Evidence produced.

Section 22. Decision by the Registry

1. The Validation Agent informs the Registry of its findings in accordance with Article 14 of the Public Policy Rules and in a manner agreed by them.
2. The Registry registers Domain Names on a first come, first served basis where it finds that the Applicant has demonstrated a Prior Right in accordance with Section 2 hereof.

During a period of forty (40) calendar days following the decision by the Registry to register the Domain Name concerned (referred to in the .eu Dispute Resolution Rules as the “Sunrise Appeal Period”), any interested party may initiate an ADR Proceeding against the decision of the Registry on the grounds of non-compliance of that decision with the Regulations.

The Registry only activates the Domain Name on the day following expiry of the forty (40)-day period provided that no ADR Procedure has been initiated against the decision of the Registry within the forty (40)-day period.

3. Without prejudice to the provisions regarding transfers of Domain Names or the change of a Registrar as set forth in the Rules,
 - (a) a transfer of a Domain Name to a third party, with the exception of transfers provided for in Article 19 of the Public Policy Rules, and
 - (b) a change of Registrar

can only take place following the activation of the Domain Name concerned.

4. The decision by the Registry to register a Domain Name in the name of an Applicant has no value as a precedent in any judicial or non-judicial settlement of conflicts proceeding, including an ADR Proceeding on the basis of speculative or abusive registration.

Section 23. End of the Validation Process; Pending ADR Proceedings

1. If no final decision for any Domain Name in respect of which an Application has been made has come into effect by 1 May 2007 (or such other date as the Registry may communicate on its web site), the Registry may require the Validation Agents and the Government Validation Points to validate all pending Applications for Domain Names for which no final decision has come into effect. In such a case, the Registry will request the relevant Applicants by e-mail to authorise validation by the relevant Validation Agent or Government Validation Point of the Prior Right(s) claimed.
2. If the Applicant does not authorise validation of the Prior Right(s) claimed within one month following the e-mail request referred to in Section 23(1), the Registry is entitled to reject the Application.

CHAPTER VII MISCELLANEOUS

Section 24. Modifications, Guidelines, Enforceability

1. The Registry may issue interpretive guidelines on its web site regarding the provisions of these Sunrise Rules. The Registry may modify the Annexes to these Sunrise Rules from time to time, which modifications will take effect at the time they are announced on the Registry's website.
2. If any part of these Sunrise Rules is declared invalid or unenforceable for any reason, the remainder of these Sunrise Rules will be valid and enforceable as if the invalid or unenforceable part were not included herein.

There shall be substituted for any invalid or unenforceable provision a suitable provision that, as far as is legally possible, comes nearest to the sense and purpose of these Sunrise Rules, taking into account all other Rules.

Section 25. Limitation of Liability

1. To the extent allowed under mandatory law, the Registry shall only be liable where the Registry's gross negligence or wilful misconduct is

proven. In no event shall the Registry be held liable for any indirect, consequential or incidental damages or loss of profits, whether contractual, based on tort (including negligence) or otherwise arising, resulting from or related to registration or use of a Domain Name or to the use of its software or web site, even if it has been advised of the possibility of such loss or damages, including but not limited to decisions taken by the Registry to register or not to register a Domain Name on the basis of the findings of the Validation Agent(s) and the Government Validation Point(s), as well as the consequences of those decisions.

To the extent allowed under mandatory law, the Registry's liability for damages shall in any case be limited to EUR 1,000 (one thousand euros). The Applicant agrees that no greater or other damages may be claimed from the Registry (such as, but not limited to, any fees payable or paid by the Applicant or the Complainant in the context of judicial or non-judicial proceedings initiated against a decision by the Registry to register or not to register a Domain Name).

2. The Applicant shall hold the Registry harmless from claims filed or disputes initiated by third parties, and shall compensate the Registry for any costs or expenses incurred or damages for which it may be held liable as a result of third parties taking action against it on the grounds that the Application for or the registration or use of the Domain Name by the Applicant infringes the rights of a third party.

For the purposes of this Section, the term "Registry" also refers to its members and subcontractors, including the Processing Agent, the Validation Agents and the Government Validation Points, and each of their respective directors, agents and employees.

CHAPTER VIII ADR PROCEEDINGS

Section 26. Initiation of ADR Proceedings

1. During the Sunrise Appeal Period, being a period of forty (40) calendar days following a decision by the Registry to register or not to register a Domain Name, the Applicant or any other interested party may initiate an ADR Proceeding (as defined in the .eu Dispute Resolution Rules) against the Registry with regard to that decision.
2. The sole object and purpose of an ADR Proceeding against the Registry is to verify whether the relevant decision by the Registry conflicts with the Regulations.

If more than one ADR Proceeding is initiated against the Registry concerning the same decision to register or not to register a Domain Name, only the ADR Proceeding with the earliest Date of

Commencement, as defined in the .eu Dispute Resolution Rules, will be activated, as defined in the .eu Dispute Resolution Rules.

3. The Provider may require the Registry to disclose the Documentary Evidence.

Section 27. ADR Proceedings Against the Decision of the Registry

1. If the ADR Proceeding concerns a decision by the Registry to register a Domain Name and the Panel or Panelist (as defined in the .eu Dispute Resolution Rules) appointed by the Provider concludes that the decision in question does not conflict with the Regulations, then the Registry will immediately activate the Domain Name upon communication of the decision by the Provider.

If the ADR Proceeding concerns a decision by the Registry to register a Domain Name and the Panel or Panelist appointed by the Provider concludes that that decision conflicts with the Regulations, then, upon communication of the decision by the Provider, the Registry will decide whether or not to register the Domain Name in the name of the next Applicant in the queue for the Domain Name concerned, in accordance with the procedure set out in these Sunrise Rules.

If the ADR Proceeding concerns a decision by the Registry not to register a Domain Name and the Panel or Panelist appointed by the Provider concludes that that decision conflicts with the Regulations, then, upon communication of the decision by the Provider, the Registry will register the Domain Name in the name of the Applicant and will immediately activate the Domain Name.

If the ADR Proceeding concerns a decision by the Registry not to register a Domain Name and the Panel or Panellist appointed by the Provider concludes that that decision does not conflict with the Regulations, then the Panel or Panellist will reject the Complaint.

2. A decision by the Registry to register or not to register a Domain Name may only be subject to a single activated ADR Proceeding against the Registry. This does not preclude third parties from initiating an ADR Proceeding on grounds of speculative or abusive registration of a Domain Name after the Sunrise Appeal Period or after the ADR Proceeding against the Registry has resulted in activation of the Domain Name, in accordance with the .eu Dispute Resolution Rules.

[Annex 1](#)

[Expected to be published by October 6th](#)

[Annex 2](#)

[Expected to be published by October 6th](#)

[Annex 3](#)

[Expected to be published by October 6th](#)