

.WALES AND .CYMRU DOMAINS – PHASED RELEASE

Sunrise Process and Registration Rules

TABLE OF CONTENTS

1.	Introduction.....	3
2.	Overview.....	3
	Definitions	4
3.	General Provisions	6
	Scope of the Rules	6
	General Description of the Phased Release	7
	Applying for and Registering Domain Names.....	8
	Applicant Warranties	8
	Sunrise WHOIS	9
	Nominet’s Right to Accept and Reject an Application or Accept, Revoke or Cancel a Domain Name Registration	9
	Payment to Nominet	10
	Domain Names Unavailable for Registration	10
	Term of Registration.....	10
	Domain Name Allocation Mechanisms	10
4.	TMCH Registered Rights Sunrise Rules	10
	TMCH Registered Rights Sunrise Process	10
	TMCH Registered Marks.....	11
	Content of an Application During the TMCH Registered Rights Sunrise.....	11
	Eligible Applicants.....	12
	Validation in General.....	12
	Validation by the Validation Agent	12
	Validation Agent’s Role	13
	Documentary Evidence.....	14
	Representations and Warranties by Applicants in the TMCH Registered Rights Sunrise Process.....	15
	Changes to the Status of a TMCH Registered Mark Following Validation	16
	Domain Name Availability and Allocation of Domain names in the Context of the TMCH Registered Rights Sunrise	16
5.	Welsh Business Priority Phase Rules	17
	Welsh Business Priority Phase Process	17
	Eligible Rights	17
	Exact Match.....	17
	Content of an Application During the Unregistered Rights Sunrise.....	18
	Eligible Applicants.....	19
	Validation in General.....	19
	Validation by the Validation Agent	20
	Validation Agent’s Role	21
	Documentary Evidence.....	22
	Representations and Warranties by Applicants in the Unregistered Rights Sunrise Process	24
	Changes to the Status of an Eligible Right Following Validation	24

	Domain Name Availability and Allocation of Domain names in the Context of the Welsh Business Priority Phase.....	24
6.	Landrush Rules	25
7.	Multiple Applications	25
8.	General Availability.....	26
9.	Dispute Resolution Policies	26
	Sunrise Dispute Resolution Policy.....	26
	Trademark Clearinghouse Claims Service.....	26
10.	Miscellaneous	26
	Amendments	26
	Limitation of Liability.....	27
	Governing Law, Disputes and Jurisdiction	27

1. INTRODUCTION

This document sets forth the Rules governing the phased release of .Wales and .Cymru domain names (the “Phased Release”). These Rules and the Guidance Notes, as amended from time to time, constitute complete rules, regulations, processes and protocols adopted by Nominet and shall be the only authoritative source for determining whether or not a particular Domain Name was applied for or allocated correctly. Further, these Rules, as amended from time to time, constitute the contractual terms as between the Applicant and Nominet on the basis of which Nominet agrees to accept the Applicant’s Application(s) and to instruct the Validation Agent to conduct the validation process in respect of Applications made in the Trademark Clearinghouse (“TMCH”) Registered Rights Sunrise and the Welsh Business Priority Phase. In the event of any conflict between these Rules and the Guidance Notes, these Rules shall have priority.

The following table provides a summary of the four phases of the Plan, each of which is described in greater detail below.

Phase 1: TMCH Registered Rights Sunrise	Period during which holders of trade marks registered with the TMCH can apply for their corresponding Domain Names with the exception of Domain Names unavailable for registration in accordance with clause Error! Reference source not found.
Phase 2: Welsh Business Priority Phase	Period during which holders of registered and unregistered trade marks can apply for their corresponding Domain Name(s) insofar as they have not been registered at an earlier stage and subject to proof of Use in Wales.
Phase 3: Landrush	Period during which any interested parties can apply to register Domain Names not previously registered through the TMCH Registered Rights Sunrise or the Welsh Business Priority Phase including Premium Names.
Phase 4: General Availability	As from the start of this phase, Domain Names that have not been previously registered through the TMCH Registered Rights Sunrise, Welsh Business Priority Phase or the Landrush will be available for registration on a first come, first served basis.

2. OVERVIEW

Section 3 provides an overview of important general provisions, including information about the Application submission process and the responsibilities of Registrars, among other things.

Sections 4, 5 and 6 contain details on the rules, processes and protocols for the TMCH Registered Rights Sunrise, Welsh Business Priority Phase and Landrush respectively.

Section 7 describes the basic rules, processes and protocols in relation to multiple Applications for the same domain name during the TMCH Registered Rights Sunrise, Welsh Business Priority Phase and Landrush respectively.

Section 8 describes the basic rules, processes and protocols in relation to General Availability.

Section 9 includes details of the dispute resolution policies.

Finally, section 10 contains miscellaneous obligations, liabilities and other terms and conditions related to and governing the various aspects of the Phased Release.

Definitions

2.1

“Applicant”	a natural person, company or organisation in whose name an Application is submitted to Nominet by a Registrar
“Application”	a complete, technically correct request for a Domain Name Registration made with Nominet, which complies with all the respective requirements provided for in these Rules, and in particular the specific provisions that apply during the respective phase of the Phased Release within which such a request is made, including any evidence submitted to the Validation Agent in relation to a TMCH Registered Mark, an Eligible Registered Right or an Eligible Unregistered Right.
“Application Data”	the information and data contained within an Application.
“Application Fee”	the fee payable by the Applicant to the Registrar in connection with their Application.
“Auction”	the auction to be conducted by the Auction Provider in the event that there is more than one Validated Application for a single Domain Name in the TMCH Registered Rights Sunrise or the Welsh Business Priority Phase or more than one Application for a single Domain Name in the Landrush Phase (including Premium Names).
“Auction Provider”	NFPAS Limited whose registered office is at 4 th Floor, Higham House, Higham Place, New Bridge Street West, Newcastle-upon-Tyne, NE1 8AN.
“Auction Rules”	.Wales and .Cymru Domain Name Auction Code which governs the manner in which Auctions of Domain Names are conducted by the Auction Provider on behalf of Nominet, as amended by the Auction Provider from time to time.
“Documentary Evidence”	the documentation to be provided by (or on behalf of) the Applicant to the Validation Agent, in accordance with section 4.8.2 or section 5.9.2 as appropriate
“Domain Name”	a .Wales or .Cymru domain name
“Domain Name Holder”	the person or entity in whose name a Domain Name has been registered
“Domain Name Registration”	the registration of a Domain Name in the name of an Applicant

“Eligible Registered Right”	a registered trade mark that meets the requirements laid down in section 5.2.1
“Eligible Rights”	any of an Eligible Registered Right or an Eligible Unregistered Right
“Eligible Unregistered Right”	an unregistered trade mark that meets the requirements laid down in section 5.2.2
“Exact Match”	that the Domain Name exactly matches the text of the right claimed in accordance with clause Error! Reference source not found.
“Founders’ Program”	the program allowing key governmental, cultural and commercial organisations or individuals to become early adopters of .wales and .cymru Domain Names in advance of such Domain Names being available to the public under the Phased Release
“Guidance Notes”	the web pages and advice made available on Nominet’s website
“Landrush”	the process described in section 6
“Phase”	one of the TMCH Registered Rights Sunrise phase, Welsh Business Priority Phase, Landrush phase or General Availability
“Premium Names”	the Domain Names identified by Nominet as being generic names of particular value
“Registrar”	a Nominet registrar
“Registration Fee”	the fee charged by Nominet to the Registrar for the registration of a domain name
“Rules”	this document, including the annexes and any and all interpretative guidelines published by Nominet in relation hereto, as may be amended from time to time at Nominet’s sole discretion.
“SMD File”	a Signed Mark Data File demonstrating that minimum eligibility requirements for the TMCH Registered Rights Sunrise have been verified by the TMCH
“Sunrise Period”	either the TMCH Registered Rights Sunrise or the Welsh Business Priority Phase
“Trademark Clearinghouse (TMCH)”	the central storage repository of validated (authenticated) trade mark rights-related data and information for dissemination with respect to trade mark rights protection mechanisms and other registry-related services mandated by ICANN and currently run by Deloitte
“TMCH Registered	a registered trade mark as defined in section 4.2

Mark”

“TMCH Registered Rights Sunrise” the process described in section 4

“Use” put to use in relation to a genuine offering of goods or services by reference to the criteria set out in sections 4.8.3 and 4.8.4 in respect of the TMCH Registered Rights Sunrise and sections 5.9.3 and 5.9.4 in respect of the Welsh Business Priority Phase

“Validation Agent” Valideus Limited whose registered office is 2nd Floor, 28-30 Little Russell Street, London, WC1A 2HN.

“Validation System” the online platform through which Applicants submit information when validation is required and the Validation Agent undertakes the validation process.

“Validated Application” an Application which the Validation Agent has determined in its absolute discretion fulfils the criteria to take part in a Sunrise Period

“Welsh Business Priority Phase” the process described in section 5

3. GENERAL PROVISIONS

Scope of the Rules

3.1 These rules describe, among other items:

- 3.1.1 The terms under which Applications can be submitted to Nominet during the various Phases;
- 3.1.2 The way in which such Applications will be processed and, insofar as these Applications are submitted during a Sunrise Period, validated by the Validation Agent;
- 3.1.3 The technical and administrative measures that Nominet will use to ensure proper, fair and transparent administration of the Phased Release and set out the basic rules and procedures applicable to:
 - (a) Applicants;
 - (b) Nominet;
 - (c) Registrars;
 - (d) The Validation Agent;
 - (e) Any person or entity interested in obtaining a domain name.

The provisions of this section apply to all Applications. By submitting an Application, the Applicant agrees to comply with and be bound by these Rules, and accepts and acknowledges that any failure to comply with these Rules may result in their Application being rejected or their Domain Name registration being cancelled. In the event of rejection of the Application or cancellation of the Domain Name registration in these circumstances, none of the fees paid by the

Applicant in connection with their Application will be refunded, including the Application Fee(s), the Registration Fee, or the successful bid in the Auction.

General Description of the Phased Release

- 3.2 In order to ensure proper, fair, technically sound administration of the Phased Release, Nominet has put in place the processes and procedures described in these Rules, which will apply to Applications and/or Domain Name Registrations effected within the following timeframes:

Phase	Timeframe	Description	Applicable Provisions
TMCH Registered Rights Sunrise	Monday 1 st September 2014 to Friday 31 st October 2014	Period during which holders of TMCH Registered Marks with a valid SMD File will have the opportunity to apply to register one or more Domain Names corresponding to that SMD File. If more than one Application is validated for the same Domain Name during this Phase, priority will be given to the Applicants that can show Use in Wales. If more than one Applicant can prove Use in Wales, such Domain Name will be registered following the outcome of an Auction Process (as described in section 7). Certain Domain Names will be unavailable for registration in accordance with clause 3.8.	Definitions Sections 4, 7, 9 and 10
Welsh Business Priority Phase	Monday 3 rd November 2014 to Wednesday 24 th December 2014	Period during which holders of Eligible Rights will have the opportunity to apply to register one or more Domain Names which are an Exact Match to the mark in respect of which they have an Eligible Right, where the Domain Name was not registered during the TMCH Registered Rights Sunrise. If more than one Application is validated during this Phase for the same Domain Name, priority will be given to the Applicants that can show Use in Wales. If more than one Applicant can prove Use in Wales, such Domain Name will be registered following the outcome of an Auction Process (as described in section 7).	Definitions Sections 5, 7, 9 and 10
Landrush	Monday 29 th December 2014 to Wednesday 25 th February 2015	Period during which interested parties shall have the opportunity to submit Applications for Domain Names that were not previously registered during a Sunrise Period, including Premium Names. If more than one Applicant has submitted an Application during this phase for the same Domain Name, such Domain Name	Definitions Sections 6, 7, 9 and 10

		will be registered following the outcome of an Auction Process (as described in section 7).	
General Availability	1 st March 2015	Date as of which any party may obtain a Domain Name Registration for any Domain Name that is still available, on a first come, first served basis – the normal rules and principles of registration of .wales and .cymru domain names will apply from this point onwards.	Definitions Sections 8, 9 and 10

Nominet may change the above dates and timeframes at its sole discretion, and publish such changes on its website.

Applying for and Registering Domain Names

3.3

- 3.3.1 Domain Names can only be applied for or registered with Nominet through a Registrar, acting on behalf of the Applicant or on its own behalf (where the Registrar is eligible to take part in the relevant Phase).
- 3.3.2 Nominet will only process an Application insofar and to the extent that:
 - (a) The information contained in the Application meets the requirements laid down in these Rules; and
 - (b) The Domain Name applied for is available.
- 3.3.3 Nominet will only register a Domain Name in the name of an Applicant where it is satisfied that:
 - (a) The Applicant is eligible to take part in the relevant Phase;
 - (b) The Applicant is the sole remaining Applicant for that particular Domain Name, whether because there have been no other Validated Applications filed for that Domain Name, other Applications for that Domain Name were found to be invalid, in the case of the TMCH Registered Rights Sunrise the Applicant is the only Applicant that can demonstrate Use of the TMCH Registered Mark in Wales or because the Applicant made the winning bid in the Auction for the Domain Name; and
 - (c) The Applicant has paid the relevant Registration Fee to the Registrar.
- 3.3.4 Nominet, its directors, employees, contractors and agents (including the Validation Agent and the Auction Provider) are not a party to the agreement between a Registrar and its Applicants, its Domain Name Holders or any party acting in the name and/or on behalf of such Applicants or Domain Name Holders.
- 3.3.5 Applications are non-transferable.

Applicant Warranties

- 3.4 By submitting an Application to Nominet, and by effecting a Domain Name Registration, the Applicant and the Registrar submitting the Application represent and warrant that:

-
- 3.4.1 The information provided in the Application (including the Documentary Evidence, where applicable) is true, accurate and up-to-date and is made in good faith, for a lawful purpose and does not infringe the rights of any third party;
 - 3.4.2 The Applicant shall participate in good faith in the Phased Release;
 - 3.4.3 The Applicant will co-operate with Nominet and the Validation Agent and in particular (but without prejudice to the generality of the foregoing words) shall respond promptly and accurately to any requests for further information or clarification that the Validation Agent and/or Nominet may make; and
 - 3.4.4 The Applicant accepts and will abide by these Rules and any other applicable Nominet rules, protocols, policies or procedures.

Sunrise WHOIS

- 3.5 For the duration of the Phased Release, Nominet will maintain a publicly searchable database of Applications for Domain Names on its website (the “Launch Phase WHOIS”). The Launch Phase WHOIS will be searchable by Domain Name and will display all the information submitted by Applicants in relation to a Domain Name but excluding Documentary Evidence submitted to the Validation Agent.

By submitting an Application, Applicants agree for the above information to be displayed in the Launch Phase WHOIS.

Applicants should note that if they are successful in securing the registration of a Domain Name in their name, their details will be displayed as part of Nominet’s general WHOIS system.

Nominet’s Right to Accept and Reject an Application or Accept, Revoke or Cancel a Domain Name Registration

- 3.6 Applicants, registrars submitting Applications and Domain Name Holders expressly acknowledge and accept that Nominet shall be entitled (but not obliged) to reject an Application or to delete, revoke, cancel or transfer a Domain Name Registration:
 - 3.6.1 That does not contain complete and accurate information as described in these Rules, or is not in compliance with any other provision of these Rules; or
 - 3.6.2 That, in the TMCH Registered Rights Sunrise or the Welsh Business Priority Phase, does not in Nominet’s sole discretion satisfy the criteria for validation set out in these Rules; or
 - 3.6.3 To protect the integrity and stability of Nominet’s systems; or
 - 3.6.4 That in Nominet’s sole discretion would on the face of it tend to indicate, compromise or promote a serious sexual offence and that there is no legitimate use of the Domain Name which could reasonably be contemplated; or
 - 3.6.5 In order to comply with any laws or regulations of England and Wales or the EU, or any decisions of any court of competent jurisdiction; or
 - 3.6.6 To avoid liability on behalf of Nominet including its affiliates, directors, officers, employees, subcontractors and/or the Validation Agent and Auction Provider and their respective affiliates, directors, officers, employees and/or subcontractors.

Payment to Nominet

- 3.7 Nominet is not obliged to complete a Domain Name Registration until:
- 3.7.1 it has received the domain name Registration Fee from the relevant Registrar; and
 - 3.7.2 if applicable, it has received the appropriate Application Fee;
 - 3.7.3 if applicable, the Auction Provider has received the proceeds of the Auction held in relation to the Domain Name in question.

Domain Names Unavailable for Registration

- 3.8 Certain domain names, which are otherwise of the same type as the Domain Names, will not be available for registration during the Phased Release. Nominet reserves the right to reserve certain Domain Names, including, but not limited to: (i) two-character ASCII labels; (ii) in connection with the Founders' Program; (iii) comprising country and territory names; (iv) relating to the International Olympic Committee, International Red Cross and Red Crescent Movement; (v) comprising identifiers for Intergovernmental Organisations; or (vi) for other statutory bodies and organisations with Royal Charter.

The Domain Names which are available in any particular Phase will depend on which Domain Names were registered in a preceding Phase. For example, Domain Names registered during the TMCH Registered Rights Sunrise will not be available in the Welsh Business Priority Phase, Landrush or General Availability Phases. Applicants are recommended to verify on a regular basis whether or not the domain names for which they wish to submit an Application are still available on the sunrise WHOIS database. If an Application is made and an Application Fee paid in respect of a domain name that is unavailable, no refund of any fees paid by the Applicant in respect of such Application (including without limitation the Application Fee) will be made.

Term of Registration

- 3.9 Domain Names will be available for registration for up to a 10 year term. All domains will auto-renew for a period of 1 year at the end of their registration period unless the registrar is instructed by the registrant to allow the domain name to expire.

Domain Name Allocation Mechanisms

- 3.10 Generally speaking (i.e. outside of the Phased Release), Nominet registers domain names on a first-come, first served basis. This means that a domain name is registered to the person whose complete and correct application is first processed by Nominet's systems resulting in a change to the domain name register.

For the purposes of the Phased Release, however, a number of other allocation mechanisms will apply, depending on the Phase and whether there are any competing Applications for a Domain Name. These mechanisms are detailed below.

4. TMCH REGISTERED RIGHTS SUNRISE RULES

TMCH Registered Rights Sunrise Process

- 4.1 During this phase, holders of TMCH Registered Marks which have been issued with a valid Signed Mark Data ("SMD") file by the TMCH will have the opportunity for 60 days to apply for and register Domain Names corresponding to the character strings identified in the SMD File as being an identical match to the relevant TMCH Registered Marks. Domain Names that have been

registered during the Founders' Program or that have been otherwise reserved by Nominet shall not be available for registration during this Phase.

TMCH Registered Marks

- 4.2 A TMCH Registered Mark issued with a valid SMD file must meet the following eligibility criteria: A "TMCH Registered Mark" is a trade mark issued with a valid SMD File which is registered with and validated by the TMCH.

Content of an Application During the TMCH Registered Rights Sunrise

4.3

- 4.3.1 Registrars must provide the following data for each Application:

- (a) Applicant name;
- (b) Applicant email address;
- (c) Applicant postal address, which must include the following:
 - (i) at least one street line;
 - (ii) city;
 - (iii) country code; and
 - (iv) where the country code is "GB" a valid UK postcode must also be provided;
- (d) Applicant authInfo (password); and
- (e) Valid SMD file issued to the TMCH Registered Mark that forms the basis of the application matching the domain name requested.

- 4.3.2 For the purposes of the Data Protection Act 1998, any personal data (as defined in the Data Protection Act 1998) contained in an Application, or any Documentary Evidence provided, will be processed solely for the purposes of:

- (a) Administering the Phased Release;
- (b) For the Launch Phase WHOIS service;
- (c) Evaluating whether the Applicant is the proprietor, licensee or sub-licensee of an TMCH Registered Mark;
- (d) Evaluating whether the Applicant has Used the TMCH Registered Mark in Wales; and
- (e) Where an Applicant is successful in securing a Domain Name Registration, registering the Domain Name in question.

Following the registration of a Domain Name, a successful Applicant's personal data will be processed in accordance with the terms of Nominet's terms and conditions of domain name registration.

Eligible Applicants

- 4.4 Only the registered owner, or its successor in title, of a TMCH Registered Mark or another entity duly authorised by the registered owner or its successor in title as at the date of the Application, is eligible to submit an Application.

At any time, Nominet may request that the Applicant provides such evidence as it determines in its discretion is necessary to demonstrate that the Applicant is the registered owner, or its successor in title, of the TMCH Registered Mark or that the Applicant has been duly authorised by the registered owner or its successor in title.

Nominet may reject, revoke or delete any Application or Domain Name Registration at any stage if it appears that the Applicant or Domain Name Holder did not fulfil this requirement at the date of the Application. The Applicant or Domain Name Holder will not be entitled to any compensation or reimbursement from Nominet or the Validation Agent as a result of such rejection, revocation or deletion of an Application or Domain Name Registration.

Validation in General

4.5

- 4.5.1 Where more than one Application is submitted during the TMCH Registered Rights Sunrise in connection with any Domain Name, the Validation Agent shall contact the Applicants and invite them to submit Documentary evidence to enable the Validation Agent to validate the Applications in order to establish whether each Applicant has Used the TMCH Registered Mark in Wales. If only one Applicant is able to demonstrate Use of a corresponding TMCH Registered Mark in Wales, the Domain Name shall be registered for that Applicant. If more than one Applicant can demonstrate that it has Used a corresponding TMCH Registered Mark in Wales, then the Domain Name shall be registered following the outcome of an Auction between the Applicants that have demonstrated Use. If no Applicants are able to demonstrate Use of a corresponding TMCH Registered Mark, the Domain Name shall be registered following the outcome of an Auction between all Applicants.
- 4.5.2 The Validation Agent will not commence the validation of any Application until it has received all the Documentary Evidence that it requires in accordance with the Guidance Notes.
- 4.5.3 The Validation Agent shall inform Nominet of its findings in a manner agreed by and between them.
- 4.5.4 Following validation by the Validation Agent, Nominet shall determine whether to accept an Application, and thereby allow the Applicant in question to continue to take part in the Phase, or to reject the Application, and therefore end the Applicant's participation in the Phase.

Validation by the Validation Agent

- 4.6 Upon request from Nominet, the Validation Agent will attempt to verify that:

- 4.6.1 The Applicant has Used the TMCH Registered Mark in Wales, based on a review of:
- (a) The Application Data;

-
- (b) The Documentary Evidence provided by the Applicant upon request; and
 - (c) Any other information or documents that may become available to Nominet and/or the Validation Agent which in Nominet's and/or the Validation Agent's opinion is relevant to the Application.
- 4.6.2 The information contained in the Application Data and in any Documentary Evidence provided on request shall be the basis on which the Validation Agent shall attempt to validate Applications. It is the Applicant's responsibility to ensure that the Application Data and Documentary Evidence are correct, complete, legible, accurate and sufficient to verify the validity of the claims made in the Application. Nominet and the Validation Agent shall not be obliged to request additional and/or replacement Documentary Evidence in the event that the Documentary Evidence provided by the Applicant is not correct, complete, legible, accurate and sufficient to verify the validity of the claims made in the Application.
- 4.6.3 Notwithstanding section 4.6.2, where, following its evaluation of the documents set out in section 4.6.1, the Validation Agent is of the opinion that the Applicant has not provided sufficient evidence to establish that the Applicant has Used the TMCH Registered Mark in Wales, the Validation Agent shall be entitled to, but is not obliged to, inform the Applicant of this fact and invite the Applicant to provide further Documentary Evidence.
- 4.6.4 Following such a notification, the Applicant shall have an opportunity to provide further Documentary Evidence to support its Application. Such additional evidence must be provided by whatever deadline the Validation Agent specifies in its notice.
- 4.6.5 The Validation Agent shall re-evaluate the Application based on any additional evidence provided by the Applicant and shall then notify Nominet accordingly of its final decision.
- 4.6.6 Applicants will have no further opportunity to provide Documentary Evidence to the Validation Agent during the TMCH Registered Rights Sunrise.
- 4.6.7 If the Validation Agent is unable to validate that the Applicant has Used the TMCH Registered Mark in Wales, the Applicant has the opportunity to appeal the decision. The fee for such an appeal, payable to the Validation Agent, will be specified by Nominet in advance of the commencement of the TMCH Registered Rights Sunrise. The request for an appeal must be made to the Validation Agent within 10 days of the Validation Agent communicating the outcome of its evaluation. The request for an appeal should be made via the Validation System. Upon appeal, the Validation Agent will conduct an internal review of the decision. If the Validation Agent is still not able to confirm the Use, the appeal will be referred to an independent legally qualified expert for a final decision. If, at any point, the original validation result is overturned and the Applicant is found to be successful, the appeal fee will be refunded to the Applicant. The appeal decision is final.
- 4.6.8 Neither Nominet nor the Validation Agent shall be liable for any failure on the part of the Applicant and/or their Registrar to provide information in the Application or Documentary Evidence in accordance with this standard, regardless of whether the Application is validated.

Validation Agent's Role

-
- 4.7.1 When validating Applications, the Validation Agent shall be entitled to rely upon the Application Data, any Documentary Evidence and any other information or evidence that the Validation Agent in its absolute discretion considers relevant.
 - 4.7.2 The Validation Agent shall be required by Nominet to carry out its tasks in an objective, transparent and non-discriminatory manner. It shall have the right, but not the obligation, to conduct its own investigations into the circumstances of the Applications and any Documentary Evidence received as part of the TMCH Registered Rights Sunrise;
 - 4.7.3 The Validation Agent shall not be entitled to amend, refuse or cancel Applications or Application Data. It will merely inform Nominet of its findings.
 - 4.7.4 The Validation Agent is Nominet's sub-contractor for the purposes of carrying out the validations. The Validation Agent has no direct contractual relationship with the Applicants.

Documentary Evidence

4.8

- 4.8.1 By submitting an Application, each Applicant agrees that, on request, it will provide Documentary Evidence to the Validation Agent through the Validation System to verify Use of the TMCH Registered Mark in accordance with the instructions and timeframes set out in these Rules as they may be amended from time to time or otherwise provided by Nominet and/or the Validation Agent.
- 4.8.2 Applicants can demonstrate Use in Wales by providing one or more of the following types of Documentary Evidence which must contain the full text of the TMCH Registered Mark in a clear and stand-alone format:
 - (a) Dated advertising and marketing materials (e.g. brochures, pamphlets, catalogues, product manuals, displays or signage, press releases, screen shots, social media marketing materials etc.);
 - (b) Links to websites, screen shots from websites;
 - (c) Headed and dated stationery, receipts, invoices;
 - (d) Dated photographs or scans of product labels, tags or containers; or
 - (e) A signed declaration of use by a UK solicitor or trade mark attorney.
- 4.8.3 The Documentary Evidence provided must show Use in Wales, so use in an internal document such as an internal memo, or in advertising overseas, is inadequate.
- 4.8.4 Other points to note in respect of Documentary Evidence:
 - (a) Use may be by a previous proprietor of the mark (this will necessarily be the case if the mark has been assigned since the date of the application for the Domain Name);
 - (b) Using a mark on goods or their packaging where the goods are intended for export constitutes genuine use;
 - (c) Use by a third party with the proprietor's consent (for example, under licence) constitutes genuine use;

-
- (d) Use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (so, for example, an application by a window cleaning company, ABC Window Cleaning, for the domain name abc.co.uk, based on the trade mark “ABC”, would be adequately supported by use of the term “ABC WINDOW CLEANING”, “window cleaning” being descriptive and non-distinctive in respect of ABC Window Cleaning’s products);
 - (e) Genuine use arises where the mark is used in accordance with its essential function, which is to guarantee the identity of the origin of goods or services;
 - (f) Genuine use is not a question of quantity of use. Minimal use of the mark in accordance with its essential function constitutes genuine use;
 - (g) Use designed merely to preserve a trade mark registration is not genuine use;
 - (h) Internal use within an organisation or a group is not genuine use, but dealings with other businesses are, even where the goods do not ultimately reach the end consumer; and
 - (i) Genuine use by a non-profit organisation can include public-facing use even for non-profit purposes.
- 4.8.5 The Applicant will submit no more than 10MB of Documentary Evidence to prove Use in Wales. Further pages need not be considered by Nominet or the Validation Agent. Documentary Evidence must be submitted in .pdf format. Other file types may not be submitted.
- 4.8.6 If no Documentary Evidence has been received by the Validation Agent within 14 days of a request, or such Documentary Evidence is in the opinion of the Validation Agent incomplete, inaccurate or otherwise inadequate to validate the Application, the Validation Agent shall notify Nominet accordingly.
- 4.8.7 The Application and Documentary Evidence must be submitted in such format and such manner as the Validation Agent may specify from time to time.
- 4.8.8 Any Documentary Evidence that is submitted by or on behalf of the Applicant shall be submitted in accordance with the Guidance Notes;
- 4.8.9 Any Documentary Evidence submitted to the Validation Agent shall contain accurate, up-to-date information as required by the Validation Agent and shall not be fraudulent.
- 4.8.10 Documentary Evidence shall not contain defamatory materials or information that is confidential to any third party. Any such materials may be disregarded by the Validation Agent.
- 4.8.11 It is the sole responsibility of the Applicant to ensure that these requirements are complied with. Documentary Evidence sent to the Validation Agent in the name and on behalf of the Applicant shall be deemed to have been sent by the Applicant.

Representations and Warranties by Applicants in the TMCH Registered Rights Sunrise Process

- 4.9 By submitting an Application, the Registrar and the Applicant each represent and warrant to Nominet and the Validation Agent that the Applicant is the registered owner or its successor in title

of the TMCH Registered Mark described in the Application or another entity duly authorised by the registered owner or its successor in title.

Changes to the Status of a TMCH Registered Mark Following Validation

4.10

- 4.10.1 In the event that the legal status of a TMCH Registered Mark changes between the date of the Application and the date the relevant Applicant ceases to be a part of the TMCH Registered Rights Sunrise (e.g. following the registration of the Domain Name to the Applicant, the rejection of the Application or the conclusion of an Auction), the Applicant must inform Nominet of the change in status and provide an explanation of the reason the change has occurred.
- 4.10.2 If, in the opinion of Nominet, the change in status of the TMCH Registered Mark causes it to cease to be a TMCH Registered Mark, or causes the Applicant to cease to be the registered proprietor of the TMCH Registered Mark, Nominet shall determine whether the Applicant is entitled to continue to take part in the TMCH Registered Rights Sunrise. Where it is determined that an Applicant may no longer take part in the process, Nominet may take such actions as are necessary to ensure the integrity of the Phased Release, which may include cancelling the registration of the relevant Domain Name and re-registration in the name of another Applicant. In that event, none of the fees associated with the Application will be refundable.

Domain Name Availability and Allocation of Domain names in the Context of the TMCH Registered Rights Sunrise

4.11

- 4.11.1 As the Domain Names will not be allocated on a first-come, first-served basis during the TMCH Registered Rights Sunrise, the time of receipt of an Application within the TMCH Registered Rights Sunrise is irrelevant for the allocation and registration of a particular Domain Name. Submitting an Application early in the process shall give the Applicant no advantage or priority in the TMCH Registered Rights Sunrise. No Domain Names shall be allocated until the end of the Phase.
- 4.11.2 If Nominet has received only one Application for a particular Domain Name, Nominet shall proceed with the Domain Name Registration, subject to the exceptions laid down in these Rules, and charge the corresponding Registration Fee.
- 4.11.3 Where there is more than one Application for the same Domain Name, the Applications shall be submitted to the Validation Agent who shall contact the Applicants to determine which Applicants have Used their corresponding TMCH Registered Mark in Wales. Any Applicant who demonstrates, to the satisfaction of the Validation Agent, that they have Used the TMCH Registered Mark in Wales shall be deemed to have a Validated Application for the purposes of the TMCH Registered Rights Sunrise.
- 4.11.4 Where there is only one Validated Application for a particular Domain Name, Nominet shall proceed with the Domain Name Registration, subject to the exceptions laid down in these Rules, and charge the corresponding Registration Fee.
- 4.11.5 Where there is more than one Validated Application for the same Domain Name or where none of the Applicants are able to demonstrate Use in Wales, all such successfully (or

unsuccessfully (where applicable)) validated Applications will be submitted to the Auction Provider, who will determine the successful bidder in an Auction for the Domain Name Registration in accordance with the Auction Rules, subject to the exceptions laid down in these Rules.

4.11.6 The Auction Provider will invite all Applicants who have submitted an Application for a particular Domain Name that have been accepted by Nominet to participate in the Auction.

4.11.7 The Application Fee will not be refundable if the Applicant fails in the Auction.

5. WELSH BUSINESS PRIORITY PHASE RULES

Welsh Business Priority Phase Process

5.1 During this phase, holders of Eligible Rights will have the opportunity to apply for and register Domain Names corresponding to their protected marks for a limited period of time, provided that such Domain Names have not already been registered during the TMCH Registered Rights Sunrise. Similarly, Domain Names that have been registered during the Founders' Program or that have been otherwise reserved by Nominet shall not be available for registration during this Phase.

In the Welsh Business Priority Phase, no preference will be given to Applications based on TMCH Registered Marks over Applications based on other forms of Eligible Right. In the Welsh Business Priority Phase, TMCH Registered Marks shall be treated and validated in the same manner as Eligible Registered Rights.

Eligible Rights

5.2

5.2.1 An "Eligible Registered Right" is a registered trade mark which is effective in the UK and where the registration meets the following criteria:

- (a) The mark text of the trade mark is an Exact Match with the domain name being applied for;
 - (b) The trade mark continues to be in force at the date the Application is validated by the Validation Agent; and
 - (c) The Applicant has Used such trade mark in Wales;
- as determined by the Validation Agent in its absolute discretion.

5.2.2 An "Eligible Unregistered Right" is an unregistered trade mark which fulfils the following criteria:

- (a) The mark is an Exact Match for the domain name being applied for; and
 - (b) The Applicant has Used such mark in Wales prior;
- as determined by the Validation Agent in its absolute discretion.

5.2.3 An "Eligible Right" is any of an Eligible Registered Right or an Eligible Unregistered Right.

Exact Match

5.3

-
- 5.3.1 Exact Match means that, ignoring the first level suffix, the Domain Name applied for must exactly match the text of the right claimed and any Documentary Evidence supplied, subject to the following exceptions:
- (a) As a domain name cannot contain spaces or special characters (such as, but not limited to: “.”, “@”, “&”, “\$”, “#”, “%”, “!”, “:”, “*”, “+”), these characters may be either (i) omitted; or (ii) replaced by hyphens by the applicant;
 - (b) Characters “@” and “&” may additionally be spelled out with “at” or “and” (or the Welsh language equivalent) respectively
 - (c) Accented characters shall not be an exact match for their non-accented equivalent (for example é is not an exact match for e and vice versa); and
 - (d) Company identifiers such as Limited or Ltd may be omitted from the domain name.
- 5.3.2 For trade marks including figurative elements (e.g. stylisation or logos) the part of the trade mark for which priority is being claimed in the domain name application must be:
- (a) predominant;
 - (b) clearly separable or distinguishable from the device element; and
 - (c) in the same order they appear on the trade mark record in the applicable database.

Content of an Application During the Welsh Business Priority Phase

5.4

- 5.4.1 Registrars must provide the following data for each Application:
- (a) Applicant name;
 - (b) Applicant email address;
 - (c) Applicant postal address, which must include the following:
 - (i) at least one street line;
 - (ii) city;
 - (iii) country code; and
 - (iv) where the country code is “GB” a valid UK postcode must also be provided;
 - (d) Applicant authInfo (password); and
 - (e) If the Domain Name applied for matches one for which there is a mark registered with the TMCH, then a valid trade marks claims noticeID must be provided which matches the Domain Name applied for.
- 5.4.2 For the purposes of the Data Protection Act 1998, any personal data (as defined in the Data Protection Act 1998) contained in an Application, or any Documentary Evidence provided, will be processed solely for the purposes of:
- (a) Administering the Phased Release;

-
- (b) For the Launch Phase WHOIS service;
 - (c) Evaluating whether the Applicant is the proprietor, licensee or sub-licensee of an Eligible Right;
 - (d) Evaluating whether the Applicant has Used the purported Eligible Right in Wales; and
 - (e) Where an Applicant is successful in securing a Domain Name Registration, registering the Domain Name in question.

Following the registration of a Domain Name, a successful Applicant's personal data will be processed in accordance with the terms of Nominet's terms and conditions of domain name registration.

Eligible Applicants

- 5.5 Only the owner, or its successor in title, of an Eligible Right or another entity duly authorised by the registered owner or its successor in title as at the date of the Application is eligible to submit an Application.

Where an Eligible Right is jointly owned, the Applicant must submit as part of their Documentary Evidence a signed written statement from the other joint owner (or joint owners, if there is more than one) confirming that (i) the Applicant's co-owner(s) consent(s) to the Applicant making the Application and having the Domain Name registered to it and (ii) that the person signing the consent agrees to being contacted by the Validation Agent and/or by Nominet to confirm the consent if either of them considers that it is necessary to do so. If the consent is not provided or the Validation Agent or Nominet is unable to contact the joint owner(s) to confirm their consent the Application may be rejected for lack of consent.

Where the Applicant is not the owner, or its successor in title, of an Eligible Right, the Applicant must submit as part of their Documentary Evidence a signed written statement from the owner confirming (i) that the owner consents to the Applicant making the Application and having the Domain Name registered to it and (ii) that the person signing the consent agrees to being contacted by the Validation Agent and/or by Nominet to confirm the consent if either of them considers that it is necessary to do so. If the consent is not provided or the Validation Agent is unable to contact the owner to confirm their consent the Application may be rejected for lack of consent.

Nominet may reject, revoke or delete any Application or Domain Name Registration at any stage if it appears that the Applicant or Domain Name Holder did not fulfil this requirement at the date the Application is validated by the Validation Agent. The Applicant or Domain Name Holder will not be entitled to any compensation or reimbursement from Nominet or the Validation Agent as a result of such rejection, revocation or deletion of an Application or Domain Name Registration.

Validation in General

5.6

- 5.6.1 Any Applications based on an Eligible Unregistered Right submitted during the Welsh Business Priority Phase will be validated by the Validation Agent in order to confirm, where necessary, (i) the identity and eligibility of the Applicant; (ii) that the Applicant has Used the Eligible Unregistered Right in Wales; and (iii) that the right claimed is an

Eligible Unregistered Right. Applicants will not be entitled to register a Domain Name or take part in an Auction unless their Application has been successfully validated.

- 5.6.2 Any Applications based on an Eligible Registered Right submitted during the Welsh Business Priority Phase will be validated by the Validation Agent in order to confirm, where necessary, (i) the identity and eligibility of the Applicant; (ii) that the Applicant has Used the Eligible Registered Right in Wales; and (iii) that the trade mark upon which the Application is based is an Eligible Registered Right. Applicants will not be entitled to register a Domain Name or take part in an Auction unless their Application has been successfully validated.
- 5.6.3 The Validation Agent will not commence the validation of any Application until it has received all the Documentary Evidence that it requires in accordance with the Guidance Notes.
- 5.6.4 The Validation Agent shall inform Nominet of its findings in a manner agreed by and between them.
- 5.6.5 Following validation by the Validation Agent, Nominet shall determine whether to accept an Application, and thereby allow the Applicant in question to continue to take part in the Phase, or to reject the Application, and therefore end the Applicant's participation in the Phase. If only one Applicant is able to demonstrate Use of a corresponding Eligible Right in Wales, the Domain Name shall be registered for that Applicant. If more than one Applicant can demonstrate that it has Used a corresponding Eligible Right in Wales, then the Domain Name shall be registered following the outcome of an Auction between the Applicants that have demonstrated Use. If no Applicants are able to demonstrate Use of a corresponding Eligible Right, the Domain Name shall not be registered to any of the Applicants during this Phase.

Validation by the Validation Agent

- 5.7 Upon request from Nominet, the Validation Agent will attempt to verify that:
 - 5.7.1 Each of the Applications is founded on an Eligible Right, including that the purported Eligible Right has been Used by the Applicant in Wales, based on a review of:
 - (a) The Application Data;
 - (b) For Applications claiming to be based on an Eligible Registered Right, the data published by the applicable trade mark office for the Eligible Registered Right in question;
 - (c) The Documentary Evidence provided by the Applicant; and
 - (d) Any other information or documents that may become available to Nominet and/or the Validation Agent which in Nominet's and/or the Validation Agent's opinion is relevant to the Application.
 - 5.7.2 The second level of the Domain Name applied for is an Exact Match with the sign in which the Eligible Right subsists;
 - 5.7.3 If the Applicant is a joint owner of the Eligible Right or is authorised by the owner, that their co-owner(s) or the owner, as applicable, consents to the Applicant making the Application and having the Domain Name registered to it.

-
- 5.7.4 The information contained in the Application Data and in any Documentary Evidence provided shall be the basis on which the Validation Agent shall attempt to validate Applications. It is the Applicant's responsibility to ensure that the Application Data and Documentary Evidence are correct, complete, legible, accurate and sufficient to verify the validity of the claims made in the Application. Nominet and the Validation Agent shall not be obliged to request additional and/or replacement Documentary Evidence in the event that the Documentary Evidence provided by the Applicant is not correct, complete, legible, accurate and sufficient to verify the validity of the claims made in the Application.
- 5.7.5 Notwithstanding section 5.7.4, where, following its evaluation of the documents set out in section 5.7.1, the Validation Agent is of the opinion that the Applicant has not provided sufficient evidence to establish that the Applicant has an Eligible Right, the Validation Agent shall be entitled to, but is not obliged to, inform the Applicant of this fact and invite the Applicant to provide further Documentary Evidence.
- 5.7.6 Following such a notification, the Applicant shall have an opportunity to provide further Documentary Evidence to support its Application. Such additional evidence must be provided by whatever deadline the Validation Agent specifies in its notice.
- 5.7.7 The Validation Agent shall re-evaluate the Application based on any additional evidence provided by the Applicant and shall then notify Nominet accordingly of its final decision.
- 5.7.8 Applicants will have no further opportunity to provide Documentary Evidence to the Validation Agent during the Welsh Business Priority Phase.
- 5.7.9 If the Validation Agent is unable to validate that the Applicant has an Eligible Right, the Applicant has the opportunity to appeal the decision. The fee for such an appeal, payable to the Validation Agent, will be specified by Nominet in advance of the commencement of the TMCH Registered Rights Sunrise. The request for an appeal must be made to the Validation Agent within 10 days of the Validation Agent communicating the outcome its evaluation. The request for an appeal should be made via the Validation System. Upon appeal, the Validation Agent will conduct an internal review of the decision. If the Validation Agent is still not able to confirm the claimed priority, the appeal will be referred to an independent legally qualified expert for a final decision. If, at any point, the original validation result is overturned and the Applicant is found to be successful, the appeal fee will be refunded to the Applicant. The appeal decision is final.
- 5.7.10 Neither Nominet nor the Validation Agent shall be liable for any failure on the part of the Applicant and/or their Registrar to provide information in the Application or Documentary Evidence in accordance with this standard, regardless of whether the Application is validated.
- 5.7.11 In carrying out the validations in the Welsh Business Priority Phase, and in connection with Eligible Registered Right, the Validation Agent may rely on the publicly available databases of registered trade marks made available national trade mark registries worldwide. Neither Nominet nor the Validation Agent shall be liable for the consequences of any error or omission in such databases.

Validation Agent's Role

-
- 5.8.1 When validating Applications, the Validation Agent shall be entitled to rely upon the Application Data, any Documentary Evidence and any other information or evidence that the Validation Agent in its absolute discretion considers relevant.
 - 5.8.2 The Validation Agent shall be required by Nominet to carry out its tasks in an objective, transparent and non-discriminatory manner. It shall have the right, but not the obligation, to conduct at its sole discretion, its own investigations into the circumstances of the Applications and any Documentary Evidence received as part of the Welsh Business Priority Phase;
 - 5.8.3 The Validation Agent shall not be entitled to amend, refuse or cancel Applications or Application Data. It will merely inform Nominet of its findings.
 - 5.8.4 The Validation Agent is Nominet's sub-contractor for the purposes of carrying out the validations. The Validation Agent has no direct contractual relationship with the Applicants.

Documentary Evidence

5.9

- 5.9.1 By submitting an Application, each Applicant agrees that, on request, it will provide Documentary Evidence to the Validation Agent to verify the contents of the Application in accordance with the instructions and timeframes set out in these Rules as they may be amended from time to time or otherwise provided by Nominet and/or the Validation Agent.
- 5.9.2 Applicants can demonstrate Use in Wales by providing one or more of the following types of Documentary Evidence which must contain the full text of the Eligible Right in a clear and stand-alone format:
 - (a) Dated advertising and marketing materials (e.g. brochures, pamphlets, catalogues, product manuals, displays or signage, press releases, screen shots, social media marketing materials etc.);
 - (b) Links to websites, screen shots from websites;
 - (c) Headed and dated stationery, receipts, invoices;
 - (d) Dated photographs or scans of product labels, tags or containers; or
 - (e) A signed declaration of use by a UK solicitor or trade mark attorney.
- 5.9.3 The Documentary Evidence provided must show Use in Wales, so use in an internal document such as an internal memo, or in advertising overseas, is inadequate.
- 5.9.4 Other points to note in respect of Documentary Evidence:
 - (a) Use may be by a previous proprietor of the mark (this will necessarily be the case if the mark has been assigned prior to the application form the Domain Name);
 - (b) Using a mark on goods or their packaging where the goods are intended for export constitutes genuine use;

-
- (c) Use by a third party with the proprietor's consent (for example, under licence) constitutes genuine use;
 - (d) Use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (so, for example, an application by a window cleaning company, ABC Window Cleaning, for the domain name abc.co.uk, based on the trade mark "ABC", would be adequately supported by use of the term "ABC WINDOW CLEANING", "window cleaning" being descriptive and non-distinctive in respect of ABC Window Cleaning's products);
 - (e) Genuine use arises where the mark is used in accordance with its essential function, which is to guarantee the identity of the origin of goods or services;
 - (f) Genuine use is not a question of quantity of use. Minimal use of the mark in accordance with its essential function constitutes genuine use;
 - (g) Use designed merely to preserve a trade mark registration is not genuine use;
 - (h) Internal use within an organisation or a group is not genuine use, but dealings with other businesses are, even where the goods do not ultimately reach the end consumer; and
 - (i) Genuine use by a non-profit organisation can include public-facing use even for non-profit purposes.
- 5.9.5 The Applicant will submit no more than 10MB of Documentary Evidence in support of each Application. Further pages need not be considered by Nominet or the Validation Agent. Documentary evidence must be submitted in .pdf format. Other files types may not be submitted.
- 5.9.6 If no Documentary Evidence has been received by the Validation Agent within 14 days of a request, or such Documentary Evidence is in the opinion of the Validation Agent incomplete, inaccurate or otherwise inadequate to validate the Application, the Validation Agent shall notify Nominet accordingly.
- 5.9.7 The Application and Documentary Evidence must be submitted in such format and such manner as the Validation Agent may specify from time to time.
- 5.9.8 Any Documentary Evidence that is submitted by or on behalf of the Applicant shall be submitted in accordance with the Guidance Notes.
- 5.9.9 Any Documentary Evidence submitted to the Validation Agent shall contain accurate and up-to-date information as required by the Validation Agent and shall not be fraudulent.
- 5.9.10 Documentary Evidence shall not contain defamatory materials or information that is confidential to any third party. Any such materials may be disregarded by the Validation Agent.
- 5.9.11 It is the sole responsibility of the Applicant to ensure that these requirements are complied with. Documentary Evidence sent to the Validation Agent in the name and on behalf of the Applicant shall be deemed to have been sent by the Applicant.

Representations and Warranties by Applicants in the Unregistered Rights Sunrise Process

- 5.10 By submitting an Application, the Registrar and the Applicant each represent and warrant to Nominet and the Validation Agent that:
- 5.10.1 The Applicant is the owner or its successor in title of the Eligible Right described in the Application or is duly authorised by the owner or its successor in title;
 - 5.10.2 To the best of their knowledge, the Eligible Right mentioned in the Application is enforceable and will remain enforceable on the date on which the Application Data is validated by the Validation Agent in the context of the Welsh Business Priority Phase.

Changes to the Status of an Eligible Right Following Validation

- 5.11
- 5.11.1 In the event that the legal status of an Eligible Right changes between the date of the Application and the date the relevant Applicant ceases to be a part of the Welsh Business Priority Phase (e.g. following the registration of the Domain Name to the Applicant, the rejection of the Application or the conclusion of an Auction), the Applicant must inform Nominet of the change in status and provide an explanation of the reason the change has occurred.
 - 5.11.2 If, in the opinion of Nominet, the change in status of the Eligible Right causes it to cease to be an Eligible Right, or causes the Applicant to cease to be the registered proprietor of the Eligible Right, Nominet shall determine whether the Applicant is entitled to continue to take part in the Welsh Business Priority Phase. Where it is determined that an Applicant may no longer take part in the process, Nominet may take such actions as are necessary to ensure the integrity of the Phased Release, which may include cancelling the registration of the relevant Domain Name and re-registration in the name of another Applicant. In that event none of the fees associated with the Application will be refundable.

Domain Name Availability and Allocation of Domain names in the Context of the Welsh Business Priority Phase

- 5.12
- 5.12.1 As the Domain Names will not be allocated on a first-come, first-served basis during the Welsh Business Priority Phase, the time of receipt of an Application within the Welsh Business Priority Phase is irrelevant for the allocation and registration of a particular Domain Name. Submitting an Application early in the process shall give the Applicant no advantage or priority in the Welsh Business Priority Phase. No advantage or priority will be given to Eligible Registered Rights over Eligible Unregistered Rights or vice versa. No Domain Names shall be allocated until the end of the Phase.
 - 5.12.2 The Applications shall be submitted to the Validation Agent who shall contact the Applicants to request the submission of Documentary Evidence to demonstrate that the Applicant has an Eligible Right
 - 5.12.3 Any Applicant who demonstrates to the satisfaction of the Validation Agent that they have a right to an Eligible Right shall be deemed to have a Validated Application for the purposes of the Welsh Business Priority Phase.

-
- 5.12.4 Where there is only one Validated Application for a particular Domain Name, Nominet shall proceed with the Domain Name Registration, subject to the exceptions laid down in these Rules, and charge the corresponding Registration Fee.
 - 5.12.5 Where there is more than one Validated Application for the same Domain Name, all such successfully validated Applications will be submitted to the Auction Provider, who will determine the successful bidder in an Auction for the Domain Name Registration in accordance with the Auction Rules, subject to the exceptions laid down in these Rules.
 - 5.12.6 The Auction Provider will invite all Applicants who have submitted an Application for a particular Domain Name, that have been accepted by Nominet, to participate in the Auction process.
 - 5.12.7 The Application Fee will not be refundable if the Applicant fails in the Auction.

6. LANDRUSH RULES

- 6.1 Subject to any legal or technical restrictions, and to the provisions of these Rules, any interested party shall be entitled to submit Applications during Landrush for any Domain Name that has not been reserved, restricted, registered or awarded by Nominet in the context of any of the processes or Phases preceding the Landrush (including the Founders' Program), and that meets the technical requirements imposed by Nominet. No more than one Application may be made by each person for any one Domain Name.
- 6.2 Nominet reserves the right to designate any Domain Names as Premium Names. Premium Names shall be available during the Landrush subject to the payment of a premium, such premium to be determined by Nominet in its sole discretion.
- 6.3 Any and all Applications received by Nominet during Landrush shall be deemed received at the same time. No priority or advantage will be given to those who claim to have rights in a mark or sign which is the same as a Domain Name during the Landrush.
- 6.4 Following closing of the Landrush application process, Nominet shall:
 - 6.4.1 Directly award a Domain Name Registration to the Applicant if their Application was the only one relating to the relevant Domain Name which was received during Landrush; and
 - 6.4.2 Inform the Auction Provider of the Domain Names and their corresponding Applicants if Nominet has received more than one Application for any particular Domain Name. In this case, Nominet shall award a Domain Name Registration to the Applicant who placed the winning bid in the Auction for that Domain Name, following notification by the Auction Provider of outcome of the Auction. Premium Names sold at Auction shall be subject to a reserve price equal to the premium that would be payable if no Auction took place.

7. MULTIPLE APPLICATIONS

Domain Names for which only there is only one qualifying Application (according to these Rules) in any particular Phase will be allocated to the relevant Applicant.

If a Domain Name receives more than one successfully Validated Application, or more than one Application if none are validated in TMCH Registered Rights Sunrise, during any particular Phase, an Auction will be held for such Domain Name between the valid Applicants within that Phase, instead of being allocated on a first-come, first-served basis. Auctions will be conducted by the

Auction Provider in accordance with the Auction Rules. Applicants must take part in the Auction process in good faith.

Prior to the commencement of an Auction, each qualified bidder will be provided with the required information necessary to participate in the relevant Auction.

8. GENERAL AVAILABILITY

- 8.1 Subject to any legal or technical restrictions, and the provisions of these Rules, any party shall be entitled to request a Domain Name Registration with Nominet through a Registrar in the usual manner, following the start of General Availability for those Domain Names which have not been registered during the Phases preceding General Availability.

Nominet shall effect such Domain Name Registrations on a first-come, first-served basis, subject to the Nominet's usual terms and conditions of domain name registration.

- 8.2 Any person in the world will have the opportunity to apply to register an available Domain Name at any time after General Availability commences. The date referenced for the commencement of General Availability in these Rules is subject to change, and an Applicant's right to register Domain Names is subject to the official launch date of General Availability, irrespective of whatever date may be recorded in these Rules or other previously published materials. The date of the commencement of General Availability will be advertised on Nominet's website.

9. DISPUTE RESOLUTION POLICIES

Sunrise Dispute Resolution Policy

- 9.1 The Sunrise Dispute Resolution Policy ("SDRP"), as published on our website and updated from time to time, applies to disputes arising in relation to applications for and registrations of domain names connected to the TMCH Registered Rights Sunrise. The can be used to challenge the rejection or approval of an application for a Domain Name during this phase as having been contrary to these Rules, or any published criteria related to the TMCH Registered Rights Sunrise.

Trademark Clearinghouse Claims Service

- 9.2 For the avoidance of doubt, all Domains Names registered as part of the Welsh Business Priority Phase and the Landrush shall be subject to the Trade Mark Clearing House Claims Service. Trade Mark Claims Service will also be provided for a minimum of the first ninety (90) days of the General Availability.

10. MISCELLANEOUS

Amendments

- 10.1 Nominet may amend the provisions of these Rules from time to time, which amendments shall take effect at the time they are published on Nominet's website, without prior notice to Registrars, Domain Name Holders and/or Applicants. Nominet may further more issue interpretative guidelines on its website regarding the terms and provisions of these Rules. In particular, but without prejudice to the foregoing, Nominet may suspend any Domain Name from the Domain Name release process set out in these rules if Nominet in its sole discretion considers that it is necessary to do so.

If any part of these Rules shall be found invalid or unenforceable for any reason, the remainder of these Rules shall be valid and enforceable as if such provision were not included therein.

Limitation of Liability

- 10.2 To the maximum extent allowed under English law, neither Nominet nor the Validation Agent or the Auction Provider shall be liable for any indirect, consequential or incidental damages or loss of profits, whether contractual, tortious (including negligence) or otherwise arising, resulting from or related to registration, validation or use of a Domain Name or to the use of Nominet's systems or web site, even if they have been advised of the possibility of such loss or damages, including but not limited to decisions taken by Nominet to register or not to register a domain name on the basis of the findings of the Validation Agent, as well as the consequences of those decisions. Nothing in these Rules should be taken as limiting Nominet's, the Validation Agent's or the Auction Provider's liability in relation to death or personal injury caused by Nominet's negligence, nor for any liability due to fraudulent misrepresentation.

To the extent allowed under the laws of England and Wales, aggregate liability for damages shall in any case be limited to the amounts paid to Nominet in relation to the Application concerned (for the avoidance of doubt, excluding additional fees paid by the Applicant to the Registrar or reseller, Validation Agent and/or Auction fees). The Applicant agrees that no greater or other damages may be claimed from Nominet (such as, but not limited to, any fees payable or paid by the Applicant in the context of any proceedings initiated against a decision by Nominet to register or not to register a domain name).

Applicants and Domain Name Holders shall indemnify and hold harmless each of Nominet, the Validation Agent or the Auction Provider from claims filed or disputes initiated by third parties, and shall indemnify and compensate Nominet for any costs or expenses incurred or damages for which they 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 or that any of the Documentary Evidence is defamatory or discloses the confidential information of any third party.

For the purposes of this section, the exclusions of liability and indemnity benefiting Nominet, the Validation Agent and the Auction Provider shall also apply to their respective members, directors, employees and/or subcontractors.

Governing Law, Disputes and Jurisdiction

- 10.3 These Rules, as amended from time to time, and any non-contractual rights or obligations arising out of or in connection with these Rules or their subject matter will be governed by the laws of England and Wales and the courts of England shall have exclusive jurisdiction over any disputes arising from the Phased Release or these Rules.