



The Internet Corporation for Assigned Names and Numbers

Date: 12 May 2016

### ICANN Preliminary Determination

Re: Notice of Registry Operator Request for Termination of Registry Agreement -  
.FLSMIDTH Top-Level-Domain

On 12 February 2016, FLSmidth A/S notified ICANN of its intent to terminate the .FLSMIDTH Registry Agreement entered into on 24 July 2014. Pursuant to section 4.4(b) of the Registry Agreement, Registry Operator may terminate the Registry Agreement for any reason upon one hundred eighty (180) calendar day advance notice.

Pursuant to the terms of section 4.5 of the Registry Agreement, ICANN consulted with FLSmidth A/S to assess whether to transition operation of the .FLSMIDTH top-level domain (TLD) to a successor Registry Operator.

Subject to an on-going evaluation, ICANN has made a preliminary determination that operation of the .FLSMIDTH TLD need not be transitioned to a successor Registry Operator. ICANN's review and determinations regarding transition to a successor registry are subject to the following criteria from section 4.5 of the Registry Agreement:

- (i) *ICANN will take into consideration any intellectual property rights of Registry Operator (as communicated to ICANN by Registry Operator) in determining whether to transition operation of the TLD to a successor registry operator and*
- (ii) *Registry Operator demonstrates to ICANN's reasonable satisfaction that*
  - (A) *all domain name registrations in the TLD are registered to, and maintained by, Registry Operator or its Affiliates for their exclusive use,*
  - (B) *Registry Operator does not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator, and*
  - (C) *Transitioning operation of the TLD is not necessary to protect the public interest.*

ICANN's preliminary determination is based on the following rationale:

- FLSmidth A/S has represented to ICANN that it holds intellectual property rights for the name "FLSMIDTH" in at least forty five (45) jurisdictions.



- Only one domain name is registered in the .FLSMIDTH TLD and it is mandated by the Registry Agreement (nic.flsmidth).
- FLSmidth A/S, in its function as the Registry Operator, has represented to ICANN that it does not sell, distribute or transfer control or use of any registrations in the .FLSMIDTH TLD to third parties.

Before releasing its final determination, ICANN will consider input provided by interested parties via email at [ra-termination-comments@icann.org](mailto:ra-termination-comments@icann.org) . The deadline to submit input is 11 June 2016 – 23:59 UTC.

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ICANN