

SERVICES AGREEMENT

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This Services Agreement (this “**Agreement**”) is dated as of [~~!~~●] 2016 and is entered into

by and between Internet Corporation for Assigned Names and Numbers, a California nonprofit public benefit corporation (“**ICANN**”) and [PTI], a California nonprofit public benefit corporation (the “**PTI**”), and shall be effective as of the last date on which each of the conditions set forth in Section 1 have been satisfied (the “**Effective Date**”). ICANN and PTI may each be referred to individually as a “**Party**” and collectively as the “**Parties.**”

WHEREAS, on 14 March 2014, the National Telecommunications and Information Administration (“**NTIA**”) announced the transition of NTIA’s stewardship role of key Internet domain name functions to the global multi-stakeholder community (the “**IANA Stewardship Transition**”);

WHEREAS, following the IANA Stewardship Transition, PTI will perform the IANA functions on behalf of ICANN; and

WHEREAS, ICANN and PTI desire to enter into this Agreement pursuant to which ICANN will provide the services set forth herein to facilitate PTI’s performance of the IANA functions.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I: ~~ARTICLE I:~~ **CONDITION PRECEDENT**

Section 1.1 ~~Section 1.1~~ Condition Precedent. This Agreement shall be effective as of the last date on which the following conditions have been satisfied: (i) ICANN is released from its obligations to coordinate root zone management as currently performed by the National Telecommunications and Information Administration, United States Department of Commerce (“**DOC**”), as may be added to or modified by the DOC and ICANN, pursuant to its contract with the DOC, effective as of 01 October 2012 (including any extension thereof) and (ii) ICANN has accepted the responsibility to perform any of the IANA functions.¹

ARTICLE II: ~~ARTICLE II:~~ **REPRESENTATIONS AND WARRANTIES**

¹ Note to ICANN: Consider adding a second step between clauses (i) and (ii) above to make it clear that stewardship has transferred from DOC to the multi-stakeholder community. Otherwise, the plain language is somewhat confusing because ICANN is released from the IANA Naming Function responsibilities in clause (i), and then accepts responsibility for the IANA functions in clause (ii).

Section 2.1 ~~Section 2.1~~ ICANN's Warranties. ICANN represents and warrants that (i) it has all necessary rights and powers to enter into and perform its obligations under this Agreement, and (ii) the execution, delivery and performance of this Agreement by ICANN has been duly authorized by all necessary corporate action.²

~~Section 2.2~~ PTI Warranties. PTI represents and warrants that (i) it has all necessary rights and powers to enter into and perform its obligations under this Agreement; and (ii) the

² Note to ICANN: Adding a heading to make clear that ICANN has obtained all other third party approvals, and consents to enter into this Agreement, and that entering into this Agreement will not trigger a breach or acceleration of rights in favor of a third party. Basically a "Consents" and "No Breach" clause.

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Section 2.2 execution, delivery and performance of this Agreement by PTI has been duly authorized by all necessary corporate action.

ARTICLE III: ~~ARTICLE III:~~ SERVICES

Section 3.1 ~~Section 3.1~~ Services.

Section 3.2 Deliverables.

Section 3.3 ~~Section 3.2~~ Additional Services.

Section 3.4 ~~Section 3.3~~ Performance Standards.

Section 3.5 ~~Section 3.4~~ Review of Services; Inspection and Acceptance.

Section 3.6 Modifications in Scope of Services.

Section 3.7 ~~Section 3.5~~ Termination of a Service.

~~Section 3.6~~ Disclaimer of Warranties.

~~Section 3.7~~ Limitation of Liability.

ARTICLE IV: ~~ARTICLE IV:~~ PREMISES

Section 4.1 ~~Section 4.1~~ Sublease.

Section 4.2 Work Rules and Regulations.

Section 4.3 ~~Section 4.2~~ Parking Spaces.

Section 4.4 ~~Section 4.3~~ Vacating of Premises.

ARTICLE V: ~~ARTICLE V:~~ FEES AND EXPENSES

Section 5.1 ~~Section 5.1~~ Fees.

Section 5.2 ~~Section 5.2~~ Employee Expenses.

Section 5.3 ~~Section 5.3~~ No Profit or Loss.

Section 5.4 Invoices and Payment Processes.

Section 5.5 ~~Section 5.4~~ Maintenance of Books.

ARTICLE VI: DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

Section 6.1 Disclaimer of Warranties.

ARTICLE VI:

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Section 6.2 Limitation of Liability.

ARTICLE VII: ~~ARTICLE VII:~~ PERSONNEL MATTERS³

Section 7.1 ~~Section 7.1~~ Personnel.

Section 7.2 ~~Section 7.2~~ Employee Benefit Plans.

⁺~~Note to draft: Entire section pending review by labor and employment counsel.~~

³ Note to draft: Entire section pending review by labor and employment counsel.

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Section 7.3 ~~Section 7.3~~ Insurance, Health and Welfare Plans.

ARTICLE VIII: ~~ARTICLE VIII:~~ TAX

Section 8.1 ~~Section 8.1~~ Arm's Length Pricing.

Section 8.2 ~~Section 8.2~~ [To come].

ARTICLE IX: ~~ARTICLE IX:~~ RECORDS AND INFORMATION; AUDIT RIGHTS

Section 9.1 ~~Section 9.1~~ Ownership and Custody of Records.

Section 9.2 ~~Section 9.2~~ Assistance.

Section 9.3 Audit Rights.

ARTICLE X: OWNERSHIP AND RIGHTS TO DELIVERABLES AND SERVICES

ARTICLE XI: CONFIDENTIALITY, NON-DISCLOSURE, SECURITY AND DATA PROTECTION

Section 11.1 Confidentiality.

Section 11.2 Confidentiality Exceptions.

Section 11.3 Injunctive Relief.

Section 11.4 Disposition of Confidential Information on Termination or Expiration.

Section 11.5 Security and Data Protection.

ARTICLE XII: INDEMNIFICATION

ARTICLE XIII: ~~ARTICLE X:~~ TERM; RENEWAL; TRANSITION AND TERMINATION

Section 13.1 ~~Section 10.1~~ Term.

Section 13.2 ~~Section 10.2~~ Termination.

Section 13.3 ~~Section 10.3~~ Survival.

ARTICLE XIV: ~~ARTICLE XI:~~ MISCELLANEOUS

Section 14.1 Interpretation.

Section 14.2 ~~Section 11.1~~ Notices.

Section 14.3 ~~Section 11.2~~ Amendments and Waiver.

Section 14.4 ~~Section 11.3~~ Severability.

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[Section 14.5](#) ~~Section 11.4~~ Assignment and Subcontracting.

[Section 14.6](#) Relationship of the Parties.

[Section 14.7](#) ~~Section 11.5~~ Governing Law.

[Section 14.8](#) Dispute Resolution and Remedies.

[Section 14.9](#) ~~Section 11.6~~ Third-Party Beneficiaries.

[Section 14.10](#) ~~Section 11.7~~ Force Majeure.

[Section 14.11](#) ~~Section 11.8~~ English Version.

[Section 14.12](#) ~~Section 11.9~~ Savings Clause.

[Section 14.13](#) Further Assurances.

[Section 14.14](#) ~~Section 11.10~~ Cumulative Remedies.

[Section 14.15](#) ~~Section 11.11~~ Counterparts.

[Section 14.16](#) ~~Section 11.12~~ Headings.

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Section 14.17 ~~Section 11.13~~ Entire Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth below.

INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS

[PTI]

By: _____
(Signature)

By: _____
(Signature)

Name (print)

Name (print)

Title

Title

~~INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS~~

Schedule A

Schedule of Services

| ~~{PTI}~~

By: _____ (Signature)

By: _____ (Signature)

Name (print)

Name (print)

Title

Title

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~~Schedule A~~
~~Schedule of Services~~

Schedule B

Premises

Summary report:	
Litéra® Change-Pro TDC 7.5.0.176 Document comparison done on 7/23/2016 5:13:11 PM	
Style name: Sidley Default	
Intelligent Table Comparison: Active	
Original DMS: iw://SIDLEYDMS/ACTIVE/216342106/1	
Description: Services Agreement Headers, (July 15 Discussion Draft)	
Modified DMS: iw://SIDLEYDMS/ACTIVE/216342106/3	
Description: Services Agreement Headers, Sidley comments 7.23.16	
Changes:	
Add	142
Delete	95
Move From	5
Move To	5
Table Insert	1
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	248