Services Agreement

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:

# CONDITION PRECEDENT

## 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]](#footnote-1)

# REPRESENTATIONS AND WARRANTIES

## 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]](#footnote-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 execution, delivery and performance of this Agreement by PTI has been duly authorized by all necessary corporate action.

# SERVICES

## Services

.

## Deliverables

.

## Additional Services

.

## Performance Standards

.

## Review of Services; Inspection and Acceptance

.

## Modifications in Scope of Services

.

## Termination of a Service

.

# PREMISES

## Sublease

.

## Work Rules and Regulations

.

## Parking Spaces

.

## Vacating of Premises

.

# FEES AND EXPENSES

## Fees

.

## Employee Expenses

.

## No Profit or Loss

.

## Invoices and Payment Processes

.

## Maintenance of Books

.

# DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

## Disclaimer of Warranties

.

## Limitation of Liability

.

# PERSONNEL MATTERS[[3]](#footnote-3)

## Personnel

.

## Employee Benefit Plans

.

## Insurance, Health and Welfare Plans

.

# TAX

## Arm’s Length Pricing

.

## [To come]

.

# RECORDS AND INFORMATION; AUDIT RIGHTS

## Ownership and Custody of Records

.

## Assistance

.

## Audit Rights

.

# OWNERSHIP AND RIGHTS TO DELIVERABLES AND SERVICES

# CONFIDENTIALITY, NON-DISCLOSURE, SECURITY AND DATA PROTECTION

## Confidentiality

.

## Confidentiality Exceptions

.

## Injunctive Relief

.

## Disposition of Confidential Information on Termination or Expiration

.

## Security and Data Protection

.

# INDEMNIFICATION

# TERM; RENEWAL; TRANSITION AND TERMINATION

## Term

.

## Termination

.

## Survival

.

# MISCELLANEOUS

## Interpretation

.

## Notices

.

## Amendments and Waiver

.

## Severability

.

## Assignment and Subcontracting

.

## Relationship of the Parties

.

## Governing Law

.

## Dispute Resolution and Remedies

.

## Third-Party Beneficiaries

.

## Force Majeure

.

## English Version

.

## Savings Clause

.

## Further Assurances

.

## Cumulative Remedies

.

## Counterparts

.

## Headings

.

## 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: | By: |
| (Signature) | (Signature) |
|  |  |
| Name (print) | Name (print) |
|  |  |
| Title | Title |

Schedule A

Schedule of Services

Schedule B

Premises

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). [↑](#footnote-ref-1)
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. [↑](#footnote-ref-2)
3. Note to draft: Entire section pending review by labor and employment counsel. [↑](#footnote-ref-3)