



**INVITATION TO TENDER  
TENDER REFERENCE NUMBER TR 2016/1**

**ADMINISTRATION OF TCI  
TOP LEVEL DOMAIN .TC**

**November 24, 2016**

---

# Table of Contents

<b>INTRODUCTION</b> .....	2
<b>PART A: INSTRUCTIONS TO TENDERERS</b> .....	2
Tender Submission.....	2
<b>PART B: GENERAL REQUIREMENTS</b> .....	5
<b>PART C: SCOPE OF SERVICES</b> .....	6
<b>PART D: TENDER EVALUATION</b> .....	8
Eligibility Criteria .....	9
<b>PART E: CONTRACT AWARD</b> .....	9
<b>APPENDIX 1:</b> .....	11
<b>TENDER EVALUATION CRITERIA</b> .....	11
Qualification.....	11
Technical Criteria.....	12
Price Criteria .....	12
Overall Score.....	13
<b>APPENDIX 2:</b> .....	14
<b>NON COLLUSION DECLARATION</b> .....	14
<b>APPENDIX 3:</b> .....	16
<b>TENDER RESPONSE FORM</b> .....	16
<b>APPENDIX 4:</b> .....	18
<b>CONTRACT AGREEMENT</b> .....	18
<b>APPENDIX 5:</b> .....	27
<b>TENDER ENVELOPE LABEL</b> .....	27

## INTRODUCTION

1. This Invitation to Tender (ITT) relates to the management, administration and distribution of the Turks and Caicos Islands (TCI) *top level domain names (.tc)* worldwide through contracted sup-registrars; *tender Reference Number TR 2016/1*. The ITT outlines the general description and requirements and is issued for *eligible service providers* to submit tenders in response to this tender notice.
2. The full set of Tender Documents consist of the following:
  - a. PART A – Instructions to Tenderers
  - b. PART B – General Requirements
  - c. PART C – Scope of Services
  - d. PART D – Tender Evaluation
  - e. PART E – Contract Award
  - f. APPENDIX 1 – Tender Evaluation Criteria
  - g. APPENDIX 2 – Certificate of Non-Collusion
  - h. APPENDIX 3 – Tender Response Form
  - i. APPENDIX 4 – Contract Agreement
  - j. APPENDIX 5 – Tender Envelope Label
  - k. Any Issued Addendum
3. Tenders in conformity with all elements of the Tender Evaluation Criteria, **Appendix 1**, must be enclosed in a sealed envelope with the Tender Envelope Label, **Appendix 5**, attached firmly to the front. **The sealed envelope should not carry any identification mark indicating the sender of the envelope.**

## PART A: INSTRUCTIONS TO TENDERERS

### Tender Submission

4. Tenders shall be submitted as follows: **Five (5)** tender documents [**one (1) original** and **four (4) copies**] clearly marked Original and Copy. In the event of any discrepancy between the original and copies, the original shall govern.
5. Tenders must be enclosed in a sealed envelope with the Tender Envelope Label, **Appendix 5**, attached firmly to the front. No additional marks should be placed on the envelope. Tenderers are responsible for ensuring their tenders are complete and reaches the address as stated on the Tender Envelope Label no later than **9.00 a.m.** Turks and Caicos Island time, **December 7, 2016.**

6. Tenders will be opened **at the Board meeting scheduled for the December 8, 2016 held** at the address as stated on the Tender Envelope Label.
7. It is the Tenderer's responsibility to ensure that their tender is received on or before the time stated for closing of tenders. Tenders received after the submission deadline will be rejected and returned unopened to the Tenderer stamped "**LATE TENDER.**" Late tenders delivered by courier or messenger will be returned unopened to the addressee on the courier receipt. If no return address is provided, such tenders will be opened to determine a return address.
8. Telegraphic tenders, tenders by Telex, fax or email will **not** be accepted. Tenders may be revised, modified or withdrawn in writing, prior to the submission closing time specified. The revised or amended tender should state that it supersedes the previous submission, identified as "**Revision to Tender**", provided that such revision is received before the date and time stipulated. Tenderers will not be allowed to withdraw or modify their tenders after the deadline for submission. No tender may be altered or amended after tenders are opened.
9. Tenders shall be submitted in English.
10. All prices tendered must be in United States Dollars (US\$) including all discounts, applicable fees and charges (TCI taxes and duties do not apply).
11. All tender prices must be valid for at least **ninety (90)** calendar days from the tender submission date.
12. Tenderers are required to submit a copy of their current Business Licence Certificate in the appropriate class of business.
13. Tenderers are also required to submit the completed and signed Certificate of Non-Collusion, **Appendix 2. A tender will not be considered unless a completed Certificate of Non-Collusion signed by or on behalf of the Tenderer is included.**
14. All queries and clarifications regarding this tender shall be submitted in writing, preferably via e-mail, and directed to:

**John Williams**  
**Director General**  
**Telecommunications Commission**  
**Providenciales**  
**Turks and Caicos Islands**

15. The deadline date for the submission of **queries and requests** for clarification from Tenderers is no later than **seven (7)** calendar days before the tender submission date. Responses to queries will be circulated to all parties who obtained the tender documents in

the form of an addendum. All addenda issued by the Turks and Caicos Islands Telecommunications Commission (the Commission) prior to the tender submission date shall be attached to and shall form part of the Tender.

16. Tenders shall be submitted based on the services and details shown or specified in the ITT.
17. **Information and Descriptive Literature:** Tenderers must furnish all information requested in the tender.
18. **Tender Submittal Costs:** All costs associated with the submission of the tender is the sole responsibility of the Tenderer. The Commission shall in no way be liable or obligated for any costs accrued to the Tenderer in submitting the tender.
19. **Scope of Services:** If no specific reference is made to the Scope of Services, **PART C**, in the tender submission, it will be assumed that all requirements will be met. All tender submittals must clearly state with specific detail any variations to the requirements. Such variations should be stated upon the Tender Response Form, **Appendix 3**. Any such variations to the tender may be subject to rejection by the Commission since the tender does not meet the exact requirements of the Commission.
20. **Duration of Agreement:** The proposed duration of the contract is Five (5) years.
21. **Default:** Failure of the Tenderer to deliver the services within the time stipulated in the scope of services, unless varied in writing by the Commission, shall constitute contract default. The contract may be cancelled or annulled by the Commission in whole or in part by written notice of default to the Tenderer upon continued default, non-performance or violation of contract terms.
22. **Subcontractors:** The Tenderer may not sublet or subcontract any of the contractual obligations concerning this tender except with the written acknowledgement of the Commission.
23. Tenderers shall have no interest in any tender other than their own, and they shall have no connection with any person, firm or corporation making a tender for the same Services.
24. Tenderers shall also note that:
  - Incomplete tenders and those that do not comply with the Scope of Services or do not conform to the ITT may be subject to rejection and disqualified.

- The Commission may declare tendering void when none of the tenders comply with the ITT and/or scope of services or when it is evident that there has been a lack of competition and/or that there has been collusion amongst Tenderers and/or other participants.
- The Commission reserves the right to accept or reject any tender received.
- Tenders will be rejected if an original tender is not submitted with an alternative tender.

## **PART B: GENERAL REQUIREMENTS**

**These general guidelines apply to all services specified in this tender package:**

25. The Commission expects a minimum of 51% of the gross revenue from the sales generated and collected from the management of the .tc domain.
26. The successful Tenderer shall be responsible for delivering the services according to the scope of services included in the tender document.
27. It is the responsibility of the Service Provider to ensure that services are delivered in accordance with the requirements of the ITT.
28. The proposed Management / Administrator Company must be resident or incorporated in, the Turks & Caicos Islands jurisdiction unless formally decided otherwise by the Commission.
29. The successful Tenderer shall provide professional administration and technical services to safeguard the integrity of databases of the Top Level Domain (TLD).
30. The successful Tenderer shall merchandise the TLD (.TC) worldwide through a locally registered ordinary company operating within the Turks and Caicos Islands.
31. Be directly responsible to the Commission for all functions and activities under this agreement and will not appoint any third party entities to act in its stead in this regard.
32. The Tenderer may contract with third party entities in executing its functions and responsibilities under the terms of the proposed TLD administration agreement.
33. The company will trade and distribute top level domain names (.tc) worldwide through contracted sub-registrars acting under its direction. Further information and details are in paragraphs below.
34. The Tenderer shall provide the legal name of the organization (as officially registered in its principal place of business), along with its physical address, telephone and fax numbers.

35. In support of this, Bidders must provide a certified copy or extract of the business registration, certification, or law that demonstrates the organization's legal status.
36. The Tenderer shall indicate the geographic locations of the proposed manager, the administrative contact person for the domain, and the location(s) where the principal operations will be conducted. Information on the proposed administrative and technical contacts for the domain, including their identities, contact details, and roles within the organization.
37. The Tenderer must include documentation that demonstrates the technical and administrative capabilities of the manager / management and administrative support to operate the domain competently. The Tenderer shall also provide assurance that relevant policies will be in place to govern the operation of the domain, as to not jeopardize or compromise the security and stability of the DNS.
38. The Tenderer must include A *technical plan* for registry and DNS operations, and a description of the physical configuration of the registry, along with technical facilities;
39. The proposed management company shall indicate to the Commission ALL administrative and technical support and contacts. Both the administrative contact and the technical contact shall have the ability to cross-verify all root zone changes and be responsive to communications from the Commission about root zone changes.
40. The Tenderer shall provide information on resiliency provisions, including how system outages and other disasters will be defended against, as well as system recovery and escrow procedures in the event of disasters.
41. The successful Tenderer shall provide indication that processes and plans are in place to ensure operations are in line with global standards, relevant RFCs, and best practices; and description of the timelines and strategies relating to deployment of the registry technical platform and staffing of the registry.
42. The Tenderer shall provide description of the registry's interfaces with the community (such as technical APIs, help desk, etc.), and how they will be maintained shall be provided by the bidder as well as an overall description of the configuration and plan for the name server constellation that will support name resolution for the .tc domain.

## **PART C: SCOPE OF SERVICES**

43. Administer the Top Level Domain in accordance with:
  - i. the provisions of the Agreement,
  - ii. Legislation,
  - iii. The Communication Policy of the Government / Commission,
  - iv. Codes and practice adopted by WIPO (World Intellectual Property Organization);

44. Comply with the recognized technical standards and appropriate standards set out by ICANN (The Internet Corporation for Assigned Names and Numbers and any successor thereto). The Company shall apply to join ICANN within a reasonable period of time after the Commencement Date;
45. Safeguard the integrity of databases of the Top Level Domain (TLD) by employing DNSSEC.
46. Allocate Second Level Domains within the Top Level Domain;
47. Restrict names within “**gov.tc.**” Second Level Domain to the Turks and Caicos Islands ‘Public Bodies’;
48. Except as aforesaid, allocate Second Level Domains to any person or entity whether having a connection with the Turks and Caicos Islands or not, provided always that a regulatory panel appointed by the Commission may from time to time review the use of any domain name in the Top Level Domain and, if appropriate, any such name is used for blasphemous, illegal or obscene purposes and/or in a matter which is defamatory to the people of the Turks and Caicos Islands or to the Government of the Turks and Caicos Islands, the regulatory panel may terminate such use;
49. Provide the Commission with access at reasonable notice to the database of Second Level Domains registered and upon receiving a written request to provide a copy thereof within seven (7) days of receiving such request from the Commission;
50. Provide to the Commission monthly financials and statistics which includes number of registered domain.
51. Provide the Commission with monthly database of all registered, active and non-active .TC domain records in digital format by the contractor.
52. Provide support to its clients 7 days a week and make all reasonable efforts to resolve conflicts within 1 hour or less.
53. Submit unresolved disputes in line with (57) below or in harmony with the dispute resolution procedure established in the current WIPO Expedited Arbitration Rules.
54. After obtaining permission and consent, not to be unreasonably withheld, from the Commission, to represent the interest of the Turks and Caicos Islands in relation to Second Level Domains in certain technical or other committees, international consultation, requests for comments or similar situations concerning the international system of internet second level domains as specified by the Commission;



55. Keep proper accounts in accordance with the laws of the Turks and Caicos Islands and good business practice with an annual audit conducted by an internationally recognized firm of auditors;
56. Maintain its presence in the Turks and Caicos Islands and carry out as many of its functions as is reasonably practicable in the Turks and Caicos Islands, using local staff and local suppliers and to increase its local activities accordingly in conjunction with the Commission /Government, to promote education in the communication field as well as to promote other state projects according wit.
57. Subject to the terms and provisions of the Agreement and to the Communication Policy as advised by the Commission from time to time may:
  - i. *run the Company on a commercial basis,*
  - ii. *encourage competing Registrars to sell domain names in the Top Level Domain,*
  - iii. *assist the Turks and Caicos Islands Public Bodies, commercial and other organizations and the people of the Turks and Caicos Islands house the internet,*
  - iv. *Instruct the Company to discontinue any commercial practice which, in the opinion of the Commission / Government, acting reasonably, is not in the interests of the Turks and Caicos Islands.*
58. Carry out any such instruction in a timely manner
59. To identify emergent technologies which are, or may be, of such nature as to fall within the ambit and scope of the terms of this Agreement and to advise the Commission of the nature of such technologies and, where appropriate, to negotiate such amendments to or revisions of this Agreement as may be required to bring such technologies within the terms hereof.

## **PART D: TENDER EVALUATION**

60. This Section refers to the criteria that will be used by the Commission to evaluate and qualify Tenderers. The Tenderer shall provide the information requested for consideration in the evaluation process. Omission of information may result in disqualification or the Tenderer not being considered further in the tender process.
61. In the event of disqualification of the bid, the Commission may proceed to the next substantially responsive tender.
62. All contact between the Tenderer and the Commission during the evaluation period should be initiated by the Any unsolicited contact initiated by the Tenderer during this period may be construed as an attempt to influence the evaluation process and may result in this tender being disqualified.

## Eligibility Criteria

63. Tenderers will be required to meet the eligibility criteria in the **Tender Evaluation Criteria, Appendix 1**, to pre-qualify and for their tenders to be evaluated. Failure to meet or satisfy these eligibility requirements may be deemed non-responsive and may result in the tender not being considered for further evaluation. Having met the eligibility requirements, responsive tenders will be evaluated on their technical and price proposals in accordance with the criteria outlined in **Appendix 1**.
64. The Tenderer is required to sign the Tender Evaluation Criteria Form, **Appendix 1**, which contains all the criteria that the Commission will use to evaluate tenders and qualify Tenderers. The Tenderer shall provide all information requested within the bidding document to be considered for evaluation. Omission of required information may result in the tender being disqualified or not being considered further as appropriate.
65. The Tender Response Form, **Appendix 3** provides the price proposal format for submission.

## PART E: CONTRACT AWARD

66. Subject to the evaluation of the tenders, the Commission will award the Contract to the Tenderer whose tender has been determined to be substantially responsive. This Tenderer shall be invited for further negotiations.
67. The Commission does not bind itself to accept the lowest bid tender.
68. The Commission reserves the right to annul the tender process and reject all tenders at any time prior to award of the Contract, without thereby incurring any liability to the affected Tenderer(s) on the grounds for the actions of the Commission.
69. Prior to the expiration of the bid validity period, the Commission will notify the Tenderers in writing as to whether the Commission is considering their tender and wishes to negotiate details of the Contract in accordance with the General Requirements and Scope of Services of this tender.
70. The preferred bidder will be required to enter a Contract approved by the Commission. The draft Contract, **Appendix 4**, is attached.
71. Tenderers should include in their proposal comments on the attached proposed Contract. The Contract will be administered by the Commission in consultation with the AG.

72. The Commission reserves the right to annul a notice of award of Contract, without liability, if during contract negotiations the preferred bidder (i) proposes any change substantially different from that contained in the Invitation to Tender or (ii) is unable to comply with any pre-condition to execution of the Contract.
73. The Commission reserves the right to terminate the Contract by written notice if the Service Provider fails to meet the terms and conditions of the Contract.

## APPENDIX 1:

### TENDER EVALUATION CRITERIA

The Service Provider is required to sign (and initial where required) this Section which contains all the criteria that the Client will use to evaluate and qualify submissions. The Service Provider shall provide all the information requested within the bidding document to be considered for evaluation. Omission of required information may result in being disqualified or not being considered further as appropriate.

#### Qualification

No.	Requirement		Yes	No
1.	I have enclosed a completed signed copy of the attached Certificate of Non-Collusion <i>(A tender will not be considered unless a completed Certificate of Non-Collusion signed by or on behalf of the Tenderer is included).</i>	Required	<input type="checkbox"/>	<input type="checkbox"/>
2.	I have enclosed a copy of current Business Licence Certificate in the appropriate class of business (or receipt of payment).	Required	<input type="checkbox"/>	<input type="checkbox"/>
3.	I have enclosed a copy of Certificate of Good Standing <i>(if a Limited Company)</i> or Certificate of Registration <i>(for other entities).</i>	Required	<input type="checkbox"/>	<input type="checkbox"/>
4.	I have enclosed proof that National Insurance Board Contributions are up to date <i>(certificate of clearance).</i>	Required	<input type="checkbox"/>	<input type="checkbox"/>
5.	I have enclosed proof that National Health Insurance Plan Contributions are up to date <i>(letter of good standing).</i>	Required	<input type="checkbox"/>	<input type="checkbox"/>
6.	I certify that neither I nor any of the other Directors or Principals of the Company have any conflict of interest within this tender	Required	<input type="checkbox"/>	<input type="checkbox"/>
7.	I certify that no Contracts with the Company have been cancelled for non-performance in the last 5 years	Required	<input type="checkbox"/>	<input type="checkbox"/>
8.	I declare that no bankruptcy or insolvency proceedings are held against the Company or its Principals	Required	<input type="checkbox"/>	<input type="checkbox"/>
9.	I declare that there is no litigation against the Company or the Principal(s)	Required	<input type="checkbox"/>	<input type="checkbox"/>
10.	I have included the proposed locations of root servers and their zones	Required	<input type="checkbox"/>	<input type="checkbox"/>
11.	I have provided the locations of manager, administrative contact and principal areas of operation	Required	<input type="checkbox"/>	<input type="checkbox"/>
12.	I have enclosed proof of Financial Position in the form of reference letter, no older than 6 months, from banker or bank statement of funds or credit as evidence of good standing.	Required	<input type="checkbox"/>	<input type="checkbox"/>
13.	I have included comments on the Draft Contract to improve the Contract between the Commission and the Tenderer <i>(if no comments are attached it is understood that the Tenderer will be content to agree the Contract without amendments).</i>	Optional	<input type="checkbox"/>	<input type="checkbox"/>
14.	I have included any other supporting information that will justify my tender prices.	Optional	<input type="checkbox"/>	<input type="checkbox"/>

I certify that I have read the whole of the Invitation to Tender and that the above information is true and correct.

**Signature of Principal of Company:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_ **Capacity:** \_\_\_\_\_

### Technical Criteria

The technical proposal will be evaluated using the criteria below:

[Section to be completed]

Description	Maximum Points (X)
1. Demonstrate that the company has sufficient equipment, labor and other resources to carry out the technical services of .tc in a timely manner	10
2. Demonstrate that the company has a Technical Plan for Registry and DNS operations	10
3. Are any of the Databases located in the TCI or do the Commission have access to and can monitor the databases	10
4. The company ability to market the .tc worldwide and work with sub-registrars locally and internationally	10
5. The resiliency, stability, and security of the .tc domain proposed	10
6. Ability to deliver .tc services in line with global, relevant RFCs, and best practices	10
<b>Total points for this Section</b>	<b>60</b>

The Total Score assigned to the Technical Criteria is **60 points**. Tenderers will be required to meet a minimum technical score of **30 points**. No tender will be considered with a technical score of less than **30 points**.

### Price Criteria

The Price Criteria will be evaluated according to the following formula and table format below. The total score assigned to the Price Criteria is **40 points**.

$$\text{Revenue Share Percentage (\% Offered)} \times 40 = \text{Financial Score (Y)}$$

No	Tenderer	Bid Price	Corrected Bid Price	Financial Score (Y)

## Overall Score

This overall score (out of 100) will be calculated by combining the total scores from the technical and price evaluation.

No	Tenderer	Met Pre-qualification Criteria	Original Price US\$	Corrected Price US\$	Technical Score (X)	Financial Score (Y)	Total Score (X) + (Y)	Ranking

The preferred bidder is the Tenderer with the highest score whilst meeting all of the requirements above. The preferred bidder will be invited to negotiate a contract with the Commission.

## APPENDIX 2:

### NON COLLUSION DECLARATION

#### Certificate of Non-Collusion

#### TURKS AND CAICOS ISLANDS TELECOMMUNICATIONS COMMISSION

#### TENDER SUBMISSION CERTIFICATE OF NON-COLLUSION

I/we certify that this tender is made in good faith, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. I/we also certify that we have not and I/we undertake that we will not before the award of any contract for the work:

- I. Disclose the tender price or any other figures or other information in connection with the tender to any other party (including any other company or part of a company forming part of a group of companies of which I am/we are a part of) nor to any sub-contractor (whether nominated or domestic) nor supplier (whether nominated or domestic) or any other person to whom such disclosure could have the effect of preventing or restricting full competition in this tendering exercise
- II. Enter into any agreement or arrangement with any person that they shall refrain from tendering, that they shall withdraw any tender once offered or vary the amount of any tender to be submitted
- III. Otherwise collude with any person with the intent of preventing or restricting full competition

Pay, give or offer pay or give any sum of money or other valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to another tender or proposed tender for the work any act or thing of the sort described at i), ii) or iii) above.

I/we further declare that I/we have no knowledge either of any sum quoted or of any other particulars of any other tender for this contract by any other party.

We further certify that the principles described above have been, or will be, brought to the attention of all sub-contractors, suppliers and associated companies providing services or materials connected with the tender and any contract entered into with such sub-contractors, suppliers or associated companies will be made on the basis of compliance with the above principles by all parties.

I/we acknowledge that any breach of the foregoing provisions shall lead automatically to this tender being disqualified and may lead to criminal or civil proceedings.

The Commission shall treat any tender received in confidence but reserves the right to make the same available to any other authority either having jurisdiction over the works or who may now or at any time in the future have statutory power to require disclosure of this tender.

In this certificate, the word 'person' includes any persons and anybody or association, incorporated or unincorporated; any agreement or arrangement includes any transactions, formal or informal and whether legally binding or not; and 'the work' means the work in relation to which this tender is made.

Print Name..... Signature.....

in the capacity of ..... Date.....

Duly authorised to sign tenders and acknowledge the contents of the certificate of non-collusion for and on behalf of:

Name of firm.....

Full postal address.....

.....

..... E-mail.....

Telephone no..... Fax no .....



## APPENDIX 3:

### TENDER RESPONSE FORM

**To:** John Williams  
Director General  
TCI Telecommunications Commission  
Providenciales  
Turks and Caicos Islands

**From:** .....

1. I/We have examined the Invitation to Tender and hereby offer to provide *Administration of TCI Top Level Domain .TC*, Tender Reference Number TR 2016/1, in accordance with the Tender Documents and Scope of Services. Below is the cost summary and attached is the costed Financial Proposal.

CONTRACT	Revenue Share (%)	
<b>Administration of the TCI Top Level Domain .TC, Tender Reference Number TR 2016/1</b>	Commission	
	Tenderer	

2. I/We acknowledge this offer will remain open for acceptance by you for a period of **ninety (90)** calendar days from the closing date for receipt of tenders. The full Tender Package is now enclosed along with supporting documentation.
3. I/We acknowledge that the Commission is not obliged to accept the lowest or any offer and that this contract award procedure may be cancelled by you.
4. I/We undertake to deliver, **Administration of the TCI Top Level Domain .TC, Tender Reference Number TR 2016/1**, in accordance with the terms and conditions of the tender specification.
5. I/We acknowledge that all costs and expenses incurred by us in producing and submitting this offer will be borne by us in full.
6. I/We undertake to treat the details of this offer as private and confidential. I/We acknowledge that no part of these documents may be transmitted by us to a third party.
7. Prices quoted are inclusive of all applicable fees and charges associated with the delivery of the service(s).

Indicate proposed **Commencement Date:** \_\_\_\_\_

I/We acknowledge the TCI Telecommunications Commission (the Commission) reserves the right to accept any tender submitted in whole or in part or reject any or all Tenders or to award the work in one or more contracts and to waive any irregularities.

I/We further acknowledge this tender is irrevocable, made for good consideration and acceptance thereof by the Commission and shall be binding on the undersigned from the date of acceptance.

Print Name..... Signature of Tenderer.....

in the capacity of ..... Date: .....2016

On behalf of (Name of Company).....

Address.....

.....

.....

Telephone..... Fax No.....

E-mail.....

***\*\* Please Use This Form for Submission \*\****

**APPENDIX 4:**

**CONTRACT AGREEMENT**

**THE TURKS & CAICOS ISLANDS TELECOMMUNICATIONS  
COMMISSION**

**TOP LEVEL DOMAIN ADMINISTRATION AGREEMENT**

**THIS AGREEMENT** is made this day of 2015

**BETWEEN: The TCI Telecommunications Commission** - hereinafter “the Commission“-

**AND**

....., a company registered in the Turks and Caicos Islands and whose registered address is [.....] and whose authorized representatives is .....- hereinafter "the Company“-

**1. COMMENCEMENT AND TERMS**

- 1.1 This Agreement shall commence on the date hereto provided above (the “Commencement Date”) and shall continue for an initial period of five (5) years (the “Term”).
- 1.2 Upon the third anniversary of the Commencement Date (and in the event of this Agreement is extended as provided in Clause 1.2 every third year thereafter) the Government shall review the performance by the Company with regards to its responsibilities and obligations under this Agreement. If the Company has not carried out to a reasonable satisfactory standard its responsibilities and obligations, the Government may serve notice on the Company requiring it to rectify its nonperformance within 28 days. If the Company fails to do so, the provision of Clause 7 shall apply.

## 2. RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF THE COMMISSION

The Commission shall:

- 2.1 Give to the company a letter to present to registrars, identifying the company as the sole authentic technical representative of the Top Level Domain. This letter shall be solely for the purpose of affirming the role of the company as the duly authorized manager of the Top Level Domain and shall be expressly stated to have effect for the Term of this agreement
- 2.2 acknowledge and hold out to the company to **Internet Corporation for Assigned Names and Numbers (ICANN)** and or to Internet Assigned Numbers Authority (IANA) as the only technical manager and technical contact for the Top Level Domain,
- 2.3 provide any relevant documents in its possession and or control in support of the company in any action which it may take against any third party claiming to have authority in relation to the Top Level Domain. This does not mean, however, that the Commission will hold the company harmless against any action that might be taken against it by third parties; and,
- 2.4 The Commission reserves the right to appoint an administrative representative to ICANN and or to IANA

## 3. RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF THE COMPANY

The Company shall:

- 3.1 Administer the Top Level Domain in accordance with:
  - v. the provisions of the Agreement,
  - vi. Legislation,
  - vii. The Communication Policy of the Government / Commission,
  - viii. Codes and practice adopted by WIPO (World Intellectual Property Organization);
- 3.2 Comply with the recognized technical standards and appropriate standards set out by ICANN (The Internet Corporation for Assigned Names and Numbers and any successor thereto). The Company shall apply to join ICANN within a reasonable period of time after the Commencement Date;
- 3.3 Safeguard the integrity of databases of the Top Level Domain (TLD) by employing DNSSEC.
- 3.4 Allocate Second Level Domains within the Top Level Domain;

- 3.5 Restrict names within “**gov.tc.** “ Second Level Domain to the Turks and Caicos Islands ‘Public Bodies;
- 3.6 Except as aforesaid, allocate Second Level Domains to any person or entity whether having a connection with the Turks and Caicos Islands or not, provided always that a regulatory panel appointed by the Commission may from time to time review the use of any domain name in the Top Level Domain and, if appropriate, any such name is used for blasphemous, illegal or obscene purposes and/or in a matter which is defamatory to the people of the Turks and Caicos Islands or to the Government of the Turks and Caicos Islands, the regulatory panel may terminate such use;
- 3.7 Provide the Commission with access at reasonable notice to the database of Second Level Domains registered and upon receiving a written request to provide a copy thereof within seven (7) days of receiving such request from the Commission;
- 3.8 Provide to the Commission monthly financials and statistics which includes number of registered domain.
- 3.9 Provide the Commission with monthly database of all registered, active and non-active .TC domain records in digital format by the contractor.
- 3.10 Provide support to its clients 7 days a week and make all reasonable efforts to resolve conflicts within 1 hour or less.
- 3.11 Submit unresolved disputes in line with 13.2 below or in harmony with the dispute resolution procedure established in the current WIPO Expedited Arbitration Rules.
- 3.12 After obtaining permission and consent, not to be unreasonably withheld, from the Commission, to represent the interest of the Turks and Caicos Islands in relation to Second Level Domains in certain technical or other committees, international consultation, requests for comments or similar situations concerning the international system of internet second level domains as specified by the Commission;
- 3.13 Keep proper accounts in accordance with the laws of the Turks and Caicos Islands and good business practice with an annual audit conducted by an internationally recognized firm of auditors;
- 3.14 Maintain its presence in the Turks and Caicos Islands and carry out as many of its functions as is reasonably practicable in the Turks and Caicos Islands, using local staff and local suppliers and to increase its local activities accordingly in conjunction with the Commission /Government, to promote education in the communication field as well as to promote other state projects according wit.
- 3.15 Subject to the terms and provisions of the Agreement and to the Communication

Policy as advised by the Commission from time to time may:

- v. *run the Company on a commercial basis,*
- vi. *encourage competing Registrars to sell domain names in the Top Level Domain,*
- vii. *assist the Turks and Caicos Islands Public Bodies, commercial and other organizations and the people of the Turks and Caicos Islands house the internet,*
- viii. *Instruct the Company to discontinue any commercial practice which, in the opinion of the Commission / Government, acting reasonably, is not in the interests of the Turks and Caicos Islands.*

3.16 Carry out any such instruction in a timely manner

3.17 To identify emergent technologies which are, or may be, of such nature as to fall within the ambit and scope of the terms of this Agreement and to advise the Commission of the nature of such technologies and, where appropriate, to negotiate such amendments to or revisions of this Agreement as may be required to bring such technologies within the terms hereof.

#### **4 THE COMPANY**

4.1 The Company shall be an ordinary company in the Turks and Caicos Islands. The company shall be managed by ..... (TCI Belonger), who shall be appointed the Company's General Manager.

4.2 The Company will distribute and sell Top Level Domain Name “.tc “worldwide through contracted sub-registrars acting under the direction of the Company.

4.3 The revenues of the Company's activities will be accounted exclusively for and managed directly within the Turks and Caicos Islands. The Commission may inspect management accounts of the Company at any time by providing no less than ten (10) days written notice.

4.4 The Company shall contract with ..... to guarantee the professional administration and safeguarding of the databases for the Top Level Domain Name “.tc“, which is accredited by ICANN, which shall provide technical services for the administration of the Top Level Domain.

4.5 The Company shall not transfer or give a third party access to .TC database without approval from the Commission.

## **5 DOMAIN NAME DISTRIBUTION**

- 5.1 Upon the Commission's request, the Company shall register, service and maintain one Second Level Domain for the Turks and Caicos Islands Public Bodies and every citizen of the Turks and Caicos Islands free of charge.
- 5.2 In the event of a dispute as to whether any person or body is entitled to free registration pursuant to this Agreement, the decision of the Commission shall be final.

## **6 ACCOUNTING AND PAYMENTS**

- 6.1 In consideration of the rights granted to the Company under this Agreement, the Company shall make payments to the Commission for providing the services covered by this Agreement. These payments shall be equal to \_\_\_\_\_ percent (\_\_\_%) of all sales proceeds derived from the sale of Top and Second Level Domains by the Company. For the purpose of this Agreement sales proceeds shall mean gross proceeds generated and collected from the sale of Top and Second Level Domains less any applicable sales tax or equivalent (if any) as the Company may be required to levy from time to time at the point of sale.
- 6.2 All payments made pursuant to this Clause 6 shall be rendered by the Company to the Commission on a quarterly basis within thirty days (30) following the close of each calendar quarter together with an accounting statement detailing the payments in such format as agreed between the Parties from time to time. In the event of any under or over payment in any given quarter the Company shall report the same to the Commission in the following quarter and adjust that quarter's payment accordingly and note the same in the accounting statement provided.
- 6.2 All payments made pursuant to this Clause 6 shall be rendered by the Company to the Commission on a quarterly basis within thirty days (30) following the close of each calendar quarter together with an accounting statement detailing the payments in such format as agreed between the Parties from time to time. In the event of any under or over payment in any given quarter the Company shall report the same to the Commission in the following quarter and adjust that quarter's payment accordingly and note the same in the accounting statement provided.

## **8 TERMINATION**

- 8.1 In the event either Party hereto:

- i. Commits a substantial breach of any of the herein (the term “substantial“ shall include in particular but without limitation thereto all matters relating to payment obligations and the undertakings contained in this Agreement); or,
  - ii. Commits a breach of any of the provisions contained herein (except for those referred in Clause 8.1(i) above) which breach if capable of remedy shall not be remedied within thirty (30) days after the other Party has specified such breach in writing; or,
  - iii. If the Company becomes insolvent, passes a resolution for its winding up, appoints a receiver or administrative receiver over some or substantially all of its assets or makes any arrangement with its creditors or becomes subject to an administration order or ceased or threatened to cease carrying on its business. Then the other, or in respect of 8.1(iii) the Commission, shall have the right to terminate this Agreement forthwith by written notice.
- 8.2 The Commission may terminate the designation of the Company as administrator for the Top Level Domain by giving no less than 30 days written notice if, in the opinion of the Commission, acting reasonably, the Company is unable to continue to manage, operate and control or cause to be managed, operated or controlled the “.tc “domain space substantially in accordance with the provision of Clause 3. In this event, the Commission with the co-operation of the Company shall take all necessary steps and the Commission and the Company shall execute all the required documentation to transfer administrative and operational responsibility for the domain space to such party as the Commission may delegate and to cause such party to be recognized at the international level as having the exclusive authority to operate the Top Level Domain.

## 9 INDEMNITY

The Company shall indemnify the Commission in respect of:

- i. Any liability which may arise as a result of claims by third parties against the Commission arising from operation of this Agreement or any act or omission of the Company in the performance of or omission to perform its obligations or duties under this Agreement;
- ii. Upon becoming aware of any such claim, the Commission will promptly give notice of it to the Company and shall not take any steps including compromising or settling any such claim that might prejudice the Company without its prior consent;
- iii. The liability of the Company under Clause 8 shall extend to any reasonable settlement of the claim (including costs) made with the approval and agreement of the Company.



## **10 INTELLECTUAL PROPERTY RIGHTS**

- 10.1 The Company hereby acknowledges that it does not have and agrees that it shall not make any claim of any right, title or interest in the domain database.
- 10.2 The Company will propose to the Commission, and the Commission will determine policies to protect intellectual property rights and to resolve disputes relating to domain names in the Top Level Domain. These policies will comply with the guidelines laid down from time to time by ICANN and WIPO. The Company shall regularly review the intellectual property policy and shall publish the policy and any amendments thereto at regular intervals.

## **11 CONFIDENTIALITY**

- 11.1 Each Party acknowledges and agrees that certain information which it may receive from the other Party is confidential which includes, without limitation, any information concerning the terms and conditions of this Agreement, and any information which is not in the public domain concerning the business or finances of the other Party.
- 11.2 Each Party shall both during and for a period of twelve (12) months after expiry of this Agreement, howsoever occurred, hold in confidence and not use or permit the use of any confidential information of the other Party and use at least the same degree of care to prevent the unauthorized copy, use and/or disclosure of the other party's confidential information that it uses to protect its own confidential information of like importance.
- 11.3 Either party may disclose confidential information of the other and to the extent that it:
- i. has come into public domain through no fault of that party;
  - ii. is disclosed by the owner of the confidential information to the others without restriction on disclosure;
  - iii. is known to the other prior to this Agreement without any restriction upon its dissemination or disclosure and can be shown by that party to have been so known;
  - iv. is required to disclose such confidential information by operation of law or by court order.

## **12 ENTIRE AGREEMENT**

- 12.1 This contains the whole agreement between the Parties in respect of the subject matter referred to and supersedes any previous understanding, arrangement or agreement between the Parties. The Parties have nor relied upon any statement or representation which is not expressly incorporated into this Agreement.
- 12.2 Any amendment to this Agreement shall be given in writing and shall only be valid if signed by both Parties.

**13 APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

13.1 This Agreement shall be construed and governed by the laws of the Turks and Caicos Islands and the rules establish herein.

13.2 The Parties will use their best efforts to resolve any dispute between them amicably by negotiation. They will submit any such dispute which they cannot resolve by negotiation to an alternative dispute resolution procedure appropriate to the nature of the dispute. The Parties will submit any dispute between them which remains unresolved to the exclusive jurisdiction of the courts of the Turks and Caicos Islands.

**14 NOTICE AND ADDRESSES**

14.1 Any notice to the Parties shall be sent in writing to their addresses as provided above, with copies as follows:

**For the Commission:**

The Chairman  
TCI Telecommunications Commission  
Providenciales  
Turks and Caicos Islands

**For the Company:**

.....

.....

Fax: .....

E-mail: .....

14.2 Any notice or other communication required or permitted to be given hereunder shall be sent either by registered (air) mail, return receipt requested if available, or by cable, telefax, telegram or facsimile, Email or delivered by hand against receipt. Any notice sent as prescribed, shall be deemed to have been received seven (7) days after posting.

**IN WITNESS WHEREOF**, the parties confirm their agreement to the foregoing and have caused this agreement to be signed by their duly authorized representatives, effective on the day and the year first above written.

**Executed** under the seal for and on behalf of (THE COMMISSION)

**Name:**

**Position**

.....  
**For and on behalf of the  
Turks and Caicos Islands Telecommunications Commission**

**Name:**

**Position:**

**Signature:**

---

**For and on behalf of .....**

**APPENDIX 5:**

**TENDER ENVELOPE LABEL**

**Tender for:**

**ADMINISTRATION OF TCI TOP LEVEL DOMAIN .TC**

**Tender Reference No: *TR 2016/1***

**To be returned by:**

**9:00 A.M. on December 7, 2016**

**To: John Williams  
Director General  
Telecommunications Commission  
Providenciales  
Turks and Caicos Islands**