

Tender Number: KTT-2013-01

KTT Wi-Fi Provider Licence Agreement

Part 1

Instructions to Tenderers

Tender Number: KTT-2013-01

Part 1 - Instructions to Tenderers

1. The tender documents comprise the followings:-
 - 1.1 Part 1 – Instructions to Tenderers
 - 1.2 Part 2 – Form of Tender
 - 1.3 Part 3 – Pricing Document
 - 1.4 Part 4 – Terms and Conditions
 - 1.5 Part 5 – Performance Commitment
2. Tenderers shall treat all documents or information supplied to them by TraxComm Limited (“TraxComm”), for the purpose of submitting a tender, as private and confidential. Tenderers shall at their own costs return all tender documents to TraxComm on being advised that they have not been awarded the tender contract.
3. Tenderers are required to check the number of pages of the tender documents and should they find any missing, incomplete or indistinct, they should inform TraxComm to establish the correct meaning before the final date for submission of tenders. Please refer to paragraph 14 below for contact details.
4. Should any tenderer for any reason whatsoever be in any doubt as to the precise meaning of any item or figure contained in the tender documents, he should inform TraxComm to establish the correct meaning before the final date for submission of tenders. Please refer to paragraph 14 below for contact details.
5. Tenderers should at their own costs examine the tender documents in order to satisfy themselves as to all matters, risks and obligations which they are to undertake.
6. In the event of a tenderer discovering a genuine error in his tender after it has been submitted, attention in writing may be drawn to the error and an amendment submitted. Such amendment shall be deposited into the Tender Box on or before the final date for the submission of tender as stated in paragraph 15 below.
7. These Instructions to Tenderers shall not form part of the tender contract.
8. No unauthorized alteration or erasure to the text of the tender documents will be permitted. Any tender containing such alterations or erasures will not be considered.
9. Any qualifications to or in any tender may cause the tender to be disqualified.

10. TraxComm or its affiliate MTR Corporation Limited (“MTRCL”) is not bound to accept the tender with the highest Licence Fee, and reserves the right to award and to reject any tender where the requirements of these Instructions to Tenderers are not complied with or where a tenderer is not qualified in terms of financial and or service requirements.
11. Upon finalization of tender award, all tenderers will be notified of the results excluding the name of the successful Tenderer.
12. Any offer of an advantage or other inducement to any person with a view to influencing the placing of the tender contract is an offence under the Prevention of Bribery Ordinance (Cap. 201, Laws of Hong Kong), and as such will result in the rejection of the tender.
13. Tenderers are required to complete and return the following as their tender submission:
 - 13.1 Part 2 – Form of Tender
 - 13.2 Part 3 – Pricing Documents
 - 13.3 Part 5 – Performance Commitment
14. Any queries regarding the tender documents should be addressed in writing to Mr. Brian Ho, Business Development Manager, TraxComm Limited, 12th Floor, MTR Headquarters Building, Telford Plaza, 33 Wai Yip Street, Kowloon Bay, Kowloon, Hong Kong, or via facsimile at 852-29933538 or email at brianhcc@mtr.com.hk
15. Closing Date: The tender must be submitted in duplicate in two sealed envelopes and delivered by hand to the following address **not later than 2:00pm (Hong Kong time) on 29 November 2013.**

Tender Box (located at the reception area)
for attention to : TraxComm Limited
Level 2, MTR Headquarters Building
Telford Plaza
33 Wai Yip Street
Kowloon Bay
Hong Kong

Please affix Annex 1 herewith on your envelope for tender submission.

Late tender will not be considered.

16. Tender submitted shall be opened at the date and time as stated above in paragraph 15 by the authorized tender box key holders.

-- END --

Tender Number : KTT-2013-01
Closing Date : 2:00pm (Hong Kong time), 29 November 2013

Tender Box (located at the reception area)

for attention to : TraxComm Limited

Level 2, MTR Headquarters Building

Telford Plaza

33 Wai Yip Street

Kowloon Bay

Hong Kong

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KTT Wi-Fi Provider Licence Agreement

Part 2

Form of Tender

Tender Number: KTT-2013-01
KTT Wi-Fi Provider Licence Agreement

(please print this document on your company letter)

To : Tender Board
TraxComm Limited
12th Floor, MTR Headquarters Building
Telford Plaza
33 Wai Yip Street
Kowloon Bay
Kowloon
Hong Kong

Date: _____

Dear Sir,

1. Having examined the Form of Tender, Terms and Conditions and Pricing Document, we hereby provide an irrevocable offer which shall be valid for a period of one hundred and eighty (180) days (“Offer Period”) to enter into a provider licence agreement in the same terms as set out in the Terms and Conditions to provide internet connection service (i) on KTT (via Wi-Fi technologies at a fee chargeable to Users), (ii) at the through train platform areas and at the Departure Hall of MTR Hung Hom Station (via Wi-Fi technologies at a fee chargeable to Users for usage on KTT, and (iii) at Computer Kiosks (via broadband free-of-charge to Users) for a Term of thirty (30) months from 31st December 2013 to 30th June 2016 at the Licence Fee quoted below payable to MTR Corporation Limited (“MTRCL”):-
 - 1.1 Licence Fee: at HK\$ _____ for the whole period from 31st day of December 2013 to 30th day of June 2016 (both days inclusive).
2. We understand that the date of Commercial Launch shall be no later than 1st day of March 2014 and is subject to the installation progress, testing progress and mutual agreement with MTRCL (or TraxComm if MTRCL so designates). In any circumstance including the deferral of the Commercial Launch, we nevertheless agree to pay the Licence Fee as quoted in paragraph 1.1.
3. We understand that we agreed to execute the formal Agreement in the same terms as set out in the Terms and Conditions within seven (7) calendar days of the receipt of the Letter of Acceptance issued by MTRCL (or TraxComm if MTRCL so designates), or at any other time as determined by MTRCL (or TraxComm if MTRCL so designates) if our tender is accepted. We further understand that the provisions under the Terms and Conditions are not subject to change, except in relation to typographical errors or the like and unless expressly agreed by MTRCL (or TraxComm if MTRCL so designates).

4. We understand that if our tender is accepted, the Form of Tender, the Terms and Conditions, the Pricing Document, the Letter of Clarification (if any by MTRCL (or TraxComm if MTRCL so designates)) and Letter of Acceptance shall together form a binding contract between us unless and until the formal Agreement is executed.
5. We agree to abide by the terms of this tender and that our offer in this tender is irrevocable during the Offer Period and it shall remain binding on us and may be accepted by MTRCL (or TraxComm if MTRCL so designates) at any time before expiration of that period.
6. We understand that neither MTRCL nor TraxComm is bound to accept the tender with the highest Licence Fee, or any offer or proposal which MTRCL or TraxComm may receive.
7. We understand that unless otherwise stated, the terms and definitions used in this letter tender shall have the same meaning as those definitions set out in Clause 1 of the Terms and Conditions.

Yours faithfully,

.....
 (Name of Signatory in BLOCK CAPITALS)

Dated this day of 2013.

Signature in capacity of

.....
 (Job Title)

duly authorized to sign this Tender and on behalf of

.....
 (Tenderer in BLOCK CAPITALS, with company stamp hereunder and on each page)

Company Address

.....

Witness (*Name in BLOCK CAPITALS*)

in capacity of (*Job Title*)

..... (*Signature*) dated on day of 2013.

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KTT Wi-Fi Provider Licence Agreement

Part 3

Pricing Documents

Tender Number: KTT-2013-01

Part 3 – Pricing Document

Pricing Document – Preambles

1. The tenderer shall read the following documents prior to completing this Pricing Document.
 - 1.1 Part 1 - Instructions to Tenderers
 - 1.2 Part 4 - Terms and Conditions
2. The tenderer shall be deemed to have understood and accepted the Terms and Conditions and Schedule 1 herewith.
3. The tenderer shall quote for all items in this Pricing Document.
4. The tenderer shall become the Operator of the Service as described in Schedule 1 herewith upon the award of the Tender Contract.
5. The Licence Fee shall be fixed throughout the Term of the Agreement. The Licence Fees quoted in Schedule 2 shall apply to the Form of Tender. Should there be any discrepancies between the figures in this Pricing Document and those in the Form of Tender, the figures in the Form of Tender shall take precedence for tender assessment purpose.
6. The rates for charging the User on accessing the internet connection service through the Wi-Fi service as described in Schedule 1 herewith and as per Schedule 3 herewith shall be the ceiling rate charged by the tenderer to User throughout the Term of the Agreement.

KTT Wi-Fi Provider Licence Agreement

Schedule 1 – General Requirements of the Service

This Schedule 1 states the general requirements of the Service that the Operator shall agree at its sole costs to fulfil in respect of the provision of internet connection service on KTT (via Wi-Fi technologies at a fee chargeable to Users), at the through train platform areas and at the Departure Hall of MTR Hung Hom Station (via Wi-Fi technologies at a fee chargeable to Users for usage on KTT) (collectively called as “Wi-Fi service”), and at Computer Kiosks (via broadband free-of-charge to Users).

Part A

The Operator shall agree to provide internet connection service via Wi-Fi technologies to the public at the Premises designated by MTRCL during the Term hereof meeting the following requirements:-

1. each subscription of Wi-Fi service shall allow that paid User to access to the internet including email servers and VPN servers throughout subscriber’s single journey on KTT train plus within the through train platform areas and Departure Hall of MTR Hung Hom Station.
(Note: Train journey between Hung Hom Station and Guangzhou East Station is about 140 minutes excluding unplanned train delays, and passengers may stay at Departure Hall for 40 minutes excluding unplanned train delays.)
2. each subscription of Wi-Fi service per User per train journey (“One-Time Usage Fee”) shall be reasonable to the Users when comparing to a train ticket fare (currently at HK\$190), that is, recommended at a ceiling of 15% of a train ticket fare.
3. each subscription of Wi-Fi service per User per train journey for the existing customers of the Operator (“Top-up Usage Fee”) shall be reasonable to the Users when comparing to a train ticket fare (currently at HK\$190), that is, recommended at a ceiling of 15% of a train ticket fare.
4. provision of Wi-Fi access plan(s) other than “One-Time Usage Fee” and “Top-up Usage Fee” shall be subject to prior written approval by the train operator of KTT (MTR Corporation Limited – Intercity Department).
5. alternation of any usage fee(s) in relation to the Service without limitation to “One-Time Usage Fee” and “Top-up Usage Fee” shall be agreed in advance by the train operator of KTT (MTR Corporation Limited – Intercity Department).
6. provision of bandwidth of not less than 14M bps (download) and 10M bps (upload) between modems / antennas on KTT and any radiocommunication devices along the train route for one fleet of KTT on-board Wi-Fi service during a journey on KTT train.
7. provision of two (2) toll-free telephone hotline numbers for subscribers to make inquiries (services and technical issues) via their mobile phones in both Hong Kong and mainland China.

8. be responsible for all issues in relation to or arising from the use of the Service including without limitation to licenses of operations, comments and complaints in respect of service quality, connectivity, payment, etc.
9. provision of thirty-five (35) unique user ids and passwords at no cost to TraxComm and the MTRCL for unlimited access by TraxComm and the MTRCL within KTT on-board, at through train platform areas and Departure Hall of MTR Hung Hom Station.

Part B

The Operator shall agree to provide internet connection service at the Computer Kiosks (via broadband internet access) to the public at the Premises designated by MTRCL during the Term hereof meeting the following requirements:-

1. provision of five (5) Computer Kiosks for passengers to access the internet without paying a fee at Departure Hall of MTR Hung Hom Station.
2. design, construction, supply and installation of five (5) Computer Kiosks with furniture, desktop computer units including individual liquid crystal display monitor, keyboard and mouse at Departure Hall of MTR Hung Hom Station.
3. be responsible for all issues in relation to or arising from the use of the Computer Kiosks including without limitation to computers and relevant licenses, software updates, hardware maintenance, power supply, internet connection and network connectivity for the purpose of operating the Computer Kiosks.

KTT Wi-Fi Provider Licence Agreement

Schedule 2 – Licence Fee

This Schedule 2 defines the Licence Fee payable to MTRCL by the Operator in respect of the Operator’s provision of internet connection service on KTT (via Wi-Fi technologies at a fee chargeable to Users), at the through train platform areas and at the Departure Hall of MTR Hung Hom Station (via Wi-Fi technologies at a fee chargeable to Users for usage on KTT) (collectively named as “Wi-Fi service”), and at Computer Kiosks (via broadband free-of-charge to Users), under a provider licence to be granted by MTRCL to the Operator.

..... (“the Operator”)
(Tenderer in BLOCK CAPITALS, with company stamp hereunder)

hereby agrees in consideration of and upon a provider licence being granted by MTRCL to allow the Operator to provide and operate the Wi-Fi service and Computer Kiosks as described in Schedule 1 herewith, the Operator shall pay to MTRCL a non-refundable Licence Fee at HK\$_____ for the whole period from 31st day of December 2013 to 30th day of June 2016 in phases as defined in the following:-

<u>Amount Payable to MTRCL</u>	<u>Due Date</u>
(Licence Fee) x 35%	14 calendar days upon receipt of the Letter of Acceptance issued by MTRCL
(Licence Fee) x 35%	1 st June 2014
(Licence Fee) x 30%	1 st June 2015

.....
(Name of Signatory in BLOCK CAPITALS)

Dated this day of 2013.

Signature in capacity of

.....
(Job Title)

.....
(Office Telephone) (Email Address)

KTT Wi-Fi Provider Licence Agreement

Schedule 3 – Usage Fee

This Schedule 3 defines the Usage Fee payable to the Operator by Users in respect of each User’s subscription to internet connection service on KTT (via Wi-Fi technologies at a fee chargeable to Users), at the through train platform areas and at the Departure Hall of MTR Hung Hom Station (via Wi-Fi technologies at a fee chargeable to Users for usage on KTT) (collectively named as “Wi-Fi service”) under the provision of the Wi-Fi service by the Operator.

..... (“the Operator”)
(Tenderer in BLOCK CAPITALS, with company stamp hereunder)

hereby agrees in consideration of and upon a provider licence being granted by MTRCL to allow the Operator to provide and operate the Wi-Fi service at a fee chargeable to Users, the Operator shall charge the following Usage Fees as the ceiling rate of any fee chargeable to User per train journey as described in Schedule 1 herewith:-

Subscription of Wi-Fi service - One-Time Usage Fee	HK\$
Subscription of Wi-Fi service - Top-up Usage Fee	HK\$

.....
(Name of Signatory in BLOCK CAPITALS)

Dated this day of 2013.

Signature in capacity of

.....
(Job Title)

.....
(Office Telephone) (Email Address)

KTT Wi-Fi Provider Licence Agreement

Schedule 4 – Fulfilment Fee

This Schedule 4 defines the Fulfilment Fee payable to MTRCL by the Operator in respect of the Operator’s appointment of MTRCL as a retail agent to sell subscription access cards of “One-Time Usage Fee” and other chargeable plans (if any) that are tangible packaging for Users to access internet connection service on KTT (via Wi-Fi technologies at a fee chargeable to Users), at the through train platform areas and at the Departure Hall of MTR Hung Hom Station (via Wi-Fi technologies at a fee chargeable to Users for usage on KTT) (collectively named as “Wi-Fi service”).

..... (“the Operator”)
(Tenderer in BLOCK CAPITALS, with company stamp hereunder)

hereby agrees in consideration of and upon a provider licence being granted by MTRCL to allow the Operator to provide and operate the Wi-Fi service as described in Schedule 1 herewith, the Operator will appoint MTRCL to become a retail agent to sell subscription access cards that are tangible packaging for Users to pay and use the Wi-Fi service.

Notwithstanding the rights of MTRCL to, including without limitation, Licence Fee payable by the Operator, the Operator agrees to pay a Fulfilment Fee at HK\$_____ per card sold by MTRCL to MTRCL in consideration of the manpower resource allocated by MTRCL.

.....
(Name of Signatory in BLOCK CAPITALS)

Dated this day of 2013.

Signature in capacity of

.....
(Job Title)

.....
(Office Telephone) (Email Address)

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KTT Wi-Fi Provider Licence Agreement

**Part 4
Terms & Conditions**

(refers to the template of “Ktt Wi-Fi Provider License Agreement”)

Tender Number: KTT-2013-01

KTT Wi-Fi Provider Licence Agreement

Part 5

Performance Commitment

KTT Wi-Fi Provider Licence Agreement

Schedule 8 – Performance Standard

[to be inserted by Operator]