

Legal Notice and Disclaimer

This Information Memorandum (“Memorandum”) has been prepared for the purposes of providing information about the determination of the Spectrum Utilization Fees applicable to the frequency bands (the “Frequency Bands”) specified in the Notice dated 24 April 2009 (the “Notice”) issued by the Telecommunications Authority (the “Authority”) in exercise of the powers conferred by section 32I of the Telecommunications Ordinance (Cap.106), the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) and all other powers enabling him to specify the terms and conditions of the auction and the payment of the Spectrum Utilization Fees. This Memorandum provides details on the method of determining the Spectrum Utilization Fees and other elements of the regulatory framework applicable to the assignment of the Frequency Bands. Terms and expressions used in this Legal Notice and Disclaimer are as defined in the Notice and the Glossary of Terms of this Memorandum. In case of any discrepancy, the Notice shall prevail. The Notice is given in Appendix B of this Memorandum, whereas the Glossary of Terms of this Memorandum is given in Appendix E of this Memorandum.

This Memorandum is for information purposes only and has no binding force. This Memorandum is not intended to form any part of the basis of any investment decision or other evaluation or any decision to participate in the Auction and should not be considered as a recommendation by the Authority, the Office of the Telecommunications Authority (“OFTA”) or any of their advisers to any reader of this Memorandum. Each reader must make his own independent assessment of the potential value of an assignment of the Frequency Bands for public telecommunications services in order to determine whether to participate in the Auction. All information contained in this Memorandum may be updated, modified or amended at any time.

While OFTA endeavours to ensure that the information contained in this Memorandum is accurate as at the time of publication, none of the Authority, OFTA or any of their advisers or any of their respective directors, partners, officers, employees, or agents make any representation or warranty (express or implied) or accept or will accept any responsibility or liability in relation to the accuracy or completeness of the information contained in this Memorandum or any other written or oral information made available to any interested party or its advisers. Any responsibility or liability in respect of any such information or any inaccuracy in this Memorandum or omission from this Memorandum is expressly disclaimed. In particular, but without prejudice to the generality of the foregoing, no representation or

warranty is given as to the achievement or reasonableness of any future projections, estimates, prospects or returns contained in this Memorandum.

This Memorandum does not constitute an offer or invitation to participate in the Auction, nor does it constitute the basis of any contract which may be concluded in relation to the Auction or in respect of any assignment of the Frequency Bands.

Readers should not construe the content of this Memorandum, or any other communications by or on behalf of the Authority, OFTA or any of their advisers as financial, legal, tax or other advice. Accordingly, each reader of this Memorandum should consult his own professional advisers as to financial, legal, tax and other matters concerning any potential participation in the Auction or any assignment of the Frequency Bands for provision of public telecommunications services.

**AUCTION OF RADIO SPECTRUM
IN THE 1800 MHz BAND
FOR EXPANSION OF PUBLIC MOBILE
TELECOMMUNICATIONS SERVICES**

INFORMATION MEMORANDUM

24 APRIL 2009

OFFICE OF THE TELECOMMUNICATIONS AUTHORITY

CONTENTS	PAGE
 A. EXECUTIVE SUMMARY	
A.1 EXECUTIVE SUMMARY	1
 B. POLICY BACKGROUND	
B.1 ASSIGNMENT OF THE AVAILABLE RADIO SPECTRUM IN THE 1800 MHz BAND	4
B.2 PAYMENT OF SPECTRUM UTILIZATION FEES	5
B.3 USE OF THE FREQUENCY BANDS IN COUNTRY PARKS / REMOTE AREAS	7
B.4 ASSIGNMENT OF THE FREQUENCY BANDS BY THE AUCTION	8
B.5 CONTROL OF INTERFERENCE AND FREQUENCY COORDINATION	8
B.6 NO SPECTRUM CAP REQUIREMENT	9
 C. AMENDMENTS TO THE EXISTING LICENCES	
C.1 INTRODUCTION	10
C.2 COMPLIANCE WITH AUCTION RULES	10
C.3 PAYMENT OF SPECTRUM UTILIZATION FEES	10
C.4 ASSIGNMENT OF THE FREQUENCY BANDS	11
 D. THE AUCTION	
D.1 INTRODUCTION	12
D.2 FREQUENCY BANDS AND MINIMUM FEES	13
D.3 APPLICATION	14
D.4 DEPOSIT	16
D.5 QUALIFICATION	18
D.6 BIDDING PROCEDURES	20
D.7 ASSIGNMENT STAGE	30
D.8 RULES ON CONDUCT OF BIDDERS	31
 E. APPLICATION INSTRUCTIONS	
E.1 APPLICATION INSTRUCTIONS	36
 F. CONTACTS AND FURTHER INFORMATION	

F.1	CONTACTS FOR ENQUIRES	38
F.2	PUBLICATION OF FURTHER INFORMATION	38

APPENDIX A GAZETTE NOTICE OF THE MINIMUM FEE ISSUED BY SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

APPENDIX B GAZETTE NOTICE OF TERMS AND CONDITIONS OF THE AUCTION (INCLUDING THE CONDITIONS TO BE ADDED TO THE LICENCE)

CONTENTS

PART 1	INTRODUCTION
PART 2	APPLICATION STAGE
PART 3	QUALIFICATION STAGE
PART 4	BIDDING STAGE
PART 5	ASSIGNMENT STAGE
PART 6	RULES ON CONDUCT OF BIDDERS
PART 7	MISCELLANEOUS
APPENDIX 1	DESIGNATED AREAS
APPENDIX 2	CONDITIONS
APPENDIX 3	FREQUENCY BAND, ELIGIBILITY POINTS AND MINIMUM FEE
APPENDIX 4	DEPOSIT AND ELIGIBILITY POINTS TO BE ATTRIBUTED TO BIDDERS
APPENDIX 5	APPLICATION FORM
APPENDIX 6	BIDDER COMPLIANCE CERTIFICATE
APPENDIX 7	LETTER OF CREDIT
APPENDIX 8	FREQUENCY BAND SELECTION FORM

APPENDIX C FREQUENCY ASSIGNMENT IN THE 1800 MHZ BAND FOR MOBILE SERVICE COVERAGE IN THE DESIGNATED AREAS (AS AT 24 APRIL 2009)

APPENDIX D WORKED EXAMPLES

APPENDIX E GLOSSARY OF TERMS

A. EXECUTIVE SUMMARY

A.1 Executive Summary

A.1.1 This Information Memorandum (“Memorandum”) provides details about the policy background, the licence conditions and the Auction for determination of the Upfront SUF applicable to the Frequency Bands specified in the Notice dated 24 April 2009 (the “Notice”) issued by the Authority in exercise of the powers conferred by section 32I of the Telecommunications Ordinance (Cap.106), the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) and all other powers enabling him to specify the terms and conditions of the auction and the payment of the Spectrum Utilization Fees. The Frequency Bands are allocated and assigned for expansion of public mobile telecommunications services. Readers should note that:

- (a) A total of 9.6 MHz spectrum from the 1800 MHz Band will be available for auction;
- (b) The available spectrum will be divided into 6 Frequency Bands, each with a bandwidth of 0.8 MHz x 2;
- (c) The Auction will be conducted in the simultaneous multiple round ascending (“SMRA”) format whereby all Frequency Bands will be auctioned simultaneously over multiple rounds with the price increasing on each Frequency Band independently;
- (d) Only existing mobile network operators (China Mobile Hong Kong Company Limited, CSL Limited, Hong Kong Telecommunications (HKT) Limited, Hutchison Telephone Company Limited, and SmarTone Mobile Communications Limited) may apply to take part in the Auction;
- (e) There will be no maximum amount of spectrum among the Frequency Bands that may be assigned to each Bidder. In other words, there will be no spectrum cap restriction and no bidder association rules in the Auction;

EXECUTIVE SUMMARY

- (f) The use of the Frequency Bands will be subject to payment of Spectrum Utilization Fees which consist of (i) the annual fees (“Annual SUF”) prescribed in section 2(2)(b) of Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA) and (ii) the fixed fees (“Upfront SUF”) determined by this Auction, as referred to in section 2(2)(a) of Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA);
- (g) The Annual SUF will be (i) for each period of 12 months beginning with 30 September, from 30 September 2009 to 29 September 2011, \$145 for every 1 kHz or part of every 1 kHz; and (ii) for each period of 12 months beginning with 30 September, from 30 September 2011 to 29 September 2021, \$1450 for every 1 kHz or part of every 1 kHz or 5% of the network turnover in the 12-month period concerned (whichever is the higher);
- (h) The reserve price or the minimum amount of the Upfront SUF (i.e. the Minimum Fee) as specified by the Secretary for Commerce and Economic Development (“the Secretary”) by the Gazette notice of 24 April 2009 will be HK\$60,000 for each Frequency Band of 0.8 MHz x 2;
- (i) In making an Application to participate in the Auction, each Bidder must submit a Deposit, a duly completed Application Form and a Bidder Compliance Certificate;
- (j) If there is only one Qualified Bidder, no Bidding Stage will be conducted. That only Bidder will be the Provisional Successful Bidder for the use of the Frequency Band(s) it selects and the Upfront SUF payable will be the sum of the Minimum Fee(s) for the selected Frequency Band(s);
- (k) If there is more than one Qualified Bidder, the Bidding Stage will be conducted. The Provisional Successful Bidder of a Frequency Band will be the Bidder which holds the Standing Highest Bid in respect of that Frequency Band at the end of the Bidding Stage and the amount of the Upfront SUF payable for that Frequency Band will be the amount of that Standing Highest Bid;

EXECUTIVE SUMMARY

- (l) The Provisional Successful Bidder(s) will be required to pay the Upfront SUF within 15 Business Days after the publication of the Provisional Successful Bidder Notice;
- (m) A Successful Bidder will be assigned with the Frequency Band(s) under its existing mobile carrier licence or unified carrier licence (as the case may be) under which it is authorised to provide public mobile telecommunications services with spectrum in the 1710 – 1880 MHz band;
- (n) The Frequency Band(s) assigned to the Successful Bidder(s) can be used in base stations located in areas other than the Designated Areas set out in Appendix 1 of the Notice;
- (o) Conditions prescribed in Appendix 2 of the Notice shall be added to existing carrier licence of the Successful Bidder(s); and
- (p) The assignment of the Frequency Bands will be valid from the date of the licence amendment to 29 September 2021.

A.1.2 This Memorandum provides details of these and other issues. The rules of the Auction are summarized in Section D, but for full details interested parties should refer to the Notice, which is attached at Appendix B of this Memorandum for easy reference. Terms and expressions used in this Memorandum have the meaning as in the Notice (see Appendix B) and the Glossary of Terms of this Memorandum (see Appendix E). In case of any discrepancy, the Notice shall prevail.

B. POLICY BACKGROUND

B.1 Assignment of the Available Radio Spectrum in the 1800 MHz Band

B.1.1 Mobile telephony services in Hong Kong have witnessed significant growth in recent years. The market penetration of mobile services has increased from 106% in December 2003 to more than 162% in December 2008. To cope with the increasing demand, mobile network operators have been requesting for the release of additional radio spectrum to allow for expansion of the public mobile services.

B.1.2 As indicated in the Spectrum Release Plan (“SRP”)¹, frequencies in the 885 – 890 MHz paired with 930 – 935 MHz band (“900 MHz Band”) and 1780.1 – 1785 MHz paired with 1875.1 – 1880 MHz band (“1800 MHz Band”) are available and may be used for public mobile services.

B.1.3 The Authority issued a public consultation paper in January 2008² to seek views and comments from the industry and the interested parties on the allocation of the available radio spectrum in the 900 MHz and 1800 MHz Bands and on imposition of Spectrum Utilization Fees on the use of such spectrum. The respondents in general supported the proposal of releasing additional spectrum for expansion of public mobile services and imposition of Spectrum Utilization Fees on the use of such spectrum. In July 2008³, the Authority issued a statement promulgating his decision on assignment of the available radio spectrum in the 900 MHz and 1800 MHz Bands.

B.1.4 For the 1800 MHz Band, the Authority has decided to make available 4.8 MHz x 2 radio spectrum for public mobile services. Considering that the available radio spectrum may not be sufficient for a new entrant to build a new network that can compete with the existing mobile network operators in terms of system capacity, coverage or quality of service, the Authority has decided to make available the radio spectrum to the existing mobile network operators only for expansion of their public mobile services.

B.1.5 The radio spectrum available for assignment in the 1800 MHz Band is

¹ As part of the implementation of the Radio Spectrum Policy Framework promulgated in April 2007, the Authority will publish and update annually a SRP to inform the industry of the potential supply of radio spectrum to be made available to the market within the following three years for assignment through the market-based approach.

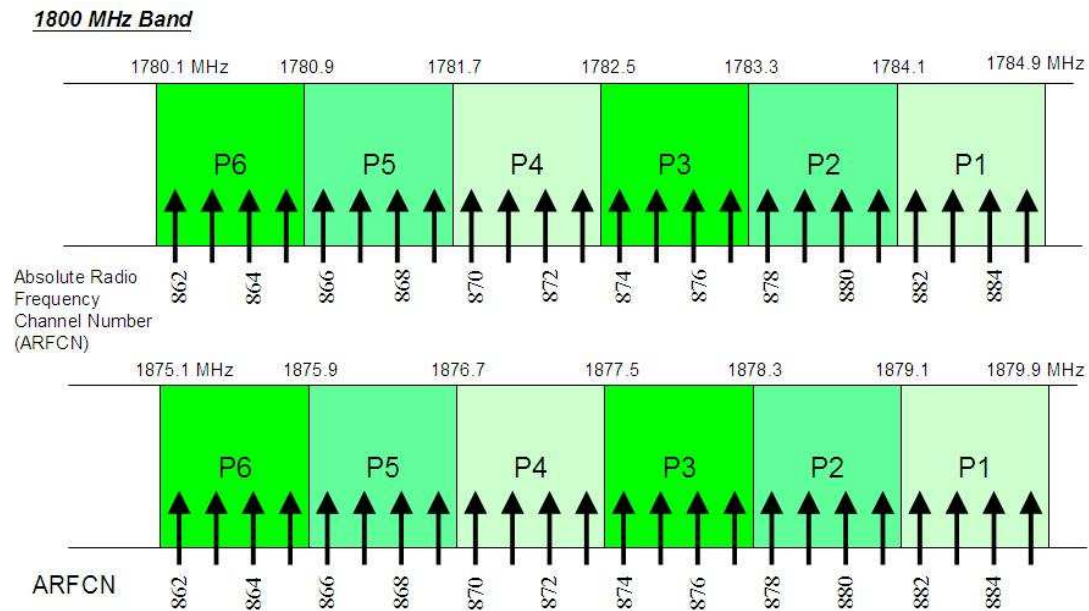
² The Authority Consultation Paper, “Assignment of the Available Radio Spectrum in the 900 MHz and 1800 MHz Bands”, dated 18 January 2008.

³ The Authority Statement, “Assignment of the Available Radio Spectrum in the 900 MHz and 1800 MHz Bands”, dated 4 July 2008.

POLICY BACKGROUND

divided into 6 Frequency Bands, each with a bandwidth of 0.8 MHz x 2 as shown in Exhibit 1 below:

Exhibit 1: Band Plan



B.1.6 For the 900 MHz Band, the Authority has decided to defer the decision on the release of the available spectrum, pending the finalization of the design of the Hong Kong Section of the Express Rail Link which will use the 900 MHz Band for its railway communications system. The Authority will further assess the technical feasibility of the shared use of the 900 MHz Band by the mobile network operators and the new railway, and will consult the industry again in 2009/2010 on the assignment of the available radio spectrum in the 900 MHz Band.

B.2 Payment of Spectrum Utilization Fees

B.2.1 In accordance with the Radio Spectrum Policy Framework promulgated by the Government in April 2007, a market-based approach will be used for spectrum management whenever the Authority considers that there is likely to be competing demand for the spectrum. The Authority has decided that the use of the Frequency Bands shall be subject to payment of Spectrum Utilization Fees and has recommended to the Secretary to enact the necessary regulation to determine the level of and the method for

POLICY BACKGROUND

determining the Spectrum Utilization Fees.

B.2.2 Under section 32I(1) of the Ordinance, the Authority has made an order designating the frequency bands in which the use of spectrum is subject to payment of Spectrum Utilization Fees. The Authority has amended the Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y) (the “Order”) and designated the use of the Frequency Bands to be subject to Spectrum Utilization Fees.

B.2.3 Pursuant to section 32I(2) of the Ordinance, the Secretary has made the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA) and the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) (“the Regulations”). The Secretary has made amendments to the Regulations and prescribed the level of and the method for determining the Spectrum Utilization Fees payable for use of the Frequency Bands. The legislative amendment comes into operation on 3 April 2009.

B.2.4 As prescribed in the Regulations, the Spectrum Utilization Fees payable for use of the Frequency Bands shall consist of (a) Annual SUF and (b) Upfront SUF.

B.2.5 The Annual SUF shall be determined as follows:-

(a) for each period of 12 months beginning with 30 September, from 30 September 2009 to 29 September 2011, \$145 for every 1 kHz or part of every 1 kHz of the assigned Frequency Bands;

(b) for each period of 12 months beginning with 30 September, from 30 September 2011 to 29 September 2021 –

(i) 5% of the network turnover in the period of 12 months concerned;
or

(ii) \$1450 for every 1 kHz or part of every 1 kHz of the assigned Frequency Bands,

whichever is the higher for the period of 12 months concerned.

POLICY BACKGROUND

B.2.6 The Upfront SUF shall be determined by auction. Under the Regulations, the Authority is empowered to hold the Auction to determine the level of the Upfront SUF payable for the use of the Frequency Bands. Where there is more than one Qualified Bidder, there will be an auction to determine the Upfront SUF payable for the use of the Frequency Bands. The Bidder with the highest Valid Bid for a particular Frequency Band in the Auction will be the Provisional Successful Bidder and the amount of that highest Valid Bid will be the amount of the Upfront SUF payable for that Frequency Band. Where there is only one Qualified Bidder, no auction will be held. That Qualified Bidder will be the Provisional Successful Bidder of the Frequency Band(s) it selects and the Upfront SUF payable by the Provisional Successful Bidder will be the sum of the Minimum Fee(s) for the selected Frequency Band(s).

B.3 Use of the Frequency Bands in Country Parks / Remote Areas

B.3.1 Currently, there have been frequency assignments in the 1800 MHz Band for mobile network operators to provide service coverage in the country parks and remote areas. The details of the frequency assignments and the locations of base stations are given in Appendix C of this Memorandum. At present mobile network operators are exempted from payment of Spectrum Utilization Fees for use of the 1800 MHz Band in the country parks and remote areas.

B.3.2 Given the importance of mobile service coverage in the country parks and remote areas, the Authority will continue to consider assignment of the radio spectrum in the 1800 MHz Band in response to the application of individual mobile network operators on a case-by-case basis. The Authority will follow the practices as given in B.5.2 to ensure that the operation of the base stations to be installed in areas other than country parks and remote areas by Successful Bidders as referred in B.4.1 will not cause harmful interference to the base stations located inside the country parks and remote areas using the same Frequency Bands, or vice versa.

B.3.3 Mobile network operators are exempted and will continue to be exempted after the Auction from payment of Spectrum Utilization Fees for use of the Frequency Bands in the country parks and remote areas. In other words, no

POLICY BACKGROUND

Spectrum Utilization Fee shall be payable for the use of the Frequency Bands if the user is authorised by the Authority to use the spectrum through a base station located in the Designated Areas for the sole purpose of providing public mobile services within the Designated Areas. For the purpose of the exemption, country parks and special areas designated under Country Parks Ordinance (Cap.208) and three remote areas in Robin's Nest, Lai Chi Wo and Sai Kung have been specified as the Designated Areas. Details of the Designated Areas are published in the Gazette on 3 April 2009 and are also set out in Appendix 1 of the Notice. Maps of the Designated Areas are available for inspection at OFTA.

B.4 Assignment of the Frequency Bands by the Auction

B.4.1 Apart from the use in the Designated Areas, it is technically feasible to assign the Frequency Bands *for use in areas other than the Designated Areas*. The Authority will determine by the Auction the Successful Bidders which will be assigned with the Frequency Bands for provision of public mobile services *in areas other than the Designated Areas*. The Successful Bidders of the Frequency Bands shall pay the Upfront SUF determined in the Auction and the Annual SUF as specified in B.2.5.

B.5 Control of Interference and Frequency Coordination

B.5.1 Each of the existing licences of the mobile network operators contains a general condition requiring the licensee to take reasonable measures to install, maintain and operate the service and the network in such a manner as not to cause any harmful interference to any other lawful telecommunications service. Pursuant to such general condition, all mobile network operators, including those assigned with the Frequency Bands (whether for use within or outside the Designated Areas), have the obligation to take reasonable measures not to cause harmful interference to each other. The licensee shall comply with such directions as the Authority may give as he thinks fit to avoid harmful interference.

B.5.2 In coordinating the use of the Frequency Bands between a mobile network operator with its base station(s) located within the Designated Areas and another mobile network operator with its base station(s) located outside the Designated Areas, the Authority will adopt the following approaches:-

POLICY BACKGROUND

- (a) Before intervention by the Authority, the relevant mobile network operators should collaborate with each other with a view to resolving the harmful interference in a timely manner; and
- (b) Priority of use will generally be given to base stations located in and providing coverage in the Designated Areas. In other words, the base stations located outside the Designated Areas should not cause harmful interference to the operation of the base stations located in and serving the Designated Areas.

B.6 No Spectrum Cap Requirement

B.6.1 As the amount of radio spectrum available in the Auction is relatively limited, it is unlikely that one operator would be in a more advantageous position as compared with others, or competition would significantly be lessened, even if all the 6 Frequency Bands were acquired by that operator. The Authority has therefore decided in his statement “Assignment of the Available Radio Spectrum in the 900 MHz and 1800 MHz Bands” dated 4 July 2008 that no bidding restriction in the form of the maximum amount of spectrum will be imposed for assignment of the Frequency Bands to a Bidder. In other words, there will be no spectrum cap to be applied in the Auction.

C. AMENDMENTS TO THE EXISTING LICENCES

C.1 Introduction

C.1.1 A Successful Bidder will be assigned with the Frequency Band(s) under its existing mobile carrier licence or unified carrier licence (as the case may be) under which it is authorized to provide public mobile telecommunications services with spectrum in the 1710 – 1880 MHz band.

C.1.2 The existing terms and conditions of the licence of the Successful Bidder(s) shall be applicable to the use of the Frequency Band(s) to be assigned to the Successful Bidder(s).

C.1.3 Conditions specifically relating to the Auction and the assignment of the Frequency Bands, substantially in the form set out in Appendix 2 of the Notice, shall also be added to existing licence of the Successful Bidder(s). Such Conditions are summarized below.

C.2 Compliance with Auction Rules

C.2.1 A Successful Bidder must comply with the terms and conditions of the Notice. If it is found, to the satisfaction of the Authority, to have been involved in an act, or omission of any act, constituting a breach of the terms and conditions of the Notice, then the Authority may cancel, withdraw or suspend the licence.

C.3 Payment of Spectrum Utilization Fees

C.3.1 Before the assignment of the Frequency Band(s), a Successful Bidder shall have paid the Upfront SUF at such level as determined by the Auction.

C.3.2 For each 12-month period beginning with 30 September from 30 September 2009 to 29 September 2011, the Successful Bidder shall pay to the Authority the Annual SUF (\$145 for every 1 kHz or part of every 1 kHz of the assigned Frequency Band(s)) on or before the last day of the period concerned.

C.3.3 For each 12-month period beginning with 30 September from 30 September

THE LICENCE

2011 to 29 September 2021, the Successful Bidder shall pay the Annual SUF in the following manner:-

- (a) on or before the last day of the 12-month period concerned, the Successful Bidder shall pay to the Authority \$1,450 for every 1 kHz or part of every 1 kHz of the assigned Frequency Band(s); and
- (b) within a specified period determined by the Authority after the end of the 12-month period concerned, the Successful Bidder shall send to the Authority details of its network turnover in the 12-month period concerned and pay to the Authority the excess (if any) of its 5% network turnover over the payment it has made.

C.4 Assignment of the Frequency Bands

- C.4.1 The Frequency Band(s) assigned under the Auction shall be added to Schedule 3 of the existing licence of the Successful Bidder concerned. The assignment of the Frequency Band(s) shall be valid from the date of the licence amendment to 29 September 2021.
- C.4.2 The Frequency Bands assigned under the Auction shall be used in base stations located *in areas other than the Designated Areas* and for the sole purpose of providing public mobile services *in areas other than the Designated Areas*.

D. THE AUCTION

D.1 Introduction

D.1.1 The Government has decided that the Frequency Bands will be assigned and the Upfront SUF payable for use of the Frequency Bands will be determined by the Auction. The Auction will be in the form of an SMRA auction. Bidding in respect of all Frequency Bands will be conducted simultaneously. The Upfront SUF payable for the use of each Frequency Band will be determined by the highest Valid Bid for the Frequency Band in the Auction.

D.1.2 The Notice governs the rules and procedures of the Auction. This Section is intended to provide an overview of the main features of the Auction, and provides guidance on practical procedures and Applications. In the event of any discrepancy between the Notice and this Section, the Notice shall take precedence. Any person interested in participating in the Auction should familiarise himself with the Notice and should seek independent professional advice in respect of the Notice.

D.1.3 The timetable below sets out the indicative dates of major events of the Auction. Please note that the timetable is not intended to set any deadlines to which the Authority must adhere but is for reference only.

Exhibit 2: Indicative timetable

Activity	Date
Publication of the Information Memorandum	24 April 2009 (Fri)
Deadline for submission of questions	8 May 2009 (Fri)
Application Dates	21 & 22 May 2009 (Thur & Fri)
Publication of Bidder Notice to announce the identities of Bidders (i.e. applicants)	25 May 2009 (Mon)
Publication of Qualified Bidder Notice to announce the identities of Qualified Bidders	29 May 2009 (Fri)

THE AUCTION

Activity	Date
Issue of Bidding Stage Notice to inform Qualified Bidders of the date on which the Bidding Stage will commence	29 May 2009 (Fri)
Briefing and mock auction sessions for Qualified Bidders	2 – 3 June 2009 (Tue – Wed)
Commencement of Bidding Stage	8 June 2009 (Mon)
Publication of Provisional Successful Bidder Notice to announce the result of the Bidding Stage	Within 2 Business Days after the end of the Bidding Stage
Payment of Upfront SUF and compliance with other Assignment Stage procedures by Provisional Successful Bidders	Within 15 Business Days after publication of the Provisional Successful Bidder Notice
Publication of Successful Bidder Notice	After payment of Upfront SUF and compliance with other Assignment Stage procedures by Provisional Successful Bidders

D.2 Frequency Bands and Minimum Fees

D.2.1 For the purpose of the Auction, the Authority will divide the available spectrum into Frequency Bands as illustrated in Exhibits 1 and 3. Each Frequency Band is in pair with a bandwidth of 0.8 MHz x 2.

D.2.2 The Secretary has specified the minimum amount of the Upfront SUF (i.e. the Minimum Fee) by notice in the Gazette. The Minimum Fee shall be HK\$60,000 per each Frequency Band of 0.8 MHz x 2. The notice is given in Appendix A of this Memorandum. For easy reference, the Minimum Fee for each Frequency Band is illustrated in Exhibit 3.

D.2.3 In the Bidding Stage of the Auction, the amount of a bid for each Frequency Band shall not be less than the Minimum Fee. In case there is only one

THE AUCTION

Qualified Bidder, no Bidding Stage will be held and the Upfront SUF payable by the only Qualified Bidder shall be the Minimum Fee.

Exhibit 3: Frequency Band and Minimum Fee

Frequency Band	MHz	Minimum Fee
P1	1784.1 – 1784.9 1879.1 – 1879.9	HK\$60,000
P2	1783.3 – 1784.1 1878.3 – 1879.1	HK\$60,000
P3	1782.5 – 1783.3 1877.5 – 1878.3	HK\$60,000
P4	1781.7 – 1782.5 1876.7 – 1877.5	HK\$60,000
P5	1780.9 – 1781.7 1875.9 – 1876.7	HK\$60,000
P6	1780.1 – 1780.9 1875.1 – 1875.9	HK\$60,000

D.3 Application

D.3.1 Bidders must provide:

- (a) a duly completed Application Form containing all requested information and supporting documents;
- (b) a duly completed Bidder Compliance Certificate; and
- (c) a Deposit, either in cleared funds in the Authority's Account, or by Letter of Credit. Section D.4 below provides more information on the requirement in relation to the Deposit.

Bidders must follow the detailed instructions given in the Application Form. (which is attached in Appendix 5 of the Notice).

- D.3.2 Applications must be received by the Authority between 9:00am and 5:00pm on either 21 May 2009 or 22 May 2009 (“the Application Dates”). Applications must be delivered by hand to the Assistant Director (Regulatory) at the Authority's Office. Detailed instructions on submission of Applications are set out in Section E.

THE AUCTION

D.3.3 If a tropical cyclone warning signal no. 8 or above or a "black" rainstorm warning signal is in force in Hong Kong on the Application Dates, Applications must be received by the Authority between 9:00am and 5:00pm on the next Business Day on which none of the signals remains in force.

D.3.4 Bidders should note that:

- no person other than an Eligible Person may make an Application;
- Eligible Person means one of the following persons (in alphabetical order):
 - (a) China Mobile Hong Kong Company Limited,
 - (b) CSL Limited,
 - (c) Hong Kong Telecommunications (HKT) Limited,
 - (d) Hutchison Telephone Company Limited, and
 - (e) SmarTone Mobile Communications Limited,each of which is a company incorporated in Hong Kong under the Companies Ordinance (Cap.32);
- each Eligible Person may submit no more than one Application;
- late Applications will not be accepted;
- Applications that do not contain all the requested information may be rejected and such Bidders may not be qualified;
- once received, an Application cannot be withdrawn;
- submission of an Application commits a Bidder and its Insiders to comply with the rules of the Auction, as set out in the Notice;
- submission of an Application commits a Bidder to bid for at least one Frequency Band in the first Round;
- the Authority shall disqualify and forfeit the Bidder's Deposit if the Bidder is qualified but fails to submit to the Authority a bid for at least one Frequency Band in the first Round; and
- in the event that there is only one Qualified Bidder, the only Qualified Bidder shall be the Provisional Successful Bidder of the Frequency Band(s) it selects and the Upfront SUF payable shall be the sum of the Minimum Fee(s) for the selected Frequency Band(s).

- D.3.5 Each Application must contain an address, telephone and fax numbers in Hong Kong to which notifications regarding the Auction process may be sent.
- D.3.6 There will be no limit of the spectrum among the Frequency Bands that may be assigned to each Bidder. A Bidder may bid for 1 to 6 Frequency Bands.
- D.3.7 There will be no ownership rules / bidder association rules to restrict participation of connected or associated bidders. However, an interested Eligible Person must participate on its own. Joint applications will not be accepted. All Bidders are also reminded to observe the terms and conditions in relation to confidentiality and must not collude or manipulate the Auction.

D.4 Deposit

Amount of Deposit

- D.4.1 On submission of an Application and as a condition of qualification, a Bidder must provide a Deposit. The Deposit shall be in such amount as specified in Exhibit 4. The Authority will take into account the amount of the Deposit provided by the Bidder in determining the number of Eligibility Points (“EPs”) to be attributed to the Bidder for the first Round of the Bidding Stage. The Activity Level of a Bidder will be restricted by the number of EPs attributed to it. Details of the activity rules are described in paragraphs D.6.28 – 45 below.

Exhibit 4: Deposit and Eligibility Points to be attributed to Bidders

Deposit	Eligibility Points to be attributed to Bidder for the first Round
HK\$8,000,000	1
HK\$16,000,000	2
HK\$24,000,000	3
HK\$32,000,000	4
HK\$40,000,000	5
HK\$48,000,000	6

Form of Deposit

D.4.2 The Deposit can be provided:

- in cash, paid to the Authority's Account at the Deposit Bank (see paragraph E.1.6) by telegraphic transfer, with accompanying information which identifies the relevant Bidder; or
- by a Letter of Credit issued by a Qualifying Bank.

D.4.3 Bidders should note that, if the Deposit is provided in cash, funds representing the Deposit must have been cleared by 4:00 pm on the later of the Application Dates.

D.4.4 If the Deposit is provided by a Letter of Credit, the Letter of Credit must remain valid and fully effective until the Deposit is returned to the relevant Bidder in accordance with the terms and conditions of the Notice. A Bidder who fails to maintain its Letter of Credit valid and fully effective will not be qualified to participate in the Auction or will be disqualified from the Auction (as the case may be).

Penalties and Return of Deposit

D.4.5 The Deposit will be returned to a Bidder in accordance with the Notice if one of the following events occurs:

- (a) when the Bidder fails to be qualified;
- (b) when the Bidder is disqualified;
- (c) if the Bidder is qualified but has not become the Provisional Successful Bidder at the end of the Bidding Stage;
- (d) when the Bidder has become the Provisional Successful Bidder and has paid the Upfront SUF.

D.4.6 In each of the above cases, the Authority will return the Deposit to the Bidder as soon as practicable provided that:

THE AUCTION

- (a) there is no outstanding investigation being carried out by the Authority against that Bidder in respect of any suspected contravention of the terms and conditions of the Notice; and
- (b) if any amounts have been forfeited or deducted by the Authority in accordance with the terms and conditions of the Notice with respect to that Bidder,
 - (i) where the Deposit is in cash, the Deposit will be returned less the aggregate amount of any Penalties and any amounts deducted by the Authority as described in paragraphs D.6.36 – 37; and
 - (ii) where the Deposit is a Letter of Credit, the Authority will make a claim under the Letter of Credit to the extent of the aggregate amount of the Penalties and any amounts deducted by the Authority as described in paragraphs D.6.36 – 37.

D.4.7 If a Bidder's Deposit is forfeited either entirely or in part by way of Penalty under the Notice, the deduction will be deemed to have occurred at the time the Bidder is notified of the Penalty by the Authority.

Interest on Cash Deposit

D.4.8 Where the Deposit is in cash, it will earn interest at the rate available to the Authority from the Deposit Bank in which the cash is deposited.

D.4.9 Interest earned on a cash Deposit will be returned to Bidders with the Deposit.

D.4.10 Bidders should note that, where a Penalty is deducted during the course of the Auction, that portion of the Deposit will not receive any interest.

D.5 Qualification

Qualification Requirements

D.5.1 After the Application Dates, the Authority will publish a Bidder Notice to announce the identity of each Bidder which has submitted an Application. The announcement of the Bidders' identities would help to prevent market

THE AUCTION

speculation. (For the avoidance of doubt, Bidders mentioned in the Bidder Notice have not been determined as Qualified Bidders.)

D.5.2 To be eligible as a Qualified Bidder, the Bidder must satisfy the Authority all of the following:

- (a) that it has duly submitted an Application (including the Application Form containing all requested information and supporting documents, Bidder Compliance Certificate and the Deposit); and
- (b) that it complies with or is capable of complying with all the undertakings given in the Bidder Compliance Certificate.

D.5.3 The Authority will publish a Qualified Bidder Notice to announce the identities of all the Qualified Bidders.

No Bidding Stage in case of No More Than One Qualified Bidder

D.5.4 If there is no Bidder or no Qualified Bidder, the Authority will publish a notice that the Bidding Stage will not take place. The Authority will review this outcome and the accompanying circumstances to assess the way forward.

D.5.5 If there is only one Qualified Bidder, the Bidding Stage will not take place. The Authority will notify that Qualified Bidder accordingly and specify a date by which that Qualified Bidder must submit a Frequency Band Selection Form.

D.5.6 In the Frequency Band Selection Form, the only Qualified Bidder is required to indicate the Frequency Band(s) it wishes to be assigned. The Frequency Band Selection Form must be duly completed in accordance with the instructions contained in that Form and signed by two Authorised Representatives of the Qualified Bidder.

D.5.7 The Frequency Band Selection Form will not be approved by the Authority if it is not completed in accordance with the specified instructions or is unclear.

THE AUCTION

- D.5.8 Upon the Authority's approval of the Frequency Band Selection Form, the Qualified Bidder will be the Provisional Successful Bidder. The Upfront SUF payable by the Provisional Successful Bidder will be the total amount of the Minimum Fee(s) for the selected Frequency Band(s). Procedures and requirements in relation to the Assignment Stage as set out in Part 5 of the Notice shall then apply to the Provisional Successful Bidder.
- D.5.9 If the Frequency Band Selection Form is not completed in accordance with the specified instructions or is otherwise unclear, the Authority will ask the Qualified Bidder to make such clarifications as may reasonably be required. If the Qualified Bidder fails to select a Frequency Band as required within the specified period or fails to give such clarification as required by the Authority, the Qualified Bidder will not be entitled to an assignment of any Frequency Band and the Authority may forfeit an amount (up to the full amount of its Deposit) by way of Penalty or make a claim under the Letter of Credit to the extent of the relevant amount of the Penalty.

D.6 Bidding Procedures

Participation in the Bidding Stage

- D.6.1 Where there is more than one Qualified Bidder, the Bidding Stage will be conducted to determine which of the Bidders shall become Provisional Successful Bidder(s) and the amount of the Upfront SUF payable for each Frequency Band. Only Qualified Bidders will be eligible for participation in the Bidding Stage. From this part onwards, any reference to a Bidder shall be to a Qualified Bidder.
- D.6.2 At least two Business Days before the commencement of the Bidding Stage, the Authority will, by a Bidding Stage Notice, provide to each Qualified Bidder the date on which and the time at which the Bidding Stage will commence.

Communication System

- D.6.3 The Authority will use a communication system to send bidding information to Bidders and to receive submission from Bidders. The communication system will consist of:

- (a) an Internet-based software platform; and
- (b) a back-up system of telephones and facsimile machines.

D.6.4 Prior to the Bidding Stage, Bidders will be provided with:

- (a) IP addresses, passwords, digital certificates and manuals for access and use of the software platform; and
- (b) telephone numbers, facsimile numbers, passwords and forms in case of contingency where the back-up system is used.

D.6.5 The Internet-based software platform works on a wide range of operating systems and Internet browsers complemented with Java. However, Bidders are recommended to use an up-to-date operating system and browser and the latest version of Java (e.g. Windows XP Service Pack 2 or Windows Vista with Internet Explorer 7) to access and run the software platform. Bidders will be required to install the digital certificates needed for authentication and data encryption. System requirement details will be provided to Bidders in the Bidder manual.

D.6.6 Bidders will be invited to attend a briefing and a mock auction in order to familiarize themselves with the use of the software platform.

D.6.7 Each Bidder should deploy its own resources to resolve the technical problems of its information technology system during the Bidding Stage. In the event that a Bidder encounters technical problems that cannot be resolved immediately, the Bidder should without delay notify the Authority of the problems. The Authority may at his discretion allow the Bidder to receive bidding information and make bidding submission via the back-up system of telephones and facsimile machines.

Structure of the Bidding Procedures

D.6.8 The Bidding Stage will take the form of an SMRA auction. Bidding in respect of all Frequency Bands will be conducted simultaneously and will consist of one or more bidding rounds (“Rounds”) in which Bidders may submit bids for the Frequency Bands in accordance with the activity rules described below.

- D.6.9 In each Round, the Authority will specify a fixed price (“Round Price”) for each Frequency Band. Bidders may choose to submit a bid or not to submit a bid at the Round Price. Bidders have no discretion to submit bids at a price higher or lower than the Round Price. This mechanism could minimise the possibilities of price signalling.
- D.6.10 At the end of each Round, the Authority will determine a Standing Highest Bidder for each Frequency Band (see paragraphs D.6.26 – 27 below for details).

Round Prices

- D.6.11 In the first Round, the Round Price for each Frequency Band will be set at the Minimum Fee as given in Exhibit 3 above.
- D.6.12 As the Bidding Stage proceeds from Round to Round, the Authority may adjust the Round Price as he thinks appropriate. In general, the Authority is minded to adjust the Round Price for a Frequency Band as follows:
- If one or more Valid Bids were received for a Frequency Band in the immediately preceding Round, the Round Price for that Frequency Band will be adjusted upward.
 - If no Valid Bid was received for a Frequency Band in the immediately preceding Round but there is a Standing Highest Bid for that Frequency Band, the Round Price for that Frequency Band may be kept unchanged or adjusted downward. In any event, the adjusted Round Price will not be less than the Standing Highest Bid.
 - If no Valid Bid was received for a Frequency Band in the immediately preceding Round and there is no Standing Highest Bid for that Frequency Band, the Round Price may be adjusted downward. In any event, the adjusted Round Price will not be less than the Minimum Fee for that Frequency Band.

Scheduling of Rounds

- D.6.13 Rounds will be scheduled by the Authority at his sole discretion. The

THE AUCTION

Authority plans to schedule the Rounds between 9:00am and 5:00pm on Business Days. The Authority anticipates that a Round will not last for less than 10 minutes or more than 60 minutes. The Authority may re-schedule the time of a Round as he thinks fit. For example, if all Bidders have already made their submissions, the Authority may end the Round early.

D.6.14 The Authority may, at his discretion, publish details of the anticipated schedule for the following Business Day in advance. However, the Authority reserves the right to deviate from the schedule at any time. In case of variation of the start time of a Round, Bidders will be given at least 10 minutes notice before the Round commences.

D.6.15 The Authority may in exceptional circumstances cancel and re-conduct a Round / a series of Rounds (e.g. in case of adverse weather condition or in case of manifest errors).

Bidding Information for Bidders

D.6.16 Before the start of each Round, the Authority will notify each Bidder of the following information:

- the date on and the time at which the Round will start and end;
- the Round Price for each Frequency Band;
- the Frequency Band in respect of which the Bidder is the Standing Highest Bidder (if any);
- the amount of the Standing Highest Bid for each Frequency Band (if any);
- the total number of (remaining) Waivers that may be exercised by the Bidder; and
- the total number of (remaining) Withdrawals that may be exercised by the Bidder.

D.6.17 All bidding information will be sent to Bidders via the Internet-based software platform. In case of contingency, the Authority will send the bidding information to Bidders by the back-up system of telephones and

facsimile machines.

Submission of Valid Bids, etc.

- D.6.18 In the first Round, a Bidder must submit a Valid Bid for at least one Frequency Band. If a Bidder fails to submit a Valid Bid in the first Round, it will be disqualified and will be liable for a Penalty (up to the full amount of that Bidder's Deposit).
- D.6.19 In each subsequent Round, a Bidder may elect to submit or not to submit a Valid Bid in respect of any Frequency Band. The Bidder may also submit a Withdrawal in respect of a Frequency Band if it is a Standing Highest Bidder for that Frequency Band. For submission of a Withdrawal, conditions apply. For details, please refer to paragraphs D.6.34 – 38 below.
- D.6.20 In lieu of taking any action described in paragraph D.6.19, a Bidder may submit a Waiver. If a Bidder fails to take any action described in paragraph D.6.19 and fails to submit a Waiver, a Waiver will also be deemed to have submitted by that Bidder. For submission of Waiver and for application of deemed Waiver, conditions apply. For details, please refer to paragraphs D.6.39 – 45 below.
- D.6.21 The Internet-based software platform will not display the bidding decision of each Bidder to the Authority until expiry of each Round. The Authority will keep all the bidding decisions of the Bidders confidential.

Method for Submitting Valid Bid, Withdrawal or Waiver

- D.6.22 A Valid Bid, a Withdrawal or a Waiver must be submitted by using the Internet-based software platform maintained by the Authority and the bidding form generated by that software platform. To access and to use the software platform, the Bidder must identify itself by the e-certificate and the passwords supplied by the Authority.
- D.6.23 In case of contingency, the Authority may at his discretion allow a Bidder to make submission via the back-up system of telephones and facsimile machines. In such case, the Bidder must use the form specified by the Authority and identify itself with the password supplied by the Authority.

D.6.24 A Valid Bid, a Withdrawal or a Waiver must be received by the Authority within the specified duration of the Round. The time displayed by the software platform shall be determinative.

D.6.25 A Valid Bid, a Withdrawal or a Waiver, once submitted, shall not be amended, substituted or withdrawn.

Determination of Standing Highest Bid for each Round

D.6.26 At the end of each Round, the Authority will determine the Standing Highest Bid among the Valid Bids for each Frequency Band as follows:

- (a) If no Valid Bids are received for a Frequency Band, then there will be no Standing Highest Bid for that Frequency Band (unless there is a Standing Highest Bid in the immediately preceding Round in which case that Standing Highest Bid will remain as the Standing Highest Bid for that Frequency Band);
- (b) If only one Valid Bid is received for a Frequency Band, then that Valid Bid will be the Standing Highest Bid for that Frequency Band; and
- (c) If two or more Valid Bids are received for a Frequency Band, then the Standing Highest Bid for that Frequency Band will be selected by software platform by random.

D.6.27 Where a Bidder is a Standing Highest Bidder in respect of a Frequency Band, it should make its own commercial and strategic decision as to whether or not to submit a Valid Bid for that Frequency Band at a higher Round Price in the immediately following Round.

Activity Rules

D.6.28 As a tool to maintain the Activity Level of the Bidders, there will be rules governing the activities of the Bidders during the Bidding Stage.

D.6.29 Each Frequency Band will be attributed a number of EPs according to its bandwidth. For each Frequency Band of 0.8 MHz x 2, one EP will be attributed. The number of EPs attributed to each Frequency Band is specified

in Appendix 3 of the Notice and is also given in Exhibit 5 below.

Exhibit 5: Eligibility Point attributed to each Frequency Band

Frequency Band	MHz	Bandwidth of the Frequency Band	Eligibility Point required for bidding the Frequency Band
P1	1784.1 – 1784.9 1879.1 – 1879.9	0.8 MHz x 2	1
P2	1783.3 – 1784.1 1878.3 – 1879.1	0.8 MHz x 2	1
P3	1782.5 – 1783.3 1877.5 – 1878.3	0.8 MHz x 2	1
P4	1781.7 – 1782.5 1876.7 – 1877.5	0.8 MHz x 2	1
P5	1780.9 – 1781.7 1875.9 – 1876.7	0.8 MHz x 2	1
P6	1780.1 – 1780.9 1875.1 – 1875.9	0.8 MHz x 2	1

D.6.30 A Bidder must have the required number of EP(s) in order to bid for the Frequency Band(s). Suppose a Bidder wishes to bid for 2 Frequency Bands, it must have 2 EPs in order to bid for the 2 Frequency Bands.

D.6.31 For the first Round, the number of EPs attributed to each Bidder will be determined by the amount of Deposit it has submitted, as described in paragraph D.4.1 and Exhibit 4 above. The Bidder may decide how many EPs it requires and pays the relevant amount of Deposit. No more than 6 EPs will be attributed to each Bidder.

D.6.32 For each subsequent Round, the number of EPs attributed to each Bidder will be equal to the Activity Level of the Bidder in the immediately preceding Round, unless the Bidder submits or is deemed to submit a Waiver in the immediately preceding Round in which case the number of EPs attributed to the Bidder shall be determined in accordance with paragraph D.6.44. The Activity Level of a Bidder in a Round is the aggregate number of EPs attributed to the Frequency Bands in which the Bidder:

- (a) submits a Valid Bid; or

THE AUCTION

- (b) holds a Standing Highest Bid at the end of the immediately preceding Round (except where the Bidder submits a Valid Bid for that Frequency Band in which case EPs are to be attributed under subparagraph (a) above or where the Bidder submits a Withdrawal for that Frequency Band in which case EPs are to be disregarded).

The implication is that, a Bidder who reduces its Activity Level in a Round, will have fewer EPs in the immediately following Round.

- D.6.33 For example, Bidder A submits a deposit of HK\$24,000,000 and is attributed with 3 EPs initially. Bidder A submits Valid Bids for P2, P3, and P4 in Round 1. The Activity Level of Bidder A in Round 1 is 3 EPs (1 EP for P2 + 1 EP for P3 + 1 EP for P4) and it will be attributed with 3 EPs for Round 2. Suppose at the end of Round 1 Bidder A holds a Standing Highest Bid for P4, and in Round 2 Bidder A only submits Valid Bids for P2 and P3 for which it is not the Standing Highest Bidder, then the Activity Level of Bidder A in Round 2 is still 3 EPs (1 EP for its Standing Highest Bid on P4 + 2 EPs for its Valid Bids on P2 and P3) and its EPs for Round 3 will be maintained at 3. Assume that Bidder A continues to hold a Standing Highest Bid on P4 at the end of Round 2 but it submits a Withdrawal on P4 without submitting any Valid Bids on other Frequency Bands in Round 3, then the Activity Level of Bidder A in Round 3 is 0 EP (0 EP for its Standing Highest Bid on P4 due to Withdrawal + 0 EPs for no Valid Bid). Bidder A's EPs will be reduced to 0 for Round 4 and it is not entitled to submit any Valid Bid from Round 4 onwards. Please also refer to Appendix D of this Memorandum for more worked examples.

Withdrawal of Standing Highest Bids

- D.6.34 A Standing Highest Bidder may withdraw its Standing Highest Bid(s). Standing Highest Bids that are withdrawn will not count towards the Bidder's Activity Level in the Round in which the Withdrawal is made.
- D.6.35 There is no limit on the number of Standing Highest Bids that a Bidder may withdraw in a Round, but a Bidder must not submit Withdrawals in more than 3 Rounds.
- D.6.36 Where a Bidder makes a Withdrawal for a Frequency Band in a Round and

THE AUCTION

there is no subsequent Valid Bid for the Frequency Band equal to or higher than the withdrawn Standing Highest Bid, the Bidder will be liable to pay the Government the difference between the withdrawn Standing Highest Bid and the amount of the next subsequent highest Valid Bid for the Frequency Band (irrespective of whether that next subsequent highest Valid Bid is withdrawn or whether it is determined as the Upfront SUF).

- D.6.37 If a Bidder makes a Withdrawal for a Frequency Band in a Round and the Bidding Stage ends without any other Bidders submitting a Valid Bid for that Frequency Band, the Bidder will be liable to pay the Government an amount equal to 100% of the withdrawn Standing Highest Bid although it will not be entitled to be assigned with that Frequency Band.
- D.6.38 The Authority may deduct the above amount from the Deposit of the Bidder or make a claim under the Letter of Credit submitted by the Bidder. The amount may also be recoverable as a civil debt due and payable to the Government.

Waiver

- D.6.39 A Waiver allows a Bidder to maintain its EPs even though it fails to take any action in a Round.
- D.6.40 In the first Round, each Bidder is obliged to submit a Valid Bid for at least one Frequency Band. Submission of a Waiver is not allowed in the first Round.
- D.6.41 In any subsequent Round, a Bidder may actively submit a Waiver or may be deemed to submit a Waiver if it fails to take any action in a Round.
- D.6.42 Where the number of EPs attributed to all Standing Highest Bids of the Bidder at the end of the immediately preceding Round is equal to the number of EPs attributed to the Bidder in the current Round, the Activity Level of the Bidder will be equal to the number of EPs attributed to it even if it submits no further Valid Bids. Waiver will not be applicable.
- D.6.43 Each Bidder may submit or be deemed to submit a Waiver in a maximum of 2 Rounds. The Authority may at his sole discretion grant additional Waivers

to all Bidders in exceptional circumstances.

- D.6.44 Where a Waiver is submitted or deemed to have been submitted in a particular Round, the number of EPs attributed to the Bidder for the immediately following Round shall be equal to the Activity Level of the Bidder in the most immediately preceding Round in which the Bidder did not submit or was not deemed to have submitted a Waiver.
- D.6.45 Waivers may be used in case an individual Bidder needs time to consider its bidding strategies or to resolve problems specific to it.

Conclusion of Bidding Stage

- D.6.46 The Bidding Stage will end where there is a Round in which no Valid Bids, no Withdrawals and no Waivers are submitted by any of the Bidders.
- D.6.47 The Bidder who is the Standing Highest Bidder for a Frequency Band will be the Provisional Successful Bidder for that Frequency Band and the Upfront SUF payable for that Frequency Band shall be the amount of that Standing Highest Bid.
- D.6.48 In case the Bidding Stage continues for a protracted period of time (say, more than 10 Business Days), the Authority may specify a Round to be the final Round by giving an advance period of 6 Rounds. In such a specified final Round, Bidders may submit Valid Bids for a Frequency Band at any amount at or above the Round Price. In respect of each Frequency Band, the Bidder who submits the highest Valid Bid shall be the Provisional Successful Bidder.
- D.6.49 Where there is more than one Bidder having submitted the same highest Valid Bid in respect of a Frequency Band in the specified final Round, the Authority shall determine by random which of such Bidders shall be the Provisional Successful Bidder in respect of the Frequency Band. In case no Valid Bid is received in respect of a Frequency Band in the specified final Round, the Standing Highest Bidder at the end of the immediately preceding Round (if any) shall be the Provisional Successful Bidder of the Frequency Band.

Observer

D.6.50 The Authority, as the auctioneer, will conduct the Auction fairly and impartially. The Authority may invite an independent third party to be an observer of the Bidding Stage.

D.7 Assignment Stage

Announcement of the Bidding Stage Result

D.7.1 Within two Business Days after the end of the Bidding Stage, the Authority will publish a Provisional Successful Bidder Notice to announce to the public the identity of the Provisional Successful Bidder for each Frequency Band and the Upfront SUF payable for each Frequency Band.

Notification of Approval

D.7.2 In case a Bidder is subject to a shareholder approval required by law or any regulatory authority before a Frequency Band is assigned to it (the “Approval”) but the Bidder has not been capable of obtaining such Approval before the Application Dates, each Provisional Successful Bidder is required to notify the Authority whether it is subject to such Approval within two Business Days after the publication of the Provisional Successful Bidder Notice. If a Provisional Successful Bidder is subject to an Approval, it must obtain such Approval within ten Business Days after the publication of the Provisional Successful Bidder Notice. The Authority may disqualify the Provisional Successful Bidder and forfeit an amount by way of Penalty from its Deposit, if it fails to obtain the Approval by the deadline. The Authority may extend the deadline only in exceptional circumstances. A Provisional Successful Bidder will not be assigned with any Frequency Band unless it is not subject to an Approval.

Payment of Upfront SUF

D.7.3 Within fifteen Business Days after publication of the Provisional Successful Bidder Notice, each Provisional Successful Bidder must pay to the Authority the Upfront SUF payable by it. If a Provisional Successful Bidder fails to pay the Upfront SUF, the Authority will disqualify it and forfeit up to the full

amount of its Deposit.

- D.7.4 Where the Deposit of a Provisional Successful Bidder is in cash, the Authority may at his discretion permit the Provisional Successful Bidder to offset all or part of the Upfront SUF by the Deposit or the balance of the Deposit.

Assignment of Frequency Bands

- D.7.5 After a Provisional Successful Bidder has paid the Upfront SUF and confirmed that it is not subject to an Approval, the Authority will publish a Successful Bidder Notice to announce that the Provisional Successful Bidder shall become a successful bidder (“Successful Bidder”) and will assign the relevant Frequency Band(s) to the Successful Bidder for provision of public mobile telecommunications services in areas other than the Designated Area.

Unassigned Spectrum

- D.7.6 All Frequency Bands which are not assigned in the Auction (whether unsold or not assigned to a disqualified Bidder) shall remain vested in the Authority.

D.8 Rules on Conduct of Bidders

Breach of Notice

- D.8.1 Each Bidder must comply with the terms and conditions of the Notice. If a Bidder breaches one or more of the terms and conditions of the Notice, the Authority may, at his discretion:

- (a) disqualify that Bidder from the Auction; and/or
- (b) forfeit an amount (up to the full amount of that Bidder’s Deposit) by way of Penalty from that Bidder’s Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

- D.8.2 If a Bidder is disqualified during the Bidding Stage:

- (a) that Bidder will no longer be entitled to participate in the Auction;

THE AUCTION

- (b) that Bidder will cease to be a Standing Highest Bidder in respect of any Frequency Band;
- (c) all the bids submitted by that Bidder in the Round immediately preceding the disqualification will be disregarded;
- (d) the Authority may re-determine the result of the Round immediately preceding the disqualification as he considers appropriate.

D.8.3 If a Provisional Successful Bidder is disqualified during the Assignment Stage:

- (a) that Provisional Successful Bidder will not be assigned with a Frequency Band; and
- (b) the position of any other Bidder will not be affected.

Participation in Good Faith and No False or Misleading Information

D.8.4 Bidders must participate in the Auction in good faith.

D.8.5 Bidders must not submit to the Authority any information (including, without limitation, in an Application) which is false or misleading.

Bribery, Collusion and Manipulation of the Auction

D.8.6 Bidders and their Insiders must not attempt to collude or to manipulate the course of the Auction.

D.8.7 Any contravention of the Prevention of Bribery Ordinance (Cap.201) insofar as it relates to the Auction shall be taken as a breach of the terms and conditions of the Notice. Bidders should note the provisions of sections 6, 7 and 12A of the Prevention of Bribery Ordinance:

Section 6: Bribery for procuring withdrawal of tenders

- (1) *Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the*

refraining from the making of a tender, for any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, shall be guilty of an offence.

- (2) *Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for such a contract as is referred to in subsection (1), shall be guilty of an offence.*

Section 7: Bribery in relation to auctions

- (1) *Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.*
- (2) *Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.*

Section 12A: Conspiracy

- (1) *Any person convicted of conspiracy to commit an offence under this Part shall be dealt with and punished in like manner as if convicted of such offence and any rules of evidence which apply with respect to the proof of any such offence shall apply in like manner to the proof of conspiracy to commit such offence.*
- (2) *The powers of investigation conferred by Part III of this Ordinance shall apply with respect to a conspiracy to commit an offence under this Ordinance in like manner as they apply to the investigation of any such offence.*

- D.8.8 If any person by any deceit (whether or not the deceit is the sole or main inducement) and with intent to defraud the Authority in the course of the Auction, for example, conspire for refraining from bidding, in addition to

being disqualified from the Auction, may be subject to criminal prosecution.

Confidentiality

- D.8.9 Under the terms and conditions of the Notice, Confidential Information means any information in relation to any Bidder which is not in the public domain and the disclosure of which would be likely to affect the conduct or strategy of other Bidder(s) in the Auction.
- D.8.10 Confidential Information includes without limitation a Bidder's interest or participation in the Auction, business case, auction strategy and any bid or offer that the Bidder is willing to make.
- D.8.11 In relation to each Bidder, any person to whom Confidential Information is disclosed becomes an Insider of that Bidder. Each Bidder is required to provide a list of Insiders to the Authority in the Application Form. After submission of the Application, the Bidder must immediately notify the Authority in writing if other person becomes an Insider of the Bidder. The Authority may require the Bidder to submit a revised Application Form and/or a revised Bidder Compliance Certificate.
- D.8.12 A Bidder and its Insiders must not take steps to obtain or use in any unauthorized way Confidential Information of another Bidder.
- D.8.13 A Bidder and its Insider must not disclose, or cause to disclose, or enter into any agreement to disclose, its Confidential Information to any person (except to the Bidder's professional advisers, (prospective) providers of finance on a need-to-know basis, in which case these recipients shall become Insiders of the Bidder).
- D.8.14 Depending on the nature of the Confidential Information and the circumstances, breach of the terms and conditions in relation to confidentiality by a Bidder may jeopardise the fairness of the Auction and may be serious. Having regard to the gravity and the likely consequences of the breach, the Authority may disqualify the Bidder and may forfeit an amount up to the full amount of the Bidder's Deposit by way of Penalty.

Directors, employees and agents

D.8.15 If a person, who is a director, employee, agent of a Bidder or Insider of one Bidder, is also a director, employee, agent or Insider of another Bidder, he must not:

- (a) take part in preparing any of the Bidders for participation in the Auction;
- (b) pass Confidential Information of one Bidder to another Bidder;
- (c) be an Authorised Representative of any of the Bidders;
- (d) take part or participate in the Auction.

Government's Adviser

D.8.16 Bidders and their Insiders must not take advice in relation to the Auction from the Government's Adviser, DotEcon Ltd and Allen & Overy LLP.

Changes in Application and Replacement of Authorised Representatives

D.8.17 If any change occurs which affects the information submitted in a Bidder's Application Form, that Bidder must:

- (a) immediately notify the Authority of the change in writing; and
- (b) on request by the Authority and within the specified period, submit to the Authority one or more of the following documents:
 - (i) a revised Application Form; and
 - (ii) a revised Bidder Compliance Certificate.

D.8.18 A Bidder may substitute one or more of its Authorised Representatives by giving a notification to the Authority. The substitution shall take effect the Business Day following the day the Authority receives such notification.

APPLICATION INSTRUCTIONS

E. APPLICATION INSTRUCTIONS

E.1 Application Instructions

- E.1.1 An Application must be submitted in English.
- E.1.2 An Application must be sealed in a non-transparent envelope, together with the Letter of Credit or a written notification setting out all details and evidence of the cash deposit made by the Bidder, and must be marked:

“For the attention of the Telecommunications Authority”

No other marking should appear on the envelope.

- E.1.3 An Application should contain all information and supporting documents requested in the Application Form instructions.
- E.1.4 An Application must be delivered in person and by hand to Assistant Director (Regulatory) of OFTA who will be available **between 9:00 am and 5:00 pm on 21 May 2009** or **between 9:00 am and 5:00 pm on 22 May 2009** at the following addresses:

Office of the Telecommunications Authority
29/F, Wu Chung House
213 Queen’s Road East
Wanchai
Hong Kong

Assistant Director (Regulatory) of OFTA will deposit the Application into a secure tender box. This will be witnessed by the person delivering the Application.

- E.1.5 If a tropical cyclone warning signal no. 8 or above, or a “black” rainstorm warning signal is in force in Hong Kong on 21 May 2009 or 22 May 2009, Applications must reach the Authority at the above address between 9:00 am and 5:00 pm on the next Business Day on which none of the signals remains in force.

APPLICATION INSTRUCTIONS

E.1.6 By 4:00 pm on the later of the Application Dates, the Bidder must also have transferred the Deposit (if paid in cash) so as to have been received in cleared funds in either one of the following Authority's Accounts:

- a) **Bank:** Bank of China Hong Kong Branch
Ground Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong
- Account Name:** Office of the Telecommunications Authority
Account No.: 012-899-1-003883-3
- b) **Bank:** The Hongkong and Shanghai Banking Corporation Limited
Hopewell Centre Branch
Shop 2A, 2nd Floor, Hopewell Centre
183 Queen's Road East
Wanchai
Hong Kong
- Account Name:** Office of the Telecommunications Authority
Account No.: 004-048-203558-292

E.1.7 The payment should be accompanied with a unique identifier consisting of the registered name of the Bidder.

CONTACTS AND FURTHER INFORMATION

F. CONTACTS AND FURTHER INFORMATION

F.1 Contacts for Enquiries

F.1.1 Any enquiries relating to this Memorandum and the Auction process should be addressed in writing and sent to the Authority, who will be the central point of contact for the Government. Enquiries should be sent by post, fax or e-mail to the following contact address or number:

Office of the Telecommunications Authority
29/F, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

Fax number: +852 2116 3334

E-mail: Auction-1800MHz@ofta.gov.hk

All questions should be marked:

“1800 MHz Spectrum Auction Question”

Alongside with the question, the person asking the question must be identified and the organisation that the person represents must be stated. Contact details other than e-mail addresses (i.e. postal address, fax number, telephone number) must also be provided.

F.2 Publication of Further Information

F.2.1 From the date of issue of this Memorandum, the Authority has the discretion to publish further information and to publish questions raised and the answers provided. The Authority may, however, exercise the discretion not to publish a particular question and answer, in whole or in part and will also reserve the right not to respond to any question. The identity of the person asking the question(s) will not be published without the questioner's permission.

F.2.2 Further information will be made available on OFTA's website. Parties

CONTACTS AND FURTHER INFORMATION

wishing to receive notifications that additional information has been posted on the website should register with the Authority on OFTA's website. Upon posting new information regarding the Auction on the website, those parties who have registered will be notified by e-mail that such information has been made available.

**APPENDIX A GAZETTE NOTICE OF THE MINIMUM FEE ISSUED BY
SECRETARY FOR COMMERCE AND ECONOMIC
DEVELOPMENT**

Telecommunications Ordinance (Cap.106)

**Telecommunications (Level of Spectrum Utilization Fees)
(Second Generation Mobile Services) Regulation (Cap.106AA)**

and

**Telecommunications (Determining Spectrum Utilization Fees
by Auction) Regulation (Cap.106AC)**

Under section 2(2) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the spectrum utilization fee payable by the user of the spectrum which falls within the frequency bands set out in Part 2A of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap.106Y) shall consist of (a) a fixed fee determined in accordance with the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) **and** (b) an annual fee determined in accordance with section 4B of Cap.106AA.

By this Notice I, in exercise of the powers conferred by section 32I of the Telecommunications Ordinance (Cap.106) and section 10 of the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) (“the Regulation”), specify the minimum amount of the spectrum utilization fee for the **fixed fee** referred to in section 2(2)(a) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA) as follows:-

(1) For the purpose of Section 5(3) of the Regulation

The minimum amount of the spectrum utilization fee mentioned in section 5(3) of the Regulation shall be given in the Schedule to this Notice.

(2) For the purpose of Section 6(3) of the Regulation

The minimum amount of the spectrum utilization fee mentioned in

section 6(3) of the Regulation shall be given in the Schedule to this Notice.

In this Notice, unless the context otherwise requires, words and expressions herein shall have the meanings assigned to them in the Regulation. This Notice shall become effective from the date hereof and shall continue in force until withdrawn, modified or replaced by the Secretary.

Rita LAU NG Wai-lan
 Secretary for Commerce and
 Economic Development
 24 April 2009

Schedule

Frequency Band	Frequency Range (MHz)	Minimum Amount of the Spectrum Utilization Fee mentioned in section 5(3) and section 6(3) of the Regulation
P1	1784.1 – 1784.9 1879.1 – 1879.9	HK\$ 60,000
P2	1783.3 – 1784.1 1878.3 – 1879.1	HK\$ 60,000
P3	1782.5 – 1783.3 1877.5 – 1878.3	HK\$ 60,000
P4	1781.7 – 1782.5 1876.7 – 1877.5	HK\$ 60,000
P5	1780.9 – 1781.7 1875.9 – 1876.7	HK\$ 60,000
P6	1780.1 – 1780.9 1875.1 – 1875.9	HK\$ 60,000

**APPENDIX B GAZETTE NOTICE OF TERMS AND CONDITIONS OF
THE AUCTION (INCLUDING THE CONDITIONS TO BE
ADDED TO THE LICENCE)**

Telecommunications Ordinance (Cap.106),

**Telecommunications (Level of Spectrum Utilization Fees)
(Second Generation Mobile Services) Regulation (Cap.106AA)**

and

**Telecommunications (Determining Spectrum Utilization Fees
by Auction) Regulation (Cap.106AC)**

By this Notice, the Telecommunications Authority, in exercise of the powers conferred by section 32I of the Telecommunications Ordinance, the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation, the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation and all other powers enabling him for this purpose, specifies the terms and conditions of the auction of the right to use the frequency bands specified in this Notice and the payment of the spectrum utilization fees.

Marion LAI CHAN Chi-Kuen
Telecommunications Authority
24 April 2009

Part 1 – Introduction

1.1 Commencement

1.1.1 This Notice shall come into effect on the date of issue.

1.2 Purpose of Notice

1.2.1 The purpose of this Notice is to specify:

- (a) the terms and conditions of the Auction and the payment of Spectrum Utilization Fees; and
- (b) the Bidders which may be considered for the assignment of a Frequency Band for provision of public mobile telecommunications services in areas other than the Designated Areas.

1.3 Stages of the Auction

1.3.1 This Notice provides for four stages of the Auction:

- (a) Application Stage as specified in Part 2;
- (b) Qualification Stage as specified in Part 3;
- (c) Bidding Stage as specified in Part 4; and
- (d) Assignment Stage as specified in Part 5.

1.4 Definitions

1.4.1 In this Notice, unless the context otherwise requires:

“**Activity Level**” has the meaning given in paragraph 4.8.5;

“**Application**” means an application submitted by a Bidder to the Authority in writing in accordance with Part 2;

“**Application Dates**” means 21 May 2009 and 22 May 2009;

“**Application Form**” means the form specified in Appendix 5 of this Notice;

“**Application Stage**” means the stage specified in Part 2;

“**Approval**” means any shareholder approval which is required by law or any regulatory authority before a Frequency Band is assigned to a Bidder

APPENDIX B

and which is not capable of being reasonably obtained prior to the date on which the Application by that Bidder is submitted in accordance with Part 2;

“**Approval Date**” means ten Business Days after the date of the Provisional Successful Bidder Notice;

“**Assignment Stage**” means the stage specified in Part 5;

“**Auction**” means the procedure specified in this Notice;

“**Authorised Representative**” means the person authorised by a Bidder to submit a Bid in the Auction whose name and signature have been provided to the Authority in the Application submitted by the Bidder under Part 2 or in a notification under paragraph 7.7.1;

“**Authority**” means the Telecommunications Authority appointed under the Ordinance;

“**Authority’s Account**” means the designated account of the Authority at the Deposit Bank, namely the account 012-899-1-003883-3 at Bank of China or the account 004-048-203558-292 at HSBC;

“**Authority’s Office**” means Office of the Telecommunications Authority, 29th Floor, Wu Chung House, 213 Queen’s Road East, Wanchai, Hong Kong;

“**Banking Ordinance**” means the Banking Ordinance (Cap.155, Laws of Hong Kong);

“**Bid**” means the amount of the Upfront Spectrum Utilization Fee a Bidder wishes to offer in relation to a Frequency Band or Frequency Bands in the Auction;

“**Bidder**” means a body corporate which submits or has submitted an Application;

“**Bidder Compliance Certificate**” means the certificate specified in

Appendix 6 of this Notice;

“**Bidder Notice**” means the notice published by the Authority in accordance with paragraph 3.1.1;

“**Bidding Stage**” means the stage specified in Part 4;

“**Bidding Stage Notice**” means the notice published by the Authority in accordance with paragraph 4.3.1;

“**Business Day**” means a full day other than a Saturday or a Sunday on which banks in Hong Kong are open for general business;

“**Commission**” means the Securities and Futures Commission established under the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong);

“**Companies Ordinance**” means the Companies Ordinance (Cap.32, Laws of Hong Kong);

“**Conditions**” means the conditions which shall be added to the Licence and substantially in the form set out in Appendix 2 of this Notice;

“**Confidential Information**” has the meaning given in paragraph 6.5.6;

“**Deposit**” means a sum in cash or by a Letter of Credit from a Qualifying Bank;

“**Deposit Bank**” means Bank of China Hong Kong Branch at Ground Floor, Wu Chung House, 213 Queen’s Road East, Wanchai, Hong Kong (“Bank of China”) or The Hongkong and Shanghai Banking Corporation Limited, Hopewell Centre Branch at Shop 2A, 2nd Floor, Hopewell Centre, 183 Queen’s Road East, Wanchai, Hong Kong (“HSBC”);

“**Deposit Interest**” means interest (if any) earned in respect of a Bidder’s Deposit in accordance with paragraphs 2.2.7 to 2.2.9;

“**Designated Areas**” means the areas specified by the Authority to be the

designated areas for the purposes of section 4A of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong) and set out in Appendix 1 of this Notice;

“Eligible Person” means one of the following persons:

- (a) China Mobile Hong Kong Company Limited,
- (b) CSL Limited,
- (c) Hong Kong Telecommunications (HKT) Limited,
- (d) Hutchison Telephone Company Limited, and
- (e) SmarTone Mobile Communications Limited,

each of which is a company incorporated in Hong Kong under the Companies Ordinance;

“Eligibility Points” has the meaning given in paragraph 4.8;

“Frequency Band” means a frequency band specified in Appendix 3 of this Notice;

“Frequency Band Selection Form” means the form specified in Appendix 8 of this Notice;

“Government” means the Government of the Hong Kong Special Administrative Region of the People’s Republic of China;

“Government’s Adviser” means DotEcon Ltd and Allen & Overy LLP;

“Hong Kong” means the Hong Kong Special Administrative Region of the People’s Republic of China;

“Hong Kong Dollars” and **“HK\$”** means the valid currency for the time being of Hong Kong;

“Insider” means, in relation to a Bidder, any person to whom Confidential Information is disclosed directly or indirectly:

- (a) by any person who is an officer, employee, agent, adviser or associate of that Bidder;
- (b) by any person who controls, or is controlled by, or is under

- common control with, that Bidder, or the officer, employee, agent, adviser or associate, partner or co-partner of that person; or
- (c) by any person who is an Insider in relation to that Bidder;

“Letter of Credit” means a letter of credit in the form specified in Appendix 7 of this Notice;

“Licence” means a relevant mobile carrier licence or relevant unified carrier licence (as the case may be) issued by the Authority under the Ordinance for the establishment or maintenance of a telecommunications network for carrying communications to or from the public in Hong Kong and operating in the spectrum which falls within 1710.5 – 1780.1 MHz and 1805.5 – 1875.1 MHz;

“Losing Bidder” has the meaning given in paragraph 4.14.1;

“Minimum Fee” means the minimum amount of the Upfront Spectrum Utilization Fee specified by the Secretary for Commerce and Economic Development and set out in Appendix 3 of this Notice;

“Ordinance” means the Telecommunications Ordinance (Cap.106, Laws of Hong Kong);

“Penalty” means a sum representing the whole or part of a Bidder’s Deposit which may be forfeited by the Authority from that Deposit under the terms and conditions of this Notice;

“Prevention of Bribery Ordinance” means the Prevention of Bribery Ordinance (Cap.201, Laws of Hong Kong);

“Provisional Successful Bidder” means the Bidder determined as such in accordance with paragraph 3.4.2 or paragraph 4.12.1, as the case may be;

“Provisional Successful Bidder Notice” means the notice published by the Authority in accordance with paragraph 3.4.2 or paragraph 4.13.1, as the case may be;

“Qualification Stage” means the stage specified in Part 3;

“Qualified Bidder” means a Bidder determined as such in accordance with Part 3;

“Qualified Bidder Notice” means the notice published by the Authority in accordance with paragraph 3.3.1;

“Qualifying Bank” means an institution holding a full banking licence under the Banking Ordinance which long term issuer rating is, or is higher than:

- (a) one or more of the following:
 - (i) Moody’s A2;
 - (ii) Standard & Poor’s A;
 - (iii) Fitch Ratings’ A; or
- (b) a rating of a body other than a body listed in subparagraph (a) which, in the opinion of the Authority, is equivalent to one or more of the ratings in that paragraph;

“Regulations” means the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong) and the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC, Laws of Hong Kong);

“Round” means a period of time specified by the Authority during which Qualified Bidders are entitled to submit a Bid, a Withdrawal or a Waiver in accordance with the procedure set out in Part 4;

“Round Price” means an amount of the Upfront Spectrum Utilization Fee in Hong Kong Dollars specified by the Authority at which Qualified Bidders are invited to offer for a Frequency Band in a Round;

“Spectrum Utilization Fee” means the spectrum utilization fee payable by the user of a Frequency Band as prescribed in section 2(2) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong);

“**Standing Highest Bid**” means, in respect of a Frequency Band, the Valid Bid determined as such in accordance with paragraph 4.7.1;

“**Standing Highest Bidder**” means, in respect of a Frequency Band, the Qualified Bidder which submitted the Standing Highest Bid;

“**Successful Bidder**” means the Bidder determined as such in accordance with paragraph 5.4.1;

“**Successful Bidder Notice**” means the notice published by the Authority in accordance with paragraph 5.4.1;

“**Upfront Spectrum Utilization Fee**” means the fixed fee mentioned in section 2(2)(a) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong), which forms part of the Spectrum Utilization Fee and the sum of which is determined in accordance with the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC, Laws of Hong Kong) and terms and conditions of this Notice;

“**Valid Bid**” has the meaning given in paragraph 4.6.1;

“**Waiver**” shall be construed in accordance with paragraphs 4.10.1 to 4.10.4

“**Withdrawal**” has the meaning given in paragraph 4.9.1;

1.5 Interpretation

1.5.1 In this Notice, unless the context otherwise requires:

- (a) a “person” includes any individual, body corporate, unincorporated association or body (including, without limitation, a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separately legal personality and includes its successors in title, permitted assigns and permitted transferees;

APPENDIX B

- (b) any reference in this Notice to a period to be determined in terms of a number of Business Days shall be calculated from midnight on the Business Day of notification or expiry of another time period, as the case may be, and expire at midnight on the last of the relevant number of Business Days and any reference to “midnight” in relation to a particular day shall be read as 11:59 pm on that day;
- (c) any reference to an ordinance, whether the word is used by itself or as part of any title to an ordinance, shall mean that ordinance for the time being in force as well as any modification or substitution of that ordinance, in whole or in part, and all the subsidiary legislation, regulations, directions, codes of practice and instruments made under that ordinance and for the time being in force;
- (d) where any word or expression is defined in this Notice, that definition shall extend to the grammatical variations and cognate expressions of that word or expression;
- (e) the singular includes the plural and vice versa and words and expression importing each gender shall include the others;
- (f) references to this Notice shall include references to the Schedules and the Appendices and references to any “paragraph”, “Schedule” or “Appendix” are to paragraph, Schedule or Appendix of this Notice;
- (g) expression of time shall be references to Hong Kong time; and
- (h) the headings do not affect its interpretation.

Part 2 – Application Stage

2.1 Application

- 2.1.1 No person other than an Eligible Person may make an Application. An Eligible Person may make no more than one Application. An Application jointly submitted by two or more Eligible Persons shall not be accepted.

- 2.1.2 An Application must consist of the following documents duly completed in English language and in accordance with such instructions and accompanied by such documentary proof as may be required or specified therein:
- (a) an Application Form;
 - (b) a Bidder Compliance Certificate; and
 - (c) a Deposit.
- 2.1.3 An Application must be:
- (a) addressed, sealed and enclosed in the manner as may be specified by the Authority;
 - (b) delivered by hand to Assistant Director (Regulatory) at the Authority's Office.
- 2.1.4 Subject to paragraph 2.1.5, an Application must be received by the Authority between 9:00 am and 5:00 pm on either of the Application Dates.
- 2.1.5 If a tropical cyclone warning signal number 8 or above or a "black" rainstorm warning signal is in force in Hong Kong during any of the times specified in paragraph 2.1.4, Applications must be received by the Authority between 9:00 am and 5:00 pm on the immediately following Business Day on which none of the signals remains in force.
- 2.1.6 A Bidder shall be subject to, and obliged to comply with, the terms and conditions of this Notice from the time its Application is received by the Authority.

2.2 Deposit

Reference to Deposit

- 2.2.1 Any reference in this Notice to the Deposit shall, unless otherwise stated, be construed as referring to:
- (a) the Deposit which has been paid or delivered, as the case may be, to the Authority by the Bidder; and
 - (b) any Deposit Interest that has been credited to a Bidder in accordance with paragraphs 2.2.7 to 2.2.9.

2.2.2 Any reference in this Notice to the Deposit shall be construed so as not to include any amount which has been forfeited by way of Penalty.

Deposit

2.2.3 The Deposit shall be in such amount as specified in Appendix 4 of this Notice, which shall be taken into account by the Authority in accordance with paragraph 4.8.3 for the purpose of determining the number of Eligibility Points to be attributed to a Bidder for the first Round. The Deposit shall be payable or delivered, as the case may be, to the Authority in accordance with paragraph 2.2.6.

2.2.4 Where a Bidder provides its Deposit in cash, the Authority may notify that Bidder that its Application is invalid if funds representing that Bidder's Deposit are not cleared by 4:00 pm on the later of the Application Dates.

2.2.5 Where a Bidder provides its Deposit by a Letter of Credit, the Bidder shall ensure that the Letter of Credit remains valid and fully effective until the Deposit is returned to that Bidder in accordance with the terms and conditions of this Notice.

Method of payment or delivery of Deposit

- 2.2.6 Where the Deposit is:
- (a) in cash, it shall be payable to the Authority by telegraphic transfer to the Authority's Account at the Deposit Bank and shall be accompanied by an identifier for the Bidder which shall consist of the registered name of the Bidder;
 - (b) a Letter of Credit, it shall be addressed to the Authority and be delivered to the Authority's Office.

Deposit Interest

2.2.7 Where the Deposit is in cash, it shall earn interest at the rate available to the Authority from the Deposit Bank in which the cash is deposited.

2.2.8 Subject to paragraph 2.2.9, where the Deposit is in cash and the Deposit, or part of the Deposit, is returned to a Bidder under any of the terms and conditions of this Notice, then the Deposit, or part of the Deposit, which is returned shall include all Deposit Interest as has been earned on that

Deposit, or part of that Deposit, from (and including) the date on which it was received by the Authority up to (but excluding) the date on which it is returned.

- 2.2.9 Where the Deposit or part of the Deposit is forfeited under any of the terms and conditions of this Notice by way of Penalty, any Deposit Interest which has been earned on the forfeited part of the Deposit shall form part of the total amount which is forfeited.

Penalties

- 2.2.10 If a Bidder is notified under any of the terms and conditions of this Notice that all or part of its Deposit is forfeited by way of Penalty, the deduction from that Bidder's Deposit shall be deemed to have occurred at the time of that notification by the Authority notwithstanding:

- (a) where the Deposit is in cash, that the sums specified in the notification, and any interest earned or to be earned on the Deposit, remain for a further period of time in the Authority's Account; or
- (b) where the Deposit is a Letter of Credit, that the Authority has not made a claim under the Letter of Credit for the sums specified in the notification.

- 2.2.11 If a sum which has been forfeited by way of Penalty is re-instated as all or part of the Bidder's Deposit:

- (a) where the Deposit is in cash, the sum (including Deposit Interest on that sum) shall be paid into the relevant Authority's Account and shall be deemed to be so re-instated from the date of notification of its re-instatement to the Bidder and any interest which has been earned on that sum shall also be deemed to be re-instated as part of the Deposit from (and including) that date; and
- (b) where the Deposit is a Letter of Credit, the sum shall be paid to the Bidder.

Withdrawal of Applications

- 2.3.1 A Bidder which has submitted an Application shall not be entitled to withdraw its Application or from the Auction other than in accordance with the terms and conditions of this Notice.

Acceptance of terms and conditions and Conditions

- 2.4.1 A Bidder which has submitted an Application shall be deemed to have agreed with, and accepted, the terms and conditions of this Notice and any amendment made to any of the terms and conditions of this Notice.
- 2.4.2 A Bidder which has submitted an Application shall be deemed to have agreed with, and accepted, the Conditions and any amendment made to any of the Conditions by the Authority prior to the assignment of a Frequency Band to that Bidder provided that the amendment is made:
- (a) to correct any manifest error;
 - (b) to correct any inconsistency; or
 - (c) to address circumstances not contemplated by the Authority on or before the date of this Notice but which are nevertheless within the overall purpose of the Conditions, the Ordinance, the Regulations and this Notice.

Part 3 – Qualification Stage

3.1 Announcement of Identities of Bidders

- 3.1.1 Without prejudice to the determination of the Authority under paragraph 3.2, the Authority shall publish a notice (a “Bidder Notice”) which shall state the identity of each Bidder which has submitted an Application.

3.2 Determination as a Qualified Bidder

- 3.2.1 The Authority shall determine whether a Bidder is a Qualified Bidder in accordance with paragraph 3.2.2.
- 3.2.2 Subject to paragraphs 7.2.1 and 7.8.1, a Bidder shall not be determined as a Qualified Bidder:
- (a) unless the Bidder has submitted an Application in compliance with all the requirements of paragraphs 2.1.1 and 2.1.2 to the satisfaction of the Authority;
 - (b) if there is reasonable ground for the Authority to believe that the Bidder does not comply with or is not capable of complying with all the undertakings given in the Bidder Compliance Certificate.

3.3 Notification as a Qualified Bidder

3.3.1 The Authority shall, after making his determination under paragraphs 3.2.1 and 3.2.2, publish a notice (a “Qualified Bidder Notice”) which shall state the identity of each Bidder which has been determined to be a Qualified Bidder.

3.3.2 Subject to paragraph 3.3.3, on, or as soon as practicable after, the publication of the Qualified Bidder Notice, the Authority shall return, to each Bidder which has not been determined to be a Qualified Bidder that Bidder’s Deposit provided:

- (a) that there is no outstanding investigation being carried out by the Authority against that Bidder in respect of any suspected contravention of the terms and conditions of this Notice; and
- (b) that, if any amounts have been forfeited by way of Penalty by the Authority in accordance with the terms and conditions of this Notice with respect to that Bidder,
 - (i) where the Deposit is in cash, the Deposit shall be returned less the aggregate amount of those Penalties; and
 - (ii) where the Deposit is a Letter of Credit, the Authority shall make a claim under the Letter of Credit to the extent of the aggregate amount of those Penalties.

3.3.3 Notwithstanding the return to a Bidder of its Deposit in accordance with paragraph 3.3.2, that Bidder shall continue to comply with those terms and conditions of this Notice as are specified by the Authority. If the Authority does not specify any terms and conditions in accordance with this paragraph, the Bidder shall be required to comply with all of the terms and conditions of this Notice as appropriate.

3.4 No Bidding Stage where there is no more than one Qualified Bidder

3.4.1 If at any time before the start of the Bidding Stage, there is no more than one Qualified Bidder, the Authority shall publish a notice that the Bidding Stage shall not take place.

3.4.2 Where, at any time before the start of the Bidding Stage, there is only one Qualified Bidder, the Authority shall notify that Qualified Bidder and that Qualified Bidder shall select in the Frequency Band Selection Form the

Frequency Band or Frequency Bands it wishes to be assigned. The Frequency Band Selection Form shall be duly completed in accordance with the instructions specified therein, signed on behalf of the Qualified Bidder by two Authorised Representatives and submitted to the Authority within the period specified by the Authority. A Frequency Band Selection Form shall not be approved by the Authority if it is not duly completed in accordance with the instructions specified therein or is otherwise unclear. Upon approval of the Frequency Band Selection Form by the Authority, the Qualified Bidder shall be the Provisional Successful Bidder of the Frequency Band or Frequency Bands it selects in the Frequency Band Selection Form and the Upfront Spectrum Utilization Fee payable by the Provisional Successful Bidder shall be the sum of the Minimum Fees for the Frequency Bands selected by the Provisional Successful Bidder. The Authority shall publish a notice (“Provisional Successful Bidder Notice”) to announce the identity of the Provisional Successful Bidder and the Upfront Spectrum Utilization Fee payable for the relevant Frequency Band or Frequency Bands.

- 3.4.3 The Authority may, at his discretion, request the Qualified Bidder to make such clarification as may reasonably be required if the Frequency Band Selection Form is not duly completed in accordance with the instructions specified therein or is otherwise unclear. If the Qualified Bidder fails to select a Frequency Band by submitting the Frequency Band Selection Form within the period specified by the Authority or fails to make such clarification as required by the Authority in relation to the Frequency Band Selection Form, the Qualified Bidder shall not be entitled to an assignment of any Frequency Band and the Authority may forfeit an amount (up to the full amount of the Qualified Bidder’s Deposit) by way of Penalty from the Qualified Bidder’s Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

Part 4 – Bidding Stage

4.1 Reference to a Bidder

- 4.1.1 Any reference to a Bidder in this Part shall be a Qualified Bidder.

4.2 Purpose and Structure of Bidding Stage

- 4.2.1 The purpose of the Bidding Stage is to provide a procedure to determine
- (a) which of the Bidders shall become a Provisional Successful Bidder of each Frequency Band; and
 - (b) the amount of the Upfront Spectrum Utilization Fee that shall be payable for each Frequency Band.
- 4.2.2 The Bidding Stage in respect of all Frequency Bands shall be conducted simultaneously and shall consist of one or more Rounds in which Bidders may submit Bids for the Frequency Bands.

4.3 Bidding Stage Notice

- 4.3.1 At least two Business Days before the commencement of the Bidding Stage, the Authority shall issue to each Bidder a notice (“Bidding Stage Notice”) which shall provide details of the date on which and the time at which the Bidding Stage shall commence.
- 4.3.2 If the Authority is of the opinion that it is impractical for the Bidding Stage to commence on the date or at the time referred to in the Bidding Stage Notice, he may notify each Bidder of a different date or time, as the case may be. If a different date or time is to be notified, the date or time shall not be earlier than that originally notified as the relevant date or time.

4.4 Information to be provided to Bidders prior to each Round

- 4.4.1 Prior to the start of each Round, the Authority shall notify each Bidder of:
- (a) the date on and the time at which the Round shall start and end,
 - (b) the Round Price for each Frequency Band,
 - (c) the Frequency Band, if any, in respect of which the Bidder is the Standing Highest Bidder,
 - (d) the amount, if any, of the Standing Highest Bid for each Frequency Band,
 - (e) the total number of Waivers that may be exercised by the Bidder, and
 - (f) the total number of Withdrawals that may be exercised by the Bidder.

For the avoidance of doubt, the Authority may at any time provide additional information to the Bidders as he considers appropriate.

4.5 Submission of Valid Bids

4.5.1 In the first Round, each Bidder must submit to the Authority a Valid Bid for at least one Frequency Band. If a Bidder fails to submit a Valid Bid in the first Round, the Authority shall disqualify that Bidder from the Auction and forfeit an amount (up to the full amount of that Bidder's Deposit) by way of Penalty from that Bidder's Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

4.5.2 In each Round other than the first Round, each Bidder may:

- (a) (i) subject to paragraphs 4.6 and 4.8, elect to submit or not to submit a Valid Bid in respect of any Frequency Band;
- (ii) subject to paragraphs 4.8 and 4.9, submit a Withdrawal in respect of a Frequency Band for which the Bidder is a Standing Highest Bidder; or
- (b) subject to paragraphs 4.8 and 4.10, submit a Waiver.

4.5.3 For the avoidance of doubt, where a Bidder is a Standing Highest Bidder in respect of a Frequency Band in a Round, it may elect to submit or not to submit a Valid Bid for that Frequency Band in the immediately following Round.

4.6 Valid Bid

4.6.1 A Valid Bid, in relation to each Round, is a Bid:

- (a) subject to paragraph 4.12.1(b), equal to the Round Price specified by the Authority prior to the Round;
- (b) submitted in accordance with the requirements given in paragraph 4.11.1; and
- (c) that complies with the requirements given in paragraph 4.8.2.

4.7 Determination of Standing Highest Bid for each Round

4.7.1 At the end of each Round, the Authority shall determine the Standing Highest Bid among the Valid Bids for each Frequency Band as follows:

- (a) (i) where no Valid Bid is received in a Round in respect of a Frequency Band but there was a Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round, that Standing Highest Bid shall remain as

the Standing Highest Bid in respect of that Frequency Band (unless that Standing Highest Bid has been subject to a Withdrawal);

- (ii) where no Valid Bid is received in a Round in respect of a Frequency Band and there was no Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round, there shall be no Standing Highest Bid in respect of that Frequency Band;
 - (iii) where no Valid Bid is received in a Round in respect of a Frequency Band and the Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round has been subject to a Withdrawal, there shall be no Standing Highest Bid in respect of that Frequency Band;
- (b) if only one Valid Bid is received in a Round in respect of a Frequency Band, that Valid Bid shall be the Standing Highest Bid for that Frequency Band;
 - (c) if two or more Valid Bids are received in a Round in respect of a Frequency Band, the Authority shall determine by random which of them shall be the Standing Highest Bid for that Frequency Band.

4.8 Eligibility Points and Activity Level

4.8.1 A number of points (“Eligibility Points”) shall be attributed to each Frequency Band in accordance with Appendix 3 of this Notice.

4.8.2 The Activity Level of a Bidder in a Round shall not exceed the number of Eligibility Points attributed to that Bidder for that Round.

4.8.3 For the first Round, the number of Eligibility Points attributed to each Bidder shall be determined in accordance with Appendix 4 of this Notice.

4.8.4 For each Round other than the first Round, the number of Eligibility Points attributed to a Bidder shall be equal to the Activity Level of the Bidder in the immediately preceding Round as determined in accordance with paragraph 4.8.5, unless the Bidder submits or is deemed to submit a Waiver in the immediately preceding Round in which case the number of Eligibility Points attributed to the Bidder shall be equal to the Activity Level of the Bidder in the most immediately preceding Round in which the Bidder did not submit or was not deemed to have submitted a Waiver.

4.8.5 The Activity Level of a Bidder in a Round shall be the aggregate of the number of Eligibility Points attributed to the Frequency Bands in respect of which the Bidder:

- (a) submits a Valid Bid in that Round; and
- (b) was the Standing Highest Bidder at the end of the immediately preceding Round (except where the Bidder submits a Valid Bid for that Frequency Band in which case Eligibility Points are attributed under subparagraph (a) or where the Bidder submits a Withdrawal for that Frequency Band in that Round in which case Eligibility Points are disregarded in accordance with paragraph 4.9.3).

4.9 Withdrawal

4.9.1 In any Round after the first Round, a Bidder may submit a withdrawal (a “Withdrawal”) for which the Bidder holds the Standing Highest Bid in respect of a Frequency Band at the end of the immediately preceding Round. A Withdrawal must be submitted in accordance with the requirements given in paragraph 4.11.1.

4.9.2 In case a Bidder makes a Withdrawal in respect of a Frequency Band in accordance with paragraph 4.9.1, then:

- (a) where one or more Bidders submit Valid Bids in a subsequent Round for that Frequency Band but all the subsequent Valid Bids are lower than that Standing Highest Bid (irrespective of whether the subsequent Valid Bids are also withdrawn), that Bidder is liable to pay the Government the difference between that Standing Highest Bid and the amount of the next subsequent highest Valid Bid (which is in any case lower than that Standing Highest Bid) (irrespective of whether that next subsequent highest Valid Bid is withdrawn or whether it is determined as the Upfront Spectrum Utilization Fee);
- (b) where no other Bidder submits a Valid Bid in any subsequent Round for that Frequency Band, that Bidder is liable to pay the Government an amount equal to 100% of that Standing Highest Bid.

The Authority may deduct from the Deposit of a Bidder or make a claim under the Letter of Credit submitted by a Bidder, the amount that Bidder is liable under this paragraph.

4.9.3 Where, in a Round, a Bidder makes a Withdrawal in respect of a Frequency Band in accordance with paragraph 4.9.1, the Standing Highest Bid which is the subject of the Withdrawal shall be disregarded for the purposes of determining the Bidder's Activity Level for that Round.

4.9.4 The number of Rounds in which each Bidder may make a Withdrawal or Withdrawals is limited to three.

4.10 Waiver

4.10.1 In any Round other than the first Round, a Bidder may submit a Waiver in lieu of taking any action under paragraph 4.5.2(a) provided:

- (a) Waivers were submitted under this paragraph or were deemed to have been submitted by that Bidder in previous Rounds under paragraph 4.10.2 in less than two Rounds; and
- (b) the number of Eligibility Points attributed to all Standing Highest Bids of the Bidder at the end of the immediately preceding Round is less than the number of Eligibility Points attributed to the Bidder in the Round.

A Waiver must be submitted in accordance with the requirements given in paragraph 4.11.1.

4.10.2 In any Round other than the first Round, where a Bidder fails to take any action under paragraph 4.5.2(a) or submit a Waiver under paragraph 4.10.1, the Bidder is deemed to have submitted a Waiver provided:

- (a) Waivers were submitted under paragraph 4.10.1 or were deemed to have been submitted by that Bidder in previous Rounds under this paragraph in less than two Rounds; and
- (b) the number of Eligibility Points attributed to all Standing Highest Bids of the Bidder at the end of the immediately preceding Round is less than the number of Eligibility Points attributed to the Bidder in the Round.

4.10.3 Where, in a Round, a Bidder submits a Waiver in accordance with paragraph 4.10.1 or is deemed to have submitted a Waiver in accordance

with paragraph 4.10.2, the number of Eligibility Points attributed to that Bidder for the immediately following Round shall be the same as the Activity Level of the Bidder in the most immediately preceding Round in which the Bidder did not submit or was not deemed to have submitted a Waiver.

- 4.10.4 At any time during the Bidding Stage, the Authority may, at his sole discretion, increase the number of Waivers that all Bidders may exercise.

Method for submitting Valid Bid, Withdrawal or Waiver

- 4.11.1 A Valid Bid, a Withdrawal or a Waiver must be:
- (a) submitted by using the communication method specified by the Authority which may be one or more of the following:
 - (i) an Internet-based software platform,
 - (ii) an Intranet-based software platform,
 - (iii) facsimile transmission,
 - (iv) telephone call,
 - (v) any other method as the Authority may specify;
 - (b) submitted by using the form specified by the Authority for the relevant method of communication;
 - (c) accompanied by the password or other form of authentication for identifying the Bidder in respect of the submission of a Valid Bid, a Withdrawal or a Waiver (such password or form of authentication shall be provided by the Authority prior to the Bidding Stage); and
 - (d) received by the Authority within the duration of the Round as specified by the Authority prior to the Round.

- 4.11.2 A Valid Bid, a Withdrawal or a Waiver, once submitted to the Authority, shall not be amended, substituted or withdrawn, other than in accordance with terms and conditions of this Notice.

4.12 Conclusion of Bidding Stage

- 4.12.1 The Bidding Stage shall end upon either:
- (a) the completion of a Round in which:
 - (i) no Valid Bid is submitted for any Frequency Band,
 - (ii) no Withdrawal is submitted for any Frequency Band, and
 - (iii) no Waiver is submitted or is deemed to be submitted by any Bidder; or

APPENDIX B

- (b) the completion of a Round which the Authority has specified to be the final Round and has permitted the Bidders to submit Valid Bids for the Frequency Bands at any amount at or above the Round Prices;
whichever first occurs.

In case of subparagraph (a), the Provisional Successful Bidder of a Frequency Band shall be the Bidder which has submitted the Standing Highest Bid in respect of that Frequency Band at the end of the Bidding Stage and the amount of the Upfront Spectrum Utilization Fee payable for that Frequency Band shall be the amount of that Standing Highest Bid.

In case of subparagraph (b), the Provisional Successful Bidder of a Frequency Band shall, subject to paragraphs 4.12.2 and 4.12.3, be the Bidder which has submitted the highest Valid Bid in respect of that Frequency Band and the amount of Upfront Spectrum Utilization Fee payable for that Frequency Band shall be the amount of that highest Valid Bid.

- 4.12.2 Where there is more than one Bidder having submitted the same highest Valid Bid in respect of a Frequency Band in the Round described in paragraph 4.12.1(b), the Authority shall determine by random which of such Bidders shall be the Provisional Successful Bidder in respect of that Frequency Band.
- 4.12.3 In case no Valid Bid is received in respect of a Frequency Band in the Round described in paragraph 4.12.1(b):
 - (a) where there was a Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round, that Standing Highest Bidder shall be the Provisional Successful Bidder in respect of that Frequency Band (unless that Standing Highest Bid has been subject to a Withdrawal);
 - (b) where there was no Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round, there shall be no Provisional Successful Bidder in respect of that Frequency Band;
 - (c) where the Standing Highest Bid in respect of that Frequency Band at the end of the immediately preceding Round has been subject to

a Withdrawal, there shall be no Provisional Successful Bidder in respect of that Frequency Band.

4.13 Provisional Successful Bidder Notice

4.13.1 Within two Business Days after the end of the Bidding Stage, the Authority shall publish a notice (a “Provisional Successful Bidder Notice”) to announce:

- (a) the identity of the Provisional Successful Bidder of each of the Frequency Bands;
- (b) the Upfront Spectrum Utilization Fee payable for each of the Frequency Bands.

4.14 Return of Deposits to the Losing Bidders

4.14.1 After publication of the Provisional Successful Bidder Notice, the Authority shall return to a Bidder which is not a Provisional Successful Bidder (a “Losing Bidder”) that Losing Bidder’s Deposit provided:

- (a) that there is no outstanding investigation being carried out by the Authority against that Losing Bidder in respect of any suspected contravention of the terms and conditions of this Notice; and
- (b) that, if any amounts have been forfeited or deducted by the Authority in accordance with the terms and conditions of this Notice with respect to that Losing Bidder,
 - (i) where the Deposit is in cash, the Deposit shall be returned less the aggregate amount of the Penalties and the amount deducted by the Authority under paragraph 4.9.2; and
 - (ii) where the Deposit is a Letter of Credit, the Authority shall make a claim under the Letter of Credit to the extent of the aggregate amount of the Penalties and the amount the Losing Bidder is liable under paragraph 4.9.2.

4.14.2 Notwithstanding the return to a Losing Bidder of its Deposit in accordance with paragraph 4.14.1, that Losing Bidder shall continue to comply with those terms and conditions of this Notice as are specified by the Authority. If the Authority does not specify any terms and conditions in accordance with this paragraph, the Losing Bidder shall be required to comply with all the terms and conditions of this Notice as appropriate.

Part 5 –Assignment Stage

5.1 Notification of any Approval

- 5.1.1 Within two Business Days after publication of the Provisional Successful Bidder Notice, each Provisional Successful Bidder shall notify the Authority whether it is subject to an Approval, and if so, the details of that Approval.
- 5.1.2 Where a Provisional Successful Bidder notifies the Authority that it is not subject to any Approval, it may be entitled to be assigned with a Frequency Band.
- 5.1.3 Where a Provisional Successful Bidder notifies the Authority that it is subject to an Approval, it may not be entitled to an assignment of any Frequency Band until it notifies the Authority that it is no longer subject to an Approval.
- 5.1.4 On notifying the Authority in accordance with paragraph 5.1.3, the Provisional Successful Bidder shall provide written evidence to the Authority that the Approval notified by the Provisional Successful Bidder under paragraph 5.1.1 has been obtained.
- 5.1.5 If a Provisional Successful Bidder does not notify the Authority in accordance with paragraph 5.1.1, the Authority may, at his discretion and without prejudice to the provisions of any law or ordinance and paragraph 6.1.1, forfeit an amount (up to the full amount of that Bidder's Deposit) by way of Penalty from that Bidder's Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.
- 5.1.6 If a Provisional Successful Bidder that is subject to an Approval fails to obtain that Approval by the Approval Date, the Authority may, if that Provisional Successful Bidder is able to demonstrate to the satisfaction of the Authority that it has used its best endeavours to obtain that Approval or a waiver of that Approval, specify a date by which that Provisional Successful Bidder shall obtain the Approval.
- 5.1.7 If a Provisional Successful Bidder fails to obtain an Approval by the Approval Date or the date specified by the Authority under paragraph 5.1.6,

the Authority shall not assign any Frequency Band to that Provisional Successful Bidder and shall disqualify that Bidder from the Auction and forfeit an amount (up to the full amount of that Bidder's Deposit) by way of Penalty from that Bidder's Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

5.2 Duties of Provisional Successful Bidder

5.2.1 Within fifteen Business Days after publication of the Provisional Successful Bidder Notice, each Provisional Successful Bidder shall pay to the Authority in cash the Upfront Spectrum Utilization Fee payable by it.

5.2.2 Where the Deposit of a Provisional Successful Bidder is in cash, the Authority may at his discretion permit the Provisional Successful Bidder to offset all or part of the Upfront Spectrum Utilization Fee by the Deposit or the balance of the Deposit, as the case may be.

5.2.3 Where a Provisional Successful Bidder fails to comply with the requirement specified in paragraph 5.2.1, the Authority shall not assign any Frequency Band to that Provisional Successful Bidder and shall disqualify that Bidder from the Auction and forfeit an amount (up to the full amount of that Bidder's Deposit) by way of Penalty from that Bidder's Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

5.3 Return of Deposit to Provisional Successful Bidder

5.3.1 Where the Authority is satisfied that the Provisional Successful Bidder has complied with the requirement specified in paragraph 5.2.1, the Authority shall return to that Provisional Successful Bidder its Deposit provided that:

- (a) there is no outstanding investigation being carried out by the Authority against that Provisional Successful Bidder in respect of any suspected contravention of the terms and conditions of this Notice;
- (b) where the Deposit is a Letter of Credit, the Authority shall make a claim under the Letter of Credit to the extent of:
 - (i) any amount forfeited by the Authority by way of Penalty under the terms and conditions of this Notice with respect to

- that Provisional Successful Bidder; and
- (ii) any amount that Provisional Successful Bidder is liable under paragraph 4.9.2; and
- (c) where the Deposit is in cash, the Authority shall return the balance of the Deposit after deducting:
 - (i) any amount forfeited by the Authority by way of Penalty under the terms and conditions of this Notice with respect to that Provisional Successful Bidder;
 - (ii) any amount that Provisional Successful Bidder is liable under paragraph 4.9.2; and
 - (iii) any amount used for offsetting the Upfront Spectrum Utilization Fee payable by that Provisional Successful Bidder as permitted by the Authority under paragraph 5.2.2.

5.3.2 Notwithstanding the return to a Provisional Successful Bidder of its Deposit in accordance with paragraph 5.3.1, that Provisional Successful Bidder shall continue to comply with those terms and conditions of this Notice as are specified by the Authority. If the Authority does not specify any terms and conditions in accordance with this paragraph, the Provisional Successful Bidder shall be required to comply with all the terms and conditions of this Notice as appropriate.

5.4 Successful Bidder Notice and assignment of Frequency Band

- 5.4.1 After the later of:
- (a) the date on which a Provisional Successful Bidder has complied with the requirements specified in paragraph 5.2.1 and
 - (b) the date on which the Authority receives notification from the Provisional Successful Bidder that it is not subject to an Approval in accordance with paragraph 5.1.1 or that it is no longer subject to an Approval in accordance with paragraph 5.1.3, the Authority shall, subject to the compliance by the Provisional Successful Bidder of the terms and conditions of this Notice,
 - (i) determine and publish a notice (a “Successful Bidder Notice”) that the Provisional Successful Bidder shall become a Successful Bidder;
 - (ii) assign to the Successful Bidder the Frequency Band or Frequency Bands for which that Bidder is the Successful Bidder, for provision of public mobile telecommunications

- services in areas other than the Designated Areas; and
- (iii) incorporate the Conditions to the Licence of the Successful Bidder.

5.5 Cancellation, withdrawal or suspension of Licence

- 5.5.1 The Authority may cancel, withdraw or suspend a Licence pursuant to the Conditions.

Part 6 – Rules on conduct of Bidders

6.1 Breach of Notice

- 6.1.1 Each Bidder shall comply with all of the terms and conditions of this Notice. Without prejudice to any other rights or remedies of the Authority, if a Bidder breaches one or more of the terms and conditions of this Notice, the Authority may, at his discretion:

- (a) disqualify that Bidder from the Auction by notice to that Bidder; and/or
- (b) forfeit an amount (up to the full amount of a Bidder's Deposit) by way of Penalty from a Bidder's Deposit where the Deposit is in cash or make a claim under the Letter of Credit to the extent of the relevant amount where the Deposit is a Letter of Credit.

- 6.1.2 If a Bidder is disqualified during the Bidding Stage:

- (a) that Bidder shall no longer be entitled to participate in the Auction but shall continue to comply with those terms and conditions of this Notice as specified by the Authority. If the Authority does not specify any terms and conditions in accordance with this paragraph, the Bidder shall be required to comply with all the terms and conditions of this Notice as appropriate;
- (b) that Bidder shall cease to be a Standing Highest Bidder in respect of any Frequency Band;
- (c) the Bid or the Bids submitted by that Bidder in the Round immediately preceding the disqualification shall be deemed invalid and disregarded; and
- (d) the Authority may re-determine the result of the Round immediately preceding the disqualification as he considers appropriate.

- 6.1.3 If a Provisional Successful Bidder is disqualified during the Assignment Stage:
- (a) that Provisional Successful Bidder shall not be assigned with any Frequency Band; and
 - (b) the position of any other Bidder shall not be affected.

Return of Deposit to disqualified Bidder

- 6.1.4 If a Bidder is disqualified, the Authority shall return that disqualified Bidder's Deposit provided:
- (a) that there is no outstanding investigation being carried out by the Authority against that disqualified Bidder in respect of any suspected contravention of the terms and conditions of this Notice; and
 - (b) that if any amounts have been forfeited or deducted by the Authority in accordance with the terms and conditions of this Notice with respect to that disqualified Bidder:
 - (i) where the Deposit is in cash, the Deposit shall be returned less the aggregate amount of the Penalties and the amount deducted by the Authority under paragraph 4.9.2; and
 - (ii) where the Deposit is a Letter of Credit, the Authority shall make a claim under the Letter of Credit to the extent of the aggregate amount of the Penalties and the amount the Losing Bidder is liable under paragraph 4.9.2.

- 6.1.5 Notwithstanding the return to a disqualified Bidder of its Deposit in accordance with paragraph 6.1.4, that disqualified Bidder shall continue to comply with those terms and conditions of this Notice as are specified by the Authority. If the Authority does not specify any terms and conditions in accordance with this paragraph, the disqualified Bidder shall be required to comply with all the terms and conditions of this Notice as appropriate.

6.2 Participation in Auction

- 6.2.1 Each Bidder shall participate in the Auction in good faith in accordance with the terms and conditions of this Notice including, without limitation, complying with the detailed provisions relating to bidding in the Auction.

- 6.2.2 Each Bidder shall:
- (a) ensure that its Authorised Representatives are contactable by the Authority at all times for the purposes of the Auction;
 - (b) not send any form of communication to the Authority during the Auction which is, in the opinion of the Authority, vexatious;
 - (c) not submit more than one form for the purpose of submitting a Bid, a Waiver or a Withdrawal in a Round;
 - (d) not submit a Bid, a Waiver or a Withdrawal using a communication method other than that specified by the Authority in accordance with paragraph 4.11.1;
 - (e) not destroy or use improperly any equipment or device provided by the Authority for the Auction;
 - (f) not act, without reasonable excuse, in a manner which disrupts the procedure specified in this Notice.

6.3 Submission of false or misleading information

- 6.3.1 No Bidder shall submit to the Authority any information (including, without limitation, in an Application) in connection with the Auction which that Bidder either knows to be false or misleading or which is false or misleading.

6.4 Changes and notification to Authority

- 6.4.1 Subject to paragraph 7.7.1, if any change occurs which affects the information submitted in a Bidder's Application, that Bidder shall immediately notify the Authority in writing; and shall on request by the Authority submit within a period specified by the Authority one or more of the following documents:
- (a) a revised Application Form; and
 - (b) a revised Bidder Compliance Certificate.

6.5 Confidentiality and non-collusion

Confidential Information

- 6.5.1 A Bidder and its Insiders shall not take steps to obtain or use in any unauthorised way Confidential Information of another Bidder.
- 6.5.2 Subject to paragraph 6.5.3, a Bidder and its Insiders shall not directly or indirectly disclose, or cause or permit to disclose, or enter into or attempt to enter into any arrangement, agreement or understanding to disclose, any

Confidential Information to any person other than to the Bidder's professional advisers, providers of finance or prospective providers of finance who, in each case, need to know the Confidential Information for the purpose of evaluating, negotiating, advising the Bidder or considering provision of finance to the Bidder in connection with the Auction and shall become an Insider of the Bidder.

- 6.5.3 The Bidder shall procure that each person to whom disclosure of Confidential Information is made as permitted under paragraphs 6.5.2 and 6.5.4 is made aware (in advance of the relevant disclosure) of the provisions of paragraphs 6.5.1 and 6.5.2 and this paragraph and the Bidder shall use its best endeavours to procure that each of those persons adheres to those provisions.
- 6.5.4 Subject to paragraph 6.5.3, a Bidder is not prevented from using or disclosing Confidential Information:
- (a) if the Bidder is required to do so by the law of Hong Kong;
 - (b) if the Bidder is required to do so by the law of any place outside Hong Kong, the Stock Exchange of Hong Kong Limited, the Commission or other governmental or regulatory or supervisory body of competent jurisdiction to which rules and regulations (not having the force of law) the Bidder is subject provided the relevant Bidder has received the prior written consent of the Authority; or
 - (c) if it is required to be disclosed to the Authority in accordance with the terms and conditions of this Notice or otherwise.
- 6.5.5 A Bidder and its Insiders shall not receive or attempt to receive advice regarding the Auction from the Government's Adviser, including without limitation, any person retained by the Government's Adviser.
- 6.5.6 Confidential Information means, in relation to any Bidder, any information relating to the Auction which has not been made public by the Authority and which, if it were made public or made known to any other Bidder, would be reasonably expected to have an effect on the conduct or strategy of other Bidder or Bidders in the Auction, including without limitation, a Bidder's interest or participation in the Auction, business case, auction strategy and any Bid or offer that the Bidder is willing to make, but excluding:

- (a) information which is in, or which comes into the public domain other than as a breach of any Bidder or its Insider, of the terms and conditions of this Notice; and
- (b) information provided by a Bidder or its Insiders to another Bidder or its Insiders before the submission of the first-mentioned Bidder's Application.

Directors, employees and agents

6.5.7 If any person who is a director, employee or agent of a Bidder or any person who is an Insider in relation to that Bidder, is also a director, employee or agent of another Bidder or any person who is an Insider in relation to the other Bidder, the first-mentioned Bidder shall ensure that the person:

- (a) does not take part in preparing any of the Bidders or their respective Insiders for participating in the Auction;
- (b) does not pass Confidential Information relating to one Bidder to another Bidder or its Insiders;
- (c) shall not be an Authorised Representative of any of the Bidders;
- (d) shall not take part or participate in the Auction.

Non-collusion

6.5.8 A Bidder and its Insiders shall not:

- (a) co-operate, collaborate, collude or discuss with, or disclose any information to, any other Bidder or any of its Insiders for any purpose relating to the Auction, including without limitation, in connection with the Bidder's bidding strategy or with any Bid or offer that the Bidder is willing to make in the Auction; or
- (b) manipulate or attempt to manipulate or make any arrangements to manipulate the Auction in any way with a view to achieving a particular result or outcome of the Auction.

Return of information to the Authority

6.5.9 The Authority reserves the right, at his absolute discretion, to require that all written information provided to the Bidders be returned to the Authority.

6.6 Prevention of bribery

6.6.1 If any Bidder or any of its Insiders acts in contravention of the Prevention

of Bribery Ordinance insofar as that ordinance applies to the Auction including, without limitation, sections 6, 7 and 12A, that Bidder shall be deemed to be in breach of the terms and conditions of this Notice.

6.7 Duty to abide by undertakings

6.7.1 Where a Bidder has given any certificate, undertaking, representation, warranty or declaration in accordance with any of the terms and conditions of this Notice, it shall comply with that certificate, undertaking and declaration and ensure that each certificate, declaration, representation and warranty remains true and accurate.

Part 7 – Miscellaneous

7.1 Suspension and cancellation

7.1.1 The Authority may, at any time, by notification to all Bidders, as the case may be,

- (a) amend the date on and the time at which a Round shall start or end;
- (b) cancel a Round or a series of Rounds in which case the Authority may disregard all the Bids received in the Round or the series of Rounds and re-conduct the Round or the series of Rounds;
- (c) suspend the Auction;
- (d) cancel the Auction, in which case the Authority may disregard all the Bids received in the Auction;
- (e) re-conduct the Auction.

7.2 General power of disqualification

7.2.1 Without prejudice to and in addition to any of the terms and conditions of this Notice, the Authority may at any time disqualify any Bidder from the Auction if, in his opinion, that Bidder is not a fit and proper person to be assigned with any Frequency Band.

7.3 Civil debt

7.3.1 Without prejudice to and in addition to any of the terms and conditions of this Notice, any liability arising from the operation of the terms and conditions of this Notice may be recoverable as a civil debt due and payable to the Government.

7.4 Means of notification by Authority

7.4.1 If, in accordance with any of the terms and conditions of this Notice, the

Authority is required, or wishes to notify a Bidder of any fact or circumstance, he may do so, unless otherwise specified in this Notice, by any means.

7.5 Means of notification to Authority prior to or after Bidding Stage

7.5.1 If, in accordance with any of the terms and conditions of this Notice, a Bidder is required, or wishes, to notify the Authority of any fact or circumstance prior to or after the Bidding Stage, such notification shall be in writing and shall be sent to the Authority by:

- (a) post to the Authority's Office (marked for attention of the Authority); or
- (b) fax to the fax number notified to the Bidders for this purpose by the Authority.

Any notification to the Authority shall be in the English language.

7.5.2 If a Bidder sends any notification to the Authority and the notification is received after 5:00 pm on a Business Day, it shall be deemed to have been received by the Authority at 9:00 am on the immediately following Business Day. If a tropical cyclone warning number 8 or above or a "black" rainstorm warning is in force in Hong Kong on any Business Day on which a Bidder sends a notification to the Authority or on any Business Day on which a notification is deemed to have received by the Authority, it shall be deemed to have been received by the Authority on the immediately following Business Day on which none of the signals remains in force.

7.6 Publication and disclosure of information

7.6.1 Subject to paragraph 7.6.2, the Authority may publish or disclose any information arising out of or in relation to the Auction, whether or not that information originates from a Bidder, in any manner as he thinks fit.

7.6.2 Subject to any other terms and conditions of this Notice, the Authority shall not publish or disclose any information which is provided to him by a Bidder which that Bidder has asked him in writing to treat as confidential, if the Authority is of the opinion that the request is reasonable in the interests of the Bidder and not publishing the information would not unfairly prejudice other Bidders or be detrimental to the Auction.

7.7 Change of Authorised Representatives

7.7.1 If a Bidder wishes to substitute one or more of its Authorised Representatives notified to the Authority in its Application Form required to be submitted under paragraph 2.1.2, it may do so at any time on notification of the details of that change to the Authority in accordance with paragraph 6.4.1. A substitution made in accordance with this paragraph shall take effect on the immediately following Business Day after the day on which the Authority receives such notification. That Bidder shall on request by the Authority submit within a period specified by the Authority a revised Application Form.

7.8 Additional information

7.8.1 The Authority may request any Bidder for such additional information or document as may reasonably be required for his determination as to whether the Bidder shall be a Qualified Bidder.

7.8.2 On receipt of a request made pursuant to paragraph 7.8.1, a Bidder shall use its best endeavours to provide the information or documents within the time limit specified by the Authority.

7.8.3 If a Bidder fails to comply with paragraph 7.8.2, the Authority may refuse to determine that Bidder as a Qualified Bidder in accordance with paragraphs 3.2.1 to 3.2.2.

7.8.4 Without prejudice and in addition to paragraphs 7.8.1 to 7.8.3, a Bidder shall, in the manner and within the time specified by the Authority, supply such information as the Authority may reasonably require for ensuring the Bidder's compliance with the terms and conditions of this Notice or for investigating whether the Bidder is in compliance with the terms and conditions of this Notice.

7.9 Interpretation

7.9.1 The Authority shall be entitled to interpret conclusively the terms and conditions of this Notice and the validity of any act made pursuant to them in the event of any question, difference of opinion or dispute over these terms and conditions.

7.10 Modifications to Notice

- 7.10.1 The Authority may make modifications to the terms and conditions of this Notice:
- (a) to correct any manifest error;
 - (b) to correct any inconsistency;
 - (c) to address circumstances not contemplated by the Authority on or before the date of this Notice but which are nevertheless within the overall purpose of the Ordinance, the Regulations and the terms and conditions of this Notice.

7.11 Documents submitted to the Authority

- 7.11.1 Any document submitted by a Bidder to the Authority in accordance with this Notice is and shall remain the property of the Authority and the Authority may use the information contained therein in whatever manner and for whatever purpose the Authority deems fit.

7.12 Powers of Authority to issue licence or to assign frequency

- 7.12.1 Nothing in this Notice shall limit the power of the Authority to issue any licence pursuant to section 7 of the Ordinance, assign any frequency pursuant to section 32H of the Ordinance or otherwise fetter his powers under the Ordinance.

7.13 Waiver

- 7.13.1 Any delay by the Authority in exercising or enforcing any of his powers under this Notice shall not constitute a waiver of those powers.

7.14 Governing law and jurisdiction

- 7.14.1 The terms and conditions of this Notice and the relationship between the Authority and each of the Bidders shall be governed by, and interpreted in accordance with Hong Kong law.
- 7.14.2 The courts of Hong Kong are to have exclusive jurisdiction to settle any disputes which may arise in connection with the creation, validity, effect, interpretation or performance of, or the legal relationships established by or otherwise arising in connection with the terms and conditions of this Notice. The submission of an Application shall be deemed to constitute an irrevocable submission to the jurisdiction of the courts of Hong Kong.

APPENDIX 1
Designated Areas

DESIGNATED AREAS

Pursuant to section 4A(2) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the Authority has specified the designated areas for the purposes of section 4A(1) of Cap.106AA in G.N.2068 of 2009 as follows:

Country parks and special areas

(a) Country parks and special areas designated under Country Parks Ordinance (Cap.208) as at 3 April 2009.

Robin's Nest

(b) The area bounded –

- (i) on the north, by a straight line drawn from position latitude $22^{\circ} 32' 24.896''$ north, longitude $114^{\circ} 11' 12.864''$ east to position latitude $22^{\circ} 32' 24.896''$ north, longitude $114^{\circ} 11' 19.864''$ east;
- (ii) on the south, by a straight line drawn from position latitude $22^{\circ} 32' 21.645''$ north, longitude $114^{\circ} 11' 12.864''$ east to position latitude $22^{\circ} 32' 21.645''$ north, longitude $114^{\circ} 11' 19.863''$ east;
- (iii) on the east, by a straight line drawn from position latitude $22^{\circ} 32' 24.896''$ north, longitude $114^{\circ} 11' 19.864''$ east to position latitude $22^{\circ} 32' 21.645''$ north, longitude $114^{\circ} 11' 19.863''$ east;
- (iv) on the west, by a straight line drawn from position latitude $22^{\circ} 32' 24.896''$ north, longitude $114^{\circ} 11' 12.864''$ east to position latitude $22^{\circ} 32' 21.645''$ north, longitude $114^{\circ} 11' 12.864''$ east.

Lai Chi Wo

(c) The area bounded –

- (i) on the north, by a straight line drawn from position latitude $22^{\circ} 31' 39.311''$ north, longitude $114^{\circ} 15' 28.314''$ east to position latitude $22^{\circ} 31' 39.305''$ north, longitude $114^{\circ} 15' 38.812''$ east;
- (ii) on the south, by a straight line drawn from position latitude $22^{\circ} 31' 32.809''$ north, longitude $114^{\circ} 15' 28.310''$ east to position latitude $22^{\circ} 31' 32.803''$ north, longitude $114^{\circ} 15' 38.808''$ east;
- (iii) on the east, by a straight line drawn from position latitude $22^{\circ} 31' 39.305''$ north, longitude $114^{\circ} 15' 38.812''$ east to position latitude $22^{\circ} 31' 32.803''$ north, longitude $114^{\circ} 15' 38.808''$ east;

- (iv) on the west, by a straight line drawn from position latitude $22^{\circ} 31' 39.311''$ north, longitude $114^{\circ} 15' 28.314''$ east to position latitude $22^{\circ} 31' 32.809''$ north, longitude $114^{\circ} 15' 28.310''$ east.

Sai Kung

(d) The area bounded –

- (i) on the north, by a straight line drawn from position latitude $22^{\circ} 22' 55.878''$ north, longitude $114^{\circ} 16' 20.446''$ east to position latitude $22^{\circ} 22' 55.874''$ north, longitude $114^{\circ} 16' 27.437''$ east;
- (ii) on the south, by a straight line drawn from position latitude $22^{\circ} 22' 49.376''$ north, longitude $114^{\circ} 16' 20.441''$ east to position latitude $22^{\circ} 22' 49.372''$ north, longitude $114^{\circ} 16' 27.433''$ east;
- (iii) on the east, by a straight line drawn from position latitude $22^{\circ} 22' 55.874''$ north, longitude $114^{\circ} 16' 27.437''$ east to position latitude $22^{\circ} 22' 49.372''$ north, longitude $114^{\circ} 16' 27.433''$ east;
- (iv) on the west, by a straight line drawn from position latitude $22^{\circ} 22' 55.878''$ north, longitude $114^{\circ} 16' 20.446''$ east to position latitude $22^{\circ} 22' 49.376''$ north, longitude $114^{\circ} 16' 20.441''$ east.

APPENDIX 2
Conditions

CONDITIONS

(Note: The Conditions substantially in the following form shall be added to the Licence(s) of the Successful Bidder(s). Corresponding / consequential amendments may be made to the Conditions and the Licence in order to correct any ambiguity or inconsistency.)

[A]. COMPLIANCE WITH AUCTION RULES

[A].1 If the licensee is found, to the reasonable satisfaction of the Authority, to have been involved in an act, or omission of any act, constituting a breach of the terms and conditions of the Notice, then the Authority may cancel, withdraw or suspend this licence. For the avoidance of doubt, the Authority's power to cancel, withdraw or suspend this licence is without prejudice, and in addition, to any rights or remedies of the Authority under any performance bond submitted by the licensee pursuant to this licence or its replacement and any other rights or remedies of the Authority, the Chief Executive, the Chief Executive in Council under the licence, the Ordinance, any regulations made under the Ordinance or any other law.

[A].2 For the purposes of this Special Condition, "Notice" means the Notice dated 24 April 2009 issued by the Authority in exercise of his powers conferred by section 32I of the Ordinance, the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) and all other powers enabling him to specify the terms and conditions of the auction and the payment of Spectrum Utilization Fees.

[B]. PAYMENT OF SPECTRUM UTILIZATION FEE

[B].1 The licensee shall pay Spectrum Utilization Fees for spectrum assigned to the licensee as designated by the Authority by order and at such level or according to the method of determining the Spectrum Utilization Fee as prescribed by the Secretary by regulation. The licensee shall pay the Spectrum Utilization Fee to the Authority during the period while the licence remains in force. If the licensee fails to make the concerned payment when

due, the Authority may charge interest on any overdue amount from the date on which the relevant amount is due until the date of actual payment (both days inclusive) at a rate determined by the Authority to compensate it for the payment being overdue.

- [B].2 Subject to Special Condition [B].1, the licensee shall pay the following Spectrum Utilization Fee in accordance with Schedule [X]:
- (a) Spectrum Utilization Fee for frequencies assigned as specified in paragraph [Y] of Schedule 3.

**SCHEDULE [X]
SPECTRUM UTILIZATION FEES**

- [X]. **Frequency spectrum specified in paragraph [Y] in Schedule 3**
- [X].1 The licensee shall pay the Spectrum Utilization Fees which shall be, in aggregate:
- (a) HK\$[] [*the amount of the Upfront Spectrum Utilization Fee*];
- (b) for each period of 12 months beginning from 30 September 2009 to 29 September 2011, the Appropriate Fee in respect of the relevant Royalty Year;
- (c) for each period of 12 months beginning from 30 September 2011 to 29 September 2021,
- (i) 5% multiplied by the Network Turnover or the Revised Network Turnover referred to in Special Condition [], as the case may be, in respect of the relevant Royalty Year; or
- (ii) the Appropriate Fee in respect of the relevant Royalty Year,
- whichever is the greater.
- [X].2 The licensee shall pay to the Authority the Spectrum Utilization Fees:

- (a) referred to in paragraph [X].1(a) of this Schedule on or before [*the 15th Business Day after publication of the Provisional Successful Bidder Notice*]
- (b) referred to in paragraph [X].1(b) of this Schedule on or before the last day of each Royalty Year concerned; and
- (c) referred to in paragraph [X].1(c) in accordance with paragraph [X].3 of this Schedule.

[X].3 On or before the last day of each Royalty Year from 30 September 2011, the licensee shall pay to the Authority the Appropriate Fee for the relevant Royalty Year. Within a specified period as determined by the Authority after the end of each Royalty Year from 30 September 2011, the licensee shall send to the Authority details of its Network Turnover for the relevant Royalty Year derived from its Accounts which cover that Royalty Year. If the amount calculated in accordance with paragraph [X].1(c)(i) for a Royalty Year is greater than the Appropriate Fee for that Royalty Year paid by the licensee to the Authority in accordance with this paragraph, the licensee shall pay to the Authority, at the same time that it submits details of its Network Turnover for the relevant Royalty Year, the excess over the Appropriate Fee for that Royalty Year.

[X].4 If the licensee fails to make any payment when due under paragraph [X].2 or [X].5(a) or both, the Authority may charge interest on any overdue amount from the date on which the relevant amount is due until the date of actual payment (both days inclusive) at a rate determined by the Authority to compensate it for the payment being overdue.

[X].5 If the Authority carries out an audit of the licensee's Accounts pursuant to Special Condition [] in respect of a Royalty Year, the licensee shall not be relieved of its obligation to pay the Spectrum Utilization Fees in accordance with paragraph [X].2 in respect of that Royalty Year. If, as a result of that audit, the Spectrum Utilization Fees in respect of that Royalty Year is:

- (a) increased, the licensee shall pay the amount of the shortfall to the Authority; or

(b) reduced, the Authority shall repay the amount of the excess to the licensee without interest.

Any payment which must be made under this paragraph shall be made on the date specified by the Authority.

[X].6 For the purposes of this paragraph [X],

"Accounts" has the meaning given in Special Condition [];

"Appropriate Fee" means,

for each Royalty Year starting from 30 September 2009 to 29 September 2011, HK\$145 for every 1 kHz or part thereof of the spectrum assigned for use by the licensee; and

for each of Royalty Year starting from 30 September 2011 to 29 September 2021, HK\$1,450 for every 1 kHz or part thereof of the spectrum assigned for use by the licensee

(for the purpose of calculation of the Appropriate Fee, the spectrum assigned for use by the licensee shall be, in respect of each Royalty Year, the spectrum assigned for use by the licensee on 30 September of the Royalty Year); and

"Royalty Year" means each period of 12 months beginning with 30 September from 30 September 2011 to 29 September 2021.

SCHEDULE 3

TECHNICAL PARTICULARS OF RADIO STATIONS FOR THE PROVISION OF THE SERVICE

[Y]. Frequencies with assignment period till 29 September 2021

[Y].1. Frequency: Transmitting and receiving frequencies assigned by the Authority for each radiocommunications installation within the following frequency bands and contained in the listing incorporated into this Schedule 3 in accordance with section 8(3) of the Telecommunications Regulations (Cap. 106A):

Transmitting frequencies of mobile stations : [-]MHz;

Transmitting frequencies of base stations : [-]MHz

- [Y].2. Location:) Details are contained in the listing
- [Y].3. Class of emission:) incorporated into this Schedule 3 in
- [Y].4. Type of modulation:) accordance with section 8(3) of the
- [Y].5. Maximum frequency tolerance:) Telecommunications Regulations
- [Y].6. Maximum effective radiated power:) (Cap. 106A).
- [Y].7. Aerial characteristics:)

Remarks:

- (i) The frequencies specified in paragraph [Y] are assigned to the licensee from the date of assignment to 29 September 2021 solely for providing coverage from such base stations as may be approved by the Authority from time to time. Unless otherwise approved by the Authority, such base stations shall be located in areas other than the designated area specified by the Authority for the purpose of section 4A(1) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA) and the frequencies shall be used for the sole purpose of providing mobile telecommunications services in areas other than the designated area. The designated area is specified by the Authority in G.N.2068 of 2009.

APPENDIX 3

Frequency Band, Eligibility Points and Minimum Fee

FREQUENCY BAND, ELIGIBILITY POINTS AND MINIMUM FEE

Frequency Band	MHz	Bandwidth of the Frequency Band	Eligibility Points required for bidding the Frequency Band	Minimum Fee
P1	1784.1 – 1784.9 1879.1 – 1879.9	0.8 MHz x 2	1	HK\$60,000
P2	1783.3 – 1784.1 1878.3 – 1879.1	0.8 MHz x 2	1	HK\$60,000
P3	1782.5 – 1783.3 1877.5 – 1878.3	0.8 MHz x 2	1	HK\$60,000
P4	1781.7 – 1782.5 1876.7 – 1877.5	0.8 MHz x 2	1	HK\$60,000
P5	1780.9 – 1781.7 1875.9 – 1876.7	0.8 MHz x 2	1	HK\$60,000
P6	1780.1 – 1780.9 1875.1 – 1875.9	0.8 MHz x 2	1	HK\$60,000

APPENDIX 4
Deposit and Eligibility Points to be attributed to Bidders

DEPOSIT AND ELIGIBILITY POINTS TO BE ATTRIBUTED TO BIDDERS

Deposit	Eligibility Points to be attributed to Bidder for the first Round
HK\$ 8,000,000	1
HK\$ 16,000,000	2
HK\$ 24,000,000	3
HK\$ 32,000,000	4
HK\$ 40,000,000	5
HK\$ 48,000,000	6

**APPENDIX 5
Application Form**

**AUCTION OF RADIO SPECTRUM
IN THE 1800 MHz BAND
FOR EXPANSION OF PUBLIC MOBILE
TELECOMMUNICATIONS SERVICES**

APPLICATION FORM

OFFICE OF THE TELECOMMUNICATIONS AUTHORITY

A. APPLICATION FORM

A.1 The Bidder

A.1.1 Details of the Bidder

1. Registered Name of the Bidder:
2. Company Number:
3. Registered Office Address:
4. Correspondence Address:
5. Company Website:
6. Telephone No. (General):
7. Fax No. (General):

Signed:.....

Signed:.....

A.1.2 Contact details of the Bidder

Address:	
Telephone Number:	
Fax Number:	
E-mail Address:	

A.1.3 Principal contacts of the Bidder

Contact 1	
Name:	
Title and/or Position:	
Telephone Number:	
Mobile Number:	
Fax Number:	
E-mail Address:	

Signed:.....

Signed:.....

Contact 2	
Name:	
Title and/or Position:	
Telephone Number:	
Mobile Number:	
Fax Number:	
E-mail Address:	

Contact 3	
Name:	
Title and/or Position:	
Telephone Number:	
Mobile Number:	
Fax Number:	
E-mail Address:	

Signed:.....

Signed:.....

A.1.4 Bank account (for reimbursement of the Deposit)

Name of Bank:	
Account Name:	
Account Number:	

A.1.5 Directors and other key members of the management of the Bidder

Name:	Title and/or Position:

If additional space is required, please attach additional sheets labelled A.1.5(a), A.1.5(b) etc.

Signed:.....

Signed:.....

A.2 Bidder’s Authorised Representatives

1.	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

2.	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

3.	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

Signed:.....

Signed:.....

4	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

5.	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

6.	Name:	
	Employer (or relationship between this representative and the Bidder):	
	Title and/or Position:	
	ID Card/Passport Number:	
	Signature:	

Signed:.....

Signed:.....

A.3 Insiders

Name:	Employer:	Title and/or Position:	Role:

Signed:.....

Signed:.....

A.4 Deposit Confirmation Form

	Amount of Deposit submitted by Bidder in cash or by a Letter of Credit	Eligibility Points to be attributed to Bidder for the first Round of the Bidding Stage	Please tick: (one box only)
1.	HK\$ 8,000,000	1	<input type="checkbox"/>
2.	HK\$ 16,000,000	2	<input type="checkbox"/>
3.	HK\$ 24,000,000	3	<input type="checkbox"/>
4.	HK\$ 32,000,000	4	<input type="checkbox"/>
5.	HK\$ 40,000,000	5	<input type="checkbox"/>
6.	HK\$ 48,000,000	6	<input type="checkbox"/>

A Bidder must have the required number of Eligibility Points in order to bid for the Frequency Band(s) concerned. For every Frequency Band of 0.8 MHz x 2, 1 EP is required. For details, please refer to the terms and conditions of the Notice.

Signed:.....

Signed:.....

A.5 Checklist

		Please tick:
1.	Complete sections A.1, A.2, A.3 and A.4 of the Application Form.	<input type="checkbox"/>
2.	Sign each page of the Application Form by two Authorised Representatives who are directors of the Bidder.	<input type="checkbox"/>
3.	Provide a certified true copy of the Memorandum and Articles of Association of the Bidder, or equivalent documents.	<input type="checkbox"/>
4.	Provide certified true copies of the Certificate of Incorporation and the Business Registration Certificate of the Bidder.	<input type="checkbox"/>
5.	Provide the signed Bidder Compliance Certificate in the format set out at Appendix 6 to the Notice.	<input type="checkbox"/>
6.	Provide the signed Declaration in section A.6.	<input type="checkbox"/>
7.	Confirm that the Deposit has either: i) been provided together with this Application Form as a Letter of Credit in the same format as set out at Appendix 7 of the Notice; or ii) been provided in cash (cleared funds) to the Authority's Account by telegraphic transfer. A certified true copy of the relevant document(s) is provided together with this Application Form.	<input type="checkbox"/> <input type="checkbox"/>
8.	Confirm that the amount of the Deposit conforms to the selection made by the Bidder in the Deposit Confirmation Form (section A.4).	<input type="checkbox"/>
9.	Provide one business card of each of the Bidder's Authorised Representatives.	<input type="checkbox"/>

Signed:.....

Signed:.....

A.6 Declaration

We, and, the undersigned, as directors and Authorised Representatives of the Bidder, confirm and acknowledge:

- (a) that this Application, once submitted to the Authority, cannot be withdrawn other than in accordance with the Notice;
- (b) that this Application commits the Bidder and its Insiders to comply with the terms and conditions of the Auction;
- (c) that this Application commits the Bidder to bid for at least one Frequency Band in the first Round of the Bidding Stage at the Minimum Fee;
- (d) that, in case the Bidder is the only Qualified Bidder, the Bidder may subject to the terms and conditions of the Notice become the Provisional Successful Bidder of the Frequency Band(s) it selects and that this Application commits the Bidder to comply with all the relevant terms and conditions.

We confirm that the factual information provided in, or in support of, the Application is, to the best of the Bidder’s knowledge, information and belief, true, accurate and has no material omissions and that any opinion expressed is honestly held.

Signed:

Authorised signature
(name and position)

Authorised signature
(name and position)

Company seal affixed

Date: _____

END OF APPLICATION FORM

B. APPLICATION FORM INSTRUCTIONS

Instructions are set out below on the information required in the Application Form, and the form of its presentation. Unless otherwise stated, terms used in the Application Form and these instructions shall have the meanings given to them in the Notice.

B.1 The Bidder

B.1.1 Details of the Bidder

Please provide the registered name of the Bidder (the “Bidder”), its company number appearing on the Certificate of Incorporation issued by the Companies Registry of Hong Kong, registered office address (and principal place of business if different) and official fax and telephone numbers.

Separately, please provide certified true copies of the Certificate of Incorporation and the Business Registration Certificate of the Bidder.

B.1.2 Contact details of the Bidder

Please provide the address, telephone number and fax number within the Hong Kong Special Administrative Region at which the Bidder can be reached between 9:00 am and 6:00 pm Hong Kong time. This address will be considered as the Bidder’s official address for written correspondence for matters relating to the Auction and will generally be used for non-time critical communication.

B.1.3 Principal contacts of the Bidder

Please provide the full names, titles (e.g. executive director) and/or positions (e.g. Head of Telecom) and contact details (telephone number, mobile number, fax number and e-mail address) for three persons that the Authority may contact directly for urgent or time-critical communication. These contacts must be fully authorised under law and the Bidder’s constitutional documents to represent the Bidder for all acts that may be related to the Auction and to the assignment of the Frequency Bands. The contacts should be listed in the order in which the Bidder would prefer the Authority to contact them. Such persons should be aware that the Authority may contact them outside normal working hours.

B.1.4 Bank Account (for reimbursement of the Deposit)

Please provide the details of the Bidder’s bank account into which the Deposit (if provided in cash) should be returned in accordance with the provisions of the Notice.

B.1.5 Directors and other key members of the management of the Bidder

Please provide the full names, titles and/or positions of all the directors and any other key members of the management of the Bidder.

B.2 Bidder's Authorised Representatives

Please provide the name, employer, title and/or position (together with one business card), ID Card number or passport number and specimen signature of each Authorised Representative who is authorised to provide confirmations, submit bids and act in any other way necessary on behalf of the Bidder during the Auction. The table in section A.2 of the Application Form will be used by the Authority to verify the signatures for matters relating to the Auction.

If any Authorised Representative is not an employee of the Bidder, please state clearly its relationship with the Bidder in the "employer" section.

If the Bidder wishes to substitute one or more of its Authorised Representatives, it shall give the Authority at least one Business Day prior written notification of the details of such change.

B.3 Insiders

Please provide the names, employer, title and/or position, and roles of all the Insiders to the Application and the Bidder's participation in the Auction. If any of the Insiders is not an employee of the Bidder, then the information provided must state clearly the relationship between this Insider and the Bidder. The description of the role must be sufficient for the Authority to determine what function that Insider has played or will play during the Auction.

B.4 Deposit Confirmation Form

Please confirm by ticking the relevant box in the Deposit Confirmation Form the amount of Deposit provided by the Bidder.

B.5 Checklist

Please submit all the documents set out in the checklist in the Application Form and confirm by ticking the relevant check-boxes in the checklist to confirm that they have been provided by the Bidder.

B.6 Application Dates

The Application Dates shall be 21 May 2009 and 22 May 2009.

B.7 Declaration of minimum bid

Please read carefully and sign the declaration.

B.8 Submission instructions

The Application Form and all declarations, consents and certificates must be prepared in the English language.

Each Bidder must provide five copies (one original and four copies) of its Application Form, except for business cards provided pursuant to B.2 of which only a single set is required.

Applications must be sealed in a non-transparent envelope or envelopes marked:

“For the attention of the Assistant Director (Regulatory)”

No other mark should appear on the envelope.

The Application must be delivered in person by hand to Assistant Director (Regulatory) of OFTA who will deposit the Application into the tender box in the presence of the person delivering the Application.

Further details on submission of Applications may be placed on the OFTA website from time to time.

B.9 Signatures

The Application Form must be signed by two Authorised Representatives who are directors of the Bidder, and affixed with the company seal of the Bidder. Each page of the Application Form must also be signed by these two Authorised Representatives.

Please note that any additional papers provided as part of the Application Form should be signed by the two Authorised Representatives signing the main body of the Application Form. Any such additional sheets should also be numbered after the section to which they relate (e.g. A.1.5(a), A.1.5(b), etc).

APPENDIX 6
Bidder Compliance Certificate

BIDDER COMPLIANCE CERTIFICATE

TO : The Office of the Telecommunications Authority
29th Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong (the "**Authority**")

FROM: [*Name and address of Bidder*] (the "**Bidder**")

DATE : [], 2009

Dear Sirs,

We refer to the Notice dated 24 April 2009 issued by the Authority in exercise of the powers conferred by section 32I of the Ordinance and the Regulations and all other powers enabling him to specify the terms and conditions of the Auction and the payment of the Spectrum Utilization Fees (the "Notice").

1. The Bidder hereby certifies and undertakes to the Authority that:
 - 1.1 the representatives of the Bidder have read and understood the Conditions, the Ordinance, the Regulations, the Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilisation Fee) Order, the Notice and the Information Memorandum dated 24 April 2009 issued by the Authority, and that it has complied, and will comply, with the Conditions and the Notice including the Schedules and Appendices to the Notice as appropriate;
 - 1.2 it is legally capable of bidding in the Auction and has in place all necessary approvals, consents, permissions and board approvals including, without limitation, any approvals, consents, permissions and board approvals from its holding company(ies) under any law or rules and regulations issued by any governmental or regulatory or supervisory body in any competent jurisdiction other than an Approval;
 - 1.3 it agrees with and accepts the Conditions and is legally and financially capable of satisfying the Conditions in accordance with their terms;

- 1.4 the factual information provided in, or in support of, the Application (including without limitation the list of Insiders) is, to the best of the Bidder's and its respective Insiders' knowledge, information and belief, true, accurate and has no material omissions and that any opinion expressed is honestly held;
- 1.5 it will inform the Authority immediately if it becomes aware that any change has occurred which has affected the information submitted in the Application, including without limitation the list of Insiders;
- 1.6 it will comply, and ensure, to the best of its ability, that all of its Insiders will comply, with the terms and conditions of the Notice including, without limitation, and in particular with the terms and conditions under Part 6 of the Notice relating to the confidentiality of information provided to them by the Authority during the course of the Auction;
- 1.7 it will not and none of its Insiders will co-operate, collaborate, collude or discuss with, or disclose any information to, any other Bidder or any of that other Bidder's Insiders for any purpose relating to the Auction including, without limitation, in connection with the substance of that Bidder's bidding strategy nor manipulate or attempt to manipulate or make any arrangements to manipulate the Auction in any way with a view to achieving a particular result or outcome of the Auction;
- 1.8 none of the Bidder nor any of its Insiders have in place any arrangements or understanding with any other Bidder or any of that other Bidder's Insiders to co-operate, collaborate, or collude or otherwise manipulate or attempt to manipulate the outcome of the Auction;
- 1.9 to the best of its knowledge, information and belief, having made all reasonable enquiries, no person who is a director, employee or agent of the Bidder or any of the Bidder's Insiders and who is also a director, employee or agent of any other Bidder or of any of that other Bidder's Insiders:
 - a. has taken part, or will take part, in preparing any of the Bidders or their Insiders for participation in the Auction;
 - b. has passed, or will pass, Confidential Information relating to one Bidder to another Bidder or its Insiders;
 - c. has been, or will be, an Authorised Representative of any of the Bidders;
 - d. has taken part or participated, or will take part or participate in the Auction;

- 1.10 there is no petition presented against it or a proceeding commenced or an order made or an effective resolution passed for the winding-up, insolvency, administration, reorganisation, reconstruction, dissolution or bankruptcy of the Bidder or for the appointment of a liquidator, receiver, administrator, trustee or similar officer of the Bidder over all or any part of the business or assets of the Bidder and no circumstances have arisen which entitle any person to take any action, commence any proceeding, obtain any order or appoint any person of the type specified in this paragraph;
- 1.11 none of its directors nor its principal officers, none of its Insiders and none of any person who has the power, by shareholding or under any powers conferred by the memorandum or articles of association or other instrument regulating the Bidder, to ensure that the affairs of the Bidder are conducted in accordance with the wishes of that person, has a petition presented against it or a proceeding commenced or an order made or an effective resolution passed for its winding-up, insolvency, administration, reorganisation, reconstruction, dissolution or bankruptcy or for the appointment of a liquidator, receiver, administrator, trustee or similar officer over all or any part of the business or assets of the Bidder and no circumstances have arisen which entitle any person to take any action, commence any proceeding, obtain any order or appoint any person of the type specified in this paragraph, which may be expected to have a material adverse impact on the Bidder's ability to participate in the Auction or to satisfy the Conditions ;
- 1.12 none of the Bidder nor its Insiders, and none of their respective directors, officers or representatives, are the subject of criminal investigations or proceedings in Hong Kong or in any other jurisdiction which might reasonably be expected to adversely affect their business or materially affect the Bidder's ability to participate in the Auction or to satisfy the Conditions, and that there is no reason to believe that any investigations or proceedings might occur during the Auction;
- 1.13 none of the Bidder nor its Insiders have had any telecommunications or radiocommunications licence, consent, authority, permission, concession agreement, or other document or allocation of radio spectrum in Hong Kong withdrawn, cancelled or suspended owing to the default or breach by the Bidder or its Insiders of the conditions of that licence, consent, authority, permission, concession agreement, or other document for allocation of radio spectrum in Hong Kong;

1.14 none of the Bidder nor its Insiders is a party to any civil litigation or proceedings which may be expected to have a material adverse impact on the Bidder's ability to participate in the Auction or to satisfy the Conditions ; and

1.15 it has not submitted more than one Application to the Authority.

2. Words and expressions used in this certificate have the same meanings as given in the Notice, unless the context otherwise requires.

Yours faithfully,

Signed:

Authorised signature

(name and position)

Authorised signature

(name and position)

Company seal affixed:

(Note: This certificate must be signed by two Authorised Representatives who are directors of the Bidder, and affixed with the company seal of the Bidder.)

APPENDIX 7
Letter of Credit

LETTER OF CREDIT

TO : The Telecommunications Authority of Hong Kong
The Office of the Telecommunications Authority
29th Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong (the "**Beneficiary**")

FROM : [*Name and address of issuing bank*] (the "**Issuing Bank**")

DATE : [], 2009

The Issuing Bank issues this irrevocable standby letter of credit in the favour of the Beneficiary on the following terms on the application and request of [*Name of the Bidder*](the "**Bidder**") pursuant to the Notice dated 24 April 2009 issued by the Telecommunications Authority in exercise of the powers conferred by section 32I of the Telecommunications Ordinance (Cap. 106), the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA), the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC) and all other powers enabling him to specify the terms and conditions of the auction and payment of the spectrum utilization fees (the "**Notice**").

IRREVOCABLE STANDBY LETTER OF CERDIT NO []

DATED [], 2009

BENEFICIARY The Telecommunications Authority of Hong Kong.

EXPIRY DATE 182 days from the date of issue.

AMOUNT OF STANDBY LETTER OF CREDIT Up to a maximum amount of HK\$[].

AVAILABLE Subject to the Additional Conditions below, within three (3) Business Days (as defined in the Notice) of receipt by the Issuing Bank of the Beneficiary's certificate in the form set out below.

BY Payment into the account specified by the Beneficiary.

BENEFICIARY'S CERTIFICATE

TO : [] (the "**Issuing Bank**")

FROM : The Telecommunications Authority of Hong Kong
The Office of the Telecommunications Authority
29th Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong (the "**Beneficiary**")

DATE : []

Irrevocable Standby Letter of Credit No. [] dated []
(the "Standby Letter of Credit")

1. We claim HK\$ [] under the Standby Letter of Credit.
2. This amount has become due and payable to us by the operation of the terms and conditions of the Notice.
3. We request payment from the Issuing Bank of the amount specified in paragraph 1 within three Business Days (as defined in the Notice) after the date of this

certificate to [*details of the Beneficiary's account*] in our favour.

SIGNED BY

.....

(name and title)

for the Telecommunications Authority of Hong Kong

ADDITIONAL CONDITIONS

1. The Beneficiary may make any number of demands for payment up to the Amount of this Standby Letter of Credit as reduced from time to time by the payments made by the Issuing Bank before the Expiry Date.
2. The Issuing Bank shall not be required to investigate the authenticity of any certificate presented by the Beneficiary or the Beneficiary's capacity or entitlement to make any certificate and each certificate issued by the Beneficiary of sums due shall be conclusive, save for manifest error.
3. All payments under this Standby Letter of Credit shall be made in full to the Beneficiary without any deduction or withholding (whether in respect of set off, counterclaim, duties, present or future taxes, charges or otherwise) and shall not be withheld for whatever reason. Nothing in any agreement between the Issuing Bank and any third party shall prejudice the operation of this Standby Letter of Credit.
4. The Issuing Bank may not assign or transfer all or any of its rights and obligations under this Standby Letter of Credit to another person without the prior written consent of the Beneficiary.
5. This Standby Letter of Credit is subject to the International Standby Practices 1998 (to the extent not inconsistent with the terms of this Standby Letter of

APPENDIX B

Credit) and is governed by, and shall be construed in accordance with, Hong Kong law.

SIGNED BY:

.....

(Insert name and title of first representative of Issuing Bank)

For (name of Issuing Bank)

SIGNED BY:

.....

(Insert name and title of second representative of Issuing Bank)

For (name of Issuing Bank)

COMPANY SEAL / CHOP OF ISSUING BANK AFFIXED:

APPENDIX 8
Frequency Band Selection Form

FREQUENCY BAND SELECTION FORM

(Note: This Frequency Band Selection Form is to be completed by the Qualified Bidder who receives a notification from the Authority under paragraph 3.4.2.)

1. Instructions to Bidder

Please provide the details required in section 2 below and indicate clearly in section 3 below the Frequency Band or Frequency Bands the Bidder wishes to be assigned by the Authority. This form must be signed by two Authorised Representatives who are directors of the Bidder, and affixed with the company seal of the Bidder. Each page of this form must also be signed by these two Authorised Representatives.

Words and expressions used in this form have the same meanings as given in the Notice, unless the context otherwise requires.

2. Details of the Bidder:

Registered name of the Bidder:

Registered office:

Principal place of business (if different from the registered office):

Telephone number:

Fax number:

Email address:

Signed: _____

Signed: _____

3. Selection of Frequency Bands

Frequency Band	MHz	Bandwidth of the Frequency Band	Minimum Fee	Frequency Band(s) selected by the Bidder (Please indicate the selected Frequency Bands with a tick (“√”).)
P1	1784.1 – 1784.9 1879.1 – 1879.9	0.8 MHz x 2	HK\$60,000	
P2	1783.3 – 1784.1 1878.3 – 1879.1	0.8 MHz x 2	HK\$60,000	
P3	1782.5 – 1783.3 1877.5 – 1878.3	0.8 MHz x 2	HK\$60,000	
P4	1781.7 – 1782.5 1876.7 – 1877.5	0.8 MHz x 2	HK\$60,000	
P5	1780.9 – 1781.7 1875.9 – 1876.7	0.8 MHz x 2	HK\$60,000	
P6	1780.1 – 1780.9 1875.1 – 1875.9	0.8 MHz x 2	HK\$60,000	

Signed:

Signed:

Authorised Representative
(name and position)

Authorised Representative
(name and position)

Company seal affixed:

Date:

**APPENDIX C FREQUENCY ASSIGNMENT IN THE 1800 MHZ BAND
FOR MOBILE SERVICE COVERAGE IN THE
DESIGNATED AREAS (AS AT 24 APRIL 2009)**

**FREQUENCY ASSIGNMENT IN THE 1800MHZ BAND FOR
MOBILE SERVICE COVERAGE IN THE DESIGNATED AREAS
(AS AT 24 APRIL 2009)**

	ARFCN	Frequency	Location of Base Station (Coverage Area)
1	870	1781.7-1781.9 MHz 1876.7-1876.9 MHz	Long Ke (Sai Kung East Country Park) Nga Ying Shan (Lantau South Country Park) Chung Pui (Plover Cove Country Park) Lai Chi Wo (Plover Cove Country Park)
2	873	1782.3-1782.5 MHz 1877.3-1877.5 MHz	Long Ke (Sai Kung East Country Park) Nga Ying Shan (Lantau South Country Park) Chung Pui (Plover Cove Country Park) Lai Chi Wo (Plover Cove Country Park)
3	878	1783.3-1783.5 MHz 1878.3-1878.5 MHz	Long Ke (Sai Kung East Country Park)
4	881	1783.9-1784.1 MHz 1878.9-1879.1 MHz	Long Ke (Sai Kung East Country Park)
5	882	1784.1-1784.3 MHz 1879.1-1879.3 MHz	Robin's Nest (Pat Sin Leng Country Park)
6	883	1784.3-1784.5 MHz 1879.3-1879.5 MHz	Robin's Nest (Pat Sin Leng Country Park) Shek Uk Shan (Sai Kung East Country Park)
7	884	1784.5-1784.7 MHz 1879.5-1879.7 MHz	Shek Uk Shan (Sai Kung East Country Park)
8	885	1784.7-1784.9 MHz 1879.7-1879.9 MHz	Shek Uk Shan (Sai Kung East Country Park)

Remarks:

- (a) ARFCN denotes Absolute Radio Frequency Channel Number.
- (b) Transmitting frequencies of mobile station: $1710.2 + (\text{ARFCN} - 512) \times 0.2$ (MHz)
Transmitting frequencies of base station: $1805.2 + (\text{ARFCN} - 512) \times 0.2$ (MHz)
- (c) The maximum effective radiated power of a base station is 100 Watts.

APPENDIX D AUCTION WORKED EXAMPLES

AUCTION WORKED EXAMPLES

Introduction

This appendix sets out some illustrative and non-exhaustive examples of the bidding scenarios that may occur during the bidding process.

The worked examples are intended to provide step-by-step illustration of the Bidding Stage and the application of the auction rules set out in the Notice and explained in Section D of the Memorandum. For this purpose, the worked examples are simplified and are not intended to predict or reflect the actual behaviour of Bidders and the actual situation (e.g. the Round Prices) of the Auction.

The worked examples are for reference only. Readers should not construe the worked examples as any projections, estimates or expectations of the Government. The worked examples shall not prejudice the operation of the auction rules set out in the Notice and the exercise by the Authority of any power thereunder.

Assumptions of the Worked Examples

The worked examples are based on the following assumptions:

- (i) There are 6 frequency bands, each with a bandwidth of 0.8 MHz x 2 available for auction. Each frequency band D1, D2, D3, D4, D5, and D6 is attributed 1 Eligibility Point (“EP”). The minimum fee (i.e. the reserve price) is set at HK\$60,000 for each frequency band.
- (ii) There are 5 Qualified Bidders to participate in the auction. The number of EP attributed to each Bidder is determined by the amount of Deposits they have submitted (i.e. 1 EP for every HK\$8,000,000 of Deposits submitted). The maximum number of EPs that each Bidder may be given is 6 EPs.

Bidders	Deposits Submitted	EPs Given
M	HK\$48,000,000	6
N	HK\$40,000,000	5
O	HK\$32,000,000	4
P	HK\$24,000,000	3
Q	HK\$24,000,000	3

- (iii) Before the start of each Round, the Authority will notify each Bidder of the following information:
- the date on and the time at which the Round shall start and end;
 - the Round Price for each frequency band;
 - the frequency band in respect of which the Bidder is the Standing Highest Bidder (if any);
 - the amount of the Standing Highest Bid for each frequency band (if any);
 - the total number of (remaining) Waivers that may be exercised by the Bidder; and
 - the total number of (remaining) Withdrawals that may be exercised by the Bidder.

ROUND 1

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	6	5	4	3	3

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$60K	\$60K	\$60K	\$60K	\$60K	\$60K
Bidders' Actions						
M	Bid	No Bid	Bid	Bid	Bid	Bid
N	Bid	No Bid	Bid	Bid	Bid	Bid
O	Bid	No Bid	No Bid	Bid	Bid	Bid
P	No Bid	No Bid	Bid	Bid	Bid	No Bid
Q	No Bid	No Bid	No Bid	Bid	Bid	No Bid

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D1 (\$60K)	5	5	0(2)	0(3)
N	-	5	5	0(2)	0(3)
O	D6 (\$60K)	4	4	0(2)	0(3)
P	D3 (\$60K), D4 (\$60K)	3	3	0(2)	0(3)
Q	D5 (\$60K)	2	2	0(2)	0(3)

Round Price

- Starting Round 1, the Authority sets Round Price at the level of the minimum fee.

Determination of Standing Highest Bid

- For Frequency Band D1, bids are received from Bidder M, Bidder N and Bidder O. By random, Bidder M is selected as the Standing Highest Bidder.
- For Frequency Band D2, no bid is received from any Bidder. There will be no Standing Highest Bidder.
- For Frequency Band D3, bids are received from Bidder M, Bidder N and Bidder P. By random, Bidder P is selected as the Standing Highest Bidder.
- For Frequency Band D4, bids are received from all Bidders. By random, Bidder P is selected as the Standing Highest Bidder.
- For Frequency Band D5, bids are received from all Bidders. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D6, bids are received from Bidder M, Bidder N and Bidder O. By random, Bidder O is selected as the Standing Highest Bidder.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 5 EPs (5 EPs for bidding D1, D3, D4, D5 and D6). EPs attributed to Bidder M in the immediately following Round will be 5 EPs.
- For Bidder N, the activity level in this Round is 5 EPs (5 EPs for bidding D1, D3, D4, D5 and D6). EPs attributed to Bidder N in the immediately following Round will be 5 EPs.
- For Bidder O, the activity level in this Round is 4 EPs (4EPs for bidding D1, D4, D5 and D6). EPs attributed to Bidder O in the immediately following Round will be 4 EPs.
- For Bidder P, the activity level in this Round is 3 EPs (3EPs for bidding D3, D4 and D5). EPs attributed to Bidder P in the immediately following Round will be 3 EPs.
- For Bidder Q, the activity level in this Round is 2 EPs (2 EPs for bidding D4 and D5). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- In Round 1, all Bidders must bid for at least one frequency band. Waiver is not applicable.
- Bidders are not required to use all the EPs attributed to them. For example, Bidder M is attributed with 6 EPs at the beginning of Round 1. Its activity level in Round 1 is 5 EPs only. EPs attributed to it in the immediately following Round will be reduced to 5 EPs.
- At the beginning of Round 1, there is no Standing Highest Bid for all Frequency Bands. Withdrawal is not applicable.

ROUND 2

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	5	5	4	3	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$120K	\$60K	\$120K	\$120K	\$120K	\$120K
Bidders' actions						
M	No Bid ^{SHB}	Bid	No Bid	Bid	Bid	Bid
N	Bid	Bid	No Bid	Bid	Bid	Bid
O	No Bid	Bid	No Bid	No Bid	Bid	Bid ^{SHB}
P	No Bid	Bid	No Bid ^{SHB}	No Bid ^{SHB}	No Bid	No Bid
Q	No Bid	No Bid	No Bid	Bid	Bid ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 1 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	-	5	5	0(2)	0(3)
N	D1 (\$120K)	5	5	0(2)	0(3)
O	D6 (\$120K)	3	3	0(2)	0(3)
P	D2 (\$60K), D3 (\$60K)	3	3	0(2)	0(3)
Q	D4 (\$120K), D5 (\$120K)	2	2	0(2)	0(3)

Round Price

- The Authority increases the Round Prices for D1, D3, D4, D5 and D6, since at least one bid is received for each of these frequency bands in Round 1.
- The Authority maintains the Round Price for D2, since no bid is received for the frequency band in Round 1.

Determination of Standing Highest Bid

- For Frequency Band D1, only one bid from Bidder N is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D2, bids are received from Bidder M, Bidder N, Bidder O and Bidder P. By random, Bidder P is selected as the Standing Highest Bidder.
- For Frequency Band D3, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder P) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D4, bids are received from Bidder M, Bidder N and Bidder Q. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D5, bids are received from Bidder M, Bidder N, Bidder O and Bidder Q. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D6, bids are received from Bidder M, Bidder N and Bidder O. By random, Bidder O is selected as the Standing Highest Bidder.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 5 EPs (4 EPs for bidding D2, D4, D5 and D6 + 1 EP attributed to its SHB for D1 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder M in the immediately following Round will be 5 EPs.
- For Bidder N, the activity level in this Round is 5 EPs (5 EPs for bidding D1, D2, D4, D5 and D6). EPs attributed to Bidder N in the immediately following Round will be 5 EPs.
- For Bidder O, the activity level in this Round is 3 EPs (3 EPs for bidding D2, D5 and D6 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted a bid on the same D6 despite its SHB status)). EPs attributed to Bidder O in the immediately following Round will be 3 EPs.

APPENDIX D

- For Bidder P, the activity level in this Round is 3 EPs (1 EP for bidding D2 + 2 EPs attributed to its SHBs for D3 and D4 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder P in the immediately following Round will be 3 EPs.
- For Bidder Q, the activity level in this Round is 2 EPs (2 EPs for bidding D4 and D5 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted a bid on the same D5 despite its SHB status)). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- From Round 2 onwards, Bidders may submit Waiver in lieu of taking any action to maintain their EPs. The maximum number of Rounds that Bidders may exercise Waiver is 2.
- From Round 2 onwards, Bidders may submit Withdrawal for their Standing Highest Bids (if any). The maximum number of Rounds that Bidders may exercise Withdrawal is 3.
- Bidders are free to submit bids for the frequency band(s) of its choice from round to round. For example, Bidder P bid for D5 in Round 1 but bid for D2 in Round 2.
- Where a Bidder holds a Standing Highest Bid in respect of a frequency band at the end of the immediately preceding Round, it may decide whether or not to submit a bid for that frequency band in this Round. The Bidder may make its own commercial and strategic decision. For example, Bidder O elects to submit a bid for D6 in this Round although it is holding a Standing Highest Bid for that frequency band. However, Bidder P elects not to submit a bid for D3 and D4 and rely on its Standing Highest Bid in the immediately preceding Round.

ROUND 3

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	5	5	3	3	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$240K	\$180K	\$90K	\$240K	\$240K	\$240K
Bidders' actions						
M	Bid	No Bid	No Bid	Bid	Bid	Bid
N	No Bid ^{SHB}	No Bid	No Bid	Bid	Bid	Bid
O	No Bid	No Bid	No Bid	Bid	Bid	Bid ^{SHB}
P	No Bid	Withdrawal ^{SHB}	No Bid ^{SHB}	Bid	No Bid	No Bid
Q	No Bid	No Bid	No Bid	Bid ^{SHB}	Bid ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 2 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D1 (\$240K)	4	4	0(2)	0(3)
N	-	4	4	0(2)	0(3)
O	D6 (\$240K)	3	3	0(2)	0(3)
P	D3 (\$60K)	2	2	0(2)	1(2)
Q	D4 (\$240K), D5 (\$240K)	2	2	0(2)	0(3)

Round Price

- The Authority increases the Round Prices for D1, D2, D4, D5 and D6, since at least one bid is received for each of these frequency bands in Round 2.
- The Authority reduces the Round Price for D3, since no bid is received for the frequency band in Round 2.

Determination of Standing Highest Bid

- For Frequency Band D1, only one bid from Bidder M is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D2, no bid is received from any Bidder. In addition, since the Standing Highest Bid for D2 at the end of the immediately preceding Round is subject to Withdrawal, there is no Standing Highest Bid for the frequency band.
- For Frequency Band D3, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder P) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D4, bids are received from all Bidders. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D5, bids are received from Bidder M, Bidder N, Bidder O and Bidder Q. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D6, bids are received from Bidder M, Bidder N and Bidder O. By random, Bidder O is selected as the Standing Highest Bidder.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 4 EPs (4 EPs for bidding D1, D4, D5 and D6). EPs attributed to Bidder M in the immediately following Round will be 4 EPs.
- For Bidder N, the activity level in this Round is 4 EPs (3 EPs for bidding D4, D5 and D6 + 1 EP attributed to its SHB for D1 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder N in the immediately following Round will be 4 EPs.
- For Bidder O, the activity level in this Round is 3 EPs (3 EPs for bidding D4, D5 and D6 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted a bid on the same D6 despite its SHB status)). EPs attributed to Bidder O in the immediately following Round will be 3 EPs.
- For Bidder P, the activity level in this Round is 2 EPs (1 EP for bidding D4 + 1 EP attributed to its SHB for D3 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder P in the immediately following Round will be 2 EPs.

APPENDIX D

- For Bidder Q, the activity level in this Round is 2 EPs (2 EPs for bidding D4 and D5 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted bids on the same D4 and D5 despite the SHB status)). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- At the end of Round 2, Bidder P holds the Standing Highest Bids for D2 and D3. In Round 3, Bidder P wishes to maintain its Standing Highest Bid for D3 but submits a Withdrawal for D2.
- In submitting a Withdrawal, Bidder P may be subject to a liability if there is no subsequent bid for the frequency band equal to or higher than its withdrawn Standing Highest Bid. (See the calculation of liabilities for Withdrawals at the end of the worked examples.)
- Further, the withdrawn Standing Highest Bid is not counted towards Bidder P's activity level.

ROUND 4

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	4	4	3	2	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$420K	\$120K	\$75K	\$420K	\$420K	\$420K
Bidders' actions						
M	No Bid ^{SHB}	No Bid	No Bid	Bid	No Bid	Bid
N	Bid	No Bid	No Bid	Bid	No Bid	Bid
O	No Bid	No Bid	No Bid	Bid	No Bid	Bid ^{SHB}
P	No Bid	No Bid	No Bid ^{SHB}	Bid	No Bid	No Bid
Q	No Bid	No Bid	No Bid	No Bid ^{SHB}	No Bid ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 3 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	-	3	3	0(2)	0(3)
N	D1 (\$420K)	3	3	0(2)	0(3)
O	D6 (\$420K)	2	2	0(2)	0(3)
P	D3 (\$60K), D4 (\$420K)	2	2	0(2)	0(2)
Q	D5 (\$240K)	2	2	0(2)	0(3)

Round Price

- The Authority increases the Round Prices for D1, D4, D5 and D6, since at least one bid is received for each of these frequency bands in Round 3.
- The Authority reduces the Round Price for D3, since no bid is received for the frequency band in Round 3.
- The Authority reduces the Round Price for D2, having taken into account that no bid is received for the frequency band in Round 3 and there is no Standing Highest Bid for the frequency band because of Withdrawal.

Determination of Standing Highest Bid

- For Frequency Band D1, only one bid from Bidder N is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D2, no bid is received from any Bidder. There will be no Standing Highest Bidder.
- For Frequency Band D3, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder P) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D4, bids are received from Bidder M, Bidder N, Bidder O and Bidder P. By random, Bidder P is selected as the Standing Highest Bidder.
- For Frequency Band D5, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder Q) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D6, bids are received from Bidder M, Bidder N and Bidder O. By random, Bidder O is selected as the Standing Highest Bidder.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 3 EPs (2 EPs for bidding D4 and D6 + 1 EP attributed to its SHB for D1 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder M in the immediately following Round will be 3 EPs.
- For Bidder N, the activity level in this Round is 3 EPs (3 EPs for bidding D1, D4 and D6). EPs attributed to Bidder N in the immediately following Round will be 3 EPs.
- For Bidder O, the activity level in this Round is 2 EPs (2 EPs for bidding D4 and D6 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted a bid on the same D6 despite its SHB status)). EPs attributed to Bidder O in the immediately following Round will be 2 EPs.
- For Bidder P, the activity level in this Round is 2 EPs (1 EP for bidding D4 + 1 EP

APPENDIX D

attributed to its SHB for D3 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder P in the immediately following Round will be 2 EPs.

- For Bidder Q, the activity level in this Round is 2 EPs (2 EPs attributed to its SHBs for D4 and D5 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- Where the number of EPs attributed to all Standing Highest Bids of the Bidder at the end of the immediately preceding Round is equal to the number of EPs attributed to the Bidder in the current Round (e.g. Bidder Q), the Activity Level of the Bidder will be equal to the number of EPs attributed to it even if it submits no further Valid Bids. Waiver will not be applicable.

ROUND 5

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	3	3	2	2	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$660K	\$90K	\$68K	\$660K	\$330K	\$660K
Bidders' actions						
M	Bid	Bid	Bid	No Bid	No Bid	No Bid
N	No Bid ^{SHB}	No Bid	No Bid	Bid	Bid	No Bid
O	No Bid	No Bid	Bid	No Bid	Bid	Withdrawal ^{SHB}
P	No Bid	No Bid	No Bid ^{SHB}	No Bid ^{SHB}	No Bid	No Bid
Q	No Bid	No Bid	No Bid	Bid	Bid ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 4 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D1 (\$660K), D2 (\$90K)	3	3	0(2)	0(3)
N	-	3	3	0(2)	0(3)
O	D3 (\$68K)	2	2	0(2)	1(2)
P	-	2	2	0(2)	0(2)
Q	D4 (\$660K), D5(\$330K)	2	2	0(2)	0(3)

Round Price

- The Authority increases the Round Prices for D1, D4 and D6, since at least one bid is received for each of these frequency bands in Round 4.
- The Authority reduces the Round Price for D2, D3 and D5 since no bid is received for these frequency bands in Round 4.

Determination of Standing Highest Bid

- For Frequency Band D1, only one bid from Bidder M is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D2, only one bid from Bidder M is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D3, bids are received from Bidder M and Bidder O. By random, Bidder O is selected as the Standing Highest Bidder.
- For Frequency Band D4, bids are received from Bidder N and Bidder Q. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D5, bids are received from Bidder N, Bidder O and Bidder Q. By random, Bidder Q is selected as the Standing Highest Bidder.
- For Frequency Band D6, no bid is received from any Bidder. In addition, since the Standing Highest Bid for D6 at the end of the immediately preceding Round is subject to Withdrawal, there is no Standing Highest Bid for the frequency band.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 3 EPs (3 EPs for bidding D1, D2 and D3). EPs attributed to Bidder M in the immediately following Round will be 3 EPs.
- For Bidder N, the activity level in this Round is 3 EPs (2 EPs for bidding D4 and D5 + 1 EP attributed to its SHB for D1 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder N in the immediately following Round will be 3 EPs.
- For Bidder O, the activity level in this Round is 2 EPs (2 EPs for bidding D3 and D5). EPs attributed to Bidder O in the immediately following Round will be 2 EPs.
- For Bidder P, the activity level in this Round is 2 EPs (2 EPs attributed to its SHBs for D3 and D4 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder P in the immediately following Round will be 2 EPs.

APPENDIX D

- For Bidder Q, the activity level in this Round is 2 EPs (2 EPs for bidding D4 and D5 + 0 EP attributed to its SHB at the end of the immediately preceding Round (since it has submitted a bid on the same D5 despite its SHB status)). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- At the end of Round 4, Bidder O holds the Standing Highest Bid for D6. In Round 5, Bidder O submits a Withdrawal for such Standing Highest Bid for D6.
- In submitting a Withdrawal, Bidder O may be subject to a liability if there is no subsequent bid for the frequency band equal to or higher than its withdrawn Standing Highest Bid. (See the calculation of liabilities for Withdrawals at the end of the worked examples.)
- Further, the withdrawn Standing Highest Bid is not counted towards Bidder O's activity level.
- However, Bidder O submits bid for D3 and D5. Its activity level remains 2 EPs.

ROUND 6

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	3	3	2	2	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$960K	\$390K	\$368K	\$960K	\$630K	\$360K
Bidders' actions						
M	No Bid ^{SHB}	No Bid ^{SHB}	No Bid	No Bid	No Bid	No Bid
N	Waiver	Waiver	Waiver	Waiver	Waiver	Waiver
O	Deemed Waiver	Deemed Waiver	Deemed Waiver ^{SHB}	Deemed Waiver	Deemed Waiver	Deemed Waiver
P	No Bid	Bid	Bid	No Bid	No Bid	No Bid
Q	No Bid	No Bid	No Bid	Bid ^{SHB}	No Bid ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 5 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D1 (\$660K)	2	2	0(2)	0(3)
N	-	0	3	1(1)	0(3)
O	-	1	2	1(1)	0(2)
P	D2 (\$390K), D3 (\$368K)	2	2	0(2)	0(2)
Q	D4 (\$960K), D5 (\$330K)	2	2	0(2)	0(3)

Round Price

- The Authority increases the Round Prices for D1, D2, D3, D4 and D5, since at least one bid is received for each of these frequency bands in Round 5.
- The Authority reduces the Round Price for D6, having taken into account that no bid is received for the frequency band in Round 5 and there is no Standing Highest Bid for the frequency band because of Withdrawal.

Determination of Standing Highest Bid

- For Frequency Band D1, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder M) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D2, only one bid from Bidder P is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D3, only one bid from Bidder P is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D4, only one bid from Bidder Q is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D5, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder Q) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D6, no bid is received from any Bidder. There will be no Standing Highest Bidder.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 2 EPs (2 EPs attributed to its SHB for D1 and D2 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EP attributed to Bidder M in the immediately following Round will be 2 EPs.
- For Bidder N, a Waiver is submitted. EPs attributed to Bidder N in the immediately following Round will be 3 EPs (based on its activity level in Round 5, the most immediately preceding Round in which Bidder N did not submit or was not deemed to have submitted a Waiver).
- For Bidder O, it has taken no action and it is deemed to have submitted a Waiver. EPs attributed to Bidder O in the immediately following Round will be 2 EPs (based on its activity level in Round 5, the most immediately preceding Round in which Bidder O did not submit or was not deemed to have submitted a Waiver).
- For Bidder P, the activity level in this Round is 2 EPs (2 EPs for bidding D2 and D3). EPs attributed to Bidder P in the immediately following Round will be 2 EPs.
- For Bidder Q, the activity level in this Round is 2 EPs (1 EP for bidding D4 (Note

APPENDIX D

that 0 EP is attributed to its SHB for D4 at the end of the immediately preceding Round since it has submitted a bid on the same D4 despite its SHB status) + 1 EP attributed to its SHB for D5 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder Q in the immediately following Round will be 2 EPs.

Note

- On one hand, a Bidder may actively submit a Waiver. On the other hand, if a Bidder fails to take any action, it will be deemed to have submitted a Waiver (provided that its entitlement to Waiver is not yet exhausted). Under both situations, the EPs of the Bidder are maintained.
- For example, Bidder N actively submits a Waiver in this Round whereas Bidder O takes no action and is deemed to have submitted a Waiver.
- Each Bidder may submit or be deemed to submit a Waiver in a maximum of 2 Rounds.

ROUND 7

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	2	3	2	2	2

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$810K	\$750K	\$728K	\$1,320K	\$480K	\$210K
Bidders' actions						
M	Withdrawal ^{SHB}	No Bid	No Bid	No Bid	No Bid	Bid
N	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
O	Bid	No Bid	No Bid	No Bid	No Bid	No Bid
P	No Bid	No Bid ^{SHB}	No Bid ^{SHB}	No Bid	No Bid	No Bid
Q	No Bid	No Bid	No Bid	No Bid ^{SHB}	Withdrawal ^{SHB}	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 6 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D6 (\$210K)	1	1	0(2)	1(2)
N	-	0	0	0(1)	0(3)
O	D1 (\$810K)	1	1	0(1)	0(2)
P	D2 (\$390K), D3 (\$368K)	2	2	0(2)	0(2)
Q	D4 (\$960K)	1	1	0(2)	1(2)

Round Price

- The Authority increases the Round Prices for D2, D3 and D4, since at least one bid is received for each of these frequency bands in Round 6.
- The Authority reduces the Round Price for D1, D5 and D6, since no bid is received for these frequency bands in Round 6.

Determination of Standing Highest Bid

- For Frequency Band D1, only one bid from Bidder O is received and that bid is thus the Standing Highest Bid.
- For Frequency Band D2, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder P) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D3, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder P) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D4, no bid is received from any Bidder. The Standing Highest Bidder in the immediately preceding Round (i.e. Bidder Q) will remain as the Standing Highest Bidder of the frequency band.
- For Frequency Band D5, no bid is received from any Bidder. In addition, since the Standing Highest Bid for D5 at the end of the immediately preceding Round is subject to Withdrawal, there is no Standing Highest Bid for the frequency band.
- For Frequency Band D6, only one bid from Bidder M is received and that bid is thus the Standing Highest Bid.

Activity Level of each Bidder

- For Bidder M, the activity level in this Round is 1 EP (1 EP for bidding D6). EP attributed to Bidder M in the immediately following Round will be 1 EP.
- For Bidder N, the activity level in this Round is 0 EP. EP attributed to Bidder N in the immediately following Round will be 0 EP.
- For Bidder O, the activity level in this Round is 1 EP (1 EP for bidding D1). EP attributed to Bidder O in the immediately following Round will be 1 EP.
- For Bidder P, the activity level in this Round is 2 EPs (2 EPs attributed to its SHBs for D2 and D3 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EPs attributed to Bidder P in the immediately following Round will be 2 EPs.

APPENDIX D

- For Bidder Q, the activity level in this Round is 1 EP (1 EP attributed to its SHB for D4 at the end of the immediately preceding Round (for which it does not submit a higher bid in this Round or submit a Withdrawal)). EP attributed to Bidder Q in the immediately following Round will be 1 EP.

Note

- A Bidder who reduces its activity level in a Round will have fewer EPs in the immediately following Round.
- Where a Bidder is attributed with 0 EP, it will not be allowed to participate in the subsequent Rounds.
- For example, Bidder N does not hold any Standing Highest Bid at the end of Round 6. In Round 7, Bidder N elects not to submit any bid in this Round (without exercising a Waiver), its activity level in this Round is 0 EP. EPs attributed to Bidder N in the immediately following Round will be 0 EP. It will not be eligible to participate in the subsequent Rounds. Bidder N's decision to elect not to submit any bid is different from that of Bidder O in Round 6 where it took no action at all whereupon it was deemed to have submitted a Waiver for that round.
- In this Round, Bidder M submits a Withdrawal for its Standing Highest Bid for D1 and Bidder Q submits a Withdrawal for its Standing Highest Bid for D5. They may be subject to a liability if there is no subsequent bid for the relevant frequency band equal to or higher than the withdrawn Standing Highest Bid. (See the calculation of liabilities for Withdrawals at the end of the worked examples.)

ROUND 8 (Final Round)

Bidders' Starting EPs:

Bidders	M	N	O	P	Q
EPs	1	0	1	2	1

Round Details and Bidders' Actions:

Frequency Bands (Attributed No. of EP)	D1 (1 EP)	D2 (1 EP)	D3 (1 EP)	D4 (1 EP)	D5 (1 EP)	D6 (1 EP)
Round Price	\$1,230K	\$570K	\$548K	\$1,140K	\$270K	\$630K
Bidders' actions						
M	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid ^{SHB}
N	-	-	-	-	-	-
O	No Bid ^{SHB}	No Bid	No Bid	No Bid	No Bid	No Bid
P	No Bid	No Bid ^{SHB}	No Bid ^{SHB}	No Bid	No Bid	No Bid
Q	No Bid	No Bid	No Bid	No Bid ^{SHB}	No Bid	No Bid

* ^{SHB} shown in superscript denotes that the Bidder holds the Standing Highest Bid of the frequency band at the end of the immediately preceding Round. See the explanation in Round 7 above.

Round Results:

Bidder	Frequency Band in respect of which Bidder holds a Standing Highest Bid (Amount of Standing Highest Bid)	Activity Level in terms of EPs	EPs to be attributed to the Bidder in the immediately following Round	Waiver exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Waiver)	Withdrawal exercised by the Bidder in this Round (Remaining number of Rounds Bidder may exercise Withdrawal)
M	D6 (\$210K)	1	1	0(2)	0(2)
N	-	-	-	-	-
O	D1 (\$810K)	1	1	0(1)	0(2)
P	D2 (\$390K), D3 (\$368K)	2	2	0(2)	0(2)
Q	D4 (\$960K)	1	1	0(2)	0(2)

Round Price

- The Authority increases the Round Prices for D1 and D6, since at least one bid is received for each of these frequency bands in Round 7.
- The Authority reduces the Round Price for D2, D3 and D4, since no bid is received for these frequency bands in Round 7.
- The Authority reduces the Round Price for D5, having taken into account that no bid is received for the frequency band in Round 7 and there is no Standing Highest Bid for the frequency band because of Withdrawal.

Conclusion of Bidding Stage and Determination of Provisional Successful Bidder

- In this Round, no bids, no Withdrawals and no Waivers are submitted by any of the Bidders. The Bidding Stage ends.
- For Frequency Band D1, Bidder O is the Standing Highest Bidder and thus becomes the Provisional Successful Bidder of the frequency band. The Spectrum Utilization Fee is the Standing Highest Bid of HK\$810K.
- For Frequency Band D2, Bidder P is the Standing Highest Bidder and thus becomes the Provisional Successful Bidder of the frequency band. The Spectrum Utilization Fee is the Standing Highest Bid of HK\$390K.
- For Frequency Band D3, Bidder P is the Standing Highest Bidder and thus becomes the Provisional Successful Bidder of the frequency band. The Spectrum Utilization Fee is the Standing Highest Bid of HK\$368K.
- For Frequency Band D4, Bidder Q is the Standing Highest Bidder and thus becomes the Provisional Successful Bidder of the frequency band. The Spectrum Utilization Fee is the Standing Highest Bid of HK\$960K.
- For Frequency Band D5, there is no Standing Highest Bidder and thus no Provisional Successful Bidder.
- For Frequency Band D6, Bidder M is the Standing Highest Bidder and thus becomes the Provisional Successful Bidder of the frequency band. The Spectrum Utilization Fee is the Standing Highest Bid of HK\$210K.

Calculation of Liabilities for Withdrawals

- Where a Bidder submits a Withdrawal of its Standing Highest Bid and all the subsequent bids are lower than the Bidder's withdrawn Standing Highest Bid, the Bidder will be liable to pay the Government the difference between its withdrawn Standing Highest Bid and the amount of the next subsequent highest Valid Bid (irrespective of whether the next subsequent highest Valid Bid is withdrawn or whether it is determined as the Upfront Spectrum Utilization Fee).
- In Round 3, Bidder P submits a Withdrawal for its Standing Highest Bid for D2 at

APPENDIX D

HK\$60K. The next subsequent highest Valid Bid for D2 is HK\$390K submitted by Bidder P itself in Round 6. Bidder P is not subject to any liability because of the Withdrawal.

- In Round 5, Bidder O submits a Withdrawal for its Standing Highest Bid for D6 at HK\$420K. The next subsequent highest Valid Bid for D6 is HK\$210K submitted by Bidder M in Round 7. Bidder O is liable for the difference between the withdrawn Standing Highest Bid and the next subsequent highest Valid Bid ($\text{HK\$420K} - \text{HK\$210K} = \text{HK\$210K}$).
- In Round 7, Bidder M submits a Withdrawal for its Standing Highest Bid for D1 at HK\$660K. The next subsequent highest Valid Bid for D1 is HK\$810K submitted by Bidder O in Round 7. Bidder M is not subject to any liability because of the Withdrawal.
- In Round 7, Bidder Q submits a Withdrawal for its Standing Highest Bid for D5 at HK\$330K. There is no subsequent bid for D5. Bidder Q is liable for 100% of the withdrawn Standing Highest Bid (i.e. HK\$330K).

APPENDIX E GLOSSARY OF TERMS

APPENDIX E: GLOSSARY OF TERMS

For the purpose of this Memorandum, terms and expressions used therein are as defined in the Notice (Appendix B of this Memorandum) and in this Appendix, unless the context otherwise requires. In case of any discrepancy, the Notice shall prevail over this Appendix.

Activity Level The activity level defined in paragraph 4.8.5 of the Notice;

Annual Spectrum Utilization Fee and Annual SUF The annual fee mentioned in section 2(2)(b) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong), which forms part of the Spectrum Utilization Fee and the sum of which is determined as follows:

- (a) for each period of 12 months beginning with 30 September, from 30 September 2009 to 29 September 2011, \$145 for every 1 kHz or part of every 1 kHz of the assigned Frequency Bands;
- (b) for each period of 12 months beginning with 30 September, from 30 September 2011 to 29 September 2021 –
 - (i) 5% of the network turnover in the period of 12 months concerned; or
 - (ii) \$1450 for every 1 kHz or part of every 1 kHz of the assigned Frequency Bands, whichever is the higher for the period of 12 months concerned;

Application An application submitted by a Bidder to the Authority in writing in accordance with Part 2 of the Notice;

Application Dates 21 May 2009 and 22 May 2009;

Application Form The form specified in Appendix 5 of the Notice;

Application Stage	The stage specified in Part 2 of the Notice;
Approval	Any shareholder approval which is required by law or any regulatory authority before a Frequency Band is assigned to a Bidder and which is not capable of being reasonably obtained prior to the date on which the Application by that Bidder is submitted in accordance with Part 2 of the Notice;
Approval Date	Ten Business Days after the date of the Provisional Successful Bidder Notice;
ARFCN	Absolute Radio Frequency Channel Number as defined in GSM Specification 05.05 Section 2 issued by the European Telecommunications Standards Institute;
Assignment Stage	The stage specified in Part 5 of the Notice;
Auction	The procedure under which a Frequency Band for provision of public mobile telecommunications services will be assigned as specified in the Notice;
Authorised Representative	The person authorised by a Bidder to submit a Bid in the Auction whose name and signature have been provided to the Authority in the Application submitted by the Bidder under Part 2 of the Notice or in a notification under paragraph 7.7.1 of the Notice;
Authority	The Telecommunications Authority appointed under the Ordinance;
Authority's Account	The designated account of the Authority at the Deposit Bank, namely the account 012-899-1-003883-3 at Bank of China or the account 004-048-203558-292 at HSBC;
Authority's Office	Office of the Telecommunications Authority, 29 th Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong);

Banking Ordinance	The Banking Ordinance (Cap. 155, Laws of Hong Kong);
Bid	The amount of the Upfront Spectrum Utilization Fee a Bidder wishes to offer in relation to a Frequency Band or Frequency Bands in the Auction;
Bidder	A body corporate which submits or has submitted an Application;
Bidder Compliance Certificate	The certificate specified in Appendix 6 of the Notice;
Bidder Notice	The notice published by the Authority in accordance with paragraph 3.1.1 of the Notice;
Bidding Stage	The stage specified in Part 4 of the Notice;
Bidding Stage Notice	The notice published by the Authority in accordance with paragraph 4.3.1 of the Notice;
Business Day	A full day other than a Saturday or a Sunday on which banks in Hong Kong are open for general business;
Companies Ordinance	The Companies Ordinance (Cap.32, Laws of Hong Kong);
Commission	The Securities and Futures Commission established under the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong);
Conditions	The conditions which shall be added to the Licence and substantially in the form set out in Appendix 2 of the Notice;
Confidential Information	The information defined in paragraph 6.5.6 of the Notice;

Deposit	A sum in cash or by a Letter of Credit from a Qualifying Bank;
Deposit Bank	Bank of China Hong Kong Branch at Ground Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong ("Bank of China") or The Hongkong and Shanghai Banking Corporation Limited, Hopewell Centre Branch at Shop 2A, 2nd Floor, Hopewell Centre, 183 Queen's Road East, Wanchai, Hong Kong ("HSBC");
Deposit Interest	Interest (if any) earned in respect of a Bidder's Deposit in accordance with paragraphs 2.2.7 to 2.2.9 of the Notice;
Designated Areas	The areas specified by the Authority to be the designated areas for the purposes of section 4A of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong) and set out in Appendix 1 of the Notice;
Eligibility Points and EPs	A number of points defined in paragraph 4.8 of the Notice;
Eligible Person	One of the following persons: (a) China Mobile Hong Kong Company Limited, (b) CSL Limited, (c) Hong Kong Telecommunications (HKT) Limited, (d) Hutchison Telephone Company Limited, and (e) SmarTone Mobile Communications Limited, each of which is a company incorporated in Hong Kong under the Companies Ordinance;
Express Rail Link	A new railway system connecting Hong Kong, Shenzhen and Guangdong targeted for completion in 2015;
Frequency Band	A frequency band specified in Appendix 3 of the Notice;

Frequency Band Selection Form	The form specified in Appendix 8 of the Notice;
Gazette	Refers to the print medium where Government decisions are announced;
Government	The Government of the Hong Kong Special Administrative Region of the People's Republic of China;
Government's Adviser	DotEcon Ltd and Allen & Overy LLP;
Hong Kong	The Hong Kong Special Administrative Region of the People's Republic of China;
Hong Kong Dollars and HK\$	The valid currency for the time being of Hong Kong;
Insider	<p>Any person, in relation to a Bidder, to whom Confidential Information is disclosed directly or indirectly:</p> <ul style="list-style-type: none">(a) by any person who is an officer, employee, agent, adviser or associate of that Bidder;(b) by any person who controls, or is controlled by, or is under common control with, that Bidder, or the officer, employee, agent, adviser or associate, partner or co-partner of that person; or(c) by any person who is an Insider in relation to that Bidder;
Letter of Credit	A letter of credit in the form specified in Appendix 7 of the Notice;
Licence	A relevant mobile carrier licence or relevant unified carrier licence (as the case may be) issued by the Authority under the Ordinance for the establishment or maintenance of a telecommunications network for carrying communications to or from the public in Hong

Kong and operating in the spectrum which falls within 1710.5 – 1780.1 MHz and 1805.5 – 1875.1 MHz;

Licensee	A holder of a Licence;
Losing Bidder	A Bidder defined in paragraph 4.14.1 of the Notice;
Memorandum	This Information Memorandum and its appendices as supplemented, amended, updated or replaced from time to time by the Authority;
Minimum Fee	The minimum amount of the Upfront Spectrum Utilization Fee specified by the Secretary and set out in Appendix 3 of the Notice;
Order	Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y, Laws of Hong Kong);
Ordinance	The Telecommunications Ordinance (Cap.106, Laws of Hong Kong);
Notice	The terms and conditions of the Auction given in Appendix B of this Memorandum;
OFTA	Office of the Telecommunications Authority;
OFTA's website	http://www.ofta.gov.hk ;
Penalty	A sum representing the whole or part of a Bidder's Deposit which may be forfeited by the Authority from that Deposit under the terms and conditions of the Notice;
Prevention of Bribery Ordinance	The Prevention of Bribery Ordinance (Cap.201, Laws of Hong Kong);

Provisional Successful Bidder	The Bidder determined as such in accordance with paragraph 3.4.2 or in paragraph 4.12.1 of the Notice, as the case may be;
Provisional Successful Bidder Notice	The notice published by the Authority in accordance with paragraph 3.4.2 or paragraph 4.13.1 of the Notice, as the case may be;
Qualification Stage	The stage specified in Part 3 of the Notice;
Qualified Bidder	A Bidder determined as such in accordance with Part 3 of the Notice;
Qualified Bidder Notice	The notice published by the Authority in accordance with paragraph 3.3.1 of the Notice;
Qualifying Bank	<p>An institution holding a full banking licence under the Banking Ordinance which long term issuer rating is, or is higher than:</p> <p>(a) one or more of the following:</p> <ul style="list-style-type: none">(i) Moody's A2;(ii) Standard & Poor's A;(iii) Fitch Ratings' A; or <p>(b) a rating of a body other than a body listed in subparagraph (a) which, in the opinion of the Authority, is equivalent to one or more of the ratings in that paragraph;</p>
Regulations	The Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong) and the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC, Laws of Hong Kong);

Round	A period of time specified by the Authority during which Qualified Bidders are entitled to submit a Bid, a Withdrawal or a Waiver in accordance with the procedure set out in Part 4 of the Notice;
Round Price	An amount of the Upfront Spectrum Utilization Fee in Hong Kong Dollars specified by the Authority at which Qualified Bidders are invited to offer for a Frequency Band in a Round;
Secretary	The Secretary for Commerce and Economic Development;
SMRA	The acronym which stands for Simultaneous Multiple Round Ascending, the auction format which is to be used in the Auction;
Spectrum Release Plan and SRP	A plan published by the Authority showing the potential supply of spectrum through an open, competitive bidding or tendering process in a rolling three-year period;
Spectrum Utilization Fee	The spectrum utilization fee payable by the user of a Frequency Band as prescribed in section 2(2) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong);
Standing Highest Bid	The Bid in respect of a Frequency Band determined as such in accordance with paragraph 4.7.1 of the Notice;
Standing Highest Bidder	The Qualified Bidder which submitted the Standing Highest Bid in respect of a Frequency Band;
Successful Bidder	The Bidder determined as such in accordance with paragraph 5.4.1 of the Notice;

Successful Bidder Notice	The notice published by the Authority in accordance with paragraph 5.4.1 of the Notice;
Unified Carrier Licence	A carrier licence issued on or after the commencement of the Telecommunications (Carrier Licences) (Amendment) Regulation 2008, but does not include a space station carrier licence;
Upfront Spectrum Utilization Fee and Upfront SUF	The fixed fee mentioned in section 2(2)(a) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap.106AA, Laws of Hong Kong), which forms part of the Spectrum Utilization Fee and the sum of which is determined in accordance with the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap.106AC, Laws of Hong Kong) and terms and conditions of the Notice;
Valid Bid	A Bid defined in paragraph 4.6.1 of the Notice;
Waiver	A waiver construed in accordance with paragraphs 4.10.1 to 4.10.4 of the Notice;
Withdrawal	A withdrawal defined in paragraph 4.9.1 of the Notice;
900 MHz Band	The frequencies in the 885 – 890 MHz paired with 930 – 935 MHz band;
1800 MHz Band	The frequencies in the 1780.1 – 1785 MHz paired with 1875.1 – 1880 MHz band;