

TELECOMMUNICATION ORDINANCE

(Chapter 106)

FIXED TELECOMMUNICATION NETWORK SERVICES LICENCE

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and 5 March 2007 under Regulation 8(3) of the
Telecommunications Regulation)

Hong Kong Broadband Network Limited

.....
of ~~Level 9, Tower 1, Grand Century Place, 193 Prince Edward Road West, Kowloon~~
~~1314 -16/F., Trans Asia Centre, 18 Kin Hong Street, Kwai Chung,~~
(the "licensee") is licensed, subject to the following conditions set out in this
licence -

- (a) to provide a public fixed telecommunication network service (the "Service"), the scope of which is described in Schedule 1;
- (b) to establish and maintain a telecommunication network (the "Network") described in Schedule 2 to provide the Service;
- (c) to possess and use the telecommunication installations for radiocommunication described in Schedule 3 to provide the Service;
and
- (d) to deal in, import and demonstrate, with a view to sale in the course of trade or business, such apparatus or material for radiocommunication as may be necessary to supply customers of the Service.

GENERAL CONDITIONS

1. This licence shall not be construed as granting an exclusive right to the licensee to provide the Service.
2. This licence replaces any licence or any exemption from licensing, however described, which the Authority may have granted to the licensee for providing the Service.
3. The grant of this licence does not authorize the licensee to do anything which infringes any exclusive right to provide telecommunication circuits or services granted under any Ordinance. In particular, this licence does not confer any right on the licensee to provide public telephonic communications prior to 30 June 1995.

Transfer

4. (1) The licensee may only with the prior written consent of the Authority and subject to such reasonable conditions as the Authority thinks fit transfer this licence or any permission, right or benefit under this licence. In giving his consent the Authority will have regard to such matters as he thinks fit including but not limited to the effect which the transfer will have on market structure and the financial and technical competence and viability of the transferee.
- (2) Where a licensee is in a dominant position in a market for the provision of a public basic telephonic service over fixed telecommunication networks within the meaning described in General Condition 16(2), it may not without the prior written consent of the Authority, which can be withheld for the purposes of General Condition 10(1), assign, transfer or otherwise dispose of more than 15% of the licensee's assets constituting the Network, other than where the transfer or disposal of those assets is in the ordinary course of the licensee's maintenance, replacement or upgrading of the Network.

Compliance

5. If the licensee employs any person under contract for the purpose of the Service, or for the installation, operation or maintenance of the Network (a "Contractor"), the licensee shall continue to be responsible for compliance with the conditions of this licence, and the performance thereof, by any Contractor.

International conventions

6. (1) The licensee shall at all times perform and observe the requirements of the International Telecommunication Convention and the regulations and recommendations annexed to it, and without limiting the generality of the foregoing, the recommendations made by the Radiocommunication Sector and Standardisation Sector established under the Convention, as are stated to be applicable to Hong Kong, and any other international convention, agreement, protocol, understanding or the like to the extent that the instruments described in this paragraph impose obligations on Hong Kong of which the Authority gives notice to the licensee, except to the extent that the Authority may in writing exempt the licensee from such compliance.
- (2) Where the Government has been consulted about or is involved in the preparation or negotiation of an international convention, agreement, protocol or understanding or the like or amendments thereto which are on the subject-matter of telecommunications or which relate to another subject-matter but which the Government anticipates could have a material impact on the provision of services under this licence, the Government will, where practicable, provide the licensee with a reasonable opportunity to make a submission stating its views on the matter.

Compliance generally

7. The licensee shall comply with the Ordinance, Regulations made under the Ordinance, licence conditions or any other instruments which may be issued by the Authority under the Ordinance.

Control of interference and obstruction

8. (1) The licensee shall take reasonable measures to install, maintain and operate the Service and the Network in such a manner as not to cause any harmful radio interference or physical obstruction to any lawful telecommunication service, or cause any physical obstruction to the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunication or utility service provider.
- (2) The licensee shall take reasonable measures to ensure that the customers of the Service do not cause harmful radio interference to

lawful telecommunication services or utility services through use of the Service.

- (3) The Authority may give such reasonable directions as he thinks fit to avoid harmful radio interference or physical obstruction referred to in paragraph (1). The licensee shall comply with the directions.

Inspection and testing of installations

9. (1) On receiving reasonable prior written notice from the Authority, the licensee shall allow the Authority and any person authorized in writing by the Authority for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the licensee has installed the Network or any equipment associated with the Network, or the provision of the Service, to verify that the licensee is in compliance with the licence conditions.
- (2) The licensee shall provide and maintain, up to the reasonable technical standards set by the Authority, facilities to enable the Authority to inspect, test, read or measure, as the case may be, any telecommunication installations, equipment (including, but not limited to testing instruments) or premises used or to be used for the provision of the Service, and may at its option, and shall on the written request of the Authority, and subject to the provision by the Authority of reasonable prior written notice, provide a representative to be present at any such inspection, testing, reading or measurement.
- (3) On giving reasonable prior written notice, the Authority may direct the licensee to demonstrate that the Service complies with the technical requirements imposed by the Ordinance and Regulations or any other instruments which may be issued by the Authority under the Ordinance and the licensee shall comply with such directions.
- (4) For the purpose of paragraph (2) or (3), the licensee shall provide adequate testing instruments and operating staff.

Provision of service

10. (1) The licensee shall, subject to Schedule 1 and any Special Conditions of this licence relating to the provision of the Service, at all times during the validity period of this licence operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Authority. The Authority may, on application in writing by the

licensee, exempt a part or parts of the Service from the requirement of continuous provision.

- (2) The licensee shall, subject to Schedule 1 and any Special Conditions of this licence relating to the provision of the Service, provide the Service on its published terms and conditions and at the tariff published in accordance with General Condition 20 (as applicable) on request of a customer whether or not the customer intends the Service to be available for its own use or intends to utilize the Service to provide a lawful telecommunication service to third parties.
- (3) Subject to Schedule 1 and any Special Conditions relating to the provision of the Service, the licensee shall comply with a customer request for the Service as tariffed by the licensee in accordance with General Condition 20 where the Service reasonably could be provided by the licensee to the customer at the location at which the Service is requested utilizing the licensee's Network in place at the time of the request.

Customer charter

11. The licensee shall prepare a customer charter which sets out the minimum standards of service to the licensee's customers and gives guidance to the employees of the licensee in their relations and dealings with customers.

Confidentiality of customer information

12. (1) The licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.
- (2) The licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the licensee of the Service.

Requirements for interconnection

13. (1) The licensee shall interconnect the Service and the Network with the external public telecommunication network and services operated by Hong Kong Telecom International Limited under its licence granted

under the Ordinance and other fixed telecommunication networks and services licensed under the Ordinance and, where directed by the Authority, other telecommunication networks and services licensed, or deemed to be licensed, or exempt from licensing under the Ordinance.

- (2) The licensee shall also interconnect the Service and the Network with the fixed telecommunication network and services provided by the Hong Kong Telephone Company Limited under the Telephone Ordinance (Cap. 269) prior to 30 June 1995 or licensed under the Telecommunication Ordinance (Cap. 106), as the case may be.
- (3) The licensee shall use all reasonable endeavours to ensure that interconnection is done promptly, efficiently and at charges which are based on reasonable relevant costs incurred so as to fairly compensate the licensee for those costs.
- (4) The licensee shall provide facilities and services reasonably necessary for the prompt and efficient interconnection of the Service and the Network with the telecommunication networks or services of the other entities referred to in paragraphs (1) and (2). Such facilities and services include -
 - (a) carriage services for codes, messages or signals across and between the interconnected networks;
 - (b) those necessary to establish, operate and maintain points of interconnection between the licensee's Network and the networks of the other entities, including the provision of transmission capacity to connect between the licensee's Network and networks of the other entities;
 - (c) billing information reasonably required to enable the other entities to bill their customers;
 - (d) facilities specified by the Authority pursuant to General Condition 31; and
 - (e) ancillary facilities and services required to support the above types of interconnection facilities and services.

Numbering plan

14. (1) The licensee shall conform to a numbering plan made or approved by the Authority and any directions given by the Authority in respect of the numbering plan.
- (2) The licensee shall at the request of the Authority or otherwise consult the Authority about the arrangements for the allocation and reallocation of numbers and codes within the numbering plan.
- (3) Where requested by the Authority, the licensee shall prepare and furnish to the Authority proposals for developing, adding to or replacing the numbering plan relating to the Service.
- (4) The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers assigned to any customer of any fixed telecommunication network service licensee, or the Hong Kong Telephone Company Limited, so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of any other fixed telecommunication network service licensee or the Hong Kong Telephone Company Limited, as the case may be.
- (5) Directions by the Authority under paragraph (4) include reasonable directions concerning the equitable sharing of all relevant costs associated with providing portability of numbers as between the licensee, any other fixed telecommunication network services licensee, the Hong Kong Telephone Company Limited, and any other person.

Anti-competitive conduct

15. (1) (a) A licensee shall not engage in any conduct which, in the opinion of the Authority, has the purpose or effect of preventing or substantially restricting competition in the operation of the Service or in any market for the provision or acquisition of a telecommunication installation, service or apparatus.
- (b) Conduct which the Authority may consider has the relevant purpose or effect referred to in subparagraph (a) includes, but is not limited to -
 - (i) collusive agreements to fix the price for any apparatus or service;

- (ii) boycotting the supply of goods or services to competitors;
 - (iii) entering into exclusive arrangements which prevent competitors from having access to supplies or outlets;
 - (iv) agreements between licensees to share the available market between them along agreed geographic or customer lines.
- (2) In particular, but without limiting the generality of the conduct referred to in paragraph (1), a licensee shall not -
- (a) enter into any agreement, arrangement or understanding, whether legally enforceable or not, which has or is likely to have the purpose or effect of preventing or substantially restricting competition in any market for the provision or acquisition of any telecommunication installations, services or apparatus;
 - (b) without the authorization of the Authority, make it a condition of the provision or connection of telecommunication installations, services or apparatus that the person acquiring such telecommunication installations, services or apparatus also acquire or not acquire any other service or apparatus either from itself or of any kind from another person; or
 - (c) give an undue preference to, or receive an unfair advantage from, a business carried on by it or an associated or affiliated company, service or person if, in the opinion of the Authority, competitors could be placed at a significant competitive disadvantage or competition would be prevented or substantially restricted within the meaning of paragraph (1).

Abuse of position

16. (1) Where the licensee is, in the opinion of the Authority, in a dominant position with respect to a market for the relevant telecommunications services, it shall not abuse its position.
- (2) A licensee is in a dominant position when, in the opinion of the Authority, it is able to act without significant competitive restraint from its competitors and customers. In considering whether a licensee is dominant, the Authority will take into account the market share of the licensee, its power to make pricing and other decisions, the height of

barriers to entry, the degree of product differentiation and sales promotion and such other relevant matters which are or may be contained in guidelines to be issued by the Authority.

- (3) (a) A licensee which is in a dominant position within the meaning in paragraph (1) shall be taken to have abused its position if, in the opinion of the Authority, it has engaged in conduct which has the purpose of preventing or substantially restricting competition in a market for the provision or acquisition of telecommunication installations, services or apparatus.
- (b) Conduct which the Authority may consider to fall within the conduct referred to in subparagraph (a) includes, but is not limited to -
 - (i) predatory pricing;
 - (ii) price discrimination;
 - (iii) the imposition of contractual terms which are harsh or unrelated to the subject of the contract;
 - (iv) tying arrangements;
 - (v) discrimination in supply of services to competitors.

Accounting practices

17. Where directed by the Authority in writing, the licensee shall implement such accounting practices as specified by the Authority. Such accounting practices are to be consistent with generally accepted accounting practices, where applicable, and may include (but are not limited to) accounting practices which allow for the identification of the costs and charges for different services or types or kinds of services.

Requirement to furnish information to the Authority

18. (1) The licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business run by the licensee under this licence, including financial information, accounts and other records as the Authority may reasonably require in order to perform his functions under the

Ordinance and this licence including but not limited to his functions under General Conditions 15, 16 and 20(4).

- (2) Subject to paragraph (3), the Authority may use and disclose information to such person as the Authority thinks fit.
- (3) Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of a licensee which disclosure would or could reasonably be expected to adversely affect the licensee's lawful business or commercial or financial affairs, the Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

Inspection of records, documents and accounts

19. The licensee shall permit the Authority or any person authorized by him in writing for the Authority's own purpose to inspect and if required to make copies of records, documents and accounts relating to the licensee's business for the purpose of enabling the Authority to perform his functions under the Ordinance and this licence.

Tariffs

20. (1) The licensee shall publish and charge no more than the tariffs for the Service operated under this licence. The tariffs shall include the relevant terms and conditions for the provision of the Service.
- (2) Publication shall be effected by -
 - (a) submission for publication in the Hong Kong Government Gazette and by sending a copy to the Authority on or before the date on which the licensed service is to be introduced;
 - (b) placing a copy in a publicly accessible part of the principal business place and other business premises of the licensee as advised by the Authority; and
 - (c) sending a copy to any person who may request it. The licensee shall not levy a charge greater than that is necessary to cover reasonable costs involved.

- (3) Where the licensee provides customer equipment integral to the provision of a telecommunication service to its customers, the tariff shall clearly state the price of the customer equipment separately from the charges for the telecommunication service.
- (4) The licensee shall not offer any discount to its published tariffs for a particular telecommunication service provided under this licence or customer equipment subject to paragraph (3) (other than a discount calculated in accordance with a formula or methodology approved by the Authority and published together with its tariffs) if, in the opinion of the Authority, the licensee is in a dominant position in any market for or which includes that telecommunication service.
- (5) The licensee shall not, without the approval of the Authority, bundle a number of services into a single tariff without also offering each of the constituent services under separate tariffs.
- (6) In this General Condition, "a dominant position" has the meaning described by General Condition 16(2).

Tariffs revisions

21. (1) The licensee may propose any revision to the tariffs that it has published by submitting details of the proposed revision to the Authority in writing in a form approved by the Authority.
- (2) Subject to paragraph (5), the licensee may only proceed to publish the revised tariffs after the Authority has given his approval in writing.
- (3) The Authority will not approve the revision where -
 - (a) he considers that the proposed revision is in contravention of General Condition 15, 16 or 20(4) or any applicable price control arrangements;
 - (b) he has notified the licensee within 30 days of the date of receipt of the licensee's proposed revision that he does not intend to give his approval.
- (4) The Authority will endeavour to consider proposed revisions within 5 business days after the date of receipt of the proposed revision by the Authority and will give written notice by that date whether the

Authority requires more time to complete his review of the proposed revision.

- (5) Where the Authority has not notified the licensee within 30 days after receiving the licensee's proposed revision, the tariff revision will be deemed to be approved.

Tariffs for new services

22. (1) If the licensee proposes to introduce any new service and charge which is not contained in its published tariffs and conditions of service, it shall notify the Authority of such a proposal. The notification shall be in a written form approved by the Authority. The Authority shall give his approval of the proposed service and charge unless he considers that such service and charge would lead to a contravention of General Condition 15, 16 or 20(4) or any applicable price control arrangements.
- (2) The Authority will endeavour to consider a proposal referred to in paragraph (1) within 15 business days of the date of receipt and will give written notice by that date whether the Authority requires more time to complete his review of the proposed service and charge.
- (3) Where the Authority has not notified the licensee within 45 days after receiving the licensee's notice that he does not propose to give his approval, the new service and charge will be deemed to be approved.

Trials

23. (1) The Authority may, at the written request of the licensee, approve the introduction on a trial basis of -
 - (a) any service for which there is no published tariff and in such case the licensee may charge its customers for the provision of such service such amount as it considers reasonable; and
 - (b) any new charging options or billing schemes for existing services.

The Authority shall determine any request for approval within 30 days after the date of receipt of the request.

- (2) Any trial service for which the licensee seeks approval pursuant to paragraph (1) shall be -

- (a) for the purpose of establishing the technical or commercial feasibility of the trial service;
 - (b) of a limited duration, not exceeding 6 months; and
 - (c) offered during the trial period only in a defined geographic area of Hong Kong or to a defined class of customers reasonably suitable for the purposes of conducting a trial of the service.
- (3) The Authority may request additional information from the licensee reasonably required by the Authority for the purposes of considering a request from the licensee to approve a trial service.
- (4) The Authority may reject a request from the licensee to conduct a trial service where the Authority reasonably concludes that were the tariffs of the requested trial service proposed under General Condition 20, 21 or 22 they would be disallowed under those General Conditions.

Metering accuracy

24. (1) The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the Service is accurate and reliable.
- (2) Upon the written request of the Authority, the licensee shall conduct tests on metering equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Authority. The licensee shall submit the test result to the Authority within 14 days after the date of the test or such other longer period as the Authority may determine.
- (3) The licensee shall keep such records of any metering equipment in such form as may be specified by the Authority and shall supply such records to the Authority on the written request of the Authority.

Directory information and directory information service

25. (1) For the purposes of this General Condition -
- (a) "directory information" means information obtained by the licensee in the course of the provision of services under this

licence concerning or relating to the name, address, business and telephone numbers of each of its customers;

- (b) "raw directory information" means the licensee's directory information held in a basic format relating to all of its customers other than its customers who request that directory information about them not be disclosed.
- (2) This General Condition applies only in respect of standard printed directories and other directory databases and services which include all of the names of a licensee's customers listed in alphabetical order and does not apply to classified directories where customers are listed by business or trade category or to other business or specialised directories.
 - (3) The licensee shall -
 - (a) unless otherwise agreed by the Authority, publish or arrange at least biennially for the publication of directory information in a printed or other form approved by the Authority, relating to all its customers, other than its customers who request not to be included in a directory to be published ("the printed directory"); and
 - (b) establish, maintain and operate, or arrange for the establishment, maintenance or operation of a telecommunication service whereby customers may, upon request, be provided with directory information other than that of its customers who request the information not to be disclosed ("the telephonic directory service").
 - (4) The printed directory and the telephonic directory service provided under paragraph (3) shall be made available free of charge to all of the licensee's customers and shall be provided in a manner satisfactory to the Authority.
 - (5) The licensee is permitted to make commercial arrangements with one or more of the other fixed telecommunication network service licensees and the Hong Kong Telephone Company Limited to co-operate in the provision jointly by them of either or both of the printed directory and the telephonic directory service which the licensee is required to provide under paragraph (3) .
 - (6) The licensee's printed directory shall be a unified printed directory and the licensee's telephonic directory service shall be a unified telephonic directory service and shall utilise a unified directory database,

containing directory information on all customers of all fixed telecommunication network service licensees and the Hong Kong Telephone Company Limited, except for those customers who request that directory information about them not be disclosed. The licensee shall provide, and regularly update, raw directory information about its customers to each other fixed telecommunication network service licensee and the Hong Kong Telephone Company Limited, for which the licensee will be able to impose a charge to fairly compensate it for providing the raw directory information. The licensee shall endeavour to agree with each of the other licensees and the Hong Kong Telephone Company Limited on a reasonable mode of exchange and transmission format for the raw directory information.

- (7) Where the licensee is unable to agree with another licensee pursuant to paragraph (6) on what amounts to fair compensation for provision of, or the reasonable mode of exchange and transmission format of, raw directory information, the matter at issue may be referred by either licensee or the Hong Kong Telephone Company Limited to the Authority for determination.
- (8) Except with the prior written approval of the Authority, the licensee shall not make use of raw directory information provided by another licensee or the Hong Kong Telephone Company Limited other than for discharging its obligations under this General Condition.

Emergency call service

26. The licensee shall provide a public emergency call service by means of which any member of the public may, at any time and without incurring any charge, by means of compatible apparatus connected to the Network, communicate as quickly as practicable with the Hong Kong Police Emergency Centre or other entity as directed by the Authority to report an emergency.

Records and plans of the Network

27. (1) The licensee shall keep records and plans (including overall network plans and cable route maps) of the telecommunication installations, installations for radiocommunication and telecommunication nodes and exchanges provided under this licence and any other details concerning the Network as may be reasonably required by the Authority, including but not limited to information from operational support systems, traffic flow information, and database information relating to the manner in

which the Network treats calls of a particular kind ("Network Information").

- (2) As required by the Authority, the licensee shall make the Network Information available, within reasonable time, to the Authority or to a person authorized in writing by the Authority for inspection for the Authority's own purposes.
- (3) The Authority may disclose the Network Information in accordance with General Condition 18(2).
- (4) The licensee shall, at the reasonable request of any other licensee under the Ordinance or the Hong Kong Telephone Company Limited if so authorized by the Authority, give reasonable access to its Network Information for the facilitation of network planning, maintenance and reconfiguration required for the purposes of General Conditions 13 and 31. The licensee shall be permitted to charge the requesting party so as to be fairly compensated for the reasonable relevant costs incurred in the provision of such Network Information.
- (5) Where the licensee and any other licensee or the Hong Kong Telephone Company Limited that has requested access to the Network Information in accordance with paragraph (4) are unable to agree what amounts to reasonable access (including confidentiality requirements and fair compensation for the reasonable relevant costs incurred) or a reasonable request, the matter at issue may be referred by either the licensee, the other licensee, or the Hong Kong Telephone Company Limited to the Authority for determination.

Network location

28. (1) The licensee shall obtain the consent in writing of the Director of Lands before the commencement of any installation works for its Network under, in, over or upon any unleased Crown land.
- (2) The licensee shall keep accurate records of the location of the Network installed under, in, over or upon any land.
- (3) The licensee shall record the information referred to under paragraph (2) on route plans drawn on an Ordnance Survey Map background of a scale to be determined by the licensee in consultation with the Director of Highways and the Director of Lands.

- (4) The licensee shall, at the request of the Director of Highways, the Director of Lands, the Authority or any person who intends to undertake works in the vicinity of the Network and who is authorized to do so by the Director of Highways, the Director of Lands or the Authority, provide free of charge information about the location of the Network in diagrammatic or other form. The licensee shall make trained staff available on site to indicate the location and nature of the Network to the Director of Highways, the Director of Lands, the Authority or any person authorized by the Director of Highways, the Director of Lands or the Authority.
- (5) The licensee shall mark or otherwise identify every wire laid or telecommunication installation installed by the licensee or any Contractor on its behalf throughout the course of the wire, or at the location of the installation, so as to distinguish it from any other wire or telecommunication installation laid or installed in Hong Kong.
- (6) The licensee shall provide, at such intervals as the Authority may determine, distinguishable surface markers of the underground position of the Network.

Changes to the Network

29. (1) For the purposes of this licence, a change in the Network is a material change where the implementation of the change would result in the Network no longer being in compliance with any relevant technical standard which the Authority has power to issue.
- (2) The licensee shall notify the Authority of any proposals for material changes to the Network and provide him with such information as the Authority reasonably requires.
- (3) The licensee shall not, without the prior consent in writing of the Authority, make any material changes which might reasonably be anticipated by the licensee to affect -
 - (a) any telecommunication service or installation connected to the Network;
 - (b) a person producing or supplying telecommunication apparatus for connection to the Network;
 - (c) a licensee under the Ordinance;

- (d) the Hong Kong Telephone Company Limited;
- (e) a licensee under the Television Ordinance (Cap. 52); or
- (f) a customer or a consumer of goods and services provided by any person or entity,

if the change is in the opinion of the Authority likely to require modifications or replacements to, or cessation in the production or supply of any of the telecommunication apparatus involved, or if the proposed alteration would require substantial Network reconfiguration or rerouting.

- (4) The licensee shall prepare and publish, after consultation with the Authority, its procedures for consulting with and giving notice to persons likely to be affected materially by changes to its Network which are required to be notified in accordance with paragraph (2) and any other changes required to be notified pursuant to any technical standard which the Authority has power to issue. Subject to approval of the Authority, the notification procedures to each of the classes of persons likely to be affected under paragraph (3) may differ having regard to the practicality and costs of notifying them.

Requirements for road opening

- 30. The licensee shall co-ordinate and co-operate with any other fixed telecommunication network services licensee under the Ordinance, the Hong Kong Telephone Company Limited and any other authorized person in respect of road openings and shall, after being consulted by the Authority, comply with any guidelines issued by the Authority.

Provision, use and sharing of certain facilities

- 31. (1) Where the Authority reasonably forms the opinion that it is in the public interest that certain types of facilities ought to be provided, used or shared by more than one licensee or the Hong Kong Telephone Company Limited, he may issue directions requiring the licensee to co-ordinate and co-operate with any other licensee, the Hong Kong Telephone Company Limited or any other authorized person in respect of such provision, use or sharing of any such facility. The licensee shall comply with such directions. Prior to forming any opinion and issuing any direction under this paragraph, the Authority will provide a reasonable opportunity for the licensee, the Hong Kong Telephone

Company Limited and any other interested parties to make representations on the matter to the Authority.

- (2) In considering the public interest pursuant to paragraph (1), the Authority will take into account -
 - (a) whether the facility is a bottleneck;
 - (b) whether the facility can be reasonably duplicated or substituted;
 - (c) the existence of technical alternatives for the facility;
 - (d) whether the facility is critical to the supply of service by the licensees;
 - (e) whether the facility has available capacity having regard to the current and reasonable future needs of the licensee to which the facility belongs;
 - (f) whether joint use of the facility encourages the effective and efficient use of telecommunications infrastructure; and
 - (g) the costs, time penalties and inconvenience to the licensees and the public of the alternatives to the shared provision and use of the facility.
- (3) Where a fixed telecommunication network service licensee, the Hong Kong Telephone Company Limited or another person authorized by the Authority reasonably requests to share a facility, the licensee shall endeavour to come to an agreement with the requesting party on the terms and conditions, including but not limited to providing for fair compensation to the licensee for the provision, use or sharing of any such facility. If an agreement cannot be reached within a reasonable time and the Authority requires sharing pursuant to paragraph (1), the terms and conditions shall be determined by the Authority.
- (4) For the purposes of this General Condition, "facility" means -
 - (a) ducts, pits, tunnels and manholes;
 - (b) towers, masts, poles and antennae;
 - (c) land, buildings and ancillary equipment at sites on which radiocommunications facilities have been established;

- (d) reasonable space within the licensee's, or the Hong Kong Telephone Company Limited's, exchange buildings or other sites for the purposes of locating equipment of another licensee required to establish interconnection between the licensee's and that other licensee's or the Hong Kong Telephone Company Limited's network at that exchange or site;
- (e) other telecommunication or ancillary installations, including the in-building risers, cable trays and cable entry points into buildings, reasonably necessary for the efficient provision and establishment of fixed telecommunication networks.

Requirements of installation of lines or cables

32. (1) The Network, or any part of it, if installed under, in, over or upon any public street or other unleased Crown land, shall be at such depth, course, route and position as may be determined by the Director of Lands or the Director of Highways.
- (2) Without prejudice and in addition to the provisions of any law or Ordinance, in the course of providing, establishing, operating, adjusting, altering, replacing, removing or maintaining the Network for the purposes of this licence, or any part of it, the licensee shall -
- (a) exercise all reasonable care, and cause as little inconvenience as possible to the public and as little damage to property as possible; and
 - (b) make good any physical damage caused to any person having a lawful interest in the land or being lawfully thereon and reinstate the land within a reasonable time in good and workmanlike manner. When it is not practicable to make good any damage or to reinstate the land to the condition in which it existed prior to the damage, the licensee shall pay, promptly and fully, compensation for any damage caused to any person having an interest or right in the land affected.

Restrictions on attachment to public buildings and trees

33. No part of the Network shall be attached to any Government building except with the prior written consent of the Government Property Administrator or to any Urban Council or Regional Council building except with the prior written

consent of the Director of Urban Services or the Director of Regional Services, or to any tree on any Crown land except with the prior written consent of the Director of Agriculture and Fisheries, the Director of Urban Services or the Director of Regional Services.

Works in public streets

34. (1) Where in the course of installing or maintaining the Network the licensee needs to open or break up any public street the licensee shall -
- (a) apply to the Director of Highways or the Director of Lands for permission to open or break up the public street;
 - (b) complete the works for which the licensee has opened or broken up the public street with all due speed and diligence, fill in the ground and remove all construction related refuse caused by its works;
 - (c) maintain the site of the works in a safe manner including the fencing of the site and the installation of adequate warning lighting at night;
 - (d) reinstate the street immediately after the completion of the works to the satisfaction of the Director of Highways or the Director of Lands.
- (2) If the licensee fails, within any period specified by the Director of Highways or the Director of Lands, to observe any of the requirements of paragraph (1), the Director of Highways or the Director of Lands may take action to remedy the failure. The licensee shall reimburse the Government any such sum as may be certified by the Director of Highways or the Director of Lands to be reasonable cost for executing any works under the terms of this paragraph.

Interference with works of others

35. (1) Where in the course of installing or maintaining the Network, the licensee after obtaining the approval of the Director of Highways breaks up or opens any public street it shall not remove, displace or interfere with any telecommunication line, any gas pipe or water pipe or main or any drain or sewer or any tube, casing, duct, wire or cable for the carriage of electrical current and ancillary installations installed by any other person without that other person's consent.

- (2) In the case where the other person holds a licence under the Crown Land Ordinance (Cap. 28), any consent referred to in paragraph (1) is refused, or cannot be obtained for any reason, the licensee may request the consent to proceed from the relevant authority in accordance with the terms of any licence issued to such other person under the Crown Land Ordinance (Cap. 28), if any.

Prohibition of claims against Government

36. The licensee shall have no claim against the Government in tort or in contract in respect of any disturbance or interruption to any part of the Network due to works carried out by or on behalf of the Government which result in disturbance to the Network.

Licensee to alter Network on notice

37. (1) The licensee shall, within such reasonable time and in such manner as may be directed by notice in writing by the Director of Highways or the Director of Lands, and at its own expense, alter the course, depth, position or mode of attachment of any apparatus forming part of the Network.
- (2) Where the Director of Highways or the Director of Lands gives a direction under paragraph (1), General Condition 34 shall apply as if such alteration were part of the installation or maintenance of the Network.

Requirements of telecommunication installations for radiocommunication

38. (1) Each telecommunication installation for radiocommunication operated by or on behalf of the licensee shall be used only at the location and with emissions and at the frequencies and of the classes and characteristics specified in Schedule 3 and with such power and aerial characteristics as are specified in that Schedule in relation to the class and characteristics of the emission in use.
- (2) The apparatus comprised in each telecommunication installation for radiocommunication shall at all times comply with such technical standards as may be issued by the Authority.

- (3) The apparatus comprised in a telecommunication installation for radiocommunication shall be of a type approved by the Authority and shall be so designed, constructed, maintained and operated that its use shall not cause any interference to any radiocommunication.
- (4) A telecommunication installation for radiocommunication shall be operated only by the licensee or a person authorized by the licensee. The licensee shall not allow an unauthorized person to have access to the apparatus comprised in a telecommunication installation for radiocommunication. The licensee shall ensure that persons operating each telecommunication installation for radiocommunication shall at all times observe the conditions of this licence.
- (5) The licensee shall not make a change -
 - (a) to any telecommunication installation for radiocommunication; or
 - (b) of the location of any installed telecommunication installation for radiocommunication,without the prior approval in writing of the Authority.
- (6) If any telecommunication installation or radiocommunication aerial crosses above or may fall or be blown onto any overhead power wire (including electric lighting and tramway wires) or power apparatus it shall be guarded to the reasonable satisfaction of the owner of the power wire or power apparatus concerned.

Use of frequencies

39. The telecommunication installations for radiocommunication operated by or on behalf of the licensee shall only be operated on such radio frequencies as the Authority may assign. The Authority may by notice require the licensee to cease operating the telecommunication installations for radiocommunication on any frequency assigned to the licensee if in the opinion of the Authority, the licensee is not making efficient use of that portion of the radio frequency spectrum.

Safety

40. (1) The licensee shall take proper and adequate safety measures for the safeguarding of life and property in connection with all installations,

equipment and apparatus operated or used, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus used under this licence.

- (2) The licensee shall comply with the safety requirements laid down in any safety specification issued by the Authority and any directions of the Authority in relation to any safety matter.

Purchase of assets

41. (1) If a licensee is -
 - (a) in a dominant position in a market within the meaning described in General Condition 16(2); or
 - (b) subject to a Universal Service Obligation specified under the terms of the Special Conditions of its licence and the Ordinance, the Government may elect to take over the licensee's undertaking and purchase its assets if any of the following circumstances occur -
 - (i) this licence expires;
 - (ii) this licence is revoked;
 - (iii) the licensee goes into liquidation; or
 - (iv) the licensee ceases to carry on business:

Provided that if the Government elects to do so it shall give notice in writing not later than 90 days in advance of the expiry of this licence, or immediately upon revocation of this licence or within a reasonable time of the happening of the events at sub-subparagraphs (iii) and (iv).

- (2) The selling price shall be agreed between the Government and the licensee on the basis of the fair market value at the time of acquisition determined on the basis that this licence remains in force and that the Network is continuing to be used for the provision of the Service. If no agreement can be reached between the Government and the licensee, the matter shall be settled by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap. 341).

Indemnity

42. The licensee shall indemnify the Government against any losses, claims, charges, expenses, actions, damages or demands which the Government incurs or which may be made against the Government as a result of or in relation to the activities of the licensee or any employee, agent or contractor of the licensee in relation to the provision of the Service or the installation, maintenance and operation of the Network.

Contravention beyond the licensee's control

43. (1) The licensee shall not be liable for any breach of this licence where it is able to demonstrate, to the reasonable satisfaction of the Authority, that the breach was caused by circumstances beyond its control and that it has taken all reasonable steps open to it to rectify that breach.
- (2) Where the circumstances referred to in paragraph (1) are such that there is an outage or interruption in the Service affecting a significant number of the licensee's customers for a period of more than 7 days the licensee shall provide the Authority with a full report in writing detailing the reasons for the breach and indicating when, or if, it will be able to continue to provide the Service.
- (3) If the Authority, after considering a report provided under paragraph (2), is of the reasonable belief that the licensee would be able to provide the Service within a reasonable period of time despite the circumstances outlined in that report the Authority may direct that the licensee recommence the Service within such reasonable period as the Authority may in writing direct. The licensee shall comply with such direction.

Applicability of certain conditions

44. Where the Authority forms the opinion that a licensee is not in a dominant position with respect to any market for telecommunication services provided under the licence within the meaning of General Condition 16(2), the Authority may by direction in writing, for such period and on such conditions as the Authority may determine, direct that either one or any combination of General Conditions 17, 20, 21, 22 and 23, either completely or as to particular obligations imposed thereunder, shall not apply to the licensee.

Publication of licence

45. The licensee, or the Authority, may at their discretion make the terms and conditions of this licence, including any specific conditions, publicly available in any manner they think fit.

SPECIAL CONDITIONS

Hong Kong Broadband Network Limited

1. NETWORK AND SERVICE ROLLOUT

1.1 The licensee shall roll out the Network and the Service such that

- (a) the Service shall be launched not later than the date specified in the column headed "Deadlines for Compliance" in Schedule 5;
- (b) the number of hubs to be established by the licensee for the provision of the Service shall not be less than those specified in the column headed "Milestones" in Schedule 5 by each of the respective deadlines specified in the column headed "Deadlines for Compliance" in Schedule 5; and
- (c) the number of buildings to be served by the Network shall not be less than those specified in the column headed "Milestones" in Schedule 5 by each of the respective deadlines specified in the column headed "Deadlines for Compliance" in Schedule 5.

1.2 For the purpose of this Special Condition,

- (a) the Service is launched if the Service is ready to be provided to a customer upon request from the customer in accordance with General Condition 10 and within the period specified in the tariff published in accordance with General Condition 20;
- (b) a hub is considered to be established if the hub outdoor units have been installed on site and are operational to serve the area to be covered by the hub concerned; and
- (c) a building is considered to be served by the Network if the building is equipped with customer outdoor units and interfacing equipment which are ready for interconnection with the in-building coaxial cable distribution system (IBCCDS) or in-building blockwiring system for the provision of the Service. When a building is not equipped with customer outdoor unit and interfacing equipment but its IBCCDS or in-building blockwiring system is interconnected with the customer outdoor unit and interfacing equipment located in another building for the provision of the Service by the licensee, it is considered to be served by the Network if all these buildings, including the one equipped with the customer outdoor unit and interfacing equipment,

belong to the same housing estate and the fibres, cables or wires connecting these buildings do not cross unleased government land.

- 1.3 Notwithstanding the foregoing and subject to Schedule 1, the licensee is allowed with effect from 1 January 2003 to establish, operate and maintain a wireline network as contained in the licensee's application on 29 January 2002 for modification of this licence and in its supplementary proposal dated 22 March 2002 and letter dated 3 April 2002 for offering the Service provided that nothing herein shall be construed as authorizing the licensee to establish or operate such network before 1 January 2003

~~belong to the same housing estate and the fibres, cables or wires connecting these buildings do not cross unleased government land.~~

2 **SERVICE COVERAGE**

The licensee shall roll out the Network and the Service such that the districts set out in Schedule 4 are established with hubs within 3 years from the Date of Issue of this licence for the provision of the Service.

3. **CAPITAL EXPENDITURE**

The licensee shall have incurred cumulative capital expenditure from the Date of Issue of this licence for the purpose of developing, establishing and maintaining the Network (comprising any fixed assets of the licensee, used or designed for use in the establishment of the Network for the provision of the Service, constructed or under construction) for the provision of the Service of not less than each of the respective sums specified in the column headed "Milestones" by each of the respective deadlines specified in the column headed "Deadlines for Compliance" in Schedule 5.

4. **PERFORMANCE BOND**

- 4.1 Within 14 days of the Date of Issue of this licence, the licensee shall submit to the Authority a duly issued performance bond in Hong Kong dollars in the amounts, on the Milestones and with the Deadlines for Compliance stipulated in the Annexe to the performance bond appearing in Schedule 6.
- 4.2 The performance bond to be submitted pursuant to Special Condition 4.1 shall be in the form appearing in Schedule 6 with only such amendments thereto as may previously have been agreed in writing by the Authority.
- 4.3 The performance bond to be submitted pursuant to Special Condition 4.1 shall be issued by a bank or other surety details of which shall have been submitted in writing to the Authority prior to the Date of Issue of this licence and against which the Authority shall have no objection. If the licensee shall wish to change to a different bank or another surety, it shall give full written details of the proposed replacement to the Authority who shall within 14 days of receipt of the same notify the licensee in writing of any objection to such proposed replacement whereupon the licensee may either remain with the existing bank or surety or propose a further replacement in the same manner as set out above. If the Authority raises no objection in writing within 14 days then the bank or other surety shall be deemed acceptable to the Authority.

4.4 Notwithstanding any other conditions of this licence:

- (a) upon failure by the licensee to provide a performance bond in accordance with the foregoing provisions of this condition, the Authority may cancel or revoke this licence notwithstanding that the licensee may have embarked on its performance;
- (b) any rights of or claim by the Authority under the performance bond submitted by the licensee pursuant to this condition, including any replacement thereof, shall be without prejudice to the other rights of the Authority under this licence and of the Authority, the Chief Executive in Council and the Chief Executive under the laws, regulations and Code of Practice affecting telecommunications in Hong Kong from time to time.

4.5 The licensee shall upon demand by the Authority in writing submit proof in a form satisfactory to the Authority by a date specified by the Authority that it has complied with each of the respective Milestones by the respective Deadlines for Compliance as specified in the Annexe to the performance bond shown in Schedule 6.

5. **TECHNICAL STANDARD**

5.1 For the interface between the Service and other public telecommunication networks, services or customer premises equipment, the licensee shall use only widely accepted, open and non-proprietary technical standards, and for which a reasonable choice of customer premises equipment is available on the market, unless a waiver is sought from the Authority as a temporary measure. The licensee shall submit proof to the satisfaction of the Authority that the technical standards used comply with the requirement under this Special Condition.

5.2 Where a waiver is granted under Special Condition 5.1, the licensee undertakes to migrate the Service and the Network, at the licensee's own expenses, to a technical standard which complies with the requirement under Special Condition 5.1 by a date as directed by the Authority and the disruption to customer service shall be minimized during the migration.

6. **CUSTOMER PREMISES EQUIPMENT**

6.1 Where the licensee is supplying customer premises equipment, the equipment shall be designed for conformity with a technical standard which meets the

requirement under Special Condition 5.1 and which is of a type approved by the Authority.

- 6.2 The licensee shall accept, on a non-discriminatory basis in terms of charges, connection time, service quality, availability of functions and other terms and conditions, customer premises equipment which is of a type approved by the Authority and is technically compatible with the technical standard for interface with Service, irrespective of whether the equipment was acquired from the licensee or a source other than the licensee.

7. CHANNEL WITHIN IN-BUILDING COAXIAL CABLE DISTRIBUTION SYSTEMS

- 7.1 Subject to Special Conditions 7.2, 7.3, 7.4, 7.5 and 7.6, the Service shall be carried within IBCCDS of the Network using only such channels as may from time to time be assigned by the Authority and for such purposes and under such conditions as may be specified by the Authority by notice in writing to the licensee.
- 7.2 The licensee shall accept that regulation of the use of channels within the IBCCDS of the Network by the Authority is necessary because of the limitation in the number of channels available and the existence of competing requirements for the channels.
- 7.3 The Authority may at any time, by giving not less than 12 months' notice in writing to the licensee, require it upon such date as may be specified in the notice to cease using any channel previously assigned to it to carry the Service, if having given the licensee sufficient opportunities to make representations, the Authority forms the opinion that the licensee is not making efficient use of that channel.
- 7.4 The Authority may at any time, by giving not less than 12 months' notice in writing to the licensee, require it upon such date as may be specified in the notice to vary the purposes for which and the conditions under which the channels are to be used.
- 7.5 The Authority may at any time, by giving not less than 12 months' notice in writing to the licensee, require it upon such date as may be specified in the notice to cease using any channel previously assigned to it by the Authority to carry the Service and to use such new channel at its own expenses as the Authority may assign.
- 7.6 The licensee shall comply with any notice that may from time to time be issued by the Authority under this Special Condition 7.

8. ACCESS TO SERVICE PROVIDERS

8.1 Subject to Special Condition 8.2, the Service, operated over the channels within the IBCCDS assigned by the Authority under Special Condition 7, shall, upon request by the provider of a licensed public telecommunication service, be interconnected with the public telecommunication service such that customers connected to the Service may have access to the public telecommunication service through the Service. Such public telecommunication services shall include, but not be limited to, services that enable customers to access the Internet and other types of external telecommunications services licensed by the Authority under the Telecommunication Ordinance (the "Ordinance")

8.2 The licensee shall provide interconnection to the service providers referred to in Special Condition 8.1

- (a) on a non-discriminatory basis in terms of charges, connection time, service quality, availability of functions and other terms and conditions, irrespective of whether the service providers are affiliated with the licensee or not; and
- (b) for an interconnection charge which is based on the reasonable relevant cost, including a reasonable cost of capital, for the provision of the interconnection service.

8.3 The licensee shall endeavour to reach commercial agreement with service providers on the terms and conditions for the interconnection referred to in Special Condition 8.2. If commercial agreement cannot be reached within a reasonable period, either party may request the Authority to determine the terms and conditions under section 36A of the Ordinance.

9. ADDITIONAL REQUIREMENT ON NUMBERING PLAN UNDER GENERAL CONDITION 14

The licensee shall, in such manner as the Authority may direct and at its own expenses, facilitate the portability of numbers assigned to any customer of any public radiocommunication services licensed under the Public Radiocommunication Service Licence ^{or Mobile Carrier Licence} granted under the Ordinance so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of any other public radiocommunication services.

10. **UNSOLICITED ADVERTISEMENTS**

The licensee shall not use the Service, and shall endeavour to prevent the Service from being used by any user, for the transmission of unsolicited advertising information or unsolicited promotional information.

11. **UNIVERSAL SERVICE CONTRIBUTION**

11.1 Where directed by the Authority, the licensee shall pay to Cable & Wireless HKT Telephone Limited, or other licensees, as the case may be, its relevant share of the Universal Service Contribution to assist Cable & Wireless HKT Telephone Limited, or those licensees, to meet their Universal Service Obligations, if any.

11.2 Any Universal Service Contribution shall be subject to annual review by the Authority as to description and quantum and the licensee shall pay its relevant share of such Universal Service Contribution as the Authority may direct following a review. On the completion of an annual review, the Authority will supply the licensee such information as the Authority is reasonably able to supply, and subject to any duty of confidentiality, as to the basis on which the Universal Service Contribution is calculated.

11.3 For the purpose of this Special Condition 11 the following definitions shall apply:

- (1) Basic Service means, subject to the Ordinance, the provision of:
 - (a) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee; and
 - (b) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access, whether on a 24 hour basis or restricted to certain hours or days of the week; and
 - (c) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired; and

- (d) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs; and
 - (e) operator provided directory enquiries, fault reporting, service difficulty and connection services; and
 - (f) a tropical cyclone warning service; and
 - (g) a thunderstorm and heavy rain warning service; and
 - (h) a flood warning service; and
 - (i) access to a number or numbers for emergency services; and
 - (j) such other services, subject to the Ordinance, as the Authority may include.
- (2) Universal Service Contribution is that sum calculated in accordance with a formula adopted annually by the Authority, to ensure that Cable & Wireless HKT Telephone Limited, where it has a Universal Service Obligation, and any other licensee with such an obligation, as the case may be, receives a fair contribution from other fixed telecommunication network services licensees towards the costs, net of attributable revenue, of serving customers with Basic Service whom would otherwise not be served because it is not economically viable to do so but who are required to be served under the Universal Service Obligation.
- (3) Universal Service Obligation is the obligation to provide, maintain and operate the relevant Network in such manner as to ensure that a good, efficient and continuous Basic Service is reasonably available, subject to the Ordinance, to all persons in Hong Kong and to provide that Basic Service in such manner.

12. CIRCUMSTANCES OUTSIDE LICENSEES CONTROL

- 12.1 For the avoidance of doubt, General Condition 43(1) of the licence shall apply to these special conditions and the Authority may at its discretion, and on such conditions as he thinks fit, extend any time period within which the obligations of the licensee under these special conditions may be met.

- 12.2 In exercising his discretion under Special Condition 12.1 with respect to any of the special conditions of the licence, the Authority shall take into account including, without limitation, whether circumstances are such that it would be unreasonable to require compliance by the licensee with the relevant special condition.

13. INTERPRETATION OF “MARKET” UNDER GENERAL CONDITIONS 15 AND 16

For the avoidance of doubt, the “market” referred to in General Condition 15 or 16 shall include any market for telecommunications facilities or services between the Hong Kong Special Administrative Region and a place outside Hong Kong Special Administrative Region.

14. INSURANCE

Throughout the currency of this licence, the licensee shall have and maintain a valid insurance policy with a reputable insurance company to cover its third party liabilities in respect of personal injury, death and damage to property, arising out of or in connection with the installation, maintenance and operation of the Network or the provision of the Service. The amount of insurance shall be at least HK\$10,000,000 per occurrence or such sum as the Authority may notify in writing in future.

15. ACCESS TO BUILDINGS

- 15.1 Without limiting the generality of General Conditions 15 and 16, the licensee shall not enter into any agreement, arrangement or understanding, whether legally enforceable or not, with any person, or receive any unfair advantage from a business carried on by it or any other person (whether associated or affiliated with it or not), which, in the opinion of the Authority, has or is likely to have the purpose or effect of preventing or restricting fair and non-discriminatory access to any buildings for the installation, operation or maintenance of any cables, equipment or network for the provision of service similar to the Service by other operators licensed by the Authority.

- 15.2 The licensee shall comply with any guidelines or code of practice that may from time to time be issued by the Authority for the facilitation and coordination of fair, non-discriminatory and orderly access to buildings for the installation, operation or maintenance of any cables, equipment or network for the provision of the Service and other services similar to the Service by other operators licensed by the Authority.

16. INTERPRETATION OF “FACILITY” UNDER SECTION 36AA OF THE ORDINANCE

- 16.1 For the avoidance of doubt, for the purpose of section 36AA of the Ordinance, “facility” shall include any telecommunications earth stations, overland or submarine cables, wayleaves and indefeasible rights of use which are reasonably necessary for the efficient provision and establishment of fixed telecommunications networks.

17. PUBLICATION OF ACCOUNTING RATES

- 17.1 The Authority may at his discretion publish any information concerning international accounting rates obtained from the licensee.

18. USE OF GOVERNMENT FACILITIES AS WELL AS FACILITIES ON GOVERNMENT PROPERTY AND UNLEASED GOVERNMENT LAND FOR PROVISION OF SERVICES DESCRIBED IN CLAUSE 4 OF SCHEDULE 3

- 18.1 Without limiting or affecting in any way the licensee’s obligations under any other condition of this licence, the licensee shall comply with any guideline or code of practice which may be issued by the Authority from time to time for the purpose of providing practical guidance to the licensee in respect of the use of Government facilities as well as facilities on Government property and unleased Government land for the provision of services described in Clause 4 of Schedule 3 of this licence.

SCHEDULE 1

SCOPE OF THE SERVICE

1. Subject to General Condition 3 and Clause 3 of this Schedule 1, all internal and external telecommunication services between fixed points capable of being provided utilising the Network, other than telecommunication services the subject of an exclusive licence issued under the Ordinance, a licence deemed to be granted under the Ordinance, a Public Radiocommunication Service Licence, a Radio Paging System Licence, a service subject to licensing under any other Ordinance, or a satellite broadcasting service under a Satellite Television Uplink and Downlink Licence.

2. For the purpose of this licence,

a “fixed point” means a network termination point and shall include such area within the immediate vicinity of such a point as the Authority may direct in writing, either generally or specifically, to allow limited mobility for access to that point in such manner as the Authority may approve in writing not inconsistent with Clause 1 of this Schedule 1; and

an “internal” telecommunication service means a service for communications between points within the Hong Kong Special Administrative Region.

~~3. Nothing in this licence authorizes the licensee to provide any external telecommunication service or circuit. However, the licensee may provide its customers with access to the external telecommunication services or circuits lawfully operated in the Hong Kong Special Administrative Region. For the purpose of this Clause,~~

an “external telecommunication service” means a service for communications

- (a) between one or more points in the Hong Kong Special Administrative Region and one or more points outside the Hong Kong Special Administrative Region; and
- (b) between two or more points outside the Hong Kong Special Administrative Region but routed in transit via the Hong Kong Special Administrative Region;

~~an “external telecommunication circuit” means a telecommunications circuit between any termination point in the Hong Kong Special Administrative Region (including, without limitation, a radiocommunication facility or cable termination facility) and one or more points outside the Hong Kong Special Administrative Region, and any means of telecommunication capable of facilitating such a circuit (but, for the avoidance of doubt, excluding local leased circuits and local switched circuits provided between two points in the Hong Kong Special Administrative Region).~~

3. The licensee may establish and maintain an external telecommunications circuit based on an external cable network or non-cable based external network at the Hong Kong end. For the purpose of this Schedule,

“external cable network” means a network comprising a physical wireline system of overland cables or submarine cables, including without limitation the capacity under any right of use over such cables connecting one or more points in the Hong Kong Special Administrative Region and one or more points outside the Hong Kong Special Administrative Region;

“non-cable based external network” means a network based on satellite or other forms of wireless transmission connecting one or more points in the Hong Kong Special Administrative Region and one or more points outside the Hong Kong Special Administrative Region.

SCHEDULE 2

DESCRIPTION OF NETWORK

All such telecommunication installations and telecommunication lines established, maintained, possessed or used whether owned by the licensee, leased, or otherwise acquired by the licensee for the purpose of providing public fixed telecommunication network services specified in Schedule 1.

SCHEDULE 3

TECHNICAL PARTICULARS OF RADIO STATIONS FOR THE PROVISION OF THE SERVICE

1. Details are contained in the listing incorporated into this Schedule 3 in accordance with Regulation 8(3) of the Telecommunications Regulations (Cap.106).
2. The listing consists of the following Parts:

Part I -- Fixed Service

Frequency Division Duplex

Downlink (Transmit from Hub) - 24846.5 MHz to 24997.0 MHz

Uplink (Receive at Hub) - 25854.5 MHz to 26005.0 MHz

Time Division Duplex

24846.5MHz to 24997.0MHz

25854.5MHz to 26005.0MHz

2400 MHz to 2483.5 MHz

5725 MHz to 5825 MHz

5850 MHz to 5950 MHz

Part II -- Fixed Wireless Access Points

2400 MHz to 2483.5 MHz

5150 MHz to 5350 MHz

5470 MHz to 5725 MHz

5725 MHz to 5850 MHz

3. The licensee shall comply with the standards and certification requirements as prescribed from time to time by the Authority under the Telecommunications Ordinance. The licensee shall also comply with the “Code of Practice for the Protection of Workers and Members of Public Against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment” issued and as revised from time to time by the Authority.

4. The use of the frequency bands specified in the listing of Part II is subject to the following conditions.
 - (a) The use is restricted to the provision of services for access to other telecommunications services provided under this licence or a public telecommunications service provided by a person duly licensed under a public telecommunications network or service licence.
 - (b) In the provision of services, handover between access points is not allowed. 'Handover' means the process of transferring the control or connection of customer equipment from one access point to another without loss or interruption of service.
 - (c) The licensee shall, in such manner as the Authority may direct from time to time, coordinate the use of the frequency bands with other services authorized under the Ordinance.

SCHEDULE 4

COVERAGE OF SERVICE

Names of districts which are required to be provided with hubs within 3 years from the date of grant of the licence (Special Condition 2):

1. Central & Western
2. Eastern
3. Southern
4. Yau Tsim Mong
5. Sham Shui Po
6. Kowloon City
7. Wong Tai Sin
8. Kwun Tong
9. Tsuen Wan
10. Tuen Mun
11. Yuen Long
12. North (Fanling & Sheung Shui)
13. Tai Po
14. Sai Kung
15. Shatin
16. Kwai Tsing

SCHEDULE 5

**NETWORK AND SERVICE ROLLOUT,
AND CAPITAL EXPENDITURE COMMITMENTS**

<i>Item</i>	<i>Milestones</i>	<i>Deadlines for Compliance</i>
1	Launch of Service (Special Condition 1.1(a))	Within 4 months from the Date of Issue of the licence
2 (a)	Establishment of not less than 16 hubs for the provision of the Service (Special Condition 1.1(b))	Within 12 months from the Date of Issue of the licence
2 (b)	Establishment of not less than 22 hubs for the provision of the Service (Special Condition 1.1(b))	Within 24 months from the Date of Issue of the licence
2 (c)	Establishment of not less than 27 hubs for the provision of the Service (Special Condition 1.1(b))	Within 36 months from the Date of Issue of the licence
		24
3 (a)	The number of buildings to be served by the Network is not less than 1480. (Special Condition 1.1(c))	Within 12 months from the Date of Issue of the licence 36
3 (b)	The number of buildings to be served by the Network is not less than 2631. (Special Condition 1.1(c))	Within 24 months from the Date of Issue of the licence
3 (c)	The number of buildings to be served by the Network is not less than 3552. (Special Condition 1.1(e))	Within 36 months from the Date of Issue of the licence
4 (a)	Cumulative capital expenditure of not less than HK\$332 Million (Special Condition 3)	Within 12 months from the Date of Issue of the licence 36
4 (b)	Cumulative capital expenditure of not less than HK\$594 Million (Special Condition 3)	Within 24 months from the Date of Issue of the licence

4 (c)	Cumulative capital expenditure of not less than HK\$827 Million (Special Condition 3)	Within 36 months from the Date of Issue of the licence

SCHEDULE 6

THE FORM OF THE PERFORMANCE BOND

BY THIS BOND dated the day of 2000
We [] whose registered office is at [] ("the licensee") and []
whose registered office is at [] ("the Surety") are irrevocably and
unconditionally bound to the Telecommunications Authority of Hong Kong (together
with his successors and assigns, "the Authority") in the sums ("the Bonded Sums")
and with the Milestones set out in the Annexe hereto ("the Annexe") for payment of
which sums the licensee and the Surety bind themselves their successors and assigns
jointly and severally in accordance with the provisions of this Bond.

WHEREAS

Pursuant to the terms of the licence dated [] by the Authority, the licensee
agreed to obtain a surety to be bound unto the Authority for the due performance of
the licence by the licensee.

NOW THE TERMS AND CONDITIONS of this Bond are:-

1. Where applicable, words and expressions used in this Bond shall have the meaning assigned to them in the licence.
2. In the event of default by the licensee in respect of the Deadlines for Compliance with the Milestones set out in the Annexe the Surety shall upon demand made by the Authority in writing and without proof or conditions satisfy and discharge the Bonded Sums provided that the aggregate liability of the Surety under this Bond in respect of any Milestones shall not exceed the Bonded Sum in respect of that Milestone set out in the Annexe.
3. The liability of the Surety under this Bond shall not be affected or discharged in any way by (and the Surety hereby waives any requirement to give notice in respect of):-
 - (a) any suspension of the licence, variation to or amendment of the licence (including without limitation extensions of time for performance) or any concession or waiver by the Authority in respect of the licensee's obligations under the licence. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified of any such

suspension, variation, amendment, concession or waiver and if necessary and if so requested by the Surety, will amend the Annexe accordingly;

- (b) the cancellation or revocation of the licence as a result of default by the licensee under the licence;
- (c) any forbearance or waiver of any right or remedy the Authority, the Government of the Hong Kong Special Administrative Region, the Chief Executive in Council or the Chief Executive may have against the licensee;
- (d) any act or omission of the licensee pursuant to any other arrangement with the Authority or with the Surety;
- (e) subject to clause 4 and 5 below, the issue of any certificate of completion by the Authority in respect of the Milestones set out in the Annexe.

4. The liability of the Surety under this Bond shall reduce on each occasion on which:

- (a) the Surety pays any part of the Bonded sums to the Authority; or
- (b) the Authority issues its certificate of completion in respect of each Milestone (as set out in the Annexe);

the amount of such reduction being equal to the amount paid or the Bonded Sum set opposite such Milestone in the Annexe, and the Surety shall be discharged from all further liability under this Bond upon such liability being reduced to zero or the issue of the certificate of completion by the Authority of the ultimate Milestones set out in the Annexe.

5. The liability of the Surety under this Bond shall cease on whichever of the following events first occurs:

- (a) payment by the Surety of all the Bonded Sums in full to the Authority; or
- (b) issue of any certificate of completion by the Authority in respect of all Milestones set out in the Annexe.

6. The Authority shall be entitled to assign the benefit of this Bond at any time without the consent of the Surety or the licensee being required. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified by the Authority after any such assignment from time to time.

7. This Bond shall expire on the date 120 days after the date of the last Milestone by which date any claim hereunder must be received by the Surety in writing.
8. All documents arising out of or in connection with this Bond shall be served:
 - (a) upon the Authority, at 29th Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong marked for the attention Senior Assistant Director (Regulatory);
 - (b) upon the Surety, at [] Hong Kong. (Note 1)
9. The Authority and the Surety may change their respective nominated addresses for service of documents to another address in Hong Kong but only by prior written notice to each other. All demands and notices must be in writing.
10. This Bond shall be governed by and construed according to the laws for the time being in force in Hong Kong and the Surety agrees to submit to the non-exclusive jurisdiction of the courts of Hong Kong.

IN WITNESS whereof this Bond has been executed as a deed on the date first above written.

THE COMMON SEAL of

[]

was affixed hereto in

the presence of :-

Director

Director/Secretary

OR

SIGN, SEALED AND)
DELIVERED (Note 2) for)
and on behalf of and as)
lawful attorney of)
[] under power of)
attorney dated [])
by [])

in the presence of:-)

[Name]

[Occupation]

Notes: (for preparation of but not inclusion in the engrossment of this performance bond)

1. The address for service shall be in Hong Kong.
2. For use where the licensee or the Surety, whether a firm or limited company, executes through an attorney.
3. The licensee must execute the bond as well as the Surety.

Annexe

<i>Item</i>	<i>Milestones</i>	<i>Deadlines for Compliance</i>	<i>Bonded Sum Payable</i>
1.	Launch of Service (Special Condition 1.1(a))	Within 4 months from the Date of Issue of the licence	HK\$ 5 Million
2 (a)	Establishment of not less than 16 hubs for the provision of the Service (Special Condition 1.1(b))	Within 12 months from the Date of Issue of the licence	HK\$ 5 Million
2 (b)	Establishment of not less than 22 hubs for the provision of the Service (Special Condition 1.1(b))	Within 24 months from the Date of Issue of the licence	HK\$ 5 Million
2 (c)	Establishment of not less than 27 hubs for the provision of the Service (Special Condition 1.1(b))	Within 36 months from the Date of Issue of the licence	HK\$ 5 Million
3 (a)	The number of buildings to be served by the Network is not less than 1480. (Special Condition 1.1(c))	Within 12 months from the Date of Issue of the licence	HK\$ 2.5 Million
3 (b)	The number of buildings to be served by the Network is not less than 2631. (Special Condition 1.1(c))	Within 24 months from the Date of Issue of the licence	HK\$ 2.5 Million
3 (c)	The number of buildings to be served by the Network is not less than 3552. (Special Condition 1.1(c))	Within 36 months from the Date of Issue of the licence	HK\$ 2.5 Million
4 (a)	Cumulative capital expenditure of not less than HK\$332 Million (Special Condition 3)	Within 12 months from the Date of Issue of the licence	HK\$ 2.5 Million

4 (b)	Cumulative capital expenditure of not less than HK\$594 Million (Special Condition 3)	Within 24 months from the Date of Issue of the licence	HK\$ 2.5 Million
4 (c)	Cumulative capital expenditure of not less than HK\$827 Million (Special Condition 3)	Within 36 months from the Date of Issue of the licence	HK\$ 2.5 Million

THIS ANNEXE SHALL BE READ IN CONJUNCTION WITH THE TERMS AND PROVISIONS OF THE LICENCE GRANTED ON 3 FEBRUARY 2000 BY THE TELECOMMUNICATIONS AUTHORITY AND THE SPECIAL CONDITIONS REFERRED TO IN THE ANNEXE MEAN THE SPECIAL CONDITIONS OF THE LICENCE.

(M. H. Au)
Telecommunications Authority