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FIXED CARRIER LICENCE

Special Conditions

1. UNIVERSAL SERVICE CONTRIBUTION

- 1.1 Where directed by the Authority, the licensee shall pay to PCCW-HKT Telephone Limited, or other licensees, as the case may be, its relevant share of the universal service contribution to assist PCCW-HKT Telephone Limited, or those licensees, to meet their Universal Service Obligations, if any.
- 1.2 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.
- 1.3 For the purpose of this Special Condition 1, the following definitions shall apply:
- (a) Universal Service Contribution is that sum calculated in accordance with a formula adopted annually by the Authority, to ensure that PCCW-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.

- (b) 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.

2. PROVISION OF SERVICE

- 2.1 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 Special Condition 7 (as applicable) and at the discount notified to the Authority in accordance with Special Condition 8 (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 telecommunications service to third parties.
- 2.2 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 Special Condition 7 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.

3. REQUIREMENTS FOR INTERCONNECTION

- 3.1 The licensee shall interconnect the service and the network with the fixed carriers or fixed telecommunications networks and services licensed under the Ordinance and, where directed by the Authority, other telecommunications networks and services licensed, or exempt from licensing under the Ordinance.
- 3.2 The licensee shall use all reasonable endeavours to ensure that interconnection is effected promptly, efficiently and on terms,

conditions and at charges which are based on the licensee's reasonable relevant costs attributable to interconnection.

3.3 The licensee shall provide facilities and services reasonably necessary for the prompt and efficient interconnection of the service and the network with the telecommunications networks or services of the other entities referred to in Special Conditions 3.1 and 3.2. 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 section 36AA of the Ordinance; and
- (e) ancillary facilities and services required to support the above types of interconnection facilities and services.

4. NUMBERING PLAN

4.1 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.

4.2 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.

4.3 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.

- 4.4 The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers assigned to any customer of any fixed carrier or fixed telecommunications network service licensee 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 carrier or fixed telecommunications network service licensee, as the case may be.
- 4.5 Directions by the Authority under Special Condition 4.4 include reasonable directions concerning the equitable sharing of all relevant costs associated with providing portability of numbers as between the licensee, any other fixed carrier or fixed telecommunications network services licensee, and any other person.
- [4.6 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 radiocommunications services licensed under the public radiocommunications 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 public radiocommunications services.] *[note: SC 4.6 will be transplanted to the fixed carrier licence if it exists in the existing licence.]*

5. ACCOUNTING PRACTICES

- 5.1 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.

6. REQUIREMENT TO FURNISH INFORMATION TO THE

AUTHORITY

- 6.1 The licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information relating to the business run by the licensee under this licence, including financial, technical and statistical information, accounts and other records, as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence. Information referred to in this condition includes but is not limited to such information as is listed in Schedule 4.
- 6.2 Subject to Special Condition 6.3 the Authority may use and disclose information to such persons as the Authority thinks fit.
- 6.3 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.

7. PUBLICATION OF TARIFFS

- 7.1 The licensee shall publish and charge no more than the tariffs for the service operated under this licence. The tariffs shall include the terms, as defined under section 7F(2) of the Ordinance, for the provision of the service.
- 7.2 Publication of a tariff shall be effected by:
- (a) publication in the Hong Kong Government Gazette on or before the date on which the tariff becomes effective;
 - (b) the Authority receiving a copy of the tariff at least one day before the date on which the tariff becomes effective;

- (c) placing a copy of the tariff in a publicly accessible part of the principal place of business and other business premises of the licensee as specified by the Authority, as well as on the website of the licensee; and
- (d) supplying a copy of the relevant details to any person who may request it, at a charge no greater than is necessary to recover reasonable costs involved of making and supplying the copy.

8. NOTIFICATION OF DISCOUNTS

- 8.1 The licensee shall notify the Authority of any discount to its published tariffs offered for any of the services operated under this licence, other than those services listed in Schedule 6.
- 8.2 Notification of a discount shall be effected upon the Authority's receipt of a copy of the discount to a tariff, including such information prescribed in Schedule 5, at least one day before the discount becomes effective.
- 8.3 The Authority may publish any discount that the licensee notifies under Special Condition 8.1 after the discount becomes effective, if the Authority considers that it is in the public interest to do so.
- 8.4 The Authority may from time to time, in consultation with the licensee, amend Schedule 6 by adding any of the services or by removing any of them.
- 8.5 For the purposes of this Special Condition, "discount" means the amount of any payment, credit, rebate, waiver, allowance, gift, or other benefit, directed to a customer, other than:
 - (a) an amount in repayment of an amount overpaid to the licensee by that customer;
 - (b) an amount in settlement of a disputed amount billed to that customer by the licensee;

- (c) an amount payable pursuant to a service level or service quality obligation of the licensee to the customer; or
- (d) the amount payable by a customer upon termination of service to that customer.

9. METERING ACCURACY

- 9.1 The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the service is accurate and reliable.
- 9.2 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.
- 9.3 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.

10. DIRECTORY INFORMATION AND DIRECTORY INFORMATION SERVICE

- 10.1 For the purposes of this Special 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; and
 - (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.

- 10.2 This Special 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.
- 10.3 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 telecommunications 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”).
- 10.4 The printed directory and the telephonic directory service provided under Special Condition 10.3 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.
- 10.5 The licensee is permitted to make commercial arrangements with one or more of the other fixed carrier or fixed telecommunication network services licensees 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 Special Condition 10.3.
- 10.6 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 carriers or fixed telecommunication network services licensees, 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 carrier or fixed telecommunication network services licensee, for which the licensee will be able to impose a reasonable charge, if applicable, to fairly compensate it for providing the raw directory information. The licensee shall endeavour to agree with each of the other licensees on a reasonable mode of exchange and transmission format for the raw directory information.

10.7 Where the licensee is unable to agree with another licensee pursuant to Special Condition 10.6 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 to the Authority for determination.

10.8 Except with the prior written approval of the Authority, the licensee shall not make use of raw directory information provided by another licensee other than for discharging its obligations under Special Condition 10.

11. EMERGENCY CALL SERVICE

11.1 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.

12. RECORDS AND PLANS OF THE NETWORK

12.1 The Authority may disclose the network information in accordance with section 7I(3) of the Ordinance.

12.2 The licensee shall, at the reasonable request of any other licensee under

the Ordinance 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 Special Condition 3 and section 36AA of the Ordinance. 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.

- 12.3 Where the licensee and any other licensee that has requested access to the network information in accordance with Special Condition 12.2 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 or the other licensee to the Authority for determination.

13. NETWORK LOCATION

- 13.1 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 Government land.
- 13.2 The licensee shall keep accurate records of the location of the network installed under, in, over or upon any land.
- 13.3 The licensee shall record the information referred to under Special Condition 13.2 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.
- 13.4 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.

13.5 The licensee shall mark or otherwise identify every wire laid or telecommunications 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 telecommunications installation laid or installed in Hong Kong.

13.6 The licensee shall provide, at such intervals as the Authority may determine, distinguishable surface markers of the underground position of the network.

14. CHANGES TO THE NETWORK

14.1 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.

14.2 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.

14.3 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 telecommunications service or installation connected to the network;

(b) a person producing or supplying telecommunications apparatus for connection to the network;

(c) a licensee under the Ordinance;

(d) a licensee under the Broadcasting Ordinance (Cap. 562); or

- (e) 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 telecommunications apparatus involved, or if the proposed alteration would require substantial network reconfiguration or rerouting.

- 14.4 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 Special Condition 14.2 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 Special Condition 14.3 may differ having regard to the practicality and costs of notifying them.

15. REQUIREMENTS FOR ROAD OPENING

- 15.1 The licensee shall co-ordinate and co-operate with any other fixed carrier or fixed telecommunication network services licensee under the Ordinance 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.

16. REQUIREMENTS OF INSTALLATION OF LINES OR CABLES

- 16.1 The network, or any part of it, if installed under, in, over or upon any public street or other unleased Government land, shall be at such depth, course, route and position as may be determined by the Director of Lands or the Director of Highways.
- 16.2 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.

17. WORKS IN PUBLIC STREETS

17.1 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 streets;
- (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; and
- (d) reinstate the street immediately after the completion of the works to the satisfaction of the Director of Highways or the Director of Lands.

17.2 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 Special Condition 17.1, 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 Special Condition 17.2.

18. INTERFERENCE WITH WORKS OF OTHERS

18.1 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 telecommunications 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.

18.2 In the case where the other person holds a licence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28), any consent referred to in Special Condition 18.1 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 Land (Miscellaneous Provisions) Ordinance, if any.

19. LICENSEE TO ALTER NETWORK ON NOTICE

19.1 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.

19.2 Where the Director of Highways or the Director of Lands gives a direction under Special Condition 19.1, Special Condition 17 shall apply as if such alteration were part of the installation or maintenance of the network.

20. USE OF FREQUENCIES

- 20.1 The Authority may by notice require the licensee to cease operating the radiocommunications installations 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.

21. PURCHASE OF ASSETS

- 21.1 If a licensee is 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 Special Condition 21.1(iii) or 21.1(iv).

- 21.2 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).

22. CIRCUMSTANCES OUTSIDE LICENSEES CONTROL

- 22.1 For the avoidance of doubt, General Condition 17.1 of the licence shall apply to these special conditions and the Authority may at his 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.

- 22.2 In exercising his discretion under Special Condition 22.1 with respect to any of the special conditions of the licence, the Authority shall take into account matters including, without limitation, whether circumstances are such that it would be unreasonable to require compliance by the licensee with the relevant special condition.

23. INSURANCE

- 23.1 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 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.

24. PUBLICATION OF ACCOUNTING RATES AND SETTLEMENT RATES

- 24.1 The Authority may at his discretion publish any information obtained from the licensee concerning international accounting rates, settlement rates or any other relevant information concerning the charge paid by the licensee to overseas carriers or service providers for delivery of external traffic.

SCHEDULE 1

SCOPE OF THE SERVICE

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SCHEDULE 2

DESCRIPTION OF NETWORK

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SCHEDULE 3

**TECHNICAL PARTICULARS OF RADIO STATIONS FOR
THE PROVISION OF THE SERVICE**

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SCHEDULE 4

REGULATORY ACCOUNTING AND INFORMATION PROVISION REQUIREMENTS

1. Accounting information according to the practices as directed by the Authority under Special Condition 5 for each service provided under this licence or as specified by the Authority.

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SCHEDULE 5

TERMS OF DISCOUNT TO PUBLISHED TARIFFS

1. Prices of service after discount.
2. Duration of discount.
3. Duration of offer.
4. General description of promotion plan including but not limited to eligible customers and tie-in period.
5. Conditions governing premature termination.
6. Others as specified by the Authority.

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SCHEDULE 6

EXEMPTION FROM NOTIFICATION OF DISCOUNTS

1. The service, the scope of which is described in Schedule 1.

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