

TELECOMMUNICATIONS ORDINANCE
(Chapter 106)

PUBLIC NON-EXCLUSIVE TELECOMMUNICATIONS
SERVICE LICENCE

[EXTERNAL TELECOMMUNICATIONS SERVICES]

DATE OF ISSUE :

RENEWABLE :

FEE ON ISSUE : \$750.00

FEE ON RENEWAL : \$750.00 (or such other fee as may be prescribed)

SAMPLE

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SAMPLE

(hereinafter called "the licensee") is hereby licensed, subject to the conditions hereinafter contained -

- (a) to provide a public service (hereinafter called "the service") more particularly described in the First Schedule hereto; and
 - (b) to possess, establish, use and maintain such radiocommunications apparatus as described in the Second Schedule hereto as may be necessary to provide for service; and
 - (c) to deal in and demonstrate with a view to sale in the course of trade or business, such apparatus or material for radiocommunications as may be necessary to supply customers of the service.
2. This licence shall not be construed as granting any exclusive rights to the licensee in the operation of the service.
 3. This licence replaces any licence, however described, which the Authority may have granted to the licensee in respect of the service.

NOTES

1. It is an offence for the licensee or his customers to operate licensed apparatus in such a manner as to cause direct or indirect interference with any other telecommunications service lawfully carried on, or other apparatus for telecommunications lawfully operated in or outside Hong Kong.
2. Under section 34(4) of the Telecommunications Ordinance (Chapter 106) any licence may at any time be cancelled or withdrawn by the Authority or suspended for such period, not exceeding 12 months as the Authority specifies in the event of any contravention by the licensee of the Ordinance (which includes the regulations thereunder) or of any condition to which the licence is subject.
3. It is an offence upon the expiry or cancellation of this licence not to surrender it to the Authority within four weeks of such expiry or cancellation.

GENERAL CONDITIONS

This licence is issued subject to the following conditions -

1. The licensee shall at all times and from time to time during the continuation of this licence operate, maintain and provide the service in a manner satisfactory to the Authority.
2. The licensee shall at all times perform and observe the requirements and except insofar as the Authority may in writing expressly absolve the licensee from such compliance all provisions of the Constitution and Convention of the International Telecommunication Union and all regulations and recommendations annexed thereto or made thereunder as are applicable in Hong Kong.
3. (1) Notwithstanding regulation 8(1) of the Telecommunications Regulations (Cap. 106 sub. leg.) the licensee may with the prior consent in writing of the Authority transfer this licence and any permission or any right or benefit arising therefrom.

(2) Any such consent shall be subject to such conditions as the Authority may impose.

- (3) Should any such transfer be made with such consent as aforesaid the licensee shall cause a true copy of the instrument effecting the same to be transmitted to the Authority within two months of the date thereof.
4. If the licensee possesses, uses, establishes or maintains apparatus for radiocommunications the following additional conditions shall apply –
- (a) each fixed or base station shall be used only at the address and with emissions at the frequencies and of the classes and characteristics specified in the Second Schedule hereto, and with such power and aerial characteristics as are specified in the Second Schedule in relation to the class and characteristics of the emission in use;
 - (b) the apparatus comprised in each fixed or base station shall at all times comply with the technical and performance standards as may be prescribed by the Authority and specified in the Second Schedule;
 - (c) the apparatus comprised in each fixed, base or mobile station (being a mobile station used by the customer of the licensee) shall be of a type approved by the Authority and shall be so designed, constructed, maintained and operated that its use does not cause any avoidable interference with any radiocommunications;
 - (d) each fixed or base station shall be operated only by the licensee or a person authorized by the licensee in that behalf. The licensee shall not permit or suffer any person not so authorized to have access to the apparatus comprised in each fixed or base station. The licensee shall ensure that persons operating each fixed or base station observe the conditions of the licence at all times;
 - (e) the licensee -
 - (i) shall not make any change -
 - (A) in any fixed or base station; or
 - (B) in the address at which each fixed or base station is installed, without the prior approval in writing of the Authority;
 - (ii) shall return this licence to the Authority for amendment when a change referred to in sub-subparagraph (i) has been effected;
 - (f) if power for the working of any fixed or base station is taken from a public electricity supply, no direct connection shall be made between the supply mains and the aerial;
 - (g) if any fixed or base station 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;

- (h) the licensee shall take all reasonable measures to ensure that customers of the service do not cause interference to other users of radiocommunications and shall take all the necessary measures to stop such interference as may occur;
 - (i) the licensee shall cease to offer service to a customer thereof if instructed to do so by the Authority;
 - (j) the licensee shall, if so required, provide the Authority with a list of the names, addresses and other details requested by the Authority of the customers of the service annually on a date specified by the Authority by notice to the licensee;
 - (k) when any person ceases to be a customer of the licensee the licensee shall notify him, in such manner as the Authority may require, that he is no longer exempt from the licensing requirements of the Ordinance in relation to the apparatus used by him as a customer.
5. The apparatus operated by the licensee shall be operated only on such radio frequencies as the Authority may assign to the licensee and the Authority may refuse to assign further frequencies or require the licensee, by notice to him, to cease to operate the apparatus on any frequency previously assigned to him if in the opinion of the Authority the licensee is not making efficient use of that frequency.
 6. The Authority may, by giving not less than 12 months' notice in writing to the licensee, require him upon such date as may be specified in the notice to cease using any frequency previously assigned to him by the Authority and to use such new frequency as the Authority may designate.
 7. The licensee shall not enter into any agreement or arrangement whether legally enforceable or not which shall in any way prevent or restrict competition in relation to the operation of the service or any other telecommunications service licensed by the Authority.
 8. This licence shall be valid for such period as determined and published by the Authority to be applicable to Public Non-Exclusive Telecommunications Service Licence at the time of the issue of this licence.
 9. The licensee shall pay the fees applicable to Public Non-Exclusive Telecommunications Service Licence as may from time to time be determined and published by the Authority.

SPECIAL CONDITIONS

1. The licensee shall comply with the Telecommunications Ordinance (Cap.106) (the "Ordinance"), Regulations made under the Ordinance, licence conditions or any other instruments which may be issued by the Authority under the Ordinance and such guidelines or Codes of Practices which may be issued by the Authority as in his opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this licence.
2. The grant of this licence does not authorize the licensee to do anything which infringes any exclusive right to provide telecommunications circuits or services granted under the Ordinance or any other ordinance.
3. In connecting the service to a public telecommunications network operated under a licence granted under the Ordinance, the licensee shall comply with any technical specification prescribed by the Authority for the purposes of ensuring technical compatibility, avoiding technical harm to network or preventing safety hazards to personnel in the connection of telecommunications apparatus to that network.
4.
 - (1) On receiving reasonable prior written notice from the Authority, the licensee shall allow the Authority and any person authorized in writing by him for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the licensee has installed telecommunications equipment, or used for the provision of the service, to verify that the licensee is in compliance with the general conditions and special conditions of this licence and the Ordinance.
 - (2) The licensee shall provide and maintain, at no less than 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 telecommunications 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 paragraphs (2) and (3), the licensee shall provide adequate testing instruments and operating staff.

5. (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, including financial information, accounts, traffic information, technical configuration, circuit routing and other records or information as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence and to ensure the licensee's compliance with the conditions and special conditions of this licence and the Ordinance.
 - (2) 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 the 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.
 - (3) Without limiting the generality of paragraph (1), the licensee shall supply to the Authority, at such intervals and on/before such deadlines as may be specified by him from time to time, statistics of the volume of incoming and outgoing traffic handled by the licensee under the licence, with such breakdown on a route-by-route basis or other classification methods as may be specified by the Authority.
6. 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 and to ensure the licensee's compliance with the conditions and special conditions of this licence and the Ordinance.
7. Except with the consent in writing of the Authority, the licensee shall adopt non-proprietary technical standards or standards prescribed by the Authority for all telecommunications functions for:
- (a) customer access to the service: and
 - (b) interconnection between the service and other telecommunications networks and services.

In this connection, a "non-proprietary technical standard" means:

- (a) the standard is fully published;
- (b) equipment meeting the standard is available from alternative suppliers on a competitive basis; and
- (c) permission to use any intellectual property rights associated with the standard

may be readily obtained at a reasonable cost.

8.
 - (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 under this licence.
9.
 - (1) The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the service operated under this licence is accurate and reliable. The licensee shall, in relation to the metering system used for the provision of the service, keep such records and make them available for inspection by the Authority.
 - (2) Upon 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.
10.
 - (1) For services offered generally to the public in Hong Kong, 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) placing a copy in a publicly accessible part of the principal business place and other business premises of the licensee;
 - (b) sending a copy to the Authority on or before the date on which a new tariff is introduced; 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 cost involved.
 - (3) Where the licensee provides customer equipment integral to the provision of the service to its customers, the tariffs shall clearly state the price of the customer equipment separately from the charges for the service.
11. 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.

12. (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 telecommunications installation, service or apparatus.
- (b) Conduct which the Authority may consider has the relevant purpose or effect referred to in sub-paragraph (a) includes, but is not limited to -
- (i) collusive agreement 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;
 - (v) predatory pricing.
- (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 telecommunications installations, services or apparatus;
 - (b) without the authorization of the Authority, make it a condition of the provision or connection of telecommunications installations, services or apparatus that the person acquiring such telecommunications 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).
13. The licensee shall conform to any numbering plan made or approved by the Authority and any code or practice or directions given by the Authority in respect of the numbering plan.
14. (1) The licensee shall comply with any directions given in writing by the Authority in relation to the use of a telecommunications number translation device for access to the service.

- (2) The licensee shall bear all the costs and financial losses incurred due to full compliance with the directions mentioned in paragraph (1).
 - (3) In this condition, “telecommunications number translation device” shall mean a device which translates a number input via the normal dialing pad into another number for access to specified destinations or services, but does not include a device which generates such a number upon input through a special function key or a combination of special function keys and the normal dialing pad. The “normal dialing pad” means the dialing pad comprising the buttons for digits 0 to 9, and for “*” and “#”.
15.
 - (1) The service must be operated over external leased circuits supplied by a Fixed Telecommunications Network Services (“FTNS”) Licensee at the Hong Kong end or over other external switched telecommunications services lawfully operated in Hong Kong at the Hong Kong end.
 - (2) Connections between the facilities of the licensee in Hong Kong for the service and the users in Hong Kong shall be made through dedicated circuits or switched circuits provided by an FTNS Licensee or Public Radiocommunications Service (“PRS”) Licensee.
16.
 - (1) The licensee shall maintain an up-to-date record of the configuration of the system used for the provision of telecommunications services. This record shall include the following details and shall be supplemented by schematic diagrams where the Authority considers appropriate:
 - (a) the description, nature, specification and configuration of building blocks, including embedded software and information programmed into the switch or remote computer equipment and switches in or connected with the system, the interconnection between the building blocks and all incoming and outgoing telecommunications circuits connected to the system;
 - (b) for switched circuits mentioned in sub-paragraph (a) above, information identifying the circuits such as telephone number and circuit identification number of the provider of the circuit and the licensee and the type, quantity and the special features and functions available on or in connection with these circuits, for example call forwarding;
 - (c) for non-switched circuits or dedicated circuits mentioned in paragraph (a) above, circuit identification information, type, quantity and terminating locations;

- (d) information on the routing of messages between the system and an external gateway means of telecommunications (including, without limitation, an external gateway switching facility) duly licensed under the Ordinance. The information shall include details on any intermediate nodes, switches or service providers involved in the routing of calls and routing information programmed into the switch or any remote computer equipment.
- (2) A copy of the record certified to be correct and up to date at the time of submission by a director of the licensee shall be submitted to the Authority at such intervals as may be specified by the Authority. Unless prior approval of the Authority has been obtained, the licensee shall not permit any deviation of its system from the record which has been submitted to the Authority and for which an acknowledgment of receipt has been issued by the Authority.
 - (3) If the Authority notifies the licensee that the record submitted is not satisfactory to him and specifies the nature of amendments to be made, the licensee shall make such amendments according to the schedule as specified by the Authority and submit an amended record to the Authority within 30 days of the date of such notice.
17. The licensee shall not operate the service between Hong Kong and any place unless the law and policies at that place permits or does not prohibit the operation of such service.
18. (1) The licensee shall not enter into any agreement or arrangement with a service supplier of international public switched services in a place outside Hong Kong the effect of which is to effectively and substantially distort competition in the supply of external services between that place, or another place, and Hong Kong.
- (2) For the avoidance of doubt, “agreement or arrangement” in paragraph (1) above includes an agreement, arrangement, understanding or the like in relation to payments between service suppliers whether by way of the international accounting methods or accounting rates, revenue divisions or terminating charges, or any other like charges.
- (3) Where, following consultation with the licensee, the Authority reasonably concludes that an agreement or arrangement substantially distorts competition in contravention of paragraph (1), the Authority may give directions to the licensee for the purpose of ensuring compliance with paragraph (1) and the licensee shall comply with such directions given.
19. The licensee shall not carry out any refiling of traffic in Hong Kong unless the prior approval of the Authority in writing is obtained. For this purpose “refiling” means the re-routing as outgoing traffic of any incoming traffic not destined for Hong Kong.

20. The licensee shall at all times comply with the requirements of -
- (a) the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to it;
 - (b) the provisions of the ITU-R and ITU-T Recommendations made by the Constitution and Convention of the International Telecommunication Union that are applicable to Hong Kong; and
 - (c) any other international convention, agreement, protocol, understanding or similar document 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.
21. 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 offered by the licensee.
22. (1) For the delivery of outgoing and incoming external telecommunications traffic between the facilities of the licensee and the users of the service in Hong Kong, the licensee shall pay such interconnection charges and local access charges as may be determined by the Authority from time to time under section 36A of the Ordinance at the level and to the FTNS Licensees or PRS Licensees specified by the Authority in the determination.
- (2) The licensee shall comply with any code of practice concerning technical configuration and operation of the service that may be issued by the Authority from time to time after consultation with the licensees for external telecommunications services, FTNS Licensees and PRS Licensees for the purpose of implementing the terms under the determination referred to in paragraph (1) for interconnection charges and local access charges and the prevention of non-compliance with the determination.
23. The licensee shall not engage in any activity the purpose or effect of which is to cause a breach by the licensee, or any other licensee under the Ordinance, of any determination made by the Authority under Section 36A or other provisions of the Ordinance.
24. (1) Where directed by the Authority, the licensee shall pay to the PCCW-HKT Telephone Limited, or other licensees, as the case may be, its relevant share of the Universal Service Contribution to assist the PCCW-HKT Telephone Limited, or those licensees, to meet their Universal Service Obligations, if any.

- (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, subject to any duty of confidence, as to the basis on which the Universal Service Contribution is calculated.
- (3) For the purpose of this special condition, the following definitions shall apply -
- (a) Basic Service means, subject to the Ordinance, the provision of
- (i) 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
 - (ii) 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 hours basis or restricted to certain hours or days of the week; and
 - (iii) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired; and
 - (iv) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs; and
 - (v) operator provided directory enquiries, fault reporting, service difficulty and connection services; and
 - (vi) a tropical cyclone warning service; and
 - (vii) a thunderstorm and heavy rain warning service; and
 - (viii) a flood warning service; and
 - (ix) access to a number or numbers for emergency services; and
 - (x) such other services, subject to the Ordinance, as the Authority may include.

- (b) Universal Service Contribution is that sum calculated in accordance with a formula adopted annually by the Authority, to ensure that the PCCW-HKT Telephone Limited, where it has a Universal Service Contribution, and any other licensee with such an obligation, as the case may be, receives a fair contribution from other fixed telecommunications 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 Contribution.
 - (c) Universal Service Contribution 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 that manner.
- 25.
 - (1) The licensee shall commence providing the service within 12 months after the effective date of the licence. The Authority may not renew the licence if the licensee does not commence providing the service within 12 months after the date of issue of the licence.
 - (2) For the purpose of paragraph (1), the licensee commences providing the service when the tariffs for the service are published in accordance with Special Condition 10 and the facilities of the licensee are ready for the provision of the service to any person who is willing to pay for the service in accordance with the published tariffs.
- 26. The licensee, or the Authority, may at their discretion make the terms and conditions of this licence, including any special conditions, publicly available in any manner they think fit.
- 27. The licensee shall conform to any regulatory guide, code of practice or direction issued by the Authority in respect of the calling line identification and other calling line identification related services.

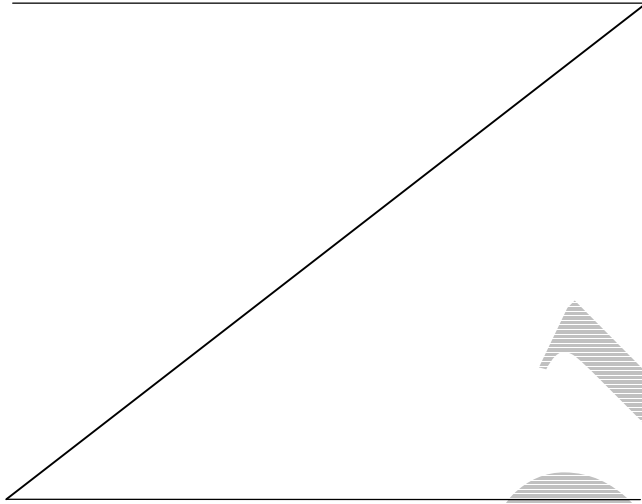
FIRST SCHEDULE

Description of Service

1. The service is an external public telecommunications service operated over external leased circuits supplied by an FTNS Licensee authorised to supply such circuits at the Hong Kong end or over other external switched telecommunications services lawfully operated in Hong Kong at the Hong Kong end.
2. In the above description of service, "external" means communications with places outside Hong Kong.
3. For the avoidance of doubt, the service shall not include any of the following:
 - (a) except with the prior approval of the Authority in writing given under Special Condition 19, a telecommunications service routed in transit via Hong Kong;
 - (b) the provision to customers of a telecommunications circuit between a point in Hong Kong (including, without limitation, a radiocommunications facility or cable termination facility) and one or more points outside Hong Kong, and any means of telecommunications capable of facilitating such a circuit.
4. Customers at the Hong Kong end and/or at the distant end may be connected to the service through any public switched telecommunications network or dedicated circuits.
5. This licence does not authorise the licensee to establish and maintain any physical facilities for the supply of external circuits to customers.

*** End of the First Schedule ***

SECOND SCHEDULE



*** End of the Second Schedule ***

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For and on behalf of the
Telecommunications Authority

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