

APPENDIX 1
Conditions of Licence

TELECOMMUNICATIONS ORDINANCE

(Chapter 106)

MOBILE CARRIER LICENCE

DATE OF ISSUE: 20 November 2008

(Name of Licensee)

of (address)

(the "licensee") is licensed, subject to the following conditions set out in this licence –

- (a) to provide a public telecommunications network service (the "service"), the scope of which is described in Schedule 1;
- (b) to establish and maintain a telecommunications network (the "network") described in Schedule 2 to provide the service;
- (c) to possess and use the radiocommunications installations 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 radiocommunications as may be necessary to supply customers of the service.

GENERAL CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this licence, except as hereinafter provided or unless the context otherwise requires, words or expressions shall have the meanings assigned to them in the Telecommunications Ordinance (Cap. 106) (the "Ordinance") and, as the case may be, the Interpretation and General Clauses Ordinance (Cap. 1). For the purposes of interpreting this licence, headings and titles shall be disregarded.
- 1.2 This licence shall not be construed as granting an exclusive right to the licensee to provide the service.
- 1.3 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.
- 1.4 The grant of this licence does not authorize the licensee to do anything which infringes any exclusive licence granted under the Ordinance or any exclusive right to operate and provide telecommunications networks, systems, installations or services granted under any other Ordinance.

2. TRANSFER

- 2.1 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.

3. INTERNATIONAL CONVENTIONS

3.1 The licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to it, 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 General Condition 3.1 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.

3.2 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 the service 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.

4. COMPLIANCE GENERALLY

- 4.1 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.

5. PROVISION OF SERVICE

- 5.1 The licensee shall, subject to Schedule 1 to this licence 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.

6. CUSTOMER CHARTER

- 6.1 Unless a waiver in writing is granted by the Authority, 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.

7. CONFIDENTIALITY OF CUSTOMER INFORMATION

- 7.1 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.

7.2 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.

8. RECORDS AND PLANS OF NETWORK

8.1 The licensee shall keep records and plans (including overall network plans and cable route maps) of the telecommunications installation (including radiocommunications installation) and telecommunications nodes and exchanges, if any, 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 any communication ("network information").

8.2 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.

9. CONTROL OF INTERFERENCE AND OBSTRUCTION

9.1 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 interference or physical obstruction to any lawful telecommunications service, or cause any physical

obstruction to the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunications or utility service provider.

9.2 The licensee shall take reasonable measures to ensure that the customers of the service do not cause harmful interference to lawful telecommunications services or utility services through use of the service.

9.3 The Authority may give such reasonable directions as he thinks fit to avoid harmful interference or physical obstruction referred to in General Condition 9.1. The licensee shall comply with the directions.

10. RESTRICTIONS ON ATTACHMENT TO PUBLIC BUILDINGS AND TREES

10.1 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 tree on any Government land except with the prior written consent of the Director of Agriculture, Fisheries and Conservation, or the Director of Leisure and Cultural Services.

11. COMPLIANCE

11.1 If the licensee employs any person under contract for the purpose of the service, or for the installation, maintenance or operation 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.

12. REQUIREMENTS OF RADIOCOMMUNICATIONS INSTALLATION

- 12.1 Each radiocommunications installation 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 to this licence 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.
- 12.2 The apparatus comprised in each radiocommunications installation shall at all times comply with such technical standards as may be issued by the Authority.
- 12.3 The apparatus comprised in a radiocommunications installation 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 radiocommunications.
- 12.4 A radiocommunications installation 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 radiocommunications installation. The licensee shall ensure that persons operating each radiocommunications installation shall at all times observe the conditions of this licence.

12.5 The licensee shall not make a change:

(a) to any radiocommunications installation; or

(b) of the location of any radiocommunications installation, without the prior written approval of the Authority.

12.6 If any telecommunications installation (including radiocommunications installation) 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.

13. USE OF FREQUENCIES

13.1 The radiocommunications installation operated by or on behalf of the licensee shall only be operated on such frequencies as the Authority may assign.

14. SAFETY

14.1 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 operated or used under this licence.

14.2 The licensee shall comply with the safety standards and specifications as may from time to time be prescribed by the Authority and any directions of the Authority in relation to any safety matter.

15. PROHIBITION OF CLAIMS AGAINST GOVERNMENT

15.1 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.

16. INDEMNITY

16.1 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.

17. CONTRAVENTION BEYOND LICENSEE'S CONTROL

17.1 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.

17.2 Where the circumstances referred to in General Condition 17.1 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.

17.3 If the Authority is, after considering a report provided under General Condition 17.2, 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.

18. PUBLICATION OF LICENCE

18.1 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

1. AVAILABILITY OF NETWORK AND SERVICE

1.1 The licensee shall install, maintain and use equipment for the purposes of the network and the service such that:

(a) coverage of the network and the service shall be provided by the licensee to such areas using such technical standards as specified in List 1 of Schedule 4 starting from 20 November 2008 and maintained after that date; and

(b) coverage of the network and the service shall be provided by the licensee to such locations using such technical standards as specified in List 2 of Schedule 4 within 12 months from the date when the necessary sites and ancillary facilities are made available by the relevant authorities or entities, or on or before 20 November 2010, whichever is earlier and maintained after that date.

1.2 The licensee shall provide such information in such manner and at such times as the Authority may require to demonstrate its compliance with Special Condition 1.1.

2. COMPLIANCE OF CODES OF PRACTICE

2.1 Without limiting or affecting in any way the licensee's obligations under any other Condition, the licensee shall comply with any code of practice or guideline which may be issued by the Authority from time to time for the purpose of providing practical guidance to the licensee in respect of:

- (a) the provision of satisfactory service;
- (b) the protection of customer information; and
- (c) the protection and promotion of the interests of consumers of telecommunications goods and services.

2.2 Before issuing any code of practice or guideline referred to in Special Condition 1.1, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

3. PERFORMANCE BOND

3.1 On the date of issue of this licence, the licensee shall have provided 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 5.

3.2 The performance bond to be submitted pursuant to Special Condition 3.1 shall be in the form appearing in Schedule 5 with only such amendments thereto as may previously have been agreed in writing by the Authority.

3.3 The performance bond to be submitted pursuant to Special Condition 3.1 shall be issued by a Qualifying Bank or other surety approved in writing by the Authority. If the licensee shall wish to change to a different Qualifying Bank or another surety, the licensee shall give full written details of the proposed replacement to the

Authority and seek consent from the Authority 14 days prior to the actual change. The Authority shall within 14 days after receipt of the proposal notify the licensee in writing whether there is any objection to the proposed replacement. If the Authority does not object within 14 days, the Authority is presumed to have given his consent. For the purposes of this Special Condition 3.3, "Qualifying Bank" means an institution holding a full banking licence under the Banking Ordinance (Cap. 155) whose long term unsubordinated unsecured debt or long term bank deposit rating (in each case where that debt or deposit is denominated in Hong Kong Dollars which are receivable in the Hong Kong SAR) is, or is higher than:

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

3.4 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, guidelines and codes of practice affecting telecommunications in Hong Kong from time to time.

- 3.5 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 5.

4. DISPOSAL OF ASSETS

- 4.1 Unless with the prior written consent of the Authority (which consent shall not be unreasonably withheld or delayed), the licensee shall not during the validity period of this licence howsoever determined dispose or agree to dispose of any interest (as determined in accordance with Special Condition 4.2) in the assets or undertaking of the licensee which, cumulatively with the value of any and all disposals or agreements to dispose of interests in those assets or undertaking prior to the disposal or agreement in question and after the date of issue of this licence, exceeds 10% as at the date of the disposal or agreement in question of the net asset value of the licensee (as determined in accordance with Special Condition 4.2).

- 4.2 The value of any interest or undertaking, and the net asset value, of the licensee shall be determined by a certified public accountant (practising) (being one who has the qualifications as prescribed under the Professional Accountants Ordinance (Cap. 50))

as may be nominated, or whose appointment by the licensee is agreed in writing, by the Authority.

4.3 In the event of any dispute between the Authority and the licensee as to the value of the interest, undertaking or the net asset value referred to in Special Condition 4.1, the matter shall be settled by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap. 341).

5. PURCHASE OF ASSETS

5.1 If the licensee is in a dominant position in the relevant telecommunications market within the meaning described in section 7L of the Ordinance, the Government may elect to take over the licensee's undertaking and purchase its assets if any or all of the following circumstances occur:

- (a) this licence expires;
- (b) this licence is cancelled or withdrawn;
- (c) the licensee goes into liquidation; or
- (d) the licensee ceases to carry on business,

provided that if the Government elects to do so, it shall give notice in writing to the licensee not later than 90 days in advance of the expiry of this licence, immediately on cancellation or withdrawal of this licence or within a reasonable time after the occurrence of the events described in subparagraphs (c) and (d).

5.2 The price at which the licensee's assets shall be sold to the Government shall be agreed between the Government and the licensee on the basis of the fair market value of those assets at the time of acquisition by the licensee determined on the basis that this licence remains in force and that the licensee's network shall continue to be used for the provision of the service. If no agreement can be reached between the Government and the licensee on the price at which the licensee's assets shall be sold to the Government, the matter shall be settled by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap. 341).

6. REQUIREMENTS FOR INTERCONNECTION

6.1 The licensee shall, where directed by the Authority, interconnect its service and network with telecommunications networks and services of a type mentioned in section 36A(3D) of the Ordinance.

6.2 Subject to the terms and conditions of any determination by the Authority under section 36A of the Ordinance or any direction by the Authority under section 36B of the Ordinance, 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 by the licensee so as to fairly compensate the licensee for those costs.

6.3 The licensee shall provide facilities and services reasonably necessary for the prompt and efficient interconnection of its service and network with the other telecommunications networks and services referred to in Special Condition 6.1. Those facilities and services include:

- (a) carriage services for the delivery of codes, messages or signals or other communication across and between the interconnected networks;
- (b) those necessary to establish, operate and maintain points of interconnection between the network and networks of the other party to the interconnection, including, without limitation, the provision of sufficient transmission capacity to connect between the network and networks of the other party to the interconnection;
- (c) billing information reasonably required to enable the other party to the interconnection to bill its customers;
- (d) facilities specified by the Authority pursuant to section 36AA of the Ordinance; and
- (e) ancillary facilities and services required to support the types of interconnection facilities and services described in this Special Condition.

7. ACCOUNTING PRACTICES

7.1 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.

8. METERING ACCURACY

- 8.1 The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the service is accurate and reliable.
- 8.2 At the written request of the Authority or at regular intervals to be specified by 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 results to the Authority within 14 days after the date of the relevant test or such other longer period as the Authority may determine.
- 8.3 The licensee shall keep records of any metering equipment in the form specified by the Authority and shall provide those records to the Authority as soon as reasonably practical following a written request from the Authority.

9. EMERGENCY SERVICES

- 9.1 The licensee shall provide public emergency services 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 of the licensee, communicate as quickly as practicable with the Hong Kong Police Emergency Centre and any other entities as may be directed by the Authority for the reporting of an emergency.

9.2 The licensee shall not charge for the use of the public emergency services described in Special Condition 9.1.

9.3 Emergency messages sent by a person using compatible apparatus connected to the network of the licensee shall be treated by the licensee on an equal basis irrespective of whether or not such apparatus has been registered as that of a customer of the licensee.

10. NUMBERING PLAN AND NUMBER PORTABILITY

10.1 The licensee shall comply with the numbering plan made or approved by the Authority and any directions given by the Authority in respect of that numbering plan.

10.2 The licensee shall, at the request of the Authority, consult with the Authority about the arrangements for the allocation and reallocation of numbers and codes within the numbering plan.

10.3 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.

10.4 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, mobile carrier licensee or MVNO, 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, mobile carrier licensee or MVNO, as the case may be.

10.5 Directions by the Authority under Special Condition 10.4 include reasonable directions concerning compliance with Special Condition 10.4 by the licensee at the licensee's own expenses, or by equitable sharing of all relevant costs associated with providing portability of numbers as between the licensee, and any other fixed carrier or fixed telecommunications network services licensee, mobile carrier licensee or MVNO, as the case may be.

10.6 For the purposes of this Special Condition, "portability of numbers" means the function of the network and the service which enables a customer of the service of a fixed carrier or fixed telecommunications network services licensee, mobile carrier licensee or MVNO to become a customer of another fixed carrier or fixed telecommunications network services licensee, mobile carrier licensee or MVNO, without changing the number assigned to that customer.

11. NON-DISCRIMINATORY TREATMENT IN PROVISION OF SERVICE TO CUSTOMERS

The licensee shall not unreasonably delay or refuse to provide the service, or impose onerous conditions on the provision of the service, to any customer who owns or operates apparatus of a type which is approved by the Authority and conforms with the technical and performance standards specified in Schedule 3 to this licence. In particular (but without limiting the generality of the foregoing), the licensee shall not discriminate against any customer whose apparatus was acquired other than from the licensee.

12. LOCATION SERVICES

- 12.1 Without affecting the generality of General Condition 7, “information of a customer” referred to in General Condition 7.1 and “information provided by its customers or obtained in the course of provision of service to its customers” referred to in General Condition 7.2 shall include any information concerning the locations of customers obtained in the course of provision of the service.
- 12.2 Where the licensee provides services to customers using the information concerning the locations of the customers obtained in the course of provision of the service, the licensee shall ensure that:
- (a) no such services are provided without the prior consent of the relevant customers; and
 - (b) the customers are capable of suspending the use of the information from time to time.
- 12.3 Where directed by the Authority, subject to General Condition 7 and all applicable law, the licensee shall provide relevant information relating to the location of a user sending a public emergency message described in Special Condition 8.1 for the sole purpose of responding to that message.

13. TARIFFS

- 13.1 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.
- 13.2 Publication shall be effected by:
- (a) publication in the newspapers or publication in the Hong Kong Government Gazette of the relevant details and, where available, the website of the licensee and by sending a copy to the Authority on or before the date on which the relevant service is to be introduced;
 - (b) placing a copy of the relevant details in a publicly accessible part of the principal place of business and other business premises of the licensee as specified by the Authority; and
 - (c) sending a copy of the relevant details to any person who may request it at a charge no greater than that which is necessary to cover the reasonable costs of sending the copy.
- 13.3 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.
- 13.4 The licensee shall not offer any discount to its published tariffs for a particular service or customer equipment subject to Special Condition 13.3 (other than a

discount calculated in accordance with a formula or methodology approved by the Authority in advance of the relevant service and customer equipment being offered 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 service. For the purpose of this Special Condition, "a dominant position" has the meaning described in section 7L of the Ordinance.

- 13.5 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.

14. TARIFFS REVISIONS

- 14.1 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.

- 14.2 Subject to Special Condition 14.5, the licensee may only publish the revised tariffs after the Authority has given his approval in writing.

- 14.3 The Authority shall not approve any revision submitted in accordance with Special Condition 14.1 where:

- (a) he considers that the proposed revision is in contravention of all or any of sections 7K, 7L, 7M or 7N of the Ordinance or any applicable price control arrangements; and

(b) he has notified the licensee within 30 days after the date of receipt of the licensee's proposed revision that he does not intend to give his approval.

14.4 The Authority shall endeavour to consider any proposed revision submitted in accordance with Special Condition 14.1 within 7 days after the date of receipt of the relevant proposed revision by the Authority and will give written notice by that date to the licensee if the Authority requires more time to complete his review of the proposed revision.

14.5 Where the Authority has not notified the licensee within 30 days after receiving the licensee's proposed revision submitted in accordance with Special Condition 14.1 that he does not propose to give his approval, the tariff revision will be deemed to be approved.

15. TARIFFS FOR NEW SERVICES

15.1 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 the service and charge would lead to a contravention of all or any of sections 7K, 7L, 7M or 7N of the Ordinance or any applicable price control arrangements.

15.2 The Authority shall endeavour to consider any proposal submitted in accordance with Special Condition 15.1 within 20 days after the date of receipt of the relevant

proposal and will give written notice by that date to the licensee if the Authority requires more time to complete his review of the proposed service and charge.

- 15.3 Where the Authority has not notified the licensee within 45 days after receiving the licensee's notice submitted in accordance with Special Condition 15.1 that he does not propose to give his approval, the new service and charge will be deemed to be approved.

16. WAIVER OF APPLICATION

- 16.1 Where, in the opinion of the Authority, a licensee is not in a dominant position with respect to the relevant telecommunications market for the service within the meaning of section 7L of the Ordinance, the Authority may by direction in writing, for the period and on any conditions as the Authority may determine, direct that either one or any combination of Special Conditions 13, 14 and 15 , either completely or as to particular obligations imposed under them, shall not apply to the licensee.

17. PROVISION OF TARIFFED SERVICE

- 17.1 The licensee shall, subject to Schedule 1 and the 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 13 (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 utilise the service to provide a lawful telecommunications service to third parties.

17.2 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 13 where the service can reasonably be provided by the licensee to the customer at the location at which the service is requested utilising the licensee's network in place at the time of the request.

18. DIRECTORY SERVICES

18.1 For the purposes of this Special Condition:

(a) "directory information" means information obtained by the licensee in the course of the provision of the service under this licence concerning or relating to all or any of the name, business address and telephone numbers of the customers referred to in Special Condition 18.6; and

(b) "raw directory information" means the licensee's directory information held in a basic format relating to all of its customers other than those customers who request the directory information about them not be disclosed.

18.2 This Special Condition applies only in respect of standard printed directories and other directory databases and services which include all 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.

18.3 Subject to compliance with the Personal Data (Privacy) Ordinance (Cap. 486), General Condition 7 and any applicable law, the licensee shall:

- (a) where directed by the Authority, publish or arrange for the publication of directory information at least biennially in a printed or other form approved by the Authority, relating to all of those customers referred to in Special Condition 18.6, other than those customers who request not to be included in a directory to be published (the "printed directory"); and
- (b) where directed by the Authority, establish, maintain and operate, or arrange for the establishment, maintenance or operation of, a telecommunications service whereby its customers may, on request, be provided with directory information other than that relating to those customers referred to in Special Condition 18.6 who request information relating to them not to be disclosed (the "telephone directory service").

18.4 The licensee shall make the printed directory and the telephone directory service referred to in Special Condition 18.3 available free of charge to its customers and in a manner satisfactory to the Authority.

18.5 The licensee may make commercial arrangements with one or more of the other mobile carrier licensees and MVNOs to co-operate in the provision jointly by them of either or both of the printed directory and the telephone directory service which the licensee is required to provide under Special Condition 18.3.

- 18.6 The licensee's printed directory shall be a unified printed directory and the licensee's telephone directory service shall be a unified telephonic directory service and shall utilise a unified directory database, containing directory information on all customers of all mobile carrier licensees and MVNOs, except for those customers who request that directory information about them is not disclosed. Subject to compliance with the Personal Data (Privacy) Ordinance (Cap. 486), General Condition 7 and any applicable law, the licensee shall provide and update, on a frequent and regular basis, raw directory information about its customers to other mobile carrier licensees for which the licensee will be able to impose a charge to fairly compensate it for providing that information. The licensee shall endeavour to agree with each of the other mobile carrier licensees and MVNOs on a reasonable mode of exchange and transmission format for the raw directory information.
- 18.7 Where the licensee is unable to agree with another mobile carrier licensee or MVNO pursuant to Special Condition 18.6 on what amounts to fair compensation for the 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.
- 18.8 Except with the prior written approval of the Authority, the licensee shall not make use of raw directory information provided by another mobile carrier licensee or MVNO other than for discharging its obligations under this Special Condition.

19. COMPLIANCE WITH AUCTION RULES

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

**20. PROVISION OF SERVICE TO SUSPECTED STOLEN
RADIOCOMMUNICATIONS APPARATUS**

20.1 The licensee shall, where directed by the Authority, refuse to provide the service to any person who possesses or uses a radiocommunications apparatus which is stolen or suspected stolen goods.

21. UNSOLICITED ADVERTISING

21.1 The licensee shall not use the service, and shall endeavour to prevent the service from being used by any user, for the transmission of messages or communications comprised in any unsolicited advertising or unsolicited promotional information and

comply with all codes of practice which may be issued by the Authority from time to time concerning unsolicited advertising or unsolicited promotional information.

22. INTERPRETATION

22.1 For the purposes of these Special Conditions:

"MVNO" means an operator which:

- (i) does not have a mobile carrier licence; and
- (ii) provides a public radiocommunications service to customers through interconnection with, and access to, the radiocommunications infrastructure of a mobile carrier licensee, ;

"Notice" means the Notice dated 31 August 2007 issued by the Authority in exercise of his powers conferred by section 32I of the Ordinance and the Telecommunications (Method for Determining Spectrum Utilization Fee) (Code Division Multiple Access mobile Telecommunications Service) Regulation (Cap.106AB) and all other powers enabling him to specify the terms and conditions of the auction and the payment of spectrum utilization fees;

"publication in the newspapers" means published in at least one Chinese language local newspaper and one English language local newspaper, being in each case a newspaper registered under the Registration of Local Newspapers Ordinance (Cap.268) and published daily and circulating generally in Hong Kong;

"Regulation" means the Telecommunications (Method for Determining Spectrum Utilization Fees) (Code Division Multiple Access Mobile Telecommunications Service) Regulation (Cap. 106AB);

22.2 Any reference to an ordinance or a regulation, whether the word is used by itself or as part of any title to an ordinance or a regulation, shall mean that ordinance or regulation for the time being in force as well as any modification or substitution of that ordinance or regulation, in whole or in part, and all subsidiary legislation, regulations, directions, codes of practice and instruments made under that ordinance or regulation and for the time being in force.

22.3 The singular includes the plural and vice versa.

SCHEDULE 1

SCOPE OF THE SERVICE

1. The service is a public mobile radiocommunications service using cellular radiocommunications technology operating at frequencies specified in Schedule 3 within the frequency bands 825-832.5 MHz and 870-877.5 MHz to enable two-way communications between moving locations or between a moving location and a fixed location.

2. For the purpose of this Schedule, a "moving location" includes, without limitation, the following:
 - (a) mobile station of a customer of the service; and

 - (b) mobile station of a customer of an MVNO interconnected with the network and the service.

3. For the purpose of this Schedule, a "mobile station" includes any apparatus using the technology of a mobile station for a mobile customer but being installed at a fixed location.

4. For the purpose of this Schedule, a "fixed location" includes any apparatus, station or service connected to any public telecommunications networks, including the network under this licence, in Hong Kong.

*** End of Schedule 1 ***

SCHEDULE 2

DESCRIPTION OF NETWORK

All such telecommunications installations established, maintained, possessed or used whether owned by the licensee, leased, or otherwise acquired by the licensee for the purpose of providing the service specified in Schedule 1.

*** End of Schedule 2 ***

SCHEDULE 3

TECHNICAL PARTICULARS OF RADIO STATIONS FOR THE PROVISION OF THE SERVICE

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

Transmitting frequencies of mobile stations
825 MHz to 832.5 MHz

Transmitting frequencies of base stations
870 MHz to 877.5 MHz

Technical Standard: The CDMA2000 family of standards adopted by the 3rd Generation Partnership Project 2 (3GPP2), or other standard as approved by the Telecommunications Authority

Location:) Details are contained in the listing
Class of emission:) incorporated into this Schedule 3 in
Type of modulation:) accordance with section 8(3) of the
Maximum frequency tolerance:) Telecommunications Regulations
Maximum effective radiated power:) (Cap.106).
Aerial characteristics:)

*** End of Schedule 3 ***

SCHEDULE 4

COVERAGE OF NETWORK AND SERVICE

Coverage of network and service shall be provided by the licensee to

LIST 1

<u>Area</u>	<u>Technical Standard</u>
The Golden Bowl Area The areas with Hong Kong Grid co-ordinates: Northing from 815 000m to 822 850m and Easting from 830 400m to 843 300m.	The CDMA2000 family of standards with CDMA2000 1xEV-DO Release 0 adopted by the 3rd Generation Partnership Project 2 (3GPP2) or other standard as approved by the Authority

LIST 2

<u>Locations</u>	<u>Technical Standard</u>
(a) All Mass Transit Railway (MTR) stations and adjoining tunnels	The CDMA2000 family of standards with CDMA2000 1xEV-DO Release 0 adopted by the 3rd Generation Partnership Project 2 (3GPP2) or other standard as approved by the Authority
(b) All Kowloon Canton Railway (KCR) stations and adjoining tunnels	
(c) All Airport Express Railway stations and adjoining tunnels	

<p>(d) 10 road tunnels, namely:</p> <ul style="list-style-type: none"> - Aberdeen Tunnel - Cross Harbour Tunnel - Eastern Harbour Crossing Tunnel - Kai Tak Tunnel - Lion Rock Tunnel - Shing Mun Tunnel - Tai Lam Tunnel - Tate's Cairn Tunnel - Tseung Kwan O Tunnel - Western Harbour Tunnel 	<p>The CDMA2000 family of standards with CDMA2000 1xEV-DO Release 0 adopted by the 3rd Generation Partnership Project 2 (3GPP2) or other standard as approved by the Authority</p>
<p>(e) The Hong Kong International Airport Passenger Terminals</p>	
<p>(f) The control points at :</p> <ul style="list-style-type: none"> - Hung Hom - Lo Wu - Lok Ma Chau - Man Kam To - Sha Tau Kok - China Ferry Terminal - Macau Ferry Terminal - Tuen Mun Ferry Terminal - Shenzhen Bay - Lok Ma Chau Station 	

SCHEDULE 5

FORM OF THE PERFORMANCE BOND

THIS PERFORMANCE BOND is made on _____, 2007

BY:

- (1) [**BANK**], a banking corporation incorporated in [_____] [with limited liability] whose [registered office/principal place of business in Hong Kong] is at [_____] the “Bank”).

IN FAVOUR OF:

- (2) **THE TELECOMMUNICATIONS AUTHORITY OF HONG KONG** appointed under section 5 of the Telecommunications Ordinance whose address is at 29th Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong (the “Authority”).

WHEREAS:

Pursuant to the terms and conditions of the Notice dated 31 August 2007 issued by the Authority in exercise of his powers conferred by section 32I of the Ordinance and the Regulation and all other powers enabling him to specify the terms and conditions of the auction in which the Licensee has participated and Special Condition 3 of the mobile carrier licence to be issued to the Licensee on 20 November 2008 (the “Licence”), the Licensee is required to provide to the Authority a performance bond issued by a Qualifying Bank, in order to secure the due performance of the Milestones set out in the Annexe by the licensee. The Bank is a Qualifying Bank.

1. INTERPRETATION

1.1 Definitions

In this Performance Bond:

“Bonded Sum” means the amounts set out in the Annexe;

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

“Hong Kong” means the Hong Kong Special Administrative Region of the People's

Republic of China;

“Licensee” means [];

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

“Qualifying Bank” has the meaning given to it in Special Condition 3.3;

“Regulation” means the Telecommunications (Method for Determining Spectrum Utilization Fees) (Code Division Multiple Access Mobile Telecommunications Service) Regulation (Cap.106AB, Laws of Hong Kong)

1.2 Construction

In this Performance Bond, unless the contrary intention appears,

- (a) a provision of law is a reference to that provision as amended, extended or reenacted;
- (b) a reference to any document shall include that document as it may be amended, novated or supplemented from time to time;
- (c) a clause is a reference to a clause of this Performance Bond;
- (d) a reference to any person shall include its successors and assigns; and
- (e) headings are for convenience only and are to be ignored in construing this Performance Bond.

2. PERFORMANCE BOND

- 2.1 In the event of default by the licensee in respect of the Deadlines for Compliance with the Milestones set out in the Annexe the Qualifying Bank shall upon demand made by the Authority in writing and without proof or conditions satisfy and discharge without cavil or delay the Bonded Sum(s) provided that the aggregate liability of the Qualifying Bank under this Bond in respect of any Milestones shall not exceed the Bonded Sum in respect of that Milestone set out in the Annexe.

2.2 The obligations under this Performance Bond constitute direct primary, irrevocable and unconditional obligations of the Bank.

2.3 The liability of the Qualifying Bank under this Bond shall reduce on each occasion on which:

- (a) the Qualifying Bank 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 Qualifying Bank 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 Milestone set out in the Annexe.

2.4. The liability of the Qualifying Bank under this Bond shall cease on whichever of the following events first occurs:

- (a) payment by the Qualifying Bank 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 the Milestones set out in the Annexe.

2.5 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 Qualifying Bank in writing.

3. MAXIMUM LIMIT

The maximum amount for which the Bank shall be liable under this Performance Bond shall not exceed the aggregate of:

- (a) the Bonded Sums; and
- (b) the aggregate of all sums payable under clauses 4 and 7.

4. INTEREST AND COSTS

The Bank shall pay interest on the Bonded Sum from the date of demand to the date of payment in full (both dates inclusive) compounded quarterly (both before and after judgment) at 2 per cent. Per annum over the prime rate quoted by The Hongkong and Shanghai Banking Corporation Limited from time to time. The interest shall be payable on demand and accrue from day to day on the basis of the number of days elapsed and a 365-day year.

5. WAIVER OF DEFENCES

Subject to Clauses 2.3, 2.4 and 2.5, the liability of the Qualifying Bank under this Performance Bond shall remain in full force and effect and not be prejudiced, affected, discharged, impaired or diminished by any act, omission or circumstance which, but for this clause, might prejudice, affect, discharge, impair or diminish that liability including, without limitation, and whether or not known to the Bank:

- (a) any time or waiver granted to, or release of or composition with, the Licensee or any other person;
- (b) any suspension, cancellation, revocation, withdrawal or amendment of, or variation to, the Licence (including, without limitation, extensions of time for performance) or any concession or waiver by the Authority, the Government of Hong Kong, the Chief Executive in Council, the Chief Executive or, without limitation, any other person in respect of the Licensee's obligations under the Licence;
- (c) any forbearance or waiver of any right, power or remedy the Authority, the Government of Hong Kong, the Chief Executive in Council or the Chief Executive or, without limitation any other person, may have against the Licensee;
- (d) any act or omission of the Licensee pursuant to any other arrangement with the persons referred to in (c) above or with the Bank; or
- (e) the liquidation, administration, dissolution, lack of capacity or authority, or any change in the name or constitution of the Licensee or the Bank.

6. ADDITIONAL SECURITY

This Performance Bond is in addition to and not in substitution for or prejudiced by any present and future guarantee, lien or other security held by the Authority as security for the obligations of the Licensee. The Authority's rights, powers and remedies under this Performance Bond are in addition to and not exclusive of those provided by law.

7. NO DEDUCTIONS AND TAXES

All sums payable under this Performance Bond shall be paid in full without set-off or counter-claim and free and clear of, and without deduction of or withholding for, or on account of, any present or future taxes, duties or other charges. If any payment is subject to any tax, duty or charge, or if the Bank is required by law to make any deduction or withholding, the Bank shall pay the tax, duty or charge and shall pay to the Authority any additional amounts as shall result in the Authority receiving a net amount equal to the full amount which it would have received had no payment, deduction or withholding been required.

8. PAYMENTS

All payments to be made by the Bank under this Performance Bond shall be made in immediately available funds in the currency and in the manner as the Authority may specify.

9. WARRANTY

The Bank warrants that this Performance Bond constitutes its legally binding obligations enforceable in accordance with its terms (subject to insolvency laws and creditors' rights generally and principles of equity) and does not conflict with any law, regulation or instrument binding on or relating to the Bank and that this Performance Bond is within its powers and has been duly authorized by it.

10. INFORMATION AND CONSENTS

The Bank shall:

- (a) supply the Authority with publicly available information as to itself and (if applicable) its subsidiaries as the Authority may reasonably request;

(b) promptly obtain all official and other consents, licences and authorizations necessary or desirable for the entry into and performance of its obligations under this Performance Bond, whether or not performance has become due; and

(c) promptly notify the Authority if the Bank ceases to be a Qualifying Bank.

The Bank warrants that all consents, licences and authorizations required or desirable under existing law in accordance with this clause have been obtained.

11. NOTICES

11.1 All documents arising out of or in connection with this Performance Bond shall be served:

(a) on the Authority, at 29th Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong marked for the attention of the Authority; and

(b) on the Bank, at its address stated in this Performance Bond.

11.2 The Authority and the Bank may change their respective nominated addresses for service of documents to another address in Hong Kong by giving not less than five Business Days' prior written notice to each other. All notices, demands and communications must be in writing.

11.3 Any notice, demand or communication sent to the Authority or the Bank as provided in this clause shall be deemed to have been given, if sent by post, two Business Days after posting (and in proving delivery it shall be sufficient to provide that the notice, demand or communication was properly addressed and put in the post), if delivered by hand, at the time of delivery or, if sent by facsimile, at the time of despatch.

12. ASSIGNMENTS

The Bank shall not assign, transfer, novate or dispose of any of its rights and obligations under this Performance Bond. The Authority may assign all or any part of its rights and benefits under this Performance Bond at any time without the consent of the Licensee or the Bank.

13. REMEDIES AND WAIVERS

No delay or omission of the Authority in exercising any right, power or remedy under this Performance Bond shall impair that right, power or remedy or constitute a waiver of it nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise of it or the exercise of any other right, power or remedy. The rights, powers and remedies provided in this Performance Bond are cumulative and not exclusive of any rights, powers or remedies which the Authority would otherwise have.

14. GOVERNING LAW AND FORUM

- 14.1 This Performance Bond shall be governed by laws for the time being in force in Hong Kong and the Bank agrees to submit to the non-exclusive jurisdiction of the courts of Hong Kong.
- 14.2 The Bank irrevocably appoints [] of [] as its agent for service of process in connection with proceedings in the Hong Kong Courts and agrees that any process shall be sufficiently and effectively served on it if delivered to that agent at that address, or in any other manner permitted by law. Nothing in this clause is to limit right of the Authority to take proceedings against the Bank in any other court of competent jurisdiction but this provision applies only to the extent that it does not prejudice the above agreement as to the jurisdiction of the Hong Kong Courts.
- 14.3 The Bank irrevocably and generally consents in respect of any legal action or proceedings anywhere (whether for an injunction, specific performance, damages or otherwise) arising out of or in connection with this Performance Bond to the giving of any relief or the issue of any process in connection with it including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of their use or intended use) of any order (whether or not pre-judgment) or judgment which may be made or given there, and irrevocably and unconditionally waives, in any such action or proceedings anywhere, any immunity from that action or those proceedings, from attachment of its assets prior to judgment, other attachment of assets and from execution of judgment or other enforcement.

15. COUNTERPARTS

This Performance Bond may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Performance Bond.

IN WITNESS whereof this Performance Bond has been executed and delivered as a deed on the date which appears first on page 1.

THE COMMON SEAL of []
was affixed hereto in
the presence of :-

Director

Director/Secretary

OR

SIGN, SEALED AND DELIVERED)
for and on behalf of)
and as lawful attorney of)
[] under power of)
attorney dated [])
by [])
in the presence of:-)

[Name]
[Occupation]

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

1. For use where the licensee or the Qualifying Bank, whether a firm or limited company, executes through an attorney.

Annexe

List	Milestones	Deadlines for Compliance	Bonded Sum
1. The Golden Bowl Areas	Coverage of the network and the service shall be provided by the Licensee to the areas with Hong Kong Grid co-ordinates: Northing from 815 000m to 822 850m and Easting from 830 400m to 843 300m using the CDMA2000 family of standards with CDMA2000 1xEV-DO Release 0 adopted by the 3rd Generation Partnership Project 2 (3GPP2) or other standard as approved by the Authority	On or before 20 November 2008	For breach of the milestone \$ 75 Million
2. Other Locations	<p>Coverage of the network and the service shall be provided by the Licensee to the following locations using the CDMA2000 family of standards with CDMA2000 1xEV-DO Release 0 adopted by the 3rd Generation Partnership Project 2 (3GPP2) or other standard as approved by the Authority:</p> <p>(a) All Mass Transit Railway (MTR) stations and adjoining tunnels</p> <p>(b) All Kowloon Canton Railway (KCR) stations and adjoining tunnels</p> <p>(c) All Airport Express Railway stations and adjoining tunnels</p> <p>(d) 10 road tunnels, namely:</p> <ul style="list-style-type: none"> - Aberdeen Tunnel - Cross Harbour Tunnel - Eastern Harbour Crossing Tunnel - Kai Tak Tunnel - Lion Rock Tunnel - Shing Mun Tunnel - Tai Lam Tunnel - Tate's Cairn Tunnel - Tseung Kwan O Tunnel - Western Harbour Tunnel 	For each tunnel / station / location (as the case may be), 12 months from the date when the necessary sites and ancillary facilities are made available by the relevant authorities or entities, or on or before 20 November 2010, whichever is earlier	<p>For breach of any one or all of (a), (b) or (c) \$ 30 Million</p> <p>For breach of any one or all of (d), (e) or (f) \$ 45 Million</p>

	<p>(e) The Hong Kong International Airport Passenger Terminals</p> <p>(f) The control points at:</p> <ul style="list-style-type: none"> - Hung Hom - Lo Wu - Lok Ma Chau - Man Kam To - Sha Tau Kok - China Ferry Terminal - Macau Ferry Terminal - Tuen Mun Ferry Terminal - Shenzhen Bay - Lok Ma Chau Station 		
		Total	\$ 150 Million