

Letter of Agreement

THIS LETTER OF AGREEMENT ("Letter") is made on _____,

BETWEEN:

(1)

(2)

RECITALS

- (A) The terms LAL Requester and LAL Provider referred to in this Letter shall have the same meaning as defined in the Exchange Co-location and Local Access Link Agreement entered into between the parties on _____ (the "Agreement").
- (B) Reference is made to the Local Access Links/Notification of Service Disconnection ("LAL/NSD") applications made by the LAL Requester to the LAL Provider which provides cutovers of LAL/NSD.
- (C) The LAL Requester and the LAL Provider have agreed to enter into this Letter which sets out the LAL Requester's agreement to indemnify the LAL Provider on the terms of this Letter.

THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

- (1) In consideration of the LAL Provider agreeing to proceed with cutovers of LAL/NSD requested by the LAL Requester and the relevant customer (the "Cutovers") and in reliance on the information provided by the LAL Requester and the relevant customer in the essential fields of the LAL/NSD application forms (which means the relevant customer's name, ID/BR Number and the Number for Porting only) (the "Information"), and provided that the LAL Provider has verified the Information against its own records, then notwithstanding that some of the other fields are blank or contain information which do not match with the LAL Provider's records:
 - (a) the LAL Requester agrees to indemnify the LAL Provider as follows:

- (i) against any claim or action brought against the LAL Provider by the relevant customer or any third party for any direct loss or damage suffered by the relevant customer or such third party as a result of the LAL Provider proceeding with the Cutovers in reliance on the Information; provided that the LAL Provider shall notify the LAL Requester promptly in writing of any claim or action brought against the LAL Provider and the LAL Provider shall give the LAL Requester reasonable assistance to defend and/or settle the claim or action brought by the relevant customer or third party. The LAL Requester shall have the right to take over and make decisions related to the claim or action brought against the LAL Provider provided that in exercising this right the LAL Requester acts reasonably and gives due regard to the LAL Provider's legitimate business concerns in relation to the relevant claim or action; and
- (ii) against any other direct loss or damage otherwise suffered by the LAL Provider as a result of the LAL Provider proceeding with the Cutovers in reliance on the Information; provided that the LAL Provider shall notify the LAL Requester promptly in writing of any claim or action brought against the LAL Provider and the LAL Provider shall give the LAL Requester reasonable assistance to defend and/or settle the claim or action brought by the relevant customer or third party. The LAL Requester shall have the right to take over and make decisions related to the claim or action brought against the LAL Provider provided that in exercising this right the LAL Requester acts reasonably and gives due regard to the LAL Provider's legitimate business concerns in relation to the relevant claim or action

The scope of the indemnity as set out in this paragraph (a) shall be reduced proportionally to the extent that the loss or damage is wholly or partly attributable to any act (other than the act of performing the Cutovers in accordance with Clause 1 of this Letter), default or negligence of the LAL Provider.

- (b) Notwithstanding the indemnity set out at paragraph (a), neither the LAL Provider nor the LAL Requester shall be liable to the other for any loss or damage which may arise out of the inaccuracy or incompleteness of the installation address information or other information provided by the relevant customer.
- (c) The indemnity set out at paragraph (a) shall be subject to the limitations of liability and indemnity set out at Clause 18 of the Agreement.

(2) Governing law

This Letter shall be governed by and construed in accordance with the laws of Hong Kong Special Administrative Region ("HKSAR") and the parties hereto irrevocably submit to the exclusive jurisdiction of the HKSAR courts.

Signed as an agreement.

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