


**SERVICE TERMS FOR \_\_\_\_\_ CABLE STATION IN-SPAN FIBRE SERVICE**

These Service Terms form part of the Agreement between \_\_\_\_\_ and the Customer on and from the latter of the dates below.

Capitalized terms are defined in the Definitions in these Service Terms or, if not, have the same meaning as in the General Terms. A reference to a numbered clause means a clause in these Service Terms.

Signed by the authorised representative of  
(Customer)

Signed by the authorised representative of

\_\_\_\_\_  
Signature of Authorised Representative

\_\_\_\_\_  
Signature of Authorised Representative

\_\_\_\_\_  
Name of Authorised Representative (Print)

\_\_\_\_\_  
Name of Authorised Representative (Print)

\_\_\_\_\_  
Position

\_\_\_\_\_  
Position

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## 1. DEFINITIONS

**Business Day** means Monday to Friday, except public holidays in Hong Kong.

**Cable System** means each cable system landing at [redacted] which may be connected to the In-Span Fibre via cross connects as more fully described in the *Service Terms for International Cable Interconnection* signed by the parties.

**Charges Section** means the section of the Customer Order setting out the Charges applicable to the Service.

**Day** means a calendar day.

[redacted] means the submarine cable station operated by [redacted]

**Building** means the main cable station building at [redacted]

**Duct Jointing Point or DJP** the point at which the duct from interconnect manhole meets the duct from the Customer's manhole.

**Fibre O&M Service** has the meaning given to this term in clause 2.6.

**In-Span Fibre** means the in-span fibre used for the In-Span Fibre Service as described more particularly in clause 2.1.

**Licensed External Facilities Services Provider** means a person which holds a 'Fixed Telecommunications Network Services (FTNS) Licence', a 'Fixed Carrier Licence', or a 'Unified Carrier Licence' for the provision of cable-based External FTNS issued pursuant to the Telecommunication Ordinance.

**Monthly Recurring Charge (MRC)** means the fixed monthly recurring charge for the Service as stated in the Charges section of the Customer Order.

**Non-Recurring Charges (NRC)** means collectively the one-off charges as set out in the Customer Order for the Service.

**Office Hours** means the hours between 9 am and 5 pm on Business Days.

[redacted] **ODF** means the [redacted] ODF inside the [redacted] Building

**Representative** of a party includes an employee, agent, officer, director, adviser, contractor or sub-contractor of that party.

**Scheduled Maintenance** means those activities which [redacted] may undertake to repair and/or change the [redacted] Network and/or the Cable Station and/or Ducts and/or the In-Span Fibre such that there is or is likely to be an unavailability of the Service, and [redacted] has notified the Customer of the details of the activities (scope, duration, impact, etc.) at least [redacted] Days in advance.

**Service** means each of the In-Span Fibre Service and the Fibre O&M Service provided by [redacted] pursuant to these Service Terms and the Customer Order.

**Service Commencement Date** means the date on which \_\_\_\_\_ notifies the Customer that the Service is ready for use or shall commence.

## 2. SERVICE

### In-Span Fibre Service

- 2.1 \_\_\_\_\_ shall continue to provide to the Customer the existing in-span fibre from the DJP to the \_\_\_\_\_ ODF at \_\_\_\_\_ for the sole purpose of connection to the Customer's circuits in the Cable Systems landed at \_\_\_\_\_, or as otherwise agreed, ("**In-Span Fibre Service**").
- 2.2 The Service excludes acquisition of capacity in the Cable System, interconnection arrangements and related circuit restoration and re-configuration. The Customer has to arrange its own rights of use of circuit capacity in the Cable System. \_\_\_\_\_ may agree to provide the interconnection arrangement between the In-Span Fibre and capacity acquired by the Customer in a Cable System, subject to the relevant Service Terms.
- 2.3 The Customer shall use the existing Customer manhole outside \_\_\_\_\_ for onward connection of the In-Span Fibre from the DJP. \_\_\_\_\_ is not responsible for this onward connection.
- 2.4 \_\_\_\_\_ shall run the In-Span Fibre at the cost of the Customer from the \_\_\_\_\_ ODF to \_\_\_\_\_ manhole near the DJP then pass the fibre through the DJP to the Customer's manhole. The Customer is responsible for the splicing and connection of the In-Span Fibre at the Customer's manhole. Inside the \_\_\_\_\_ Building \_\_\_\_\_ will terminate the In-Span Fibre to the \_\_\_\_\_ ODF.
- 2.5 The splicing of the In-Span Fibre within the Customer's manhole is the responsibility of the Customer.

### Fibre Operations & Maintenance

- 2.6 \_\_\_\_\_ shall provide operation and maintenance services for the In-Span Fibre in accordance with this clause 2.7 ("**Fibre O&M Service**").
- 2.7 \_\_\_\_\_ responsibility to maintain the In-Span Fibre excludes normal wear-and-tear of the In-Span Fibre. The Customer will bear all the direct and reasonable costs of replacement if replacement of the In-Span Fibre is required after the initial installation, except where the replacement is required due to defective materials or workmanship or the negligent act of \_\_\_\_\_. The Fibre O&M Service shall cover inspection and fault finding services. Repairs or replacement will be charged separately at the cost of the Customer.
- 2.8 Save for in cases of emergency (in which case \_\_\_\_\_ shall give the Customer as much notice in advance as practicable in the circumstances), \_\_\_\_\_ shall not rearrange, disconnect, remove, repair or otherwise interfere with the In-Span Fibre Service unless agreed by the Customer or otherwise provided for under this Contract.

### 3. TERMS AND CONDITIONS OF SERVICE

- 3.1 The In-Span Fibre is owned by [redacted]. Nothing In this Agreement transfers any rights of ownership to any part of the In-Span Fibre to the Customer.
- 3.2 The Customer must ensure that its equipment, wherever placed, will not interfere with [redacted] equipment inside [redacted]. If [redacted] reasonably considers that the Customer's equipment has interfered or is likely to interfere with [redacted] equipment, it may:
- (a) in the case of a minor interference request the Customer to produce a resolution plan to rectify any faults by a certain time. If the Customer fails to produce such resolution plan by the requested time to [redacted] satisfaction, [redacted] may disconnect the In-Span Fibre Service on [redacted] Business Days notice to the Customer; or
  - (b) in the case of significant interference or safety hazard disconnect the In-Span Fibre Service with as much notice as reasonably practicable, if any.
- 3.3 The Customer must not resell or sublease, or purport to resell or sublease, all or any part of the Service or the In-Span Fibre.
- 3.4 The Customer may use the In-Span Fibre Service for the purpose of entering into arrangements with a third party, whether or not that third party is a Licensed External Facilities Services Provider to transit traffic into and out of Hong Kong routed through submarine cable capacity owned by that third party provided that:
- (a) the transit traffic is only routed into and out of Hong Kong and is not terminated by, or delivered to end customers of, the Customer or any other party in Hong Kong; and
  - (b) the transit traffic is routed through dedicated circuits of the Customer and the Customer takes reasonable measures to ensure that breakout of the traffic into Hong Kong will not be permitted or otherwise occur; and
  - (c) all necessary approvals, instructions and notifications from the relevant cable system consortium, to the extent they are required, and that third party for the landing of the submarine cable capacity in Hong Kong in connection with the transit arrangement have been obtained by the Customer.
- 3.5 The use of the In-Span Fibre Service for the purpose of routing transit traffic under clause 3.4 is subject to:
- (a) agreement being reached between [redacted] and the Customer on the terms and conditions of the transit routing;
  - (b) the Customer receiving written consent to the transit routing from [redacted] and [redacted]; and
  - (c) the Customer receiving written consent from the third party cable capacity owner, and such consent is evidenced to [redacted] if requested.

- 3.6 The Customer may use the In-Span Fibre Service, in accordance with the terms and conditions of this Contract for the purpose of operating external telecommunications circuits using submarine cable capacity that has been acquired, leased or otherwise from a third party whether or not that third party is a Licensed External Facilities Provider, provided that:
- (a) all necessary approvals, instructions and notifications from the relevant cable system consortium, to the extent they are required, have been obtained by the Customer;
  - (b) the Customer has obtained applicable rights of use for the relevant submarine cable capacity from the third party owner; and
  - (c) the Customer complies with all laws and regulations, and has obtained all permits and licences related to the operation of such external telecommunications service.
- 3.7 Subject to clause 9.4 of the General Terms, the Customer agrees to indemnify, defend and hold its related entities, employees, agents and representatives harmless from damages, liabilities, losses or expenses (including reasonable legal fees and expenses) suffered, incurred or paid to the extent arising from or in connection with:
- (a) the Customer's use of the In-Span Fibre Service; and
  - (b) the proper performance by of any work, activities or maintenance requested by Customer, including the Fibre O&M Service.
- 3.8 may, upon giving months' prior written notice to the Customer setting out reasons, change the location or routing of the In-Span Fibre from time to time. must ensure that the implementation of any such change causes minimal service interruption to the Customer. may charge the Customer a proportion of its reasonable costs of implementation of any such change.
- 3.9 The Customer shall not access the portion of the In-Span Fibre from the DJP to the Building. However, the Customer may request to conduct all types of work to be performed on any part of the In-Span Fibre from the DJP to the Building as is considered reasonably necessary by the Customer for the operation of the In-Span Fibre Service, including inspection, realignment, removal and replacement. Any such work, and the costs of such work, must be agreed by the parties in advance.
- 3.10 If reasonably determines that the part of the In-Span Fibre from the DJP to the Building must be moved and no other practicable alternative is available, it will provide Business Days advance notice or hours oral notice in case of emergency to the Customer that this part of the In-Span Fibre cable will be moved at the Customer's expense. If necessary resources are available, will use its reasonable endeavours to minimize disruption to the Customer's equipment during the course of movement and will also use reasonable endeavours to minimize the costs to the Customer. However will have no liability for any accompanying service interruption that is incidental to the cable movement under this clause 3.10.

#### 4. CHARGES

- 4.1 Customer will pay the following recurrent charges:
- (a) Upon the Effective Date the Fibre Operations and Maintenance Service Charges (This covers inspection and fault finding services. Repairs or replacement will be charged separately at the cost of the Customer.)
  - (b) From the Customer shall pay the In-Span Fibre Service Charge.
- 4.2 The initial Operations and Maintenance Service Charge and the In-Span Fibre Service Charge are set out in Appendix 1.
- 4.3 Other Charges as may be agreed between and the Customer from time to time including one-off Charges to cover non-standard procedures, non-office hour working, rescheduled operations, variation and cancellation requests and other additional work requested by the Customer and agreed by from time to time. The Charges will be quoted by on a case-by-case basis.
- 4.4 Other Charges may include:
- (a) A Feasibility Study Charge to cover cost in desktop and physical survey work. The charge is quoted on a case-by-case basis and is payable by the Customer to irrespective of the study results.
  - (b) An installation charge which will be quoted by after the feasibility study shows the installation is feasible.
- 4.5 To order a Service, the Customer shall sign a Customer Order based on a quotation provided by in clause 4.4. The Customer Order shall set out both the NRC and MRC. shall notify the Customer as soon as reasonably practicable after receipt of a Customer Order that it either accepts or rejects the Customer Order. If accepts the Customer Order, the Customer Order shall be effective as at the date of such notification.
- 4.6 The Non-Recurring Charges shall be invoiced by upon the effective date of the Customer Order. MRCs are Invoiced monthly in advance on and from the Service Commencement Date. Charges are payable in accordance with the General Terms.
- 4.7 If the Customer cancels its request for the Service at any time before the Service Commencement Date, the Customer must pay of the Non-Recurring Charges as a genuine pre-estimate of loss and not as a penalty. If the Non-Recurring Charges have already been paid in full by the Customer, the Customer is entitled to a refund of of the Non-Recurring Charges.
- 4.8 The Minimum Commitment Period for new Services shall be set out on the Customer Order.
- 4.9 The Minimum Commitment Period for the existing Service that will be covered by this Agreement shall be years from the date of these Service Terms.
- 4.10 After the Minimum Commitment Period, the Service shall continue indefinitely until terminated by either party at any time upon at least months' written notice to the other party.

4.11 If a Customer Order is terminated after the Service Commencement Date but before the expiry of the Minimum Commitment Period of the Service:

- (a) by the Customer for convenience; or
- (b) by [redacted] for the Customer's breach;

the Customer must pay Cancellation Charges calculated by multiplying the months (including parts thereof) remaining in the Minimum Commitment Period by the MRC for all or part of the Service cancelled.

#### Charge Adjustment

4.12 The Charges set out in this Appendix 1 may be increased by [redacted] at start of each calendar year in accordance with this clause.

4.13 If [redacted] increases the charges set out in clause 4.12 above, [redacted] will do so in accordance with the increase in the Composite Consumer Price Index (CPI) in Hong Kong as published by the Census and Statistics Department of Hong Kong.

4.14 If [redacted] increases the Charges in accordance clause 4.12 the revised charges will apply from 1 January each year based on the CPI increase during the previous 12 months from 1 September to 31 August rounded up to the nearest HK\$10.

4.15 For example revised pricing to apply from [redacted] would be calculated as follows:  
If  $B > A$  then Revised Charge = Current Charge  $\times$  (B/A)% rounded up to nearest HK\$10

Where:

- A is the CPI Index figure
- B is the CPI Index figure

4.16 No adjustment will be made if the charges calculated in accordance with the adjustment would be lower than the amount prior to the adjustment.

4.17 For the avoidance of doubt, the parties acknowledge that nothing in this Contract obliges [redacted] to extend the In-Span Fibre Service or Fibre O&M Service in future. The charge and terms for any future expansion will be agreed by the parties.

**Appendix 1**

**SUMMARY OF FOR [REDACTED] CABLE STATION IN-SPAN FIBRE**

The following charging rates apply as at the Effective Date of this Agreement.

<b>Item</b>	<b>Services provided to the Customer at Cable Station</b>	<b>Monthly charges payable by the Customer</b>
a)	Fibre Operations and Maintenance Service Charges	HK\$6,300
b)	In-Span Fibre Service Charge	HK\$7,020