

## TELECOMMUNICATION SERVICES AGREEMENT

THIS TELECOMMUNICATION SERVICES AGREEMENT (the "Agreement") is dated 1st September-2011 between:

(1)

(2)

(hereinafter, the "Parties" jointly; or singly, the "Party")

WHEREAS, the Parties wish to define their respective undertakings concerning the telecommunications services which they shall provide to each other.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

### 1. DESCRIPTION OF SERVICES

#### 1.1 Termination Services

shall provide to conveyance service to convey and route the international telecommunication traffic of from the " Meeting Point" (as the term is defined in Attachment 1 hereto) via telecommunications facilities used by for termination in various countries in the world (" Termination Services"), as set forth in Attachment 1. The Termination Services shall be provided in respect of International Direct Dial (IDD) traffic and therefore, exclude operator-handled traffic.

#### 1.2 Termination Services

shall provide to conveyance service to convey and route the international telecommunication traffic of from the " Meeting Point" (as the term is defined in Attachment 2 hereto) via telecommunications facilities used by for termination in Hong Kong (" Termination Services"), as set forth in Attachment 2. The Termination Services shall be provided in respect of International Direct Dial (IDD) traffic and therefore, exclude operator handled traffic.

1.3 Each Party shall use its reasonable commercial efforts to provide its Termination Services on a 24 hour-per day and 7 day-per week basis.

1.4 For the purpose of this Agreement.

(a) "Termination Services" shall mean either the Termination Services as a whole or the Termination Services as a whole as the context requires;

(b) "Meeting Point" shall mean either the Meeting Point or the Meeting Point, as the context requires; and

(c) the "international telecommunication traffic" of a Party shall include traffic originating from that Party's end-customers and traffic of other origins directed by that Party for termination hereunder by the Termination Services provided by the other Party.

## 2. DURATION

2.1 This Agreement shall be valid on the date of this Agreement set forth above ("Effective Date").

2.2 This Agreement shall continue to be valid for a period of one (1) year from the Effective Date ("Initial Term"). This Agreement shall renew automatically at the end of the Initial Term and, thereafter, at the end of each subsequent term (each a "Renewal Term") for an additional one (1) year term unless a Party gives the other Party written notice at least three (3) months prior to the last day of the Initial Term or the Renewal Term, as the case may be. Notwithstanding any of the foregoing, at any time after the Initial Term, a Party can terminate this Agreement, without cause or penalty, by providing at least three (3) months written notice to the other Party.

## 3. OPERATIONAL AND COMMERCIAL ISSUES

3.1 Each Party shall manage and be responsible for the respective telecommunications facilities used by them to provide, as the case may be, the Termination Services or the Termination Services. Each Party shall be responsible for its telecommunications facilities used by it and shall at its own expense provide switching equipment and whatever local network facilities it uses to provide its Termination Services. Further, each Party shall be responsible, at its own cost, to connect to the other Party's telecommunications facilities at that other Party's Meeting Point and procure the necessary facilities or equipment required for it to interconnect to such location(s). For all the calls originating from a Party's telecommunications facilities to the other Party's Meeting Point, the originating Party shall bear the costs of originating the calls to that other Party's Meeting Point.

3.2 In connection with reselling the Termination Services, each Party is solely responsible for all billing, billing adjustments/credits, customer service, creditworthiness and other service-related requirements of its own end users. The terminating Party shall have no liability to originating Party's end users under this Agreement. The failure of an end user to pay a Party shall not relieve said Party of its obligation to pay invoiced usage charges as set forth herein.

## 4. PRICING AND BILLING

4.1 For the international telecommunication traffic routed via the Termination Services, shall pay based on the fees as set forth in Attachment 1, from time to time.

4.2 For the international telecommunication traffic routed via the Termination Services, shall pay based on the fees as set forth in Attachment 2, from time to time.

4.3 The billing for the Termination Services or the Termination Services shall be based on actual conversation minutes or fractions thereof; provided, however, the Termination Services provided to Mexico shall be billed in one (1) minute increments (rounded up), including a one (1) minute minimum.

4.4 As regards fee modification:

- (a) may modify the fees and add or remove countries (and thereby introduce new or remove old fees) set out under item 1 of Attachment 1 and may do likewise in respect of Attachment 2, subject, in each case, to the provisions set out in this Clause.
- (b) The modifying Party must give prior written notice of the modification to the other Party.
- (c) In case of reduction in the fees referred to in the Attachments, the reduction shall be effective from the earlier of the date specified in the notice or seven (7) days from the date of the notice.
- (d) In case of increase in fees or addition or removal of countries (and the corresponding introduction thereto or removal therefrom of fees) ("Significant Modification"):
  - (i) if the Party receiving the notice does not object (in writing) to the Significant Modification within one (1) month from the receipt of that notice and continues to use the Termination Services provided by the modifying Party thereafter, such Party's consent to such Significant Modification shall be deemed given and the Significant Modification shall be deemed to take effect on the expiry of the said one (1) month period, or
  - (ii) in the case of a Significant Modification in respect of which a written objection has been issued to the modifying Party, by the Party receiving the modification notice, within one (1) month of receipt by the latter of the former's modification notice and no agreement on the Significant Modification is reached between the Parties within 7 (7) days of the modifying Party's receipt of the other Party's written objection, then the modifying Party initiating such Significant Modification may forthwith suspend partially or totally the Termination Services provided by it, until such time that the Significant Modification is finally agreed between the Parties. In case the Termination Services are totally suspended for over three (3) consecutive months, each Party, without prejudice to its other rights, may terminate this Agreement by notice in writing effective immediately. The termination shall not affect accrued liabilities of the Parties.

4.5 Each Party providing Termination Services shall, within thirty (30) days after the end of every month, endeavor to provide the other with an invoice to cover actual usage of the Termination Services provided by the terminating Party to the other Party for that month. The Parties agree that the invoice for any given month may reflect adjustments made in relation to invoices issued previously; provided, however, no adjustment may be made with respect to Termination Services provided more than sixty (60) days prior to the date of the then-current invoice. Subject to Clause 4.11 below, the undisputed portion of the Parties' respective invoices for a particular month shall be set-off against each other and the net amount due and payable by one Party to the other Party following the said set-off shall be paid within thirty (30) days from the date of the last received of the said invoices. If a Party fails to pay any undisputed amount when due, such failure shall be treated as a material breach of this Agreement and in such case, the other Party may, in addition to its right to charge interest on the unpaid balance from the date due until the date of payment at the rate of 1.5% per month, shall also have the right to suspend the Termination Services after a five (5) days' written notice to the other Party.

4.6 Each invoice shall be accompanied by a statement that shall report the amount of traffic received by the invoicing Party with the following minimum information: total number of calls, total duration of calls, the countries and cities (if applicable) of termination; the price per minute per country of

termination and a statement setting forth the total charges for the given period or such other information, as may be required from time to time.

- 4.7 The Parties shall cooperate to eliminate or reduce fraudulent use or theft of the Termination Services providing by the Party, including but not limited to those arising out of PBX hacking, modem hijacking, failure of the other Party's own procedures or the negligent or wilful actions of the other Party, the relevant wholesale customer or the relevant end-users, and shall use reasonable efforts to promptly notify the other Party if fraud is suspected. A Party providing its Termination Services reserve the rights to issue credits for such fraudulent use by the other Party, the relevant wholesale customer or the relevant end-users of the other Party.
- 4.8 The fees and interest payments shall be billed and settled in United States Dollars and are exclusive of all applicable taxes, including value added tax, sales taxes, and duties of levies imposed by any authority, government or government agency. If a Party is required by any law or regulation to make any deduction or withholding of any tax from any payment to the other Party, such Party will, together with the relevant payment, pay such additional amount as will ensure that the other Party actually receives and is entitled to retain, free and clear of any such deduction or withholding, the full amount which it would have received if no such deduction or withholding had been required. The Party who is required to pay any fees, interest or other moneys pursuant to this Agreement ("Debtor Party") shall indemnify and keep the other Party ("Creditor Party") fully indemnified against all taxes, interest and penalties arising from and in connection with the payment.
- 4.9 The Debtor Party shall bear all bank charges imposed by its banks and all intermediate banks through which the fees or moneys is paid to the Creditor Party, irrespective of where such banks and intermediate banks are situated (i.e. even if such banks are situated in the Creditor Party's country or region). For the avoidance of doubt, the Creditor Party shall in no event be responsible for any bank charges except those (if any) charged by the bank directly appointed by the Creditor Party to collect the fees or moneys.
- 4.10 If there is a discrepancy between a Party's invoice and the corresponding records of the other Party, the Parties will resolve such discrepancy as follows: if the discrepancy does not exceed one percent (1.0%) of the invoiced amount or US\$1,000, whichever is the lower, the billing Party's invoice or call detail record will prevail; if the discrepancy does so exceed, then the billed Party may submit a claim supported with reasonable details in writing to the billing Party within the period of thirty (30) days of receiving such invoice, otherwise the billed Party shall be deemed to have accepted such invoice and its content. The Parties will use their reasonable commercial efforts to resolve such discrepancy within thirty (30) days of such submission. Pending the resolution of the said discrepancy, however, the billed Party shall pay the billing Party the undisputed portion of the amount due in the billing Party's invoice. The billed Party may withhold the payment of the disputed portion of the amount due until the time the amount actually due is determined. If upon such determination, the billing Party's invoice is proven correct, the billed Party will pay the amount due plus interest, at the rate of one point five percent (1.5%) per month on said amount from the day of dispute until full payment is received by the billing Party; however, if the billed Party is proven correct, then the billed Party will pay the correct amount due, if any, but without any interest.

## 5. TERMINATION

- 5.1 A Party, without prejudice to its other rights, may terminate this Agreement by notice in writing effective immediately in the event that the other Party fails to make undisputed payments when due hereof in respect of any two (2) consecutive invoices.

5.2 A Party, without prejudice to its other rights, may also terminate this Agreement forthwith by notice in writing upon (a) the failure of the other Party to cure a breach (other than non-payment) of any of its undertaking under this Agreement within thirty (30) days from the written notification by the non-breaching Party regarding such breach; (b) the insolvency of either Party or the institution of voluntary or involuntary proceedings in bankruptcy or under any other insolvency law, or any arrangement with creditors or corporate reorganization or receivership or dissolution of either Party; (c) in case of suspension, cancellation or revocation of the requisite approvals, licenses, authorizations and permits from the concerned governmental or regulatory bodies, that are necessary for the purposes of this Agreement; or (d) pursuant to Clause 8 hereof.

5.3 Termination of this Agreement for whatever reasons shall not affect accrued liabilities of the Parties.

## 6. LIABILITY AND INDEMNIFICATION

6.1 Neither Party shall be liable to the other Party for any loss or damage sustained by the latter by reason of any failure in or breakdown of the telecommunication facilities associated with the circuits used in providing the Termination Services under this Agreement nor for any interruption or degradation of such Termination Services, whatsoever shall be the cause of such failure, breakdown, interruption or degradation and however long it shall last or for any incorrect record, omission, transmission, communication mixing, divulging or destruction of messages.

6.2 A Party ("Indemnifying Party") shall indemnify and hold the other Party ("Indemnified Party") harmless from and against any direct claims, demands, actions, damages, losses, liabilities, costs or expenses (including without limitation, reasonable attorney's fees and disbursements), which may be made against the Indemnified Party or which the Indemnified Party may suffer or incur as a result of, arising out, or relating to:

(a) the material breach of contract by the Indemnifying Party in each case in its performance of its obligations under this Agreement; or

(b) any action, claim, trial, demand, investigation, arbitration or other proceeding initiated or conducted by any third party because of item (a) in this Clause 6.2 **and/or** the Indemnifying Party's negligent act or omission (including those of its employees, agents, representatives or subcontractors) (the "Indemnifying Party's negligence").

6.3 In no event shall a Party be liable to the other Party under or in connection with this Agreement for any corruption, destruction or loss of data, loss of goodwill, loss of anticipated savings, loss of contracts, loss of revenue, financial loss or loss of business profits, anticipated savings, revenue data or goodwill or for any indirect, special, consequential loss whether foreseeable or not or howsoever caused, whether arising in Tort, from its negligence, its breach of contract, or its breach of statutory duty, under any indemnity or howsoever caused. The liability of each of the Parties in contract, tort (including negligence or breach of statutory duty) or otherwise arising under any indemnity or howsoever caused hereto for all claims arising out of this Agreement in relation to the Termination Services provided by that Party shall not exceed an amount equal to the fees payable in respect of those Termination Services for the period to which the relevant claims relate.

6.4 Neither Party undertakes any liability whatsoever in contract or tort (including liability for negligence) or otherwise, towards and/or for the acts or omissions of any third party equipment and service providers including telecommunication service providers for equipment or services including telecommunication services or for faults or failures of such third party provider's, equipment and/or services.

- 6.5 Nothing in this Agreement shall have the effect of excluding or limiting the liability of either Party for death or personal injury resulting from its negligence or any other liability that may not be excluded or limited as a matter of Hong Kong law.
- 6.6 Neither Party makes any warranty, express or implied, with respect to the Termination Services and associated pricing or implied representations or endorsements regarding any merchandise, or information or for any performance hereunder, including without limitation any warranty of merchantability or fitness for a particular purpose.
- 6.7 The Parties shall cooperate and use their reasonable commercial efforts to restore any failure, breakdown, interruption or degradation of their respective Termination Services.

## **7. ASSIGNMENT**

- 7.1 Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign this Agreement and/or assign its rights and duties hereunder, in whole or in part, at any time and without consent but with prior notification, to any of its parent, affiliate or subsidiary.
- 7.2 This Agreement is non-exclusive in all respects for each Party and each Party reserves the right to purchase from and/or sell to any third party and all services.

## **8. FORCE MAJEURE**

No failure or omission by a Party to carry out or observe any of the terms and conditions of this Agreement (except with respect to payment obligations) shall give rise to any claim against such Party nor shall the same be deemed as a breach of this Agreement if such failure or omission arises due to or caused by force majeure events beyond the reasonable control of such Party including without limitation acts of God, fire, explosion, vandalism, fiber optic cable cut, storm, extreme temperatures or other similar catastrophes, any law, order, regulation, direction, action or request or an act of government or of a regulatory entity or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more said governments, or of any civil or military authority; national emergencies, terrorism, insurrections, riots, wars, or strikes, lock-outs, work stoppages or other labor difficulties; actions or inactions of a third party provider or operator of facilities employed in provision of the Termination Services ("Force Majeure Events").

The Parties however agree that if one or more of the Force Majeure Events subsist for a continuing period of fifteen (15) days, thereby preventing either Party from performing its obligations either in full or in part, then in such case and under such circumstances, this Agreement may be terminated forthwith by either Party upon written notice to the other Party.

## **9. CONFIDENTIALITY OF INFORMATION**

- 9.1 All information or data of any nature, provided by a Party ("Providing Party") to the other Party ("Receiving Party") shall be used solely for the purpose for which it is supplied and shall be treated by the Receiving Party as secret and fully confidential and the property of the Providing Party unless the latter identifies the data as being non-confidential data.
- 9.2 Neither Party shall publicize or disclose the subject matter of this Agreement without the prior written consent of the other Party unless the disclosure is required by a governmental authority, regulatory body or stock exchange in accordance with the applicable laws or regulations. Failure to

comply with this provision shall be grounds for the non-consenting Party to terminate this Agreement immediately without any prior notice period.

**10. REPRESENTATION OF**

10.1 is a company duly organized, validly existing and in good standing under the laws of Hong Kong with full force and authority to conduct its business and own its property as such business is conducted and such property is owned by it.

10.2 has or shall make all necessary arrangements with the appropriate governmental authorities in Hong Kong and with other entities so that can lawfully provide the Termination Services to under this Agreement.

10.3 This Agreement constitutes a legal, valid and binding obligation of , enforceable against . The execution, delivery and performance of this Agreement shall not conflict with, nor result in any breach of the provisions of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property of under the provisions of any agreement, or other instrument to which is a party or by which it or its property may be bound, other than this Agreement.

**11. REPRESENTATION OF**

11.1 is a company duly organized, validly existing and in good standing under the laws of Hong Kong with full force and authority to conduct its business and own its property as such business is conducted and such property is owned by it.

11.2 has or shall make all necessary arrangements with the appropriate governmental authorities in Hong Kong and with other entities so that can lawfully provide the Termination Services to under this Agreement.

11.3 This Agreement constitutes a legal, valid and binding obligation of , enforceable against . The execution, delivery and performance of this Agreement shall not conflict with, nor result in any breach of the provisions of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property of under the provisions of any agreement, or other instrument to which is a party or by which it or its property may be bound, other than this Agreement.

**12. NOTICE**

12.1 All notices, request, or other communications hereunder shall be in writing, addressed to the Parties as follows:

If to :

Telephone:

Facsimile:

Attn:

Copy to:

Facsimile:

Attn:

For rate change:

If to :

Telephone:

Facsimile:

Attn:

For rate change:

- 12.2 Notices mailed by registered or certified mail shall be conclusively deemed to have been received by the addressee on the fifth business day following the mailing of sending thereof. Notices sent by fax shall be conclusively deemed to have been received by the addressee on its transmission as evidenced by the sender's transmission report indicating transmission to the correct number. Notices delivered in person shall be deemed to have been received upon delivery and those sent through email shall be deemed on the sender's receipt of the system confirmation indicating that the email has been opened at the address to which it has been sent. All invoices, Additional Demand Notices and other communications of similar commercial nature may be sent by email and/or by mail.
- 12.3 If a Party wishes to alter the recipient or address to which communications to it are sent, it may do so by providing the name of the new recipient or a new address, in writing, to the other Party.

### **13. DISPUTE RESOLUTION**

- 13.1 Any dispute, controversy or claim which may arise between the Parties, out of, or in relation to, or in connection with this Agreement, or for the breach hereof, shall be first settled by escalating the matter to the senior management of the Parties.
- 13.2 If the dispute, controversy or claim between the Parties in connection with this Agreement cannot be amicably settled by the Parties within thirty (30) working days from the date that the matter shall have been escalated in writing pursuant to Clause 13.1 hereof, either Party shall then, as a last resort be entitled to resolve such dispute, controversy or claim by commencing formal proceedings in the courts.
- 13.3 This Agreement is governed by the laws of Hong Kong and each party agrees to submit to the non-exclusive jurisdiction of the courts of Hong Kong as regards any claim or matter arising under this Agreement.

### **14. MISCELLANEOUS**

- 14.1 This Agreement represents the entire understanding between the Parties in relation to the matters dealt with herein and supersedes all previous covenants and representations, written or oral, made by one Party to the other. The Parties agree that, save as expressly set out herein, neither Party shall have any liability for any untrue statement or representation made by it (whether innocently or negligently) upon which the other Party relied in entering into this Agreement, unless such untrue statement or representation was made fraudulently.



- 14.2 Nothing herein contained shall be deemed to constitute a partnership between the Parties. Nothing herein contained shall allow a Party to act as agent of the other Party.
- 14.3 This Agreement and the continuance thereof by the Parties are contingent upon each Party obtaining and maintaining such approvals, consents, governmental and regulatory authorizations, licenses and permits as may be required or deemed necessary by the Parties.
- 14.4 If any provision of this Agreement is held invalid, illegal or unenforceable in any respect, such provision shall be treated as severable, leaving the remaining provisions unimpaired, provided that such does not materially prejudice either Party in their respective rights and obligations contained in the valid terms, covenants or conditions.
- 14.5 There are no intended third party beneficiaries to this Agreement.
- 14.6 The failure of either Party to require the performance of any of terms of this Agreement or the waiver by either Party of any default under this Agreement shall not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach.
- 14.7 Either Party may set off any amounts due and owing by it under this Agreement or any other agreement between the Parties against any amounts due and owing to it by the other Party under this Agreement or any other agreement between the Parties so that only the net balance is payable by the Party owing the net balance to the other Party. All such offsets must be in writing and acknowledged by both Parties.

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IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, execute this Agreement in duplicate as of the date as above.

**ATTACHMENT 1**

**Termination Services**

- |           |                |                       |
|-----------|----------------|-----------------------|
| <b>1.</b> | <b>Country</b> | <b>Rate (USD/min)</b> |
|-----------|----------------|-----------------------|

(To be agreed by both Parties acting reasonably later)

The rates contained above are for the countries contained above and are shown in terms of full minutes and are billed in one (1) second increment with an initial one (1) second minimum, except for traffic for termination in Mexico which shall be billed in one (1) minute increment with an initial one (1) minute minimum.

2. **Meeting Point.** is responsible for all access and related costs to connect to designated site through the public Internet or any other interconnection point as mutually agreed by the Parties from time to time in writing (“ Meeting Point”).
3. **Network Specifications.** shall disclose all relevant Network Specifications relevant to the respective provision of the Termination Services upon signing this Agreement to ensure the most up to date network information is available for interconnection:
4. **Minimum commitment:** None

**ATTACHMENT 2**

**TERMINATION SERVICES**

**1. Terminating Networks / Country, & Rate (USD/min)**

On a per calendar month basis, shall charge according to Table 1 tariff:

Table 1 Tariff

Terminating Network/Hong Kong	Conversation Minute (Minute)	Tariff (USD/minute) *
Mobile Network of	1 – 799,999	0.0042
	800,000 – 1,599,999	0.0040
	1,600,000 - 2,399,999	0.0037
	> 2,399,999	0.0034

\* The same tariff rate applies back to the first minute of the month

The rates contained above are for the countries contained above and are shown in terms of full minutes and are billed in one (1) second increment with an initial one (1) second minimum.

2. **Meeting Point.** is responsible for all access and related costs to connect to designated site through the public Internet or any other interconnection point as mutually agreed by the Parties from time to time in writing (“ Meeting Point”).
3. **Network Specifications.** shall disclose all relevant Network Specifications relevant to the respective provision of their Termination Services upon signing this Agreement to ensure the most up to date network information is available for interconnection:
4. **Minimum commitment:** None