

## Table of contents

- International Private Leased Circuit (IPLC) Service

**FIXED TELECOMMUNICATIONS NETWORK SERVICES LICENCE**  
**TELECOMMUNICATION ORDINANCE (CHAPTER 106)**

In accordance with General Condition 7 of the Fixed Telecommunications Network Services Licence, C2C(Hong Kong) Limited (“C2C”) hereby publishes the tariff, terms and conditions under which it will provide the following telecommunication services.

**Services : International Private Leased Circuit (“IPLC”)**

C2C offers full circuit, point-to-point dedicated clear channel circuits between C2C’s point of presence in Hong Kong and other point of presence in other countries. C2C can arrange upon customer request and subject to availability and C2C’s acceptance of such request, one-stop ordering and billing of local loop in both Hong Kong and the distant end in the other countries.

**Charges (C2C PoP to C2C PoP, excluding local loop)**

	Installation charges	Monthly Rental
	Japan, Korea, Taiwan USA, Singapore	China, Philippines
E1	US\$5,000	US\$ 5,000
DS3	US\$10,000	US\$28,000
STM1	US\$15,000	US\$48,000
		US\$8,000
		US\$70,000
		US\$150,000

**Terms and Conditions**

**1. Definition and Interpretation**

1.1 In these Terms and Conditions, the following words and expressions shall have the following meanings:

“**Affiliate**” means any other entity that controls, is controlled by or is under common control with that person;

“**Agreement**” means these terms and conditions and the SRCA(s).

“**Applicable Law**” means all laws, rules, regulations, standards and codes and any lawful and binding direction of a relevant Government Agency in the relevant country(s) where the Services are to be provided

“**C2C**” means C2C(Hong Kong) Limited or its Affiliates (as C2C(HK) Limited shall, in its absolute discretion decide) with whom the Customer has contracted to provide the Services in accordance with the terms of this Agreement, and includes the successors and permitted assigns of the applicable party;

“**Charges**” shall mean the charges payable by the Customer to C2C in respect of the Services as set out in the SRCA and as prescribed by C2C from time to time;

“**Customer**” shall mean the subscriber of the Services in accordance with the terms of this Agreement and includes its successors and permitted assigns;

“**Commencement Date of Service**” shall have the meaning set out in Clause 3.1;

“**Date of Service Required**” shall mean the date as specified in the SRCA;

“**Government Agency**” means a government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

“**Initial Contract Term**” means the minimum period of provision of the Services, as so specified in the SRCA;

“**Loss**” means any loss, cost, damage, expense, liability and charge;

“**Renewal Term**” means the term for which the Services are provided subsequent to the expiry of the Initial Contract Term;

“**SRCA**” means the “Service Request-Cum-Application for International Private Leased Circuit Service” Form in such form provided by C2C and completed by Customer;

“**Services**” means provisioning, maintenance, and procuring of an International Private Leased Circuit (“IPLC”) between the terminating points as set out in the SRCA and shall include Additional Services as and when such Additional Services are provided pursuant to the terms herein.

“**Taxes**” shall have the meaning set out in Clause 6.8 herein;

“**Term**” shall mean the Initial Contract Term or any renewal or amendment thereof as the case may be;

1.2 The headings or titles to the Clauses in this Agreement are to facilitate reference and shall not be referred to or relied upon in the construction of any provision of these terms and conditions.

**2 Scope of the Agreement**

2.1 Under this Agreement, C2C shall provide or procure circuits or other equipment and facilities required to establish an end-to-end connectivity from the terminating points set out in the SRCA. Where the regulations, legal environment or any carrier or other service provider of any relevant country so requires, the Customer

shall appoint C2C as its agent to order, purchase, hire or lease any services, equipment or facilities at any relevant terminating territory.

2.2 Customer acknowledges that C2C enters into this Agreement as agent for its Affiliates and partners who possess the necessary licenses, authorisations and approvals to provide the Services within the respective jurisdictions. In the event that one or more of such Affiliates and partners will provide services or billing under this Agreement, the names of such Affiliates and partners shall be as informed by C2C to Customer. The relevant Affiliates and partners will perform all functions required under the terms of its license with respect to the provision of the Services in the relevant jurisdiction. Customer acknowledges that as of the date of this Agreement, C2C may not have all necessary permits in each jurisdiction in which the Services are provided. Accordingly, Customer nominates C2C as its agent and attorney to execute such other agreements with the relevant C2C local agent.

### **3 Commencement and Duration of Services**

3.1 The Services shall commence on the Date of Service Required, as set out in the SRCA. In the event that C2C is unable to provide the Services on the Date of Service Required, the Services shall commence on such date as specified by C2C in writing (hereinafter referred to as "**Commencement Date of Service**").

3.2 The minimum period of subscription shall be the Initial Contract Term as selected by the Customer in the SRCA. The Initial Contract Term shall commence on the Commencement Date of Service or Date of Service Required, whichever is the later. Thereafter, the Agreement shall automatically continue in force in accordance with this Agreement for a Renewal Term corresponding with the duration of the Initial Contract Term, unless (a) this Agreement had been terminated in accordance with the terms hereof, or (b) the Customer notifies C2C in writing one (1) calendar month prior to the expiry of the Initial Contract Term of its intention either not to renew the Agreement upon the expiry of the Initial Contract Term or change the length of the Renewal Term.

3.3 During the Initial Contract Term, the Customer must subscribe to at least one IPLC for the full period of the Initial Contract Term. In addition thereto, the Customer may subscribe for additional IPLCs on the terms and conditions herein contained except that the duration for such additional IPLCs may be at the Customer's discretion.

### **4 Additional Services**

4.1 The Customer may request for additional features or services ancillary to those provided under this Agreement ("**Additional Services**"), and upon confirmation by C2C in writing or by the provision by C2C of the Additional Services, the terms and conditions of this Agreement shall be deemed to apply to the provision of the Additional Services and the Customer shall be bound by the same as if the Customer has executed a written agreement for those Additional Services with C2C, unless C2C specifies otherwise in writing to the Customer.

4.2 All requests for the Services contained in any correspondence or document(s) exchanged between the parties hereto subsequent to this Agreement shall form an integral part of this Agreement.

4.3 The parties acknowledge that C2C's bill and invoice shall be conclusive evidence of the Customer's request for any Services and the provision of the same by C2C.

### **5 Agency**

5.1 The Customer hereby appoints C2C as its duly authorised agent ("**Agent**") and gives C2C full power and authority to order, purchase and/or lease any local or international private wire or data lines or any services or facilities on the Customers' behalf from any carrier or telecommunications service provider to enable C2C to provide the Services herein, if so required by such telecommunication service provider or any laws or regulations applicable to the provision of Services.

5.2 The Customer confirms that the Customer will and does hereby adopt, ratify and be liable for all that C2C does or would do pursuant to the agency hereby granted to C2C ("**Agency**"). The Customer hereby agrees that it shall execute all such documents, deeds or instruments that may be required to be executed in order to effect or perfect the Agency hereby created.

5.3 The Customer hereby agrees that the Agency created pursuant to this Clause shall remain in force until revoked by the Customer with a notice given to and acknowledged in writing by C2C. Revocation of the Agency shall be subject to any rights of C2C under this Agreement, law or equity for the recovery of any damages, costs, expenses or indemnity from the Customer by C2C and arising both before and after the effective date of revocation.

5.4 The Customer hereby warrants that there are no legal or other impediments to the creation and the existence of the Agency hereby created and agrees to indemnify and keep indemnified in full C2C against any damages, costs or expenses which C2C may suffer or incur by reason of a breach of this warranty.

### **6 Payment**

6.1 The charges, fees and rentals for the Services and/or equipment, as the case may be, shall be at rates prescribed by C2C from time to time and payable in advance or at such other time in accordance with C2C's

policy, schemes of service, or requirements. C2C shall bill for such charges quarterly in advance. The charges, fees and rentals for the Services and/or equipment shall commence from the Date of Service Required or Commencement Date of Service, whichever is the later. Without prejudice to Customer's right to raise any disputes against amounts charged by C2C as set out in Clause 6.2 below, in the absence of manifest error, C2C's bill shall be conclusive evidence of the Customer's request for Services and the provision of the same by C2C and all charges, fees, costs payable by Customer in relation thereto.

6.2 The Customer shall be liable for and shall promptly pay on demand all charges, fees, rentals, costs or other amounts whatsoever as shown in C2C's bill. Customer shall pay all amounts within thirty (30) days of the date of the invoice. Notwithstanding any bona fide dispute that the Customer may have, Customer shall not be entitled to withhold, set off or deduct any portion of the amount due, but shall still pay all amounts due within the thirty (30) day period. Where Customer should have a bona fide dispute, Customer shall provide to C2C a dispute notice within ten (10) days of the date of the invoice stating the particulars of the dispute and reasonable supporting documentation for such dispute. The parties shall use their best efforts to resolve such a dispute within thirty (30) days, and if no resolution has been reached, the parties shall resolve such dispute in accordance with Clause 16.

6.3 In the event that the amount due to C2C as stated in C2C's bill or any part thereof remains unpaid after the due date, C2C reserves the right to charge interest on the sum that remains unpaid as aforesaid at the rate of five (5) percent per annum above LIBOR (London Inter Bank Offered Rate which is the rate displayed on Telerate page "3750" at or around 11:00am (London time) on the second Business Day before the invoice due date for US Dollar deposits over a ninety (90) day period (expressed as a rate per cent per annum and rounded up to five (5) decimal places)) as so determined by C2C.

6.4 Without prejudice to Customer's right not to renew upon the expiry of the Initial Contract Term, in the event that the Customer cancels any order after the same has been accepted by C2C during the Initial Contract Term for any reason whatsoever, the Customer shall be liable to pay liquidated damages of 100% of the charges that would have been payable for the Initial Contract Term and/or Renewal Term. Such liquidated damages shall be payable in accordance with Clause 6.2 above. The parties specifically agree that such liquidated damages are a genuine pre-estimation of loss and not a penalty. Such liquidated damages shall be recoverable by C2C as a debt and not a contractual claim. The foregoing remedies shall be in addition to and not exclusive of any other rights or remedies which C2C may have under this Agreement, at law or in equity.

6.5 Where a completion date for any item of works to be carried out under an order has been confirmed by C2C and the Customer requests for a change of the completion date to a date after the said confirmed date, the Customer shall be liable to pay a reservation fee, if any, at C2C's prescribed rates for the same, as so determined by C2C. C2C shall have sole discretion to determine such reservation fees, and Customer shall make payment pursuant to Clause 6.2 above. For the purposes of this clause, the period of reservation shall be the period between the originally confirmed date to the date when the aforesaid item of works has been completed.

6.6 For the purposes of Clauses 6.4 and 6.5 hereof, any order shall include, without limitation, new provision of service, relocation of Services and/or equipment or any other requirement whatsoever in connection therewith.

6.7 In the event that C2C's staff and/or authorised agents have been called upon to attend to a fault at the Customer's premises, C2C reserves the right to impose charges for the visit if the fault is not attributable to any of C2C's equipment or networks, unless otherwise mutually agreed by both parties.

6.8 Except as provided for otherwise, the Customer shall be responsible for all taxes, duties, levies, and other similar charges (and any related interest and penalties), however designated (hereinafter referred to as "**Taxes**"), arising out of or in connection with this Agreement, including but not limited to, any tax which the Customer is required to withhold or deduct from payments to C2C. The Customer shall pay such Taxes as are necessary to ensure that C2C receives a net amount equal to the amount which C2C would have received had the payment not been made subject to such Taxes. In the event that C2C is required to pay Taxes for supply of the Services or anything incidental thereto, the Customer shall pay to C2C, in addition to any amount payable under this Agreement, the amount of Tax chargeable on the supply.

6.9 Upon request by C2C, Customer will provide reasonable documentation as specified by C2C to show its financial circumstances. If Customer's financial circumstances or payment history is or becomes unacceptable to C2C, Customer must (a) procure its parent company, shareholders and/or directors to issue guarantees in a form acceptable to C2C; and (b) provide further deposit, irrevocable letter of credit, bank guarantee or other form of security in the form and manner directed by C2C in writing from time to time within fourteen (14) days notice from C2C.

7.1 The Services may be terminated by either party after the Initial Contract Term by giving to the other party thirty (30) days prior written notice. Any Charges applicable to the termination of the Services will be payable as stated in this Agreement.

7.2 Notwithstanding Clause 7.1 hereof, the Services may be summarily terminated by C2C without any liability to the Customer in damages or otherwise for such termination:

- (a) if, in the reasonable opinion of C2C, the Customer has breached any of the terms and conditions herein contained and/or the terms and conditions applicable to any telecommunication service subscribed by the Customer from C2C or has provided any information which is incorrect or incomplete that has an adverse effect on C2C; or
- (b) if, in the reasonable opinion of C2C, the Customer has used, the Services and/or equipment in contravention of any law or to cause any annoyance, embarrassment, harassment, disturbance or nuisance of any kind whatsoever and to whomsoever or if it is not in the public interest to continue providing the Services to the Customer for any reason(s) whatsoever.

The termination of this Agreement pursuant to this clause shall be without prejudice to C2C's right to claim any damages, losses or expenses which C2C may have under this Agreement, at law or in equity.

7.3 C2C may terminate this Agreement by notice in writing if the Customer, being a corporation, shall have a winding up petition presented against it or shall have a receiver and/or manager or judicial manager appointed, or being an individual or a firm, shall have a receiving and/or adjudicating order made against him or has made a composition and/or arrangement with or for the benefit of his creditors.

7.4 In the event that either party ("Defaulting Party") commits a material breach of this Agreement, the other party ("Terminating Party") may terminate the Agreement by a notice in writing if the Defaulting Party does not rectify the breach which is capable of rectification (other than the Customers' obligation to pay the Charges which shall not be subject to such rectification procedure) within thirty (30) days of the notice from the Terminating Party identifying the breach.

7.5 C2C may, without prejudice to any other rights or remedies of C2C and notwithstanding any waiver or any waiver of any previous breach, suspend the Services or all services in the event that any monies payable by the Customer for those Services, any other service or under any other agreement(s) including any monies payable for any services provided by any other party whereby C2C derives a pecuniary or other benefit and/or acts as a billing and/or collecting agent for the same for such other party whether for reward or otherwise, are in arrears or any amount shown in C2C's bill is not settled in full. Such suspension shall be deemed to terminate the Services suspended as from the date of the suspension and the Customer shall be liable in accordance with the following:

- (a) The Customer shall be liable for the (i) charges, fees and rentals up to and including the date of suspension of such Services, whether invoiced or uninvoiced; (ii) 100% of the charges, fees and rentals for the period between the date of suspension/termination and the expiry date of the Initial Contract Term or the Renewal Term, whichever is later; and
- (b) Notwithstanding the aforesaid, upon subsequent payment by the Customer of such sums as demanded by C2C, C2C may if it deems feasible, at its sole option and subject to such terms as it deems proper, reconnect the Services, in which event this Agreement and/or the Services thereby affected shall continue as if the same has not been terminated. In the event that the Customer has paid the amount charged by C2C in accordance with Clause 7.5 (a), and where C2C should agree to reconnect the Services, C2C shall provide the Services for such appropriate period as so determined by C2C without requiring further payments to be made by Customer.

**7.6 Liability on Termination**

7.6.1 In the event that the Services are terminated by C2C otherwise than by reason of breach of the Agreement by the Customer, the Customer shall continue to be liable to pay C2C all charges, fees, and rentals due up to and including the effective date of the termination. In the foregoing circumstances, C2C's liability to the Customer, if any, shall be as specified in this Agreement.

7.6.2 In the event that this Agreement is terminated by C2C pursuant to Clauses 7.2 and/or 7.4 hereof, the Customer shall continue to be liable to C2C to pay all charges, fees and rentals incurred up to and including the effective date of the termination together with all charges, fees and rentals, at such a prescribed rate by C2C, and all charges, fees and rentals that would have been payable by the Customer to C2C for the remainder of the Initial Contract Term or the Renewal Term (whichever is applicable), of the Agreement had this Agreement not been terminated as aforesaid. Customer shall further indemnify C2C for all Loss incurred as a result of such termination, including the payment of any termination charges and fees to third party suppliers or service providers so incurred by C2C in respect of the Services rendered pursuant to this Agreement.

7.6.3 In the event of termination of the Services by the Customer, the Customer's liability shall be as follows:

- (a) where notice given is in accordance with Clause 7.1:

- (i) the (x) charges, fees and rentals up to and including the date of termination of such Services, whether invoiced or uninvoiced; and (y) 50% of the charges, fees and rentals for the period between the date of termination and the expiry date of the Initial Contract Term or the Renewal Term, whichever is later; and
- (ii) the charges incurred by C2C in respect of the Services rendered by C2C (including any termination charges or fees payable to third party suppliers or service providers) up to and including the date of termination.

(b) where notice given is not in accordance with Clause 7.1:

- (i) the (x) charges, fees and rentals up to and including the date of suspension of such Services, whether invoiced or uninvoiced; and (y) 100% of the charges, fees and rentals for the period between the date of termination and the expiry date of the Initial Contract Term or the Renewal Term, whichever is later; and
- (ii) the charges incurred by C2C in respect of the Services rendered by C2C (including any termination charges or fees payable to third party suppliers or service providers) up to the end of the duration of notice required to be given in respect of the Services sought to be terminated.

7.7 In the event that a deposit and/or advance payment is made by the Customer, C2C will apply such deposit/advance payment towards the payment of any monies owed by the Customer to C2C hereunder or otherwise, and if there are any remaining amounts subsequent to such application, will refund such remaining amounts without interest to the Customer.

7.8 In the event of a termination of this Agreement, in addition to the Customer's liability specified in Clause 7.6 above, the Customer shall be liable to pay C2C, if any, amounts that C2C will have to pay to any provider of any telecommunication service and/or a carrier at the terminating territory(s) arising out of or in connection with such termination.

7.9 The foregoing remedies shall be in addition to and not exclusive of any other rights or remedies, which C2C may have under this Agreement, at law or in equity.

## **8. Parties' Responsibilities**

A. The Customer shall:

- 8.1 obtain the prior written approval of C2C before connecting any equipment to C2C's telecommunication systems or equipment except where C2C has announced that such approval is not required.
- 8.2 obtain prior written approval of C2C if he contemplates using the Services and/or equipment for any activity whatsoever which is likely to generate a change in traffic in excess of his normal usage and/or is likely to cause congestion in C2C's telecommunication systems or equipment.
- 8.3 carry out adjustments, modifications, alterations or replacements, at his own expense, to any equipment not belonging to C2C, which is connected to C2C's telecommunications systems or equipment, when so required by C2C.
- 8.4 keep the equipment belonging to C2C, if any, in good condition, fair wear and tear and latent defect only excepted, and shall be fully responsible for the loss or damage to the same arising from Customer's act or omission. In the event that this Agreement is terminated, the Customer shall remain responsible for the safe custody of any equipment belonging to C2C until such time that the same is recovered by C2C within a reasonable time. For avoidance of doubt, Customer shall be responsible for maintaining appropriate insurance policy over the equipment belonging to Customer.
- 8.5 provide at his own expense, when so required by C2C, all facilities and/or resources whatsoever necessary for the proper installation, operation and maintenance of the Services and/or equipment, such as, but not limited to, power points, electricity, conduits, pipes, access, licence, wayleaves, or easement.
- 8.6 promptly comply with all notices, instructions or directions given by C2C in respect of the installation, use or operation of the Services and/or equipment.
- 8.7 be responsible for ensuring that all requests for any Services are duly authorised by the Customer. Any request(s) for Services shall be deemed to be duly authorised by the Customer and the Customer shall be liable for the same if the Services are provided by C2C and C2C receives no immediate objection thereto from the Customer upon provision of the Services by C2C.
- 8.8 permit C2C's authorised personnel to enter and remain on the Customer's premises and every other place under his control at all times with reasonable prior notice and for any reasonable time to carry out any inspection which C2C deems necessary for the purpose of determining whether the Customer is using the Services in accordance with the terms of this Agreement or for any other purpose which C2C deems appropriate, including the recovery of any equipment belonging to C2C upon termination of this Agreement or any Services provided hereunder.
- 8.9 promptly comply with C2C's advice to upgrade, at his own expense, the existing facilities, which in the opinion of C2C are inadequate to cope with his telecommunications traffic and/or likely to cause congestion in C2C's telecommunications system or equipment.

8.10 be solely responsible for, and accordingly be solely liable for, obtaining and maintaining in his own name and at his own cost, throughout the duration of this Agreement, all licences, permits, consents, authorizations and intellectual property or other rights required to comply with Customer's obligation under this Agreement for the Services and for ensuring the due compliance with any regulatory or other requirements whether at law or otherwise to fulfil his obligations under this Agreement.

8.11 not use, attempt to use nor permit any other person whomsoever to use, the Services in breach of any laws or regulations whatsoever.

B. C2C shall:

8.12 be solely responsible for, and accordingly be solely liable for, obtaining and maintaining in his own name and at his own cost, throughout the duration of this Agreement, all licences, permits, consents, authorizations and intellectual property or other rights required to comply with C2C's obligation under this Agreement for the Services and for ensuring the due compliance with any regulatory or other requirements whether at law or otherwise as service provider under this Agreement.

8.13 promptly comply with all notices, instructions or directions given by the applicable Government Agency in respect of the installation, provisioning or operation of the Services and/or equipment .

## 9 **Indemnity**

9.1 Subject to Clause 10, each party ("**Indemnifying Party**") undertakes and agrees to indemnify and hold harmless the other party ("**Indemnified Party**") at all times against all actions, claims, proceedings, costs, losses and damages whatsoever including but not limited to libel, slander or infringement of copyright or other intellectual property rights or death, bodily injury or property damage which the Indemnified Party may sustain, incur or pay, or, as the case may be, which may be brought or established against the Indemnified Party by any person whomsoever arising out of or in connection with or by reason of a breach of this Agreement by such Indemnifying Party.

## 10 **Limitation of Liability**

10.1 **Exclusion.** Except where to do so would contravene any statute, law, regulation, licence or permit or would cause any part of this Agreement to be void or unenforceable, C2C excludes:

- (a) liability for any Losses incurred by the Customer due to any delay in completion, failure or breakdown of the facilities constituting the Services, or any delay in activation, interruption of the Services, regardless of the cause or duration of such delay;
- (b) all terms, conditions and warranties implied into this Agreement by any statute or otherwise.

10.2 **Limitations of liability.** To the extent permitted by legislation, C2C limits its liability (at its sole discretion) as follows:

- (a) in the case of services:
  - (i) the re-supply of the Services ; or
  - (ii) the payment of the cost of having the similar services supplied by alternative means; or
- (b) in the case of goods:
  - (i) the replacement of the goods or the supply of similar goods;
  - (ii) the repair of the goods; or
  - (iii) the payment of the cost of having the goods repaired.

10.3 Notwithstanding anything herein contained, C2C's entire liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising out of or in connection with this Agreement (except in relation to death or personal injury caused by the negligence of C2C or its employees while acting in the course of their employment) shall be limited to 20% of the recurring Charges that would have been payable by the Customer to C2C for the remainder of the unexpired Initial Contract Term or the Renewal Term, whichever is applicable.

10.4 In the event that there is a failure, disruption or degradation of Services owing to a fault not attributable to C2C, C2C shall use its reasonable endeavor to restore Services as soon as reasonably practicable. In the event that C2C is unable to restore Services within seven (7) calendar days, the Customer may terminate this Agreement and such termination shall be its sole remedy against C2C. In the foregoing event, the Customer's liability to C2C for such termination shall be to pay the rental and any other Charges due up to and including the effective date of termination.

10.5 In the event that there is a failure, disruption or degradation of Services owing to a fault, which is attributable to C2C, the Customer may terminate the Agreement. In such an event, C2C's entire liability to the Customer, irrespective of the cause of action, shall be as specified in Clause 10.3 above and the Customer's liability to C2C shall be to pay all Charges and rental due up to and including the effective date of termination.

10.6 In event that any portion of the Services that are not being provided by C2C, but have been procured by C2C pursuant to the terms of this Agreement (including but not limited to any local leased circuits) are terminated, suspended, disrupted or otherwise affected for any reason, C2C shall not be liable to the Customer for the

resulting termination, disruption or failure of Services and the Customer shall continue to be liable for all Charges payable by the Customer under this Agreement notwithstanding the termination, disruption or failure of Services.

10.7 Notwithstanding anything herein contained, C2C shall not be liable to the Customer in contract, tort (including any negligence whatsoever) or otherwise in respect of any claim brought by a third party nor shall C2C be liable to the Customer or any third party whomsoever for any indirect, special or consequential damages including without limitation, loss of business, loss of revenue or loss of profit whether or not C2C should have been aware of the possibility that such damage or loss could occur.

**11 Variation**

11 C2C reserves the right to amend the terms and conditions herein contained. Notice of the amendment may be given by C2C to the Customer not later than fourteen (14) calendar days prior to the intended effective date of such amendment. If the Customer continues to use the Services after such notice, the Customer shall be deemed to have accepted the amendment.

**12 Waiver**

12.1 Any failure at any time by C2C to enforce any of the provisions of this Agreement shall neither be construed as a waiver of any rights or remedies hereunder nor in any way affect the validity of this Agreement or any part of it. No waiver by C2C shall be effective unless given in writing and no waiver of a breach of this Agreement by C2C shall constitute a waiver of any antecedent or subsequent breach.

**13 Confidentiality**

13.1 Neither party shall disclose to any third party any information which either party has identified as confidential and where the same comes to its knowledge, by reason of or in connection with this Agreement or the Services provided hereunder, without the prior written consent of the other party.

**14 Force Majeure**

14.1 Neither party shall be held in breach of its obligations hereunder (except in relation to obligations to make payments hereunder) nor liable to the other party for any loss or damage which may be suffered by the other party due to any cause beyond its reasonable control including without limitation any act of God, failure, interruption or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out, trade disputes or labour disturbances, acts or omissions of the Government, other telecommunications operators or other competent authority(ies), war, military operations or riots.

**15 Assignment**

15.1 The Customer shall not assign or delegate or otherwise deal with all or any of his rights and obligations under this Agreement without the prior written consent of C2C, which consent shall not be unreasonably withheld or delayed. Notwithstanding the above, either party is at liberty to transfer, upon prior written consent of another party which shall not be unreasonably withheld, any right, title or property interest in this Agreement or any part of it to its holding, subsidiary or associated company or to any surviving entity or transferee upon any merger or consolidation involving either party or upon any sale of all or substantially all of the assets of either party or to one or more financial institutions, lenders, creditors and export credit agencies as collateral security for financing provided to such party or in connection with a sale of receivables by such party. A party assigning its rights hereunder shall give written notice of such assignment to the other party within five (5) days after any such assignment.

15.2 Notwithstanding Clause 15.1, C2C shall have the right to assign or otherwise delegate all or any of C2C's rights and/or obligations hereunder to any of its subsidiaries or any other person or entity upon notification to the Customer.

**16 Laws Applicable and Jurisdiction**

16.1 This Agreement shall be subject to and construed in accordance with the laws of Hong Kong.

16.2 Upon the occurrence of any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof, either party hereto may by issuing to the other party a written notice, require the parties to use their best efforts to resolve such dispute, controversy or claim in the spirit of co-operation and mutual benefit. If the dispute, controversy or claim is not resolved within fourteen (14) days of service of the said notice, then the vice presidents of the parties shall meet to attempt to resolve such dispute, controversy or claim. In the event the parties are unable to resolve such dispute, controversy or claim within thirty (30) days of service of said notice, then the parties agree that such dispute, controversy or claim shall be finally settled by arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law as at present in force and as may be amended from time to time. For the purposes of such arbitration unless both the parties agree to the selection of one (1) arbitrator, there shall be one (1) arbitrator selected by each party and another one (1) arbitrator selected by the parties' arbitrators in accordance with the Arbitration Rules. The place of arbitration shall be Singapore, and all arbitration proceedings shall be conducted in the English language. The parties accept that any award made by the arbitrators shall be final and binding on the parties. Judgment upon an arbitral award rendered hereunder

may be entered by any court having jurisdiction, or application may be made to any such court for a judicial acceptance of such award and an order of enforcement, as the case may be.

**17**

**Miscellaneous**

17.1 All invoices, notices and communications by C2C to the Customer may be made to the Customer by delivery, post, email or facsimile transmission or any other means as deemed appropriate by C2C to the email or other address or facsimile number appearing in any record of the Customer maintained by C2C or from any communication by the Customer to C2C that was despatched or issued by an employee or agent so known to C2C. Any such bill, notice, demand or communication addressed and so despatched to the Customer shall be deemed to have been received by the Customer:

- (a) in the case of dispatch by e-mail or facsimile transmission or other instantaneous electronic communications, immediately upon transmission by C2C;
- (b) in the case of dispatch by delivery to the address of the Customer, on the date and at the time it was so delivered or left at that address; and
- (c) in the case of dispatch by post: on the third day after the date of mailing.

17.2 All notices and requests from the Customer to C2C shall be in writing in the English language unless C2C specifies to the Customer otherwise. C2C shall be entitled to regard as ineffective and invalid any notice or request of the Customer the receipt of which by C2C has not been confirmed by C2C to the Customer.

17.3 Words importing persons shall include firms or corporations and words importing the singular only shall include the plural and vice versa. Words importing the masculine gender only shall include the feminine and vice versa and the neuter gender.