

**Tariff No. U004-004 Published on 1 December 2010**

**UNIFIED CARRIER LICENCE  
TELECOMMUNICATIONS ORDINANCE (Chapter 106)**

**Hutchison Telephone Company Limited ("HTCL")**

**1. Name of Tariff**

3 Service Terms and Conditions and 3 Hong Kong Service Usage Policy

**2. Effective date:**

1 October 2010

**3. Description of Tariff**

3 Service terms and conditions and 3 Hong Kong Service Usage Policy

### **3 Service Terms and conditions**

#### **1. About these Customer Terms and your agreement**

- 1.1 These Customer Terms for 3 Services "Customer Terms" are the general terms and conditions on which we supply 3 Services.
- 1.2 These Customer Terms are our Standard Form of Agreement, which, along with any other terms that you agree to, are binding on you and us. The Standard Form of agreement is available on our website at [www.three.com.hk](http://www.three.com.hk).
- 1.3 Your agreement with us is made up of these Customer Terms and other terms contained in the documents we produce (such as "3 Hong Kong Service Usage Policy") and any application or agreement forms you sign. We may also display other terms of use on your Mobile phone.
- 1.4 When we say:
  - (a) "we", "us" or "our" we mean Hutchison Telephone Company Limited trading as 3 Hong Kong;
  - (b) "you", "your", we mean you, our customer; and
  - (c) "agreement" mean your agreement with us for the supply of 3 Services.
- 1.5 We have also set out in Section 16 some useful definitions of words we use in these Customer Terms.
- 1.6 Your agreement with us commences when we connect you.
- 1.7 Your agreement is personal to you. Unless we give you written consent, you remain responsible for complying with your agreement and you may not pass any of your rights or responsibilities to anyone else, even if you give them your Mobile phone, Other Device or USIM.
- 1.8 Your agreement does not cover any other services while using 3 Services.

#### **2. Variations to your agreement**

- 2.1 Subject to Section 2.3, we reserve the right to vary, amend, modify or delete any of the terms and conditions of your agreement or add new terms and conditions to your agreement.
- 2.2 Subject to any Licence requirement or direction issued by the Telecommunications Authority, we will send notice of any variation, amendment, modification, deletion or addition of any terms and conditions to you in accordance with Section 14.
- 2.3 We must give not less than 30 days' prior notice in respect of any variation, amendment, modification, deletion or addition which is not favourable to you.

#### **3. What we will provide to you**

##### **A USIM and Account**

- 3.1 We will open an Account for you and provide you with a USIM and, except where you have transferred your previous mobile number to us, a new mobile telephone number and other service numbers, if applicable.

- 3.2 The USIM remains our property and we may recall it at any time for upgrades, modifications and/or when your agreement ends.
- 3.3 You shall not tamper or allow any other person to tamper with your Mobile phone, Other Device and/or Accessory by unauthorised means and shall not copy or allow any other person to copy any pre-programmed data of any USIM.

### **3 Services**

- 3.4 Once you are Connected, we will provide you with access to 3 Services. 3 Services include the following services if you have requested them and we approve
  - (a) Optional Services; and
  - (b) Age Restricted Services, provided that you are 18 years of age or over.
- 3.5 Details of 3 Services are contained in our Services Guide.
- 3.6 You will also be able to upload and send your own content using the 3 Services. You grant us a royalty free, perpetual and world-wide licence to store, transmit or otherwise deal with any content you upload on the 3 Services. For example, if you choose to use the POP3 polling features in our Messaging Services, you are appointing us as your agent for enabling the POP3 polling services to be provided to you.
- 3.7 We may change or withdraw some, or part of, 3 Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing Content Providers and the need to remove, replace or modify Content.

### **Limitations to 3 Services**

- 3.8 We will always try to make the 3 Services available to you. However, 3 Services are only available within the 3 Network coverage area and limited 3 Services are available while Roaming. Within the 3 Network coverage area, there may be places where access to 3 Services is limited or unavailable.

### **Limitations when Roaming**

- 3.9 Roaming may occur when you are outside of the 3 Network coverage area in Hong Kong, or at places within the 3 Network coverage area and reception is unavailable. When overseas, you may roam in countries where we have Roaming arrangements in place.
- 3.10 When roaming, you will not have access to all 3 Services.

### **Limitation of Liability when Roaming**

- 3.11 If you use 3 Services in a country or region other than Hong Kong, your use of the 3 Services may be subject to laws, customs and regulations which apply in that country. In this case, it is your responsibility to ensure that use of 3 Services will not violate any such laws, customs and/or regulations and, we shall not be liable for your failure to comply with those laws, customs and/or regulations.

### **Disruptions to 3 Services**

- 3.12 We cannot guarantee fault-free service. There may be situations where 3 Services are not continuously available or information is not duly transmitted to, and received by, you or the quality is affected, for example:
- (a) when we need to perform any upgrading, maintenance or other work on the 3 Network or 3 Services;
  - (b) calls and data sessions may not be maintained when you move from the 3 Network to the network of an Other Provider to facilitate local or international Roaming;
  - (c) because of factors outside our control, such as the features or functionality of your Mobile phone or Other Device, regulatory requirements, lack of capacity, interruptions to services from Other Providers and Content Providers, faults in other communications networks, the weather or radio interference caused by hills, tunnels or other physical obstructions; or
  - (d) where you are outside Hong Kong, or in areas not covered by the 3 Network in which case 3 Services relies on Other Provider networks which we have no control.

#### **4. Mobile phones, Other Devices and Accessories**

##### **Use of Mobile phones and Other Devices on the 3 Network**

- 4.1 A USIM in relation to mobile voice service subscription (whether or not the service subscription also includes, and whether or not the USIM is also provisioned to be used for, other 3 Services such as mobile data service) shall only be used on Mobile phones but not on other devices (such as dongles). The above shall apply to (i) new mobile voice service subscriptions made, and mobile voice service subscriptions that are renewed on a fixed term basis, after 1st October, 2010; and (ii) mobile voice service subscriptions that are renewed not on a fixed term basis effective from 1st December, 2010. If the USIM is used on any devices (such as dongles) other than a Mobile phone, it will constitute an unauthorised use of the Services under the "3 Hong Kong Service Usage Policy" and you will be in breach of that policy and we reserve our rights to take action against you.
- 4.2 Without prejudice to and subject to Clause 4.1 you may only use a USIM with Mobile phones or Other Devices that have been approved by us for use on the 3 Network and shall comply with all relevant legislation or regulations relating to such use.
- 4.3 If you use a USIM with any device and / or accessory that has not been approved by us for use on the 3 Network, you may not be able to utilise all or any of our 3 Services and you shall accept the limitations of such device and / or accessory in accessing any of our 3 Services, for which we shall not be held responsible in any respect. Furthermore, you must ensure that such use will not cause any damage or disruption to the 3 Network and / or in any way affect the use of 3 Services by our other customers.
- 4.4 You warrant and represent that you are the sole and beneficial owner of and have the absolute right, title and interest in the Mobile phone, Other Device and/or Accessory identified in the Application and that no other person has any interest in any of these equipment. You further undertake to indemnify us in full against all

direct and indirect losses, damages, claims, demands, proceedings, costs and charges whatsoever arising from your breach of this Section 4.4. This Section 4.4 shall survive the termination of this Agreement.

- 4.5 We may not register a Mobile phone or Other Device for your use on the 3 Network if we are aware or reasonably suspect that the Mobile phone or Other Device has been lost or stolen.

11.2(a) On 30 days notice if no Minimum Term

If you have not agreed to a Minimum Term, or the Minimum Term has expired, we can end your agreement at any time by giving you 30 days' written notice.

**Purchases directly from 3**

- 4.6 If you purchase a Mobile phone, Accessory or Other Device directly from us, you enter into an agreement with us for the purchase of those goods. We will retain ownership in all goods purchased from us until you have paid for them in full.
- 4.7 You will be responsible for any Mobile phone, Accessory or Other Device as soon as they are delivered to you. If you damage or lose any goods before you have paid for them in full, you will still be required to pay us for the full price of those goods.

**Purchases from other retailers**

- 4.8 If you purchase a Mobile phone, Accessory or Other Device from a retailer other than us (a retailer includes one of our authorised dealers) you enter into an agreement with that other retailer for the purchase of those goods and we are not part of that purchase agreement.

**Warranty**

- 4.9 The performance, quality and workmanship of any Mobile phone or Other Device may be subject to the manufacturer specifications and warranty.
- 4.10 Unless otherwise stated in the manufacturer warranty terms, the Mobile phone or Other Device warranty is conditional upon:
- (a) the Mobile phone or Other Device being operated, handled and repaired in accordance with any manual or written instructions of the manufacturer or us;
  - (b) the Mobile phone or Other Device having been properly stored or maintained by you; and
  - (c) the Mobile phone or Other Device not being modified without our prior written consent.
- 4.11 The Mobile phone or Other Device warranty does not apply to any used or second hand goods and does not cover damage, malfunction or failure resulting from misuse, neglect, abuse, use for a purpose for which the relevant Mobile phone was not designed or is not suited, normal wear and tear.
- 4.12 If a Mobile phone, Other Device or Accessory purchased by you is faulty or not functioning, it will be your responsibility to arrange, at your cost, to have it repaired or replaced so you can continue to use 3 Services.

**5. Your Obligation Pay your bills**

- 5.1 You must pay us all Charges for 3 Services used on your Account, whether used by you or another person with or without your permission. Subject to the terms of our Licence, we may vary the rate of Charges and introduce new items of Charges at any time we think fit.
- 5.2 Your bill will normally include your fixed Charges for the next billing period and the usage and administrative Charges for the last billing period. The initial invoice may also contain a Charge for Connection. We shall have the right to change the basis or interval on and in which bills are issued.
- 5.3 Unless otherwise specified, payment shall be made without set-off or deduction on the date specified on your bill (or if such date is not specified within 14 days after the issuance of the relevant bill by us). However, we may also require an interim payment if we consider that you have exceeded a reasonable credit limit on your Account. We are not required to keep you informed of your usage prior to requesting an interim payment. We may also by notice require you to settle all Charges incurred immediately notwithstanding the relevant due date stated in your bill.
- 5.4 We may demand payment in writing, over the phone or by sending a message to you.
- 5.5 We reserve the right to introduce a fee for paying your Account using a credit card. If we introduce such a fee, we will provide you with sufficient notice of the fee and the date from which it will apply.
- 5.6 If you fail to pay your bill, or any interim payment, on time, you will be in breach of your agreement and we may charge interest at the rate of 2% per month on any outstanding amount, calculated on a daily basis from the due date of payment until the date on which payment is actually received by us in full and we may also Suspend or Disconnect you, and you will still have to pay your outstanding Charges, including the interest thereon and any fee for late payment. If we Suspend or Disconnect you and we agree to re-Connect you, you will be required to pay a re-Connection fee which will be added to your Charges.
- 5.7 If you dispute any of the Charges set out in your bill, you shall pay the entire amount of Charges and submit a written claim for the disputed amount within 15 days from the date of the relevant bill. In the event of such claims, our books and records shall be conclusive evidence of the Charges incurred and shall be binding on you.
- 5.8 You authorise us to :
- (a) set-off or transfer any sum standing to the credit of your account to discharge your liability to us under your agreement or any other arrangement between you and us;
  - (b) assign any unsettled billed amount to any contractual credit management organisation or collection agency employed by us for debt recovery; and
  - (c) use your credit and payment information for the purpose of this Section 5.8.
- 5.9 If we take legal or other collection action against you for non-payment of the Charges, we may require you to pay our reasonable costs and expenses (including legal costs) of taking that action with interest added daily.

- 5.10 If requested by us, you must deliver to us any Mobile phone or Other Device in full or partial settlement of any amount that you owe us and we will own that Mobile phone or Other Device.
- 5.11 Unless otherwise specified, any Charges paid in advance or billed monthly in advance may not be refundable in full or on a pro-rata basis upon termination of your agreement for any reason.
- 5.12 If you use the 3 Services to acquire goods and services from third parties, you are responsible for paying any bills they may send you.
- 5.13 You must pay all licence fees payable from time to time to the Hong Kong Government and other persons including but without limitation the various tunnel operators and MTR Corporation Limited in connection with your use of the 3 Services and (if applicable) any Mobile phone and/or Other Device in the manner specified by us from time to time.
- 5.14 Payment made by you shall first be applied in or towards payment of any deposit required under this Agreement; secondly, any outstanding interests; and thirdly, the Charges.
- 5.15 By applying for 3 Services, you undertake to provide your correct name, address and all other factual information. You warrant that:
  - (a) if the Account is in your name as an individual, even where you have also nominated a business name, you have full contractual capacity to agree to the agreement and are able to pay the Charges; or
  - (b) if an Account is established in the name of a company, the person that has opened the Account on behalf of the company is duly authorised to bind the company to the agreement.

#### **Secure your PIN, passwords and USIM**

- 5.16 You must keep your USIM safe and secure and we may charge you for any replacement USIM. You acknowledge that your USIM is used to store your personal details such as your address book and any personal information. If your USIM is lost or stolen, it is possible that another person may obtain unauthorised access to that information.
- 5.17 You must keep all PINs and passwords safe and secure. You should immediately change any default PIN or password if they are being used by someone without your permission.
- 5.18 We will allow anyone who can quote your PIN or password to access your Account details and make any changes to your Account or 3 Services.

#### **Responsible use of 3 Services**

- 5.19 You may only use 3 Services:
  - (a) as stated in your agreement; and
  - (b) for your own personal use. This means you must not resell or commercially exploit any of the 3 Services, Content, Mobile phones or Other Devices.
- 5.20 You shall not acquire any right or interest in any Content and must not disseminate, forward or distribute any Content to any third party or reproduce any

Content or use any Content for commercial, illegal or improper purpose. If you fail to comply with this obligation, you shall indemnify us for all losses and damages suffered by us as well as any third party claims against us arising from your breach.

- 5.21 You must not use 3 Services, or allow anyone else to use 3 Services, for illegal, improper, defamatory or unlawful uses. For example:
- (a) for fraudulent, criminal or other illegal activity;
  - (b) in any way which breaches another person rights, including copyright or other intellectual property rights;
  - (c) to copy, store, modify, republish or redistribute 3 Services or Content (for example ringtones), except where we give you permission;
  - (d) to download, send or upload content of an excessive size, quantity or frequency so that it causes problems for other users;
  - (e) in any way which breaches any security or other safeguards or in any other way which harms or interferes with the 3 Network or the networks or systems of others;
  - (f) to falsify or delete any author attributions, legal or other proper notices or proprietary designation or labels of the origin or source of software or other content contained in a file that you upload;
  - (g) to use your Mobile phone to record any telephone conversation without obtaining the consent of the other party/parties to the conversation that it is being recorded or publish a recorded conversation in any form;
  - (h) to create, use, copy, download or provide any directory of 3 Services users or any other user or usage information to a person or organisation, whether you are paid for this or not; and
  - (i) to send any message which is obscene or offensive in nature or is in a language that is not widely understood in Hong Kong.
- 5.22 You must always co-operate with us and follow our reasonable instructions to ensure the proper use and security of your 3 Services and Account.
- 5.23 You must comply with the laws, regulations and customs of Hong Kong and other applicable jurisdiction in relation to the use of 3 Services.

#### **Responsible use of Messaging and Storage Services**

- 5.24 While using the Messaging Services, you must not send or upload:
- (a) anything that is protected by copyright, unless you have permission of the copyright owner;
  - (b) unsolicited bulk or commercial messages or other unauthorised messages, or knowingly send any viruses; or
  - (c) anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.
- 5.25 You agree to comply with the procedures set out in the IOSMS Code when using the Messaging Services to send short messages of promotional or similar nature to any person (including companies, sole proprietorships, partnerships and other bodies corporate and whether such person subscribes to 3 Services or services provided by other service providers). In particular :



- (a) you shall not use the Messaging Services for sending short messages of promotional or similar nature to any person without such person prior consent;
  - (b) you shall be responsible for procuring the consent required under Section 5.25 (a) and shall provide us with evidence of such consent upon demand by us;
  - (c) if you send any unsolicited promotional message contrary to Section 5.25 (a) or if we receive any complaint that such message originates from you, you agree that we are entitled to :
    - (i) cease or refuse transmission or delivery of the relevant message upon us becoming aware of such message;
    - (ii) request you to respond to any complaint received by us and you shall provide us with a written response within 3 days of the relevant request;
    - (iii) suspend all short messages sent by you in accordance with the IOSMS Code;
    - (iv) carry out such investigation as we in our discretion think fit;
    - (v) where necessary, suspend the 3 Services provided to you, in whole or in part, as we may in our discretion think fit.
- 5.26 You are entitled to make a complaint against a sender of any unsolicited promotional short message. Complaints can be made orally, in writing, or by electronic means. Upon receipt of any complaint, we may :
- (a) collect and disclose to the relevant mobile network operator information on the relevant short message(s) including without limitation your mobile number, the date and time of receipt of the relevant message(s) and the contents of such message(s); and
  - (b) block any short message from the sender of the relevant short message(s) in accordance with the IOSMS Code.
- 5.27 We may put limits on the use of certain 3 Services, such as Messaging Services or Storage Services. For example, we may limit the size of messages or storage space.
- 5.28 While we have no obligation to monitor your use of Messaging Services or Storage Services, if you exceed our use limits or we are made aware that your use of these 3 Services is causing problems to the 3 Network, our storage capacity or other users, then we reserve the right to Suspend your use of those services.

#### **Responsible use of Age Restricted Services**

- 5.29 If you are under 18, you are not permitted to access our Age Restricted Services. If you are 18 or over and you access the Age Restricted Services, you must not show or send Content from the Age Restricted Services to any one under 18. You must also ensure that you have deactivated any access to Age Restricted Services if you let anyone under 18 use your Mobile phone or Other Device.

#### **6. Loss, Theft, etc.**

- 6.1 If your USIM or Mobile phone is lost, stolen or damaged, or you have sold or given away your Mobile phone, you will remain responsible for all Charges for 3

Services on your Account until such time as you ask us to Suspend the USIM or your agreement is ended in accordance with these Customer Terms. Also, you must report any loss or theft of your USIM or Mobile phone immediately upon you becoming aware of such loss or theft.

- 6.2 Subject to the payment of such Charges as we shall in our discretion determine, we will in our discretion provide you with a replacement USIM as soon as reasonably practicable if the USIM is lost, stolen or damaged.
- 6.3 We may but is not obliged to notify you if any lost or stolen Mobile phone, Other Device or Accessory owned by you is returned to us. If you fail to collect such Mobile phone, Other Device or Accessory within two months from the date of such notification, we shall be entitled to dispose of such Mobile phone, Other Device or Accessory in such manner as we deem fit and you shall be deemed to have waived all your rights to the Mobile phone, Other Device or Accessory and the proceeds (if any) received by us from such disposal. We shall not be under any liability whatsoever to you or any person for any cost, expense, loss or damages suffered or incurred by you or such other person arising out of or in connection with such Mobile phone, Other Device or Accessory or its disposal.

## **7. Privacy Policy**

- 7.1 You are entitled to ensure that we will only use your personal information in accordance with your agreement and our Privacy Policy. Our Privacy Policy will not conflict with our obligations under law.
- 7.2 Your application for 3 Services may be subject to a credit assessment, verification of your personal details and an employment check. If we regard these checks as unsatisfactory, we will not enter into an agreement with you. You warrant and represent that the information and other supporting documents provided in connection with your application are correct and complete and you must notify us promptly in writing any change in such information.
- 7.3 You agree that:
  - (a) we may collect information about the way you use 3 Services, your preferences, your location when using 3 Services, and who you contact and who contacts you while you use 3 Services;
  - (b) we may use your information to process your Application, create and maintain your Account, provide you with 3 Services, enable you to communicate using the 3 Network, collect your payments and prevent fraud and improper use;
  - (c) we may send you information about 3 Services and our products, including special promotions or offers from Content Providers;
  - (d) calls between you and Customer Care may be monitored and recorded by us for training, quality and contractual purposes; and
  - (e) we may share your information with other members of our group of companies, to our or their partners, associates, agents, contractors, or to possible successors of our business. These may include entities outside Hong Kong.
- 7.4 You have the right to request access to information held by us about your Account and to update and correct such information. Such request should be made in

writing to The Data Protection Officer, Hutchison Telecommunications (Hong Kong) Limited, PO Box 84289, Hung Hom Bay Post Office, Hong Kong. We reserve the right to impose a reasonable charge to cover the costs of complying with such request.

- 7.5 If you do not wish to receive any promotional communication, information or material, you should advise us in writing to The Data Protection Officer, Hutchison Telecommunications (Hong Kong) Limited, PO Box 84289, Hung Hom Bay Post Office, Hong Kong.
- 7.6 You acknowledge that when you are Roaming in another country, the treatment of your personal information may be subject to laws, customs and regulations that apply in that other country.
- 7.7 Our current Privacy Policy is available on our website.

#### **8. Our Intellectual Property Rights**

- 8.1 All rights, including copyright, in the 3 Services and Content belong to us or our licensed sources, such as a Content Provider.
- 8.2 The trade mark and other related images, logos and names on 3 Services are proprietary marks of our group of companies.

#### **9. Allocation and Porting of Numbers**

- 9.1 Subject to any contrary direction issued by the Telecommunications Authority or any contrary term of the relevant Licence, you will not acquire any right in any number issued or assigned to you under your agreement including without limitation station A-call or private page telephone number or mobile number and we may modify, withdraw, change or reallocate any such number. Except for any modification, withdrawal, change or reallocation resulting from or in connection with the termination or suspension of the 3 Services, we will endeavour to notify you in such manner as may be reasonable and practicable in the circumstances prior to such modification, withdrawal, change or reallocation.
- 9.2 If you apply for the porting in of any mobile number (port-in Number? from a network operated by any other mobile telecommunications service provider:
  - (a) you shall pay us a non-refundable mobile number port-in charge at the prevailing rate;
  - (b) any cancellation of such application shall be made in person at the location at which such application was made prior to the activation of the 3 Services with the Port-in Number;
  - (c) and if such application is unsuccessful for any reason, you may, within 7 days from our notification of such unsuccessful application, elect :
    - (i) to activate the 3 Services with a number assigned or allocated by us; or
    - (ii) to cancel the application in accordance with Section 9.2(b); or
    - (iii) if the unsuccessful application is due to missing or incorrect information submitted by you, to submit all necessary and correct information for re-applying for the porting of the Port-in Number.

Provided that if you fail to make an election within 7 days, you shall be deemed to have cancelled the application. If you request for the porting of mobile number

from 3 Network, you agree that upon the successful porting of any mobile number from 3 Network :

- (a) all mobile phone services and any related value added and roaming services (whether in the form of automatic or manual roaming or provided through a separate USIM) shall be terminated immediately and any sum paid in relation to any USIM (whether for roaming or other services) shall not be refundable in full or on a pro-rata basis;
- (b) Other services (if any) subscribed by you and provided by us shall continue unless terminated in accordance with your agreement; and
- (c) you shall not be entitled to any bundled rates for continuing services previously bundled with our mobile phone services and will thereafter be charged the normal standard rates for such continuing services without further notice.

#### **10. Suspension of 3 Services**

10.1 We may, at our discretion, Suspend your Account or any or all 3 Services without notice if:

- (a) you have not complied with any of the terms of your agreement;
- (b) you have not paid the Charges on time;
- (c) we reasonably believe you have provided us with false or misleading details about yourself;
- (d) we believe that your USIM has been lost or stolen;
- (e) we receive a serious complaint against you which we believe to be genuine;
- (f) we are required to suspend your 3 Services by the emergency services or other government authorities;
- (g) we consider it necessary to safeguard the standard of 3 Services or the integrity of the 3 Network;
- (h) the 3 Network or any relevant equipment fails or requires modification or maintenance;
- (i) in our reasonable opinion, there is or has been unauthorised, unlawful, fraudulent or unreasonable use or usage of 3 Services or the use of 3 Services or any relevant equipment by you is causing or may potentially cause damage or interference to the 3 Network and/or such equipment;
- (j) the unpaid Charges incurred exceeds such credit limit as we may, in our reasonable discretion, assign from time to time to your Account for any of your liabilities to us under your agreement or any other arrangement between us; or
- (k) we are entitled to end this agreement.

#### **All your Accounts and 3 Services will be Suspended**

10.2 If we Suspend your Account or 3 Services as permitted by us under this Section 10, all of your Accounts and 3 Services will be Suspended. However, you will remain liable for all Charges incurred or payable during the period of Suspension unless we, in our reasonable discretion, decide otherwise.

## **11. Ending this agreement and Disconnection**

11.1 You may end your agreement in the following ways:

- (a) During Minimum Term  
If you have agreed to a Minimum Term, you can end your agreement during the Minimum Term, however you must pay us all the Charges you owe including any Cancellation Fee.
- (b) On 30 days notice if no Minimum Term  
If you have not agreed to a Minimum Term, or the Minimum Term has expired, you can end this agreement at any time by giving 30 days written notice to us.

11.2 We may end this agreement in the following ways:

- (a) On 30 days notice if no Minimum Term  
If you have not agreed to a Minimum Term, or the Minimum Term has expired, we can end your agreement at any time by giving you 30 days' written notice.
- (b) Because of your conduct  
In the following cases, we may end your agreement immediately:
  - (i) you do not comply with our reasonable requirement in relation to the use of 3 Services or your obligations under your agreement, including (without limitation) your obligation to pay the Charges on time;
  - (ii) we have Suspended your 3 Services as permitted in Section 10 and we believe that your breach is serious or it has not been rectified;
  - (iii) you enter into bankruptcy, liquidation, administration, receivership, or are deemed to be insolvent or we otherwise reasonably believe that you will be unable to pay the Charges as they fall due;
  - (iv) if you are an individual and you die (in which case your estate must pay all Charges that are due);
  - (v) we reasonably believe that your communications with Customer Care or any of our authorised dealers or sales agents, or your use of 3 Services, are jeopardising our operations, the 3 Network or are of an unacceptable nature; or
  - (vi) any information provided by you under or pursuant to this agreement is found to be false or inaccurate or we have reasonable ground to believe that such information is false or inaccurate.
- (c) No Network access or 3 Services  
If we no longer have access to networks of Other Providers that we need to provide 3 Services, or if we are no longer able to provide 3 Services or we cease business.

## **All your Accounts will end on termination**

11.3 If we end your agreement for any of the reasons in Section 11.2, all of your Accounts with us will terminate.

## **12. Effect of this agreement ending**

- 12.1 When your agreement ends, we will close your Account and Disconnect 3 Services and you will not be able to use the 3 Services. Upon Disconnection of 3 Services, any prepaid Charges will be forfeited.
- 12.2 You must immediately pay all Charges that are due. For the avoidance of doubt, if your agreement ends on a day which is not the last day of your monthly billing cycle, you shall remain liable for the full payment of Charges for that relevant month and all Charges already paid by you shall not be refundable in full or on a pro-rata basis. If your agreement has a Minimum Term and we end the agreement due to your conduct or if you end the agreement during the Minimum Term, the Charges will include a Cancellation Fee.
- 12.3 Termination of your agreement will not affect any existing right or liability that you or us may have prior to such termination.
- 12.4 Upon your request, we may but is not obliged to re-Connect any 3 Services which have been disconnected or terminated. Such re-Connection shall be subject to the payment of all outstanding Charges in respect of the disconnected or terminated 3 Services, the payment of re-Connection fee at our prevailing rate and such other Charges and/or deposit as we may in our discretion require.

### **13. Liability**

#### **Limits on our liability**

- 13.1 All of our obligations to you relating to 3 Services are set out in your agreement and, except as otherwise set out in this Section 13:
  - (a) all other terms, conditions and warranties relating to 3 Services are excluded;
  - (b) we will have no liability to you for anything that we or anyone who works for us does or does not do; and
  - (c) we, our employees and our Content Providers are not liable to you in any way, whether direct or indirect, consequential or contingent and whether foreseeable or not, for any loss, damage, claims or costs of any kind including but not limited to any loss of income, business or profits or loss or corruption of personal information or data, goodwill, failure to deliver any call, data or message, sustained and arising out of or in connection with use of 3 Services, any Mobile phone, Other Device or Accessory.
  - (d) We, our employees, agents or sub-contractors shall not be liable to you or any third party, whether in contract, tort or otherwise for any loss or damage incurred by you or any third party :
    - (i) resulting from or in connection with any failure, delay, interruption, omission or mistake in the 3 Services or the performance of your agreement, whether or not such failure, delay, interruption, omission or mistake is caused by our acts or omissions or negligence or those of our employees, agents or sub-contractors;
    - (ii) resulting from or in connection with any failure or delay in the performance of your agreement or the 3 Services due to factors outside our reasonable control including, without limitation, acts of God, spread of epidemic, lightning, fire, earthquake, storm, flood

or other natural calamities, the threat of imminent war, riots or other acts of civil disobedience, industrial disputes, power failure, failure of telephone lines, failure or breakdown of plant or machinery or government restraint, prohibition or expropriation

- 13.2 If legislation implies warranties or conditions which cannot be excluded, restricted or modified, to the extent that we are entitled, our liability will be limited at our option to:
- (a) in the case of a supply of goods, the replacement of the goods or supply of equivalent goods, the payment of the cost of replacing the goods or acquiring equivalent goods, the payment of the cost of having the goods repaired or the repair of the goods; and
  - (b) in the case of services, the supply of the services again or the payment of the cost of having the services performed again.

### **3 Services areas where we have no responsibility**

- 13.3 Any claim by you against us arising out of your agreement must be notified in writing to us within one year of the incident giving rise to such claim, failing which you will be deemed to have waived your right in respect of such claim.
- 13.4 Without prejudice to the aforesaid,
- (a) we disclaim all responsibility or liability to you or to any person for any cost, expense, loss, damage or compensation arising out of or in connection with any incompleteness, inaccuracy, error, omission, misstatement, delay or failure of transmission, communication or storage of any message or data, the divulging, mixing or destruction of any message;
  - (b) no condition, warranty, responsibility and liability in relation to the provision of 3 Services or any Mobile phone or other Device (including without limitation fitness for any purpose, standard of quality or performance of any Mobile phone, other Device and 3 Network) shall be deemed to be given by us; and
  - (c) we shall not be liable for any dent, scratch or other damage of aesthetic nature to or any loss of data from any Mobile phone or other Device delivered or returned to us for maintenance and repair services.
- 13.5 In providing you with access to any 3 Services or Content, we are not providing you with any advice of any nature, including, without limitation, investment advice. In respect of any 3 Services or Content containing investment information, we are not communicating invitations or inducements to enter into investment agreements.

### **Other content and services areas where we have no responsibility**

- 13.6 You may be able to use 3 Services:
- (a) to upload, email or transmit Content; and
  - (b) to access Content which is not edited by us and to acquire goods and services that we do not prepare, select, modify or exercise any control over.

Where we provide you with access to Content that is not supplied by us, all we do is to transmit the Content to you and we are not responsible or liable in any way for, and do not endorse, any of this Content, goods or services.

13.7 This Section 13 will apply even after this agreement has ended.

#### **14. Notices**

14.1 We will consider you have received information from us if it is included on our website or if it is directly communicated to you by phone, message, email or mail using your most recent contact details given to us.

#### **15. Other terms**

15.1 Unless otherwise agreed, your agreement is the complete and exclusive statement of the agreement between you and us in relation to 3 Services. Your agreement supersedes all understandings or prior agreements, whether oral or written, and all representations or other communications between you and us in relation to 3 Services.

15.2 If you, or we, delay, or do not take action, to enforce our respective rights under this agreement, this does not stop you or us from taking action later.

15.3 You agree to indemnify us for all losses, damages or expenses incurred by us in connection with the enforcement of your agreement against you.

15.4 We will not be bound to verify the authenticity or authority of a signature or mark purportedly of or on behalf of you. Any authorised signatory chop, business chop, personal seal, signature or mark appearing on your agreement shall be binding on you and we are irrevocably authorised to rely on any form, letter or document purportedly signed by or on behalf of you.

15.5 If any of the terms in this agreement are not valid or legally enforceable, the other terms will not be affected. We may replace any term that is not legally effective with a similar term that is.

15.6 We may assign or transfer our rights and obligations under your agreement to a party who agrees to continue complying with our obligations under this agreement. You may not assign or transfer your rights and obligations under your agreement, whether wholly or partially, unless with our prior written consent.

15.7 No failure or delay on our part to exercise any right, power or remedy under this agreement nor any single or partial exercise by us of any such right, power or remedy shall operate as a waiver. The rights, powers and remedies provided in this agreement are cumulative and are not exclusive of any rights, powers or remedies by law.

15.8 Any waiver, concession or extra time we may allow you is limited to the specific circumstances under which it is allowed and shall not affect our rights under this Agreement in any other way.

15.9 This agreement is governed by the laws of Hong Kong and you submit to the non-exclusive jurisdiction of Hong Kong Courts.

15.10 This agreement is available in both English and Chinese and both language versions shall have the same effect.

#### **16. Definitions**



**3 Network:** the mobile telecommunications network and other systems owned or operated by our affiliated company, Hutchison Telephone Company Limited, by which we make Services available to you

**3 Services:** the services offered by us including but not limited to Content, Messaging Services, Storage Services, Age Restricted Services and Optional Services that we have agreed to provide to you in accordance with your agreement.

**Accessory:** any battery, battery charger, stylus, Mobile phone case, car kit, portable hands free, USIM, consumable item (items which are regularly replaced) or any other item that may be used with a Mobile phone or Other Device.

**Account:** all records about you, including your personal account information, your use of 3 Services, your Charges and payments.

**Age Restricted Services:** any 3 Services specified in the Services Guides for use only by customers 18 years of age or older.

**Application:** any oral, written or on-line-application or any other means of application or notification as permitted by us and made by you for the provision of 3 Services, Mobile phone, Other Device and/or Accessory.

**Cancellation Fee:** a fee charged if we end the agreement due to your conduct or if you end the agreement within the Minimum Term. This fee may cover (without limitation) your fixed periodic Charges for the Minimum Term, our administrative costs, costs incurred by us in Connecting and Disconnecting 3 Services for you, our payments to Other Providers, retailers or agents

**Charges:** the charges for access to, and use of, 3 Services. These charges include (without limitation) fixed periodic charges, usage charges, Account administration fees, Cancellation Fees, fees for Connection and re-Connection, Government licence fee, any extraordinary cost incurred in collecting outstanding payments from you or any sum due under your agreement or such other fee which may be announced or published by us for provision of any of the 3 Services from time to time.

**Connect:** the procedure by which we give you access to 3 Services. Connection, Connected, Connecting, e-Connect and e-Connection have corresponding meanings.

**Content:** any data, information, images, graphics, video/audio content, applications, downloadable files or other multimedia content that can be accessed using 3 Services.

**Content Provider:** a person, other than us, who supplies Content.

**Customer Care:** our service team who are available to help you with your queries. They can be contacted by calling 3162 3333 or by email to [feedback@three.com.hk](mailto:feedback@three.com.hk).

**Disconnection:** the procedure by which we stop your access to 3 Services. Disconnect, Disconnected and Disconnecting have corresponding meanings.

**Hong Kong:** the Hong Kong Special Administrative Region of the People Republic of China.

**IOSMS Code:** the Code of Practice for Inter-Operator Short Message Service dated 3 December, 2001, as from time to time amended and supplemented by the signatories thereto.

**Licence:** Licence(s) issued by the Telecommunications Authority to us for provision of the 3 Services.

**Messaging Services:** any 3 Services specified in the Services Guide enabling you to access, send and receive messages including but not limited to mail, fax, text, data, picture or video messages.

**Minimum Term:** the minimum fixed term, if any, for supply of 3 Services as set out in your agreement.

**Mobile phone:** a mobile phone approved by us for use on the 3 Network and which may be used to access 3 Services.

**Optional Services:** any 3 Services that are only available if requested by you and approved by us.

**Other Device:** any equipment (for example a computer or organiser), data card or device that is approved for use on the 3 Network and that may be used to access 3 Services, but does not include a Mobile phone.

**Other Provider:** a mobile telecommunications network operator or other network provider, other than us, whose network we use to make 3 Services available to you.

**PIN:** any personal identification number that we give you or you nominate to use as an identifier to access 3 Services or access or makes changes to your Account.

**Privacy Policy:** our current policy detailing the kinds of information we may gather about you and how we can use and share it. This policy may be amended by us from time to time and is available on our website.

**Roaming:** when you are outside of the 3 Network coverage area, or coverage is not available, and you access some or all of the 3 Services using the mobile network of an Other Provider. Roaming includes Local roaming when you are in Hong Kong and you Roam on the mobile network of an Other Provider and International roaming when you are overseas and you Roam on the mobile network of an Other Provider. Roam has a corresponding meaning.

**Services Guide:** our descriptions of current 3 Services. These may be amended by us from time to time and are available on our website.

**Storage Services:** any 3 Services in the Services Guide which offer you storage capacity on the 3 Network for storage of Content which you access using 3 Services.

**Suspension:** the procedure by which we temporarily Disconnect your access to 3 Services. Suspend has a corresponding meaning.

**USIM:** a card provided by us that when used in conjunction with a Mobile phone or Other Device enables you to access 3 Services.

### **3 Hong Kong Service Usage Policy**

#### **■ Introduction**

This policy sets out what are considered as unauthorized, unreasonable or improper uses of the various communication, application and content services ("Services") provided by 3 Hong Kong. This policy applies to all subscribers and users of such Services. Failure to comply with any of the prohibitions under this policy may cause the relevant Services subscribed to be suspended or terminated by 3 Hong Kong or 3 Hong Kong to take any steps it considers reasonably necessary or appropriate (including but without limitation to limit the throughput or amount of data transferred) forthwith without notice. Nothing in this policy is intended to override nor prejudice 3 Hong Kong's rights under its terms and conditions of service with the subscriber.

#### **■ Prohibited Uses And Acts**

The Services must not be used:

- (a) For or in connection with any illegal activities;
- (b) To breach another person's rights, including copyright or other intellectual property rights;
- (c) To download, send or upload data of an excessive size, quantity or frequency or in any manner which adversely affects or may adversely affect 3 Hong Kong's network or service performance or which unreasonably hampers or may hamper other subscribers use of the Services;
- (d) To distribute any tool that may compromise or breach any security features or harm or interfere with the normal operations of any network facility or service;
- (e) To send or upload any content which is obscene, offensive, abusive, menacing, harassing or threatening in any way;
- (f) For resale purposes unless specifically permitted under the terms and conditions of service with the subscriber;
- (g) To send unsolicited commercial messages or contents.

A subscriber must not:

- (a) Disclose any of his/her personal identification code which 3 Hong Kong uses to verify the subscriber's identity;
- (b) Falsify any sender or user information or use any tools to mask the identity of the caller, originator or point of origin (whether in whole or in part) of a communication;
- (c) Use any program or the transmission of any communication or data to interfere with the normal operations of any Services or 3 Hong Kong's network;
- (d) Unlawfully intercept or interfere with any communication originating from or terminating on 3 Hong Kong's network that is intended for third parties;
- (e) Use any tool to compromise or breach any security features or other safeguards implemented by 3 Hong Kong in respect of any Services, network facility

and/or content.

■ **Revisions**

3 Hong Kong may revise this policy at any time without notice, and such revisions shall become effective upon posting on 3 Hong Kong's website (<http://www.three.com.hk>) °