

THIS IN-STATION FIBRE BLOCK WIRING SERVICE AGREEMENT is made on the 31st day of March 2014

BETWEEN:

(1)

(2)

(hereafter "Customer")

WHEREAS, desires to provide and Customer desires to obtain certain in-station fibre block wiring service, subject to the terms and conditions as set forth in this Agreement.

1. **Interpretation**

1.1 This "Agreement" means this In-station Fibre Block Wiring Service Agreement, plus all applicable schedules attached hereto and any other documents that are expressly incorporated herein.

1.2 All terms defined in Schedule 4 (Terms and Conditions of Service) shall apply to Clauses 1 to 8 of this Agreement, unless otherwise specified or the context otherwise provides.

2 **Scope of In-station Fibre Block Wiring Service**

2.1 For each Customer Order, will provide, subject to the availability of the fibre cable, one pair of Single Mode Fibre cable to connect between Customer equipment rack inside the Common Telecommunications Equipment Room or Common Communications Equipment Room (hereafter "CTER" or "CCER") or other mutually agreed designated locations inside the MTR station and Customer's equipment location which is inside the Station Kiosk and/or banks, and/or in the vicinity of the ATM inside the same MTR station.

2.2 will install a Distribution Frame (hereafter "DF") at each of the CTER or CCER or a mutually agreed designated location inside each MTR station which is co-located with Customer equipment. For each Service, will be responsible for laying one pair of Single Mode Fibre Patchcords from the DF inside the CTER or CCER or a mutually agreed designated location to a service demarcation point inside each MTR station. The Single Mode Fibre Patchcord will be properly terminated with a FCPC connector.

2.3 Schedule 1 provides the General Description of the In-station Block Wiring Services and Scope of MTR stations as well as the service rollout sequence by station for reference.

2.4 Schedule 2 provides information on the Service Level Guarantee.

2.5 Schedule 3 provides information on the Pricing Schedule.

2.6 Schedule 4 stipulates the Terms of Conditions applicable to this Agreement.

3 **Individual Contract**

3.1 Each Customer Order placed by the Customer and accepted by will constitute a separate contract incorporating all the terms herein, with minimum contract period of twelve (12)

months from the Service Commencement Date and will be processed through customer order process.

- 3.2 Subject to Clause 3.1, each Customer Order will continue until Customer or _____ provides 1-month advance notice in writing to the other party for termination.
- 3.3 Notwithstanding Clause 3.2, _____ may terminate the Customer Order (in part or in whole) and/or discontinue Services (re-activating at the discretion of _____) upon seven (7) business days' written notice to Customer without liability if:
- (a) Customer fails to pay any bill when due;
 - (b) Customer makes a material misrepresentation in any information submitted to _____;
 - (c) any bankruptcy, insolvency, administration, liquidation, receivership or winding up proceeding is commenced in respect of the Customer;
 - (d) Customer fails to cure its breach of any provision of a Customer Order, including the terms and conditions set out in Schedule 4, within thirty (30) days after delivery of written notice of breach to Customer; or
 - (e) Customer fails to obtain or is in breach of any provision of any permission, licence, permit or certificate required by law, regulation or by the direction of any agency or department or the Government of Hong Kong in connection with its use of the Services and fails to rectify and make good such breach within a reasonable time to the satisfaction of _____.

4 **Service Commencement Date**

- 4.1 Service Commencement Date is the date that _____ has provisioned the Services to Customer and Customer has accepted the Services.

5 **Delivery Lead-Time**

- 5.1 Delivery lead-time is 4 to 8 weeks after Customer places the Customer Order to _____. Within 5 business days of the receipt of the Customer Order, _____ shall inform Customer if the Customer Order is accepted or rejected.

6 **Charges and Usage Overflow**

- 6.1 For each Customer Order that has been installed successfully and accepted by Customer, Customer agrees to pay _____ the charges as stipulated in Schedule 3, which charges may be adjusted as required by _____. _____ shall inform Customer with one (1) month prior written notice if price schedule is to be adjusted. Such price adjustment can only be executed after the completion of minimum contract period of twelve (12) months from the Service Commencement Date of each individual contract of Customer Order.
- 6.2 _____ will bill in advance the monthly charge. Billing for partial months will be pro-rated based on a calendar month.

- 6.3 Each bill is due 30 days after the date of issuance of the bill. Customer will pay interest at a rate of 1.5% per month (pro-rated on a daily basis) for overdue payments, from and after the due date until full payment is made.
- 6.4 Except for taxes based on net income, Customer will be responsible for payment of all taxes (whether existing or new) including but not limited to goods and services tax, withholding taxes and any other applicable sales tax or duty.
- 6.5 In the event that Customer disputes any portion of a bill, Customer must pay the entire bill and submit a written claim for the disputed amount specifying the date and number of the disputed bill, the amount in dispute, the reason for the dispute and relevant supporting documentation. All claims must be submitted to within thirty (30) days of receipt of billing for those Services. Customer acknowledges that it is able to and that it is reasonable to require Customer to dispute bills within that time, and Customer therefore waives the right to dispute charges not disputed within the time frame set out above.
- 6.6 Services shall at all times be used by Customer in compliance with applicable law. Customer will be solely responsible for all charges incurred for the Services even if such charges were incurred through or as a result of fraudulent or unauthorised use of the Services.
- 6.7 When Customer places an order for the Services, Customer shall specify on the order the bandwidth used for the service(s). has the right to request Customer to submit the customer order record(s) between the Customer and his/her end user(s) as proof of the bandwidth used for the service(s). In addition, Customer acknowledges and agrees that if the usage of the Services ever exceeds applicable/agreed bandwidth limits set forth in the applicable Customer Order (“Overflow”), then has the right to levy additional charges and place Customer on a different charge schedule effective from the first day of Overflow by presenting evidence to the Customer for such Overflow.
- 6.8 With respect to an existing Customer Order, if Customer requests for a service upgrade, Customer should submit a new irrevocable Customer Order for to approve, and upon and subject to approval by the new Customer Order shall replace that existing Customer Order without the need for Customer to pay early termination charges for replacing the existing Customer Order.
- 6.9 If Customer seeks to withdraw, cancel or otherwise terminate any Customer Order (or this Agreement whilst there are pending Customer Order) other than due to a breach by , then Customer shall pay a compensation fee as being a pre-agreed liquidated damage amount equal to all unpaid one-off charges plus 100% of the total recurring charges for the unexpired term of affected Customer Order(s).

7 Obligations and Ownership

- 7.1 should provide Customer the assistance reasonably required, including access support to CTER or CCER rooms or other mutually agreed designated locations, commissioning and testing of the Service.
- 7.2 All the necessary trunking facilities that are required for the provisioning of the Service should be provided by .
- 7.3 All Single Mode Fibre cables should be properly laid inside conduit, trunking, cable tray or other means up to normal industrial practice.

7.4 should use its reasonable endeavour to complete the Customer Order placed by Customer from time to time.

7.5 For the avoidance of doubt, the Parties acknowledge and agree that the fibre cable associated installation hardware and any equipment provided by shall remain the property of and ownership of the foregoing shall not pass to Customer in any manner whatsoever.

8 **General**

8.1 This Agreement and the applicable Customer Orders shall be governed by the laws of the Hong Kong Special Administrative Region of the People's Republic of China and the parties irrevocably agree to the exclusive jurisdiction of the courts of Hong Kong and courts of appeal therefrom.

8.2 Failure by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor to operate so as to bar the exercise of enforcement of any such or other right on any later occasion.

8.3 If any provision of this Agreement or the Customer Order is held by a court or any governmental agency or authority to be invalid, void or unenforceable, such offending provision(s) shall be struck off and severed from this Agreement or Customer Order to the extent possible and the remainder of this Agreement and Customer Order shall remain legal, valid, and enforceable.

8.4 Nothing in this Agreement or the Customer Order and no action taken by the parties pursuant to this Agreement or the Customer Order shall constitute or be deemed to constitute between the parties a partnership, association, joint venture or other co-operative entity.

8.5 In the event of conflict among terms, the order of priority shall be as follows: the relevant Customer Order, Clauses 1 to 8 of this Agreement, Schedule 4, Schedule 3, Schedule 2 and Schedule 1.

8.6 Except as otherwise set forth herein, all amendments to the Agreement shall be in writing and signed by the parties' authorized representatives. All handwritten or typed modifications to the Agreement which are not mutually agreed to in writing are null and void.

8.7 This Agreement together with all applicable Customer Orders constitutes the entire agreement of the parties with respect to the Services and supersedes any other prior or contemporaneous agreement or understandings, whether oral or written, related to the subject matter hereof.

8.8 The Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original and all of which together evidence the same agreement.

For and on behalf of

For and on behalf of

Schedule 1 – General Description of Service and Scope**1. General**

has entered into the decision to invest a fibre block wiring infrastructure to serve all retail shops of the existing MTR stations (excluding Tseung Kwan O Line). Such infrastructure will be leased to local Fixed Network Operators (“FNO”) to provide retail telecom services. This Schedule provides the product description of the In-station Fibre Block Wiring Service which includes service coverage in terms of station list and service rollout sequence, fibre block wiring network configuration and specification, service demarcation point and service level guarantee.

2. Station Coverage (for reference) :

Island Line (ISL) Stations		
1. Sheung Wan (SHW)	6. Tin Hau (TIH)	11. Sai Wan Ho (SWH)
2. Central (CEN) *	7. Fortress Hill (FOH)	12. Shau Kei Wan (SKW)
3. Admiralty (ADM) *	8. North Point (NOP) *	13. Heng Fa Chuen (HFC)
4. Wan Chai (WAC)	9. Quarry Bay (QUB) *	14. Chai Wan (CHW)
5. Causeway Bay (CAB)	10. Taikoo (TAK)	

Tsuen Wan Line (TWL) Stations		
15. Tsim Sha Tsui (TST)	20. Sham Shui Po (SSP)	25. Kwai Hing (KWH)
16. Jordan (JOR)	21. Cheung Sha Wan (CSW)	26. Tai Wo Hau (TWH)
17. Yau Ma Tei (YMT) *	22. Lai Chi Kok (LAK)	27. Tsuen Wan (TSW)
18. Mong Kok (MOK) *	23. Lai King (LAK) *	
19. Prince Edward (PRE) *	24. Kwai Fong (KWF)	

Kwun Tong Line (KTL) Stations		
28. Shek Kip Mei (SKM)	32. Diamond Hill (DIH)	36. Kwun Tong (KWT)
29. Kowloon Tong (KOT) *	33. Choi Hung (CHH)	37. Lam Tin (LAT)
30. Lok Fu (LOF)	34. Kowloon Bay (KOB)	
31. Wong Tai Sin (WTS)	35. Ngau Tau Kok (NTK)	

Tung Chung and Airport Express Line (TCL & AEL) Stations		
38. Hong Kong (HOK)	41. Nam Cheong (NAC) *	44. Disneyland Resort (DIS)
39. Kowloon (KOW)	42. Tsing Yi (TSY)	45. Tung Chung (TUC)
40. Olympic (OLY)	43. Sunny Bay (SUB)	46. Asia World Expo (AWE)

East Rail Line (EAL) Stations		
47. Hung Hum (HUH)	51. University (UNI)	55. Sheung Shui (SHS)
48. Mong Kok East (MKK)	52. Tai Po Market (TAP)	56. Lo Wu (LOW)
49. Sha Tin (SHT)	53. Tai Wo (TWO)	57. Lok Ma Chau (LMC)
50. Fo Tan (FOT)	54. Fanling (FAN)	

West Rail Line (WRL) Stations		
58. Tsim Sha Tsui East (ETS)	62. Kam Sheung Road (KSR)	66. Siu Hong (SIH)
59. Austin (AUS)	63. Yuen Long (YUL)	67. Tuen Mun (TUM)
60. Mei Foo (MEF) *	64. Long Ping (LOP)	
61. Tsuen Wan West (TWW)	65. Tin Shui Wai (TIS)	

Ma On Shan Line (MOL) Stations		
68. Tai Wai (TAW) *	71. City One (CIO)	74. Heng On (HEO)
69. Che Kung Temple (CKT)	72. Shek Mun (SHM)	75. Ma On Shan (MOS)
70. Sha Tin Wai (STW)	73. Tai Shui Hang (TSH)	76. Wu Kai Sha (WKS)

* - Interchange station

3. Service Rollout Sequence by Station

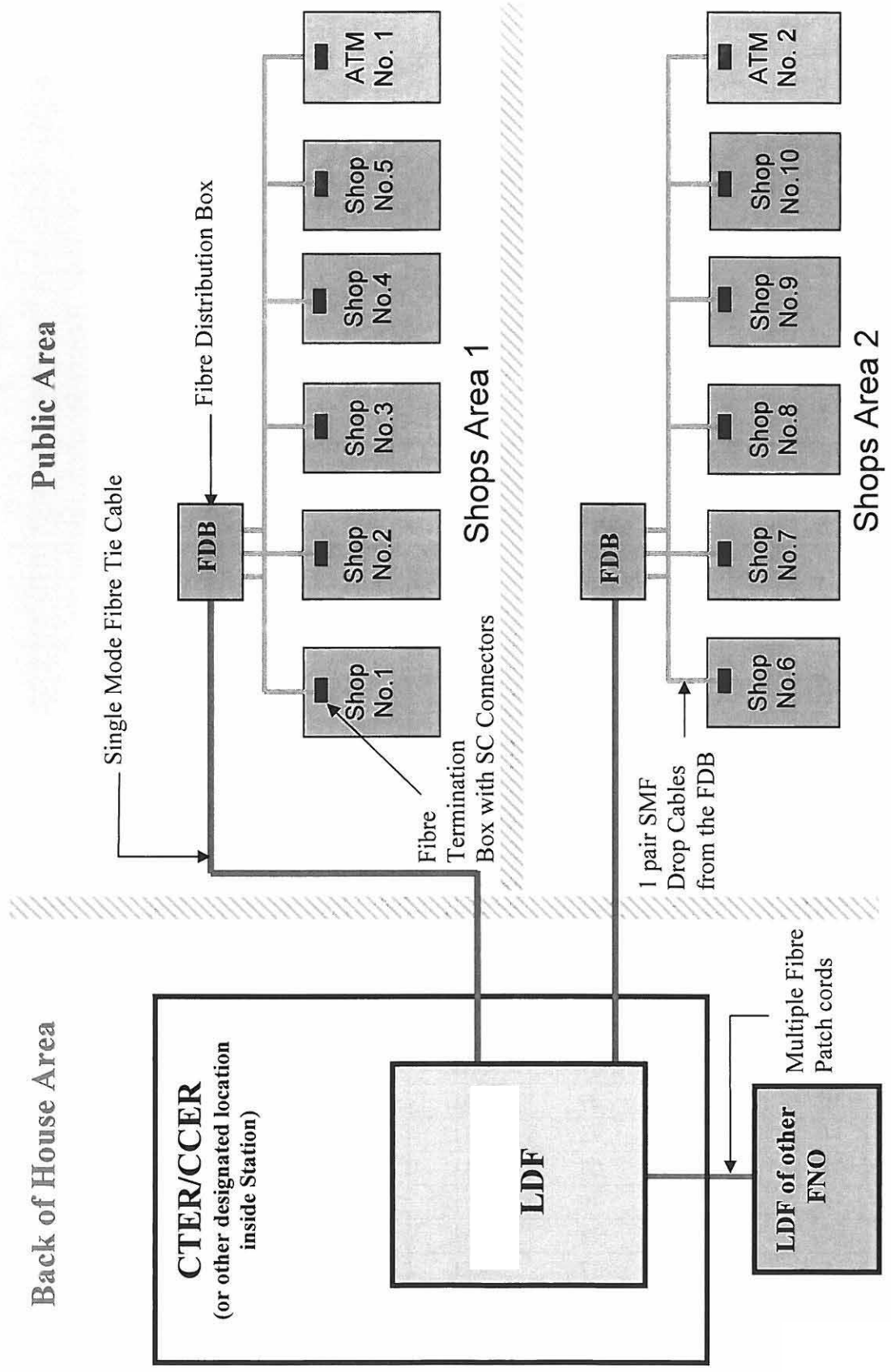
The following table lists out the service rollout sequence by stations. Such rollout program is for reference and is subject to change.

Priority #	Station	# of Shops	Rail Line
1	CEN *	30	ISL
2	MOK *	22	TWL
3	ADM *	19	ISL
4	YMT *	18	TWL
5	PRE *	18	TWL
6	TST	17	TWL
7	TSW	16	TWL
8	SSP	14	TWL
9	KWF	14	TWL
10	JOR	12	TWL
11	CSW	12	TWL
12	LCK	12	TWL
13	SHW	11	ISL
14	TAK	10	ISL
15	CAB	8	ISL
16	WAC	7	ISL
17	FOH	7	ISL
18	CHW	7	ISL
19	TWH	7	TWL
20	SWH	6	ISL
21	SKW	6	ISL
22	KWH	6	TWL
23	TIH	5	ISL
24	NOP *	5	ISL
25	QUB *	5	ISL
26	HFC	4	ISL
27	LMC	53	EAL
28	LAK *	4	TWL
29	SHT	41	EAL
30	LOW	29	EAL
31	HOK	73	AEL
32	MKK	25	EAL
33	TSY	49	AEL
34	TAP	18	EAL
35	KOW	37	AEL
36	SHS	15	EAL
37	TUC	28	TCL
38	FAN	14	EAL

Priority #	Station	# of Shops	Rail Line
39	NAC *	22	TCL
40	UNI	9	EAL
41	OLY	14	TCL
42	TWO	10	EAL
43	SUB	2	TCL
44	FOT	9	ISL
45	DIS	2	DRL
46	HUH	51	EAL
47	AWE	1	AEL
48	TAW *	53	MOL
49	ETS	41	WRL
50	KOT	41	KTL
51	MEF *	29	WRL
52	TIS	28	WRL
53	KWT	27	KTL
54	TUM	27	WRL
55	SIH	26	WRL
56	YUL	21	WRL
57	KOB	17	KTL
58	CHH	16	KTL
59	STW	15	MOL
60	CIO	15	MOL
61	LOP	12	WRL
62	DIH	11	KTL
63	WTS	10	KTL
64	KSR	10	WRL
65	SHM	10	MOL
66	TSH	10	MOL
67	TWW	9	WRL
68	LOF	8	KTL
69	NTK	8	KTL
70	AUS	8	WRL
71	CKT	7	MOL
72	SKM	7	KTL
73	WKS	6	MOL
74	MOS	5	MOL
75	LAT	4	KTL
76	HEO	2	MOL

* - Interchange station

4. In-station Fibre Block Wiring Network Configuration



5. Specification

The In-Station Fibre Block Wiring Network deploys ITU-T G652D Single Mode Fibre cables with FCPC connectors.

Schedule 2 -Service Level Guarantee

Service Level Guarantee :

Service Availability : 99.95%

Mean Time to Repair : 3 hours

Maximum Restoration Time : 3 hours (office hour)

4 hours (non-office hour)

24 hours (when Station Public Area access required)

Hotline Service : 7x24 hrs service hotline

Hotline Response Time : 90% calls can be answered within 9 seconds

Complaint resolution : By fax or telephone
written reply within 5 working days

24-hours Fault Report Hotline :

Schedule 3 – Pricing Schedule

Price schedule is categorized in different tiers in accordance to the speed of service with one-off installation charge tabled as follows :

1. One-off installation charge : HK\$9,800
2. Monthly recurring charge :

Tier No.	Data Speed of Data Service (including all overheads)	Monthly Recurring Charge
1	Up to 10Mb/s or below	HK\$100
2	Higher than 10Mb/s and up to 50Mb/s	HK\$500
3	Higher than 50Mb/s and up to 100Mb/s	HK\$1,000
4	Higher than 100Mb/s and up to 500Mb/s	HK\$1,500
5	Higher than 500Mb/s and up to 1,000Mb/s	HK\$2,000

Tier No.	Data Speed of Broadband Internet Access with GPON Technology (including all overheads)	Monthly Recurring Charge
1	Up to 100Mb/s or below	HK\$100
2	Higher than 100Mb/s and up to 1,000Mb/s	HK\$500

Above price schedule is based on minimum 1-year contract per fibre pair per service basis.

SCHEDULE 4 - TERMS AND CONDITIONS OF SERVICE

VERSION 2.4 (ISSUED ON 7 FEBRUARY 2014)

These Terms and Conditions of Service (“**Terms & Conditions**”) between Customer and _____ establish the terms and conditions under which _____ will provide to Customer and Customer will receive Services under each accepted Customer Order. Each Customer Order, when accepted by _____, shall: (i) be treated as having automatically incorporated, and be governed by, these Terms & Conditions as if the provisions hereto are explicitly written into each Customer Order; and (ii) together with a copy of these Terms & Conditions, constitute a separate contract between the Customer and _____.

1. DEFINITIONS AND INTERPRETATIONS

In these Terms & Conditions the following terms and phrases shall have the following meanings:

- 1.1 “**Confidential Information**” means all information in any format disclosed by or on behalf of a party to the other party, including without limitation any materials, trade secrets, know-how, formulas, processes, algorithms, ideas, strategies, inventions, data, network configurations, systems architecture, designs, flow charts, drawings, tariffs and rates table, proprietary information, business and marketing plans, financial and operational information, and all other information which may reasonably be regarded as confidential information of the disclosing party;
- 1.2 “**Customer**” means the person, firm, corporation or other entity so named as such on the Customer Order;
- 1.3 “**Customer Order**” means the prescribed forms of _____ used by Customer to order Services, each of which, when accepted by _____, together with a copy of these Terms & Conditions, and any amendments thereof notified to the Customer and not disagreed by the Customer, shall constitute a separate contract between the Customer and _____;
- 1.4 “**Customer Premises**” means the location owned or occupied by Customer or its end users to which _____ has agreed to provide the Services;
- 1.5 “**Customer Equipment**” means telecommunications _____ equipment provided by Customer;
- 1.6 “**Facilities**” means any and all devices supplied by or on behalf of _____ used to deliver Services but shall not include any such devices sold to Customer by _____ or owned by Customer or any third party;
- 1.7 “**OFCA**” means The Office of the Communications Authority of Hong Kong and its replacement entity, if any;
- 1.8 “**Products**” means the equipment or materials to be licensed or leased by Customer from _____ pursuant to the Customer Order;
- 1.9 “**Services**” means any Product or service provided by _____ to or on behalf of Customer pursuant to the Customer Order;
- 1.10 “**Terms & Conditions**” means these Terms and Conditions; and
- 1.11 “**Affiliate**” means any other entity that controls, is controlled

by or is under common control with

2. PROVISION OF SERVICES

2.1 *Acceptance of Customer Orders.*

Customer may submit Customer Order for Services. Customer Orders shall be submitted in any format specified by . The delivery to Customer by of an Order Acceptance Letter referencing the Customer Order, or countersignature on the Customer Order, shall constitute acceptance of that Customer Order. Each Customer Order shall be binding only after acceptance. may reject any Customer Order without giving any reason.

2.2 *Credit Approval and Security Deposits.*

At any time during the term of a Customer Order, reserves the right to carry out a credit check against the Customer. Customer shall provide with credit information as requested. Delivery of Services is subject to credit approval. As a condition of acceptance of any Customer Order and as a condition of continuation of delivery of any Services, Customer shall, upon request at any time, provide a deposit or other security for the payment of charges specified by

2.3 *Access for* . Customer shall provide or procure that any end user provide prompt access to the Customer Premises with or without machinery, tools or equipment for site surveys, installation, accommodation, operation, connection, inspection and scheduled or emergency maintenance or removal of equipment, Facilities and systems relating to the Services. Customer

represents to that Customer has obtained all permissions and consents necessary to allow such access. Customer shall be responsible for providing and maintaining at its expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Facilities and Services. Customer shall provide a safe place to work and comply with all laws and regulations regarding the working conditions on the Customer Premises. If Customer fails to provide or procure for access or other services required for to deliver the Services, Customer shall pay all charges for such Services from and after the date is otherwise ready to deliver them. Except for emergency repairs, where feasible to do so, shall use reasonable commercial efforts to notify Customer two (2) business days in advance of any regularly scheduled maintenance that will require access to the Customer Premises.

2.4 *Reservations.* In the event these Terms & Conditions or a Customer Order provides that will make Services available on or before a particular date, it does so on a commercially reasonable efforts basis and is subject to availability and the provisions of and compliance by Customer with these Terms & Conditions and the Customer Orders.

2.5 *Facilities.* Except as otherwise agreed in writing, title to all Facilities and Products shall remain with . Customer acknowledges and agrees that the Facilities may not be exclusively used to serve the Services and may share the Facilities with third parties. Customer shall take all reasonable actions and measures to prevent the Facilities from being tampered with, interfered with or damaged by others and shall not,

and shall not permit others, to gain access to, rearrange, disconnect, remove, repair, attempt to repair, or otherwise tamper with any Facilities or Products, without the prior written consent of _____ and shall keep _____ fully indemnified against any actions, claims, demands, liabilities, costs and damages in respect of any failure so to do. Customer shall ensure that the Facilities and the Products shall not be used for any purpose other than for the purposes for which _____ provides them under these Terms and Conditions. Customer shall not take any action that causes or may cause the imposition of any lien or encumbrance on the Facilities or the Products. In no event shall _____ be held liable to Customer or any other person for interruption of the Services or for any other loss, cost or damage caused or related to the violation of these Terms & Conditions or any Customer Order. Customer agrees (which agreement shall survive the expiration, termination or cancellation of these Terms & Conditions and Customer Orders) to allow _____ to remove the Facilities and any Services from the Customer Premises:

- (i) _____ after termination, expiration or cancellation of the relevant Customer Order(s) which these Terms & Conditions form a part of; or
- (ii) _____ for repair, replacement or otherwise as _____ may reasonably determine as necessary or desirable. Customer shall pay _____ for any damage to the Facilities, except for (a) damage caused by _____ or its agents or any other cause beyond the reasonable

control of the Customer, and
(b) normal fair wear and tear.

- 2.6 **Customer Equipment.** _____ may install or configure Customer Equipment if requested by Customer and _____ shall reimburse _____ for its expenses (as set out in the Customer Order) incurred during the installation or configuration of any such Customer Equipment. Unless otherwise agreed by _____ in writing:- (i) _____ shall not be responsible for damage to _____ or the operation or maintenance of Customer Equipment; (ii) Customer shall be solely responsible for the quality, reliability, performance and non-performance of, and damages from, the Customer Equipment and transmissions that enters or otherwise connects to _____ network that may be required pursuant to the Customer Order, and for ensuring the compliance of Customer Equipment with applicable standards and for obtaining any necessary approvals or authorisations prior to its use and for the reliability and performance of its own equipment and facilities connecting to the Facilities and/or the Products affecting the quality of the Services; and (iii) _____ shall not be responsible for the transmission or reception of signals by Customer Equipment or for the quality or defects in Customer Equipment or its transmission or reception.

2.7 **Commencement of Service.** The Service commencement date is the earlier of:

- (i) _____ the date set out in any notice of _____ connection from _____ to Customer; or
- (ii) _____ the date Customer begins using the Services as determined by _____

3. **SERVICE CHARGES, BILLING AND SETTLEMENT**

3.1 **Charges and Billing.** All recurring and non-recurring charges for the Services shall be set out in each Customer Order. Customer shall be liable for and shall pay the charges from the Service commencement date specified in Clause 2.7 (Commencement of Service).

will bill monthly in advance charges for Services except for usage based charges which will be billed monthly in arrears. Billing for partial months will be pro-rated based on a calendar month.

If Customer makes its own local loop arrangements, Customer must provide to the details of the local loop provider, all circuit facility assignment information, firm order commitment information and the design layout records necessary to enable to make the cross-connection necessary to provide the Services. may charge

Customer a non-recurring cross-connect fee to make such connection . If Customer makes its own local loop arrangements, will commence billing once it has installed and tested the Services up to the side of the cross-connect circuit. Otherwise, will commence billing once the Services are installed and tested.

3.2 **Payment of Bills.** Each bill is due thirty (30) days after the date of the bill. Customer may pay by cheque, telegraphic transfer/wire transfer or direct debit subject to execution of a direct debit agreement. Customer will pay interest at a rate of 1.5% per month (pro-rated on a daily basis) for overdue payments, from the due date until paid.

3.3 **Taxes and Duties.** Unless otherwise indicated all sums due to are exclusive of taxes of any kind. Except for taxes based on net income, Customer will be responsible for payment of all taxes (whether existing or new) including but not limited to goods and services tax, withholding taxes and any other applicable sales tax or duty.

3.4 **Disputed Bills.** In the event that Customer disputes any portion of a bill, Customer must pay the entire bill and submit a written claim for the disputed amount specifying the date and number of the disputed bill, the amount in dispute, the reason for the dispute and relevant supporting documentation. All claims must be submitted to within thirty (30) days of receipt of billing for those Services. Customer acknowledges that it is able to and that it is reasonable to require Customer to dispute bills within that time, and Customer therefore waives the right to dispute charges not disputed within the time frame set out above.

3.5 **Unauthorised and Fraudulent use of Services.** Services shall at all times be used by Customer in compliance with applicable law. Customer will be solely responsible for all charges incurred for the Services even if such charges were incurred through or as a result of fraudulent or unauthorised use of the Services.

3.6 **Regulatory Changes.** In the event of any change in applicable law, regulation, decision, rule or order that results in a material increase in the costs or other terms of delivery of Service, may deliver a written notice to Customer regarding such regulatory change and informing the Customer at its sole discretion that shall: (i) unless otherwise agreed by the parties, pass 50% of

such increased costs without mark-up to Customer, to take effect within 30 days of the date of the written notice; or (ii) cancel the relevant Customer Orders (in whole or in part) and/or discontinue Services to take effect within 30 days of the date of the written notice

4. CANCELLATIONS

4.1 **Term of Service.** The term of the Services shall be as set out in the Customer Order and Customer agrees to pay for the Services for such period of time (“**Term Commitment**”) or such longer period as Customer actually uses the Services. In the event _____ permits Customer to continue to use the Services after the end of the Term Commitment, the Term Commitment will automatically renew for successive thirty (30) day periods and may be terminated by Customer or _____ upon thirty (30) days written notice without termination liability.

4.2 **Cancellation by Customer.** If _____ materially breaches any material provision of a relevant Customer Order and provided that such breach is remediable but _____ has not taken appropriate actions towards curing such breach within thirty (30) days after the delivery of written notice of breach to _____, Customer may cancel that relevant Customer Order upon seven (7) business days’ prior written notice delivered at any time while such breach continues. In such event, Customer will not be liable for any Cancellation Fees and/or any liability as a result of such cancellation. The rates and charges in each Customer Order are established on the basis of the Term Commitment. If Customer cancels a Service or Customer Order during a Term Commitment for any reason other than

material breach of that relevant Customer Order, Customer will pay the cancellation fees set out in Clause 4.4 (Cancellation Fee). In any event, Customer will pay for any Services actually provided prior to the date of such cancellation.

4.3 **Cancellation by _____**, _____ may terminate Customer Order(s) (in part or in whole) and/or discontinue Services (re-activating at the discretion of _____) upon seven (7) business days’ written notice to Customer without liability if:

- (i) Customer fails to pay any bill when due;
- (ii) Customer’s use of Services materially exceeds Customer’s credit limit as agreed with _____, unless Customer provides adequate security for payment for Services within fourteen (14) days after delivery of written notice by _____;
- (iii) Customer fails to cure its breach of any provision of a Customer Order, including this Terms & Conditions, within thirty (30) days after delivery of written notice of breach to Customer;
- (iv) Customer makes a material misrepresentation in any information submitted to _____;
- (v) any bankruptcy, insolvency, administration, liquidation, receivership or winding up proceeding is commenced in respect of the Customer;
- (vi) any material breach by Customer of a Customer Order, including these Terms & Conditions;

- (vii) the licence, authorisation or exemption (as the case may be) issued by OFCA to the Customer is cancelled or withdrawn for any reason or the terms thereof varied such that the Services cannot reasonably be provided or operation of the Customer cannot be continued; or
- (viii) the Customer fails to obtain or is in breach of any provision of any permission, licence, permit or certificate required by law, regulation or by the direction of any agency or department or the Government of Hong Kong in connection with its use of the Services and fails to rectify and make good such breach within a reasonable time to the satisfaction of .

Notwithstanding the foregoing, may, in its sole discretion and without prejudice to any right it may have to terminate the relevant Customer Orders, elect to suspend provision of the Services until further notice in the event that: (a) is entitled to terminate a Customer Order pursuant to the relevant provision herein; (b) is obliged to comply with an order of any court or other government authority having jurisdiction which prevents from furnishing Services; (c) needs to carry out emergency works to the network or Facilities; or (d) the content of any communication transmitted via the Services was alleged to be illegal or contrary to the public policy of .

4.4 **Cancellation Fee.** If Customer cancels all or any portion of the Services or the relevant Customer Order other than due to a material breach by , or if cancels all or any portion of a Customer Order due to a breach by Customer (including those occurrences listed in Clause 4.3 (Cancellation by)), in addition to any and all charges previously incurred by Customer for the Services prior to the date of any cancellation and any other loss or damage suffered by or a Affiliate, the Customer shall pay a cancellation fee in an amount equal to 100% of the charges which would have been incurred by Customer for the remainder of the Term Commitment from the date of cancellation. Without prejudice to other rights may have, the parties acknowledge and agree that Customer's obligations and payments required under this Clause 4.4 (Cancellation Fee) is a fair and reasonable estimate of the minimum loss that will suffer upon such termination and hence such payment shall not be considered or construed as a penalty payment given the inducement and consideration required for to enter into each Customer Order and other contracts with its suppliers, reliance of a full term commitment from Customer, and exposures to its suppliers and underlying operators to continue to pay operations and maintenance charges, liquidated damages, and other charges. Termination of any and all Customer Orders does not affect and is without prejudice to any accrued rights or remedies may have under each Customer Order that have accrued prior to or as a result of such termination or expiry.

5. LIMITATION OF LIABILITY

- 5.1 **Indemnification.** Each party shall indemnify the other from any claims by third parties and expenses (including legal fees and court costs) in respect of damage to tangible property, personal injury or death caused by such party's negligence or wilful misconduct. Notwithstanding the foregoing, Customer shall indemnify and shall hold harmless against any claims or proceedings brought by third parties against in respect of the resale of the Services by the Customer. Customer undertakes to include provisions in its contracts with its subscribers to exclude to the fullest extent legally possible the liability of .
- 5.2 **Damages.** Except for damages arising or resulting from Customer's breach of Clause 7.1 (Disclosure and Use), neither party shall be liable for any indirect, incidental, special, consequential, exemplary or punitive damages (including but not limited to damages for lost profits, lost revenues, loss of goodwill, loss of anticipated savings, loss of customers, loss of data or interference with business, or cost associated with the use of external restoration facilities), whether or not caused by reason of interoperability of application or processes or by the acts or omissions or negligence of its employees or agents, and regardless of whether such party has been informed of the possibility of the likelihood of such damages. shall not be liable for any damages attributable to third party acts or the non-performance or fault of the Customer.
- 5.3 **Personal Injury and Death.** Nothing in these Terms & Conditions shall be construed as limiting the liability of either party for personal injury or

death resulting from the negligence of a party or its employees.

- 5.4 **Limitation.** The provisions of these Terms & Conditions that exclude or limit liability apply to the extent permitted by law. To the extent that liability is not excluded under Clause 5 (Limitation of Liability), and to the extent permitted by law, that aggregate liability is limited to, at entire discretion, either: (i) re-perform, re-supply or replace such part of the affected Services; or (ii) provide a non-refundable credit in Customer's account (subject to maximum cap of credit allowances provided for under applicable Service Level Agreement) for further work or services to be performed by . The parties agree that maximum aggregate liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising out of or in connection with the performance of obligations under all Customer Orders and contracts between and the Customer, whether in respect of any one incident or series of incidents, whether or not arising from a common cause, shall not exceed the basic contract value of the Customer Order. In no event will be liable to Customer or any other person for interruption of Service or for any other loss, cost or damage caused or related to violation of these Terms & Conditions or any Customer Order.
- 5.5 **Disclaimer of Warranties.** Except for warranties expressly made in these Terms & Conditions, to the extent permitted by law makes no warranties or representations express or implied, either in fact or by operation of law, statutory or otherwise, including warranties of merchantability, satisfactory quality and fitness for a particular use, and

without limiting the foregoing does not warrant that the Services will be uninterrupted or error free or that the Services will meet Customer's own requirements.

5.6 **Force Majeure.** Neither party shall be liable or be in breach of these Terms & Conditions and the applicable Customer Orders which these Terms & Conditions form a part of, nor will any credit allowance be extended for any failure of performance of or delivery of Services due to causes beyond such party's reasonable control, including but not limited to acts of God, fire, flood or other catastrophes, any law, order, regulation, direction, action or request of any governmental entity or agency, or any civil or military authority, national emergencies, insurrections, riots, strikes, lock-outs, work stoppages or other labour difficulties, line or cable failure or acts or omissions of other providers of telecommunications services ("**Force Majeure Event**"). In the event is unable to deliver Services for 30 consecutive days as a result of a Force Majeure Event, Customer shall not be obliged to pay for the affected Services for so long as is unable to deliver them provided that the term of the Customer Order for those Services shall be extended for a period of time equal to the period of time for which was unable to provide and Customer was not required to pay for the affected Service.

5.7 **Customer Obligations.** Customer shall provide all assistance reasonably required by to provide the Services. Customer shall notify of any existing facilities including, but not limited to, water and gas lines which could be damaged during the installation of Services at Customer's Premises. Customer shall

also identify, monitor, remove and dispose of any hazardous materials prior to any work being performed by at Customer's Premises and shall indemnify, defend, and hold harmless from any liability incurred in the use of or in connection with hazardous materials at the Customer's Premises. shall have no liability in respect of any damage or loss arising out of the Customer's failure to comply with this clause.

6. RAILWAY PARAMOUNT

6.1 Notwithstanding any provisions of these Terms & Conditions to the contrary, Customer acknowledges and agrees that the efficient operation of the railway is a paramount consideration in the performance of and in giving effect to any provision of these Terms & Conditions.

6.2 reserves the right to suspend (and in its discretion reactivate) the Services in the event the MTR Corporation Limited closes the railway, any MTR Station or any part thereof at any time or conducts emergency operations.

6.3 If exercises its rights under this Clause 6 (Railway Paramount) it shall not be considered a breach of these Terms & Conditions and it shall not be liable to the Customer for any loss, damage or liability sustained by the Customer or by any other person which is directly or indirectly attributable to such exercise, save where the same arises through negligent act or omission.

7. CONFIDENTIAL INFORMATION

7.1 **Disclosure and Use.** Any Confidential Information disclosed by a party shall be kept by the receiving

party in strict confidence and shall not be disclosed to any third party (except as explicitly authorised in these Terms & Conditions) without the disclosing party's prior written consent. Each party shall treat all Confidential Information of the other in the same manner as it treats its own, but in no case will the degree of care be less than reasonable care. Each party:

- (i) shall use Confidential Information only to give effect to these Terms & Conditions and the applicable Customer Order; and
- (ii) shall not make copies of Confidential Information unless expressly agreed by the disclosing party in writing.

Clauses 7.1 and 7.2 shall survive the termination of the applicable Customer Orders and upon termination of each applicable Customer Order the parties agree to forthwith destroy all documents and any materials containing any Confidential Information and/or the business of the receiving party provided by the disclosing party.

7.2 **Exceptions.** Information is not Confidential Information:

- (i) If it is already known to the receiving party and not otherwise subject to a confidentiality undertaking;
- (ii) When it becomes publicly available without restriction and without fault of the receiving party;
- (iii) If it is rightfully obtained by the receiving party from others having no obligation to hold such information in confidence;

- (iv) If it is developed independently by the receiving party without use of the disclosing party's Confidential Information;
- (v) If it is required to be disclosed by law;
- (vi) If it is required to be disclosed to external parties for the purpose of completing and/or progressing with the implementation of applicable Customer Orders; or
- (vii) If it is required to be revealed to its directors, officers, employers, professional advisors and their employees, contractors and their employees, financiers providing funding to the parties and their advisors so far as necessary to enable them to perform their duties for the purposes of applicable Customer Orders provided that each party shall require such persons receiving the revealed information to observe the obligation of confidentiality contained in this Clause 7 (Confidential Information).

7.3 **Publicity.** Except as stated herein, these Terms & Conditions grant no right to use any party's or its affiliates' trademarks, service marks or trade names or to otherwise refer to the other party in any marketing, promotional or advertising materials or activities. Neither party shall issue any publication or press release relating to, or otherwise disclose the existence of, or the terms and conditions of any contractual relationship between the parties including but not limited to these Terms & Conditions without the

express written consent of the other party, except as may be required by law. Customer hereby consents and expressly allows to disclose that the Customer uses the Services to other customers or potential customers.

7.4 Customer warrants that if and to the extent it provides personal data to , it does so with the consent of the data subjects in accordance with the Personal Data (Privacy) Ordinance (Cap. 486); both parties agree to have policies in place to comply with that ordinance.

8. GENERAL TERMS

8.1 **Transfer or Assignment.** Customer may not assign the Customer Order or transfer, sublicense, or assign the use of Services without: (i) first providing a written undertaking from the proposed assignee, transferee or sublicensee, as the case may be and on a form specified by , undertaking and warranting that it shall abide by and duly observe the provisions of these Terms & Conditions, the Customer Order and guidelines that may be issued by from time to time; and (ii) the express prior written consent of , which consent will not be unreasonably withheld but always subject to credit approval, requirement for fresh security deposit and such other terms as may reasonably specify. No such permitted assignment, transfer or sublicense shall relieve Customer of its obligations hereunder.

may assign any and all of its rights and obligations hereunder: (i) to any Affiliate, (ii) pursuant to any sale or transfer of substantially all of the assets of , or (iii) pursuant to any financing, merger, or reorganisation of

8.2 **Customer Dealings.** Both parties agree that the Services shall be supplied solely for the purpose of providing legally permitted telecommunication services in Hong Kong without exceeding the authorised scope in and Customer's respective licences issued by OFCA as at the date of the commencement of the Term Commitment unless the prior written approval and consent of has been obtained. Customer may enter into all direct dealings and transactions with consumers in connection with the provision of the Services but shall not part with the right of access and all rights granted under these Terms & Conditions or any physical control or possession of the Services or Facilities without the prior written consent of . Customer hereby represents and warrants that it is duly established and in good standing under the laws of the jurisdiction of its incorporation, it is the holder of all relevant business and telecommunications licences under Hong Kong laws, and it has full power and authority to enter into and perform the legally binding Customer Order, including these Terms & Conditions.

8.3 **Notices.** Either party may deliver notices to the other by personal delivery or by postal delivery. Notices sent to Customer shall be addressed to the Customer's address listed on the Customer Order (or such other address as the Customer may notify in writing).

Notices sent to shall be sent by internationally reputable courier to

Notice shall be deemed delivered on the date of actual receipt.

8.4 **Contents of Communications.**

does not monitor and will have no liability or responsibility for the content of any communications transmitted via the Services, and Customer will indemnify and hold harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content attributable to Customer or its agents, employees or users.

8.5 **Governing Law.** These Terms & Conditions and the Customer Order shall be governed by the laws of the Hong Kong Special Administrative Region of the People's Republic of China and the parties irrevocably agree to the exclusive jurisdiction of the courts of Hong Kong and courts of appeal therefrom.

8.6 **No Waiver.** Failure by either party to exercise or enforce any right conferred by these Terms & Conditions shall not be deemed to be a waiver of any such right nor to operate so as to bar the exercise of enforcement of any such or other right on any later occasion.

8.7 **Severability.** If any provision of these Terms & Conditions or the Customer Order is held by a court or any governmental agency or authority to be invalid, void or unenforceable, such offending provision(s) shall be struck off and severed from these Terms and Conditions or the Customer Order to the extent possible and the remainder of these Terms & Conditions and the Customer Order shall remain legal, valid, and enforceable.

8.8 **No Partnership.** Nothing in these Terms & Conditions or the Customer Order and no action taken by the parties pursuant to these Terms & Conditions or the Customer Order shall constitute or be deemed to constitute between the parties a partnership, association, joint venture or other co-operative entity.

8.9 **Entire Understanding and Relationship with the Customer Order.** These Terms & Conditions, the Customer Order and the Order Acceptance Letter constitutes the entire understanding of the parties related to the subject matter hereof. All prior written or oral agreements, understandings, practices or communications between Customer and are hereby superseded insofar as they related to the Services hereunder. These Terms & Conditions form part of the relevant Customer Order. These Terms & Conditions and the Customer Order may be amended at any time by by service of prior written notice of thirty (30) days on the Customer provided that the Customer may, by written notice to of no more than fourteen (14) days after receipt of the said notice of change, object to any change in its entirety upon which only those changes not objected to will take effect from the end of the said 30 days period. In the event of a conflict or inconsistent provisions, the Order Acceptance Letter will take precedence over both the Customer Order and these Terms & Conditions, and the Customer Order shall take precedence over these Terms & Conditions. *(The remainder of this page has been intentionally left uncompleted.)*

Customer Order Form

<i>< For internal use only ></i>
Customer ID.:
Customer Order No.:
Contract / Quotation No.:
Issued By:

Customer Information			
Company Name:			
Corresponding Address:			
Contact Person		Telephone No:	Fax No.:
Billing Address:			
Contact Person		Telephone No:	Fax No.:

Customer Information					
Action:	<input checked="" type="checkbox"/> Installation	<input type="checkbox"/> External Relocation	<input type="checkbox"/> Internal Relocation	<input type="checkbox"/> Reconfiguration	<input type="checkbox"/> Termination
Service Details:					
Basic Monthly Rental:					
Length of Contract:	12 months	Request for Service Date:			

Service Address Information		
Customer Contact	A-end	B-end
Name :		
Phone # :		
Fax # :		
Email :		
Installation Address	A-end	B-end
User Name :		
Station Name :		
Shop No. :		

Price & Service Period			
Capacity (Lease Unit)	Non-Recurring Charge	Monthly Rental Charge	Minimum Service Period
One pair of 10M Bandwidth Fibre	HKD9,800	HKD100	12 month

Remarks

This Customer Order Form (COF) is submitted in accordance with the Terms & Conditions of Service (“TCS”) version 2.4 dated 7 February 2014 and the In-Station Fibre Block Wiring Agreement dated [*] (collectively, the “Agreement”). Customer acknowledges and agrees that this COF shall be governed by and in accordance with the Agreement, and that if usage ever exceeds applicable/agreed bandwidth limits then may levy additional charges and place Customer on a different charge schedule effective from first overflow. This COF will be binding upon only upon acceptance of the COF by an authorized representative in accordance with the Agreement.

Customer's Signature	
I have read and agreed to the General Terms and Conditions of Service attached hereto and declare that the information given above is true and accurate in each and every respect.	
Customer/Authorized Signature	
Name: _____	Date: _____
(with Company Chop, if applicable)	

