

## General Terms and Conditions

### 1. THE AGREEMENT

- 1.1 Company shall provide, and Customer shall pay for and receive, the Services subject to the following general terms and conditions (these “**General Conditions**”), the relevant Special Conditions and the relevant Service Orders (all the foregoing shall together constitute, the “**Agreement**”). Each Service Order, when accepted by Company, shall be treated as having automatically incorporated, and be governed by, these General Conditions and the relevant Special Conditions as if though the provisions hereto and thereto are explicitly written into each Service Order.
- 1.2 In the event of, and to the extent of, any inconsistency amongst these General Conditions, the relevant Special Conditions and the relevant Service Orders, the Service Orders will have the highest prevailing value followed by the Special Conditions and thereafter followed by these General Conditions, all provided that terms specific to a given Service Order will not be automatically imputed into other Service Orders or permanently change these General Conditions as they apply to other Service Orders unless such intention is explicitly and unequivocally stated in such a given Service Order.

### 2. PROVISION OF THE SERVICES

- 2.1 Company shall provide the Services in accordance with the terms of the Agreement and shall endeavour to perform the Services in accordance with the Service Levels.
- 2.2 Company does not covenant, represent or warrant to Customer, expressed or implied, that its provision of the Services shall be fault-free or continuous or that Services will be available from applicable Requested Service Start Dates or RFS Dates shown in Service Orders. If Customer intends to change or terminate the provision of Services before the Requested Service Start Dates or RFS Dates, Customer shall be responsible to pay any costs incurred by the Company and any actual costs incurred by the third-party provider for the provision of Services. Customer shall not dispute such amounts and treats the Company’s records as final.
- 2.3 The provision of the Services by Company shall be subject to Customer satisfying Company’s credit requirements, the Services being available at the Customer Location and any other factors that may affect, in Company’s sole opinion, the provision of the Services or any other business conducted by Company.
- 2.4 Customer acknowledges and agrees that Company has the sole discretion to determine or vary, without notice to Customer, the means of providing the Services to Customer, including varying the method, technology and route of delivery of the Services to Customer.

### 3. MODIFICATION AND MAINTENANCE OF THE SERVICES

- 3.1 Company reserves the right to modify, replace or discontinue the Services, the Company Equipment, the Software and/or the Network, provided that such modification, replacement or discontinuation does not unnecessarily materially adversely affect the overall level of performance of the Services. Customer agrees to provide reasonable assistance in connection with scheduled and unscheduled inspection and maintenance works that may be carried out by or at the direction of Company.

### 4. SUSPENSION, WITHDRAWAL OR RESTRICTION OF THE SERVICES

- 4.1 Company may suspend, withdraw or restrict all or a part of the Services, one or more Service Order, the Company Equipment, the Software and/or the Network at any time until further notice to Customer, without incurring any liability to Customer, if:
- (a) Customer has breached any provision of the Agreement ;
  - (b) Customer has failed to make a payment in accordance with **clause 10**;
  - (c) the provision of the Services would in the opinion of Company cause Company or its Associated Company to be in breach of any Relevant Law; or
  - (d) in the reasonable opinion of Company, it is necessary for such suspension, withdrawal or restriction in order for Company to:
    - (i) carry out planned maintenance, repair or upgrading of any Software, any Company Equipment or any other equipment or facility forming part of the Network and Company has given Customer as much notice as is reasonably practicable in the circumstances; or
    - (ii) protect the integrity of the Network, the Software and/or the Company Equipment, or to carry out unplanned maintenance, repair or upgrading of any Software, any Company Equipment or any other equipment or facility forming part of the Network.
- 4.2 If Company has terminated or withdrawn supply of the Services under **clauses 4.1(a), 4.1(b) or 4.1(c)**:
- (a) Company reserves the right to refuse to reconnect the Services; and
  - (b) if Company subsequently agrees to reconnect the Services, Customer may be required to pay a re-connection fee in advance.
- 4.3 If Company suspends the Services for any reason under **clauses 4.1(a), 4.1(b) or 4.1(c)**, Customer shall continue to be liable for the payment of the Charges during such suspension.

### 5. CUSTOMER’S OBLIGATIONS

- 5.1 Customer shall:
- (a) comply with the instructions and requirements of Company and its authorized agents with regard to the Services, the Company Equipment, the Software, the Company Technology or the Network;
  - (b) promptly notify Company of any fault in the Services, the Company Equipment or the Software or deterioration in the quality of the Services, the Company Equipment or the Software;
  - (c) use the Services, the Company Equipment, the Software and the Company Technology in accordance with the Agreement and Relevant Laws;
  - (d) not use the Services, the Company Equipment, the Software, the Company Technology or the Network in any manner that would cause Company to be in breach of any Relevant Law;
  - (e) not use the Services, the Company Equipment, the Software or the Company Technology:
    - (i) for any improper purpose or unacceptable use in the opinion of Company; or
    - (ii) in any manner which is unauthorised, fraudulent or illegal; or
    - (iii) in a manner which may constitute an infringement by Customer or Company of the rights of any person;

- (f) not interfere with, causes the imposition of any lien or encumbrance over, or impede the operation of the Services, the Company Equipment, the Software, the Company Technology, the Network or any third party telecommunications service or network, or do or not do anything which is likely to have such an effect;
- (g) immediately notify Company of any change of address or any other particulars provided to Company which may affect the provision of the Services to and the collection of charges from Customer;
- (h) not disclose to any person any personal identification number or password or login ID issued by Company to Customer or any other access method authorized by Company in writing from time to time;
- (i) not resell the Services without express consent of Company;
- (j) if Customer is a corporate entity, not suffer a change in majority control or ownership without having first given Company reasonable notice; and
- (k) fully comply with the Acceptable Use Policy ("AUP") at all times as presented and updated from time to time on the Company's website.

## 6. COMPANY EQUIPMENT

6.1 If Company provides Company Equipment to Customer, then:

- (a) title to the Company Equipment shall always remain with Company but risks are transferred to Customer upon provisioning until Company has regained possession;
- (b) Customer shall ensure that, it has all consents, approvals and insurance coverage necessary or desirable to Company for Company to deliver, install and maintain the Company Equipment at the Customer Location; and
- (c) Customer shall prevent the Company Equipment from being tampered with, interfered with or damaged by others, and not part with possession of the Company Equipment, except to or at the direction of Company and shall comply with all reasonable directions of Company relating Company's rights of ownership in the Company Equipment.

6.2 Company may change, modify, remove or service the Company Equipment acting in its sole discretion.

6.3 Customer shall allow Company access to the Company Equipment as and when reasonably required by Company, provided that Company complies with all reasonable security and confidentiality requirements notified by Customer from time to time.

6.4 Customer shall ensure that the Company Equipment is not altered, repaired, serviced or moved except by service personnel approved by Company.

6.5 Customer shall provide a suitable physical environment at the Customer Location for the storage and operation of the Company Equipment, including without limitation, supplying an adequate power supply, appropriate environmental conditions and any necessary equipment for the operation of the Company Equipment.

6.6 Customer shall provide safe access to the Customer Location and safe conditions for Company's employees, agents and contractors while they are at the Customer Location.

## 7. RESERVED RIGHTS

7.1 Where Company provides Software to Customer (in conjunction with the provision of the Services or otherwise), such Software are provided on an as-is basis without any warranty, and Company grants Customer a non-exclusive, non-transferable, non-sublicensable and revocable licence to use the Software for the purposes of receiving the Services prior to the expiration or sooner termination of the relevant Service Order or the Agreement, whichever is earlier.

7.2 Customer shall not:

- (a) market, exploit or make the Software or the Company Technology available to a third party or permit a third party to use the Software or the Company Technology;
- (b) use the Software or the Company Technology on behalf of or for the benefit of a third party;
- (c) modify, decompile, make derivatives, decrypt, reverse engineer or disassemble the program code or any other part of the Software or the Company Technology or otherwise reduce the Software or the Company Technology to human-readable form to gain access to trade secrets or confidential information in the Software or the Company Technology;
- (d) make copies of the Software or the Company Technology;
- (e) delete, remove or in any way obscure any proprietary notices on the Software or the Company Technology or any copies thereof;
- (f) use the Software or the Company Technology in unauthorized equipment; or
- (g) export or import the Software or the Company Technology or otherwise breach applicable export control laws.

7.3 Customer acknowledges and agrees that the Agreement and Company's implementation of this Agreement, including the provision of services and equipment as applicable, does not involve any license or transfer of Intellectual Property Right to Customer unless expressly stipulated in the Agreement. Customer acknowledges that Company (and applicable licensors of Company as Company may determine) shall retain ownership of all right, title and interest to the Software, the Services, the Company Equipment, the Company Technology, Company's Confidential Information, and the Intellectual Property Rights therein and thereto, and Company may freely make, but is not obligated to make, any modifications, enhancements, withdrawals and/or improvements without the need to share the same with Customer. Customer hereby assigns to Company Customer's entire right, title, and interest (including, without limitation, all Intellectual Property Rights) in any modifications or improvements to the foregoing..

7.4 Customer acknowledges that Customer's licence to use the Software or technology developed by third parties may be subject to additional terms and conditions imposed by a licensor of that Software or technology and Customer agrees to abide by such additional terms and conditions relating to the Software or technology.

## 8. CUSTOMER DEPOSIT

8.1 Company may require Customer to provide a deposit, to be determined by Company acting in its sole discretion, for the provision and continued provision of the Services.

8.2 A deposit may be held until:

- (a) termination of the Agreement pursuant to **clause 11**; and
- (b) all of Customer's liabilities to Company in respect of the Services are discharged.

8.3 Company shall be entitled to apply, and require Customer to replenish, the deposit in whole or any part to satisfy any amount due by Customer to the Company.

8.4 No interest on the deposit provided under **clause 8.1** shall be payable by Company to Customer.

**9. CHARGES**

9.1 Customer shall pay the Charges to Company in accordance with the Agreement, on or before the due date.

9.2 The Services and the Charges shall be measured from the Commencement Date using the methods adopted by Company and Customer acknowledges and agrees that records of such methods shall be conclusive evidence of the Services usage and the Charges payable by Customer.

9.3 The Charges shall be exclusive of any and all duties, levies, fees or taxes applicable to the provision of the Services by Company and/or the receipt of the Services by Customer and Customer shall be responsible for payment of the same.

9.4 If Company is required to pay for additional third party charges due to Customer accessing third party telecommunications services (including, without limitation, any universal service contribution charges) Company may require Customer to pay to Company such additional third party charges.

9.5 Unless agreed otherwise in writing by Company, the following shall be paid by Customer and shall not form part of the Charges:

(a) any costs incurred as a result of the failure or delay of Customer or any third party in allowing Customer to install the Company Equipment, the Software, the Company Technology and/or provide the Services at the Customer Location or to give Company adequate information or instructions; and

(b) any service fee at Company's then current rates, if there is the need for any maintenance which results from power failure, misuse of neglect of or accidental or willful damage to the Company Equipment or the Software or the Company Technology, failure by Customer to comply with any provisions of the Agreement, or fault in, or other problem associated with, any telecommunication system not run by, or apparatus not supplied by, Company.

**10. INVOICING AND PAYMENT**

10.1 With respect to invoicing and payments under a given Service Order, the parties agree that the following shall apply unless otherwise stipulated in that Service Order: (a) pre-determined non-recurring charges are payable by Customer in full upon signing of the applicable Service Order, and other charges are payable by Customer in full on or before the specified due date or within thirty (30) days after the date of the invoice; (b) amounts specified in Service Orders and invoices are, and all payments by Customer shall be made, in the currency shown in the applicable invoices and paid by direct debit (or other manner as Company may direct in writing); and (c) payments made by Customer are non-refundable.

10.2 In the event that Customer disputes any portion of an invoice, Customer must first pay the entire amount 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 within fifteen (15) days after the date of the invoice. Late payment incurs late interest on the full amount of the applicable invoice at the rate of 1.5% per month from the due date until fully paid. Neither party shall have set-off right provided that Company shall have the right to set off or deduct from any amount owed to Company against any amount owed by Company or its Associated Companies to Customer or its Associated Companies.

10.3 Company may with or without the assistance of billing agent issue monthly invoices with a list of all Charges incurred by Customer in relation to Customer's use of the Services during the period specified in each invoice to Customer. Customer acknowledges and agrees that not all of the Services used during the period covered by an invoice may be included in that invoice and that Company may include the Charges for such usage in any subsequent invoice.

**11. TERM AND TERMINATION**

11.1 The Agreement takes effect upon the date that both parties have signed on the first Service Order that refers to these General Conditions and shall continue to take effect and apply to all subsequent Service Orders until terminated in accordance with the provisions of the Agreement.

11.2 A Service Order takes effect on the date that both parties have signed on that Service Order and shall continue to take effect until terminated in accordance with the provisions of the Agreement. Each Service Order shall be automatically renewed beyond its Minimum Term on a month-to-month basis unless either party notifies the other party of its notice of non-renewal no less than thirty (30) days prior to expiration of the Minimum Term. During the renewed period either party may terminate the renewed Service Order at the end (not mid-term) of any given extended month by a serving a minimum thirty (30) days prior written notice to the other party. It is not necessary for these General Conditions to be physically attached to each Service Order. Termination of all then applicable Service Orders does not automatically terminate the Agreement, but termination of the Agreement terminates all Service Orders then in effect.

11.3 Customer is required to commit to and shall pay for the Services for at least the Minimum Term specified in the Service Orders and such longer time as Customer actually uses the Services.

11.4 Notwithstanding any other provision, for each Service Order that is terminated for whatsoever reason prior to its Minimum Term, Customer shall immediately upon such termination pay Company the Cancellation Charges in a lump sum by the date and method specified by Company as a genuine pre-estimate of the loss likely to be suffered by Company as a result of Customer's termination of the provision of the Services pursuant to the Agreement prior to the expiration of the Minimum Term.

11.5 Company and Customer each have the right to terminate one or more Service Order(s) and/or the Agreement by giving the other at least thirty (30) days' written notice. The Agreement will also be automatically terminated if there is no effective Service Order between the parties for a consecutive six (6) months period.

11.6 Company shall be entitled to suspend until further notice and/or terminate one or more Service Order, the Services and/or the Agreement immediately by written notice to Customer unless otherwise specified, without incurring any liability to Customer:

(a) Customer has breached the Agreement which shall include, without limitation, any failure by Customer to pay any amounts owing in accordance with the Agreement or to comply with its obligations under **clause 5**;

(b) if Company is named as a defendant or threatened with suit in any action or proceeding in which it is alleged that the Services has been used for any illegal purpose;

(c) if in the case of a Customer that is an individual person, Customer dies or is declared bankrupt; or if a Customer that is not an individual person, Customer becomes insolvent, subject to a winding up proceeding, has a receiver

- appointed, is dissolved or in the process of dissolution makes any arrangement for the benefit of creditors, or initiates or becomes subject to any other form of insolvency proceeding;
- (d) with reasonable notice to Customer if the Services are no longer provided by Company; or
  - (e) if Company is prohibited from supplying or is unable to supply the Services under any Relevant Law.
- 11.7 On termination of one or more Service Order and/or the Agreement for any reason whatsoever:
- (a) all Charges for use of the Services up to and including on the date of termination, the applicable Cancellation Charges and all other amounts owing by Customer to Company shall become immediately due and payable;
  - (b) Customer shall cease to use the Company Equipment, the Software, the Company Technology and the Services and shall upon request from the Company return them to the Company undamaged in good working condition;
  - (c) Company is authorised to access the Customer Location at reasonable times for the purpose of removing the Company Equipment, the Software and the Company Technology and/or terminating the Services; and
  - (d) any right of Customer and its Associated Companies to use Intellectual Property Rights in the Company Equipment, the Services, the Software and the Company Technology shall immediately cease and Customer shall not attempt to make use of any access method provided by Company.
- 11.8 Any termination shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implications intended to come into or continue in force on or after such termination.
- 12. USE OF PERSONAL DATA**
- 12.1 Any information supplied by Customer to Company in relation to the Agreement will be subject to the Privacy Policy and the Personal Data (Privacy) Ordinance (CAP 486). Customer hereby consents to Company's use of any data supplied by Customer for the purpose of processing the Service Order and for the provision of the Services and other services to be included from time to time. Customer also authorizes the transfer of such information to the Company's Associated Companies, affiliates, agents, subcontractors and third-party providers. Customer understands that the information provided on the Service Orders may be used by Company for credit verification, administration, collection, internal marketing, or direct marketing purposes and for the operation of the Services. Customer also consents to such data being transferred to another legal jurisdiction outside Hong Kong which may not have laws protecting personal data similar to the said ordinance.
- 13. CONFIDENTIALITY**
- 13.1 Save as expressly permitted under this **clause 13**, Customer shall not, either during or after the expiry of the Agreement, disclose, duplicate or permit the duplication or disclosure of any Confidential Information emanating from or belonging to Company or its Associated Company, or use the same in any way other than to perform its obligations under the Agreement unless such duplication, use or disclosure is specifically authorised in writing by Company.
- 13.2 The provisions of this **clause 13** shall not apply to the disclosure of information by Customer to any person to whom such party is compelled by law to make disclosure.
- 13.3 Customer:
- (a) agrees to limit the disclosure of Company's Confidential Information within its own organisation to those officers, employees, agents and contractors to whom disclosure is necessary for the performance of these General Conditions;
  - (b) shall ensure that such officers, employees, agents and contractors are made aware of the confidential nature of the Confidential Information of Company and are bound by the same or substantially similar obligations of confidentiality under written agreements as those set out in this **clause 13** and shall enforce such obligations; and
  - (c) shall be responsible for any unauthorised disclosures or use of Company's Confidential Information made by any of its officers, employees, agents or contractors and shall take all reasonable precautions to prevent such disclosure.
- 14. WARRANTIES AND INDEMNITIES**
- 14.1 Customer represents and warrants to Company on a full indemnity basis that:
- (a) it has the power and authority necessary to enter into the Agreement; and
  - (b) it has the power and authority necessary to fully perform its obligations under the Agreement.
- 14.2 To the extent permitted by law, Company disclaims any and all representations and warranties, express or implied, with regard to the Services, the Software, the Company Technology and the Company Equipment including, without limitation, warranties of merchantability, accuracy, fitness for a particular purpose, requirements, quality or that the Services will be uninterrupted or error free.
- 14.3 Customer shall indemnify Company, Company's Associated Companies and their respective officers, employees, agents and contractors against any and all losses, damages, liabilities, costs, claims and expenses (including but not limited to legal costs awarded on a full indemnity basis) incurred by Company arising out of or in connection with:
- (a) any act or omission, whether or not negligent, of Customer and/or its Associated Companies or any of their officers, employees, agents or contractors or any breach of any warranty or term of the Agreement; and
  - (b) any claim by any person or liability of Company under any Relevant Law in relation to the supply of the Services including, without limitation, any claim in relation to any content transmitted using the Services including any claim for infringement of any Intellectual Property Rights or any claim arising out of or relating to the use of the Services to carry material of obscene, indecent or defamatory nature.
- 15. LIMITATION OF LIABILITY**
- 15.1 Subject to **clause 15.3**, Customer acknowledges and agrees that, to the full extent permitted by law, Company's aggregate liability for any direct loss, damage or injury under the Agreement or arising from the supply of the Services, the Software, the Company Technology or the Company Equipment, or any failure by Company to perform any obligation or observe any term of the Agreement shall in no event exceed the amount of the monthly fee paid by Customer in the previous month with respect to the provision of the Services under the affected Service Order from which such direct loss, damage or injury arose.
- 15.2 To the full extent permitted by law, under no circumstances shall Company be liable to Customer for any loss of profit, loss of expected benefit, loss of goodwill, or other indirect, special, punitive or consequential loss, damage or injury arising from the supply of the Services, the Software, the Company Technology or the Company Equipment or any failure by Company to

perform any obligation or observe any term of the Agreement, whether or not Company has been advised of the possibility of such loss, damage or injury.

15.3 To the full extent permitted by law, Company's liability under the Agreement and for breach of implied warranties, conditions or undertakings which cannot be excluded by law is limited:

- (a) in the case of the Company Equipment, the Software or the Company Technology, at Company's option, to :
- (i) the replacement of the Company Equipment, the Software or the Company Technology, or the supply of substitute equipment and/or software and/or the Company Technology;
  - (ii) the repair of such Company Equipment, Software and the Company Technology;
  - (iii) the payment of the cost of replacing the Company Equipment, Software or Company Technology, or of acquiring equivalent Company Equipment, Software or Company Technology; or
  - (iv) the payment of the cost of having the Company Equipment or Software or Company Technology repaired;
- (b) in the case of Services, at Company's Option, to the supply of the services again.

#### 16. NOTICES

Any notice or other communication to be given under the Agreement shall be in writing, shall be deemed to have been duly served on, given to or made in relation to a party if it is left at the authorised address of that party, posted by first class/registered post addressed to that party at such address, or sent by facsimile transmission to a machine situated at such address, provided that where, in the case of delivery by hand or facsimile transmission, delivery or transmission occurs after 6.00 pm on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 9.00 am on the next following Business Day. Company may also issue general notices to Customer and other customers by uploading it on Company's official website, and such notice shall be effective upon uploading.

#### 17. SUBCONTRACTING

17.1 Customer shall be entitled to assign its rights under the Agreement after obtain the prior written consent of Company, which consent may be withheld and conditioned by Company acting in its sole discretion. Company may appoint a subcontractor, including any Associated Company, to receive/progress information any where in the world and provide the Services to Customer on Company's behalf or to perform any of Company's obligations under the Agreement, without obtaining Customer's consent. Company reserves the right to assign its rights and/or obligations under the Agreement to third parties at any time without obtaining the consent of Customer.

#### 18. WAIVER

18.1 Any waiver of a breach of any of the terms of the Agreement or of any default hereunder shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.

18.2 No failure to exercise and no delay on the part of any party in exercising any right, remedy, power or privilege of that party under the Agreement and no course of dealing between the parties shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

#### 19. SEVERABILITY OF PROVISIONS

19.1 If any provision of the Agreement is held to be illegal, invalid or unenforceable in whole or in part in any jurisdiction, the Agreement shall, as to such jurisdiction, continue to be valid as to its other provisions and the remainder of the affected provision and the legality, validity and enforceability of such provision in any other jurisdiction shall be unaffected.

#### 20. NO PARTNERSHIP OR AGENCY

20.1 Nothing in the Agreement shall constitute a partnership between the parties hereto or constitute either of them as agent of the other for any purpose whatsoever.

20.2 No party shall have authority or power to bind the others or to contract in the name of or create liability against the others in any way or for any purpose save as expressly authorised in writing by that other party from time to time.

#### 21. FORCE MAJEURE

21.1 In the event that the Services or an obligation cannot be duly performed or delivered by any party hereto for any reason beyond its reasonable control (including, without limitation, such events as war, industrial action, acts of god, action or inaction of suppliers, unforeseen technical failure and utility failures), then such non-performance or failure to fulfil its obligations shall be deemed not to be a breach of the Agreement by such party.

#### 22. GOVERNING LAW AND JURISDICTION

22.1 This Agreement shall be governed by, construed and take effect in accordance with the laws of the Hong Kong Special Administrative Region.

22.2 The parties irrevocably submit to the non-exclusive jurisdiction of the courts of Hong Kong.

#### 23. CHANGES TO THE AGREEMENT

23.1 Company may unilaterally change the terms of the Agreement from time to time, provided that it gives Customer written notice of such changes.

#### 24. ENTIRE AGREEMENT

24.1 This Agreement contains the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements, both oral and written, relating to the subject matter of the Agreement. The Sale of Goods Ordinance (CAP 26) shall not apply to the Agreement.

24.2 Each of the parties acknowledges and agrees that it does not enter into the Agreement on the basis of and does not rely, and has not relied, upon any statement or representation or warranty or other provision made, given or agreed to by any person party to the Agreement except those expressly repeated or referred to in the Agreement and the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for breach of contract under the Agreement.

#### 25. DEFINITIONS AND INTERPRETATION

25.1 Unless otherwise expressly stated, the following defined terms shall have the following meanings:

"**Associated Company**" means any "subsidiary" or "holding company" of a party to the Agreement and any "subsidiary" of any such "holding company", with the terms "subsidiary" and "holding company" having the meanings given to them in section 2 of the *Companies Ordinance (CAP 32)*.

"**Business Day**" means any day other than a Saturday, Sunday or days stated as public holidays in Hong Kong under the

*General Holidays Ordinance (CAP 149).*

“**Cancellation Charges**” mean those Charges, to be determined by Company in its sole discretion, that would have been payable by Customer with respect to the unexpired portion of the Minimum Term plus termination and other charges payable by Company as a consequence of earlier termination.

“**Charges**” means the charges/monthly charges payable by Customer to Company in respect of the Services, as specified in the applicable Service Order, plus any additional charges set out in the Special Conditions, as amended by Company from time to time by notice in writing to Customer.

“**Commencement Date**” means the date being the earlier of the Requested Service Start Date or RFS Date specified in the Service Order, the date on which Company commences performing the Services for the Customer, the date on which Company's Network is connected to Customer's (or any of its Associated Companies') Location or the date on which Company supplies the Company Equipment, the Software and/or Company Technology to Customer (or any of its Associated Companies).

“**Company**” means HKNet Company Limited (Company No. 459586), a Hong Kong company with its principal place of business at 12/Floor Guardian House, 32 Oi Kwan Road, Wanchai, Hong Kong, and its successors and assigns.

“**Company Equipment**” means any equipment, excluding Software, supplied by or at the direction of Company to provide the Services to Customer, as specified in the applicable Special Conditions and/or Service Order.

“**Company Technology**” means Company's proprietary technology including Company's Services, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned by Company or licensed to Company from a third party) and also including any derivatives, improvements, enhancements or extensions of the foregoing conceived, reduced to practice or developed during the term of the Agreement.

“**Confidential Information**” means all confidential information disclosed, whether in writing or orally, directly or indirectly, by a party to the other party whether before or after the date of the Agreement including, without limitation, information relating to the Company Equipment, the Software, the Company Technology, the Network and/or the Services or either party's operations, pricing, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs.

“**Customer**” means any legal entity including any individual, corporation or unincorporated body, which has requested Company to provide the Services, details of whom will be set out in the applicable Service Order.

“**Customer Location**” means any location from which the Services are used by Customer from time to time.

“**Intellectual Property Rights**” means any intellectual property rights whether registrable or not, including, without limitation, patents, trademarks, service marks, trade names, logos, get up, inventions, designs, copyrights, confidential information, trade secret and related rights and know-how in them or licences to use any of them which may now or in future subsist anywhere in the world.

“**Minimum Term/Term**” for a given Service Order means the duration for the Services as specified in that Service Order and subject to the applicable Special Conditions.

“**Network**” means the telecommunications network and systems owned or operated by Company which are used by Company to perform the Services.

“**Privacy Policy**” means Company's published privacy policy, which is available at the Company's official website (currently at [www.hknet.com](http://www.hknet.com)).

“**Relevant Law**” means any ordinance, law, rule or regulation applicable in and outside of Hong Kong which is relevant to Company, Customer, the Network, or the provision of the Services, the Company Equipment or the Software or Company Technology by Company to Customer.

“**Services**” means the telecommunication services to be provided by Company to Customer, as specified in detail in the Service Orders and applicable Special Conditions referred thereto.

“**Service Levels**” means, in respect of the Services, the performance, availability, capacity, response times and other levels or standards for such Services, if any, as explicitly specified in the applicable Special Conditions and/or any applicable Service Order.

“**Service Order**” means the relevant order for Services submitted by Customer that is accepted by Company.

“**Software**” means any software supplied by Company, including software created by third parties, to enable receipt of the Services by Customer, whether or not embedded in Company Equipment.

“**Special Conditions**” means the special terms and conditions applicable to the specific Services provided for in forms prescribed by Company and included by reference in the applicable Service Orders or otherwise posted on Company's official website, as amended by Company from time to time.

25.2 In the Agreement, unless the context otherwise requires:

- (a) a word signifying the singular shall include the plural and vice versa;
- (b) a word signifying a person shall include a company and vice versa; and
- (c) an agreement on the part of two or more persons binds them jointly and severally.