



MASTER SERVICE AGREEMENT

This Master Service Agreement (this “Agreement”) to provide and purchase Services (as defined in Section 1) is entered into as of the later of the dates set out on the signature page hereto (the “Effective Date”) by and between China Telecom (Hong Kong) International Limited (“CTHKI”) and Customer. CTHKI and Customer may be referred to collectively as “Parties” and each individually as a “Party.” CTHKI and Customer agree that the terms of this Agreement apply to the provision and use of all Services.

1 DESCRIPTION OF SERVICE

This Agreement contains the general terms and conditions governing the provision of services to be provided by CTHKI, either directly or through its affiliates or underlying carriers, as set out in the Customer Order Summary to the Customer (the “Service”). Additional terms and conditions specific to a particular Service shall be contained in a separate Appendix to this Agreement and supplement the terms and conditions in this Agreement (each, a “Customer Order Summary”).

Customer will purchase Services by submitting a Customer Order Summary, which will set out the Service requested and information reasonably necessary for CTHKI to provide that Service, including term of the Service, volume requirements, technical and logistical specifications, geographic scope and pricing. Acceptance of a Customer Order Summary by CTHKI and provision of a new Service is subject to submission of accurate information by Customer and availability of the requested Service. CTHKI reserves the right to reject a Customer Order Summary for any reason.

In the event that the additional terms and conditions contained in a Customer Order Summary are in conflict with this Agreement, the Customer Order Summary shall control.

2 TERM

- 2.1 This Agreement is effective and the Parties’ obligations shall commence upon the Effective Date and, unless otherwise terminated pursuant to the terms of this Agreement, shall continue for a period of three years. Thereafter, the term shall be automatically renewed for successive one-year periods, until one Party provides the other Party with written notice of termination. This Agreement shall be terminated two (2) months following the date of such written notice provided that notice may only be given at the expiry of the initial three year period.
- 2.2 Each Customer Order Summary shall set out the term of any Service provided under this Agreement. If no term is specified in a Customer Order Summary, the term shall be one year. Upon the expiry of the term, the term of each Customer Order Summary shall automatically be renewed on a month-to-month basis, unless terminated by either Party upon thirty (30) days written notice to the other Party.
- 2.3 If the term specified in the Customer Order Summary extends beyond the term of this Agreement, then notwithstanding Section 2.1, this Agreement will continue to govern the



provision of Service under that Customer Order Summary until the term of that Order has expired.

3 PRICING AND BILLING

- 3.1 Commencing on the Ready for Service Date (as defined in Section 9), the Customer shall pay CTHKI the monthly charges set forth in the Customer Order Summary (the “Monthly Recurring Charge”) and any other charges set out in the Customer Order Summary (the “Other Charges”). Customer also shall pay to CTHKI a one-time installation charge as set forth in the Customer Order Summary (the “Installation Fee”), which Installation Fee shall be due and payable thirty (30) days after the date of the invoice for the same, which invoice shall be issued upon the execution of the Customer Order Summary and not before, provided that, in any event, Customer actually receives such invoice.
- 3.2 CTHKI will invoice the Monthly Recurring Charges on a monthly basis and in advance, with the initial Monthly Recurring Charge due within thirty (30) days of the date of the invoice for the same with such invoice issuable upon the Ready for Service Date and subsequent charges due within thirty (30) days of the date of an invoice for the same, provided that, in any event, Customer actually receives such invoice. If the Ready for Service Date occurs on a date other than the first day of a calendar month, the initial Monthly Recurring Charge shall be reduced to an amount equal to the remaining days of said month following the Service Date (including the Service Date), multiplied by a rate equal to one-thirtieth (1/30th) of the Monthly Recurring Charge. CTHKI will invoice the Other Charges on the basis set out in the Customer Order Summary, and those Other Charges shall be due and payable thirty (30) days after the date of the invoice for the same.
- 3.3 In addition and without prejudice to any other remedies CTHKI may have, if Customer fails to pay any amount when due, CTHKI may charge interest on the unpaid balance from the date due until the date paid at the rate of 1.5% per month. CTHKI may also net or set-off amounts payable by CTHKI to Customer under this Agreement or otherwise against any unpaid balance if Customer fails to pay any amount when due.
- 3.4 The charges described in Section 3.1 and 3.2 are exclusive of, and Customer shall assume and pay promptly, all applicable taxes, including value added tax, sales taxes and duties or levies imposed by any authority, government or government agency (except income tax attributable to CTHKI).
- 3.5 Unless otherwise specified in the Customer Order Summary, all monetary references in this Agreement are denominated in United States dollars, and all financial transactions under this Agreement must be settled in United States dollars.

4. BILLING DISPUTES

- 4.1 If Customer reasonably disputes any matter contained in any invoice, the Customer shall pay the undisputed portion of the invoiced charges. Written notice regarding any dispute as to the amount owing must be provided to CTHKI in reasonable detail including documentation identifying the charges, which are in dispute, within thirty (30) days of receipt of such disputed invoice. A dispute shall not be cause for delay of payment of the balance due, nor may it be grounds for the Customer to withhold payment for any undisputed amount.



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- 4.2 In the event of a dispute, the Parties shall thereafter investigate the matter and endeavour to resolve the disputed charges within thirty (30) days following notice of the dispute. If the Parties are unable to informally resolve the dispute in good faith within thirty (30) days following notice of the dispute, CTHKI reserves the right to suspend or terminate the Services. Nothing herein shall be construed to constitute a waiver of CTHKI's right to declare a default by Customer under this Agreement on account of a delinquency, to terminate this Agreement and to exercise any other rights under this Agreement or at law or in equity.
- 4.3 Following resolution of the dispute, the adjustment (if any) will be applied to the payment of the Customer's next Monthly Recurring Charge. Interest on the adjustment amount shall be payable from the original due date at the rate of 1.5% per month for each day thereafter until payment is made.

5. **RESPONSIBILITY OF CUSTOMER**

- 5.1 Unless otherwise stated in a Customer Order Summary, Customer will, if applicable:
- 5.1.1 at its own reasonable expense, provide all reasonable preparations required to comply with the installation and maintenance specifications of CTHKI, its affiliates or underlying carriers, including but not limited to arranging access to any of the rights-of-way, conduits and equipment space necessary for CTHKI to provide Services to the Customer's sites; and
 - 5.1.2 be responsible for the costs of relocation of Services once installed.

- 5.2 Other than as set forth in Section 6.1, Customer will, if applicable, provide the necessary equipment, protective apparatus, space, conduits, ventilation, air conditioning and electrical power required to terminate and maintain the facilities used to provide Services to Customer's sites without charge or cost to CTHKI in accordance with CTHKI's specifications. The space, conduits and power will be made available to CTHKI, its affiliates or underlying carriers on a timely and reasonable basis. Customer will be responsible for maintaining the equipment space and associated facilities, conduits and rights-of-way as safe places to work, which are insured against fire, theft, vandalism and other casualty. Customer shall carry out adjustments, modifications, alterations, repairs or replacements at its own expense to any equipment when so required by CTHKI. Customer will also be responsible for ensuring that the use of the equipment space and associated facilities, conduits and rights-of way comply with all applicable laws, governmental rules and regulations as well as any provisions of this agreement, provisions of any other agreement between the Parties hereto, and any reasonable rules that CTHKI imposes uniformly in good faith on all users of CTHKI facilities and services provided that in no case shall such rules materially adversely affect Customer's access to or enjoyment of the services provided in accordance herewith.
- 5.3 Customer will comply with all applicable laws and regulations governing this Agreement. Customer will be responsible for obtaining and maintaining all necessary licenses, permits and approvals required by any and all governmental authorities to permit Customer to receive Services and comply with its obligations under this Agreement. Customer further represents that its use of Services will be in accordance with such licenses, permits and approvals and that it will not use Services for any unlawful or unauthorized purpose.
- 5.4 Customer will be liable for any and all damages to the equipment of CTHKI, its affiliates or underlying carriers located on Customer's premises that results from the negligence or willful misconduct of Customer. Upon expiration or termination of a Customer Order Summary, Customer will surrender to CTHKI any equipment and other property owned by CTHKI, its affiliates or underlying carriers and provided to Customer.
- 5.5 Except to the extent required by law, or governmental personnel, Customer will not permit or assist others to, and will take all reasonable steps to ensure that its own employees, customers and third parties do not, misuse, abuse or fraudulently use the Services, including but not limited to the following:
- 5.5.1 Obtaining or attempting to obtain Services by any means or device with intent to avoid payment; or
 - 5.5.2 Unauthorized access, alteration, destruction or any attempt thereof, of any information of another CTHKI customer by any means or device; or
 - 5.5.3 Using Services so as to impair or interfere with the use of equipment or facilities of CTHKI, its affiliates or underlying carriers by other customers or authorized users, or in violation of the law or in aid of any unlawful act; or
 - 5.5.4 Using Services to impair or interfere with the privacy of any communications; or
 - 5.5.5 Using Services in a manner which is not in accordance with generally accepted rules of telecommunications conduct.



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- 5.6 Customer will take every reasonable precaution in its use of the Services to prevent contamination of any software or hardware or diffusion of any software or hardware contamination including computer viruses.
- 5.7 Customer shall be solely responsible for:
- 5.7.1 content of information and communications transmitted by its use of the Services, and
 - 5.7.2 Customer's use and publication of communications and/or information using the Services



5.8 If Customer continues to engage in any of the activities prohibited in this Article 5 after written notice from CTHKI and a 30-day cure period, CTHKI may suspend its performance and/or terminate the relevant Service with no further obligation to Customer. In the event of such termination, Customer shall be liable for Termination Payments (as defined in Section 10.3).

6. **EQUIPMENT AND SOFTWARE**

6.1 CTHKI, its affiliates or underlying carriers may be required to provide a Network Terminating Unit (NTU) at the Customer's premises. The equipment shall at all times remain the sole and exclusive property of CTHKI, its affiliates or underlying carriers and Customer shall have no interest or rights in it except for quiet possession and the rights to use the equipment under these conditions. If equipment is damaged or removed by Customer, other than as a result of reasonable wear and tear, CTHKI will invoice the Customer for the value of the of the NTU immediately preceding such damage. The Customers shall obtain the prior written approval of CTHKI before connecting any equipment to CTHKI or its affiliates or underlying carriers network or equipment.

7. **OPERATIONAL AND COMMERCIAL MATTERS**

7.1 CTHKI is not liable for the security of the Customer's telecommunications services, telephone connections or for traffic transmitted under this Agreement and has no obligations to ensure and makes no representations or warranties concerning the security of such communications, connections or traffic.

7.2 The Customer shall, upon prior and reasonable notice from CTHKI, and subject to the compliance with the Customer's security procedures, allow agents and employees of CTHKI, its affiliates or underlying carriers reasonable entry and access to the premises at which Services will be provided, to install, inspect, repair or remove its facilities and/or equipment, or to perform necessary inspections or maintenance in cases where Customer-provided equipment or facilities are disrupting provision of the Services.

7.3 The technical standards and methods of operation to be applied by the Parties for the implementation and provision of the Services must conform to the provisions of the Telecommunication Ordinance, as amended, the rules and regulations of OFTA, International Telecommunication Union-Telecommunications Standardization Sector Recommendations, and other relevant state or federal laws, as amended from time to time.

7.4 CTHKI reserves the right to limit any and all communications or traffic from the Customer on any route during conditions of network congestion or for any other reason which CTHKI in its sole discretion may determine.

8. **LOCAL LOOP**

8.1 If Customer desires CTHKI to order and administer local tail circuits (each a "Local Loop") in order to interconnect Customer's network and equipment with the Services, CTHKI reserves the right to order Local Loops from the local circuit provider (the "Loop Provider") of its choice. If the Loop Provider does not provide test results regarding the Local Loop to CTHKI, then CTHKI may test the Local Loop based on ITU recommendations. CTHKI may accept or reject the Local Loop in its reasonable discretion based on test

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- results. CTHKI may suspend or terminate any Local Loop upon written notice to Customer in order to comply with the order or request of any court, government agency or regulatory authority, or with any applicable law, governmental rule or regulation; provided that, CTHKI shall give Customer 48 hours to cure any alleged violation of law, rule or regulation arising from Customer's actions or failure to act if such delay would not subject CTHKI to civil or criminal liabilities and CTHKI shall use commercially reasonable efforts for a period of 48 hours to cure any alleged violation arising from its actions or failure to act. Notwithstanding anything herein to the contrary, Customer reserves the right to order Local Loops from the Loop Provider of its choice.
- 8.2 In the event of interruptions to or other problems with a Local Loop, Customer shall notify CTHKI's designated technical point of contact via phone, fax and/or e-mail. CTHKI's sole obligation with regard to such interruptions shall be to use its commercially reasonable efforts to cause the Loop Provider to promptly remedy such problems.
- 8.3 Upon at least sixty (60) days prior written notice to Customer, CTHKI may change the Loop Provider for a Local Loop. Such changes shall be at CTHKI's sole cost and expense. Customer may request a change in a Loop Provider upon at least 60 days prior written notice to CTHKI. If CTHKI accepts Customer's request, Customer shall submit a new Customer Order Summary. Changes requested by Customer shall be at Customer's sole cost and expense, including all costs or penalties incurred by CTHKI due to the early termination of the original Local Loop.
- 8.4 The Customer Order Summary includes charges for the Local Loop. Customer shall be liable for all reasonable termination charges incurred by CTHKI due to its cancellation of a Local Loop, unless (i) such cancellation is initiated by CTHKI pursuant to Section 8.3 or is due to CTHKI's gross negligence or willful misconduct or (ii) provision for sharing any such termination charge is set forth in the Customer Order Summary.
- 8.5 If Customer does not indicate on the Customer Order Summary that it desires CTHKI to provide (or, where necessary, to order and administer) a Local Loop on its behalf, then Customer shall be solely responsible for ordering and administering that Local Loop. CTHKI shall not be liable for any delays in the Ready for Service Date caused by Customer's failure to place a timely order for a Local Loop, nor for any delays in Local Loop delivery caused by Customer's Loop Provider.
9. **ACCEPTANCE AND TESTING**
- 9.1 CTHKI shall provide the Customer written notice once the Service is deemed ready and available for use. Customer has three (3) days to test the circuit, at Customer's expense, and notify CTHKI in writing if the Service is in material non-compliance with the applicable technical specifications set forth in the Customer Order Summary. If no written notice is received from Customer within three (3) days, Customer shall be deemed to have accepted the Service and the "Ready for Service Date" shall be the date on which CTHKI provided the notice of availability to Customer. If Customer delivers notice of material non-compliance within the three-day period, CTHKI shall promptly take such reasonable action as is necessary to correct any such non-compliance in the Services and shall notify Customer of a new Ready for Service Date upon correction.



10. **TERMINATION RIGHTS; TERMINATION PAYMENT**

- 10.1 CTHKI, without prejudice to its other rights at law or in equity, may terminate this Agreement immediately and without notice if Customer is in default in the payment of any amount due hereunder and has failed to remedy such default within twenty days of receipt of written notice of such default from CTHKI. Notwithstanding anything to the contrary set forth in this Agreement, CTHKI may suspend any applicable Service (a) immediately and without notice if any misuse of such Service or misconduct with respect to such Service on the part of Customer or its customers would, in CTHKI's reasonable opinion, cause material damage to CTHKI's network, facilities or other property or (b) upon twenty four (24) hours' written notice or request of a governmental authority.
- 10.2 Either Party may terminate this Agreement (a) if the other Party fails to perform and discharge its material obligations as set forth in this Agreement (other than a payment default which is governed by Section 10.1) and such default has not been cured within thirty (30) days after receipt by the defaulting Party of written notice thereof from the non-defaulting Party or b) immediately (i) in the event of any evidence of the potential or imminent insolvency of the other Party or that Party's insolvency, dissolution or cessation of business operations; (ii) if the other Party files a petition in bankruptcy or if a petition in bankruptcy is filed against it; or (iii) if the other Party makes an assignment for the benefit of any of its creditors or similar arrangement pursuant to any bankruptcy law or similar law of an applicable jurisdiction.
- 10.3 In the case of termination of this Agreement or any Service (a) by Customer for any reason other than a material breach primarily attributable to CTHKI or (b) by CTHKI pursuant to the terms of Sections 10.1 or 10.2 hereof, Customer shall remain liable to pay CTHKI an amount equal to (a) the Monthly Recurring Charges for the remainder of the term of that Service as set forth in the Customer Order Summary plus (b) the aggregate charges, payable to any affiliates or underlying carriers, if any, for which CTHKI is or becomes contractually liable in connection with any such termination ("Termination Payment"). Customer agrees that CTHKI's damages will be difficult to ascertain if termination occurs and that the Termination Payment establishes liquidated damages and is not a penalty.
- 10.4 Notwithstanding the foregoing provisions, a Customer Order Summary may provide for termination for convenience of the service provided pursuant to that Summary without any Termination Payment.

11. **FORCE MAJEURE**

- 11.1 The Parties' obligations under this Agreement are subject to, and neither Party shall be liable for any delays, failures to perform (except the payment of money due by Customer), omissions, damages, losses or destruction, or malfunction of any equipment or any consequence thereof occasioned by or due to fire, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, blackouts, explosions, civil disturbances, unavailability of transportation or other essential services, acts or omissions of third Parties (other than the Customer's own customers or accounts, for whom Customer shall remain responsible), acts of God, government, bodies vested with pseudo-governmental or regulatory authority, or public utility, or any other cause that is beyond the Party's reasonable control or that such Party could have reasonably prevented.



- 11.2 If either Party is delayed in performing as aforesaid, it shall give to the other Party in writing at the earliest possible time after such cause becomes known, notice of its claim for any extension of time for its performance, together with a statement on which it bases its claim of force majeure.
- 11.3 If an event of force majeure continues for a period of thirty (30) days, either Party may terminate this Agreement without penalty or further liability hereunder by giving notice in writing to the other Party.

12. **LIMITATIONS ON WARRANTIES**

- 12.1 The Parties recognize that neither Party has control over the laws or regulations of governments pertaining to international telecommunications services or the rules and conditions established by third parties. The Services are provided on an "as is," "as available" basis. CTHKI EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CTHKI makes no warranty that the Services will meet the Customer's requirements, nor that the Service(s) will be uninterrupted, timely, secure, or error free. No advice, information, or expectation, whether oral or written, obtained by Customer through use of the Service shall create any warranty not expressly made herein.
- 12.2 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, EACH PARTY WILL NOT BE LIABLE TO THE OTHER, OR TO THE OTHER'S INTERCONNECTING AFFILIATES OR END USERS, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY LOSS, CLAIM, COST OR DAMAGES RESULTING FROM THE USE OR INABILITY TO USE ANY OF THE SERVICES OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES (INCLUDING ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, SUCH AS, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS, CUSTOMERS, BUSINESS OPPORTUNITIES OR GOODWILL) SUSTAINED BY THE OTHER PARTY HERETO, ITS INTERCONNECTING AFFILIATES OR ITS END USERS DUE TO ANY FAILURE IN OR BREAKDOWN OF THE COMMUNICATION FACILITIES ASSOCIATED WITH PROVIDING THE SERVICES HEREUNDER, FOR ANY INTERRUPTION OR DEGRADATION IN THE SERVICE OR IN THE NETWORK OF EITHER PARTY OR ANY OTHER NETWORK OR CONNECTION INVOLVED IN THE PROVISION OF SUCH SERVICES WHATSOEVER SHALL BE THE CAUSE OR DURATION THEREOF.
- 12.3 THE TERMS AND CONDITIONS IN THIS AGREEMENT THAT EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY APPLY TO THE EXTENT PERMITTED BY LAW. PROVISIONS OF APPLICABLE LEGISLATION MAY IMPLY WARRANTIES OR CONDITIONS OR IMPOSE OBLIGATIONS UPON A PARTY WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED OR WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT. THIS AGREEMENT MUST BE READ AND CONSTRUED SUBJECT TO ANY SUCH LEGISLATION. IF ANY SUCH LEGISLATION APPLIES, THEN TO THE EXTENT TO WHICH A PARTY IS ENTITLED TO DO SO, THE LIABILITY OF THAT PARTY UNDER THAT LEGISLATION WILL BE LIMITED AT THE OPTION OF THE



RELEVANT PARTY TO:

- 12.3.1 re-supply of the Services;
- 12.3.2 payment of the cost of having the Services supplied again; or
- 12.3.3 any other remedy prescribed by any relevant law.

12.4 Customer hereby agrees that CTHKI's maximum liability for any Service shall be limited to the total payments by Customer under the relevant Customer Order Summary in the 6-month period preceding the event out of which the liability arose.

13. **INDEMNITY**

Customer shall indemnify and hold harmless CTHKI, its affiliates, stockholders, officers, directors, agents and employees against any and all damages, losses, claims, costs and expenses (including reasonable legal costs and attorney fees) ("Losses") arising out of or otherwise as related to service interruptions, service unavailability, or service degradation, resulting from the installation, hook-up, maintenance, provision, use, or trouble-shooting, of the Services described in the Agreement, including any interruption of the Service to Customer, its agents, employees or customers, whether such Losses are incurred by Customer, its affiliated companies, shareholders, directors, officer, employees, agents or third parties.

14. **REGULATORY EVENTS AND REGULATIONS**

This Agreement is made expressly subject to all present and future valid orders, approvals, directives and regulations of any regulatory body having jurisdiction over the subject matter hereof and to the laws of the Hong Kong Special Administrative Region, P.R.China, or any other governmental agency having jurisdiction, including, without limitation, the People's Republic of China. In the event that this Agreement, or any of its provisions, shall be found contrary to or in conflict with any such order, rule, regulation, directive or law, the Agreement or such provision(s) shall be deemed modified to the extent necessary to comply with any such order, rule, regulation, directive or law and shall be modified in such a way as is consistent with the form, intent or purpose of this Agreement.

15. **NO AGENCY**

Neither Party is authorized to act as an agent for, or legal representative of, the other Party and neither Party shall have the authority to assume or create any obligation on behalf of, in the name of, or binding upon the other Party. No provisions of this Agreement will be considered to constitute a joint venture, partnership or agency between the Parties or to merge the assets, liabilities and undertaking of the Parties.

16. **BINDING EFFECT; ASSIGNMENT**

This Agreement is personal to, shall be binding upon and inure only to the benefit of the Parties hereto. Nothing in this Agreement is intended to create or confer any right or remedy on any third Party. Neither Party shall voluntarily or by operation of law assign, transfer, license or otherwise transfer all or any material part of its rights or duties or other interests in this Agreement or the proceeds thereof, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. However either



Party may assign this Agreement without consent to any parent, subsidiary (equal or more than 50% ownership) or affiliated company (equal or more than 25% ownership), entity or successor in interest whether by merger, reorganization, or transfer of all or substantially all of its assets or otherwise that has a credit rating at least equal to Clients and that meets CTHKI's test for creditworthiness. No assignment shall release Customer of its obligations hereunder. Any attempt to assign any rights or duties in violation of this provision shall be null and void.

17. **AMENDMENT**

The Agreement may not be modified except by an instrument in writing, executed by the Parties.

18. **MERGER**

This Agreement and Customer Order Summaries contain the entire contractual arrangements between the Parties with respect to the subject matter of this agreement. The entire understanding between the Parties in relation to the matters herein are fully represented and all prior negotiations, correspondence, arrangements, understandings, promises and agreements with respect to such subject matter cease to have any effect. If there is a conflict between the provisions of this Agreement and the terms of any Customer Order Summary, the terms of the Customer Order Summary accepted by CTHKI (with such acceptance noted by either CTHKI's signature and/or CTHKI's performance pursuant to such Order Summary) that is the subject of the conflict shall prevail over the provisions of this Agreement.

19. **INTERPRETATION**

The words and phrases used herein shall have the meaning generally understood in the telecommunications industry. This Agreement shall be construed in accordance with its fair meaning and is not to be construed for or against either Party on account of which Party drafted this Agreement.

20. **SEVERABILITY**

Any article or any other provisions of this Agreement which is or becomes illegal, invalid or unenforceable shall be severed herefrom and shall be ineffective to the extent of such illegality, invalidity or unenforceability and shall not effect or impair the remaining provisions hereof, which provisions shall otherwise remain in full force and effect.

21. **REPRESENTATION OF AUTHORITY**

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is validly and legally binding on such Party and enforceable in accordance with its terms.

22. **FURTHER ASSURANCES**

Each of the Parties agrees to execute and deliver any and all further agreements, documents or instruments necessary to effectuate this Agreement and the transactions referred to herein or contemplated hereby or reasonably requested by any other Party to evidence its rights hereunder.

23. **GOVERNING LAW**

This agreement is governed by and construed in accordance with the laws of Hong Kong Special Administrative Region, P.R. China.

24. **PUBLICITY, CONFIDENTIALITY**

- 24.1 “Confidential Information” means this Agreement and other information of any type and form reasonably related to the Agreement and the Services that the receiving Party (“Recipient”) knows or has reason to know is confidential, proprietary or trade secret information of the other Party (“Discloser”), either a) because the information is marked as confidential or proprietary at the time of disclosure or promptly after disclosure or b) because of the nature of the information and the context in which it was disclosed. Without limitation, information concerning business models and strategies, network design and traffic, Service performance, customers, requirements, and pricing is in all cases covered under clause b), subject to the following sentence. The term “Confidential Information” does not include information that: i) was in Recipient’s possession before receipt from Discloser; ii) is independently developed by or for Recipient without reference to Discloser’s Confidential Information; iii) is rightfully received by Recipient from a third party without a duty of confidentiality; or iv) is or becomes available to the public through no fault of Recipient.
- 24.2 Recipient may use Discloser’s Confidential Information only in connection with this Agreement and may not disclose any such Confidential Information except as follows: a) to employees of Recipient who have a need to know and who have been informed of Recipient’s obligations hereunder; and b) when disclosure is required under applicable law, if Recipient first gives Discloser notice of the required disclosure and cooperates with Discloser, at Discloser’s expense, in seeking reasonable protective arrangements (however, Recipient is not required to act in a manner which would result in sanctions or other penalties).
- 24.3 Recipient’s obligations under Section 24.2 end three (3) years following disclosure.
- 24.4 Recipient will be primarily liable to Discloser for the compliance of each person described in Section 24.2(a) with this Section 24. Recipient will preserve all proprietary markings on Discloser’s Confidential Information provided to Recipient. At Discloser’s request, Recipient will return Confidential Information to Discloser or destroy it and certify its destruction.
- 24.5 All information exchanged under the Agreement is provided “AS IS”, without warranty of any kind.
- 24.6 Each Party acknowledges that its breach or threatened breach of this Section 24 may cause



the Discloser irreparable harm which would not be adequately compensated by monetary damages. Accordingly, in the event of any such breach or threatened breach, the Recipient agrees that equitable relief, including a temporary or permanent injunction, is an available remedy in addition to any legal remedies to which the Discloser may be entitled. .

25. **NOTICES**

25.1 All notices, requests, or other communications hereunder shall be in writing, addressed to the Parties at the addresses set forth on the Customer Order Summary.

25.2 Notices or requests must be in writing in the Chinese language or in the English language and must be delivered by a method providing for proof of delivery (including express courier, and facsimile or email if evidence of receipt is obtained). Any notice or request will be deemed to have been given on the date of receipt. Notices and requests must be delivered to the addresses set forth in the Customer Order Summary until a different address has been designated by notice to the other Party.

26. **PUBLICITY; USE OF NAME**

Neither Party (i) shall issue any publication or press release relating to this Agreement or the relationship of the Parties under this Agreement except as may be required by law or securities exchange or agreed to in a separate written agreement between the Parties or (ii) may use the name, logo, trade name, service marks, trademarks or printed material of the other Party in any promotional or advertising material, statement, document, press release or broadcast without the prior written consent of the other Party, which consent may be granted or withheld at the other Party's sole discretion.



27. **DISPUTE RESOLUTION**

- 27.1 If a dispute arises out of or relates to this Agreement, each party shall designate a senior executive who has authority to resolve the dispute. The senior executives shall consider the dispute and shall negotiate in good faith to resolve it. If the dispute is not resolved by the senior executives within 20 days after their appointment, then the parties are free to submit the dispute to arbitration in accordance with Section 27.2.
- 27.2 Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration at the Hong Kong International Arbitration Centre (HKIAC), before a sole arbitrator appointed by the Secretary General of the HKIAC, in accordance with the HKIAC Procedures for Arbitration in force at the date of this Agreement and Customer Order Summaries, including such additions to the UNCITRAL Arbitration Rules as are therein contained.
- 27.3 The arbitrator shall allocate all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party, against the party who did not prevail.

28. **MISCELLANEOUS**

- 28.1 No waiver by either Party of any provisions of this Agreement shall be binding unless made expressly and confirmed in writing. Any such waiver shall relate only to such matter, non-compliance or breach as it relates to and shall not apply to any subsequent or other matter, non-compliance or breach. The failure of either Party to enforce or insist upon compliance with any of the provisions of this Agreement or the forbearance or waiver thereof, in any instance, shall not be construed as a general waiver or relinquishment of any such right.
- 28.2 Nothing in the Agreement diminishes, restricts or prejudices the rights of either Party to enter into similar agreements with other Parties or to otherwise compete with each other. Each Party acknowledges that it remains at all times solely responsible for the success and profits of its own business.
- 28.3 This Agreement may be executed in several counterparts, each of which shall constitute an original, but all of which shall constitute one and the same instrument.
- 28.4 This Agreement, including without limitation all Customer Order Summaries is the entire agreement between CTHKI and the Customer concerning the terms and conditions for provision of Services to Customer, and it supersedes all prior agreements, proposals, representations, statements, or understandings whether written or oral, concerning the terms and conditions for Services. No change, modification or waiver of any of the terms of this Agreement shall be binding unless included in a written agreement and signed by both CTHKI and Customer.

End