

TELECOMMUNICATIONS ORDINANCE
(Chapter 106)

LOCALISED WIRELESS BROADBAND SYSTEM (PRIVATE) LICENCE

DATE OF ISSUE: []

[Name]

.....

of [Address]

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(the “licensee”) is licensed, subject to the following conditions set out in this licence –

- (a) to establish and maintain a private wireless telecommunications system (the “system”), the scope of which is described in Schedule 1; and
- (b) to possess and use the radiocommunications installations described in Schedule 2 for the purpose of establishing and maintaining the system.

GENERAL CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this licence, except as hereinafter provided or unless the context otherwise requires, words or expressions shall have the meanings assigned to them in the Telecommunications Ordinance (Cap. 106) (the “Ordinance”) and, as the case may be, the Interpretation and General Clauses Ordinance (Cap. 1). For the purposes of interpreting this licence, headings and titles shall be disregarded.
- 1.2 This licence shall not be construed as granting an exclusive right to the licensee to establish and maintain the system.
- 1.3 This licence replaces any licence or any exemption from licensing, however described, which the Authority may have granted to the licensee for establishing and maintaining the system.
- 1.4 The grant of this licence does not authorize the licensee to do anything which infringes any exclusive licence granted under the Ordinance or any exclusive right to operate and provide telecommunications networks, systems, installations or services granted under any other Ordinance.

2. TRANSFER

- 2.1 The licensee may, only with the prior written consent of the Authority and subject to such reasonable conditions as the Authority thinks fit, transfer this licence or any permission, right or benefit under this licence. In giving its consent the Authority will have regard to such matters as it thinks fit including but not limited to the effect which the transfer will have on market structure and the financial and technical competence and viability of the transferee.

3. INTERNATIONAL CONVENTIONS

- 3.1 The licensee shall at all times perform and observe the requirements of the

Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to it, as are stated to be applicable to Hong Kong, and any other international convention, agreement, protocol, understanding or the like to the extent that the instruments described in this General Condition 3.1 impose obligations on Hong Kong of which the Authority gives notice to the licensee, except to the extent that the Authority may in writing exempt the licensee from such compliance.

- 3.2 Where the Government has been consulted about or is involved in the preparation or negotiation of an international convention, agreement, protocol or understanding or the like or amendments thereto which are on the subject-matter of telecommunications or which relate to another subject-matter but which the Government anticipates could have a material impact on the establishment and maintenance of the system under this licence, the Government will, where practicable, provide the licensee with a reasonable opportunity to make a submission stating its views on the matter.

4. COMPLIANCE GENERALLY

- 4.1 The licensee shall comply with the Ordinance, regulations made under the Ordinance, licence conditions or any other instruments which may be issued by the Authority under the Ordinance.

5. RECORDS AND PLANS OF SYSTEM

- 5.1 The licensee shall keep records and plans (including overall system plans and cable route maps) of the telecommunications installation (including radiocommunications installation) and telecommunications nodes and exchanges, if any, provided under this licence and any other details concerning the system as may be reasonably required by the Authority, including but not limited to information from operational support systems, traffic flow information, and database information relating to the manner in which the system treats any communication within the system (“system information”).
- 5.2 As required by the Authority, the licensee shall make the system information available, within reasonable time, to the Authority or to a person authorized

in writing by the Authority for inspection for the Authority's own purposes.

6. CONTROL OF INTERFERENCE AND OBSTRUCTION

- 6.1 The licensee shall take reasonable measures to install, maintain and operate the system in such a manner as not to cause any harmful interference or physical obstruction to any lawful telecommunications service, or cause any physical obstruction to the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunications or utility service provider.
- 6.2 The licensee shall take reasonable measures to ensure that users of the system do not cause harmful interference to lawful telecommunications services, systems or utility services through use of the system.
- 6.3 The Authority may give such reasonable directions as it thinks fit to avoid harmful interference or physical obstruction referred to in General Condition 6.1. The licensee shall comply with the directions.

7. COMPLIANCE

- 7.1 If the licensee employs any person under contract for the purpose of the system, or for the installation, maintenance or operation of the system (a "contractor"), the licensee shall continue to be responsible for compliance with the conditions of this licence, and the performance thereof, by any contractor.

8. REQUIREMENTS OF RADIOCOMMUNICATIONS INSTALLATION

- 8.1 Each radiocommunications installation operated by or on behalf of the licensee shall be used only at the location and with emissions and at the frequencies and of the classes and characteristics specified in Schedule 2 to this licence and with such power and aerial characteristics as are specified in that Schedule in relation to the class and characteristics of the emission in use.

- 8.2 The apparatus comprised in each radiocommunications installation shall at all times comply with such technical standards as may be issued by the Authority.
- 8.3 The apparatus comprised in a radiocommunications installation shall be of a type approved by the Authority and shall be so designed, constructed, maintained and operated that its use shall not cause any interference to any radiocommunications.
- 8.4 A radiocommunications installation shall be operated only by the licensee or a person authorized by the licensee. The licensee shall not allow an unauthorized person to have access to the apparatus comprised in a radiocommunications installation. The licensee shall ensure that persons operating each radiocommunications installation shall at all times observe the conditions of this licence.
- 8.5 The licensee shall not make a change –
- (a) to any radiocommunications installation; or
 - (b) of the location of any radiocommunications installation,
- without the prior written approval of the Authority.
- 8.6 If any telecommunications installation (including radiocommunications installation) crosses above or may fall or be blown onto any overhead power wire (including electric lighting and tramway wires) or power apparatus it shall be guarded to the reasonable satisfaction of the owner of the power wire or power apparatus concerned.

9. USE OF FREQUENCIES

- 9.1 The radiocommunications installation operated by or on behalf of the licensee shall only be operated on such frequencies as the Authority may assign.

10. SAFETY

- 10.1 The licensee shall take proper and adequate safety measures for the

safeguarding of life and property in connection with all installations, equipment and apparatus operated or used, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus operated or used under this licence.

- 10.2 The licensee shall comply with the safety standards and specifications as may from time to time be prescribed by the Authority and any directions of the Authority in relation to any safety matter.

11. PROHIBITION OF CLAIMS AGAINST GOVERNMENT

- 11.1 The licensee shall have no claim against the Government in tort or in contract in respect of any disturbance or interruption to any part of the system due to works carried out by or on behalf of the Government which result in disturbance to the system.

12. INDEMNITY

- 12.1 The licensee shall indemnify the Government against any losses, claims, charges, expenses, actions, damages or demands which the Government incurs or which may be made against the Government as a result of or in relation to the activities of the licensee or any employee, agent or contractor of the licensee in relation to the installation, maintenance and operation of the system.

13. CONTRAVENTION BEYOND LICENSEE'S CONTROL

- 13.1 The licensee shall not be liable for any breach of this licence where it is able to demonstrate, to the reasonable satisfaction of the Authority, that the breach was caused by circumstances beyond its control and that it has taken all reasonable steps open to it to rectify that breach.

14. PUBLICATION OF LICENCE

- 14.1 The licensee, or the Authority, may at their discretion make the terms and

conditions of this licence, including any specific conditions, publicly available in any manner they think fit.

15. PERIOD OF VALIDITY

15.1 This licence shall be valid for such period as determined by the Authority. Details of such period of validity shall be published by the Authority.

16. LICENCE FEES

16.1 The licensee shall pay the fees applicable to this licence as may from time to time be determined and published by the Authority.

SAMPLE

SPECIAL CONDITIONS

1. COMPLIANCE WITH CODES OF PRACTICE

- 1.1. The licensee shall comply with such guidelines or codes of practices which may be issued by the Authority as in its opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this licence.
- 1.2 Without limiting or affecting in any way the licensee's obligations under any other licence condition, the licensee shall comply with any code of practice or guideline which may be issued by the Authority from time to time for the purpose of providing practical guidance to the licensee in respect of correct, efficient and reliable operation of telecommunications.
- 1.3 Before issuing any code of practice or guideline referred to in Special Condition 1.2, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

2. NUMBERING PLAN

- 2.1 The licensee shall comply with the numbering plan made or approved by the Authority and any directions given by the Authority in respect of the numbering plan.
- 2.2 The licensee shall at the request of the Authority or otherwise consult the Authority about the arrangements for the allocation and reallocation of numbers and codes within the numbering plan.
- 2.3 Where requested by the Authority, the licensee shall prepare and furnish to the Authority proposals for developing, adding to or replacing the numbering plan relating to the system.

3. REQUIREMENT TO FURNISH INFORMATION TO THE AUTHORITY

- 3.1 The licensee shall furnish to the Authority, in such manner and at such times

as the Authority may request in writing, such information relating to the system established, maintained or operated by the licensee under this licence, including technical and statistical information and other records, as the Authority may reasonably require in order to perform its functions under the Ordinance and this licence.

3.2 Subject to Special Condition 3.3 the Authority may use and disclose information to such persons as the Authority thinks fit.

3.3 Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of a licensee which disclosure would or could reasonably be expected to adversely affect the licensee's lawful business or commercial or financial affairs, the Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

4. SYSTEM LOCATION

4.1 The licensee shall keep accurate records of the location of the system installed under, in, over or upon any land.

4.2 The licensee shall mark or otherwise identify every wire laid or telecommunications installation installed by the licensee or any contractor on its behalf throughout the course of the wire, or at the location of the installation, so as to distinguish it from any other wire or telecommunications installation laid or installed in Hong Kong.

4.3 The licensee shall provide, at such intervals as the Authority may determine, distinguishable surface markers of the underground position, if any, of the system.

5. CHANGES TO THE SYSTEM

5.1 For the purposes of this licence, a change to the system is a material change where the implementation of the change would result in the system no longer

being in compliance with any relevant technical standard which the Authority has power to issue.

5.2 The licensee shall notify the Authority of any proposals for material changes to the system and provide it with such information as the Authority reasonably requires.

5.3 The licensee shall not, without the prior consent in writing of the Authority, make any material changes which might reasonably be anticipated by the licensee to affect –

- (a) any telecommunications installation connected to the system;
- (b) a person producing or supplying telecommunications apparatus for connection to the system;
- (c) a licensee under the Ordinance; or
- (d) a licensee under the Broadcasting Ordinance (Cap. 562),

if the change is in the opinion of the Authority likely to require modifications or replacements to, or cessation in the production or supply of any of the telecommunications apparatus involved, or if the proposed alteration would require substantial system reconfiguration or rerouting.

5.4 The licensee shall prepare and publish, after consultation with the Authority, its procedures for consulting with and giving notice to persons likely to be affected materially by changes to its system which are required to be notified in accordance with Special Condition 5.2 and any other changes required to be notified pursuant to any technical standard which the Authority has power to issue. Subject to the approval of the Authority, the notification procedures to each of the classes of persons likely to be affected under Special Condition 5.3 may differ having regard to the practicality and costs of notifying them.

6. WITHDRAWAL AND RETURN OF FREQUENCIES

6.1 Without prejudice to the generality of section 32H of the Ordinance, the

Authority may by notice in writing withdraw any frequency previously assigned to the licensee if in the opinion of the Authority the licensee is not making efficient use of that frequency or in exceptional circumstances including where the public interest or international obligations of the Government so require, there is a serious breach of spectrum assignment conditions or serious interference between legitimate spectrum users has to be resolved or minimised.

- 6.2 The licensee may, subject to prior consent of and conditions specified by the Authority, return any frequency previously assigned to it.

7. CIRCUMSTANCES OUTSIDE LICENSEE'S CONTROL

- 7.1 For the avoidance of doubt, General Condition 13.1 of this licence shall apply to these special conditions and the Authority may at its discretion, and on such conditions as it thinks fit, extend any time period within which the obligations of the licensee under these special conditions may be met.

- 7.2 In exercising its discretion under Special Condition 7.1 with respect to any of the special conditions of this licence, the Authority shall take into account including, without limitation, whether circumstances are such that it would be unreasonable to require compliance by the licensee with the relevant special condition.

8. INSURANCE

- 8.1 Throughout the currency of this licence, the licensee shall have and maintain a valid insurance policy with a reputable insurance company to cover its third party liabilities in respect of personal injury, death and damage to property, arising out of or in connection with the installation, maintenance and operation of the system. The amount of insurance shall be at least HK\$10,000,000 per occurrence or such sum as the Authority may notify in writing in future.

9. INTERPRETATION

9.1 Any reference to an ordinance or a regulation, whether the word is used by itself or as part of any title to an ordinance or a regulation, shall mean that ordinance or regulation for the time being in force as well as any modification or substitution of that ordinance or regulation, in whole or in part, and all subsidiary legislation, regulations, directions, codes of practice and instruments made under that ordinance or regulation and for the time being in force.

9.2 The singular includes the plural and vice versa.

10. PAYMENT OF SPECTRUM UTILIZATION FEE

10.1 The licensee shall pay spectrum utilization fees for spectrum assigned to the licensee as designated by the Authority by order and at such level or according to the method of determining the spectrum utilization fee as prescribed by the Secretary by regulation. The licensee shall pay the spectrum utilization fee to the Authority during the period while this licence remains in force. If the licensee fails to make the concerned payment when due, the Authority may charge interest on any overdue amount from the date on which the relevant amount is due until the date of actual payment (both days inclusive) at a rate determined by the Authority to compensate it for the payment being overdue.

11. LOCALISED SYSTEM COVERAGE

11.1 At all times during the validity of this licence, the licensee shall not deploy any spectrum in the 24.25 – 28.35 GHz band assigned to it under this licence to operate the system with coverage beyond the specified locations as set out in Schedule 3 of this licence, and the coverage of such specified locations in aggregate shall not exceed one square kilometre.

SCHEDULE 1

SCOPE AND DESCRIPTION OF THE SYSTEM

1. The system is a private wireless communications system established and maintained through radiocommunications installations, apparatus, equipment and device operating at the frequencies and using technical parameters specified in Schedule 2 to enable communications to and/or from such installations, apparatus, equipment and device for self-use by the licensee only.
2. The system comprises all such radiocommunications installations, apparatus, equipment and device established, maintained, possessed or used whether owned by the licensee, leased, or otherwise acquired by the licensee.
3. Nothing in this licence authorizes the licensee to
 - (a) operate the system with coverage outside the System Operation Areas as specified under Schedule 3; and
 - (b) provide any public telecommunications services and other service subject to licensing under any other ordinance.

***** End of Schedule 1 *****

2. The licensee shall comply with the standards and certification requirements as prescribed from time to time by the Authority under the Ordinance. The licensee shall also comply with the “Code of Practice for the Protection of Workers and Members of Public Against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment” issued and as revised from time to time by the Authority.
3. The frequencies specified above are assigned on a non-exclusive and geographically sharing basis.
4. The frequencies specified above shall be used within the System Operation Areas in Hong Kong as specified under Schedule 3.

*** End of Schedule 2 ***

SCHEDULE 3

SYSTEM OPERATION AREAS

[The locations upon which the licensee may operate its system and provide radiocommunications coverage will be specified in appropriate form (e.g. maps, coordinates or textual descriptions) as appropriate.]

*** End of Schedule 3 ***

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for Communications Authority

Date: