

TELECOMMUNICATION ORDINANCE

(Chapter 106)

LICENCE

1. Grant of Licence

IN EXERCISE OF THE POWERS conferred by sections 7 and 34 of the Telecommunication Ordinance (Chapter 106) (hereinafter called "the Ordinance") the GOVERNOR IN COUNCIL HEREBY GRANTS a telecommunication licence (hereafter called "the Licence") to ASIA SATELLITE TELECOMMUNICATIONS COMPANY LIMITED (hereinafter referred to as "the Licensee"), a company incorporated in Hong Kong and whose registered office is situated at 22/F Hutchison House, 10 Harcourt Road, Hong Kong, to establish, maintain, possess, use and operate the radiocommunication stations described in the Schedule (hereinafter called "the Stations") for Space Radiocommunication.

ON THE FOLLOWING TERMS AND CONDITIONS

2. Interpretation

2.1 In the Licence, unless the context otherwise requires:

"Authority"

means the Telecommunications Authority.

"Act"

means the Outer Space Act 1986 as extended as part of the law of Hong Kong by the Outer Space Act 1986 (Hong Kong) Order 1990.

"Earth Station"

means a station located either on the Earth's surface or within the major portion of the Earth's atmosphere and intended for communications with and/or reception from:

- one or more Space Stations; or
- one or more stations of the same kind by means of one or more reflecting satellites intended to reflect radiocommunication signals or other objects in space.

"Fixed-satellite Service"

means a radiocommunication service between Earth Stations at given positions when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas.

"Government"

means the Hong Kong Government.

"International Telecommunication Convention"

means the convention made at Nairobi in 1982.

"Licence Fee"

means the fee determined in accordance with Condition 4.

"Space Radiocommunication"

means any radiocommunication involving the use of one or more Space Stations or the use of one or more reflecting satellites intended to reflect radiocommunication signals or other Space Objects in space.

"Space Station"

means a radiocommunication station located on a Space Object.

"Space Object"

has the meaning assigned to it in the Act and refers to a space object registered in Hong Kong under the Act.

"Subsidiary"

means a company which, were a question to arise as to the relationship between that company and another company or companies under the Companies Ordinance (Cap. 32), the first mentioned company would be deemed to be a subsidiary of the other company or companies by virtue of section 2 of that Ordinance.

- 2.2 Except where the contrary intention is expressed or arises by necessary implication in the Licence words referring to the masculine gender shall include the feminine gender and references to the singular include the plural and vice versa.
- 2.3 The interpretation of the Licence shall not be affected by the index or any headings.
- 2.4 All references to the Ordinance include the Ordinance as in force from time to time or legislation enacted in place, in whole or in part, of the Ordinance, and the Ordinance shall have the meaning ascribed by the Interpretation and General Clauses Ordinance (Cap. 1).
- 2.5 The Schedule forms part of the Licence.
- 2.6 The Licence is subject to the provisions of the Ordinance as amended from time to time.

3. Period

Subject to Condition 16, the Licence shall be valid for a period of 20 years from the date of grant of the Licence.

4. Licence Fee

The Licensee shall pay to the Hong Kong Government :

- 4.1 an initial fee of HK\$438,000 within 14 days of the date of the grant of this Licence; and
- 4.2 an annual fee of HK\$165,000 on each anniversary of the date of this Licence.

5. Technical Characteristics

- 5.1 The Licensee shall use its best endeavours to ensure that the locations, frequencies, emissions, power, polarisation, aerial characteristics and other technical parameters of each Station shall at all times conform to the technical characteristics and limits specified in the Schedule hereto.
- 5.2 The Licensee shall not deviate from the technical characteristics or operate any Station outside the relevant limits specified in the Schedule without the prior written consent of the Authority.
- 5.3 Notwithstanding Condition 5.2, the Licensee may, in an emergency situation beyond the control of the Licensee, deviate from the technical characteristics and limits specified in the Schedule on a temporary basis and shall inform the Authority of such deviation within 24 hours of its occurrence.
- 5.4 If any deviation as described in Condition 5.3 will, or is likely to, exceed a period of 30 days the Licensee shall apply in writing to the Authority for approval to so operate, specifying the reasons for the deviation.

5.5 Where the Authority receives an application under Condition 5.4 and is satisfied that the deviation will not amount to a breach of approvals given by the Radiocommunication Bureau under the International Telecommunication Union or amount to a breach of any obligation of Hong Kong under the International Telecommunication Convention, it shall, within a reasonable period following receipt of the application, approve it subject to such conditions as the Authority may reasonably impose.

6. Control of Interference

6.1 The apparatus comprised in the Stations shall be so designed, constructed, maintained and operated that the use of the Stations does not cause any harmful interference to any telecommunication service or apparatus operating within or outside Hong Kong.

6.2 The Stations shall be fitted with devices to ensure immediate cessation of its radio emissions whenever required in extraordinary circumstances by the Authority for the purpose of avoiding harmful interference to other telecommunication services or apparatus.

7. Limitation on Services

- 7.1 The Stations shall be used only for the purpose of telemetry, tracking, control, monitoring and testing related to the use, maintenance, operation and control of Space Objects used for Fixed-satellite Services, and other telecommunication services authorized by the Authority in writing.
- 7.2 Nothing in the Licence shall be construed as authorizing the Licensee to offer or provide any service which infringes any exclusive telecommunication rights granted to provide telecommunication services under the HKSAR law which exist at the date of grant of the Licence.
- 7.3 The Stations shall not be used for the purpose of uplinking to any Space Station services of the type described in Condition 7.1 by or on behalf of any person other than the Licensee or its Wholly-owned Subsidiary (for the purposes of the Licence, a company is deemed the Wholly-owned Subsidiary of another if (a) it is incorporated in the HKSAR; (b) it has no members except that other and that other's Wholly-owned Subsidiaries and its or their nominees; and (c) its affairs are conducted in accordance with the wishes of that other). This condition does not prohibit the uplinking of isolated test transmissions which are not of an ongoing nature.
- 7.4 Notwithstanding Condition 7.3, the Licensee or its Wholly-owned Subsidiary may uplink to any Space Station services of the type

described in Condition 7.1 for or on behalf of another person for the purpose of providing emergency back up telemetry, tracking, control, monitoring and testing for other Space Objects or other satellites where such services will not interfere with those services for which the Station was primarily intended, namely the provision of such services for the Licensee or its Wholly-owned Subsidiary, and shall inform the Authority of such provision of services within 24 hours of its occurrence.

7.5 If any provision of services as described in Condition 7.4 will or is likely to exceed a period of 30 days, the Licensee shall, as soon as is reasonably practicable, apply in writing to the Authority for its prior written approval to the provision of such services stating in its application the estimated number of days by which the period of 30 days will be exceeded.

7.6 The Licensee shall notify the Authority as soon as practicable of the general nature of the services carried by every transponder on a Space Station and the countries, from and in which, the services are transmitted and received respectively.

8. Control and Operation of Stations

8.1 The Stations shall be operated only by the Licensee, its authorized agents or Subsidiaries.

8.2 Where the Stations are operated by the authorized agents or Subsidiaries of the Licensee, the Licensee shall procure

compliance with the conditions of the Licence by its agents or Subsidiaries and any breach of these conditions by an agent or Subsidiary shall be deemed to be a breach by the Licensee.

8.3 Notwithstanding the provisions of Conditions 1 and 8.1, the Licensee may use and operate equipment for the purposes of the Stations which is owned by a person other than the Licensee as long as the Licensee has the sole right to use and operate that equipment.

9. Compliance with International Conventions and Agreements

9.1 The Licensee shall, unless otherwise directed by the Authority, at all times observe and perform the relevant requirements of the International Telecommunication Convention including all regulations annexed thereto or made thereunder, and any other international telecommunication agreements which may from time to time be acceded to by or on behalf of, or applied to, Hong Kong.

9.2 Before controlling any Space Stations to carry telecommunication services uplinked from one country or territory and intended for reception in another country or territory, the Licensee shall ensure that the relevant requirements, if any, under the Agreement relating to the International Telecommunications Satellite Organization "INTELSAT" have been fulfilled.

10. Confidentiality

10.1 The Licensee shall take all reasonable steps to safeguard the confidentiality of all messages received, intentionally or otherwise by the Stations.

10.2 The Government shall take all reasonable steps to safeguard the confidentiality of any proprietary right vested in the Licensee to the information obtained in accordance with Conditions 7.4, 11 and 12.

10.3 Notwithstanding Condition 10.2, the Government may make such use of the information referred to in that Condition as is necessary for the administration of the Licence and the Ordinance.

11. Licensee's Responsibility to Provide Information

The Licensee shall provide to the Authority, in such manner and at such times specified by the Authority, such information as the Authority may reasonably require in order to exercise his powers, functions and discretions under the Ordinance or the Licence.

12. Inspection of Stations and Facilities

12.1 The Licensee shall at all reasonable times when required by the Authority, and where reasonably practicable, make the Stations available for inspection and testing by the Authority and any person authorized by the Authority in writing for that purpose.

12.2 The directors, employees and servants of the Licensee shall, for the purpose of any inspection or test under Condition 12.1:

12.2.1 make available on request to the Authority or any person authorized by the Authority for the purpose of the inspection or test and permit to be inspected and tested any part of its equipment used, or intended to be used, for the purpose of the Licence; and

12.2.2 assist the Authority or such authorized person in carrying out the inspection or test in any manner specified by the Authority.

13. Non-assignment

The rights, obligations, powers and privileges hereby granted to the Licensee shall not, in whole or in part be assigned or transferred without the prior written approval of the Governor in Council.

14. Indemnity

14.1 The Licensee shall indemnify and keep indemnified the Hong Kong Government against any actions, claims, proceedings, demands, losses, costs and expenses which it may incur, or which may be made against it, as the case may be, arising from or in relation to any breach or alleged breach of or failure or alleged failure to observe and perform the terms and conditions of the Licence or

through the negligent use, maintenance, operation or control of the Stations.

14.2 For the avoidance of doubt the indemnity provided under Condition 14.1 is independent of and shall have no effect on the obligations of the Licensee under the indemnity provided by Section 10 of the Act.

15. Safety

15.1 The Licensee shall, in respect of all installations, equipment and apparatus operated or used under the Licence, take all proper and adequate safety measures for the safeguarding of life or property, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus so used.

15.2 The Licensee shall comply with any direction of the Authority in respect of any safety matter.

16. Determination

The Governor in Council may at any time determine the Licence where the Licensee:

16.1 fails to pay, within one month of it falling due, the Licence Fee;

- 16.2 goes into liquidation (other than for the purpose of an amalgamation or reconstruction approved by Government);
- 16.3 goes into receivership, or makes any assignment to or composition with its creditors;
- 16.4 ceases to carry on business;
- 16.5 repeatedly fails to comply with a term or condition of the Licence, or any lawful reasonable direction of the Authority or fails to do all such acts as are necessary to enable it to perform its obligations under the Licence;
- 16.6 is also a licensee under the Act or any Ordinance enacted in place in whole or in part of the Act whose licence has been revoked.

17. Notices or Directions to the Licensee

- 17.1 Any notice, direction, request or order required or authorized to be given to the Licensee under the Ordinance, or the Licence shall:
 - 17.1.1 if required or authorized to be given by the Authority be valid if signed by the Authority or any public officer authorized, either generally or specifically, in writing by the Authority to so sign on the Authority's behalf; and

17.1.2 if required or authorized to be given by the Government or the Governor in Council be valid if signed by any public officer authorized, either generally or specifically, by the Governor to so sign.

17.2 Any such notice, direction, request or order may be served by delivering it to an officer or responsible employee of the Licensee at its registered office or last known place of business in Hong Kong or by registered post to such office or place.

18. Publication of Licence

The Licensee shall make available at its registered office or principal place of business a copy of the Licence for inspection by members of the public.

Schedule

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