

Statutory Declaration Form on Persons regarded as Fit and Proper for a Unified Carrier Licensee

Notes :

- A. Please read carefully the fit and proper person (“FAPP”) requirement under the relevant licence condition, which is set out in Annex 1 for reference (“FAPP licence condition”) and the content of this form including the Schedule and the Annexes hereto before completing this form.
- B. The terms used herein, where applicable, have the same meanings as in the Telecommunications Ordinance (Cap. 106).
- C. Please include Chinese names where applicable.
- D. Please attach additional sheets if required.

IN THE MATTER of the Unified Carrier
Licence

and

IN THE MATTER of the Oaths and
Declarations Ordinance (Cap. 11)

STATUTORY DECLARATION

I, _____ (Name) [HKID No.: _____] _____ of
(Address) _____, being _____ (Company Secretary/Director/Principal Officer) of
(Licensee) [Company No.: _____] _____ (“the Licensee”), do solemnly and sincerely
declare that –

The Licensee and all persons exercising control of the Licensee, whose names
are listed in the Schedule attached hereto (each a “relevant person”), are fit and proper
persons after careful inquiry and having regard to –

- (1) the business record of the Licensee and each relevant person;
- (2) the record of the Licensee and each relevant person in situations
requiring trust and candour;
- (3) the criminal record in Hong Kong of the Licensee and each relevant
person in respect of offences under the laws of Hong Kong involving
bribery, false accounting, corruption or dishonesty; and
- (4) the criminal record in places outside Hong Kong of the Licensee and
each relevant person in respect of conduct which, if done in Hong
Kong, would constitute or form part of the criminal record in Hong
Kong of the Licensee and each relevant person as mentioned in (3).

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

(Signed)

DECLARED at [please insert address] in Hong Kong this _____ day of _____.

Before me,

[Signature and designation, i.e. Justice of the Peace/Notary Public/Commissioner for Oaths/Solicitor]

Schedule

All Persons (including individuals and corporations) exercising control of

_____ (Licensee) _____ as at _____ (Date) _____

(1) All directors or principal officers of the Licensee

Name

Office Held

(2) All beneficial owners of more than 15% of the voting shares in the Licensee

(3) All voting controllers of more than 15% of voting shares in the Licensee

(4) All persons who have the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating the Licensee or any other corporation, to ensure that the affairs of the Licensee are conducted in accordance with their wishes

Annex 1 - Fit and Proper Person Licence Condition

50¹. FIT AND PROPER PERSON

- 50.1 The licensee shall be and remain, and shall procure that any person exercising control over the licensee shall be and remain, a fit and proper person during the validity period of this licence.
- 50.2 In determining whether the licensee or any person exercising control over the licensee is a fit and proper person, account shall be taken of –
- (a) the business record of the licensee or person;
 - (b) the record of the licensee or person in situations requiring trust and candour;
 - (c) the criminal record in Hong Kong of the licensee or person in respect of offences under the laws of Hong Kong involving bribery, false accounting, corruption or dishonesty; and
 - (d) the criminal record in places outside Hong Kong of the licensee or person in respect of conduct which, if done in Hong Kong, would constitute or form part of the criminal record in Hong Kong of the licensee or person as mentioned in Special Condition 50.2(c).
- 50.3 Upon the date of issue of this licence, the licensee shall have provided to the Authority a statutory declaration duly made by an authorized director, a secretary or a principal officer of the licensee confirming that the licensee and the persons exercising control over the licensee are fit and proper persons having regard to the matters mentioned in Special Condition 50.2(a) to (d) in a form specified by the Authority.
- 50.4 Upon request by the Authority, the licensee shall provide to the Authority within reasonable time a statutory declaration duly made by an authorized director, a secretary or a principal officer of the licensee confirming that the licensee and all persons exercising control over the licensee are and remain fit and proper persons having regard to the matters mentioned in Special Condition 50.2(a) to (d) in a form specified by the Authority.
- 50.5 Upon request by the Authority, the licensee shall provide to the Authority written authorizations from persons exercising control over the licensee authorizing relevant authorities to release criminal records and other relevant information of those persons to the Authority, to enable the Authority to establish and verify whether the licensee or the persons exercising control over the licensee are and remain fit and proper persons.
- 50.6 For the purpose of this Special Condition 50, a person exercises control over the licensee if he or she is –

¹ The SC no. may be amended as appropriate for incorporation into the UCL to be issued.

- (a) a director or principal officer of the licensee;
- (b) the beneficial owner of more than 15% of the voting shares in the licensee;
- (c) a voting controller of more than 15% of the voting shares in the licensee; or
- (d) otherwise has the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating that licensee or any other corporation, to ensure that the affairs of the licensee are conducted in accordance with the wishes of that person.

Annex 2 - Notes on Interpretation

- (1) For the purpose of interpretation of this form of statutory declaration and the FAPP licence condition,

“corporation” means a company as defined in section 2(1) of the Companies Ordinance (Cap 622) or other body corporate.

“Licensee” means the entity named in the first page of this form of statutory declaration, being an applicant or holder of a unified carrier licence which is required to complete and submit this form of statutory declaration.

“principal officer” means the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer and Chief Technical Officer, or equivalent, of the Licensee.

“voting control” means the control of or the ability to control, whether directly or indirectly, the exercise of the right to vote attaching to 1 or more voting shares of the Licensee —

- (a) by the exercise of a right, where such exercise confers the ability to exercise a right to vote or to control the exercise of a right to vote;
- (b) by an entitlement to exercise such a right to vote;
- (c) under a duty or obligation;
- (d) through a nominee;
- (e) through or by means of a trust, agreement or arrangement, understanding or practice, whether or not the trust, agreement or arrangement, understanding or practice has legal or equitable force or is based on legal or equitable rights; or
- (f) as a chargor of voting shares of the Licensee unless the chargee of the voting shares or the nominee of the chargee has given notice in writing to the chargor under the charge of an intention to exercise the right to vote attaching to such voting shares.

“voting controller” means a person who either alone or with 1 or more other persons holds voting control.

- (2) Any reference to a person —
- (a) holding or being beneficially entitled to shares in the Licensee; or
 - (b) being a voting controller of any voting shares in the Licensee, shall be construed as a reference to his being so entitled, whether by himself or jointly with other persons, and whether directly or through 1 or more nominees.
- (3) Reference to the business record of the Licensee and each relevant person shall include any record of the Licensee and each of the relevant person being or having been subject to liquidation, bankruptcy or other similar proceedings/orders.

- (4) Reference to the record of the Licensee and each relevant person in situations requiring trust and candour shall include any record of Licensee and each relevant person being or having been censured, disciplined or disqualified by any professional or regulatory body in relation to any trade, business or profession in Hong Kong or elsewhere, or disqualified by a court of competent jurisdiction from being a director of a business entity, etc. in Hong Kong or elsewhere.