

Review of the Public Non-Exclusive Telecommunications Service and Services-Based Operator Licensing Regimes

A Consultation Paper by the Telecommunications Authority

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INTRODUCTION

Public telecommunications services can be provided either by facility-based operators or service-based operators. Facility-based operators refer to operators which establish their own networks for provision of public telecommunications services. The networks include transmission facilities¹ which cross unleased Government land and public streets. In most cases, these facility-based operators are authorized under a carrier licence² for establishing and maintaining the transmission facilities within Hong Kong and between Hong Kong and overseas to provide fixed, mobile or converged telecommunications services to the public. Facilities-based operators are entitled to apply to the Telecommunications Authority (“TA”) for certain rights, such as the use of radio spectrum and telephone numbers, road opening and building access, for establishment of the concerned networks for provision of service.

2. On the other hand, service-based operators refer to telecommunications service providers which rely on the fixed or mobile networks established by facility-based operators to provide their own telecommunications services, including external telecommunications services (“ETS”), international value-added network services (“IVANS”), Internet access services, and other value-added services (“VAS”). For this kind of operation, the service provider needs to apply for a proper licence under the Telecommunications Ordinance (the “Ordinance”). At present, most of these service providers are licensed under the Public Non-Exclusive Telecommunications Services (“PNETS”) Licence, which has been put in place

¹ Transmission facilities include wireless and wireline transmission equipment and circuits.

² Establishment of wireless transmission facilities which cross unleased Government land or public streets for the provision of public paging services, paging trunked radio services and the like may be authorized under the Public Radiocommunications Service Licence.

since the 1980's. However, local voice telephony services³ are excluded from the scope of PNETS. In January 2006, the TA created the Services-Based Operator ("SBO") Licence under which non-facility based service providers may operate local voice telephony services employing various technologies including Internet Protocol ("IP") based technologies, in addition to most of the services covered by the PNETS Licence⁴. Therefore, since January 2006, a service provider may either apply for a PNETS Licence for providing a specific type of telecommunications service (excluding local voice telephony services), or a SBO Licence for providing a wider range of services (including local voice telephony services).

3. The PNETS licensing regime was introduced in the era when the local and external fixed telecommunications services were provided under exclusive franchises. As the name suggests, the PNETS Licences were intended for licensing 'non-exclusive' services⁵ i.e. those services which were not included in the exclusive franchises. In line with the Government's objective to progressively liberalize the telecommunications market, more and more services have been classified as non-exclusive services and licensed under the PNETS Licence⁶. Since the external and local fixed telecommunications markets have been fully liberalised and all telecommunications services are now provided on a competitive basis, the name of the "PNETS" Licence has become outdated and it no longer reflects the current market situation. Furthermore, with the introduction of the SBO Licence, the TA is mindful of the need to overhaul and streamline the outdated PNETS licensing regime and bring it in line with the more recent SBO licensing regime.

4. Apart from streamlining the PNETS licensing regime, the TA also sees a need to review the regulation of the provision of local voice telephony services under the SBO licensing regime to ensure that it is conducive to the market development. Among others, the TA considers that it is necessary to

³ Except for mobile virtual network operator service which is covered under PNETS Licence.

⁴ Services covered by the PNETS Licence for provision of mobile virtual network operator services and public radio communications relay services are excluded from the SBO Licence.

⁵ When PNETS Licence was first introduced in the 1980's, the scope of "non-exclusive" services covered included international services other than telephone calls, view-data service, datel message service, packet switched data service, facsimile service, centralized alarm and control service, radio paging service and mobile radio telephone service. The last two types of services were subsequently licensed under the Public Radiocommunications Service ("PRS") Licence when it was introduced in 1990. The licensing of mobile radio telephone service was further put under the carrier licence regime starting from April 2001.

⁶ Examples are international simple resale for facsimile and data services, callback services and private payphone services.

review the scope of service for Class 1/Class 2 services (mainly the restriction on provision of service to mobile customers), the licence fee (mainly the number fee component) as well as the licence conditions applicable to the provision of Class 1/Class 2 services under the SBO Licence in the light of the recent developments.

5. The TA is empowered under sections 7(6) and 7(8) of the Ordinance to determine the licence conditions, fees payable, validity period and the form of licence applicable to licences other than exclusive licences and carrier licences. Pursuant to section 7A of the Ordinance, the TA may attach special conditions, consistent with the Ordinance and not inconsistent with the prescribed general conditions, to a licence.

6. This consultation paper sets out the TA's proposed modifications to the SBO Licence, including the introduction of a new "Class 3" service under the SBO Licence for replacement of the existing PNETS Licence, the adjustment of licence fee for the provision of Class 1/Class 2 services and a set of updated licence conditions common to SBO licensees providing Class 1, Class 2 or Class 3 services. For the avoidance of doubt, all the views expressed in this consultation paper are for the purpose of discussion and consultation with the public and industry only. Nothing in this consultation paper represents or constitutes any decision made by the TA and the consultation contemplated by this paper is without prejudice to exercise of their powers under the Ordinance.

EXISTING PNETS LICENSING REGIME

7. Currently there are eight major categories of services licensed under the PNETS Licence: -

- (1) External Telecommunications Services ("ETS");
- (2) International Value-Added Network Services ("IVANS")⁷;
- (3) Miscellaneous Value-Added ("Miscellaneous") Service⁸;
- (4) Mobile Virtual Network Operator ("MVNO") Services;
- (5) Private Payphone Service;

⁷ IVANS hereafter referred in this paper includes Internet access services.

⁸ There are 10 licences grouped as Miscellaneous Value-Added Service operators. The services provided by these operators include call management service, public facsimile service, value-added fax messaging services, voice mailbox services and public teletext services.

- (6) Public Radio Communications Relay (“Radio Relay”) Service;
- (7) Security and Fire Alarm Signals Transmission (“Security & Alarm”) Service; and
- (8) Teleconferencing Service.

8. The total number of PNETS licensees exceeds 500, and most of them are providing ETS and IVANS. Although the services listed in the preceding paragraph are all licensed under the same PNETS Licence, different special conditions and scope of service are specified in the licence and they vary with the types of services authorised for provision by the licensee. The licence fee under the PNETS Licence is given in Annex 1. Except for the PNETS Licences for provision of MVNO and Radio Relay services, where a variable fee depending on the number of base / fixed stations and mobile stations is charged on top of a fixed fee, the licence fee for other PNETS Licences is basically charged at a fixed fee of HK\$750 per annum.

EXISTING SBO LICENSING REGIME

9. Under the existing SBO Licence, a SBO licensee can provide local voice telephony services, i.e. Class 1 and/or Class 2 services, as well as any non-facility based fixed services⁹. In other words, the existing scope of SBO Licence already allows the provision of all the types of PNETS listed in paragraph 6, except for MVNO and Radio Relay services. The licence fee structure of SBO Licence, as given in Annex 2, is different from that of PNETS Licence. Under the SBO Licence, a fixed annual fee of HK\$90,000 is charged if Class 1 service is provided, and a fixed annual fee of HK\$25,000 is charged if Class 1 service is not provided. Apart from the fixed fee, a variable annual fee of HK\$7 per subscriber number allocated to the licensee is charged.

OPTIONS FOR STREAMLINING THE LICENSING OF PNETS

⁹ Existing SBO licensees are not allowed to provide telecommunication services licensed under Mobile Carrier Licence, Mobile Carrier (Restricted) Licence, Public Radiocommunications Service Licence, Radio Paging System Licence, a Public Radiocommunications Service Licence (For Services Other Than Land Mobile Services), Public Non-Exclusive Telecommunications Service Licence for the provision of Mobile Virtual Network Operators Services, Public Non-Exclusive Telecommunications Service Licence for the provision of Public Radio Communications Relay Service and satellite broadcasting service under a Satellite Television Uplink and Downlink Licence.

10. There are two options for streamlining the PNETS licensing regime. One is to subsume the PNETS Licence under the SBO Licence, the other is to replace the PNETS Licence by class licences.

Merging the PNETS Licensing Regime into the SBO Licensing Regime

11. Since the existing scope of SBO Licence already allows the provision of all the types of PNETS listed in paragraph 7, except for MVNO and Radio Relay services, and given that all these services are service-based in nature, it seems logical to subsume the PNETS Licence under the SBO Licence.

12. Among the services listed in paragraph 7, the category of Miscellaneous Service can be consolidated with other types of PNETS (i.e. IVANS, ETS or Teleconferencing Service, as appropriate). Thus, a new class of service can be created under the SBO Licence to cover these seven categories of services with harmonized licence conditions. The particular type of service which may be authorized for provision by a licensee will be specified clearly in the schedules to the licence.

Replacement by Class Licence

13. Another option for streamlining the PNETS licensing regime is to replace it with new class licences¹⁰. A class licence is a light-handed licensing approach which does not require the application for an individual licence by the interested party. However, as the TA sees it, the class licence does not appear to be a suitable instrument to administer the PNETS now or in the near future. At present, various PNETS licensees are required to follow specific regulatory requirements (e.g. payment of interconnection charges including local access charge) which necessitate the continual oversight of the TA. Some PNETS licensees (e.g. MVNOs and ETS operators) are also required to obtain the TA's authorisation for the use of scarce telecommunications resource (e.g. telephone numbers and short codes). Moreover, the customer base of certain PNETS licensees, such as ETS and Internet access services, is very large and the Office

¹⁰ There are now six existing types of class licences introduced by the TA, namely the Class Licences for the Provision of Public Wireless Local Area Network Services, In-building Telecommunications Systems, Citizens Band Radio Station, Offer of Telecommunications Services Under Section 8(1)(aa) of the Telecommunications Ordinance, Medical Implant Communication System Device, Radio Frequency Identification Tag and Taxi Mobile Station. The concerned Class Licences are published on the website of OFTA.

of the Telecommunications Authority (“OFTA”) has from time to time been faced with a large number of related consumer complaints¹¹. An individual licensing approach would seem to be more appropriate from the licence administration and enforcement perspectives.

Proposal of Merging PNETS Licence under SBO Licence

14. Having considered the pros and cons of the two options identified above for streamlining of the PNETS licensing regime, the TA considers that the SBO Licence is the more appropriate licensing vehicle replacing the outdated PNETS licensing regime. To minimise the impact on the existing PNETS licensees, **the TA proposes to expand the existing SBO licensing regime with the creation of a new “Class 3” type of service to replace the PNETS Licence. The proposed licence fees for the SBO Class 3 services will be similar to those of the existing PNETS Licence¹². A single, harmonised set of licence conditions¹³ under the SBO Licence will be applied in lieu of different sets of licence conditions for the different categories of PNETS.**

15. In the longer term, there may be scope for a more light-handed licensing approach for some of the service-based operations, such as the Teleconferencing, Private Payphone and Security & Alarm services. The TA will review in due course whether the licensing of these services can be further streamlined, for example, by deploying a class licence approach.

Question (1): Do you have any views and comments with respect to the proposal on replacement of the existing PNETS licensing regime by a new class of service under the SBO Licence?

¹¹ According to the statistics of OFTA, about one third of consumer complaints received by OFTA in 2006 and 2007 are related to ETS and Internet access services.

¹² In accordance with the Statement on “Review of the Licence Fees for Provision of the Public Radio Paging and Mobile Virtual Network Services” issued by the TA on 20 February 2009, there would be an adjustment to the licence fee for MVNOs under the PNETS Licence such that the existing variable fee component of HK\$18 per mobile station would be reduced to HK\$8 per mobile station and a new variable fee component of HK\$3 per subscriber number will be introduced to encourage efficient use of numbers. The corresponding fees will also be followed for the proposed Class 3 services under the SBO Licence.

¹³ In addition to other special conditions which may be prescribed for individual licensee or specific type of services authorised under the licence (see paragraph 49).

PROPOSED MODIFICATION TO THE SBO LICENCE

Scope of Service

New Class 3 Services

16. It is proposed that the new Class 3 services under the SBO Licence should cover all types of telecommunications services other than Class 1 and Class 2 local voice telephony services that may be authorized under the SBO Licence, including the seven existing categories of PNETS (excluding Miscellaneous Service, which will be subsumed under other categories) mentioned in paragraph 7 of this consultation paper. The type of Class 3 service to be authorized for provision by a SBO licensee will be particularized in the schedules to the licence. Based on the categorization of services under the existing PNETS Licences, the new SBO Class 3 services will include the following seven categories of services:

- (1) ETS;
- (2) IVANS (including Internet Access Services);
- (3) MVNO Services;
- (4) Private Payphone Service;
- (5) Radio Relay Service;
- (6) Security & Alarm Service; and
- (7) Teleconferencing Service.

17. Detailed descriptions of the Class 3 services under the modified SBO Licence (the “Modified SBO Licence”) as listed in the preceding paragraph are given in Annex 4. To cater for the provision of innovative and new services that do not fall within the listed categories, the TA may authorise the provision of other Class 3 services that do not fall into the scope of Class 1 or Class 2 service under a SBO Licence by making reference to the service proposed by the applicant. The scope of service will be specified in the schedule(s) to the SBO Licence.

Class 1 and Class 2 Services

18. In the TA Statement of 6 January 2006 entitled “Services-Based Operator (SBO) Licence” (“SBO Statement”), the TA mentioned that he did not expect the IP-based local voice telephony services provided by SBO licensees

to be economically viable and commercially feasible solution to mobile customers because of the data transmission charges involved. There is thus a restriction in the scope of service of SBO Licence on the provision of IP-based local voice telephony services to mobile customers. However, the TA indicated that the licence will be amended if he considers in the future that the scope of SBO Licence should be extended such that local voice telephony services offered by SBO licensees are accessible to customers of mobile services¹⁴.

19. Since the creation of the SBO Licence in January 2006, with the introduction of High Speed Packet Access (“HSPA”) service and the massive rollout of public Wi-Fi hotspots, wireless broadband access services have become more and more ubiquitous. At present, with the installation of about 7,900 (as of 28 February 2009) access points by some 30 operators, public Wi-Fi services are available in most of the popular locations at an affordable price. All third generation (“3G”) mobile operators has launched 3.5G mobile services utilizing HSPA technology, whereby subscribers can enjoy high speed mobile broadband services and some with unlimited access offered at a flat monthly rental. In addition, the TA has just successfully conducted an auction of radio spectrum for provision of broadband wireless access (“BWA”) services in January 2009. It is expected that BWA services will be launched in Hong Kong some time in 2010. With these developments, wireless communications will become more and more important as a major means of delivering public communications services. Apart from the evolution of telecommunications networks and technologies, there are also rapid developments in IP telephony technologies and services. Software based IP phone functionalities are now commonly available in many popular internet-enabled (data access using 3G or Wi-Fi) mobile phones models. User with a valid service account, which may be provided by a voice over IP (“VoIP”) service provider, is able to make/receive VoIP calls through mobile device. It has been reported that ¹⁵ the number of mobile VoIP users around the world may rise to 100 million by 2011 from a figure of seven million in 2007.

¹⁴ See paragraph 5 of the SBO Statement.

¹⁵ See for example a report quoted at <http://gigaom.com/2008/08/26/thanks-to-smartphones-mobile-voip-growing-steadily>.

20. With the emergence of fixed-mobile convergence¹⁶ (“FMC”), the boundary between fixed and mobile has become increasingly blurred. In order to ensure that the regulatory regime remains conducive to the development of FMC, the TA has implemented the Unified Carrier Licence (“UCL”) since 1 August 2008. Facility-based operators may now be licensed under a single, unified licensing vehicle irrespective of whether they provide fixed, mobile or converged services. Applying the same technology-neutral principle, the TA sees no reason why SBOs should not be allowed to provide mobile local voice telephony services by making use of the transmission facilities provided by a mobile carrier licensee (i.e. holder of a Mobile Carrier Licence (“MCL”) or UCL who is authorised to provide mobile services), subject to technology constraint. In fact, the TA is not aware that there is any regulatory constraint on the provision of IP telephony services to mobile customers in other jurisdictions where IP telephony services are authorised.

21. Given the latest developments in mobile VoIP market and the latest regulatory environment in the local and overseas contexts, **there seems to be no reason for the TA to maintain the restriction on SBOs in providing IP-based voice telephony services to mobile customers. Therefore the TA proposes to remove such restriction in the Modified SBO Licence for the provision of Class 1/Class 2 services.** Depending on the business plan of a licensee or an applicant for licences, it may be authorized to provide mobile voice telephony services and the mobility restriction will be removed from the relevant schedules of its licence. Without prejudice to the exercise of power by the TA, the regulatory principles which are applicable to existing SBO licensees, such as those set out in the relevant TA Statements¹⁷, shall continue to be applicable to holder of Modified SBO Licence providing Class 1/Class 2 services, regardless of the technology employed.

22. **With the removal of the mobility restriction, a holder of the Modified SBO Licence authorised to provide Class 1/Class 2 services can provide both fixed and mobile voice telephony services, as well as all types of Class 3 services including MVNO and Radio Relay services which are hitherto excluded from the SBO Licence.** However a holder of Modified

¹⁶ With dynamic market and technological developments, the distinction between fixed and mobile networks and services is becoming increasingly blurred. This phenomenon is commonly referred to as “Fixed-Mobile Convergence”.

¹⁷ Including the TA Statements entitled “Regulation of Internet Protocol (IP) Telephony” dated 20 June 2005 and “Services-Based Operator Licence” dated 6 January 2006

SBO licence authorised to provide Class 3 services only (such as those listed in paragraph 16 above) is not entitled to provide local voice telephony services, except that a SBO licensee authorised to provide Class 3 (MVNO) services can provide mobile voice telephony services by having arranged for access to and interconnection with the facilities established by a mobile carrier licensee (or a unified carrier licensee who is authorised to provide mobile services). For the avoidance of doubt, MVNO service is not a Class 1 / Class 2 service under the Modified SBO Licence. While the latter covers the provision of local voice telephony services to both fixed and mobile customers, MVNO service covers mobile customers only, i.e. it does not cover the provision of local voice telephony services to fixed customers by making use of the facilities established by a fixed carrier licensee (i.e. holder of a Fixed Telecommunication Network Services (“FTNS”) Licence, a Fixed Carrier Licence or a UCL who is authorised to provide fixed services).

Period of Validity

23. During the public consultation for creation of SBO Licence in August 2005, the TA considered that it is appropriate for the SBO Licence to follow the period of validity applicable to services-based PNETS Licence. When the SBO Licence was introduced in January 2006, the TA decided that the SBO Licence shall have one-year licence validity period. Having put in place the SBO licensing regime for three years, **the TA considers that the one-year licence validity period has worked well and he therefore proposes that this will remain the same for the Modified SBO Licence** i.e. the Modified SBO Licence will be, subject to the discretion of the TA, renewable on an annual basis.

Question (2): Do you have any comments on the proposed scope of service and period of validity for the Modified SBO Licence, in particular on the Class 1, Class 2 and Class 3 services which may be authorised under the licence and the removal of mobility restriction for Class 1 /2 services ?

Fee Structure

Existing SBO and PNETS Licences

24. The current licence fees payable under SBO and PNETS Licences (see Annexes 1 and 2 for details) are summarised in Table 1 below.

Table 1 – Existing Licence Fees for SBO and PNETS Licences

Licence	Service	Fixed fee components	Variable fee components
SBO Licence	Class 1	\$90,000	Number fee (\$7 per subscriber number ¹⁸)
	Class 2	\$25,000	
PNETS Licence	PNETS	\$750	Base station fee (\$750 per base or fixed station) Mobile station fee ¹⁹ (\$18 per station)

Modified SBO Licence

25. The TA proposes that the Modified SBO Licence should retain the existing licence fee components of SBO and PNETS Licences. In other words, there will be a fixed fee plus a variable fee depending on the amount of subscriber numbers, base/fixed stations and mobile stations under a SBO Licence.

Fixed Fee

26. When the SBO Licence was first introduced in 2006, the fixed fee was set at a level of HK\$90,000 for provision of Class 1 services and HK\$25,000 for provision of Class 2 services. The different levels of fixed fee were based on projection of OFTA's resources deployed to administer the concerned types of services offered by SBO licensees, with the recognition that Class 1 services are subject to more stringent licence conditions and hence would require more resources for regulatory oversight. However, among the existing SBO

¹⁸ A subscriber number is a number in the Hong Kong Numbering Plan for assignment to the end customer for telecommunications services.

¹⁹ Under the existing PNETS Licence, a fee in respect of mobile stations used by the customers of the service is charged at the rate of \$3,600 for the first 200 stations and a further fee of \$1,800 for every 100 or part of a 100 mobile stations exceeding 200. In accordance with the Statement on "Review of the Licence Fees for Provision of the Public Radio Paging and Mobile Virtual Network Services" issued by the TA on 20 February 2009, with effect from 1 June 2009, the existing fee level of HK\$18 per mobile station will be reduced to HK\$8 per mobile station and a new variable fee component of HK\$3 per subscriber number will be charged.

licensees, none of them are providing Class 1 services. With three years of experience in implementing the SBO, OFTA comes to the view that the resources in administering Class 1 and Class 2 licensees would not be too different. OFTA is not aware that other administrations have applied a different licence fee according to the type of local voice telephony services provided by a service provider²⁰. **The TA therefore proposes to align the fixed fee component for Class 1 and Class 2 services at the same level of HK\$ 25,000 under the Modified SBO Licence.** The proposed fee will apply for a SBO licensee authorized to provide Class 1 and/or Class 2 services. The alignment should simplify administration of the SBO Licence. For SBO licensees, the lower licence fee would reduce their cost of providing Class 1 services and they may thus have an additional incentive to launch Class 1 services resulting in more choice for the consumers.

27. In line with the proposal for merging PNETS regime under the SBO regime (see paragraph 14), **if a licensee is authorised to provide Class 3 services only, the fixed fee charged will be at the same level as the existing PNETS Licence i.e. a fee of HK\$750 will be charged for each type of Class 3 service authorised under the licence.** In accordance with paragraph 22, a holder of the Modified SBO Licence authorised to provide Class 1/Class 2 services can also provide all types of Class 3 services without additional authorization. If such a licence holder should provide any type of Class 3 services, no additional fixed fee will be charged. In other words, **a SBO licensee authorized to provide Class 1 and/or Class 2 services and required to pay HK\$25,000 as proposed above may also provide any type of Class 3 service without the need to pay HK\$ 750 for each type of Class 3 service provided.**

Variable Fee

Class 3 Services

28. For the provision of Class 3 services, the TA proposes that the existing variable fee components under the PNETS Licence with the same level of charge will be applied. In the Statement entitled “Review of the Licence Fees for Provision of the Public Radio Paging and Mobile Virtual Network Services”

²⁰ For example, in Singapore, a SBO is charged a licence fee of S\$5000 per annum and there is no differentiation in terms of licence fee between different types of local voice telephony services.

issued by the TA on 20 February 2009, the TA has decided that in line with the rate adopted for UCL and that in order to encourage efficient use of numbers, a fee of HK\$3 per subscriber number will be charged with effect from 1 June 2009 for MVNOs which are allocated with telecommunications numbers by the TA. In parallel, the subscribed-based fee will be reduced from HK\$18 per mobile station to HK\$8 per mobile station. On the other hand, the fee of HK\$750 per base station or fixed station will remain unchanged. **The same fees of HK\$3 per subscriber number, HK\$8 per mobile station and HK\$750 per base / fixed station for MVNOs licensed under the PNETS Licence are proposed to be adopted under the Modified SBO Licence** for the provision of MVNO services as well as other Class 3 services which may require the use of telecommunications numbers or the establishment of radiocommunications facilities.

Class 1/Class 2 Services

29. For the provision of Class 1/Class 2 services under the existing SBO Licence, there is currently a variable fee of HK\$7 for each subscriber number within the numbering blocks allocated by the TA to the licensee (net of those numbers subsequently ported out from the licensee's system) and for each number ported in to the licensee's system. The existing level of HK\$7 per number for Class 1/2 services is pitched at a different level from the HK\$3 per number for Class 3 services as proposed in the preceding paragraph.

30. The variable fee of HK\$7 per number for Class 1/2 services was set in January 2006 on cost recovery basis according to estimation of OFTA's resources required to administer the SBO Licence. After the creation of the SBO licence, the number fee has also been introduced as a fee component under the UCL to encourage efficient use of numbers but the level is set at HK\$3 per subscriber number such that the overall licence fee would be able to recover the costs of administering the concerned carrier licences. As mentioned in paragraph 28 above, the same number fee of HK\$3 will be applied to the existing Public Radiocommunications Service ("PRS") Licence and PNETS Licence for provision of public radio paging services and MVNO services respectively such that the concerned licensees which are eligible for number allocation by the TA would also be given a similar financial incentive to use the scarce number resource effectively. Therefore, the level of HK\$3 per number has now been adopted for all other kinds of licence except for the

SBO Licence. For consistency and having regards to cost recovery on a long term basis, **it is proposed that the concerned number fee for Class 1/Class 2 services should be aligned at the same level of HK\$3 per number proposed for the Class 3 services.** The revised number fee for Class 1/Class 2 services will also bring the level in line with the number fee currently applied under the UCL, the PNETS Licence for the provision of MVNO, and PRS Licence for the provision of public radio paging services. With the expected increase of the number of SBO licensees and customers served by them in the future, OFTA projects that the average cost of administering SBO licensees should drop and therefore the adoption of a unified number fee under the SBO Licence could be possible from the cost recovery angle.

31. In paragraph 21, the TA proposes the removal of the restriction on SBOs in providing IP-based voice telephony services to mobile customers. Thus, if a SBO authorised to provide Class 1/Class 2 services also provides Class 3 (MVNO) services or any other radiocommunications services involving the use, establishment or maintenance of mobile stations for customers, the variable fee of HK\$8 per mobile station and HK\$750 per base/fixed station will also apply in addition to the applicable fees for the Class 1/2 services and the number fees.

32. The proposed licence fees payable for the Modified SBO Licence are set out in Annex 3 and they are summarised in Table 2 below.

Table 2 – Proposed Licence Fee for Modified SBO Licence

Licence	Service	Fixed fee components	Variable fee components
SBO Licence	Class 1	\$25,000 (*1)	Number fee (\$3 per subscriber number)
	Class 2	\$25,000 (*1)	
	Class 3	\$750 for each type of Class 3 service authorized	Base station fee (\$750 per base or fixed station) Mobile station fee (\$8 per station)

*1 : No additional fixed fee for provision of any type of Class 3 service

33. At present, numbers allocated to FTNS/Fixed Carrier (“FC”) licensees are not subject to any number fee, until and unless the concerned licensees have their licences replaced by UCL. The TA is minded that there is no explicit

restriction for a SBO licensee to obtain numbers from other parties (subject to TA's authorization), such as the FTNS/FC licensee providing the hosting service to the SBO licensee. Although the TA is not aware of such arrangement being adopted in the market, there should be no circumvention of the number fee irrespective of whether the numbers are allocated by the TA directly to the SBO licensee or assigned by another licensee to the SBO licensee. Therefore, the fee schedule of the Modified SBO Licence would make it clear that **any subscriber number allocated to the licensee, including numbers assigned to the licensee by another licensee as authorized by the TA, shall be subject to the proposed fee of \$3 per number**²¹. If authorisation for assignment of numbers by one licensee to another is given, the TA would make sure that there will be no double counting of number fee, i.e. every subscriber number allocated for use by licensees would only incur the number fee once²².

34. Currently, all SBO licensees provide Class 2 services only with numbers obtained directly from the TA. They are not required to submit auditor certificates to OFTA for certifying the quantity of prefix "57" and "58" numbers held by them as at the licence renewal date for the purpose of determining the amount of number fee payable, since Class 2 services are not subject to number portability requirement and the TA has full information on the quantity of numbers held by the SBO licensees. If the SBO licensees provide Class 1 services which are subject to number portability requirement or obtain numbers from other licensees as authorised by the TA for the provision of any service, the TA will no longer have full information about the quantity of numbers held by the SBO licensees. Accordingly, there would be a need to require the SBO licensees to submit auditor certificate to OFTA for the purpose of determining the amount of fee payable for the numbers held by the licensees.

Question (3): Do you have any views and comments on the proposed licence

²¹ Under the Modified SBO Licence, a fee of \$3 for each subscriber number within the numbering blocks allocated by the TA to the SBO licensee that is not ported out from the licensee's system or assigned, as authorized by the TA, to another licensee (who has made payment of the licence fee for such number under its licence) and for each subscriber number allocated to another licensee that is ported in to the licensee's system or assigned, as authorized by the TA, to the licensee shall be payable on the issue or renewal of the SBO Licence.

²² Under the UCL, number fee is not applicable for a subscriber number which is assigned, as authorized by the TA, to another licensee (who has made payment of the licence fee for such number under its licence). Therefore, if a SBO licensee obtained numbers from a UCL holder and has made payment of the number fee under the SBO Licence, the UCL holder does not need to pay the number fee for the numbers assigned to the SBO licensee.

fees of the Modified SBO Licence and the requirement of submitting auditor certificate for licence fee calculation?

General Conditions

35. The set of General Conditions (“GCs”) imposed under existing PNETS Licences was published in Government Gazette²³. Basically, most GCs of PNETS Licences can be covered by the existing SBO Licence, except for two GCs in the existing PNETS Licence which are standard licence conditions governing the requirements on radiocommunications installations and use of frequencies. As a holder of the proposed Modified SBO Licence is allowed to provide service to mobile customers and there may be radiocommunications installations set up by the licensee in providing the concerned services, such as MVNO and Radio Relay services, it is necessary to add these two GCs in the Modified SBO Licence. For avoidance of doubt, holder of Modified SBO Licence is not authorised to establish and maintain radiocommunications network that would be licensable under the carrier licence. To harmonize the rights and obligations among all service-based operators, **a unified set of GCs will be adopted for the Modified SBO Licence, i.e. the GC will include the existing GCs in the existing SBO Licence and the two GCs (see GC 16 on “Requirements of Radiocommunications Installation” and GC 17 on “Use of Frequencies” under the sample SBO Licence in Annex 5) transplanted from the existing PNETS Licence.**

Special Conditions

36. Under the existing SBO Licence, a common set of Special Conditions (“SCs”) are imposed for all licensees. Among them, some SCs are applicable to all licensees irrespective of the services provided, while other SCs are applicable for the provision of Class 1 and/or Class 2 services only. This common set of SCs would continue to be adopted with some updates to reflect

²³ The form of licence together with the GCs imposed under PNETS Licences are published at the Government Gazette No. 2221 on 6 April 2001. (http://www.gld.gov.hk/cgi-bin/gld/egazette/gazettefiles.cgi?lang=e&year=2001&month=04&day=06&vol=05&no=14&gn=2221&header=1&part=1&df=1&nt=gn&newfile=1&acurrentpage=12&agree=1&gaz_type=mg)

the latest regulatory requirements. On the other hand, some specific licence conditions in the existing PNETS Licences are still considered appropriate for regulation of the concerned services (such as MVNO and Private Payphone services) and they should be transplanted to the Modified SBO Licence for provision of the relevant Class 3 services. On the whole, the existing PNETS licensees would be required to observe similar obligations under the Modified SBO Licence as imposed under the existing PNETS Licence. The key proposed changes to the special conditions in the SBO Licence are summarised in paragraphs 37 – 48 below.

Unsolicited Advertising (Original SC 12 in SBO Licence)

37. Under the existing SBO Licence and most PNETS Licences, there is a SC on “Unsolicited Advertising” requiring the licensee not to use its service or to prevent the service from being used by any user in transmitting unsolicited advertising messages and to comply with such codes of practice as may be issued by the TA. With the full operation of the Unsolicited Electronic Messages Ordinance since December 2007, the said SC is no longer necessary. In fact, this licence condition does not appear in the UCL, which is used for licensing of facility-based carriers starting from 1 August 2008. Therefore **the TA proposes to omit the SC on unsolicited advertising under the Modified SBO Licence.**

Requirements for Interconnection (Original SC 16 in SBO Licence and New SC 12 in Modified SBO Licence)

38. Under the existing SBO Licence, the licensee is required to comply with a SC (original SC 16) on the requirements for interconnection with other networks and services licensed under the Ordinance if the licensee provides Class 1 or Class 2 services where customers are assigned with numbers from the numbering plan of Hong Kong. Under the PNETS Licence for provision of some services like MVNO and Security & Alarm services, there is a similar SC stipulating interconnection requirements. Such requirements are considered necessary for the provision of corresponding types of Class 3 services under the Modified SBO Licence. Therefore, **the TA proposes that a harmonised SC (new SC12) on requirements for interconnection be applied for the provision of Class 1, Class 2 or Class 3 services.** Same as the existing obligation for provision of Class 1 and Class 2 services under the

SBO Licence, where customers of the licensee are assigned with telephone numbers from the numbering plan of Hong Kong, the licensee shall interconnect its service and system with other services, systems and networks to enable its customers to make and receive calls to and from other users assigned with telephone numbers²⁴.

39. At present, amongst the various types of PNETS, only MVNO services require the use of telephone numbers. The harmonised SC12 appears to have impact on these MVNOs²⁵ only if they choose to take up SBO Licence in the future upon expiry of their existing PNETS Licences²⁶. However, the existing markets of the concerned services are very competitive and in the past the TA seldom found it necessary to intervene in the related interconnection matters. Therefore, the TA is confident that the chance for him to intervene pursuant to this licence obligation for MVNOs would be rather remote. In accordance with the light-handed policy approach, the TA maintains the existing policy of encouraging parties to negotiate and interconnect by commercial agreement. Generally, only if commercial agreement cannot be reached and any-to-any connectivity is jeopardized, the TA will consider to intervene by exercising his power under the Ordinance or under this licence condition.

Records and Plans (New SC 14 in Modified SBO Licence)

40. There is an existing SC in some PNETS Licences (for provision of ETS, MVNO, Security and Alarm services) requiring the licensee to maintain an updated record of the configuration of the system used for the provision of telecommunications services. As a matter of fact, all applicants for PNETS and SBO Licences are required to submit information on the configuration of their systems to the TA for application of the relevant licence. The TA considers that maintaining an updated record and making it available for inspection by the TA upon request should not be an onerous requirement. Furthermore, there is a need for the TA to ask for the relevant technical information from the licensees from time to time in order to ensure compliance

²⁴ Where customers of the SBO licensee are not assigned with numbers from the numbering plan, the obligation to interconnect with other services, systems and networks are subject to direction by the TA.

²⁵ At present, under the PNETS Licence for MVNO, the obligation of the licensee to interconnect with other entities is not per se but under a direction by the TA.

²⁶ According to the proposal discussed in paragraph 51, the TA will not renew any PNETS licence after implementation of the Modified SBO Licence.

with licence conditions and to carry out his regulatory functions²⁷. As such, **the TA proposes that the relevant licence condition in the PNETS Licences on keeping records and plans of the licensee's system should be transplanted to the Modified SBO Licence and applied for all SBO licensees.**

Service Contracts and Dispute Resolution (New SC 15 in the Modified SBO Licence)

41. The TA has introduced this licence condition under UCL (SC 36), and the rationale for its introduction was discussed in details in the TA's consultation paper entitled "Licensing Framework for Unified Carrier Licence" ("UCL Consultation Paper")²⁸ and his statement of 9 May 2008 ("UCL Statement")²⁹. Pursuant to this licence condition, the licensee shall comply with any code of practice issued by the TA in respect of the requirements to apply in the contracting of telecommunications services to customers. Such requirements include the format and terms and conditions of the service contracts, and the submission of consumer disputes for handling under an independent dispute resolution scheme which might be approved by the TA. Given that this licence condition is an important step for enhancing consumer protection and has been given extensive support during the public consultation for the creation of the UCL, **the TA proposes that the same obligation should be extended to all service-based operators and that this SC should be included in the Modified SBO Licence.** Nevertheless, the TA reiterates that the industry would be encouraged to continue tackling these issues voluntarily and there would be no need for the TA to invoke this SC and issue a mandatory code of practice under this SC if a self-regulatory regime driven and supported by the industry was running efficiently and effectively. If there is a need to issue code of practice for the purpose of this SC, the industry will be consulted following the requirement set out in the licence condition.

Emergency Call Service (Original SC 18 in SBO Licence and New SC 21 in Modified SBO Licence) – for Class 1, Class 2 and MVNO Services Only

42. At present, there is a SC in the existing SBO Licence under which the

²⁷ The need is demonstrated by the decisions of the TA to impose financial penalty on eight PNETS licensees for breach of licence conditions in the year 2008.

²⁸ See paragraphs 54 – 57 of the UCL Consultation Paper.

²⁹ See paragraphs 77 – 82 of the UCL Statement.

licensee providing Class 1 and Class 2 services are obliged to provide a public emergency call service where their customers are assigned with numbers from the numbering plan. Licensees providing emergency call service should maintain the most up-to-date location information of customers where the location of the customer is potentially nomadic, and provide it free of charge to the Hong Kong Police Emergency Centre or other entity as directed by the Authority. The TA considers it reasonable to apply the concerned obligation to SBO licensees authorized to provide Class 3 (MVNO) services where numbers in the numbering plan are assigned to customers. In other words, the SC will apply for all SBO licensees providing local voice telephony services.

43. With three years of operation for the SBO Licence, the TA has received feedback from some existing SBOs that the provision of emergency call service should not be mandated for those local voice telephony services where only inbound calling capability is offered. The TA also notes that in countries like Australia, the UK and some State Members of European Union, VoIP services are classified by calling capabilities in which peer-to-peer and inbound only VoIP services are not required to provide emergency call service. In Singapore, access to emergency call service is not required for numbers with special prefix specifically allocated for provision of VoIP service³⁰ by service-based operators or other E.164 telephone numbers issued by overseas administrations.

44. Based on the feedback of the industry and reference to the relevant overseas regulatory arrangement, **the TA proposes to exempt the obligation of access to emergency call service for inbound only Class 2 services³¹ while maintaining the requirement for provision of Class 2 services with outbound calling capability and Class 1 services (which have all the attributes of conventional telephone service).** To safeguard consumer awareness of restriction in making emergency calls, the TA proposes that where SBO licensees are so exempted from the obligation of providing emergency call service, they have to take the reasonable steps to ensure that their customers are fully aware of the service limitation and that they have given their explicit consent to the restriction on access to emergency call services

³⁰ In Singapore, Facilities-Based Operation/Services-Based Operation licensees may offer IP Telephony services with 8-digit numbers starting with level “3” which are not required to support access to emergency services.

³¹ Peer-to-peer VoIP services which do not require the assignment of numbers from the number plan of Hong Kong are not required to support emergency call service under the existing regulation of SBO.

when they subscribe to the VoIP service. These requirements are included in a revised SC of the Modified SBO Licence.

Location Services (New SC 25 in the Modified SBO Licence) – for MVNO Services Only

45. Under the existing PNETS Licences for MVNO services, there is a SC on “Location Services” requiring the licensee to obtain prior consent from customers for provision of services to the customers using the information concerning the locations of the customers obtained in the course of provision of the service under the licence and to provide an option for customers to suspend the use of such information. The TA considers it reasonable to apply the same obligation under the Modified SBO Licence if any Class 1, Class 2 or Class 3 service provider should provide MVNO services. Therefore, **the TA proposes to include a SC regarding the provision of location services for compliance by any SBO licensee providing MVNO services.**

Provision of Service to Suspected Stolen Radiocommunications Apparatus (New SC 26 in the Modified SBO Licence) – for MVNO Services Only

46. In the existing MCLs³² and UCL³³, there is a SC requiring the licensee to refrain from providing service to stolen or suspected stolen radiocommunications apparatus as directed by the TA. The TA considers it reasonable to apply the same obligation under the Modified SBO Licence if any Class 1, Class 2 or Class 3 service provider should provide MVNO services. Therefore, **the TA proposes to include a SC regarding restriction of service to stolen or suspected stolen radiocommunications apparatus for compliance by any SBO licensee providing MVNO services.**

Private Payphone Service (New SC 27 and SC 28 in Modified SBO Licence) – for Private Payphone Service Only

47. In the Statement on “Regulation of Payphone Services in Hong Kong” (“Payphone Statement”) issued on 25 April 1997, the TA set out the regulatory framework for the provision of public and private payphone services.

³² SC 20 in the existing MCLs for 2G and CDMA2000 mobile services

³³ SC 27 in the UCL

Payphone service providers (“PSPs”)³⁴ are required to obtain a PNETS Licence for provision of private payphone services. Other than the licensing arrangement, the Payphone Statement stated that a PSP shall comply with, among others, the obligations to fulfil the “Single Payphone – Common Access” and tariff control requirements. These obligations are specified in the relevant SCs of the existing PNETS Licences for Private Payphone Service. **The TA proposes that the existing relevant SCs for private payphone service should be transplanted to the Modified SBO Licence and applied only for the provision of Class 3 (Private Payphone) services.**

Update of Certain SCs in Existing SBO Licence

48. A number of SCs in the existing SBO Licence are proposed to be updated in accordance with the latest regulatory environment, including the following SCs:

- Billing and Metering Accuracy (SC 5);
- Universal Service Contribution (SC 6);
- Number Portability (original SC 17 in SBO Licence and new SC 20 in Modified SBO Licence); and
- Directory Information and Directory Information Service (original SC 20 in SBO Licence and new SC 23 in Modified SBO Licence).

Other SCs

49. Other than the common set of SCs, there might be other SCs which should be included in a SBO Licence because of the following circumstances:

- specific services provided by an applicant which call for specific obligations;
- specific commitments of an applicant which constitute the relevant considerations of the TA in granting a SBO Licence to the applicant; or
- obligations in an existing PNETS Licence which the TA considers it necessary to maintain under the SBO Licence to be granted for replacement of the PNETS Licence.

³⁴ Currently, holders of Fixed Carrier Licence are permitted to provide both public and private payphone services. Private payphone services may be also provided by PSP, by leasing an access line from fixed network operators and providing a service by the use of its own equipment.

Sample Modified SBO Licence

50. A sample Modified SBO Licence is given in Annex 5 which sets out a set of GCs and common SCs proposed to be prescribed by the TA. The concerned common set of GCs and SCs is intended to reflect the basic obligations to be complied with by all SBO licensees.

Question (4): Do you agree with the proposal to include the two SCs concerning interconnection requirement and new consumer protection requirement for service contracts and dispute resolution under the Modified SBO Licence?

Question (5): Do you agree with the proposal to relax the requirement of providing emergency call service for Class 2 services such that only those services with outbound calling capability and assigned with Hong Kong telephone number are obliged to support emergency calls?

Question (6): Do you have any comment on the proposed GCs and SCs for the Modified SBO Licence as set out in Annex 5?

MIGRATION ARRANGEMENT

51. Subject to the outcome of this consultation, the TA will adopt and publish the Modified SBO Licence. When the Modified SBO Licence has been put in place, all new applications for provision of Class 1, Class 2 and Class 3 services (i.e. existing PNETS) will be processed under the Modified SBO Licence. The TA will no longer issue and renew any PNETS Licence after the Modified SBO Licence has been implemented.

52. Existing PNETS Licences will remain in force until their next annual renewal date, when they shall be replaced by the Modified SBO Licence if the licence holders wish to continue operation of the concerned services. When all PNETS Licences have been migrated to the SBO licensing regime, the TA will consider to cancel the PNETS Licence. It should however be noted that the existing regulatory instruments issued by the TA, such as determination or direction, which are applicable to the relevant types of existing PNETS

licensees shall continue to be applicable for the providers of corresponding Class 3 services under the Modified SBO Licence.

53. Similarly, existing SBO Licences will remain in force until their annual renewal dates when they should be amended to adopt the same common set of licence conditions under the Modified SBO Licence. An existing SBO licensee should return their licences to the TA for amendment on or before the next annual renewal date if the licensee wishes to continue operation of the concerned services. The licensee may also apply to the TA for expansion of its existing scope of service to provide new services covered by the Modified SBO Licence, such as the removal of restriction to provide local voice telephony services to mobile customers.

Question (7): Do you have any views and comments on the proposed migration arrangement for PNETS Licences and existing SBO Licences to the Modified SBO Licence?

INVITATION OF COMMENTS

54. The TA invites views and comments from the industry on the issues and questions raised in this consultation paper. All views and comments should be made in writing and should reach OFTA, preferably in electronic form, on or before **10 May 2009**. The TA reserves the right to publish all views and comments as well as the identity of the source. Accordingly, any part of a submission that is considered commercially confidential should be clearly marked. Submission should be addressed to:

Office of the Telecommunications Authority
29/F Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong
[Attention: Senior Telecommunications Engineer (R13)]
Fax: 2803 5112
E-mail: pnets@ofta.gov.hk

Comments may also be sent by fax to 2803 5112 or by email to pnets@ofta.gov.hk.

Office of the Telecommunications Authority

11 March 2009

Licence Fee for Existing Public Non-Exclusive Telecommunications
Service Licence

1. A fee of \$750 shall be payable on the issue or renewal of the licence.
2. When apparatus for radiocommunications is possessed, used, established or maintained for the purposes of the services provided, the following additional fees shall be payable on the issue or renewal of the licence
 - (a) a fee of \$750 for every base or fixed station; and
 - (b) a fee shall be payable in the sum of:
 - (i) for the 1st 200 mobile stations or less \$3,600
used by customers of the service
 - (ii) for every additional 100 mobile stations \$1,800
or less used by customers of the service
3. For the purpose of determining the fees payable of (a) and (b) above, the number of stations shall be those functioning at the time when the licence is issued or, as the case may be, renewed.

Note : In accordance with the Statement on “Review of the Licence Fees for Provision of the Public Radio Paging and Mobile Virtual Network Services” issued by the TA on 20 February 2009, the following revision will be made with effect from 1 June 2009:

- (a) The variable fee charged based on the number of mobile stations will be \$800 for each 100 mobile stations or less used by customers of the service.
- (b) A fee of \$3 for every subscriber number allocated to the licensee will be charged. A subscriber number is a number in the Hong Kong Numbering Plan within numbering blocks allocated by the TA to a licensee, which number may be assigned by the licensee to its customer for use of a telecommunications service. The number fee will be payable on the issue

of a licence and on each annual renewal of the licence, for each subscriber number allocated to the licensee that is not ported out from the licensee's network or assigned, as authorized by the TA, to another licensee (which has made payment of the licence fee for such number under its licence) and for each subscriber number allocated to another licensee that is ported in to the licensee's network.

Licence Fees for Existing Services-Based Operator Licence

1. A fee of
 - (a) \$90,000 where Class 1 services are provided by the licensee during the validity period of the licence; or
 - (b) \$25,000 where Class 1 services are not provided by the licensee during the validity period of the licenceshall be payable on the issue or renewal of the licence.
2. A fee of \$7 for each subscriber number in the Numbering Plan of Hong Kong within numbering blocks allocated by the Authority to the licensee (net of those numbers subsequently ported out from the licensee's system) and for each number in the Numbering Plan of Hong Kong ported in to the licensee's system) shall be payable on the issue or renewal of the licence.

Note: Class 1 services have the meanings prescribed in Special Condition 14 of the licence.

Licence Fees for Modified Service-Based Operator Licence

1. A fee of
 - (a) \$25,000 where provision of Class 1 or Class 2 services are authorised under the licence; or
 - (b) \$750 for each type of Class 3 service authorised under the licence where provision of Class 3 services only are authorised under the licenceshall be payable on the issue or renewal of the licence.
2. A fee of \$3 for each subscriber number in the Numbering Plan of Hong Kong within the numbering blocks allocated by the Authority to the licensee that is not ported out from the licensee's system or assigned, as authorized by the Authority, to another licensee (who has made payment of the licence fee for such number under its licence) and for each subscriber number in the Numbering Plan of Hong Kong allocated to another licensee that is ported in to the licensee's system or assigned, as authorized by the Authority, to the licensee shall be payable on the issue or renewal of the licence.
3. When apparatus for radiocommunications is possessed, used, established or maintained for the purposes of the service provided, the following additional fees shall be payable on the issue or renewal of the licence-
 - (a) a fee of \$750 for every base or fixed station; and
 - (b) a fee of \$800 for each 100 mobile stations or less used by customers of the service.
4. Class 1, Class 2 and Class 3 services have the meanings prescribed in Special Condition 16 of the licence.

Annex 4

Proposed Scope of Service for the Modified SBO Licence³⁵

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
Class 1 or Class 2 services (with provision of Class 3 services authorized)	<p>1. Subject to General Condition 3, Clause 3 [and Clause 4] of this Schedule 1, all internal and external telecommunication services, other than telecommunication services the subject of an exclusive licence issued under the Ordinance, [a Mobile Carrier Licence, a Mobile Carrier (Restricted) Licence, a Unified Carrier Licence authorizing provision of mobile services, a Public Radiocommunications Service Licence, a Radio Paging System Licence, a Public Radiocommunications Service Licence (For Services Other Than Land Mobile Services),] a service subject to licensing under any other Ordinance, or a satellite broadcasting service under a Satellite Television Uplink and Downlink Licence.</p> <p>2. For the purpose of this licence, an “internal” telecommunication service means a service for communications between points within the Hong Kong Special Administrative Region; and an “external” telecommunication service means a service for communications</p> <p>(a) between one or more points in the Hong Kong Special Administrative Region and one or more points outside the Hong Kong Special Administrative</p>	<p>(1) The scope of service also includes services authorised under PNETS licence for MVNO and Public Radio Communications Relay Service which are excluded from the existing SBO licence</p> <p>(2) Restriction for providing local voice telephony services to mobile customers in the Clauses 1 and 4 (text in square bracket) will be removed if the licensee is authorised to provide mobile voice telephony services.</p>

³⁵ The proposed scope of service in the table is for reference only. Depending on the services proposed by the applicant, the TA will adopt the appropriate scope for the services concerned.

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>Region; and</p> <p>(b) between two or more points outside the Hong Kong Special Administrative Region but routed in transit via the Hong Kong Special Administrative Region.</p> <p>3. Nothing in this licence authorises the licensee to establish or maintain (i) any means of telecommunications, including but not limited to physical facilities or telecommunications installations, which cross public streets or unleased Government lands (ii) telecommunications or radiocommunications network as a carrier licensee as defined in the Ordinance.</p> <p>[4. The scope of service specified in Clause 1 of this Schedule 1 does not include internal voice telephony services provided to mobile customers.]</p>	
Class 3 (ETS)	<p>1. The service is an external public telecommunications service operated over external leased circuits supplied by an FTNS Licensee authorised to supply such circuits at the Hong Kong end or over other external switched telecommunications services lawfully operated in Hong Kong at the Hong Kong end.</p> <p>2. In the above description of service, “external” means communications with places outside Hong Kong.</p>	<p>(1) Same description as scope of service for existing PNETS licence for External Telecommunications Services (ETS)</p> <p>(2) The Class 3 (ETS) will also include some services (IDD Fax) licensed under the existing PNETS licence for Miscellaneous Value-Added Service</p>

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>3. For the avoidance of doubt, the service shall not include the provision to customers of a telecommunications circuit between a point in Hong Kong (including, without limitation, a radiocommunications facility or cable termination facility) and one or more points outside Hong Kong, and any means of telecommunications capable of facilitating such a circuit.</p> <p>4. Customers at the Hong Kong end and/or at the distant end may be connected to the service through any public switched telecommunications network or dedicated circuits.</p> <p>5. This licence does not authorise the licensee to establish and maintain any physical facilities for the supply of external circuits to customers.</p>	
Class 3 (IVANS)	<p>1. The service is a local and/or external public telecommunications service accessed by its customers via, and provided over, circuits provided by public telecommunications networks and/or public telecommunications services licensed under the Ordinance and, subject to Sections 3 and 4 of this Schedule, may include the following service elements :</p> <p>a) data communications;</p> <p>b) facsimile communications;</p> <p>c) electronic mailbox/messaging;</p> <p>d) electronic data interchange;</p> <p>e) code, protocol and/or format conversions;</p>	<p>(1) Same description as scope of service for existing PNETS licence for International Value-Added Network Services (IVANS)</p> <p>(2) The Class 3 (IVANS) service will also include most of the existing services licensed under the PNETS licence for Miscellaneous Value-Added Service</p>

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>f) database access and retrieval; g) value added voice services.</p> <p>2. In this Schedule,</p> <p>“circuits provided by public telecommunications networks” means:</p> <p>a) the public switched telecommunications network operated or authorised under the Ordinance;</p> <p>b) leased circuits operated or authorised under the Ordinance.</p> <p>“external” means communications with places outside Hong Kong.</p> <p>“external circuit” means a telecommunications circuit between a point in Hong Kong (including, without limitation, a radiocommunications facility or cable termination facility) and one or more points outside Hong Kong, and any means of telecommunications capable of facilitating such circuit.</p> <p>3. Where international private leased circuits (IPLCs) are used for the provision of the service, the services that may be conveyed over the IPLCs shall fall within the scope of International Value-Added Network Services (IVANS) as specified in the Schedule.</p> <p>4. “Value added voice services” in Section 1(g) of this Schedule shall be confined to “value added voice service” provided as an IVANS over IPLCs as</p>	

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>defined in Schedule [].</p> <p>5. For the avoidance of doubt, this licence does not authorise the licensee to establish and maintain any physical facilities for the supply of external circuits to customers.</p>	
Class 3 (MVNO)	<p>1. The service is a mobile virtual network service provided to subscribers or customers within the territory of Hong Kong Special Administrative Region by making use of and by having access to, and interconnection with, radiocommunications infrastructure of a Mobile Carrier licensee or Unified Carrier licensee authorised to provide mobile service and assigned with the radio spectrum using which the public radiocommunications service is provided.</p> <p>2. Subject to Clause 1, the licensee shall provide the service through and by setting up, maintaining and operating the apparatus, equipment, facility, infrastructure and interconnection including but not limited to billing, switching, home location register and Intelligent Network systems but without radio transmission parts and radio base stations. For the avoidance of doubt, the licensee has not been assigned, and is not entitled to the assignment of, any radio spectrum and therefore does not operate any radio base station for the purpose of operating the service.</p>	Similar description as scope of service for existing PNETS licence for Mobile Virtual Network Operator (MVNO) Services

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>3. Subject to Clause 1, the service may provide for the carriage of telephonic and non-telephonic messages.</p> <p>4. Subject to Clause 1, the service may include without limitation voice, facsimile, voice-mail, e-mail and short message services and the provision of electronic mailbox or storage facilities to be operated in conjunction with services described in this First Schedule and which enable any member of the public (whether a subscriber of the service or not) to deposit voice, facsimile, voicemail, e-mail, short message or other files into the electronic mailbox or storage facilities allocated to subscribers of the service or to display the same on handset or other devices of the subscriber of the service.</p> <p>5. The service includes dealing in and demonstration with a view to selling in the course of trade or business of the service and the applicant, such apparatus, facility, equipment, handset, device, accessory, material, case and packaging item for radiocommunications as may be necessary for subscribers of the service to make use of, participate in or receive the service.</p>	
Class 3 (Radio Relay)	1. The service provides a telecommunications system for interconnection with the mobile services licensed under the Ordinance, and other radiocommunications services as may be	Similar description as scope of service for existing PNETS licence for Public Radio Communication Relay

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>authorized or directed by the Authority, for extension of the radio coverage of these services within the following areas:</p> <p style="text-align: center;">Name of Building Address</p> <p>2. The service is a radio relay service for relaying the signals of mobile services licensed under the Ordinance. It does not provide any mobile service directly to the end users.</p>	Service (Radio Relay)
Class 3 (Teleconference)	<p>1. The service is a local and/or external teleconferencing service where customers of the service can hold audio or video conference through the facilities provided by the licensee.</p> <p>2. Connections between the facilities of the licensee in Hong Kong and the users in Hong Kong shall be made through dedicated circuits or switched circuits operated under fixed telecommunications networks licensed under the Telecommunications Ordinance (Cap. 106).</p> <p>3. The licensee operates a teleconference operator centre (or call centre) and provides bridging facilities so that conference participants at different locations can see, talk and listen to one another in conference mode through the telecommunications network/circuit</p>	Same description as scope of service for existing PNETS licence for Teleconferencing Service (Teleconference)

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>connections made by the licensee's system.</p> <p>4. Nothing under this licence authorises the licensee to operate an external public telephone or non-telephone service. External calls to and from the facilities of the service in Hong Kong shall be routed through an external public telephone or non-telephonic service licensed in Hong Kong.</p>	
Class 3 (Private Payphone)	<p>1. In this licence,</p> <p>(a) "payphone" means a fixed telephone that is connected to the public switched telephone network operated by a Fixed Telecommunications Network Services ("FTNS") licensee, Fixed Carrier licensee and Unified Carrier licensee authorized to provide fixed services and that cannot be used to make a telephone call (other than an emergency call, a free call for access to other services provided by FTNS licensees, Fixed Carrier licensees and Unified Carrier licensees authorized for provision of fixed services as may be specified by the Authority pursuant to Special Condition 28 or a call made through an operator-assisted or automated caller identity verification system) unless the user, immediately prior to using the telephone, makes, or arranges to make, a payment for that particular individual call;</p> <p>(b) "private payphone" means a</p>	Similar description as scope of service for existing PNETS licence for Private Payphone Service

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	<p>payphone that is located on or over privately owned land or leased land as defined in section 2, Part I of the Government Land Ordinance (Cap. 28) and to which members of the general public have access; and</p> <p>(c) “external calls” means calls for communications with places outside Hong Kong.</p> <p>2. The service is a private payphone service provided through the use of payphone equipment established and maintained by the licensee.</p> <p>3. The service may carry telephonic and non-telephonic messages.</p> <p>4. Subject to Special Condition 28, the service may include services which enable the customers to make local and external calls.</p> <p>5. The payphone equipment established and maintained by the licensee shall be connected to access lines provided by a FTNS licensee, Fixed Carrier licensee or Unified Carrier licensee authorized to provide fixed services. Nothing in the licence authorises the licensee to establish or maintain any network facilities.</p> <p>6. Nothing in the licence authorises direct interconnection between the payphone equipment established and</p>	

Type of Service	Proposed description in Schedule 1 of Modified SBO Licence	Remarks
	maintained by the licensee with the gateways for external public telephone services licensed under the Ordinance.	
Class 3 (Security & Alarm)	The service is a local public telecommunications service for the transmission of security and fire alarm signals from customers' premises to a security fire service communication centre. The conveyance of the security and fire alarm signals may be made through the dedicated circuits or switched circuits provided by Fixed Telecommunications Network Services ("FTNS") licensees, Fixed Carrier licensees, Mobile Carrier licensees, Unified Carrier licensees, or the other telecommunications network and services licensed, or deemed to be licensed, or exempt from licensing, under the Ordinance.	Similar description as scope of service for existing PNETS licence for Security And Fire Alarm Signals Transmission (Security & Alarm) Service

Sample Modified SBO Licence

Licence No. xxx

**TELECOMMUNICATIONS ORDINANCE
(Chapter 106)**

SERVICES-BASED OPERATOR LICENCE

DATE OF ISSUE: [Date]

[Name of Licensee]

.....
of [Address]
.....

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

- (a) to provide a public telecommunications service (the “service”), the scope of which is described in Schedule 1; and
- (b) to establish and maintain a telecommunications system (the “system”) described in Schedule 2 to provide the service.
- (c) to possess, establish, use and maintain such radiocommunications apparatus as described in Schedule 3 as may be necessary to provide the service; and
- (d) to deal in and demonstrate with a view to sale in the course of trade or business, such apparatus or material for radiocommunications as may be necessary to supply customers of the service.

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 provide the service.
- 1.3 This licence replaces any licence or any exemption from licensing, however described, which the Authority may have granted to the licensee for providing the service.
- 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 his consent the Authority will have regard to such matters as he 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 provision of the service 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 and such guidelines or Codes of Practices which may be issued by the Authority as in his opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this licence.

5. PROVISION OF SERVICE

- 5.1 The licensee shall, subject to Schedule 1 to this licence and any special conditions of this licence relating to the provision of the service, at all times during the validity period of this licence operate, maintain and

provide a good, efficient and continuous service in a manner satisfactory to the Authority. The Authority may, on application in writing by the licensee, exempt a part or parts of the service from the requirement of continuous provision.

6. CONFIDENTIALITY OF CUSTOMER INFORMATION

- 6.1 The licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.
- 6.2 The licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the licensee of the service.

7. CONTROL OF INTERFERENCE AND OBSTRUCTION

- 7.1 The licensee shall take reasonable measures to install, maintain and operate the service and 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.
- 7.2 The licensee shall take reasonable measures to ensure that the customers of the service do not cause harmful interference to lawful telecommunications services or utility services through use of the service.
- 7.3 The Authority may give such reasonable directions as he thinks fit to avoid harmful interference or physical obstruction referred to in General Condition 7.1. The licensee shall comply with the directions.

8. COMPLIANCE

- 8.1 If the licensee employs any person under contract for the purpose of the service, 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.

9. SAFETY

- 9.1 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.
- 9.2 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.

10. PROHIBITION OF CLAIMS AGAINST GOVERNMENT

- 10.1 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.

11. INDEMNITY

- 11.1 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 provision of the service or the installation, maintenance and operation of the system.

12. CONTRAVENTION BEYOND LICENSEE'S CONTROL

- 12.1 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.
- 12.2 Where the circumstances referred to in General Condition 12.1 are such that there is an outage or interruption in the service affecting a significant number of the licensee's customers for a period of more than 7 days, the licensee shall provide the Authority with a full report in writing detailing the reasons for the breach and indicating when, or if, it will be able to continue to provide the service.
- 12.3 If the Authority is, after considering a report provided under General Condition 12.2, of the reasonable belief that the licensee would be able to provide the service within a reasonable period of time despite the circumstances outlined in that report, the Authority may direct that the licensee recommence the service within such reasonable period as the Authority may in writing direct. The licensee shall comply with such direction.
- 12.4 For the avoidance of doubt, General Condition 12.1 shall apply to any of the licence conditions and the Authority may at his discretion, and on such conditions as he thinks fit, extend any time period within which the obligations of the licensee under any of the licence conditions may be met.
- 12.5 In exercising his discretion under General Condition 12.4 with respect to any of the licence conditions, 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 licence condition.

13. PERIOD OF VALIDITY

- 13.1 This licence shall be valid for such period as determined and published by the Authority to be applicable to services-based operator licence at the time of the issue of this licence.

14. LICENCE FEES

- 14.1 The licensee shall pay the fees applicable to services-based operator licence as may from time to time be determined and published by the Authority.

15. PUBLICATION OF LICENCE

- 15.1 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.

16. REQUIREMENTS OF RADIOCOMMUNICATIONS INSTALLATION

- 16.1 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 3 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.
- 16.2 The apparatus comprised in each radiocommunications installation shall at all times comply with such technical standards as may be issued by the Authority.
- 16.3 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.

- 16.4 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.
- 16.5 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.
- 16.6 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..

17. USE OF FREQUENCIES

- 17.1 The radiocommunications installation operated by or on behalf of the licensee shall only be operated on such frequencies as the Authority may assign.
- 17.2 The Authority may at any time, giving a reasonable notice in writing to the licensee, require him upon such date as may be specified in the notice to cease using any frequency previously assigned to him by the Authority and to use such new frequency as the Authority may designate.

SPECIAL CONDITIONS

1. PROVISION OF SERVICE

- 1.1 The licensee shall, subject to Schedule 1 and any special conditions of this licence relating to the provision of the service, provide the service on its published terms and conditions and at the tariff published in accordance with Special Condition 4 (as applicable) on request of a customer whether or not the customer intends the service to be available for its own use or intends to utilize the service to provide a lawful telecommunications service to third parties.
- 1.2 Subject to Schedule 1 and any special conditions relating to the provision of the service, the licensee shall comply with a customer request for the service as tariffed by the licensee in accordance with Special Condition 4 where the service reasonably could be provided by the licensee to the customer.

2. NUMBERING PLAN

- 2.1 The licensee shall conform to a 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 service.

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 related to the business run by the licensee under this licence, including financial, technical and statistical information, accounts and other records, as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence.
- 3.2 Subject to Special Condition 3.3, the Authority may use and disclose information to such person 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. TARIFFS

- 4.1 The licensee shall publish and charge no more than the tariffs for the service operated under this licence. The tariffs shall include the relevant terms and conditions for the provision of the service. The licensee shall send a copy of published tariff to the Authority upon the request of the Authority;
- 4.2 Publication shall be effected by –
- (a) placing a copy in a publicly accessible part of the principal business place and other business premises of the licensee as advised by the Authority; and
 - (b) sending a copy to any person who may request it. The licensee shall not levy a charge greater than that is necessary to cover reasonable costs involved.

5. BILLING AND METERING ACCURACY

- 5.1 The licensee shall take all reasonable steps to ensure that any metering equipment and billing system used in connection with the service is accurate and reliable.
- 5.2 Upon the written request of the Authority, the licensee shall conduct tests on metering equipment and billing system to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Authority. The licensee shall submit the test result to the Authority within 14 days after the date of the test or such other longer period as the Authority may determine.
- 5.3 The licensee shall keep such records of any metering equipment and billing system in such form as may be specified by the Authority and shall supply such records to the Authority on the written request of the Authority.

6. UNIVERSAL SERVICE CONTRIBUTION

- 6.1 Where directed by the Authority, the licensee shall pay to one or more fixed carrier licensees or unified carrier licensees or other licensees, as the case may be, its relevant share of the universal service contribution to assist those licensees to meet their universal service obligations, if any.
- 6.2 Any universal service contribution shall be subject to annual review by the Authority as to description and quantum and the licensee shall pay its relevant share of such universal service contribution as the Authority may direct following a review. On the completion of an annual review, the Authority will supply the licensee such information as the Authority is reasonably able to supply, and subject to any duty of confidentiality, as to the basis on which the universal service contribution is calculated.
- 6.3 For the purpose of this Special Condition 6, the following definitions

shall apply:

- (a) Universal service contribution is that sum calculated in accordance with a formula adopted annually by the Authority, to ensure that any licensee with a universal service obligation (referred to as “universal service provider” in this Special Condition) , receives a fair contribution from other licensees as specified by the Authority for serving customers with basic service whom would otherwise not be served because it is not economically viable to do so but who are required to be served under the universal service obligation.
- (a) Universal service obligation is the obligation by a licensee to provide, maintain and operate the relevant network in such manner as to ensure that a good, efficient and continuous basic service is reasonably available, subject to the Ordinance the conditions of the relevant licence, and to provide that basic service in such manner.

7. INTERCONNECTION CHARGES, INCLUDING WITHOUT LIMITATION, LOCAL ACCESS CHARGE AND INTERNATIONAL CALL FORWARDING SERVICE CHARGE

- 7.1 For the interconnection between the facilities of the licensee and the networks, systems and services of other licensees for the delivery of traffic for the users of the service in Hong Kong, the licensee shall pay such interconnection charges, including, without limitation, local access charges, and access charge or origination charge for interconnection necessary for the provision of international call forwarding service as may be determined by the Authority from time to time under section 36A of the Ordinance and at the level and to such licensees as may be specified by the Authority in the determination.
- 7.2 The licensee shall comply with any code of practice concerning technical configuration and operation of the service that may be issued by the Authority from time to time after consultation with the

relevant licensees for the purpose of implementing the terms under the determination referred to in Special Condition 7.1 for interconnection charges, local access charges and access charge or origination charge for interconnection necessary for the provision of international call forwarding service, and the prevention of non-compliance with the determination.

8. CALLING LINE IDENTIFICATION AND RELATED SERVICES

- 8.1 The licensee shall conform to any regulatory guide, code of practice or direction issued by the Authority in respect of calling line identification and other calling line identification related services.
- 8.2 Without limiting the generality of Special Condition 8.1, the regulatory guide, code of practice or direction issued under that Special Condition may require the licensee to validate the calling line identification against the authenticated customer in order to prevent fraud and spam.

9. PROVISION OF INFORMATION TO CUSTOMERS

- 9.1 Without prejudice to the other terms and conditions of this licence, the licensee shall provide or make available the following information to the customers when the services are offered:
- (a) Name of the licensee;
 - (b) Licence number of the licensee under this licence;
 - (c) Customer service hotline number(s);
 - (d) Where applicable, the access code(s) or number(s) (including any access password) used for obtaining the services;
 - (e) Instructions on how to access the services;

- (f) The tariffs under which the services are offered; and
- (g) The duration or validity period of the services offered.

10. INSPECTION

- 10.1 On receiving reasonable prior written notice from the Authority, the licensee shall allow the Authority and any person authorized in writing by him for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the licensee has installed telecommunications equipment, or used for the provision of the service and if required to make copies of records, documents and accounts relating to the licensee's business for the purpose of enabling the Authority to perform his functions under the Ordinance and ensure the licensee's compliance with the general conditions and special conditions of this licence and the Ordinance.
- 10.2 The licensee shall provide and maintain, at no less than the reasonable technical standards set by the Authority, facilities to enable the Authority to inspect, test, read or measure, as the case may be, any telecommunications installations, equipment (including, but not limited to testing instruments) or premises used or to be used for the provision of the service, and may at its option, and shall on the written request of the Authority, and subject to the provision by the Authority of reasonable prior written notice, provide a representative to be present at any such inspection, testing, reading or measurement.
- 10.3 On giving reasonable prior written notice, the Authority may direct the licensee to demonstrate that the service complies with the technical requirements imposed by the Ordinance and Regulations or any other instruments which may be issued by the Authority under the Ordinance and the licensee shall comply with such directions.
- 10.4 For the purpose of Special Conditions 10.2 and 10.3, the licensee shall provide adequate testing instruments and operating staff.

11. TELECOMMUNICATIONS NUMBER TRANSLATION DEVICE

- 11.1 The licensee shall comply with any directions given in writing by the Authority in relation to the use of a telecommunications number translation device for access to the service.
- 11.2 The licensee shall bear all the costs and financial losses incurred due to full compliance with the directions mentioned in Special Condition 11.1.
- 11.3 In this condition, “telecommunications number translation device” shall mean a device which translates a number input via the normal dialling pad into another number for access to specified destinations or services, but does not include a device which generates such a number upon input through a special function key or a combination of special function keys and the normal dialling pad. The “normal dialling pad” means the dialling pad comprising the buttons for digits 0 to 9, and for “*” and “#”.

12. REQUIREMENTS FOR INTERCONNECTION

- 12.1 Where the customers to the service are assigned with numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1, the licensee shall interconnect the service and the system with other networks, systems and services licensed under the Ordinance in such a manner that enables the customers to the service to make and receive calls to and from all other users assigned with numbers from the said numbering plan. Where directed by the Authority, the licensee shall interconnect its service and system with other networks, systems and services licensed under the Ordinance, and with telecommunications networks, systems and services of a type mentioned in section 36A(3D) of the Ordinance. The licensee shall interconnect its service and system with the networks, systems and services of other interconnecting parties under this Special Condition to ensure any-to-any connectivity, i.e. any customer in any one network / system

can have access to any other customer in any interconnecting network / system and, where directed by the Authority, to any service offered in any interconnecting network / system.

12.2 The licensee shall use all reasonable endeavours to ensure that interconnection is effected promptly, efficiently and on terms, conditions and at charges which are based on the licensee's reasonable relevant costs attributable to interconnection.

12.3 The licensee shall provide facilities and services reasonably necessary for the prompt and efficient interconnection of the service and system with the telecommunications networks, systems or services of the other entities referred to in Special Condition 12.1. Such facilities and services include –

(a) carriage services for the delivery of codes, messages or signals or other communication across and between the interconnected networks and systems;

(b) those necessary to establish, operate and maintain points of interconnection between the licensee's system and the networks and systems of the other entities, including, without limitation, the provision of sufficient transmission capacity to connect between the licensee's network and networks of the other entities;

(c) billing information reasonably required to enable the other entities to bill their customers;

(d) facilities specified by the Authority pursuant to section 36AA of the Ordinance; and

(e) ancillary facilities and services required to support the above types of interconnection facilities and services.

13. COMPLIANCE WITH CODES OF PRACTICE

13.1 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:

- (a) the provision of satisfactory service;
- (b) the protection of customer information; and
- (c) the protection and promotion of the interests of consumers of telecommunications goods and services

- 13.2 Before issuing any code of practice or guideline referred to in Special Condition 13.1, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

14. RECORDS AND PLANS

- 14.1 The licensee shall keep records and plans of the system to be installed (including radiocommunications installations) under this licence, including system configuration, architecture and operation, and if appropriate, how the system is interconnected with other networks, systems and services, and any other details concerning the service provided under this licence as may be reasonably required by the Authority.
- 14.2 As required by the Authority, the licensee shall make the information on the records and plans of the system in Special Condition 14.1 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.

15. SERVICE CONTRACTS AND DISPUTE RESOLUTION

- 15.1 The licensee shall comply with all codes of practice issued by the Authority from time to time in respect of the requirements to apply in

the contracting of telecommunications services to end users.

15.2 The contracting requirements referred to in Special Condition 15.1 may include the following –

- (a) the style, format and structure of service contract documentation;
- (b) the manner of entering into and terminating service contracts;
- (c) the information to be included in or in connection with service contracts and the performance of the services;
- (d) the submission of disputes between end users and the providers of telecommunications services to independent dispute resolution, pursuant to a scheme approved by the Authority; and
- (e) other terms and conditions or provisions for the protection of the interests of end users.

15.3 Before issuing any code of practice for the purposes of Special Condition 15.1, the Authority shall carry out such consultation as is reasonable in the circumstances.

16. INTERPRETATION

16.1 For the avoidance of doubt and for the purposes of the Special Conditions in this licence –

“Class 1 service” means the service as defined in Special Condition 17.2 but does not include any type of Class 3 service;

“Class 2 service” means the service as defined in Special Condition 18.2 but does not include any type of Class 3 service;

“Class 3 service” means, subject to Schedule 1, non-facilities based public telecommunications service including but not limited to the following types of service -

- (a) external telecommunications service;
 - (b) international value-added network service;
 - (c) mobile virtual network operator service;
 - (d) private payphone service;
 - (e) public radio communications relay service;
 - (f) security and fire alarm signals transmission service; and
 - (g) teleconferencing service
- but does not include Class 1 service and Class 2 service;

“mobile virtual network operator” means the holder of public non-exclusive telecommunications services licence or services-based operator licence for provision of mobile virtual network operator services;

“mobile virtual network operator service” is a mobile virtual network service provided to subscribers or customers within the territory of Hong Kong Special Administrative Region by making use of and by having access to, and interconnection with, radiocommunications infrastructure of a mobile carrier licensee or unified carrier licensee authorized to provide mobile services and assigned with the radio spectrum using which the mobile service or public radiocommunications service is provided.

“payphone” means a fixed telephone that is connected to the public switched telephone network operated by a Fixed Telecommunications Network Services (“FTNS”) licensee, a fixed carrier licensee or a unified carrier licensee authorized to provide fixed services and that cannot be used to make a telephone call (other than an emergency call, a free call made pursuant to Special Condition 28.5 or a call made through an operator-assisted or automated caller identity verification system) unless the user, immediately prior to using the telephone, makes, or arranges to make, a payment for that particular individual call;

“private payphone” means a payphone that is located on or over privately owned land or leased land as defined in section 2, Part I of the Government Land Ordinance (Cap. 28) and to which members of the general public have access; and

“services-based operator” means the holder of a services-based operator licence.

- 16.2 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.
- 16.3 The singular includes the plural and vice versa.

SPECIAL CONDITIONS FOR CLASS 1, CLASS 2 AND CLASS 3 SERVICES

17. APPLICABILITY OF CERTAIN SPECIAL CONDITIONS FOR CLASS 1 SERVICE

- 17.1 Where the licensee provides a “Class 1 service” defined in Special Condition 17.2, Special Conditions 20 to 24 shall apply in addition to all General Conditions and Special Conditions 1 to 16.
- 17.2 For the purpose of this licence, “Class 1 service” means an internal telecommunications service
- (a) for carrying real-time voice communications which may be integrated with other types of communications;
 - (b) which is capable of allowing customers to make and receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;
 - (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
 - (d) which is not a “Class 2 service” as defined in Special Condition 18.2.

18. APPLICABILITY OF CERTAIN SPECIAL CONDITIONS FOR CLASS 2 SERVICE

- 18.1 Where the licensee provides a “Class 2 service” defined in Special Condition 18.2, Special Conditions 20 to 22 shall apply in addition to all General Conditions and Special Conditions 1 to 16.
- 18.2 For the purpose of this licence, “Class 2 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may be integrated with other types of communications;
- (b) which is capable of allowing customers to make and receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;
- (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
- (d) in the provision of which –
 - (i) the licensee (and where appropriate its agents, contractors and resellers) in all promoting, marketing or advertising materials concerning such service declares the service as a “Class 2 service” (where the materials are in English text), or “第二類服務” (where the materials are in Chinese text); or
 - (ii) the licensee, in lieu of (i), complies with such conditions as may be specified by the Authority in a direction that may be issued by the Authority.

19. APPLICABILITY OF CERTAIN SPECIAL CONDITIONS FOR CERTAIN CLASS 3 SERVICES

- 19.1 Where the licensee provides a mobile virtual network operator service as defined in SC 16.1, Special Conditions 20, 21, 23 to 26 shall apply in addition to all General Conditions, Special Conditions 1 to 16 and other Special Conditions applicable for the services it provides as specified in Special Conditions 17, 18 and 19.2.
- 19.2 Where the licensee provides a private payphone service as defined in SC 16.1, Special Conditions 27 to 28 shall apply in addition to all General Conditions, Special Conditions 1 to 16 and other Special Conditions applicable for the services it provides as specified in Special Conditions 17, 18 and 19.1.

20. NUMBER PORTABILITY

- 20.1 The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1 and assigned to any customer of an internal telecommunications service provided by any services-based operator licensee for carrying real-time voice communications (which may be integrated with other types of communications) which is interconnected with systems and services under fixed telecommunications network services licences or fixed carrier licences or unified carrier licences authorizing the provision of fixed services,, or any customer of any unified carrier licensee, fixed carrier licensee or fixed telecommunications network services licensee, mobile carrier licensee, mobile virtual network operator, or any other licensee, as the case may be so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of an internal telecommunications service provided by any other services-based operator licensee for carrying real-time voice communications (which may be integrated with other types of communications) which is interconnected with systems and services under fixed telecommunications network services licences or fixed carrier licences or unified carrier licences authorizing the provision of fixed services, or a customer of unified carrier licensee, fixed carrier licensee or fixed telecommunications network services licensee, mobile carrier licensee, mobile virtual network operator, or any other licensee, as the case may be.
- 20.2 The licensee shall make commercial arrangements with one or more fixed carrier or fixed telecommunications network services licensees or unified carrier licensees authorized to provide fixed services to fulfil the obligations of facilitating the portability of numbers under Special Conditions 20.1 and conform to any code of practice issued by the Authority in respect of procedures for handling number portability.
- 20.3 For the purposes of this Special Condition, “portability of numbers” means the function of the network, system and service which enables a

customer of the service of a unified carrier licensee, fixed carrier or fixed telecommunications network services licensee, mobile carrier licensee, services-based operator or mobile virtual network operator to become a customer of another unified carrier licensee, fixed carrier or fixed telecommunications network services licensee, mobile carrier licensee, services-based operator or mobile virtual network operator or any other licensee, as the case may be, without changing the number assigned to that customer.

21. EMERGENCY CALL SERVICE

- 21.1 Where the customers to the service are assigned with numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1, the licensee shall provide a public emergency call service by means of which any member of the public may, at any time and without incurring any charge, by means of compatible apparatus connected to the system, communicate as quickly as practicable with the Hong Kong Police Emergency Centre or other entity as directed by the Authority to report an emergency.
- 21.2 Where the licensee provides a public emergency call service pursuant to Special Condition 21.1 and the location of the customer making the call is potentially nomadic, the licensee shall in such manner as may be specified by the Authority maintain the most up-to-date location information of customers and provide free of charge, to the Hong Kong Police Emergency Centre or other entity referred to in Special Condition 21.1, the relevant information relating to the location of a customer calling the emergency service described in Special Condition 21.1 for the sole purpose of responding to that call and (as appropriate) identification that the location of the customer making the call is potentially nomadic. The licensee shall provide a mechanism whereby the customers can update their location information and remind the customers to update their location information whenever they change the location from which the service is used.
- 21.3 The Authority may give exemption to the licensee for any particular obligations imposed under Special Condition 21.1. The licensee shall

comply with any conditions which may be specified by the Authority for such exemption.

22. BACKUP POWER SUPPLY

- 22.1 The licensee shall conform to any guideline or code of practice issued by the Authority in respect of the provision of backup power supply to the service.
- 22.2 Unless there is backup power supply available in such manner as may be specified by the Authority to maintain continuity of the service without any deterioration in quality of the service during interruption of mains power supply on the customer's premises, to the network, or to any system or equipment delivering the service to the customer, the licensee shall not provide the service to users whose "lifeline devices" are connected to the service.
- 22.3 Where no backup power supply is available in such manner as described in Special Condition 22.2, the licensee is deemed to have complied with Special Condition 22.2 if
- (a) the customers have, before or upon subscription of service, confirmed that the service will not be used by lifeline users or connected with lifeline devices; and
 - (b) the licensee has affixed a label to the wall socket panel or any equipment installed on the customers' premises or taken other reasonable steps to remind the customers that the service is not suitable for connection to lifeline devices.
- 22.4 In this Special Condition, a "lifeline device" means a medical alarm or any other device for an elderly, infirm or invalid to summon assistance in the event of an emergency without having to dial manually the telephone number of the emergency service.

23. DIRECTORY INFORMATION AND DIRECTORY INFORMATION SERVICE

23.1 For the purposes of this Special Condition –

- (a) “directory information” means information obtained by the licensee in the course of the provision of Class 1 service under this licence concerning or relating to the name, address, business and telephone numbers of each of its customers;
- (b) “raw directory information” means the licensee’s directory information held in a basic format relating to all of its customers of Class 1 service other than its customers who request that directory information about them not be disclosed.

23.2 This Special Condition applies only in respect of standard printed directories and other directory databases and services which include all of the names of a licensee’s customers listed in alphabetical order and does not apply to classified directories where customers are listed by business or trade category or to other business or specialised directories.

23.3 Subject to compliance with the Personal Data (Privacy) Ordinance (Cap. 486), General Condition 6 and any applicable law, the licensee shall

- (a) where and as directed by the Authority, publish or arrange at least biennially for the publication of directory information in a printed or other form approved by the Authority, relating to all its customers of Class 1 service, other than its customers who request not to be included in a directory to be published (“the printed directory”); and
- (b) where and as directed by the Authority, establish, maintain and operate, or arrange for the establishment, maintenance or operation of a telecommunications service whereby customers of Class 1 service may, upon request, be provided with directory information other than that of its customers of Class 1 service

who request the information not to be disclosed (“the telephonic directory service”).

- 23.4 The printed directory and the telephonic directory service provided under Special Condition 23.3 shall be made available free of charge, unless approved otherwise by the Authority, to all of the licensee’s customers of Class 1 service and shall be provided in a manner satisfactory to the Authority.
- 23.5 The licensee shall make commercial arrangements with one or more fixed carrier or fixed telecommunications network services licensees or unified carrier licensees authorized to provide fixed service to fulfil the obligations of providing the printed directory and the telephonic directory service under this Special Condition.
- 23.6 The licensee’s printed directory shall be a unified printed directory and the licensee’s telephonic directory service shall be a unified telephonic directory service and shall utilise a unified directory database, containing directory information on all customers of Class 1 service provided by services-based operator licensees, and directory information on all customers required to be included into a unified printed directory and provided with a unified telephonic directory service by fixed carrier or fixed telecommunications network services licensees or unified carrier licensees authorized to provide fixed services pursuant to their relevant licence conditions, except for those customers who request that directory information about them not be disclosed. The licensee shall provide, and regularly update, raw directory information about its customers of Class 1 service to the fixed carrier or fixed telecommunications network services licensees or unified carrier licensees authorized to provide fixed services with whom the licensee shall make commercial arrangements pursuant to Special Condition 23.5.

24. CUSTOMER CHARTER

- 24.1 Unless a waiver in writing is granted by the Authority, the licensee shall prepare a customer charter which sets out the minimum standards

of service to the licensee's customers and gives guidance to the employees of the licensee in their relations and dealings with customers.

25. LOCATION SERVICES

25.1 Without affecting the generality of General Condition 6, “information of a customer” referred to in General Condition 6.1 and “information provided by its customers or obtained in the course of provision of service to its customers” referred to in General Condition 6.2 shall include any information concerning the locations of customers obtained in the course of provision of the service.

25.2 Where the licensee provides services to customers using the information concerning the locations of the customers obtained in the course of provision of the service, the licensee shall ensure that –

- (a) no such services are provided without the prior consent of the relevant customers; and
- (b) the customers are capable of suspending the use of the information from time to time.

26. PROVISION OF SERVICE TO SUSPECTED STOLEN RADIOCOMMUNICATIONS APPARATUS

26.1 The licensee shall, where directed by the Authority, refuse to provide the service to any person who possesses or uses a radiocommunications apparatus which is stolen or suspected stolen goods.

27. SINGLE PAYPHONE - COMMON ACCESS

27.1 Unless exemption has been granted in writing by the Authority, the licensee shall comply with an interim “Single Payphone - Common

Access” (“Common Access”) requirement which enables payphone service users to make use of each of the payphone equipment established and maintained by the licensee on any given site to access the services offered by all FTNS licensees, fixed carrier licensees and unified carrier licensees authorized to provide fixed services, if

- (a) the licensee establishes and maintains, directly or indirectly through its affiliates, six or more payphones on that particular site;
- (b) the call being made is an external call; and
- (c) the call is not paid for by coins or stored-value phonecards.

27.2 For the purpose of Special Condition 27.1, the Authority will consider that the interim “Common Access” requirement is met if the licensee provides

- (a) direct access to the services of the FTNS licensee, fixed carrier licensee or unified carrier licensee authorized to provide fixed services providing the access line to the payphone concerned; and
- (b) indirect access through the network to which the payphone is connected to the services of the other FTNS licensees, fixed carrier licensees or unified carrier licensees authorized to provide fixed services in accordance with the numbering levels specified by the Authority from time to time.

27.3 For the purpose of Special Condition 27.1(a), the boundary of a site shall be as delineated in the relevant land lease registered in the Land Registry for the plot of land on or over which the payphones are located.

27.4 For the purpose of Special Condition 27.1(c), “stored-value phonecards” mean phonecards which have incorporated magnetic strips or other types of memory devices to store the remaining value of the phonecards.

- 27.5 The licensee shall comply with any directions in writing by the Authority regarding the implementation of the full “Single Payphone – Common Access” requirement. Any direction given under this clause may take effect on such date as may be specified in the direction.

28. PROVISION OF PAYPHONE SERVICE

- 28.1 For local calls, the licensee shall not charge more than the published tariff for the corresponding private payphone service of the FTNS licensee, fixed carrier licensee or unified carrier licensee (authorized to provide fixed services) providing the access line connected to the payphone of the licensee.
- 28.2 For external calls,
- (a) the licensee shall not impose a surcharge on the published tariffs (for a corresponding external call made over a private payphone service) of the FTNS licensee, fixed carrier licensee or unified carrier licensee (authorized to provide fixed services) providing the service chosen by the user; and
 - (b) the licensee shall not require the user to deposit coins or make payment in any other form before access is provided to the service chosen by the user.
- 28.3 The licensee shall display the applicable tariffs, including those of all FTNS licensees, fixed carrier licensees and unified carrier licensees authorized to provide fixed services in case of a “Common Access” payphone, in a manner conforming to the Code of Practice issued by the Authority.
- 28.4 The licensee shall only use the private payphones with particulars as specified in Schedule 4 to this licence for the provision of service. The licensee shall notify the Authority within 14 days if there is any addition, removal or change of the particulars of the private payphones as specified in the Schedule to this licence. The licensee shall return this licence to the Authority for amendment of the Schedule to this

licence whenever the Authority considers it necessary.

- 28.5 The licensee shall provide a public emergency call service by means of which any member of the public may, at any time and without incurring any charge, by making use of payphone equipment provided to communicate as quickly as practicable with the Hong Kong Police Emergency Centre or other entity as directed by the Authority to report an emergency.
- 28.6 The licensee shall provide free access to other services provided by FTNS licensees, fixer carrier licensees and unified carrier licensees authorized to provide fixed services as may be specified by the Authority from time to time.

SCHEDULE 1

SCOPE OF THE SERVICE

SCHEDULE 2

DESCRIPTION OF THE SYSTEM

All such telecommunications installations established, maintained, possessed or used whether owned by the licensee, leased, or otherwise acquired by the licensee for the purpose of providing the public telecommunications services specified in Schedule 1.

SCHEDULE 3

TECHNICAL PARTICULARS OF RADIO STATIONS FOR THE PROVISION OF THE SERVICE

SCHEDULE 4

PARTICULARS OF PAYPHONE EQUIPMENT INSTALLATIONS

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for Telecommunications Authority