

**UNIFIED CARRIER LICENCE
TELECOMMUNICATIONS ORDINANCE (Chapter 106)**

**PCCW-HKT Telephone Limited (“PCCW-HKTC”) and
Hong Kong Telecommunications (HKT) Limited (“HKT”)**

Name of Tariff:

Broadband Copper Local Loop and Exchange Co-location Services

Description of Tariff:

See Annex A

Effective date of tariff:

1 June 2013

Revision history:

Revision to the tariff published in Gazette No. 42 of 2001 and No. 34 of 2002 published on 19 October 2001 and 23 August 2002 in respect of service provisioning of the Service.

BROADBAND COPPER LOCAL LOOP AND EXCHANGE CO-LOCATION SERVICES

Standard terms and conditions for the commissioning of broadband copper local loop and exchange co-location services by Hong Kong Telecommunications (HKT) Limited (“HKT” or “Company”)

1. APPLICATION OF TARIFF

- 1.1 This Tariff is provided by the Company and sets out the terms and conditions on which:
- (a) a Licensee may request Colocation Space (as defined herein) from the Company to be allocated within Exchange Sites (as defined herein) of the Company ;
 - (b) the Company will provision Colocation Space for an Agreed Purpose (as defined herein) and the Company will grant a right to use such Colocation Space for an Agreed Purpose; and
 - (c) the Company will provision, maintain and grant the right to use Broadband Copper Local Loop (as defined herein) for an Agreed Use (as defined herein).
- 1.2 The only persons who are entitled to the services and rights offered under this Tariff are valid and current holders of a local Fixed Telecommunications Network Services Licence issued under the Ordinance for the establishment and maintenance of a telecommunications network between all fixed points within Hong Kong using wireline technologies. As at the date of this Tariff such licences are solely held by New World Telephone Limited, New T&T (Hong Kong) Limited and Hutchison Global Crossing Limited. Such licences shall include an equivalent replacement carrier (fixed) licence of no lesser scope issued by the TA under the Ordinance.
- 1.3 These terms and conditions, including the Charges, apply solely to the commissioning and right to use Broadband Copper Local Loop, access to the Colocation Space and specified ancillary services (to the extent expressly described in this Tariff) for the sole purpose of the Licensee (as defined herein) providing telecommunications services to its Customers (as defined herein). HKT shall provide such facilities and services offered in this Tariff to a person referred to in clause 1.2 that has executed and agreed to be bound by an agreement on the terms of this Tariff.
- 1.4 The terms and conditions herein do not apply to any offering of services by the Licensee to its customers. The provision of network facilities and services by HKT as set forth in this Tariff does not constitute a joint undertaking with the Licensee for the supply of such services to its customers. HKT shall not, by virtue of its provision of network facilities and services hereunder, have any control over services offered by the Licensee to its customers.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Tariff, the following words and expression have the meanings stated in this clause unless the context otherwise requires:

"Access Terms" means the terms and conditions set out in Attachment 7 on which the Licensee may access Exchange Sites for an Agreed Purpose.

"Agreed Purpose" in relation to the Licensee's access to and use of the Colocation Space means a purpose specified in paragraph 2 of Attachment 7.

"**Agreed Use**" in relation to a BCLL or to associated Colocation Equipment means a use specified in paragraph 4 of Attachment 1.

"**Authorised Representative**" means an employee, agent or contractor appointed by the Licensee properly in accordance with the Access Terms.

"**BCLL-FB**" means a Broadband Copper Local Loop-Full Bandwidth copper pair as described in paragraph 2.1 of Attachment 1.

"**BCLL-PB**" means a Broadband Copper Local Loop-Partial Bandwidth copper pair as described in paragraph 2.2 of Attachment 1.

"**Broadband Copper Local Loop**" or "**BCLL**" means a BCLL-PB and/or a BCLL-FB, as applicable.

"**Business Day**" means a day other than a Saturday or a Sunday or a public holiday in Hong Kong.

"**Charges**" means the charges described in Attachment 4 and other fees charges and costs levied under this Tariff.

"**Customer**" in relation to a BCLL, means the final end user consumer who contracts with the Licensee for the direct provision by the Licensee of switched on-demand or dial-up telecommunications services to that person over the Licensee's Network using that BCLL.

"**Customer Interface Point**" in relation to a BCLL, means the point at the Customer Location at which that BCLL is terminated under this Tariff.

"**Customer Location**" in relation to a BCLL, means the address at which the Customer is located and where the BCLL is to be terminated under this Tariff.

"**Exchange Lease**" means the terms and conditions on which the Company is granted a property right in or access to an Exchange Site whether by a lease, licence or other instrument between the Company and the person conferring such property right or access right on the Company.

"**Exchange Site**" means an exchange site of the Company specified in Attachment 3.

"**Force Majeure**" means anything outside the reasonable control of the party including acts of God, industrial disputes of any kind, war declared or undeclared, blockade, disturbance, lightning, fire, earthquake, storm, flood, explosion or meteor, governmental restraint, expropriation or prohibition, unavailability or delay in availability of equipment (including from suppliers) or transport, inability or delay in granting or obtaining governmental approvals, consents, permits, licences or authorities including but not limited to, from Government Agencies, or termination or withdrawal of such approval, consents, permits or licences.

"**Government Agency**" means any government or government department, a governmental, semi-governmental or judicial person or a person (whether autonomous or not) charged with the administration of any applicable law (including but not limited to the TA).

"**HKT**" or "**Company**" means Hong Kong Telecommunications (HKT) Limited.

"HKT Equipment" means the Exchange Equipment and Customer End Equipment and such other equipment as may be used by the Company in the provisioning of BCLLs pursuant to this Tariff.

"Licence" in relation to a Licensee or the Company, means the local fixed telecommunications network services licence that has been issued to that party by the TA pursuant to the Ordinance, as may be amended from time to time.

"Licensee" means the person entitled to services under this Tariff pursuant to clause 1.2 that has executed a binding agreement directly with the Company on the terms and conditions of this Tariff.

"Loss" includes loss, cost, damage, expense and charge.

"Network" means the network of either the Company or the Licensee as applicable, as defined in schedule 2 of the applicable Licence.

"Ordinance" means the Telecommunications Ordinance (Cap.106) of Hong Kong.

"Services" means the services provided by the Company under this Tariff comprising:

- (a) the provisioning and availability of BCLLs for an Agreed Use;
- (b) a licence to use the Colocation Space for the Agreed Purpose; and
- (c) any other such ancillary service or facility or equipment that the Company may provide from time to time pursuant to this Tariff.

"Standard Delivery Period" means in relation to:

- (a) a BCLL, the standard target delivery period that is specified in Attachment 6 for the provisioning of that BCLL after the date of the applicable Accepted BFR; and
- (b) a Colocation Space, the standard target delivery period that is specified in Attachment 6 for the completion of the Preparation Work for that Colocation Space after the date of the applicable Accepted Site Application.

"Tariff" means this tariff including all Attachments and Schedules hereto.

"Tax" means any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding tax (together with any related interest, penalty, fine and expense in connecting with any of them) levied or imposed by any Government Agency, other than those imposed on overall income.

"Telecommunications Authority" or **"TA"** has the meaning given to the term **"Authority"** in the Ordinance.

2.2 Each of the following terms has the meaning specified in the corresponding section:

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|------------------------|----------------|
| "Decommissioning Date" | clause 12.2(a) |
| "Indemnifying Party" | clause 15.5 |
| "Innocent Party" | clause 15.5 |
| "Licensed Affiliates" | clause 20.1 |
| "Statutory Condition" | clause 15.6(a) |

2.3 The following terms are defined in:

- (a) Attachment 1 (Broadband Copper Local Loop) – "ADSL Technology", "Alternative Technology", "CPE Side Splitter", "DSL Technology", "Exchange Side Splitter", "HDSL Technology" and "Prohibited Transmission"; and
- (b) Attachment 2 (Procedures in Relation to Exchange Site and Colocation Spaces) – "Accepted Site Application", "Actual RFU Date", "Colocation Equipment", "Colocation Space", "Customer End Equipment", "Exchange Equipment", "Implementation Plan", "New Exchange Site", "Planned RFU Date", "Preparation Work", "RFU Notice", "Ready For Use or RFU", "Site Application" and "Site Minimum Commitment Period"; and
- (c) Attachment 4 (Charges) – "Base Date", "BCLL Cancellation Charge", "BCLL Connection Charge", "BCLL Relocation Charge", "BCLL Reconfiguration Charge", "BCLL Periodic Charge", "Normal Overtime Hours", "Plan", "Review Date", "Site Cancellation Charge", "Site Facilities Charges", "Site Management and Maintenance Charges", "Site Occupation Charges", "Site Set-Up Charge" and "Site Supervision Charges"; and
- (d) Attachment 7 (Access Terms) – "Entry Notification"; and
- (e) Attachment 8 (Forecasting Procedures) – "Accepted BFR", "Bona Fide Request" or "BFR", "DEL", "DEL Disconnection Notice", "Forecast", "Quarter" and "Review Event".

2.4 In this Tariff unless the context otherwise requires;

- (a) the singular includes the plural and vice versa;
- (b) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (c) a reference to "include" or cognate expressions does not limit what else may be included;
- (d) a reference to this Tariff includes all the schedules and attachments, and their contents will have the same force and effect as if expressly set out in the body of this Tariff;
- (e) a reference to dollars of \$ is to Hong Kong dollars; and
- (f) a reference to a charge means that charge as varied from time to time in accordance with this Tariff.

3. GENERAL

- 3.1 The Licensee acknowledges that the Company will supply the Services to a number of Licensees and accordingly, the Company must manage its resource demands appropriately. As a general principle, the Company intends to provide the Services to Licensees in accordance with this Tariff on a first-come, first-served basis.
- 3.2 The procedures set forth in the Attachments to this Tariff form part of this Tariff and the Licensee is required to comply with the terms and conditions of this Tariff, including the procedures set forth in each of the Attachments.

- 3.3 Any notice, consent, request or any other communication by the Licensee to the Company under this Tariff must be in writing and must be delivered by hand to the addressee at the address, or sent by prepaid post (airmail if posted to or from a place outside Hong Kong) to the address of the addressee or sent by facsimile to the facsimile number of the addressee specified below or any other address or facsimile number the addressee requests in writing.

Hong Kong Telecommunications (HKT) Limited

In relation to legal matters under or disputes relating to this Tariff:

Office Held: Vice President, Wholesale Business (Commercial Group)
c/o 39th Floor, PCCW Tower
Taikoo Place
Quarry Bay
Hong Kong

Facsimile: 2962 5905

Copy to: Group General Counsel and Company Secretary
39th Floor, PCCW Tower
Taikoo Place
Quarry Bay
Hong Kong

Facsimile: 2962 5725

In relation to ordering, provisioning and technical matters:

Office Held: Vice President, Wholesale Business (Commercial Group)
Facsimile: 2962 5905

- 3.4 A notice, consent, request or any other communication is deemed to be received:
- (a) if by hand delivery, when it is delivered;
 - (b) if a letter, three days after posting (seven, if posted to or from a place outside Hong Kong); and
 - (c) by facsimile transmission, 24 hours after the time recorded on the transmission report of the sender unless:
 - (i) within those 24 hours the intended recipient has informed the sender that the transmission was received in an incomplete or garbled form; or
 - (ii) the transmission report of the sender indicates a faulty or incomplete transmission; or
 - (iii) but if such delivery or receipt is on a day which is not a working day or is later than 4:00 p.m. (local time) on a working day the notice shall be deemed to have been given and served on the next working day.

4. LICENSEE'S REPRESENTATIONS AND COMMUNICATIONS

- 4.1 The Licensee and its Authorised Representatives must not represent that the Company participates in the provision of the Licensee's services to its Customers.

- 4.2 If the Licensee or its Authorised Representative communicates with its Customer or a customer of the Company, such communications must not by statement or omission falsely attribute to the Company or misleadingly or deceptively imply in respect of the Company:
- (a) blame for any fault or circumstance; or
 - (b) the need for Network maintenance or upgrade; or
 - (c) the interruption or suspension of a service.
- 4.3 Neither the Licensee nor its Authorised Representative, may represent expressly, impliedly or by omission that:
- (a) it is approved by, an agent of, or affiliated with the Company; or
 - (b) it is the Company, for example, by claiming that it is "from the Company "; or
 - (c) it has a special relationship with the Company or special pricing from the Company; or
 - (d) the services provided by the Licensee to its Customers or customers of the Company are the Company's services.

5. BCLL PROVISIONING PROCEDURES

- 5.1 The Licensee acknowledges that the Company will supply BCLLs, Colocation Space and related Services to a number of Licensees and accordingly the Company must manage its resource demands appropriately. As a general principle, the Company intends to provide the BCLLs to Licensees in accordance with this Tariff on a first-come, first-served basis.
- 5.2 Subject to the Licensee's relevant compliance with this Tariff, the Company will use its reasonable endeavours to provision BCLLs specified in an Accepted BFR in accordance with the terms and procedures set out in Attachment 8 and to conduct commissioning tests to check such BCLLs conform to the specifications set out in Attachment 1.
- 5.3 The Licensee may terminate its requirement for a particular BCLL by giving the Company not less than 1 month's prior notice, provided, however, that the Licensee may not give such termination notice until after the expiration of a designated period of time selected by the Licensee, either 12 or 24 month, commencing from the Actual RFU Date unless:
- (a) the Company has confirmed with the Licensee that such BCLL would be immediately used by the Company or another Licensee; or
 - (b) the Company has agreed with the Licensee that the BCLL may be continued to be made available to the Licensee under this Tariff as a different form of BCLL.

6. USE OF BCLLS AND COLOCATION EQUIPMENT

- 6.1 The Licensee must not:
- (a) use the BCLLs or any Colocation Equipment or allow, permit or facilitate any third party to use a BCLL or Colocation Equipment for any use other than for an Agreed Use; or

- (b) directly or indirectly connect a BCLL to any facility other than Colocation Equipment at an Exchange Site; or
- (c) install, operate or maintain any equipment or facilities other than the Colocation Equipment specified in an Accepted Site Application in or within the Colocation Space; or
- (d) use a Colocation Space for any purpose other than for an Agreed Purpose as set forth in Attachment 7.

6.2 Notwithstanding the provisioning of a BCLL, the Company shall be entitled at all times to indirectly originate and terminate telecommunications services over that BCLL and otherwise access Customers to supply telecommunications services using that BCLL.

6.3 Upon providing the Licensee with written notice, the Company shall have the right to test any particular Colocation Equipment to ensure that it is solely being used by the Licensee for an Agreed Use.

6.4 For the avoidance of doubt, the making of an inspection under this clause or the omission to conduct such an inspection under this clause will not operate in any manner to relieve the Licensee of its responsibilities, obligations and liabilities under this Tariff.

7. COLOCATION SPACE AND PHYSICAL ACCESS

7.1 Subject to clause 7.2 and in consideration of the payment of the Site Supervision Charges, the Licensee and its Authorised Representatives will be permitted to gain physical access to the Colocation Space for an Agreed Purpose as set forth in Attachment 7 in accordance with the Access Terms. The Licensee and its Authorised Representatives shall at all times comply with the Access Terms and otherwise with this Tariff in accessing the Colocation Space.

7.2 The Licensee acknowledges that nothing in this Tariff authorises the Licensee to access, or is to be construed as conferring on the Licensee a right of access, to the Company's Network or any of the Company's equipment or facilities or any space in an Exchange Site or other premises owned, leased or licensed by the Company other than the Colocation Space and the entry passages designated by the Company to access the Colocation Space.

7.3 The Licensee must comply with the requirements of all applicable laws, rules and regulations and of all Government Agencies and insurers in relation to fire prevention, partitions, fixtures or fittings at the Colocation Space, and the Licensee must pay to the Company the cost of any alterations to the sprinkler, security system, fire alarm and fire prevention installations which become necessary because of the Licensee's non-compliance with these requirements.

8. MAINTENANCE OF THE COLOCATION SPACE

8.1 In consideration of the payment of the:

- (a) Site Management and Maintenance Charges, the Company agrees to maintain and repair Colocation Space and areas leading to the Colocation Space to the same standard as and with no less priority than it maintains areas containing equivalent equipment or serving equivalent purposes in the same Exchange Site building in which that Colocation Space is located; and

- (b) Site Facilities Charge, the Company agrees to:

- (i) use its reasonable endeavours to supply the Licensee with the facilities and site environmental conditions specified in Schedule A of Attachment 2 at the Colocation Space; and
- (ii) use its reasonable endeavours to provide the Licensee with back up power supplies for the Colocation Space, if available in the particular Exchange Site.

8.2 The Company will coordinate usage of air conditioning and fire alarm systems provided under the Implementation Plan (as described in Attachment 2) amongst all persons who have access to a part of the Exchange Site.

9. MAINTENANCE OF BROADBAND COPPER LOCAL LOOPS

9.1 In consideration of the payment by the Licensee of the BCLL Periodic Charge, the Company shall maintain the BCLLs provisioned under this Tariff in accordance with Attachment 6.

9.2 The Company is under no obligation to receive fault reports from Customers or any third party or to conduct any fault detection and rectification except as expressly required by this Tariff.

9.3 Prior to notifying the Company of any fault, the Licensee must:

- (a) receive and act upon any fault reports in respect of BCLLs made by the Customer or any other third party;
- (b) ascertain that the fault report by the Customer or any other third party is not the result of any equipment or facility other than the BCLL;
- (c) having properly determined that the fault appears to have occurred in the BCLL, pass a full and complete fault report to the Company; and
- (d) otherwise comply with each fault notification procedure set out in this Tariff or as the parties may agree from time to time.

9.4 If the Company concludes that the BCLL fault reported by Licensee is caused by any of the Licensee's equipment or facilities, the Customer's equipment or any other third party equipment or facilities, the Licensee must pay the total costs of all actual man-hours incurred by the Company.

9.5 If the Licensee notifies the Company of a number of faults in any BCLL the parties will negotiate in good faith to resolve any technical difficulties in relation to that BCLL and if the parties cannot resolve those difficulties in a mutually acceptable manner the parties will undertake to resolve the dispute in good faith in accordance with clause 17. If the parties cannot reach agreement after having attempted to resolve the dispute pursuant to clause 17, either party may terminate the provision of the BCLL in accordance with clause 11.1.

9.6 The Licensee must:

- (a) provide the Company with safe and reasonable access to the Customer Location as may be reasonably required to enable the Company to perform its obligations under this Tariff;

- (b) obtain the permission in a form satisfactory to the Company (such form to be provided on request) of any third party whose consent, confirmation or acknowledgement may reasonably be required by the Company (such third parties may include without limitation, the building management office of the Customer Location, the tenants of the Customer Location, another Licensee or other telecommunications service provider to the Customer Location) required to give effect to paragraph (a); and
- (c) not permit any person other than a person reasonably identified as an authorized representative of the Company to maintain, modify, repair or interface with the BCLL or any of the Company Equipment.

9.7 The Company's obligations under this clause 9 are contingent upon the Company obtaining safe and reasonable access to a Customer Location and all obligations of the Company are hereby waived to the extent that the Licensee is unable to ensure access in accordance with clause 9.6.

9.8 The Licensee must not rearrange, move, disconnect, remove or attempt to repair any facilities provided by the Company or any part of the Company's Network.

9.9 Notwithstanding any other provision herein, the Company may, upon notification to the Licensee, at a reasonable time, conduct such tests and inspections as may be necessary to determine the Licensee's compliance with this Tariff.

9.10 In order to protect from adverse effects upon the Company's facilities, Services and personnel, the facilities, services and personnel of other persons and the Services provided to other Licensees by the Company, the Licensee's transmissions across a BCLL shall be such as not to cause interference, degradation or damage to the facilities, Services or Network elements of the Company. Any special interface equipment necessary to achieve the compatibility between facilities of the Company and the channels, facilities or services of the Licensee shall be provided at the Licensee's expense.

9.11 The Company may take such immediate action as is necessary to protect its Services, facilities, Network and personnel from adverse effects and will promptly notify the Licensee of the need for protective action to be taken by the Licensee. In the event that the Licensee fails to advise the Company within 24 hours after such notice is received or within the time specified in the notice that such protective action has been taken, the Company may take whatever additional action is deemed necessary, including the suspension, discontinuance or termination of one or more Services, to protect its Services, facilities and personnel from such adverse effects.

9.12 The Company may, where such action is reasonably required in the operation of its business:

- (a) substitute, change or rearrange any facilities used in providing the BCLL service under this Tariff; or
- (b) change minimum protection criteria; or
- (c) change operating or maintenance characteristics of facilities; or
- (d) change operations or procedures of the Company,

provided that if such substitution, change or rearrangement materially and adversely affects the operating characteristics of the facility, the Company will use all reasonable efforts to

provide 10 days notice of changes to the Licensee in writing. A reasonable time will be allowed for any redesign and implementation required by the change in operating characteristics. the Company is not responsible for any additional costs incurred by the Licensee as result of such changes or substitutions.

10. COLOCATION EQUIPMENT

10.1 The Licensee must not:

- (a) enter any part of an Exchange Site other than the Colocation Space or the entry passages to the Colocation Space specifically designated by the Company for that purpose; or
- (b) install or place in any Colocation Space any Colocation Equipment which is or is likely in the reasonable opinion of the Company to overload the structure of any part of the Exchange Site or Colocation Space or to damage the Colocation Space or disturb the efficient operation of the air conditioning or of any other system servicing the Colocation Space; or
- (c) install or alter any item, fixture, partition or fitting in the Colocation Space other than the Colocation Equipment; or
- (d) install, alter, add to or remove any security locks, bolts or fittings within the Colocation Space or elsewhere in the Exchange Site other than an authorised security lock that secures any cage around the Colocation Space; or
- (e) install the Colocation Equipment in any place other than in the Colocation Space in accordance with the Implementation Plan; or
- (f) extend or increase electrical wiring in the Colocation Space without the Company's prior written consent and the Company may, as a condition of giving such consent, require that the extension or increase be provided by the Company at the Licensee's cost.

10.2 The Licensee must:

- (a) install the Colocation Equipment in such a way as to minimise the floor space required by it within the Colocation Space to the extent that this does not interfere with or materially adversely affect the operation of the Colocation Equipment;
- (b) re-install or take other appropriate corrective action in respect of the Colocation Equipment which has been installed by or on behalf of it in breach of this Tariff within 7 days of receiving notice from the Company of such breach or becoming aware of such breach;
- (c) ensure that the Colocation Equipment does not damage, interfere with (including but not limited to radio or electrical interference) or cause deterioration to the operation of any other the Company equipment or services or the Company's Network or any other person's equipment, services or network;
- (d) take all steps reasonably necessary to ensure that the Colocation Equipment does not endanger the safety or health of the officers, employees, contractors, agents or customers of the Company or any other third person; and

- (e) take such other action as a reasonably prudent operator of the Colocation Equipment would take.

10.3 If the Company determines that an item of the Colocation Equipment located in Colocation Space is adversely affecting the Company's Network or any third party's equipment, service or network or operating requirements, the Company will notify the Licensee of such adverse effect (and if necessary will advise the Licensee that such work is emergency connective work) and on receiving such notification, the Licensee must take corrective action to its Colocation Equipment (including but not limited to reinstallation, repair, maintenance or clearing up) within 24 hours.

10.4 If the Licensee does not perform or complete corrective work pursuant to clause 10.3, or the Company in its reasonable discretion determines that the Colocation Equipment poses an immediate risk of personal injury or material property damage or material disruption to the Company's equipment, Services or Network or other equipment services or network equipment of a third party, then the Company may take appropriate corrective action (including but not limited to decommissioning, reinstalling or repairing), at the Licensee's cost, having used its reasonable efforts in the circumstances to notify and consult with the Licensee (but if required without prior notice to the Licensee), and the Licensee indemnifies PCCWHKT against all liability and losses arising out of or incurred by the Company in performing such corrective work.

10.5 The Company must inform the Licensee of any action taken under clause 10.4 as soon as reasonably practicable after taking such action.

11. AVAILABILITY, SUSPENSION AND TERMINATION OF BROADBAND COPPER LOCAL LOOPS

11.1 The following amendments to clause 11.1 are suggested:

- (a) either party terminates the BCLL or any other Service pursuant to clause 9.5;
- (b) the Licensee terminates the BCLL or any other Service pursuant to clause 5.3;
- (c) this Tariff expires or is otherwise terminated pursuant to clause 16; or
- (d) the provision of BCLL or any other Service to the Licensee is suspended or discontinued by the Company pursuant to the terms of this Tariff.

11.2 The Company shall have the right to immediately suspend or discontinue or terminate the availability of a BCLL or any other Service to the Licensee (including but not limited to, disconnecting the BCLL from the Colocation Equipment) at any time on notification to the Licensee either orally (confirming such notification in writing) or in writing if in the reasonable opinion of the Company:

- (a) any Charges covered by these terms and conditions remain overdue and outstanding in respect of the Colocation Space or that or other BCLLs at that Colocation Space; or
- (b) the BCLL is used for any use other than an Agreed Use or the Colocation Space is used for any purpose other than an Agreed Purpose or the Licensee no longer has access to the Colocation Space at which the BCLL terminates; or

- (c) the provisioning of the BCLL to the Licensee causes or is likely to cause interference or interruption to other services being provided across the same cable binder or is otherwise likely to compromise the integrity of the Network or facilities; or
- (d) the Licensee commits a breach of any of the terms of this Tariff or fails to comply with the Deployment Rules; or
- (e) the Company no longer owns the BCLL or no longer has the right to provision or maintain the BCLL; or
- (f) if provisioning of the BCLL for the Licensee is inconsistent with any applicable law, rule or regulation or a determination, direction, statement or guideline of a Government Agency or any Licence term; or
- (g) at any time the Company is not required to provide BCLLs or access to the Colocation Space under applicable laws, rules, regulations or determinations, directions, statements or guidelines of a competent Government Agency; or
- (h) the Licensee or the Company no longer holds a Licence under the Ordinance of a type described in clause 1.2 of this Tariff.

11.3 In the case of 11.2(a), (b), (c), (d) or (h), the Company will use its reasonable endeavours to provide the Licensee 10 Business Days notice during which the Licensee may rectify the relevant breach of this Tariff provided, however that any such suspension, discontinuance or termination of a BCLL or any other Service will remain until the Company is reasonably satisfied that the relevant breach has been rectified.

11.4 The Company shall have the right to suspend the use of a BCLL or any other Service (including but not limited to by disconnecting the BCLL from the Colocation Equipment) at any time on notification to the Licensee either orally (confirming such notification in writing) or in writing if the Company needs to carry out maintenance services to the equipment or systems forming part of the Company's Network which requires the suspension of the use of the BCLL or any other Service provided that:

- (a) the Company will give to the Licensee the maximum period of written notice as may be reasonable and practicable in the circumstances (which will not be less than 6 Business Days except in the case of emergencies);
- (b) such suspension will apply until the relevant maintenance is undertaken or order complied with and the Company will endeavour to ensure there is minimum disruption to the Licensee's use of the BCLL and must ensure that any disruption is no worse than would apply to the Company's Network in equivalent circumstances; and
- (c) the Licensee will not be required to pay the BCLL Periodic Charge in respect of any period of suspension in excess of 24 hours.

11.5 In addition to the rights of the Company pursuant to clause 11.2 and without prejudice to any of its other rights under this Tariff, if the Licensee uses a BCLL or permits any other person to use a BCLL for a use other than an Agreed Use, the Company may at its election:

- (a) suspend the provisioning of any new BCLLs under this Tariff for the period of time taken to rectify that breach and to implement reasonable measures to prevent such breaches recurring; and/or

- (b) charge the Licensee for such use at a rate equal to the Company's current tariffed leased line charges for a leased line of a bandwidth equivalent to the bandwidth of the highest capacity of use which the Company reasonably believes this Tariff has been used for and for this purpose it will be assumed that such use has taken place for a minimum of 6 months.

11.6 For the avoidance of doubt, the Licensee will not be regarded as having permitted a person to use a BCLL for any use other than its Agreed Use where the relevant BCLL is configured by the Colocation Equipment to operate up to but not beyond the maximum level of its Agreed Use but, without the consent of the Licensee, that person is using Customer Equipment that allows the BCLL to be used other than for its Agreed Use and it is beyond the power and control of the Licensee, having used its best efforts, to prevent such use. In such circumstances the parties will co-operate to ensure that such BCLLs continue to be used for their Agreed Use.

11.7 In the event that the Company elects to charge the Licensee under clause 11.5(b) then it will invoice the Licensee for the applicable charges and those charges will be payable under this Tariff in the same manner as the Charges.

11.8 If the Licensee is in breach of any of the covenants in clause 11.2 or the Licensee is otherwise in breach of this Tariff and without prejudice to any of the Company's other rights under this Tariff, the Company may request the Licensee to remove the Colocation Equipment or the other equipment or facilities which contravene the terms of this Tariff or are the subject of another breach and the Licensee must immediately comply with the Company's request.

12. RELOCATION AND DECOMMISSIONING OF BCLLs

12.1 The Company may at any time modify, relocate from or decommission an Exchange Site and in that event:

- (a) the Company will use its reasonable endeavours to give a minimum of 6 months notice (other than if the notice is required by an event of Force Majeure) to the Licensee of its intention to modify, relocate from or decommission an Exchange Site; and
- (b) if the notice given by the Company under paragraph (a) is:
 - (i) between 6 and 12 months (other than notice required by an event of Force Majeure), the Company will pay its own costs and the Licensee's reasonable costs for performing the work required for that modification, relocation or decommissioning; and
 - (ii) more than 12 months or is the result of an event of Force Majeure, PCCWHKT and the Licensee must each pay their own costs for performing the work required for that relocation; and
- (c) in relation to any modification, relocation or decommissioning of an Exchange Site, each party will perform the same tasks as it would perform in making ready each new Exchange Site under this Tariff; and
- (d) the parties will consult in good faith in relation to the modification, relocation or decommissioning of any Exchange Site on arrangements to minimise any disruption to the supply of a telecommunications service as a result of such decommissioning (including seeking to agree to any charges for any additional transmission link than

may be required to allow the Licensee to connect its Network to any new Exchange Site).

12.2 If, after a BCLL is provisioned by the Company under this Tariff, the Company intends to generally decommission copper wiring in an area and such wiring includes the copper wiring supporting that BCLL:

- (a) the Company will advise the Licensee of the date that the BCLL will be decommissioned ("Decommissioning Date") and will use its reasonable endeavours to provide that notification a minimum of 12 months before the Decommissioning Date; and
- (b) the relevant BCLL may be decommissioned by the Company on or after the Decommissioning Date in accordance with the Company's usual and reasonable decommissioning procedures as previously notified by the Company to the Licensee from time to time and the Licensee will co-operate with the Company in relation to that decommissioning process; and
- (c) on and from the date that the BCLL is decommissioned the obligations of the parties under this Tariff in relation to that BCLL will cease (other than the obligation to pay Charges in respect of the period prior to the Decommissioning Date); and
- (d) the Company will propose alternative solutions to the Licensee that will allow the Licensee to continue to directly access Customers and the parties will conduct bona fide negotiations and seek to agree alternative arrangements for the Licensee's continued access to the Customer.

13. HKT EQUIPMENT

13.1 HKT Equipment is and shall at all times remain the property of the Company and the Licensee must not remove, tamper with or obliterate any identification mark affixed to HKT Equipment showing that it is the property of the Company.

13.2 The Licensee must:

- (a) provide and arrange for the Company, its representatives or agents to have access to any Customer Location at reasonable times to install, inspect, repair, replace, remove or recover the Customer End Equipment; and
- (b) notify the Company immediately of any damage, fault, theft or loss of HKT Equipment or any part thereof of which it is aware; and
- (c) not alter, tamper with or attempt to repair or operate HKT Equipment in any way.

14. CHARGES

14.1 The Licensee must pay the Charges in accordance with this clause and Attachment 4:

- (a) The BCLL Connection Charge, the BCLL Relocation Charge and the BCLL Reconfiguration Charge in respect of each BCLL is a one-off amount which will become payable on the date of the RFU Notice for that BCLL;
- (b) The BCLL Periodic Charge in respect of each BCLL is payable each month in advance, and the first BCLL Periodic Charge shall be calculated from the date of the RFU Notice for that BCLL;

- (c) The Site Set-Up Charge is an one-off amount which will become payable on the date of the RFU Notice for the Colocation Space;
- (d) The Site Management and Maintenance Charges and Site Occupation Charges are payable each month in advance, such Charge to be first payable in respect of a particular Colocation Space from the date of the RFU Notice for that Colocation Space;
- (e) The Site Supervision Charges and the Site Facilities Charges are payable at the times and in the manner indicated on the invoice issued monthly in accordance with the billing procedures set out in Attachment 4; and
- (f) All other Charges are payable at the times and in the manner indicated on the invoice issued after the date that the Licensee's obligation to pay such Charges arises under this Tariff.

14.2 Each party must comply with the billing, settlement and dispute resolution procedures set out in Attachment 4.

14.3 The Licensee must pay the Charges for the full term of the Site Minimum Commitment Period, irrespective of whether the Colocation Equipment is located in the relevant Colocation Space (including but not limited to by reason of termination of this Tariff).

15. LIMITATION OF LIABILITY AND INDEMNITY

15.1 Each party acknowledges that this clause:

- (a) provides for certain exclusions and limitations by each party of liability to the other party for the other party's Losses;
- (b) does not exclude or limit the application of any provision of any law where to do so would:
 - (i) contravene that law; or
 - (ii) cause any part of this clause to be void; and
- (c) does not exclude or limit a party's right to seek or obtain any remedy that may be available at law or in equity when damages are not an adequate remedy, including but not limited to an injunction or specific performance.

15.2 Each party excludes all liability to the other party (whether under contract, tort, statute or otherwise) suffered or incurred by the other party during or after the term of this Tariff arising under or in any way out of or in connection with this Tariff, the performance on subject matter of this Tariff or the termination of this Tariff for any:

- (a) consequential or indirect Loss (including loss of revenue or profits) of that party;
- (b) liability to any third party for any:
 - (i) consequential or indirect Loss (including loss of revenue or profits);
 - (ii) direct Loss of that third party other than direct Loss of a type referred to in clause 15.4(a) or (b); and

- (c) liability of the other party to any Government Agency under or in relation to the other party's Licence.
- 15.3 Other than Loss of a type referred to in clause 15.4, the liability of one party to the other in contract, tort or otherwise (including any liability for negligence) arising by reason of or in connection with this Tariff is limited to \$1,000,000 for any one incident or series of events arising from a single incident or common cause and in no case will a party be liable for an aggregate amount in excess of \$2,000,000 for all liability arising by reason of or in connection with this Tariff.
- 15.4 Subject to clause 15.2, nothing in this Tariff in any way excludes or restricts a party's liability for Losses arising directly from:
- (a) any injury to or death of:
 - (i) any of the other party's personnel; or
 - (ii) any other person, caused by negligence of the Indemnifying Party or its employees, agents or contractors arising out of or in connection with this Tariff; or
 - (b) damage to or loss of any equipment, facility or other tangible property of the Innocent Party or any other person caused by the negligence of the Indemnifying Party or its employees, agents or contractors arising out of or in connection with this Tariff; or
 - (c) intentional breach of this Tariff or any fraud by the Indemnifying Party (as defined in clause 15.5 below) (including non-compliance with the Access Terms).
- 15.5 Subject to clause 15.2 each party ("Indemnifying Party") indemnifies the other party ("Innocent Party") against all Losses referred to in clause 15.4.
- 15.6 Each party:
- (a) excludes all conditions, warranties and representations implied by law or statute except any implied condition, warranty or representation the exclusion of which would contravene an applicable law or cause this clause to be void ("Statutory Condition"); and
 - (b) limits its liability for the breach of a Statutory Condition to the maximum extent permitted by law.
- 15.7 The Licensee indemnifies the Company for any Loss suffered or incurred by the Company as a result of a claim by a Customer against the Company for any loss suffered or incurred by that Customer in relation to or in connection with this Tariff, the performance of this Tariff or the termination of this Tariff to the extent that liability:
- (a) is for any consequential or indirect Loss of the Customer (including loss of revenue or profits); and
 - (b) any other liability may exceed \$1,000,000 in respect of any one incident, or \$2,000,000 in respect of any series of incidents arising in any 12 month period from a common cause.

15.8 The time frames for approving, provisioning, commissioning, establishing and maintaining the Colocation Space and BCLLs under this Tariff are targets only and may be subject to delays. The liability of the Company for such delays is expressly excluded and the Company's only obligation in relation to such delays is to use its reasonable commercial efforts to overcome them.

15.9 This limitations of liability under this clause:

- (a) do not apply to any liability to pay Charges under this Tariff; and
- (b) are to be applied such that a party's limitations of liability under this Tariff are not exceeded as a result of any separate liability for the same event under any other agreement between the parties.

16. EXPIRATION AND TERMINATION OF TARIFF

16.1 This Tariff commences on the date of its publication in the Hong Kong Government Gazette and subject to clause 16.2, this Tariff shall expire on the earlier of the date on which a replacement tariff is published by the Company in the Hong Kong Government Gazette or the date on which the Company withdraws this Tariff, whichever event occurs first, provided that the Company shall not replace or withdraw this Tariff until after the expiration of 36 months from the date on which this Tariff is first published in the Hong Kong Government Gazette.

16.2 The Company is not required to provide any Services or access rights under this Tariff if:

- (a) an event of Force Majeure, substantially and adversely affecting the ability of the Company to perform its obligations under this Tariff, continues for a period of 3 months or more; or
- (b) a determination or direction is issued by the TA under the Ordinance, in relation to the Licence of the Company or in relation to part or all of this Tariff or in relation to part or all of the subject matter of this Tariff or any local loop cable facility of the Company (including copper or optical fibre); or
- (c) the provisioning of any Services pursuant to the terms of this Tariff is in breach of or not required under any applicable law, rule, regulation, statement, direction, guideline or notice issued by a Government Agency or is inconsistent with the terms of the Company's Licence.

16.3 The Company may permanently cease to provide Services or access rights under this Tariff to a Licensee:

- (a) if the Licensee is in breach of this Tariff and that breach is not remedied within 10 Business Days; or
- (b) if an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Licensee and the order or resolution remains in effect for a continuous period of 10 Business Days; or
- (c) if a receiver, receiver and manager, provisional liquidator, liquidator, official manager or like official is appointed over the whole or a substantial part of the Licensee's undertaking and property and the appointment remains in effect for a continuous period of 10 Business Days; or

- (d) if a holder of an encumbrance takes possession of the whole or any substantial part of the Licensee's undertaking and property; or
- (e) if an event of Force Majeure, substantially and adversely affecting the ability of a party to perform its obligations under this Tariff continues for a period of 3 months or more; or
- (f) if on 3 months written notice to the Licensee, provided that such notice does not expire before the date that is 3 years after the date of this Tariff.

16.4 Notwithstanding the expiration or cessation of Services or access rights under this Tariff or to the Licensee:

- (a) the Licensee must immediately pay to the Company all Charges (whether or not due) which have accrued up to the date of termination and unpaid;
- (b) the Licensee must, at its cost, immediately remove the Colocation Equipment from the Colocation Space and make good the Colocation Space to its state and condition on the Actual RFU Date;
- (c) the Licensee must cease to make use of all BCLLs and procure that all Customers cease to make use of all BCLLs; and
- (d) the Licensee must permit or procure permission for the Company to access the Customer Locations at reasonable times for the purpose of removing the Customer End Equipment.

16.5 The expiration or cessation of this Tariff will not extinguish or otherwise affect any rights of either the Licensee or the Company against the other which:

- (a) accrued before the date of expiration or withdrawal of this Tariff; or
- (b) otherwise relate to or may arise at any future time from any breach or nonobservance of obligations under this Tariff which arose before the date of termination of this Tariff.

17. DISPUTE RESOLUTION

Working Group

17.1 A party may give written notice to the other setting out any dispute that party has in relation to the subject matter of this Tariff. On receipt of that notice each party will appoint representatives to a working group. The parties shall procure that their representatives use their best efforts to resolve the dispute.

Technical matters

17.2 The parties will procure that its representatives on the technical working committee use all reasonable efforts to resolve the dispute.

Settlement offers

17.3 Each party acknowledges that any offer made by a representative of the other party is an attempt to settle a dispute and is made on a without prejudice basis unless specifically indicated otherwise in writing.

18. FORCE MAJEURE

18.1 If a party is unable to perform an obligation under this Tariff (other than an obligation to pay Charges) by reason of an event of Force Majeure, that obligation is suspended to the extent that it is affected by, and during the continuance of, an event of Force Majeure, if that party:

- (a) gives the other party prompt notice of an event of Force Majeure setting out the details of an event of Force Majeure and an estimate of the extent and duration of its inability to perform; and
- (b) uses all possible diligence to remove that event of Force Majeure as quickly as possible.

18.2 If an event of Force Majeure continues for a period of 30 days after a notice is given under this clause, the parties must meet to discuss in good faith a mutually satisfactory resolution to the problem.

18.3 The requirement that an event of Force Majeure be removed with all possible diligence does not require the settlement of strikes, lockouts or other labour disputes or claims or demands by any government on terms contrary to the wishes of the party affected.

19. NO GRANT OF PROPERTY INTEREST

19.1 Nothing in this Tariff is to be construed as vesting in the Licensee:

- (a) any right, title or proprietary interest in any Colocation Space or any space in premises of the Company; or
- (b) any right in respect of any Colocation Space, the grant or enjoyment of which would breach any arrangement with a third person in respect of that Colocation Space.

19.2 The Licensee must not grant a third person either physical access to, or a right to locate a third person's equipment in Colocation Space.

19.3 The Licensee acknowledges and agrees that:

- (a) the Company is bound by the terms of each Exchange Lease;
- (b) nothing in this Tariff requires the Company to do anything that may be in breach of any Exchange Lease; and
- (c) the Licensee must comply with all of the terms and conditions of each Exchange Lease notified by the Company to the Licensee.

20. RECIPROCITY

20.1 The Licensee covenants as a fundamental term of this Tariff that it will provide to PCCWHKT equivalent access to broadband copper local loop and colocation space of the Licensee and all other equivalent services to those offered by the Company under this

Tariff on the same basis as if each reference to “HKT” was replaced with a reference to the “Licensee” was replaced by “HKT”.

21. TRANSFERRING BENEFIT OF BCLL

- 21.1 The Licensee must not licence, resell, give possession to or otherwise confer on any person the benefit of the Colocation Space or BCLLs under this Tariff. For the avoidance of doubt, this clause does not prevent any Agreed Use by the Licensee for a BCLL or use of a Colocation Space by the Licensee for an Agreed Purpose expressly contemplated by this Tariff.

22. GENERAL

Acknowledgment

- 22.1 The parties acknowledge that the existence of this Tariff or the inclusion of any specific right or obligation in this Tariff is entirely without prejudice to whether the grant of that right or the acceptance of that obligation falls within or outside the terms of section 36A of the Ordinance or any obligation under its Licence.

Approvals and consents

- 22.2 A party may give or withhold its approval or consent conditionally or unconditionally in its discretion unless this Tariff states otherwise.

Entire tariff

- 22.3 This Tariff contains the entire agreement and understanding between the parties relating to its subject matter, and supersedes and cancels in all respects all previous letters of intent, agreements or arrangements between the parties on this subject matter.

Variation of Tariff

- 22.4 The terms and conditions of this Tariff are deemed amended by any amendment filed by the Company and approved by the TA under the Company’s Licence or the Ordinance and which have been gazetted by the Company in the Government Gazette of the Hong Kong Special Administrative Region and/or published on the Company’s designated website.

Taxes

- 22.5 The Licensee must pay all Taxes payable in relation to this Tariff and the transactions evidenced by this Tariff.

Governing Law and Jurisdiction

- 22.6 This Tariff is governed by the laws of Hong Kong and each party submits to the exclusive jurisdiction of the courts of Hong Kong.

**ATTACHMENT 1
BROADBAND COPPER LOCAL LOOP (BCLL)**

1. DEFINITIONS

1.1 In this Attachment, defined terms have the same meaning ascribed to them in this Tariff and the following words have the following meanings unless the contrary intention appears:

"**ADSL Technology**" means digital subscriber line technology which complies with ITU Standard 2.1, G.992.2 or ANSI standard T1.413 Issue 2.

"**Alternative Technology**" means digital subscriber line technology other than ADSL Technology or HDSL Technology which has been approved by the Company pursuant to paragraph 3 of Schedule A to this Attachment 1.

"**CPE Side Splitter**" means the device located at the Customer Interface Point that separates the DSL Technology or Alternative Technology signal, as applicable, from the POTS signal conveyed over the BCLL.

"**DSL Technology**" means ADSL Technology, HDSL Technology or Alternative Technology, as applicable, approved by the Company in accordance with the terms of this Tariff.

"**Exchange Side Splitter**" means the device located at the Exchange Site that combines the DSL Technology or Alternative Technology signal, as applicable, with the POTS signal, into a single signal stream for conveyance over a BCLL.

"**HDSL Technology**" means digital subscriber line technology which complies with ITU Standard G.991.1.

"**Prohibited Transmission**" means signals, conveyed or attempted to be conveyed across a BCLL, which:

- (a) fail to conform or fully comply with DSL Technology; or
- (b) cause interference or interruption to existing telecommunication services conveyed over the Company's Network or any other network; or
- (c) compromise the integrity of the Company's Network, or its services or facilities or any other network; or
- (d) are conveyed in breach of or in a manner inconsistent with any applicable laws, regulations or Licence terms or any determinations, directions, rules, guidelines or statements issued by a Government Agency.

2. SPECIFICATION

2.1 Broadband Copper Local Loop - Full Bandwidth (BCLL-FB)

BCLL-FB means a 2 wire copper pair that:

- (a) is owned by the Company; and
- (b) connects the main distribution frame of the Exchange Site and the Customer Interface Point; and

- (c) has a bandwidth of up to 1.1 MHz for the carriage of telecommunications services with nominal transmission rates of at least up to 1.5Mbps provided, however, that in respect of applications using DSL Technology, the Company will not guarantee transmission rates above 1.5Mbps.

2.2 Broadband Copper Local Loop – Partial Bandwidth (BCLL-PB)

BCLL-PB means a 2 wire copper pair that:

- (a) is owned by the Company; and
- (b) connects the main distribution frame of the Exchange Site and the CPE Side Splitter; and
- (c) has a bandwidth from 50 KHz up to 1.1 MHz for the carriage of telecommunications services with nominal transmission rates of at least up to 1.5Mbps provided, however, that in respect of applications using DSL Technology, the Company will not guarantee transmission rates above 1.5Mbps; and
- (d) via an Exchange Side Splitter, provides for access to the non-voice frequency spectrum of a copper path over which analogue telecommunication services are being provided to enable a Licensee to concurrently deploy DSL Technology over the same copper path for the provisioning of telecommunications services with nominal transmission rates of at least 1.5Mbps.

3. AVAILABILITY OF BCLL

3.1 The Company will make available the BCLL to a Licensee in accordance with this Tariff provided that:

- (a) the Licensee has an existing Colocation Space that has been approved by the Company for use in relation to an Agreed Purpose in accordance with Attachment 7; and
- (b) the BFR submitted by the Licensee pursuant to Attachment 8 is consistent with the Deployment Rules specified in Schedule A of this Attachment 1; and
- (c) the Licensee confirms to the reasonable satisfaction of the Company, that the DSL Technology proposed to be deployed by the Licensee for that BCLL will not interfere with any existing telecommunications services provided over the Company Network or any other network or in any way compromise the integrity of the Company's Network or its services or facilities or any other network; and
- (d) the Licensee confirms to the reasonable satisfaction of the Company that it has implemented all necessary measures and procedures, installed all requisite equipment and undertaken all reasonable steps to prevent the transmission of Prohibited Transmission across the Company's Network.

4. AGREED USE

4.1. For the purposes of this Tariff, a reference to the "Agreed Use" in relation to a BCLL or the operation of associated Colocation Equipment, means that the BCLL or the associated Colocation Equipment shall only be used by the Licensee strictly for the delivery of

switched on-demand or dial-up telecommunications services to Customers (excluding point to point dedicated transmission capacity):

- (a) that are permitted to be provided by the Licensee under its Licence over its Network and which comply with all applicable laws, regulations or Licence terms and all determinations, directions, rules, guidelines or statements issued by a Government Agency; and
- (b) which is not a Prohibited Transmission.

4.2. The Licensee shall not use, or allow any other person to use, a BCLL provisioned by the Company under the terms of this Tariff, in such a way that:

- (a) is not an Agreed Use; or
- (b) may cause interference, interruption or degradation to any existing telecommunications services supplied over the Company's Network by the Company or any third party making use of the Company's Network including, an Exchange Site or Customer Location, or underground cabling facilities; or
- (c) may threaten the safety or well-being of any person or property in an Exchange Site, Customer Location or underground cabling facilities or other part of the Company's Network; or
- (d) may cause operational inconvenience to users of other wiring in the relevant Exchange Site, underground cabling facilities, or other part of the Company's Network, or at any Customer Location.

4.3. Subject to the requirements of General Condition 21 of the Company's Licence, the "Agreed Use" of a BCLL may be unilaterally revised by the Company at any time as a result of a change of transmission technology or the introduction of an Alternative Technology or the change to any applicable law, regulation or Licence or any determination, direction, rule, guideline or statement issued by a Government Agency.

4.4. Any failure by the Licensee to comply with the terms and conditions of this paragraph 4 may result in the immediate termination or suspension of a BCLL or any other Service to the Licensee pursuant to clauses 11.1 and 11.2 of this Tariff.

5. INTERFERENCE OR IMPAIRMENT

5.1 The characteristics and methods of operation of any circuits, facilities or equipment provided by any person other than the Company which are associated with the facilities utilized to provide services under this Tariff shall not:

- (a) interfere with or impair the provision of services over the Company's Network;
- (b) cause damage to the Company's plant or equipment;
- (c) impair the privacy of any communications carried over the Company's Network or facilities;
- (d) create hazards for the Company's employees or the public; or
- (e) adversely affect the efficiency of the Company's Network, personnel, plant, property or Service.

- 5.2 A failure by the Licensee to comply with paragraph 5.1 may result in the suspension or termination of the provision of BCLL services to the Licensee in accordance with clause 11.1 and clause 11.2 of this Tariff.
- 5.3 For the purposes of paragraphs 4.4 and 5.2 of this Attachment 1 and notwithstanding the terms of clause 11 of this Tariff and the notice requirements therein, the Company will, where practicable, notify the Licensee that suspension, termination or discontinuance of the use of a BCLL or any other Service may be required. However, where prior notice is not practicable, no provision of this Tariff shall be deemed to preclude the Company's right to discontinue forthwith the use of a BCLL or any other Service by the Licensee if such action is considered by the Company to be reasonable under the circumstances. Conditions that could warrant a suspension, termination or discontinuance of a BCLL service include, but are not limited to the circumstances set forth in clause 16 of this Tariff, an event of Force Majeure or other Network emergency. In case of such suspension, termination or discontinuance, the Licensee will be promptly notified and afforded the opportunity to correct the condition which gave rise to the suspension, termination or discontinuance.

6. BCLL MIGRATION

- 6.1 If a Licensee has an existing agreement with the Company in relation to access to conditioned copper pairs of the Company and wishes such copper pairs to be provisioned as BCLLs then it may apply for such provisioning under the terms of this Tariff and, on provisioning under this Tariff, such copper pairs will be deemed to be provided under this Tariff and will no longer be provided under the existing agreements.

**SCHEDULE A TO ATTACHMENT 1
DEPLOYMENT RULES FOR BCLL**

1. GENERAL

- 1.1. These Deployment Rules apply to the provisioning of BCLLs for an Agreed Use by the Licensee. These Deployment Rules shall be taken into account by the Company when approving a BFR pursuant to this Tariff.
- 1.2. These Deployment Rules may be unilaterally amended by the Company from time to time in order to conform with any applicable domestic or international standards or to enable the provisioning of BCLLs for use by the Licensee in connection with the transmission of switched telecommunication services using Alternative Technology.

2. DEPLOYMENT RULES

- 2.1. Any BFR made by the Licensee pursuant to Attachment 8 for the provision of a BCLL must specify the DSL Technology to be deployed by the Licensee.
- 2.2. On the provisioning of a BCLL by the Company for an Agreed Use by the Licensee, if the Licensee subsequently wishes to change the type of DSL Technology being provisioned over such BCLL, the Licensee must obtain the approval of the Company in accordance with this Tariff.
- 2.3. In the event of a change of the DSL Technology being deployed by the Licensee over an existing BCLL or the application by the Licensee for the introduction of an Alternative Technology, then the parties will negotiate in good faith and agree any new procedures, charges or other related matters arising in connection with the change in DSL Technology or introduction of an Alternative Technology by the Licensee.
- 2.4. The following rules must be complied with by the Licensee:
 - (a) A copper cable pair with at most 85 dB attenuation at frequency of 900 KHz can be allocated for ADSL Technology application with a nominal data rate at 1.5 Mbps;
 - (b) Two copper cable pairs with at most 4 dB attenuation at frequency of 1.6 KHz can be allocated for HDSL E1 application;
 - (c) Two copper cable pairs with at most 5 dB attenuation at frequency of 1.6 KHz can be allocated for HDSL T1 application;
 - (d) The maximum penetration of ADSL lines in a 25 pair cable binder may not exceed 20% (5 ADSL per binder);
 - (e) The maximum penetration of HDSL Technology lines (2 cable pairs) in a 25-pair cable binder should not exceed 17% (2 HDSL per binder); and
 - (f) The deployment of HDSL Technology and ADSL Technology lines for use over a BCLL in the same cable binder is not permitted.

3. INTRODUCTION OF ALTERNATIVE TECHNOLOGY

- 3.1. The Company will consider in good faith the deployment of an Alternative Technology over a BCLL provided that the following criteria is met to the reasonable satisfaction of the Company:

- (a) Such Alternative Technology is fully in conformance with recognized international standards expressly developed for that technology;
- (b) Such Alternative Technology complies with PSD Mask as specified in the Telecom Standard Specification of Hong Kong (HKTA2037);
- (c) Such Alternative Technology has no associated incompatibility problems in relation to existing technology in use or telecommunication services currently being deployed over the Company's Network;
- (d) Such Alternative Technology is consistent with the terms of this Tariff; and
- (e) Such Alternative Technology has been the subject of an approval under all applicable laws, rules and regulations in Hong Kong as a technology which must be facilitated under a BCLL.

**ATTACHMENT 2
PROCEDURES IN RELATION TO
EXCHANGE SITE AND COLOCATION SPACES**

1. DEFINITIONS

1.1 In this Attachment, defined terms have the same meaning ascribed to them in this Tariff and the following words have the following meanings unless the contrary intention appears:

"Accepted Site Application" means a Site Application received from the Licensee and approved by the Company pursuant to paragraph 3.5.

"Actual RFU Date" in relation to the provisioning of a Colocation Space or a BCLL means the date the applicable RFU Notice is given by the Company pursuant to paragraph 4.2 of this Attachment 2.

"Colocation Equipment" means the equipment used for connection to a BCLL as specified in Part 2 of Schedule A of this Attachment 2 that each of the Licensee and the Company have agreed may be located by the Licensee at the Exchange Sites for an Agreed Purpose.

"Colocation Space" means an equipment space at an Exchange Site that may be used by the Licensee for locating the Colocation Equipment for an Agreed Purpose, in addition to the necessary site facilities specified in paragraph 5 of Attachment 4 as requested by the Licensee.

"Customer End Equipment" means the equipment of the Company located at a Customer Location of a BCLL as described in Part 1 of Schedule A to this Attachment 2.

"Exchange Equipment" means the Company's main distribution frame and other equipment located at an Exchange Site described in Part 1 of Schedule A to this Attachment 2.

"Implementation Plan" in relation to the Colocation Space, means the plan described in paragraph 3.2(i) of this Attachment 2 for that Exchange Site agreed by the Company and the Licensee in relation to the Preparation Work for that Colocation Space.

"New Exchange Site" means a new the Company's exchange site approved by the Company pursuant to paragraph 2 of this Attachment 2.

"Planned RFU Date" in relation to the provisioning of a Colocation Space means the date set out in the Implementation Plan by which the Company has planned to have completed the Preparation Work.

"Preparation Work" in relation to an Exchange Site, means the work described in Attachment 5 to be performed by the Company in respect of that Exchange Site as set out in the Implementation Plan for that Exchange Site.

"RFU Notice" means a notice given by the Company pursuant to paragraph 4.2 of this Attachment 2 to the Licensee informing the Licensee that the identified Colocation Space or BCLL is Ready for Use.

"Ready for Use" or **"RFU"** in relation to:

- (a) a Colocation Space means that the Company has completed the Preparation Work for that space in accordance with the Implementation Plan; and
- (b) a BCLL means that the Company has provisioned the BCLL pursuant to clause 5 of this Tariff.

"**Site Application**" means an application for Colocation Space setting out the information referred to in paragraph 3 of this Attachment 2.

"**Site Minimum Commitment Period**" means a period of twenty-four (24) months commencing from the Actual RFU Date of a Colocation Space.

2. PROCEDURES IN RELATION TO EXCHANGE SITES

- 2.1 Attachment 3 sets out the initial Exchange Sites and the initial Colocation Space available for the provisioning of BCLLs.
- 2.2 Where a Licensee already has colocation space pursuant to terms and conditions independent of this Tariff ("Existing Terms"), to the extent that such Existing Terms do not provide for use of a Colocation Space for an Agreed Purpose under this Tariff, the Licensee must indicate this in its Site Application pursuant to paragraph 3 and the Company will consider whether it is reasonable in all the circumstances to extend the Licensee's current use of the colocation space to cover use for an Agreed Purpose. On acceptance of that Site Application by the Company such Colocation Space will be deemed provided under this Tariff and will no longer be provided under the Existing Terms.
- 2.3 If the Licensee requires access to any exchange sites of the Company other than an Exchange Site ("New Exchange Site") for an Agreed Purpose the Licensee must notify the Company of its requirements in relation to the New Exchange Site and the parties will negotiate in good faith in relation to the inclusion of the New Exchange Site in Attachment 3.
- 2.4 Where it is agreed pursuant to paragraph 2.3 that a New Exchange Site will be included in Attachment 3, the Licensee must submit to the Company a Site Application pursuant to paragraph 3.

3. COLOCATION SPACE SITE APPLICATIONS FOR EXCHANGE SITES

- 3.1 In relation to an Exchange Site, the Licensee may apply for Colocation Space or additional Colocation Space by sending a Site Application to the Company.
- 3.2 A Site Application must be in writing and must specify:
 - (a) the Exchange Site in respect of which the Site Application relates;
 - (b) a list of the type of and the manufacturer's name, model numbers and specifications for each item of the Colocation Equipment to be located by the Licensee at the Exchange Site;
 - (c) quantity, physical dimensions, and capacity of the listed items in paragraph (b);
 - (d) a proposed equipment footprint and the proposed relative positioning of the Colocation Equipment within that footprint;

- (e) a description of the site environment requirements of the nominated Colocation Equipment;
 - (f) the area (measured in square metres) required by the Licensee at the Exchange Site over the period of 6 months from the date of the request and the likely dates that each material part of the requested space will be required for actual use;
 - (g) the quantity of Exchange Side Splitters required by the Licensee in relation to the provisioning and use of BCLLs;
 - (h) the Forecasts provided by the Licensee which support the Site Application;
 - (i) the proposed Implementation Plan for the Exchange Site; and
 - (j) such other information that the Company may reasonably request to assess the feasibility and the time required to meet the Site Application.
- 3.3 After the receipt of a Site Application from the Licensee, the Company shall use its reasonable endeavours within 5 Business Days to acknowledge receipt of the Site Application. the Company will then notify the Licensee if there are any apparent errors or inconsistencies in the Site Application (including that the exchange to which the Site Application relates is not an Exchange Site, the requested Planned RFU Date for the availability of the Colocation Space is less than the Standard Delivery Period, the quantity of Exchange-Side Splitters requested is greater than the resources available at the Exchange Site, or the space requested at the Exchange Site is greater than the space that may be allocated under paragraph 3.10 or the space can be accommodated by the existing Colocation Space of that Licensee at the same Exchange Site) and may request any further information from the Licensee that is reasonably required by the Company for the purpose of assessing the Site Application.
- 3.4 After the receipt of a Site Application from the Licensee and all necessary information reasonably requested by the Company, the Company will use its reasonable endeavours within 15 Business Days to notify the Licensee:
- (a) of any factors that may make it not reasonably practical to fulfill the Site Application in accordance with its term; and
 - (b) if necessary, an alternative proposal to the one set out in the Site Application.
- 3.5 The Licensee must make necessary changes in its Site Application if its initial proposal is considered by the Company to be impractical. After changes have been made by the Licensee and once the Company has provided the Licensee with confirmation that the Site Application has been accepted ("Accepted Site Application"), the parties must use their reasonable efforts to agree in accordance with the terms and conditions of Attachment 6 and Attachment 4:
- (a) the Preparation Work that must be performed to make ready the applicable Exchange Site ready for use in accordance with this Tariff;
 - (b) the Site Occupation Charges for the Colocation Space at the Exchange Site after the agreement on the Implementation Plan; and (c) the Implementation Plan for the Preparation Work which will include:
 - (i) the time required for the Company to complete the design and planning work; and

- (ii) the target date on which the Company will estimate the amount of Charges payable by the Licensee for the Preparation Work at the Exchange Site; and
 - (iii) the target date for commencement of the Preparation Work after the parties have agreed the amount of Charges referred to in paragraph (ii); and
 - (iv) the Planned RFU Date.
- 3.6 The Company will, in accordance with the Implementation Plan, provide a quotation of the Charges payable for all relevant Colocation Space and facilities set-up as well as for the monthly Charges set out in Attachment 4.
- 3.7 Both parties will use their reasonable efforts to agree on the Charges for the Colocation Space and facility setup works before the commencement of the Preparation Work at the relevant Exchange Site.
- 3.8 Subject to the terms and conditions of Attachment 6, the Company shall use its reasonable endeavours to achieve the Standard Delivery Period for Colocation Space, provided, however, that such Standard Delivery Period will not apply if a Colocation Site Application is in progress in respect of more than one Exchange Site each month or in respect of more than 3 Exchange Sites at the same time, in which case the Company shall notify the Licensee of the situation and the parties may negotiate and agree alternative Planned RFU Date(s) or additional Charges which may include overtime charges.
- 3.9 In circumstances where the Licensee has realised the full capacity of all existing Colocation Spaces occupied by it and where it requires additional Colocation Space at an Exchange Site then the Licensee must provide a Site Application in accordance with paragraph 3.1 in relation to that additional space required.
- 3.10 The Company will notify the Licensee whether that space may be allocated to the Licensee subject to:
- (a) the Licensee's requirement for that space as evidenced by its Forecasts for the next 6 months in relation to that Exchange and the rate of the provisioning of BCLLs at that Exchange during the previous 6 months; and
 - (b) whether the additional space is used by the Company or any other person at the date of receipt of the Site Application; and
 - (c) whether the additional space is reasonably required to be used by the Company in relation to the supply of telecommunications services and associated functions during the period of 18 months after the proposed Planned RFU Date on the basis of the Company's current business plans; and
 - (d) whether the additional space is the subject of a committed order for space in that Exchange Site that has been made by any other person in relation to the supply of telecommunications services and associated functions; and
 - (e) any restriction imposed on the Company by the lessor of the applicable Exchange Site or a Government Agency; and
 - (f) any relevant event of Force Majeure affecting the availability of the relevant equipment space; and

- (g) the Licensee having fully utilized all existing Colocation Space(s) occupied by it.
- 3.11 If the Licensee has been allocated Colocation Space and fails to use that space within 12 months of the Planned RFU Date and that space is required by the Company for its own purposes or to allocate that space to any other person (including another Licensee) in accordance with paragraph 3.10(b) to (e):
- (a) the Company will advise the Licensee of the relevant space that is required for an alternative purpose; and
 - (b) the Licensee will provide such information to the Company as may be reasonably required by the Licensee for the purpose of assessing whether the Colocation Space is required by the Licensee in the next 6 months; and
 - (c) if the Licensee's requirement for that Colocation Space during the next 6 months is not substantiated on the basis of the rate of the provisioning of BCLLs at that Exchange during the previous 6 months and its Forecast for the next 6 months, the Company may notify the Licensee that the relevant space is removed from the Colocation Space and the Licensee must pay all the costs incurred by the Company in the removal and the Colocation arrangement.
- 3.12 The Licensee must comply with any reasonable procedures established by the Company for the purpose of ensuring the efficient use of space and facilities within any Exchange Site and must cooperate with the Company in co-ordinating the reasonable use of the Colocation Space and facilities by all persons with access to the Exchange Site.
- 3.13 If the Licensee wishes to vary an Accepted Site Application or an agreed Implementation Plan before the Planned RFU Date, the parties will consult with a view to determining whether it is reasonably practicable for the Company to agree to the variation and to agree on the related charges payable by the Licensee to the Company as well as on the revised Planned RFU Date.
- 3.14 If the Licensee wishes to cancel an Accepted Site Application, the Licensee must pay the applicable Site Cancellation Charge to the Company in accordance with Attachment 4.

4. EXCHANGE SITE PREPARATION WORK

- 4.1 The Company shall use its reasonable endeavours to perform and finalise the Preparation Work before the Planned RFU Date specified in the Implementation Plan, provided that if the Company considers that all or part of the Preparation Work at an Exchange Site is likely to be delivered late:
- (a) the Company will inform the Licensee of the probable delay and the reason for that delay and the parties will seek to agree alternative work around procedures to minimise the delay; and
 - (b) if the Company reasonably regards that the delay is attributable in whole or in part to an act or omission of the Licensee, the Company will notify the Licensee of the relevant act or omission; and
 - (c) then, until an alternative solution is agreed, the Company will continue to endeavour to finalise the Preparation Work by or as soon as practicable after the expiry of the Planned RFU Date set out in the Implementation Plan and if the cause of the delay is an act or omission of:

- (i) the Company, it will use its best endeavours to finalise that Preparation Work;
and
 - (ii) the Licensee, the Company will continue to use its reasonable endeavours to finalise that Preparation Work.
- 4.2 When the Preparation Work in respect of a Colocation Space identified in an Accepted Site Application is completed, the Company will issue a RFU Notice in respect of that Colocation Space. the Company will ensure that the Colocation Space complies with the specifications agreed in the Implementation Plan before issuing the RFU Notice.
- 4.3 The Licensee must give at least 5 Business Days notice to the Company prior to each proposed date for delivery of the relevant Colocation Equipment to a particular Exchange Site. The appointed time or times for delivery of the Colocation Equipment must be during the Company's usual working hours, unless the Company agrees otherwise. If the Licensee orders materials to be delivered on site, the Licensee must have an Authorised Representative on site to accept delivery of those materials.

**SCHEDULE A TO ATTACHMENT 2
EQUIPMENT AND ENVIRONMENTAL SPECIFICATIONS**

PART 1 - HKT EQUIPMENT

Customer End Equipment may include Customer termination points, connectors, or sockets or other devices (including the CPE Side Splitter) for the termination of the BCLL.

Exchange Equipment may include equipment, frames, equipment racks, terminating points, Exchange Side Splitter (as defined in Attachment 1) and tie cables situated in the associated Exchange Site for the BCLL.

PART 2 - COLOCATION EQUIPMENT

1. The Colocation Equipment is strictly limited to:
 - (a) optical line terminating equipment;
 - (b) DS3 to DS1 multiplexing equipment;
 - (c) digital cross connect systems;
 - (d) cross connect frames and portable test equipment; and
 - (e) equipment specifically approved by the Company as part of an Accepted Site Application that is necessary for the termination of BCLLs that must be located at the relevant Exchange Site where the equipment performs limited call concentration functions and it is not reasonable for these functions to be provided at another site and the parties will discuss and seek to agree in good faith any relevant parameters that may apply in this regard.

PART 3 - COLOCATION FACILITIES AND ENVIRONMENTAL CONDITIONS

1. General facilities and environmental conditions:
 - (a) Non-fire rated, upper-glazed lower-louvered partition.
 - (b) The maximum measurement for a typical floor to true ceiling height is 3.4 meters in area where equipment is located. The nominal clear height can be used by the Licensee for equipment and cable rack is 2.5 meters.
 - (c) Environmental conditions:
 - (i) Temperature 26 degrees C, not exceeding 28 degrees C
 - (ii) Humidity 40% - 70%
 - (iii) Heat Dissipation 80 BTU/hr/sq ft, maximum
 - (iv) Floor Loading Capacity 7kPa

Note: The temperature and humidity figures refers to nominal values and may have long periods of deviations in case of air-conditioning plant failure; provided that in the event of such failure the Company will treat the Licensee's equipment in the same manner as it treat its own equivalent equipment located in the vicinity of the Licensee's equipment.

2. Fire Detection and Suppression

- (a) ETM total flooding system
- (b) Pre-action sprinkler system
- (c) Smoke and heat detection system
- (d) Manual fire fighting systems

Note: Type of fire fighting system will be the same as that currently provided in that exchange.

3. Security

- (a) Key lock system.
- (b) Access by Licensee must be under supervision of the Company, and must be in accordance with the Access Terms specified in Attachment 7.

**ATTACHMENT 3
EXCHANGE SITES**

Attachment 3 – List of Initial Exchange Sites

	Exchange Site	Class		Exchange Site	Class
1	ABERDEEN	A	1	MA ON SHAN	B
2	ADMIRALTY	A	3	ON LOK	B
3	CHAI WAN	A	3	SHATIN	B
4	EAST	A	4	TAI PO CENTRAL	B
5	KING'S ROAD	A			
6	LOCKHART	A			
7	NORTH POINT	A			
8	QUEEN'S ROAD	A			
9	SHAU KEI WAN	A			
10	TELECOM HOUSE	A			
11	WAN CHAI	A			
12	WEST	A			
13	HUNG HOM	A			
14	JORDAN	A			
15	KWUN TONG	A			
16	KWAI CHUNG	A			
17	LAI CHI KOK	A			
18	MONG KOK	A			
19	NGAU TAU KOK	A			
20	SHANGHAI STREET	A			
21	TSUEN WAN	A			
22	TSING YI	A			
23	WONG TAI SIN	A			

ATTACHMENT 4 CHARGES

1. Definitions and Interpretation

1.1 In this Attachment, defined terms have the same meaning ascribed to them in this Tariff and the following words have the following meanings unless the contrary intention appears:

"**Base Date**" has the meaning set forth in paragraph 11.2.

"**BCLL Cancellation Charge**" means the charges payable by the Licensee to the Company in respect of the cancellation of an Accepted BFR, as specified in this Attachment 4.

"**BCLL Connection Charge**" in relation to a BCLL, means the one-off charge payable by the Licensee to the Company in respect of the provisioning of that BCLL as specified in this Attachment 4.

"**BCLL Periodic Charge**" means the periodic charge payable each month by the Licensee to the Company for the provisioning of each BCLL as specified in this Attachment 4.

"**BCLL Reconfiguration Charge**" means the charges payable by the Licensee to the Company in respect of the change of technology being used over an existing BCLL, as described in paragraph 2.10 of Attachment 8 of this Tariff.

"**BCLL Relocation Charge**" in relation to a BCLL, means the one-off charge payable by the Licensee to the Company in respect of the relocation of that BCLL as specified in this Attachment 4.

"**Normal Overtime Hours**" means Monday to Friday from 17:00 to 21:00 hours (except public holidays) and Saturday from 13:00 to 18:00 hours (except public holidays).

"**Plan**" has the meaning set forth in paragraph 2.3.

"**Review Date**" has the meaning set forth in paragraph 11.2.

"**Site Cancellation Charge**" means the charges payable by the Licensee to the Company in respect of the cancellation of an Accepted Site Application, as specified in this Attachment 4.

"**Site Facilities Charges**" means the recurring charges specified in this Attachment 4 payable by the Licensee to the Company for providing the associated facilities referred to in Attachment 2 in respect of each Colocation Space of the Company.

"**Site Management and Maintenance Charges**" means the recurring charges specified in this Attachment 4 payable by the Licensee to the Company for managing and maintaining the Colocation Space.

"**Site Occupation Charges**" means the recurring charges specified in this Attachment 4 payable by the Licensee to the Company for providing access to the Colocation Space for the purpose of locating the Colocation Equipment.

"**Site Set-Up Charge**" means the one-off charge quoted by the Company on a case-by-case basis to cover the Preparation Work in relation to the actual area of the Colocation Space.

"Site Supervision Charges" means the recurring charges specified in this Attachment 4 payable by the Licensee to the Company from time to time for supervising access in accordance with these terms and conditions in respect of each Colocation Space.

- 1.2 The amount of Charges and their adjustments as specified in this Attachment are subject to variation under paragraphs 11.1 and 11.2 of this Attachment.
- 1.3 Charges payable by the Licensee for use of any lead-in or cabling facilities at the Exchange Site have not been included in this Attachment.

2. Site Set-Up Charge

- 2.1 The Licensee must pay the Site Set-Up Charge for the Preparation Work conducted by the Company in respect of each Colocation Space.
- 2.2 The Site Set-Up Charge is a one-off charge quoted by the Company on a case-by-case basis to cover the Preparation Work in relation to the actual area of the Colocation Space, sub-tie cable between the Colocation Space and the Company's main distribution frame and Exchange Side Splitter (if appropriate). The Site Set-Up Charge will be calculated based on a minimum of 5 square meters if the area of the relevant Colocation Space is smaller than 5 square meters.
- 2.3 A quote of the Site Set-Up Charge will be provided by the Company at the same time as it presents the design and work plan for the Colocation Space ("Plan") to the Licensee. The quote will be based on information available to the Company as of the date of the Plan.
- 2.4 The Company will not commence work proposed in the Plan until the parties have agreed on the amount of Site Set-Up Charge, unless both parties agree otherwise.

3. Site Occupation Charge

- 3.1 The Site Occupation Charge shall be calculated at the monthly rate set out below:

Monthly amount per square meter	HK\$250
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- 3.2 The amounts stated in paragraph 3.1 will be adjusted annually based on the market rent of commercial buildings.

4. Site Management and Maintenance Charge

- 4.1 Site Management and Maintenance Charges represent the Licensee's share of the building management fee for the specified Exchange Site and shall be calculated at the monthly rates set out below:

Monthly amount per square meter	HK\$50
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- 4.2 The amounts stated in paragraph 4.1 will be adjusted annually based on the market rate of management fees payable for commercial buildings.
- 4.3 If the Licensee wishes to have any work done to any part of the Colocation Space or to any of the facilities associated with the Colocation Space, the Company will provide the Licensee with a quote of the charge payable for the work.

4.4 On termination of this Tariff or earlier cancellation of its requirement for Colocation at an Exchange the Licensee will make good the Colocation Space or pay the Company's reasonable costs of making good the Colocation Space.

5. Site Facilities Charges

5.1 The amount of the Site Facilities Charge will include facilities and services set out in the table below and calculated at their corresponding rates:

	Facilities and services available to Licensee at a Colocation Space	Monthly payment by Licensee	Annual Adjustment
a)	Basic facilities: routine maintenance of basic facilities (including air-conditioning*, fire detection and fighting system) by the Company Note * : for heat load up to 5KW for every 20 square meters. Additional air-conditioning charge : For heat load exceeding the first 5KW for every 20 square meter.	\$167 per square meter \$1,530 per 5 KW of heat load.	CPI CPI
b)	Capacity for AC Power: routine maintenance of AC power distribution system by the Company (Note: priority access to AC back-up power is not covered)	\$334 per 5kVA of non-essential AC power capacity \$668 per 5kVA of essential AC power capacity	CPI
c)	Usage of AC Power: AC power consumed by Licensee	According to bill issued by electricity company	According to adjustment by electricity company
d)	Capacity for DC Power: routine maintenance of DC power generation and distribution system by the Company (Note: priority access to DC back-up power is not covered)	\$1,258 per kW (any necessary facility upgrading to accommodate a Colocation Equipment is not covered)	CPI
e)	Usage of DC Power: DC power consumed by Licensee	Quoted based on the Colocation Equipment load	According to any adjustment to rates for AC power by electricity company
f)	Rates & other government charges: contribution to rates and other government charges in respect of an Exchange Site.	Quoted based on evaluation by Government	According to any adjustment by Government
g)	Insurance: contribution to insurance premium in respect of an Exchange Site.	Quoted on a case-by-case basis	According to any adjustment by insurance company
h)	Others : any other facilities or services agreed by the parties in	As may be agreed in the Plan	As may be agreed in the Plan

finalising the Plan for a Colocation Space		
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- 5.2 The amounts stated in paragraph 5.1 as being subject to CPI adjustment will be revised each year in accordance with paragraphs 11.1 and 11.2 of this Attachment.
- 5.3 Subject to paragraph 5.4, in addition to the adjustments described in paragraph 5.1, the Company may, by giving 1 month's prior notice to the Licensee, increase the Site Facilities Charge if:
- (a) the DC power consumption of the Colocation Equipment located in a Colocation Space exceeds 150A per 20 square meters; or
 - (b) the heat dissipated by the Colocation Equipment located in a Colocation Space exceeds 80BTU/hour/square foot.
- 5.4 The parties will use their best efforts to agree the arrangements for the provision of DC power referred to in paragraph 5.3 and matters specified in paragraphs 5.1(e) to (h). If these matters cannot be agreed, the matter will be referred for resolution under clause 17 of this Tariff.
- 5.5 If the parties are not able to agree charging and power loading for the DC power capacity under paragraph 5.1(d), the Licensee may provide its own DC power capacity and in that event, the area of allocated Colocation Space will be increased by a maximum of 5 square meters to the extent required for that DC power capacity. In the circumstance where the Licensee decides to provision its own DC power capacity, it may request that the Company provides it with backup DC power to be associated with the Licensee's own DC power capacity, and subject to availability and the parties reaching an agreement on the charges payable by the Licensee, the Company will provide the backup DC power described above.

6. Site Supervision Charge

- 6.1 The Company will invoice the Licensee for Site Supervision Charges based on the actual number of man-hours spent by the representative(s) of the Company to supervise access by the Licensee to the Colocation Space during the period identified in the invoice.
- 6.2 The Site Supervision Charge will be calculated by multiplying the actual number of man-hours spent by the representative(s) of the Company with the prevailing man-hour rate charged by PCCWHKT from the requested entry time of the Licensee up to the time the Licensee leaves the Colocation Space or the requested leave time, whichever is later. Each party shall from time to time notify the other party of its prevailing man-hour rates and at any time upon request by the other party.
- 6.3 As of the date of this Tariff, the Company's man-hour rates are as set forth in paragraph 10. In respect of each occasion of work performed by the Company outside the Company's normal working hours, the Licensee must pay for a minimum of 2 man-hours and any travelling expenses incurred to perform work during such hours.

7. Site Cancellation Charge

- 7.1 If the Licensee cancels an Accepted Site Application after the Company has commenced design and planning work but before the parties have agreed to the design, the Licensee will pay the Company for the work done up to the time of cancellation.

7.2 If the Licensee cancels an Accepted Site Application after the parties have agreed to the design for the Colocation Space, the Licensee must pay Site Cancellation Charges as follows:

<u>Cancellation of Site</u>	<u>Site Cancellation Charge</u>
(a) more than 8 weeks before Planned RFU Date	20% of Site Set-Up Charge
(b) 6 - 8 weeks before Planned RFU Date	50% of Site Set-Up Charge
(c) 4 - 6 weeks before Planned RFU Date	75% of Site Set-Up Charge
(d) less than 4 weeks before Planned RFU Date	100% of Site Set-Up Charge

7.3 If the Licensee cancels the Colocation Space after the Actual RFU Date for that space and within the Site Minimum Commitment Period, it must pay the unpaid balance of the aggregate amount of Site Occupation Charges, Site Management and Maintenance Charges and Site Facilities Charges (other than items listed as paragraphs 5.1 (c) and (e)) that would otherwise be payable for the duration of the Minimum Commitment Period.

8. BCLL Connection, Relocation, Reconfiguration and Periodic Charge

8.1 The amounts payable for the BCLL Connection Charge, the BCLL Relocation Charge, the BCLL Reconfiguration Charge, and the BCLL Periodic Charge are as set out below.

BCLL	BCLL Connection Charge / Relocation Charge / BCLL Reconfiguration Charge (one-off amount)	BCLL Periodic Charge (per month)
BCLL-FB	\$1,491	\$198
BCLL-PB	\$2,576	\$182

8.2 The amounts stated in paragraph 8.1 will be revised each year in accordance with the CPI adjustment set out in paragraphs 11.1 and 11.2 of this Attachment.

9. BCLL Cancellation Charge

9.1 If the Licensee cancels an Accepted BFR before the Planned RFU Date, it must pay a BCLL Cancellation Charge as follows:

<u>Cancellation of BCLL</u>	<u>BCLL Cancellation Charge</u>
On the date of acceptance of BFR	Nil
between date of acceptance of BFR and 3 days before Planned RFU Date	50% of BCLL Connection Charge
within 3 days before Planned RFU Date	100% of BCLL Connection Charge

10. Man-Hour Rate

10.1 As at the date of this Tariff, the Company man-hour rates are as follows:

- (a) during the Company’s normal working hours – HK\$314;

(b) during the Company's Normal Overtime Hours – HK\$397.

10.2 These rates may be specifically revised by the Company subject to the Company's annual salary review policy.

10.3 Other special rate arrangements shall apply (such as cut-over at mid-night, Sunday or public holidays) where the Licensee requests work to be undertaken at such times.

11. CPI Adjustment and Taxes

11.1 Charges specified in this Attachment 4 as being subject to CPI adjustment will be adjusted in accordance with the following formula on and from each Review Date until the next Review Date if (C/D) is greater than 1 and no adjustment will be made if (C/D) is equal to or less than 1:

$$A = B \times (C/D)$$

11.2 For the purpose of paragraph 11.1, the following will apply:

A is the adjusted amount which applies on and from the Review Date

B is the amount of the relevant charge as at the Base Date

C is the CPI(A) index for Hong Kong last published before the Review Date

D is the CPI(A) index for Hong Kong last published before the Base Date

The "Base Date" is the date of first approval of tariff by the TA, and for each subsequent review after the first review, is the anniversary of that date immediately prior to that Review Date.

The "Review Date" is each anniversary of the Base Date.

11.3 If the CPI(A) for Hong Kong ceases to be published quarterly, then for the purposes of applying this paragraph, the CPI(A) for Hong Kong is to be replaced by the nearest equivalent index published at that time.

11.4 If any adjustments are made in accordance with this paragraph, and the adjustment commences on a date other than the first day of a calendar month, the charges due for that month should be recalculated, pro-rata, on a 30-day month basis.

11.5 The Licensee acknowledges and agrees that the Charges do not include any Tax imposed on the Company in relation to the supply of services and rights under this Tariff and the Charges may be increased by the Company by the amount of such Tax (excluding any Tax on income) by notification to the Licensee.

12. Billing

12.1 The Company will issue and send invoices to the Licensee on a monthly basis in accordance with the terms set out in this Attachment. Each invoice should include the following details:

(a) invoice issue date and invoice number;

(b) invoice due date;

- (c) any brought forward amount of previous invoices;
- (d) amount payable for each category of Charges in respect of the month covered by invoice;
- (e) interest on any overdue amounts; and
- (f) total amount payable.

12.2 Charges that are recurrent will be payable one month in advance and will be billed, unless otherwise agreed, on a monthly basis.

12.3 An invoice for all Charges (other than charges that are recurrent) payable in respect of any month will be issued at the beginning of the immediately following month.

12.4 The Company will issue a consolidated invoice for all Charges payable in respect of a specified month.

12.5 Invoices will be issued on or before the 10th day of each calendar month.

12.6 Invoices must be either delivered by hand or by mail. Invoices should be sent to the relevant persons notified by each party (or such other person that person may authorise in writing) to the other at the respective address of each party referred to in the Notice section of this Tariff and will be deemed to have been received as set out in that clause.

13. Payment

13.1 Unless otherwise agreed to by the Company, all invoices must be settled in Hong Kong dollars by company cheques made payable to the Company or by electronic transfer to the nominated bank account of the Company. Payment must be credited to the Company on or before the invoice due date. The Company will not have been deemed to have received such payment until it is available to the Company in immediately available cleared funds.

13.2 Subject to paragraph 13.6 of this Attachment, all payment of invoices must be without set off or counterclaim and free and clear of any withholding or deduction (including but not limited to a withholding or deduction in respect of any Tax).

13.3 Invoiced amounts other than any brought forward amount of previous invoices and overdue interest, are due in full within 30 calendar days from the date of issue of the invoice or next working day if it is a holiday. For clarity, the invoice issue date should not be earlier than the dispatch date of that invoice. Overdue interest is due immediately.

Late Payment of Invoice

13.4 If an invoice is not paid by the invoice due date, the Licensee must pay interest in respect of the overdue amount. Overdue interest will be calculated at the rate which is equal to 2% above the prime lending rate of The Hongkong and Shanghai Banking Corporation Limited as current from time to time. Interest will accrue daily on all outstanding amounts (including accrued overdue interest) from the due date until payment in full is received by the Company. Interest will continue to accrue despite termination of this Tariff.

Non-payment

- 13.5 All disputes concerning invoices which remain outstanding and unpaid should be settled in accordance with the dispute resolution procedures set out in paragraph 14 of this Attachment.

Payment of Disputed Items

- 13.6 If the Licensee bona fide disputes an invoice, it must pay that portion of the invoiced amount which is not disputed. Overdue interest will accrue in respect of the non-disputed portion if it is not paid by the invoice due date. The disputed portion is not payable pending resolution of the dispute provided that the Licensee complies with the terms set out in paragraph 14 of this Attachment.

14. Dispute Resolution

Notification of Dispute

- 14.1 If the Licensee disputes an invoice, the Licensee may notify the Company in writing specifying:
- (a) the invoice in dispute;
 - (b) the amount in dispute;
 - (c) reasons for dispute; and
 - (d) supporting documentation as appropriate.
- 14.2 Notification of dispute must be delivered by hand or by post or by facsimile (as permitted and in accordance with clause 3 of this Tariff) and must reach the Company within 25 days from the date of receipt of the invoice by the Licensee.

Late Notification

- 14.3 Any dispute raised after 25 days from date of receipt of the invoice by the paving party will not be considered a disputed item, and the invoice must be settled in full by the invoice due date.

Dispute Investigation

- 14.4 In respect of any dispute, the parties will investigate any discrepancy that may have occurred in relation to the disputed items. Alternatively, the parties will arrange for joint investigation whether there is substantial discrepancy between the records maintained by the parties.
- 14.5 A dispute is not valid if there is no substantial error found in respect of the invoice in dispute within 10 Business Days from the dispute notification date. If the dispute is not valid, the paying party must pay overdue interest commencing from the original invoice due date.
- 14.6 The parties must use their reasonable efforts to promptly resolve any dispute notified under this Attachment. If the parties are unable to resolve any dispute in relation to the accounting process which affects the amount in dispute within 40 Business Days after notification of the dispute, either party may refer the matter to a suitable expert agreed between the parties, or failing such agreement as appointed by the Chairman of Hong Kong Society of Accountants. The person appointed shall act as an expert and not an arbitrator.

Before the dispute is referred to an expert, the party raising the dispute must be informed as to the estimated cost of resolving the dispute.

- 14.7 The parties must reasonably cooperate in any resolution process undertaken by the nominated expert. If, following resolution of the dispute, the party which raised the dispute has the amount payable varied in its favour by less than 5%, that party must pay the costs of the dispute resolution, otherwise the party against whom that dispute was raised must pay the costs of the dispute resolution, and those costs are to be the reasonable costs of the dispute resolution as determined by the person resolving the dispute.

15. Resolution

- 15.1 Following the dispute investigation, the Licensee must pay the amount assessed to be payable and overdue interest on the assessed amount to be calculated from the original invoice due date to the actual payment date.
- 15.2 Following the dispute investigation, the Company must refund any overpaid amount received from the Licensee and must also pay interest on such refunded amount to be calculated from the original invoice due date to the refund date.
- 15.3 Any amount (including principle and interest) assessed to be payable following the dispute resolution must be settled within 3 Business Days of the dispute resolution date.
- 15.4 If the Company does not receive the outstanding principle and interest within 3 Business Days from the dispute resolution day, it may include overdue interest in respect of these amounts in the next invoice issued to the Licensee.

ATTACHMENT 5

PREPARATION WORK

The Preparation Work to be performed by the Company in relation to an Exchange Site includes:

- (a) design and planning support regarding the physical arrangement of the Colocation Equipment;
- (b) constructing walls, ceilings, floors, doors and other facilities around the Colocation Space to separate that space from space ordinarily accessed by the Company's employees;
- (c) constructing walls, ceilings, floors, door and other facilities within the Exchange Site;
- (d) repair work;
- (e) installing facilities for DC and AC power supply (including isolation fuses on any DC power feeds), air-conditioning equipment, and lighting;
- (f) installing fire protection equipment;
- (g) installing or augmenting security arrangements;
- (h) installing or extending cable trays and iron work;
- (i) installing or extending false flooring;
- (j) installing / running inter frames connection cables;
- (k) for BCLL-PB, installing Exchange Side Splitter and related cabling; and
- (l) other requests by the Licensee.

On agreement with the Licensee, the Company may perform work in respect of nearby manholes or ducts and lead-ins between the nearby manhole and the network side of the Colocation Equipment.

ATTACHMENT 6
PROVISIONING AND MAINTENANCE TARGETS

1. STANDARD PROVISIONING TARGETS FOR BCLLs

- 1.1 The Company will use its reasonable efforts to provision the BCLL requested in a BFR approved by the Company pursuant to Attachment 8 within a period from the date of acceptance of the BFR of:
- (a) 20 calendar days in the case of BCLL-FBs; and
 - (b) 30 calendar days in the case of BCLL-PBs.
- 1.2 The parties acknowledge that the following factors may affect the ability of the Company to meet the provisioning targets in paragraph 1.1:
- (a) a site visit is required;
 - (b) the cabling facility for block wiring at the Customer's premises is not available;
 - (c) line removal and line upgrade;
 - (d) installation of a number of BCLLs is required within a short time frame;
 - (e) permission of building management is required for installing building cables;
 - (f) work by the Licensee or customer is required; and
 - (g) Customer Interface Space is not readily accessible.

2. STANDARD MAINTENANCE TARGETS FOR BCLLs

- 2.1 The Company will use its reasonable efforts to achieve restoration after being notified of a fault by the Licensee by the end of the next calendar days.
- 2.2 The parties acknowledge that the following factors may affect the ability of the Company to meet the maintenance targets in paragraph 2.1:
- (a) Customer Location is inaccessible;
 - (b) power failure at Customer Interface Point;
 - (c) additional time awaiting approval from the Licensee and/or Customer's agent;
 - (d) the occurrence of an event of Force Majeure;
 - (e) major cable fault;
 - (f) weather constraints including thunderstorm, black rain storm or typhoon warnings which may affect staff safety on carrying out repair duties;
 - (g) the BCLL is in a Class B Exchange Site or an inaccessible area; or
 - (h) interference is generated by the cabling of a third party.

3. TARGET MAKE READY FOR COLOCATION SPACE

3.1 The Company will use its reasonable efforts to perform the Preparation Work at an Exchange Site as set out in an Accepted Site Application within the following time periods:

- (a) Clarification of requirements with the Licensee - 3 weeks;
- (b) Design and planning work by the Company - 4 weeks; and
- (c) Construction work for the set-up of the Colocation Space - 9 weeks.

3.2 The parties must discuss and agree the design requirements and Charges before commencement of construction and will endeavour to agree the Charges for that construction work within 7 days after completion of the design and planning work.

ATTACHMENT 7 ACCESS TERMS

1. DEFINITIONS

- 1.1 In this Attachment, defined terms have the same meaning ascribed to them in this Tariff and the following words have the following meanings unless the contrary intention appears:

"Entry Notification" means a written notice by the Licensee seeking physical access to the Colocation Space for one or more of the Agreed Purpose under this Tariff.

2. AGREED PURPOSE

- 2.1 Subject to the terms and conditions of this Attachment, the Agreed Purpose for the Licensee's physical access to the Colocation Space will be:

- (a) carrying out site survey prior to delivery of the Colocation Equipment;
- (b) delivering the Colocation Equipment;
- (c) performing planned installation, testing and maintenance work on the Colocation Equipment;
- (d) performing day to day operational work - inventory management and connection work on the Colocation Equipment; and
- (e) performing service restoration, network restoration or other emergency maintenance work.

- 2.2 The Agreed Purpose for the Licensee's use of the Colocation Space will be the location and operation of the Colocation Equipment that is used for its Agreed Use and connected to BCLLs used for their Agreed Use.

- 2.3 The Company may from time to time unilaterally amend the Access Terms provided that:

- (a) the amendment is reasonably necessary:
 - (i) to preserve the normal functioning, security or operation of the Company's Network; or
 - (ii) to comply with applicable laws, rules, statements, determinations, Licence terms, directions or guidelines by a Government Agency; or
 - (iii) to comply with the lease of the relevant Exchange Site;
- (b) the Company has given the Licensee 14 days prior written notice of the change and has consulted with the Licensee with respect to that change; and
- (c) the Company uses its best efforts to minimise interruption to access by the Licensee to the Colocation Space.

3. ACCESS TO EXCHANGES

- 3.1 Licensee must ensure that all its employees, agents and contractors who physically access the Exchange Sites and/or perform work at or in the Colocation Space:

- (a) are Authorised Representatives;
- (b) will only seek access to and access a Colocation Space solely for an Agreed Purpose;
- (c) have the skills and qualifications needed to carry out work required by the Licensee safely and competently; and
- (d) comply with this Tariff and the terms of this Attachment in all respects.

3.2 In accessing a Colocation Space, each Authorised Representative must produce a legal identification document (which may be a valid passport or a Hong Kong identity card), and a valid staff card (if requested by the Company). Any Authorised Representative who is not an employee of the Licensee will only be allowed access to a Colocation Space if accompanied by an Authorised Representative who is an employee of the Licensee. The Licensee will supply the Company a list of Authorised Representatives. Additions to this list will be notified 5 days in advance of the authorisation being recognised by the Company. Deletions from the list must also be notified and effected immediately.

3.3 Any person who is not an Authorised Representative wishing to access the Colocation Space for an Agreed Purpose must (a) produce legal identification documents described in paragraph 3.2 above, and (b) be accompanied by an Authorised Representative at all times when physically accessing the Colocation Space.

3.4 If any Authorised Representative breaches this Tariff, the Company may decline in the future to provide access to that person under this Tariff. Any such refusal to provide access shall be made on reasonable grounds.

3.5 All acts and omissions by the Licensee's Authorised Representative seeking access to or accessing an Exchange Site of any of the terms set out in this Attachment are deemed to be acts or omissions by the Licensee. Any knowledge of the Licensee regarding the Access Terms is imputed to its employees, agents and contractors and any such knowledge regarding the Access Terms of Authorised Representative is imputed to the Licensee.

4. ACCESS PROCEDURES

4.1 On every occasion that the Licensee intends to physically access the Colocation Space, it must provide the Company with an Entry Notification.

4.2 The Licensee may gain physical access to the Colocation Space during the normal working hours for that part of the Exchange Site if:

- (a) for a purpose under paragraphs 2.1(a) to (c), the Licensee has given the Entry Notification in writing to the Company no less than 5 Business Days before the requested date of access; and
- (b) for purpose under paragraph 2.1(d), an Entry Notification shall be given no less than 3 Business Day before the requested date of access; and
- (c) in the case of an emergency under paragraph 2.1(e), the Licensee orally requests such access and the information otherwise provided in an Entry Notification is given at the time of the oral request.

4.3 An Entry Notification provided by the Licensee (whether orally or in writing) must include the following information:

- (a) the name, identification document number, staff card number and work title of the Authorised Representative who is an employee of the Licensee and who will be responsible for the other Authorised Representatives for whom physical access is requested; and
 - (b) the name, identification document number, employer and work title of each of the other proposed Authorised Representatives who will be accompanying the Authorised Representative described in paragraph (a) above; and
 - (c) the purpose for which physical access is requested in reasonable detail; and
 - (d) when, and an estimate of the time during which, physical access is requested; and
 - (e) the Colocation Space to be accessed.
- 4.4 Entry Notification (oral or in writing) must be communicated to the Customer Access Fault Reporting Point (CAFRP) of the Company or any other department nominated by the Company from time to time.
- 4.5 Notwithstanding paragraph 4.2, if the Licensee wishes to have any equipment or material delivered to an Exchange Site, the Licensee must:
- (a) send an Entry Notification to the Company 14 Business Days before the proposed date of delivery provided that if the Company must do more than provide an Authorised Representative to facilitate that delivery a longer period of notice will be required; and
 - (b) have an Authorised Representative present at the Exchange Site to accept delivery.
- 4.6 The Company may refuse the Licensee physical access to the Exchange Site and stating the reason for the refusal if:
- (a) the Company determines that the Exchange Site is unsafe; or
 - (b) the Company determines that the Licensee is, or is likely to be in material breach of this Tariff in respect of the Colocation Space to which physical access is sought; or
 - (c) no reason is given for the access sought or the reason given is inconsistent with the Agreed Purpose.
- 4.7 If the Company denies a request for access, it must state the reason for the refusal and give good faith consideration to any amended Entry Notification lodged by the Licensee.

5. ACCESS CONDITIONS

5.1 The Licensee may:

- (a) physically access a Colocation Space only if a the Company's representative is in attendance at all times; and
- (b) physically access each Colocation Space only through that part of the Exchange Site for which approval has been granted.

5.2 The Licensee must:

- (a) in relation to any access, comply with:
 - (i) security requirements, safety standards and code of conduct of the Company which are applicable to the Exchange Sites and as advised by the Company; and
 - (ii) relevant laws; and
 - (iii) directions of the Company which are generally applicable to its exchanges in relation to fire prevention, safety, security, and the normal functioning of network; and
- (b) promptly notify the Company of any fault, defect or problem with the Colocation Space or its vicinity which comes to the attention of the Licensee; and
- (c) ensure that Colocation Space is left in a safe and clean condition on each occasion of access to the Colocation Space; and
- (d) ensure that physical access to the Colocation Space is not blocked or otherwise obstructed by the Colocation Equipment or any other objects or material; and
- (e) ensure that flammable, hazardous, or explosive material is not left in or around the Colocation Space; and
- (f) conduct such maintenance of the Colocation Space as may be agreed by the parties in the Implementation Plan.

5.3 The Licensee must ensure that each of its Authorised Representatives physically accessing a Colocation Space:

- (a) complies with all of the terms and Conditions imposed on the Licensee under this Attachment; and
- (b) has been approved by the Licensee in respect of security status, skills and qualifications; and
- (c) signs a log book in which is recorded the name of the person, date and time of entry and departure from the building in which the Colocation Space is situated; and
- (d) informs the Company as soon as reasonably practicable after work in the relevant Colocation Space has been completed and all of the Licensee's personnel have left the Colocation Space; and
- (e) promptly complies with the reasonable directions of the Company in relation to safety at and security and normal functioning of the relevant Exchange.

6. RESTRICTIONS

6.1 The Licensee must not:

- (a) access or use the Colocation Space in any manner inconsistent with this Tariff or for any purpose other than as specifically authorised in this Tariff; or

- (b) bring any equipment, goods, or chattels into the Colocation Space which is not necessary for the purpose of maintaining or operating the Colocation Equipment; or
- (c) access any areas of the Exchange Site other than the Colocation Space, and such access areas approved in writing by the Company as being required to be accessed by the Licensee for fault restoration on a case by case basis; or
- (d) cause any nuisance, interference, disturbance, inconvenience, hazard or danger to neighbouring premises of the Colocation Space or to any property in the neighbourhood of the Colocation Space; or
- (e) inspect or record any image, notes or data of or in relation to any equipment at the Exchange other than the Colocation Equipment; or
- (f) put any objects or material outside the Colocation Space; or
- (g) seek to extend or increase electrical power wiring within the Colocation Space; or
- (h) make any alteration to the Colocation Space or alter the existing locks, bolts and fittings on the entrance door to the Colocation Space, or install any additional locks, bolts or fittings.

6.2 The Licensee must not do or permit or suffer to be done or omit to do anything in connection with access or physical access to the Colocation Space under this Attachment that may:

- (a) threaten the safety or security of:
 - (i) employees or customers of the Company; or
 - (ii) any third person or employees or Customers or any third person; or
 - (iii) property of the Company; or
 - (iv) the property of any third person; or
- (b) cause damage to:
 - (i) the property or facilities of the Company; or
 - (ii) the property or facilities of any third person; or
- (c) interfere with the delivery of telecommunications service supplied or to be supplied by the Company or any third party; or
- (d) jeopardise the integrity or confidentiality or communications within the network of the Company or a third party; or
- (e) cause any insurance on the Exchange against loss or damage by fire and other calamities and/or claims by third parties for the time being in force may be rendered void or voidable or whereby the premium thereof may be increased, as may be informed by the Company.

7. GENERAL

- 7.1 Nothing in this Attachment is to be construed as vesting in the Licensee:
- (a) any right, title, possessory or proprietary interest in any Colocation Space, and does not create any lease agreement or analogous arrangement; and
 - (b) in respect of any Colocation Space, the grant or enjoyment of which would breach any arrangement with a third person in respect of that Colocation Space.
- 7.2 The Licensee must not grant a third person either physical access to, or a right to locate a third person's equipment in, Colocation Space and the Licensee's rights under this Attachment are not assignable to any person.
- 7.3 The Company may inspect, temporarily remove (for no more than 24 hours on each incident), and copy the log book referred to in paragraph 5.3.
- 7.4 The Licensee must pay the reasonable direct costs of any work which the Company has to undertake in relation to the sprinkler, fire alarm, fire prevention, security system, power supply or other facilities at an Exchange which become necessary because of non-compliance with this Attachment by the Licensee.
- 7.5 Subject to paragraph 7.6, the Company will enter the Colocation Space only with the express permission of the Licensee or for bona fide operational reasons. the Company will provide advance notice to the Licensee, and the length of such notice will be the same as that set out in paragraph 4.2.
- 7.6 In case of emergency, or where the safety, security or integrity of the Network is compromised, the Company may enter the Colocation Space without giving the required prior notification, provided that it informs the Licensee as soon as practicable within the same day.

ATTACHMENT 8
BFR PROCESS AND FORECASTING PROCEDURES

1. DEFINITIONS

- 1.1 In this Attachment, defined terms have the same meaning ascribed to them in this Tariff and the following words have the following meanings unless the contrary intention appears:

"**Accepted BFR**" means a Bona Fide Request for BCLLs by the Licensee that has been received and accepted by the Company.

"**Bona Fide Request**" or "**BFR**" means the request process described in paragraph 2 of this Attachment 8 pursuant to which a Licensee may request the Company to provide it with one or more BCLLs.

"**DEL**" means that part of a local direct 2 wire copper exchange line that the Company determines to use as a BCLL (excluding any facility other than a copper line) that connects a Customer Location directly to the Company's Network.

"**DEL Disconnection Notice**" means the Company's standard retail disconnection notice from time to time used by it for the purpose of a customer of the Company's terminating the supply of a DEL to that customer by the Company.

"**Forecast**" means a forecast of expected demands for BCLLs given by the Licensee to PCCWHKT pursuant to paragraph 3 of this Attachment 8.

"**Quarter**" means each period of 3 calendar months commencing on 1 January, 1 April, 1 July and 1 October during the term of this Tariff.

"**Review Event**" means an event as described in paragraph 2.3 of this Attachment 8.

2. BONA FIDE REQUEST PROCEDURES FOR BCLL

- 2.1 The Licensee may from time to time request a BCLL between an Exchange Site of the Company and a Customer Termination Point by giving the Company a written Bona Fide Request ("BFR") that contains the following minimum information:

- (a) the address of the requested Customer Location and details of the requested Customer Interface Point; and
- (b) the Exchange Site address or the Company designated three letter exchange code; and
- (c) the requested Planned RFU Date for that BCLL; and
- (d) whether the BCLL is required to be a BCLL-FB or BCLL-PB; and
- (e) if applicable, a copy of the Customer's DEL Disconnection Notice and the Licensee authorisation in accordance with paragraph 2.6; and
- (f) in connection with its BFR, the Licensee must:

- (i) complete all necessary forms that the Company may reasonably require to ensure that the Company is excluded from all liability arising in relation to any service interruption or other loss or damage suffered by the Customer or any other third party in connection with the Company's provisioning of the BCLL service;
- (ii) without limiting the scope of paragraph 2.1(f)(i), in the case of a BFR for a BCLL-PB, provide evidence in a form satisfactory to the Company (such form to be provided to the Licensee on request) of the DEL service provider's consent to the sharing of the same copper wire with the Licensee;
- (iii) without limiting the scope of paragraph 2.1(f)(i), provide, in a form satisfactory to the Company (such form to be provided to the Licensee on request), a copy of each of the letters of confirmation, acknowledgement and/or consent as follows (as applicable depending upon whether the Licensee has requested a BCLL-FB or a BCLL-PB):
 - (1) a letter of consent and authorisation from the Customer in relation to the provisioning of the BCLL service and (i) confirming that the Customer is using a DEL service from a service provider other than the Licensee; (ii) acknowledging the potential for service interruption to any existing telecommunications services provided to the Customer as a consequence of the provisioning of a BCLL service; and (iii) consenting to the exclusion of the Company's liability in relation to any loss or damage suffered by the Customer in connection with any service interruption due to the provisioning and maintenance of the BCLL service; and
 - (2) letters of consent and authorisation, in a form satisfactory to PCCWHKT (such form to be provided to the Licensee on request) from any third parties that the Company from which reasonably requires such consent or authorisation (including without limitation, any third parties having in-building blockwiring or cabling facilities at the Customer Location): (i) consenting to the provisioning of the BCLL and acknowledging the possibility of interference or service interruption in relation to existing telecommunications services as a consequence of the provisioning of such BCLL service; and (ii) consenting to the exclusion of the Company's liability in relation to any loss or damage suffered by a third party in connection with any service interruption due to the provisioning of the BCLL service; and
- (g) information about the technology that the Licensee will use for the provision of broadband service over the BCLL requested; and
- (h) such other information that the Company reasonably requires to enable the Company to fulfill the BFR as notified by the Licensee from time to time.

2.2 The Company must use its best endeavours within 5 Business Days of the date of receipt of a BFR as described in paragraph 2.1, in writing:

- (a) to accept that BFR; or
- (b) to notify the Licensee that the Company's acceptance requires the resolution of one or more matters referred to in paragraph 2.3 and identify the areas of concern; or

(c) to reject that BFR under paragraph 2.8.

2.3 The Company will notify the Licensee if any of the following matters affect a BFR ("Review Event"):

- (a) the BFR does not contain all the information or letters of authorisation and/or consent as specified in paragraph 2.1; or
- (b) the Customer Location is not served by the specified Exchange Site; or
- (c) the period between the date of the BFR is accepted and the Planned RFU Date for any BCLLs in the BFR is less than the Standard Delivery Period; or
- (d) the number of BCLLs in the BFR exceeds the number of BCLLs specified in Licensee's last Forecast (as applicable) for the applicable provisioning period; or
- (e) a BCLL is not available in accordance with paragraph 2.5 to directly connect the Customer Interface Point and Exchange Site; or
- (f) as at the date of that BFR, the Company has available copper wiring to provision the BCLL but has current plans to generally decommission copper wiring in an area including the copper wiring supporting the BCLL; or
- (g) the quantity of the BCLLs or the technology to be used over the BCLLs requested fails to comply with or otherwise contravenes the criteria specified in the Deployment Rules as set forth in Attachment 1; or
- (h) it is not reasonably practical to fulfill the BFR as a result of unavailable resources (e.g. testing equipment and manpower already consumed by other confirmed orders) of PCCWHKT or an event of Force Majeure.

2.4 If the Company withholds approval of a BFR as a result of any of the matters referred to in paragraph 2.3 or because it requires further time to consider the application of any of the matters referred to in paragraph 2.3, it will notify the Licensee as soon as practicable of the general nature of the relevant Review Event and the further time required to complete that review (which must be the least time that is practicable for the Company to complete that review using its reasonable efforts) and in the case of a Review Event under:

- (a) Paragraph 2.3(a), the Licensee will provide all of the information reasonably requested by the Company by making an amended BFR; and
- (b) Paragraph 2.3(b), the Company will notify the Licensee of the exchange site serving that Customer Location and, if that exchange site is an Exchange Site, the Licensee will submit an amended BFR; and
- (c) Paragraph 2.3(c), the Licensee must as soon as practicably after the date of notification notify the Company whether it wishes the delivery period to be within the Standard Delivery Period or it wishes to have the BCLL provisioned by a specified date within the Standard Delivery Period in accordance with paragraph 2.7; and
- (d) Paragraph 2.3(d), the Company will accept the BFR to the extent of the number of BCLLs exceeding the latest and reasonable Forecast can be reasonably achievable by the Company; and

- (e) Paragraph 2.3(f), the Company may advise the Licensee that the BCLL will only be available for the period until the date of decommissioning and, in that event, the Licensee must elect to withdraw the BFR in respect of that BCLL or to have the BCLL provisioned only until the date of decommissioning.

The Company will, subject to resolution of any other Review Event, use its reasonable efforts to accept the amended BFR within 5 Business Days of being notified of that information.

2.5 A BCLL will be regarded as being available for the purposes of paragraph 2.3(e) subject to the following conditions:

- (a) in case of a BCLL-FB, if a DEL of the Company is to be simultaneously disconnected and made available in accordance with paragraph 2.6, or a spare BCLL can be identified with no service being conveyed over it; and
- (b) in case of a BCLL-PB, if an existing copper wire carrying a DEL service can be identified, failing which the Licensee may need to change the BFR to a BCLL-FB; and
- (c) there is suitable copper wiring in place between the relevant Exchange Site and:
 - (i) the Customer Interface Point proposed in the BFR; or
 - (ii) the Customer Location proposed in the BFR, and the Licensee provides its own vertical and horizontal blockwiring ; or
 - (iii) the end of the vertical blockwiring in the Customer Location proposed in the BFR, and the Licensee provides its own horizontal block wiring; and
- (d) the relevant in situ wiring of the Company is not:
 - (i) being used by any person (including the Company) in the case where the Licensee applies for a BCLL-FB; or
 - (ii) reasonably required to be used by the Company during the period of 18 months after the proposed Planned RFU Date on the basis of the Company's current business plans for a telecommunications service of the Company.

2.6 If the Company is providing telecommunication services to a person ("DEL User") over a DEL that could be provisioned as a BCLL-FB under this Tariff and that DEL User wishes to become a Customer of the Licensee in respect of that DEL for a full bandwidth service then that DEL will be made available for the purposes of paragraph 2.5(a) if:

- (a) a DEL Disconnection Notice is signed by a duly authorised representative of the DEL User and the original is provided by the Customer or the Licensee to the Company's ordering team and a copy of that DEL Disconnection notice is provided to the Company together with the applicable BFR for a BCLL-FB; and
- (b) the Licensee provides to the Company a copy of an authorisation in such form as the Licensee may determine which confirms that the Customer wishes to connect the BCLLFB to the Licensee Network; and
- (c) that DEL Disconnection Notice is not revoked or canceled by the Customer before that BCLL-FB is provisioned.

- 2.7 If the Licensee wishes to obtain any BCLLs earlier than the date they would otherwise be provisioned under this paragraph it will notify the Company that it requests earlier provisioning of the BCLLs in which case:
- (a) the Company will notify the Licensee of the special order arrangement charges for provisioning the BCLLs by that earlier date; and
 - (b) The BCLLs will be provisioned in accordance with any agreed timetable.
- 2.8 The Company may reject a BFR for a BCLL if:
- (a) the Licensee has failed to comply with clause 2.1 in respect of that BFR; or
 - (b) the Licensee is in material breach of this Tariff; or
 - (c) any of the Review Events referred to in paragraph 2.3(e), (f), (g) or (h) apply and the parties are not able to resolve that Review Event having negotiated in good faith in an effort to do so.
- 2.9 If the Licensee wishes to cancel an Accepted BFR in whole or in part, it must notify the Company of that cancellation and pay the Company the applicable Cancellations Charge for that Accepted BFR.
- 2.10 If the Licensee wishes to change the technology being used over an existing BCLL, it must submit a BFR following the same procedures as set out in this paragraph 2 and must pay the BCLL Reconfiguration Charge to the Company for those BCLLs.

3. BCLL FORECASTING PROCEDURES

- 3.1 Commencing from the first day of the next month after the date on which the Licensee has been notified by the Company of its acceptance of the BCLL BFR pursuant to paragraph 3.2 and thereafter on the first day of each successive quarter ("Forecast Date"), the Licensee must give the Company forecasts of its requirements for the provision of BCLLs that comply with this paragraph ("Forecasts").
- 3.2 Each Forecast must specify the number and type of BCLLs that the Licensee expects to be provisioned to or from each Exchange Site of the Company in:
- (a) the 6 month period between the date that is 12 months from the date of the Forecast and the date 18 months from the date of the Forecast;
 - (b) each quarterly period between the date 6 months from the date of the Forecast and the date 12 months from the date of the Forecast; and
 - (c) each calendar month between the date of the Forecast and the date 6 months from the date of the Forecast ("Forecast Period").
- 3.3 Each Forecast must include the total number of forecast BCLLs which are anticipated to be required in each Exchange Site in each Forecast Period and such further relevant information as the Licensee is able to provide to the Company in respect of each of the BCLLs forecast.
- 3.4 The Licensee must provide Forecasts under this paragraph 3 in good faith and use its best efforts to ensure the accuracy of any such Forecasts provided to the Company. The

Licensee acknowledges that Forecasts which overestimate or underestimate the volume of BCLLs ordered by it under this Tariff or which are materially varied between Forecast Periods in the 6 months before the Forecast in which provisioning will take place may delay the provision of those BCLLs to the Licensee.

- 3.5 If a Licensee's actual BCLL BFR exceeds the BCLL requirements indicated by it in the Forecasts for the last Forecast Period by 20% in a particular Colocation Site, then the Company may decline to accept BCLL BFR for that particular Colocation Site.

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ATTACHMENTS

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SCHEDULES

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