



## **ComNet Telecom (HK) Limited**

### GENERAL TERMS AND CONDITIONS

The Customer hereby agrees to observe and be bound by the following terms and conditions in relation to the provision of the telecommunications services by ComNet Telecom (HK) Limited.

1. Unless the context says otherwise, the following words and expressions shall have the following meanings:

Company means ComNet Telecom (HK) Limited, including its successors and assigns;

Agreement means the Application, the General Terms and Conditions and the Special Terms and Conditions as may be amended by the Company from time to time;

Application means the written or oral or any other means of application made by the Customer to the Company requesting for the provision of Services and/or Equipment to the Customer;

Customer means any person, firm or entity including any individual, corporation or unincorporated body who apply for or use any of the Services of the Company or to whom the Company has agreed to provide Services pursuant to the Application;

Charges means the charges for the services charged by the Company from time to time including but not limited to any fees or charges referred to as, or for, connection, subscription, monthly charge usage,

Government license fee, administration, any sum due under the Agreement or such other fee which may be announced or published by the Company for the provision of any of the Services from time to time.

Equipment means (where applicable) the equipment (including hardware and software and whether Provided by the Company or not) the Company uses to provide the Services including but not limited

ComNet Telecom (HK) Limited

To equipment provided by the Company which is installed or placed at the Customer's premises or equipment supplied by the Company to the Customer under the Application;

License means license or licenses issued by the Telecommunications Authority to the Company for the provision of the relevant Services;

Network means the public telecommunications networks and systems by which the Company makes the relevant Services available;

Services means services applied for by the Customer in the Application and such other services as otherwise ordered by the Customer and agreed to be provided by the Company from time to time.

## **2. PROVISION OF SERVICES**

2.1 Subject to the terms and conditions contained herein, the Company will use its reasonable endeavours to provide the Services to the Customer. The Company will make reasonable efforts to start providing the Services on each date as requested by the Customer, but shall not be liable to the Customer or any third party should the Services fail to start on that date.



2.2. The Customer acknowledges and agrees that:

- (a) the Customer must not use or allow the Services to be used for any purpose other than that from which he/she has subscribed;
- (b) when the Customer provides information to the Company, the information must be complete, true and up-to-date in all respects;
- (c) the Customer must not, and must not attempt to, hack, break into, access or by other unauthorized means use, any part of the Services, data areas or servers for which the Customer has not been authorized by the Company;
- (d) the Customer must not use the Services in:
  - (i) any unlawful, fraudulent, improper, unauthorised, harassing, discriminatory, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable manner;
  - (ii) a way to encourage conduct that could constitute a criminal offence, give rise to civil liability or otherwise violate any applicable law or regulation;
  - (iii) a way to infringe any third party's intellectual property rights; or
  - (iv) a way that may be harmful or detrimental to the Company or its reputation; or
  - (v) a way that contravene any legal or regulatory requirements applicable to the Services or any instructions or guidelines as may be imposed by the Company from time to time for the use of the Services;
- (e) the Company is not responsible for any acts or omissions arising from the Customer's use of the Services, including those more particularly described in clause 2.2(d).

2.3 All requests for Services requiring installation of the Company's Equipment at the Customer's premises shall be subject to review and acceptance by the Company. The Customer acknowledges that any Equipment installed by the Company pursuant to the Agreement between the Company and the Customer for the provision of the Services and these presents which form the terms and conditions of such agreement is the property of the Company. The Company shall at all reasonable times have access to the premises of the Customer to install, inspect and repair the equipment during the continuance of this Agreement and to remove the same equipment after the termination of this Agreement.

### 3 PAYMENT OF CHARGES

3.1 The Customer agrees to pay the Company all Charges relating to the provision of the Services by the Company to the Customer (including amounts billed by the Company for and on behalf of another person) as may be specified by the Company from time to time. The Company may vary the Charges as it thinks fit at any time.

3.2 Payment for Charges is due on the date specified in the invoice issued through any medium by the Company. All payments must be settled in Hong Kong dollars and by a method as described in the invoice.

3.3 Payment made by post, by electronic means or through Internet shall be at the risk of the Customer. The Customer's obligation to pay will not be discharged until the payment is received by the Company.

ComNet Telecom (HK) Limited

3.4 Enquiries or disputes concerning any invoice must be made to the Company on or before the payment due date stated in the invoice, however nothing in this clause relieves the Customer from paying the invoice on or before the payment due date. If any Charge is not queried before the due date, then the invoice is deemed correct and accepted by the Customer.

3.5 In the event of any dispute between the Company and the Customer relating to any Charges billed by the Company, the books and records of the Company are conclusive evidence of all such Charges incurred by the Customer.



3.6 Time is of the essence in this Agreement in respect of the obligation of the Customer to pay money. If the Customer fails to pay the Charges by the due date, the Company will be entitled to charge overdue amount to the Customer's credit account registered or otherwise with the Company or charge interest on all sums outstanding at the rate of 2% per month on a daily basis from the date the payment was due to the date full payment is received by the Company and charge the Customer a collection agent fee and handling fee as the Company think fit.

3.7 Where the Customer has more than one account with the Company, the Company may transfer any credit balance under any of the accounts to settle the outstanding Charges under any other account.

3.8 The Customer will be liable for all Charges for the Services provided to the Customer, whether or not used by the Customer, or another person with or without the Customer's knowledge or consent and irrespective of whether the transmission of the Services was successful.

3.9 The Company may apply a credit limit from time to time for Charges incurred by the Customer and may suspend access to the Services, in whole or in part, if the limit is exceeded.

3.10 The Company may vary the Charges and introduce new Charges at any time and in accordance with the relevant license (if applicable).

#### 4. DEPOSIT

4.1 The Customer agrees that the Company may, at any time, require the Customer to provide a security deposit to the Company. The amount of any deposit will be solely determined by the Company. The Company reserves the right to increase the amount of the deposit from time to time.

4.2 The Company may, without prejudice to any other rights or remedies under this Agreement, deduct from any deposit against any sum due or owing by the Customer under this or any other agreement or under any of the Customer's other accounts with the Company and for any loss or damage incurred or sustained by the Company as a result of non-performance or non-observance by the Customer of any terms or conditions of this or any other agreement made between the Customer and the Company.

4.3 Subject to clause 4.2, a deposit will be refunded to the Customer by the Company without interest after the termination of this Agreement and after the settlement by the Customer of all outstanding Charges payable under this or any other agreement or any claims brought by the Company in respect of a breach by the Customer of any of the terms or conditions of this or any other agreement, whichever is later.

4.4 The Customer acknowledges that any deposit paid by him or any Charges paid in advance is at his risk and in the event that the Company goes into liquidation, any deposit or prepayment may not be refunded or reimbursed to the Customer. The Customer's right to obtain a refund of any deposit or upfront payment will be subject to the relevant laws and regulations governing liquidation of companies in Hong Kong.

#### 5. TERMINATION AND SUSPENSION

5.1 The Company may terminate this Agreement immediately or temporarily suspend the Services at any time without notice if:

- (a) any Charges or sums payable by the Customer under this Agreement remain unpaid after becoming due;
- (b) the Customer dies or becomes insolvent or appears reasonably likely to become so;
- (c) the Charges for the use of the Services exceed the credit limit set by the Company from time to time;
- (d) the Company's credit checks reveal the Customer has a poor credit history;



ComNet Telecom (HK) Limited

- (e) the Customer commits a breach, or the Company reasonably believes the Customer is likely to commit a breach, of any of the terms and conditions of this Agreement;
- (f) the Customer or any other person uses the Services in contravention of clause 2.2 or for any illegal or improper purpose;
- (g) any of the information provided by the Customer to the Company is found to be false or misleading;
- (h) any of the telecommunications or other licenses held by the Company or third party network provider are terminated, revoked, expired or not renewed;
- (i) The Company reasonably believes it is necessary to suspend Services to:
  - (i) comply with an order, instruction, determination or direction of a government or regulatory authority or third party network provider;
  - (ii) carry out emergency or scheduled maintenance, repair or upgrading of the Services, any equipment, facility or any part of the Company's network or third party network provider;
  - (iii) reduce or prevent fraud or interference with Services;
- (j) the Networks or the Equipment fail or require modification;
- (k) The Company or third party network provider ceases to provide any of the Services.

5.2 Termination or suspension of the Services shall not affect the Company's rights, or claims or other remedies available to the Company and suspension of the Services does not constitute a waiver of the Company's right to terminate this Agreement thereafter.

5.3 If the Customer has maintained more than one account with the Company for receiving the Services from the Company and fails to pay any Charges by the payment due date for any of the account or Services, the Company may immediately suspend any Service in respect of any or all of the accounts.

5.4 Either the Company or the Customer may at any time terminate this Agreement without cause by giving to the other party 7 days' prior written notice. If the Customer notifies the Company in accordance with this clause 5.4, they must immediately pay the Company all amounts payable up to the date of termination.

5.5 The Customer shall remain liable for all Charges during the period of suspension unless, in the Company's discretion, the Company decides otherwise.

5.6 The Customer will remain liable for all Charges prior to such disconnection. The Company reserves the right to charge for reconnection and require revised terms and conditions including the terms of payment.

## 6. LIMITATION OF LIABILITY AND INDEMNITY

6.1 The Company does not guarantee the provision of continuous or fault-free Services. The Company makes no warranty or representations or statements in respect of, or accepts no responsibility for, the accuracy, timeliness, completeness or correctness of any Services so provided nor is any warranty or undertaking given that any traffic requested pursuant to the Services will be delivered to or received by the Customer on time or at all.

6.2 The Customer shall not hold the Company or any third party network provider responsible for any loss or damage whatsoever suffered or incurred by the Customer or any other person using or accessing the Services, or as a result of using any such Services not having been received on time or at all.

6.3 Save and except for any liability of the Company which cannot be excluded by law, all express or implied warranties, representations or statements relating to the subject matter of this Agreement. Which are not contained in this Agreement are excluded. The Company excludes all liability or



responsibility for any cost, claim, damage or loss to the Customer or to any person whether direct or indirect of any kind including revenue, loss or profits or any consequential loss in contract, tort, under any statute or otherwise (including negligence) resulting from any interruption or failure of the Company's network or third party network provider or for any failure or delay or mistake in the provisioning of the Services or arising out of or in any way related to this Agreement (including any loss to the Customer arising from a suspension of Services).

6.4 The aggregate liability of the Company to the Customer under or in connection with this Agreement which is not excluded by clause 6.3, whether based on contract, tort (including negligence), statute, breach of warranty or any other legal or equitable ground is limited to: ComNet Telecom (HK) Limited

- (a) the sum of the Charges paid by the Customer in the 12 month period prior to the accrual of such liability; or
- (b) the sum of the Charges paid by the Customer for the period that this Agreement has been in force prior to the accrual of such liability, if the period is less than 12 months; or
- (c) HK\$100,000, whichever is the lower.

6.5 The Company will not be liable to the Customer or any other person for any loss or damage resulting from a delay or failure to perform this Agreement either in whole or in part where such delay or failure is due to causes beyond the Company's reasonable control, or which is not occasioned by its fault or negligence, including acts or omissions of third parties (including telecommunications network operators and equipment suppliers), shortage of components, war, the threat of imminent war, riots or other acts of civil disobedience, insurrection, acts of God, restraints imposed by governments or any other supranational legal authority, industrial or trade disputes, the advent of the year 2000, fires, explosions, storms, floods, lightning, earthquakes and other natural calamities.

6.6 The Customer indemnifies the Company from and against all claims, actions, proceedings or demands in respect of loss or damage of any kind (whether to person or property) incurred by the Company arising out of or in connection with a breach of this Agreement by the Customer or relating to the use or attempted use by any person (including the Customer) of the Services.

6.7 Nothing in this Agreement in any way excludes or restricts a party's liability for death or personal injury resulting from the negligence of that party.

6.8 Any claim by the Customer against the Company arising out of the Agreement must be notified in writing to the Company within 3 months of the incident giving rise to such claim failing which the Customer will be deemed to have waived the Customer's rights in respect of such claim.

## 7. SUPPLY AND USE OF PERSONAL DATA

7.1 ComNet Telecom (HK) Limited Personal Data (Privacy) Policy forms part of this agreement.

## 8. GENERAL

8.1 Unless otherwise specified herein, the Company may at any time vary any of the terms and conditions of this Agreement by giving written or electronic notice by giving 30 days notice to the Customer to that effect. For the avoidance of doubt, notice or other communication may be given by the Company to the Customer in the form of a letter, bill insert or message, email message, pamphlet available at the Company's shop, the Company franchisee or agent retail outlet, advertisement placed in a Hong Kong daily newspaper or any other method as determined as adequate by the Company. In addition, the provision of the Services pursuant to this Agreement by the Company are subject to the applicable laws, regulations, government policies or rules of any competent jurisdictions, including Hong Kong Special Administrative Region. Notwithstanding anything contained herein, in case of any change of the said laws, regulations, government policies or rules, the Company shall be entitled to vary any terms and



conditions of this Agreement by giving immediate notice to the Customer in order to comply with the same.

8.2 The Company shall be entitled to assign or otherwise dispose of any of its rights or obligations under this Agreement to any other party without the prior written consent of the Customer. The Customer must not assign or otherwise dispose of any of its rights or obligations under this Agreement to any other party without the prior written consent of the Company.

8.3 This Agreement will be governed by and construed in accordance with the laws of Hong Kong Special Administrative Region and the parties must submit to the non-exclusive jurisdiction of the courts of Hong Kong Special Administrative Region, in the event of a dispute.

8.4 Neither a failure or delay to, nor a single or partial, exercise of any right, power or remedy under this Agreement, by either party will operate as a waiver. Unless expressly stated, the rights, powers and remedies provided under this Agreement are cumulative and are not exclusive of any rights, powers or remedies by law.

8.5 If the whole or any part of a provision of this Agreement is construed to be illegal or invalid it is severed from this Agreement, however the remainder of this Agreement has full force and effect.

ComNet Telecom (HK) Limited

8.6 The Company shall be relieved of performance of their obligations under this Agreement to the extent that the performance of the respective obligations shall be prevented or interfered with by reason of a force majeure or other act of god not within the reasonable control of the Company.

8.7 This Agreement supersedes all prior agreements, arrangements and undertakings between the Parties and constitutes the entire agreement between the parties relating to the subject matter.

#### SPECIAL TERMS AND CONDITIONS FOR IDD 0050 SERVICES

1. These Terms and Conditions shall govern the registration of IDD 0050 rate plan(s) ("Plan") as provided by the Company from time to time.

2. These terms and conditions shall be subject to the General Terms and Conditions of the Company and the Customer agrees to abide by all the terms and conditions stated therein as may be in force from time to time.

Unless otherwise provided, terms used herein bear the same meanings as per the General Terms and Conditions of the Company.

3. Customers who have successfully registered under any Plan shall be entitled to enjoy the rates provided hereunder for making outbound overseas voice calls and/or faxes through IDD 0050 in Hong Kong. The Company reserves the right to terminate any Plan at any time and/or vary the rates and all such applicable terms hereunder from time to time without prior notice and/or giving any reason therefore.

4. The Company shall normally take not more than 7 business days to process the registration of any plan. Unless otherwise agreed by the Company, any Plan shall not be used in the conjunction with other Plans or other special offers as may be offered by the Company from time to time. Successful registration of any Plan shall supersede all other Plans of IDD 0050 (if applicable) previously registered with the Company.

5. Customers may change to other Plan from time to time subject to the approval of the Company. The Company shall normally take not more than 7 business days to process the registration for change of Plans.

The effective date of such registration shall be subject to the billing cycle for that Customer in which the relevant Plan is successfully registered which shall supersede all Plans of IDD 0050 previously registered with the Company. The Customer agrees to be bound by those terms and conditions (as may from time to time be in force) of such Plan upon acceptance by the Company of the relevant registration.

6. The Customer agrees that unless otherwise expressly provided no unused "free minutes/hour/talk time" (if any) as specified in the Application, tariff or service plan selected by the Customer (or otherwise allotted to the Customer) may be carried forward to the following month and that no credit or refund is available in respect of any time when all or part of the Services are



inoperable, limited, suspended, or otherwise unavailable to the Customer.

7. The Company reserves all its right and final discretion to terminate the registration of any Plan of any Customer without giving any reason therefore. The decision of the Company shall be final and conclusive.

All rights and benefits incidental to the registration under any Plan shall cease immediately upon the termination of such registration for any reasons whatsoever.

8. "Business Day" means Mondays to Fridays in Hong Kong except public holiday.

9. Notices in relation to the Plan of IDD 0050 may be given to the Customers in any manner whatsoever as the Company considers appropriate.

10. In case of any dispute in relation to the Plan, the Company's decision shall be final and conclusive.