

1. Definitions

In this Agreement, the following words have the following meanings unless the context otherwise requires:

Acceptable Use Policy	means policies (if any), including Security Policy (if any), and rules (if any) as may from time to time be stipulated, amended or varied by PIHK Network, which govern the Subscriber's use of the Services;
Agreement	means the General Terms and Conditions herein, the Application Form, the Service Level Agreement (if any), the Acceptable Use Policy (if any), Security Policy (if any) and the Special Terms and Conditions (if any) of the Services as may from time to time be amended or varied by PIHK Network;
Applicable Law	means any constitution, law, statute, ordinance, act, regulation, rule, stipulation, instrument, decree, order, measure, notice, notification, judgment, common law, customary law, treaty and any other legislation or law, in each case of any jurisdiction whatever, as well as any present or future directive, regulation, request, requirement or program (in each case of any jurisdiction whatever and whether or not having the force of law, but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive is addressed) and "lawful" and "unlawful" shall be construed accordingly;
Application Form	means the Application Form executed by the Subscriber and PIHK Network, which specifies the Services to be provided by PIHK Network;
Charges	means all fees and charges payable by the Subscriber under this Agreement (including, without limitation, all installation charges, subscription fees, usage fees, deposits and other relevant fees and charges), which relate to the Subscriber's use of the Services;
Commencement Date	means earliest of: (i) the date when PIHK Network completes the installation of the Services and the Services are made available for use by the Subscriber; or (ii) the date when Subscriber signs or chops on the service completion form of PIHK Network; or (iii) the date when Subscriber starts using the Service; or (iv) the seventh day following PIHK Network notifying Subscriber that PIHK Network has successfully completed the service acceptance testing on the Service.
Data Centre	means the premises where PIHK Network provides Licensed Area for the Subscriber;
Denial of Service	means an explicit attempt by attacker to prevent legitimate users of a service from using that service;
Effective Date	means the date specified in the Application Form, upon which this Agreement becomes effective;
Equipment	means any telecommunications and other equipment (including, without limitation, any router or modem), whether owned by or leased to PIHK Network, provided by PIHK Network to the Subscriber in connection with the provision of the Services;
General Terms and Conditions	means the General Terms and Conditions herein of the Services as may from time to time be amended or varied by PIHK Network;
Group Companies	means PIHK Network and/or its subsidiaries and/or associated companies and/or any other company which is for the time being a holding company (ultimate or intermediary) of PIHK Network and/or any subsidiary of such holding company for the time being;
Hacking	means unauthorised use, or attempt to circumvent or bypass the security mechanisms of an information system or network;
Intellectual Property Rights	means all patents, trade marks, registered designs, design rights, applications for any of the foregoing, copyrights, trade or business names (including internet domain names and email address names), inventions, processes, know-how and other industrial property rights;
OFCA	means The Office of Communications Authority, Hong Kong;
PIHK Network	means PIHK Network Limited;
Password	means any password or similar device issued or provided by PIHK Network to the Subscriber or chosen by the Subscriber (as may from time to time be changed by the Subscriber in the manner stipulated by PIHK Network or otherwise changed by

PIHK Network), which relates to the Subscriber's use of the Service;

Phishing	means the act of sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft. The email directs the user to visit a website where they are asked to update personal information, such as passwords, credit card information, social security, and bank account information, that the legitimate organization already has. The website, however, is bogus and set up only to steal the user's information;
Security Attack	means any activities attempting to influence the confidentiality, integrity, availability and non-repudiation of the network systems. These activities may (i) interrupt access and use of the network systems; (ii) pretend as someone else to receive the confidentiality information; (iii) involve unauthorized access to and modification of third party's information, etc.;
Security Policy	means the policy (if any), as may be amended and varied from time to time by PIHK Network, prescribed by PIHK Network to enforce against any possible virus attacks, Security Attacks, Spam activities, Spyware attacks, Phishing, Spoofing, Hacking, Denial of Service and other security threats;
Services	means the provision of telecommunication and networking services, equipment supply and other related services elected by the Subscriber in the Application Form of the Services or requested by the Subscriber from time to time under this Agreement;
Service Level Agreement	means the Service Level Agreement (if any) entered into between the Subscriber and PIHK Network in relation to the agreed level of the Services;
Spam	means sending of unsolicited (single, bulk or commercial) junk messages, not limited to email, and postings without the recipient's prior request or consent;
Spoofing	means forging any person or systems to make it appear as it comes from somewhere or someone other than the actual source;
Spyware Attack	means an attempt to gather user information without the user's knowledge by means of software and transmission from network connection;
Subscriber	means the company or organisation identified on the Application Form of the Service whose application for the Services has been accepted by PIHK Network;
Subscriber Content	means all texts, words, names, likenesses, trademarks, logos, artwork, graphics, video, audio, HTML coding, domain names, email address names, image maps, links, software applications, or other content, material or software that appear on, or are uploaded to, the website(s) of the Subscriber or runs or hosted on the Subscriber's computers or the Equipment on behalf of the Subscriber;
Subscriber Equipment	means the software, computers, servers, racks and other equipment owned, licensed or leased by the Subscriber;
Subscriber Services	means the services (if any) supplied by the Subscriber to the Subscriber's customers incorporating the Services or any part thereof;
Subscriber Website	means the Subscriber's website(s) or the Subscriber's customer's website(s) (if any) hosted on the Equipment;
Suspension Administration Fee	means the administration fee, equivalent to one month subscription fee, payable by the Subscriber pursuant to Clauses 8.5 or 8.6 hereof;
System	means PIHK Network's connected system of servers used to host web sites together with all proprietary software and other coding developed by PIHK Network for provision of the Services to Subscriber; and
Special Terms and Conditions	means specific terms and conditions (if any) as applicable to the Services for the time being.

2. Scope of Agreement

PIHK Network agrees to provide the Subscriber, and the Subscriber agrees to subscribe from PIHK Network, the Services for the term of this Agreement and subject to and in accordance with the terms and conditions of this Agreement.

3. Commencement and Term

3.1 This Agreement shall take effect on the Effective Date.

3.2 Subject to Clauses 11.2, 11.3, 11.4 and 11.5 below, this Agreement shall be for an initial minimum term of twelve (12) months, or otherwise specified in the Application Form, from the Commencement Date (the "Initial Term") or otherwise stated. On expiration of the Initial Term, this Agreement shall continue in force until terminated pursuant to Clause 11 below.

3.3 Subject to Clause 3.4, the Subscriber may terminate this Agreement prior to the end of the Initial Term by giving PIHK Network not less than two (2) months' prior written notice.

3.4 In addition to any legal or equitable remedies available to PIHK Network, if this Agreement is repudiated or terminated by the Subscriber before the expiry of the Initial Term for any reason other than termination by PIHK Network pursuant to Clause 11.2 below or termination by the Subscriber pursuant to Clause 11.5 below, the Subscriber shall be liable to pay PIHK Network as liquidated damages a termination charge equal to all Charges covering the remaining period of the Initial Term, unless the Subscriber comes into an agreement with PIHK Network on a different basis of liquidated damages for early termination.

3.5 The Subscriber acknowledges that on early termination of the Services pursuant to Clause 3.3 hereof, PIHK Network will suffer loss arising from the provision of resources and staffing and that accordingly the Charges under Clause 3.4 hereof is not a penalty but represents a genuine pre-estimate loss, which PIHK Network will suffer.

4. Payment

4.1 In consideration for the provision of the Services, the Subscriber shall pay to PIHK Network the Charges stated on the bill statements of PIHK Network or notified or presented by PIHK Network to the Subscriber from time to time. Charges will begin to accrue as from the Commencement Date.

4.2 PIHK Network will issue bill statements for the Charges to the Subscriber by post, electronic mail and/or facsimile transmission. All Charges are due and payable the payment date as specified in the bill statement.

4.3 Notwithstanding the termination of this Agreement, PIHK Network shall be entitled to charge a late payment charge calculated at the rate of 1.5% per month accrued on a daily basis on any Charges not paid on or before the payment due date as stated in the bill statement therefore until such Charges has been paid in full.

4.4 PIHK Network may demand a deposit from the Subscriber to secure the Subscriber's payment of any sum due to PIHK Network and may at any time vary such deposit's amount at

PIHK Network's sole discretion. PIHK Network may apply such deposit to reduce or pay any sums due by you to PIHK Network on whatsoever account at any time. No interest shall accrue on any deposit held by PIHK Network. Any deposit remaining following the termination of this Agreement shall be returned to the Subscriber after deducting any such sums due to PIHK Network following termination of this Agreement.

4.5 In case of disputes over any usage of the Services or the Charges, PIHK Network's usage records and those of any third party supplier or service provider in providing the Services shall be conclusive evidence of all such usage of the Services or Charges.

4.6 Without prejudice to Clause 4.3 above, any queries regarding a bill statement must be raised within thirty (30) days of the date of the bill statement. The above dispute period shall not be applicable to those invoices that are due immediately and the Customer hereby irrevocably waives its rights to raise any queries/disputes in respect of those immediately due invoices.

4.7 The Subscriber shall pay all taxes (including any goods service tax or any equivalent hereto), duties, stamp duties, impost, levies or government charges relating to this Agreement and the Services. If the Subscriber is required by law to make any deduction or withholding from any amount payable to PIHK Network under or in relation to this Agreement then the amount paid by the Subscriber shall be increased such that PIHK Network receives the full amount specified under this Agreement net of such deduction or withholding.

5. Credit Limit

PIHK Network may impose a credit limit for the account of the Subscriber as determined by PIHK Network from time to time at its absolute discretion. Should any Charges exceed such credit limit, PIHK Network shall be entitled to suspend or terminate the provision of the Services in whole or in part to the Subscriber until full payment of the outstanding Charges of the Services.

6. Obligations of PIHK Network

6.1 PIHK Network will during the term of this Agreement provide the Services to the Subscriber in accordance with the terms and conditions of this Agreement. PIHK Network will use its reasonable endeavours to install and provide the Services within the agreed timescales (if any). However, such time scales are estimates only and PIHK Network will in no event be liable for any costs, charges, losses or expenses of any kind arising out of any delays in meeting such timescales.

6.2 PIHK Network will provide the Services only at the premises at which the Equipment is installed by PIHK Network. PIHK Network shall not be liable for any loss or damage of whatever kind by reason of any delay in the delivery or installation of the Equipment.

6.3 PIHK Network will comply with the Service Level Agreement (if any) of the Services for the time being as agreed with the Subscriber. PIHK Network may at any time and at its absolute discretion amend or vary the terms of the Service Level Agreement (if any) of the Services by giving the Subscriber not less than thirty [30] days' prior written notice of such amendments or variations. By continuing to use the Services without making objection to such amendments or variations within thirty [30] days of such notice, the Subscriber is deemed to accept the same. For the purpose of this Clause, publication or posting of such amendments or variations by PIHK Network or by email to the Subscriber shall constitute written notice. The revised or amended terms will take effect when they are published by PIHK Network.

6.4 PIHK Network will grant to the Subscriber a non-exclusive and non-transferable licence (if any) for the Subscriber to store, run and use the software on the Subscriber's computer or the Equipment in accordance with the terms and conditions of this Agreement and the software licence which accompanies the software but not further or otherwise. Except to the extent permitted by law, Subscriber shall not alter, modify, adapt or translate the software nor decompile, disassemble or reverse engineer the same nor attempt to do any such thing.

6.5 PIHK Network will comply with the terms of its Personal Information Collection Statement and the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) in dealing with the personal data of any of the Subscriber's employees which it collects.

7. Obligations of the Subscriber and Subscriber Warranties

7.1 The Subscriber shall allow personnel of PIHK Network or its agents to have full and complete access to the premises of the Subscriber for the purposes of installing and providing the Services or any of them. The Subscriber shall at its own cost prepare the installation site and make all other necessary preparations in accordance with PIHK Network's specifications.

7.2 The Subscriber shall provide PIHK Network with all necessary co-operation, information, equipment, data and support which PIHK Network may reasonably require for the provision of the Services at such times as PIHK Network requests.

7.3 The Subscriber shall not, and warrants and undertakes that it will not, use the Services, the Equipment and the Subscriber Equipment (if applicable) to infringe any Intellectual Property Rights of any third party or to copy, reproduce, distribute, publish or otherwise transmit any unsolicited advertising or promotional material or any material which is obscene, indecent, seditious, offensive, defamatory or discriminatory or the publication or distribution of which is in breach of the confidence of PIHK Network or any third party.

7.4 The Subscriber shall not, and warrants and undertakes to PIHK Network that it will not, use or allow others to use the Services to circulate, publish, transmit, distribute any unsolicited advertising or promotional information or any content that is seditious, obscene, defamatory,

indecent, threatening, offensive, liable to incite racial hatred, discriminatory, menacing or in breach of confidence or any Applicable Law which infringes the privacy of an individual or may cause PIHK Network in breach of any Applicable Law.

7.5 The Subscriber warrants and undertakes to PIHK Network that at all times when using the Services or the Equipment comply with all Applicable Law, the Acceptable Use Policy (if any) and the Security Policy (if any).

7.6 The Subscriber shall not, and warrants and undertakes to PIHK Network that it will not, use or other to use the Services for junk mail, chain letters, Spamming, Spyware or the transmission of any unlawful material of any kind or nature.

7.7 The Subscriber shall not, and warrants and undertakes to PIHK Network that it will not, cause or allow others to cause any Security Attack on the System.

7.8 The Subscriber shall not, and warrants and undertakes to PIHK Network that it will not, act or allow others to act in such a way that may jeopardize or impair the provision of the Services by PIHK Network in Hong Kong or any other parts of the world.

7.9 The Subscriber warrants and undertakes to PIHK Network that: –

7.9.1 the Subscriber is the owner, valid licensee, lessee or authorized user of the Subscriber Content, the Subscriber Equipment (if applicable) and each element thereof;

7.9.2 the use of the Subscriber Content or the Subscriber Equipment (if applicable) will not infringe the Intellectual Property Rights of any third party, or constitute unfair competition, a defamation, invasion of privacy, or violation of any right of publicity or other third party right, or be misleading;

7.9.3 no part of the Subscriber Content, the Subscriber Equipment (if applicable) or the Subscriber Service is or will be in breach of any Applicable Law;

7.9.4 no part of the Subscriber Content or the Subscriber Service or the Subscriber Website incites or will incite hatred or discrimination against any group of persons being a group defined by reference to colour, race, sex, gender, origin, nationality or ethnic or national origins;

7.9.5 no part of the Subscriber Content or the Subscriber Service or the Subscriber Website denounces or will denounce religious or political beliefs;

7.9.6 no part of the Subscriber Content or the Subscriber Service or the Subscriber Website is or will be indecent, obscene, seditious, harassing, abusive, threatening,

harmful, vulgar, pornographic, offensive or of doubtful propriety, likely to encourage crime, public disorder, violence or hatred or likely to damage public health, safety or morals;

7.9.7 the Subscriber Content and the Subscriber Equipment (if applicable) shall be free from viruses, worms, Trojan horses, and other malicious code;

7.9.8 the use of the Subscriber Website by itself, or any other third party, conforms to general standards of behavior for the internet, including but without limitation to, as set out in the Acceptable Use Policy (if any);

7.9.9 the Subscriber is, and at all times will be, able to grant to PIHK Network the licenses and other rights contemplated by this Agreement; and

7.9.10 the Subscriber has disclosed and will disclose to PIHK Network any actual, threatened or potential litigation in which the Subscriber has become or may be involved in relation to the Subscriber Content, the Subscriber Equipment, the Subscriber Service or the Subscriber Website.

7.10 The Subscriber's right to use the Services is personal to the Subscriber. The Subscriber shall not license or lease or permit or purport to license or lease the use of the Services or permit any third party to use the Services, whether or not for financial or other consideration unless the Subscriber comes into a specific agreement with PIHK Network thereto. If the Subscriber designates more than one permitted user of the Services within its organization, the Subscriber shall bring the provisions of this Agreement to the attention of each permitted user and shall procure that each permitted user shall comply with the provisions of this Agreement. The Subscriber shall be responsible for use of the Services by its permitted users and the indemnity given in Clause 14.1 below shall extend to all such use of the Services.

7.11 The Subscriber shall at its own expense maintain and keep all Equipment in good condition. The Subscriber shall indemnify PIHK Network for any damage to the Equipment upon demand.

7.12 The Subscriber shall keep the PIN and/or Password confidential and be responsible for any and all use of the Services to which the Subscriber's PIN and/or Password is or are used. If the Subscriber becomes aware of any unauthorized access to the Services by any person who has used its PIN or Password without its permission, or if the Subscriber believes that its PIN or Password has been lost or stolen, the Subscriber shall immediately notify PIHK Network and the Subscriber shall be liable for all Charges and cost incurred until the Services is being suspended by PIHK Network. PIHK Network shall not be liable for any loss or damage which the Subscriber

incurred by reason of any unauthorized access to the Services or any authorized use of its PIN or Password.

7.13 The Subscriber shall notify PIHK Network in writing as soon as practicable of any changes of Subscriber's information, including without limitation to office address and contact telephone number for the purpose of enabling PIHK Network to provide or continue to provide the Services to the Subscriber.

7.14 The Subscriber authorizes PIHK Network or grants PIHK Network the consent to use any of the Subscriber's information or personal data as defined in the Personal Data (Privacy) Ordinance (Cap.486) for the purpose of processing the registration and for the provision of the Services and any other services provided by PIHK Network for the time being (if any). The Subscriber also authorizes PIHK Network to transfer such information to any Group Companies and any agent, contractor or third party service provider for the purposes of credit verification, administration, data processing, customer services or otherwise to perform its obligations or enforce its rights under this Agreement, or for any other purpose incidental to or in contemplation thereof.

7.15 The Subscriber authorizes PIHK Network or grants PIHK Network the consent to access or examine the Subscriber Content, and at PIHK Network's absolute discretion, remove or disable access to the Subscriber Content and the Subscriber Website, which PIHK Network considers in its sole opinion to have had in breach of the Applicable Law or the Acceptable Use Policy (if any) or the Security Policy (if any).

7.16 Subscriber shall comply with the General Terms and Conditions, Special Terms and Conditions, Acceptable Use Policy (if any), and Security Policy (if any) of the Services as published by PIHK Network. PIHK Network may at any time and at its absolute discretion amend or vary the terms of the General Terms and Conditions, Special Terms and Conditions, Acceptable Use Policy (if any) and Security Policy (if any) of the Services by giving the Subscriber not less than thirty [30] days' prior written notice of such amendments or variations. For the purpose of this Clause, publication or posting of such amendments or variations by PIHK Network or by e-mail to the Subscriber shall constitute written notice. The revised or amended terms will take effect when they are published by PIHK Network.

7.17 The Subscriber shall comply with the terms and conditions of the software licences granted by PIHK Network to the Subscriber and shall indemnify PIHK Network against all claims, actions, expenses, losses and liabilities arising from a breach or non-observance of any term or condition of such software licences.

7.18 If for any reason PIHK Network is unable to provide the Services (or any part thereof), the Subscriber hereby authorizes PIHK Network (i) to apply and obtain on behalf of the

Subscriber and in the Subscriber's name the relevant Services (or part thereof) from the affiliates and/or business partners of PIHK Network (as the case may be); and (ii) to invoice and collect fees from the Subscriber for that Services (or part thereof) on behalf of the affiliates and/or business partners of PIHK Network.

8. Suspension of Services

8.1 PIHK Network may at its absolute discretion, without terminating this Agreement and without liability, immediately suspend part or all of the Services at any time until further notice if:

8.1.1 PIHK Network is permitted to terminate this Agreement under Clause 11.3 or 11.4. below; or

8.1.2 the Subscriber fails to make any payments due to PIHK Network under this Agreement; or

8.1.3 PIHK Network is obliged to comply with an order, instruction or request of government, regulatory body or other competent authority; or

8.1.4 PIHK Network reasonably suspects that the Subscriber is in breach of, or will breach the Acceptable Use Policy (if any) or Security Policy (if any); or

8.1.5 PIHK Network reasonably believes or suspects that the provisions of the Services would cause PIHK Network to contravene any Applicable Law or breach this Agreement; or

8.1.6 PIHK Network is in the reasonable opinion of PIHK Network believed it is necessary to suspend the Services in order to reduce or prevent fraud or interference with the Services; or

8.1.7 PIHK Network needs to maintain or upgrade the System (in which case PIHK Network will give the Subscriber notice where practicable in the circumstances); or

8.1.8 PIHK Network needs to repair a fault in the System as a result of any unplanned outage, downtime or other reasons beyond PIHK Network's control (in which case the Subscriber acknowledges that PIHK Network may not be able to give the Subscriber any notice).

8.2 PIHK Network shall not be liable to the Subscriber, or any person claiming through the Subscriber, in contract, tort or otherwise (including negligence) for any loss or damage arising from suspension of the Services under this Agreement.

8.3 If PIHK Network suspends such Services due to any event in Clause 8.1.1 above,

8.3.1 this shall be without prejudice to any other remedy available to PIHK Network under this Agreement and does not constitute a waiver of PIHK Network's right to terminate this Agreement later in respect of the same or any other event; and

8.3.2 the Subscriber shall, in addition to paying all overdue Charges, be liable to pay PIHK Network a reactivation fee as may be notified by PIHK Network from time to time to restore or reactivate such Services; and

8.3.3 the Subscriber acknowledges that restoration or reactivation of the Services may take up to thirty [30] days after receipt by PIHK Network of payment of the reactivation fee and all overdue Charges.

8.4 Without prejudice to PIHK Network's rights to terminate this Agreement earlier pursuant to other clauses of this Agreement (including, without limitation, clause 11.5.1), PIHK Network shall be entitled to terminate this Agreement if the Services are suspended pursuant to clause 8.1 above for more than 10 days.

8.5 For the Subscriber who continues using or subscribing the Services after the expiration of the Initial Term, the Subscriber shall be liable to pay PIHK Network the Suspension Administration Fee if PIHK Network exercises its right to terminate this Agreement in accordance with Clauses 8.4, only to the extent when the suspension is made pursuant to Clauses 8.1.1 (only apply to termination made under Clause 11.3), 8.1.2, 8.1.4, 8.1.5 or 8.1.6.

8.6 PIHK Network shall be entitled to charge the Subscriber Suspension Administration Fee if PIHK Network exercises its right to terminate this Agreement in accordance with Clauses 8.4, only to the extent when suspension is made pursuant to Clauses 8.1.1 (only apply to termination made under Clause 11.3), 8.1.2, 8.1.4, 8.1.5 or 8.1.6, on the last one month prior to the expiration of the Initial Term.

9. Intellectual Property

The Subscriber warrants that it holds all necessary or desirable rights, licences and other permissions in respect of all contents which it uploads to the Internet. The Subscriber hereby grants to PIHK Network a non-exclusive and royalty free licence for the term of this Agreement to reproduce, publish, copy, transmit and otherwise use such contents for the purpose of providing the Services.

10. Service Cancellation before Commencement Date

If the Subscriber cancels or terminates the Service before Commencement Date for any reason, the Subscriber shall be liable to pay PIHK Network as liquidated damages a sum equals to one month subscription fee of the Service and any extra costs incurred by PIHK Network for such cancellation.

11. Termination

11.1 The Subscriber may at any time after the expiry of the Initial Term terminate this Agreement by giving not less than two (2) months' prior written notice to PIHK Network.

11.2 PIHK Network may terminate this Agreement at any time by giving not less than one (1) month's prior written notice to the Subscriber.

11.3 PIHK Network may at any time terminate this Agreement forthwith on notice to the Subscriber if the Subscriber is in breach of Clause 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10 or 7.16 above.

11.4 PIHK Network may terminate this Agreement without prior written notice if the licence held by PIHK Network issued by OFCA under the Telecommunications Ordinance expires or is cancelled, suspended, revoked or terminated.

11.5 Without prejudice to any other rights or remedies it may have (whether under this Agreement or at law), either party may terminate this Agreement immediately by serving written notice on the other if:

11.5.1 the other party commits a breach of any material obligation under this Agreement and, in the case of a remediable breach, fails to remedy the breach after receiving fourteen[14] days' written notice to do so. For these purposes, a failure by the Subscriber to pay any Charges within five [5] days after they become due will constitute a material breach; or

11.5.2 the other party becomes Insolvent.

11.6 In this Clause, "Insolvent" means the appointment of, or the application to a court for the appointment of, a liquidator, provisional liquidator, receiver or manager to that party, the entering into a scheme of arrangement or composition with or for the benefit of that party's creditors generally, any reorganisation, moratorium or other administration involving the creditors or any class of the creditors of that party, a resolution or proposed resolution to wind up that party, or that party becoming unable to pay its debts, or being deemed to have become unable to pay its debts, as and when they fall due within the meaning of Section 178 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap.32).

12. Consequences of Termination

12.1 Termination of this Agreement will not relieve either party of any liability for breach of this Agreement or as may otherwise be established.

12.2 The provisions of, including but not limited to, Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of this Agreement will continue in force despite the termination of this Agreement.

12.3 Within not more than thirty [30] days after termination of this Agreement for any reason, the Subscriber shall give personnel of PIHK Network or its agents full and free access to its premises to repossess any Equipment and software provided by PIHK Network. The Subscriber will return Equipment to PIHK Network in the same condition in which it was provided to the Subscriber (fair wear and tear excepted).

12.4 The Subscriber acknowledges that PIHK Network shall be entitled to pass the Subscriber's information to its debt collection agents if PIHK Network terminates this Agreement as a result of the Subscriber's failure to pay any Charges due to PIHK Network under this Agreement.

13. Limitation of Liability

13.1 Nothing in this Agreement will exclude or restrict either party's liability for death or personal injury resulting from its negligence or for fraud that of its employees while acting in the course of their employment.

13.2 Subject to Clause 13.1 above, PIHK Network's liability in contract, tort or otherwise (including negligence) however arising out of or in connection with this Agreement will be limited to the supply or resupply of the Services. In any event PIHK Network's liability in respect of any one or more incidents not exceed the total Charges received by PIHK Network from the Subscriber in the month in which the incident occurs.

13.3 Subject to the express terms of this Agreement PIHK Network will not be liable to the Subscriber for any indirect or consequential loss, whether arising from negligence, breach of contract or tort (including but not limited to negligence) or under any statutes or legislations or otherwise, or for any loss of revenue, profits, goodwill, business, contracts or data, or for any anticipated savings, business interruption or downtime incurred or suffered by the Subscriber, whether or not PIHK Network was made aware of the possibility of such loss or damage occurring or should have been aware of that possibility.

13.4 To the extent permitted by law, PIHK Network, its Group Companies and any third party service provider of the Services, together with their respective directors, employees or agents expressly disclaim any liability for:

13.4.1 any representation or warranty, whether express or implied under or in relation to this Agreement, relating to the performance of its obligations under this Agreement or any activity contemplated by this Agreement;

13.4.2 any damage to or loss of data, voice or other information arising from the Subscriber's use of the Services, software or Equipment;

13.4.3 any claim based on contract, tort, or otherwise for any direct or indirect loss of revenue, profits or any consequential loss whether of an economic nature or any such loss which the Subscriber suffers as a result of any error, inaccuracy or computer virus in or introduced into the Subscriber's computer system or other devices by, through or in connection with the use of the Services, software or Equipment;

13.4.4 any claim relating to the Services and/or any content, software or Equipment supplied, provided, sold or made available by or through the Services (or any failure or delay to so supply, provide, sell or make available);

13.4.5 any disruption or suspension or degradation of the Services or any part thereof;

13.4.6 any damage which is attributable to an event or circumstance beyond PIHK Network's control ("Force Majeure Event"). A Force Majeure Event includes but is not limited to acts of God, war, civil disobedience, explosion, fire, flood, governmental action, legislation not in force at the time of this Agreement, restraints imposed by government or any other regulatory authorities, labour disputes, trade disputes or delays of third parties over which PIHK Network has no control.

14. Indemnities

14.1 The Subscriber shall indemnify PIHK Network, and keep PIHK Network indemnified, from and against any and all actions, claims, costs (including but not limited to legal costs), losses, damages and expenses arising out of the Subscriber's use of the Services or relating to the Subscriber's breach of any term of this Agreement or warranties and undertakings under this Agreement.

14.2 The Subscriber shall indemnify, and keep PIHK Network indemnified, from and against all claims, proceedings and costs (including legal costs) arising from or any part of the Subscriber Website, the Subscriber Equipment, the Subscriber Service and the Subscriber Content, including but not limited to, infringement or alleged infringement of any third party Intellectual Property Rights, defamation or misappropriation of trade secrets, by reason of PIHK Network's provision of the Services.

15. Warranties

15.1 No warranties or representation are given by PIHK Network in relation to the Services or the use thereof by the Subscriber and PIHK Network gives no guarantee of end to end bandwidth capacity or availability on the Internet. To the extent permitted by law, PIHK Network excludes all

implied warranties including, without limitation, as to quality and fitness for purpose of the Services.

15.2 No oral or written information given by PIHK Network, its employees, affiliates, or agents shall create a warranty or binding representation. The Subscriber acknowledges that it has not and will not rely on such information.

16. Assignment

The Subscriber shall not assign its rights under this Agreement, in whole or in part, without the prior written consent of PIHK Network. PIHK Network may assign its rights under this Agreement at any time.

17. Notices

17.1 Any notice, bill statement or other document which may be given by either party under this Agreement will be deemed to have been duly given if left at or sent by prepaid post, facsimile transmission or electronic mail to the other party's registered office or any other address (including an electronic mail address) notified in writing in accordance with this Clause as an address to which notices, bill statements and other documents may be sent.

17.2 Any such communication will be deemed to have been received by the other party on the day of delivery (if left), three (3) days after the date of posting (if sent by prepaid post), one (1) day after the date of transmission (if sent by facsimile) and on the date on which the message is received in the recipient's electronic mailbox (if sent by electronic mail).

18. Waiver

Failure or delay by PIHK Network to enforce any of its rights under this Agreement or the giving of additional time for performance or other indulgence is not a waiver of such right unless PIHK Network acknowledges the waiver in writing, nor will any single or partial exercise of any right or remedy preclude any further exercise of the same or the exercise of any other right. No waiver of any particular breach of the provisions of this Agreement will operate as a waiver of any repetition of such breach.

19. Severability

If any provision of this Agreement is found to be unenforceable or illegal, it shall be severed from this Agreement and will not affect the enforceability of the remainder of this Agreement. In this event the parties will use reasonable endeavours to agree any lawful and reasonable changes to this Agreement which may be necessary to effect as closely as possible the commercial intent of this Agreement.

20. Amendments

PIHK Network may at any time and at its absolute discretion amend or vary the terms of this Agreement, the Services provided under this Agreement and any Charges therefore by giving the Subscriber not less than thirty [30] days' prior written notice of such amendments or variations. By continuing to use the Services without making any objection to such amendments or variations within thirty [30] days of such

notice, the Subscriber is deemed to accept the same. For the purposes of this Clause, publication or posting of such amendments or variations by PIHK Network or by e-mail to the Subscriber shall constitute written notice.

21. Entire Agreement

This Agreement represents the entire agreement between the parties in relation to the subject matter herein, and supersedes all prior agreements between the parties whether oral or written.

22. Others

22.1 These terms and conditions shall be subject to the Special Terms and Conditions (if any) of the Service and if there is any inconsistency between them, such Special Terms and Conditions shall prevail to the extent of such inconsistency.

22.2 PIHK Network shall not be a party to any transaction made by the Subscriber and any third party through the use of the Services.

22.3 Neither party is an agent, joint venturer or partner with the other, and neither party shall have authorities to legally bind the other in any manner.

23. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region ("Hong Kong"). The parties submit to the exclusive jurisdiction of the courts of Hong Kong.

This version is effective as of 18 February 2016.