

## **SPECIFIC TERMS AND CONDITIONS OF SALE FOR IPLC, IEPL AND DPLC SERVICE**

### **1. Contract with SELLER**

Together with the Master Services Agreement (the "Agreement"), these Specific Terms and Conditions of Sale for IPLC, IEPL and DPLC and any additional attachments, if any, which will be deemed an integral part hereof for all purposes, when attached to or referenced in an Order Form (as defined in the Agreement) properly filled out and duly executed by BUYER and SELLER, will constitute an agreement entered between BUYER and SELLER for the provision of SELLER's IPLC, IEPL & DPLC Service (for purposes of this Annexure, the "IPLC, IEPL & DPLC Service" or the "Service").

### **2. Service Overview**

The IPLC, IEPL and/or DPLC Service provides BUYER with capacity on IPLC, IEPL and/or DPLC between Service Locations as specified in the Order Form.

### **3. Service From Third Party**

Where Service is terminated Off-Net, BUYER will provide SELLER with circuit facility assignment, firm order commitment and the design layout records necessary for SELLER to make cross-connections to the Off-Net carrier.

### **4. Definitions**

- 1) "CLS" means Cable Landing Station.
- 2) "CMCC" means China Mobile Communications Group Co., Ltd., a company incorporated in China and having its registered address at 28 Jinrong Avenue, Xicheng District, Beijing, 100032.
- 3) "DPLC" means Domestic Private Leased Circuit.
- 4) "IEPL" means International Ethernet Private Line.
- 5) "Initial Term" means the term specified in the Order Form.
- 6) "IPLC" means International Private Leased Circuit.
- 7) "MPOE" means minimum point of entry.
- 8) "Off-Net" means Service *not* provided on the connection to network owned (or operated and controlled) by SELLER / CMCC between two locations.
- 9) "On-Net" means Service provided on the connection to network owned (or operated and controlled) by SELLER / CMCC between two locations that are served directly by SELLER / CMCC owned (or operated and controlled) fiber and SELLER / CMCC owned equipment.
- 10) "POP" means point-of presence.
- 11) "Protected" means any Service designated as such in the Order Form. Protected Services generally include a protection scheme that allows traffic to be re-routed in the event of a fiber cut or equipment failure. Services which are not Protected are "Unprotected".

- 12) "Ready for Service Date" means the date on which the Parties agree to place IPLC, IEPL and/or DPLC into operation for the Service.
- 13) "Terms of Acceptance" means the Terms of Acceptance for Accessing the Telecommunications Network as attached hereto.
- 14) "Unavailability" means: (i) for ethernet private lines, ethernet port downtime, and (ii) for non-ethernet private lines, a break in transmission measured from the first of ten (10) consecutive severely erred seconds ("SESS") until the first of ten (10) consecutive non-SESSs, where an SES is a second with a bit error ratio of greater than or equal to 1 in 1000.

## **5. Term**

- 1) An accepted Order Form between BUYER and SELLER for a Service will commence and remain in force until the end of the specified term for such Service unless terminated earlier. BUYER must specify an Initial Term for each Service in the Order Form which shall be at least one (1) year's period. If no Initial Term is specified, the Initial Term shall be at least one (1) year. The Initial Term will commence on the Service Commencement Date.
- 2) Upon expiry of the Initial Term, the Service will be automatically renewed on a monthly basis unless and until terminated by either Party at any time during its renewed tenure by giving not less than one (1) month's prior written notice of termination to the other Party.

## **6. Service Pricing**

- 1) Initial Charge: (i) IPLC / IEPL / DPLC installation charges; (ii) other non-recurring charges applicable to the Service.
- 2) Monthly Service Charge: (i) IPLC / IEPL / DPLC monthly service charge, a fixed monthly amount charged by SELLER for the committed bandwidth specified in the Order Form ("IPLC / IEPL / DPLC Monthly Service Charge") and (ii) other monthly service charges applicable to the Service, if any, which will be specified in the Order Form.
- 3) Off-Net Service Charge: additional charges may apply to either the Off-Net component or in the case of MPOE extensions as specified in the Order Form.
- 4) In addition to Monthly Service Charge, Initial Charge and Off-Net Service Charge, BUYER may incur additional non-recurring charges including: (i) any non-recurring charges imposed by local access providers in connection with Service reconfigurations or cancellations; (ii) Service upgrade or modification; (iii) Service cancellation or disconnection; and (iv) miscellaneous additional charges to the extent that SELLER's extra services to install, upgrade, modify or disconnect any aspect of the Service due to BUYER's delay or default.

## **7. Service Level**

- 1) SELLER shall use all commercially reasonable endeavors to maintain the Protected On-Net POP-to-POP or CLS to CLS service level ("Service Level") on service availability ("Service Availability") at 99.9% per month.
- 2) SELLER shall use all commercially reasonable endeavors to offer the Unprotected On-Net POP-to-POP or CLS to CLS Service Level on Service Availability at 99.5% per month.
- 3) SELLER shall use all commercially reasonable endeavors to maintain the Mean Time to Restore ("MTTR") within 4 hours.
- 4) Service Availability is measured and calculated monthly for the Service as a percentage based on the following formula:

$(A - B) / A = \text{Service Availability}$ , where:

A = the total number of minutes in the relevant month;  
 B = the total number of minutes of the duration of Unavailability of that month.

## 8. Service Credit Claim

- 1) If an IPLC, IEPL or DPLC is not installed by the Ready for Service Date for reasons other than an excused outage, BUYER shall be entitled to one (1) Day's IPLC / IEPL / DPLC Monthly Service Charge for each day of delay beginning after the first five (5) Working Days, capped at thirty (30) Days.
- 2) If SELLER fails to meet the Service Availability for any relevant month, SELLER shall pay a service credit to BUYER calculated in accordance with the table below and paid in accordance with Paragraph 8(5) of this Annexure ("Service Credit"). The amount of the Service Credit will be calculated by multiplying the Service Credit Percentage as listed in the table below by the IPLC / IEPL / DPLC Monthly Service Charge.

Duration of Unavailability (Monthly)	Service Credit Percentage
>44 minutes – 4 hours	2%
>4 hours – 8 hours	3%
>8 hours – 12 hours	5%
>12 hours	10%

Service credit for protected service

Duration of Unavailability (Monthly)	Service Credit Percentage
3hours 36 minutes > duration $\leq$ 8 hours	2%
8 hours > duration $\leq$ 12 hours	3%
12 hours > duration $\leq$ 16 hours	5%
duration > 16 hours	10%

Service credit for unprotected service

- 3) The total Service Credit for a failure to meet the Service Availability in any month shall not exceed 10%.
- 4) BUYER shall notify SELLER in writing of any alleged failure to meet the Service Level promptly and not more than thirty (30) Days after the end of the month in which the alleged failure occurred.
- 5) The Service Credit shall be paid not more than sixty (60) Days after the end of the month in which the alleged failure occurred.

## 9. BUYER Responsibilities

- 1) In addition to BUYER's other obligations under the Agreement (including those in Clause 10 of the Agreement), BUYER and its customers shall comply with SELLER's acceptable use and security policies and the Terms of acceptance. SELLER may modify such policy at any time.

## 10. Exclusions

- 1) BUYER shall not be entitled to a Service Credit in respect of failure to meet the Service Level where the failure is due to any of the events covered by the exclusions listed as follows:
  - i. scheduled maintenance or any other interruptions or service changes agreed in advance in writing to the other Party at least five (5) Days in advance of the scheduled maintenance (except for emergency situation that is or is reasonably likely to have an material impact on the Service, the Party will notify the other Party as soon as reasonably practicable of any emergency work);
  - ii. On-Net local or Off-Net international BUYER access circuits;
  - iii. failure or fault of application, equipment or facilities located on BUYER's premises supplied by SELLER unless it is caused or given rise by any act or omission by SELLER and failure or fault of the BUYER's applications, equipment or facilities wherever located;

- iv. acts or omissions of BUYER or its agents, subcontractors or employees or any user of the Service authorized by BUYER;
- v. major cable fault caused by negligence or default of third parties;
- vi. any act or omission by BUYER, its employees, agents, or contractors over which BUYER exercises control including failure to comply with and observe SELLER's procedures or service guides or unavailability of relevant BUYER's personnel at times necessary for testing or connection of the Service;  
or
- vii. any Force Majeure Events.