



**Installation of Radio Base Station
in respect of Mobile Network Phone for
Public Telecommunication Services (2G/3G)
in buildings and/or rooftops**

Licences have been granted by Director-General of Telecommunications to some Public Telecommunication Services (PTS) operators to provide 2G/3G mobile phone services in Hong Kong.

2. To establish the 2G/3G mobile phone services, PTS operators have to install radio base station in buildings and/or their rooftops. Approvals from the Office of Telecommunication Authority (OFTA), Town Planning Board, Buildings Department and Lands Department may be required to allow for such installation.

3. As far as Lands Department is concerned, the installation of a radio base station in any buildings held under leases which could not be used for commercial purpose (i.e. private residential or industrial purposes) would be in breach of the terms of the lease conditions since such installation and equipment are considered to be commercial in nature. In such circumstances, a waiver is required to cover such radio base station. Apart from the user, such waiver would also cover other aspects of any consequential breaches as the case maybe, i.e. gross floor area, height and etc.

4. Application for grant of waiver must be submitted to the respective District Lands Officers by the owners of the concerned premises accompanied with two sets of the following (all should be certified either by the Land Registry or by the solicitor acting for the applicant):

- a) a computer printout containing the current ownership particulars of the premises concerned; and
- b) complete copy of the Government land grant (including all modifications and attachments thereto) affecting the concerned premises.

The applicant should also submit details of the proposed PTS installation including sizes of equipment room/shelter and number of antennas for the proposed PTS.

/....

5. In processing such applications, streamlined procedures will be introduced such that waivers of this nature would normally be issued not more than 2 months from the date of receipt of a valid application. Such waiver would be issued in a form of letter similar to the sample letter attached at App. I and would be subject to annual fees to be assessed in accordance with the following rates: -

i)	Station area not exceeding 5m ² with 6 antennas	\$56,700
ii)	Each additional antenna	\$9,450
iii)	Additional area	\$693/m ²

6. For the avoidance of doubt, it should be noted that radio base stations within industrial buildings will be subject to fees to be assessed according to rates as stipulated in Practice Note Issue No. 5/2001 with each additional antenna charged at \$9,450 per annum, whereas for radio base station at rooftops of industrial buildings, the rates as stipulated in para. 5 above will apply. The above rates are subject to review from time to time as the Government shall at its discretion consider appropriate.

7. It should also be noted that the sample letter at App. I is provided for reference purposes only and the actual terms and conditions of the waiver will be determined depending on circumstances of individual cases. Furthermore, the waiver letter issued under this streamlined procedures will only cover the lease aspects of the concerned premises. Owners/PTS operators should separately approach the other concerned Departments and authorities regarding any other approval that may be required and the compliance with any Ordinances, by-laws or regulations that are currently in force.

(Patrick L.C. LAU)
Director of Lands
16 October 2002

Appendix I

This letter shall only be used for reference purposes. District Lands Officer when considering applications may modify the letter and its conditions depending on individual circumstances.

[Waiver Letter for *(2G/3G Mobile Phone Radio Base Station/Local Multipoint Distribution System)]

*() Delete as appropriate

BY RECORDED DELIVERY

Dear Sirs,

No. of Undivided shares of and in
(Lot No. and address)

I have to inform you that in consideration of your payment to the Government of the Hong Kong Special Administrative Region (hereinafter referred to as "the Government") of an annual waiver fee in the manner as mentioned hereinafter and an administrative fee and Land Registry registration fee amounting to \$ _____ and \$ _____ (the receipts whereof are hereby acknowledged), the Government has approved and I hereby grant on behalf of the Chief Executive a temporary waiver (hereinafter referred to as "the waiver"), subject to the terms and conditions set out below, of the restriction contained in the *[Lease/Special Condition No. Δ of Conditions of _____] as varied or modified by a letter dated the _____ day of _____ (hereinafter referred to as "[the Lease/the Conditions]") under which the abovementioned lot is held, so as to permit the use of the premises more particularly delineated and described on the plan(s) annexed hereto and thereon shown coloured pink (hereinafter referred to as "the Premises") @[forming part of the property set out in the caption above] for the purpose of *{radio base station for 2G/3G mobile phone services (hereinafter referred to as "the Station")/local multipoint distribution system (hereinafter referred to as "the Local Multipoint Distribution System")}. The waiver is granted subject to the following terms and conditions :-

*[] Delete as appropriate

Δ (Insert user/development (e.g. g.f.a./site coverage/height) conditions as appropriate)

@[] Insert where the Premises only form part of the captioned property
*{ } Delete as appropriate

*[] Insert if appropriate

(1) Subject to paragraph Nos. 1(9), 1(10), 1(11) and 1(15) hereof, the waiver shall be for a fixed term of three years commencing on the _____ day of _____ *[and thereafter annually], subject to the payment of the appropriate annual waiver fee stipulated below.

*[] Delete as appropriate

(2) You shall not erect or allow to remain on the Premises any structure or installation (other than those specified below). In connection with the use of the Premises for the purpose of *[the Station/the Local Multipoint Distribution System], you may erect within the Premises

#To be used in Local Multipoint Distribution System

@ [] Insert the actual proposed sizes of units. When the proposed sizes are larger than the figures provided in [], DG of Tel should be consulted.

* Delete as appropriate

#(a) a maximum of four antennae (including the integrated hub outdoor unit) (hereinafter referred to as "the Antennae") with each of the Antennae not exceeding @ [2.5] metres in height, @ [0.6] metres in width and @ [0.6] metres in depth for planar shape or @ [0.8] meters in diameter for circular shape; and

(b) an equipment room/shelter* (hereinafter referred to as "the Equipment Room/Shelter*") of not exceeding @ [3.2] metres in height, @ [4.5] metres in width and @ [4.5] metres in depth.

or

#To be used in 2G/3G Mobile Phone Radio Base Station

@ [] Insert the actual proposed sizes of units. When the proposed sizes are larger than the figures provided in [], DG of Tel should be consulted.

* Delete as appropriate

#(a) a maximum of six antennae, (hereinafter referred to as "the Antennae") each of which not exceeding @ [0.6] metres in width, @ [0.6] metres in depth and [2.5] metres in height (excluding pole) for planar shape or 0.8 metres in diameter for circular shape; and

(b) an equipment room/shelter* (hereinafter referred to as "the Equipment Room/Shelter*") of not exceeding @ [3.2] metres in height, @ [4.5] metres in width and @ [4.5] metres in depth.

@ Insert if the height of building erected on the lot will exceed the height restriction under lease as a result of the erection of the Equipment Room/shelter and the Antennae. Consult CAD if necessary.

@ Provided that no part of the Antennae or the Equipment Room/Shelter* erected on the Premises shall exceed the height of _____ metres above Hong Kong Principal Datum.

(3) You shall pay to the Government annually in advance on the _____ day of _____ the following annual waiver fee:

(a) \$ _____ for the period from _____ to _____ (the receipt of the first annual payment being hereby acknowledged);

(b) In the event of this waiver not being terminated on _____, the annual waiver fee for the period from _____ shall be determined in accordance with paragraph No. 1(7) hereof.

* (Insert a date three years from the date of waiver letter)

- *[] Delete as appropriate
- (4) You shall indemnify and keep indemnified the Government, its officers and servants, from and against all actions, costs, claims and demands arising directly or indirectly out of or in connection with the installation of the Antennae and the Equipment Room/Shelter* and the use of the Premises or any part thereof for the purpose of *[the Station/the Local Multipoint Distribution System].
- *[] Insert if appropriate
- (5) You have deposited with the Director of Lands (hereinafter referred to as "the Director") the deposit of \$ _____ as security for the due performance and observance of the terms and conditions hereof. Such deposit may be used to offset any monetary loss or damage sustained by the Government in respect of any breach by you of the terms and conditions herein contained, but without prejudice to the Government's right to claim for any further or additional damages which it shall have sustained or may sustain as a result of your breach should the deposit be insufficient to offset the loss. *[Subject to paragraph No. 1(8) hereof, the deposit shall remain deposited with the Director throughout the term of the waiver and shall upon the expiration or sooner determination (other than by way of revocation) of the period in respect of which the waiver is granted and upon your duly observing and performing your obligations under the waiver, be refunded to the owner of the Premises currently registered in the Land Registry/(_____) New Territories Land Registry at the time of termination of the waiver in whole or in part but without interest.
- (6) That in the event of the waiver fee hereby reserved or any increase of deposit pursuant to terms and conditions herein or any part thereof not being paid on the due date for payment thereof (whether formally demanded or not) you shall pay interest to the Government on such amount of the waiver fee reserved or increase in deposit (as the case may be) as is unpaid on the due date or dates calculated from the day immediately following the due date or dates until payment of all fees or increase in deposit (as the case may be) due and the interest thereon has been paid by you to the Government, such interest to be at a rate which is equivalent to two per cent per annum above the prevailing Best Lending Rate of The Hongkong and Shanghai Banking Corporation Limited.

* Insert if appropriate

- *(7) That in the event of the waiver hereby granted not being terminated within three years from the commencement thereof the fee hereby reserved may be revised by the Government at its sole discretion on or after the expiry of every third year of the term of the waiver by the Government giving to you not less than one calendar month's prior notice to that effect. As from the date being the effective date as stipulated in such notice such increase shall take effect whereupon the revised fee shall be deemed to be substituted for the fee previously in force under the waiver PROVIDED that no such revision shall take effect within three years of the immediately preceding revision and PROVIDED FURTHER that the parties hereto expressly agree that nothing herein contained shall imply an intention on the part of either party that the waiver shall not be terminated in accordance with the provisions of the waiver.
- (8) That in the event of the fee hereby reserved being revised under paragraph No. 1(7) hereof the deposit deposited with the Director in accordance with paragraph No. 1(5) of the waiver may be revised by the Government at its sole discretion upon the Government giving to you not less than one calendar month's prior notice to that effect. As from the date being the effective date as stipulated in such notice such revision shall take effect and in this connection, you, your successors or assigns shall pay to the Director or the Director shall refund to you, your successors or assigns, as the case may be, on or before the said effective date a sum equivalent to the difference between the deposit previously deposited with the Director under the waiver and the deposit as so revised whereupon the deposit as so revised shall be deemed to be substituted for the said deposit previously deposited with the Director under the waiver PROVIDED that the parties hereto expressly agree that nothing herein contained shall imply an intention on the part of either party that the waiver shall not be terminated in accordance with the provisions of the waiver.

- (9) The waiver hereby granted may be terminated by the Government for whatsoever reason(s) on giving to you one calendar month's prior notice in writing to that effect to expire at any time after the expiry of the fixed term stipulated in paragraph No. 1(1) hereof. In the event of such termination, no compensation whatsoever shall be paid to you by the Government but subject to all terms and conditions herein contained having been observed and performed by you, there shall be refunded to you due proportion of the waiver fee, but without any interest thereon, for the unexpired portion of the waiver period which has been paid by you pursuant to paragraph No. 1(3) hereof.

*Insert as appropriate

- *(10) Notwithstanding anything herein contained, in the event of any breach, non-performance or non-observance of any of the terms and conditions herein contained, the Government shall be entitled to revoke forthwith the waiver hereby granted upon notice. In the event of such revocation, the Premises shall cease to be used for the purpose of *[the Station/the Local Multipoint Distribution System] and shall in all respects be subject to all the *[provisions, covenants, stipulations, exceptions, reservations, powers and conditions/General and Special Conditions] contained in the *[Lease/Conditions] and no part of the waiver fee already paid shall be refunded nor any compensation whatsoever be paid to you by the Government. The determination of the Director as to whether there is any breach, non-performance or non-observance of the terms and conditions herein contained shall be final and binding on you.

*[] Delete as appropriate

* Insert as appropriate

- *(11) That in the event permission under section 16 of Town Planning Ordinance is required for the installation of the Antennae or the Equipment Room/Shelter* or the use of the Premises for the purpose of *[the Station/the Local Multipoint Distribution System] you shall prior to or within three calendar months or such extended period as the Director may approve from the commencement date of the waiver obtain the said permission. In the event that the said permission has not been obtained within the stipulated period, the Government shall be entitled to revoke forthwith the waiver hereby granted upon notice. In the event of such revocation, the Premises shall cease to be used for the purpose of *[the Station/the Local Multipoint Distribution System] and shall in all respects be subject to all the *[provisions, covenants, stipulations, exceptions, reservations, powers and conditions/General and Special Conditions] contained in the *[Lease/Conditions] and no part of the waiver fee already paid shall be refunded nor any compensation whatsoever be paid to you by the Government.

*[] Delete as appropriate

(12) Upon the expiration or sooner determination of the waiver (whether by way of revocation or otherwise), you shall at your own expense and in all respect to the satisfaction of the Director demolish and remove the Antennae and the Equipment Room/Shelter* from the Premises.

*[] Delete as appropriate

(13) Except as hereby temporarily waived all the *[provisions, covenants, stipulations, exceptions, reservations, powers and conditions/General and Special Conditions] contained in the *[Lease/Conditions] shall remain in full force and effect.

(14) Nothing contained in this letter shall prejudice any of the rights and remedies of your co-owners under the Deed of Mutual Covenant dated the day of and registered in the Land Registry/ New Territories Land Registry by Memorial No. .

*[] Delete as appropriate

(15) Nothing contained in this letter shall give rise to exemption from any ordinances, bye-laws, regulations and rules in force in Hong Kong Special Administrative Region governing the installation of the Antennae or installation of the Equipment Room/Shelter* or the use of the Premises or any part thereof for the purpose of *[the Station/the Local Multipoint Distribution System]. If any building work involving structural alterations to the Premises is required for such installation or use, you shall engage an Authorized Person (as defined in the Buildings Ordinance) who shall prepare suitable plans for submission to the Building Authority and the other relevant Government departments or authority for their approval. You shall at your own expense obtain all requisite licences and approvals from relevant Government departments or authority prior to the installation of the Antennae and the Equipment Room/Shelter* and the operation of *[the Station/the Local Multipoint Distribution System] and you shall maintain and operate *[the Station/the Local Multipoint Distribution System] in all respects in compliance with the ordinances, bye-laws, regulations and rules in force and the terms and conditions of this waiver. In the event of any breach, non-performance or non-observance of the terms of this Condition, the Government shall be entitled to revoke forthwith the waiver hereby granted upon notice. In the event of such revocation, the Premises shall cease to be used for the purpose of *[the Station/the Local Multipoint Distribution System] and shall in all respects be subject to all the *[provisions, covenants, stipulations, exceptions, reservations, powers and conditions/General and Special Conditions] contained in the *[Lease/Conditions] and no part of the waiver fee already paid shall be refunded to

you nor any compensation whatsoever be paid to you by the Government.

(Delete if there is no mortgage)

- (16) Nothing contained in this letter shall prejudice any of the rights and remedies of your Chargee/Mortgagee, _____, under the Legal Charge/Mortgage dated the _____ day of _____ and registered in the Land Registry/ _____ New Territories Land Registry by Memorial No. _____.
- (17) The waiver hereby granted shall run with the Premises and the terms and conditions herein contained shall be binding on you, your successors and assigns.

[] Delete if there is no mortgage

2. If the foregoing terms and conditions are acceptable to you, please signify your acceptance thereof by signing the docket on both copies of the waiver. Your signature must be duly witnessed. [I note that the Premises are mortgaged to the _____. It is essential the written consent of your Chargee/Mortgagee be obtained, at your own expense, to the foregoing terms and conditions by having the consent endorsed in the manner indicated below, on both copies of the waiver.] After you have signed [and the consent of the Chargee/Mortgagee has been duly endorsed,] please return both copies of the waiver to me, whereupon the waiver will be registered by Memorial at the Land Registry/ _____ New Territories Land Registry. After registration the original of the waiver will be returned to you for retention with the documents of title in your possession and the duplicate will be retained for my records.

3. If on the expiration of 28 days from the date of the waiver your acceptance of the above terms has not been formally signified in accordance with paragraph 2 above, the Government's approval of the waiver on these terms shall be deemed to have been automatically withdrawn.

Yours faithfully,

()
District Lands Officer,

c.c. LACO (District)

I hereby agree to and accept the foregoing terms and conditions.

Witness : _____
(Signature and name in block letters) _____
(Signature of _____)

H.K.I.D. Card No.:

Address :

OR
Seal of

and signatures and names in block letters of its attesting officers and description of their offices.)

Date :

(Delete if there is no mortgage)

I/We, _____
being the registered chargee/mortgagee of the Premises hereby consent to the issue of the waiver on the above terms and conditions to [Insert name of the owner] and formally acknowledge that I/we have no objection to the acceptance of such terms and conditions by [Insert name of the owner].

Dated the _____ day of _____ .

Signed for and on behalf of

[N.B. You are required to note that pursuant to the provisions of the Land Registration Ordinance and the Regulations made thereunder the personal data contained in this Waiver Letter will appear in the land register(s)/record(s) of the Land Registry to facilitate the orderly conduct of land transaction and to provide the most up-to-date information to searchers.]

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