RETAILER USE OF SYSTEM AGREEMENT

THIS RETAILER USE OF SYSTEM AGREEMENT made this [●] day of [●], 2014 by and between:

[insert name], a [insert form of business organization] duly [incorporated/formed/registered] and organized under the laws of Singapore, having its registered address at [●] and its principal place of business at [●] (the “Transmission Licensee”)

- and -

[insert name], a [insert form of business organization] duly [incorporated/formed/registered] and organized under the laws of [●], having its [registered/head] address at [●] and its principal place of business at [●] (the “Retailer”)

WHEREAS

A. The Transmission Licensee has been granted an Electricity Licence by the Authority authorising it to transmit Electricity and to provide Transmission Services in respect of the Transmission System.

B. The Retailer has been granted a Retail Electricity licence by the Authority authorising it to retail electricity.

C. The Retailer Code of Conduct and the Retail Licence require a Retail Licensee to enter into a Retailer Use of System Agreement with the Transmission Licensee, where that Retail Licensee intends to provide retailer-consolidated billing services to a contestable consumer.

D. The Transmission Licensee and the Retail Licensee wish to enter into this Agreement in order to comply with the provisions of the Retail Licence and the Retailer Code of Conduct referred to in paragraph C.

Now therefore, in consideration of the mutual covenants set forth herein and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:
ARTICLE 1

INTERPRETATION

1.1 **Incorporation of Transmission Code Definitions:** Subject to sections 1.2, 1.3 and 1.4, capitalized expressions used in this Agreement have the meanings ascribed thereto in the Transmission Code.

1.2 **Incorporation of Electricity Act Definitions:** When used in this Agreement, the following terms shall have the meanings ascribed thereto in the Electricity Act (Cap. 89A):

   (a) Codes of Practice;
   (b) Electricity;
   (c) Electricity Licence;
   (d) Market Company;
   (e) Market Participant;
   (f) Market Rules;
   (g) Market Support Services Licensee; and
   (h) Modification.

1.3 **Incorporation of Market Rules Definitions:** When used in this Agreement, the following terms shall have the meanings ascribed thereto in the Market Rules:

   (a) Emergency Operating State;
   (b) High-risk Operating State;
   (c) Market Manual;
   (d) Outage;
   (e) Power System;
   (f) Power System Operator;
   (g) Reliability; and
   (h) System Operation Manual.

1.4 **Supplementary Definitions:** In this Agreement, the following capitalized expressions shall have the meanings set out below unless the context otherwise requires:

   “Agreement” means this Agreement, including the recitals and any schedules to this Agreement, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

   “Applicable Law” means, in respect of a Party, all laws, regulations, subsidiary legislation, other statutory instruments and rules and other documents of a
legislative nature which apply to the Party and all orders of a government, governmental body, authority or agency having jurisdiction over the Party, including any Electricity Licence issued to the Party;

“Billing Period” means a period of 30 days or such lesser period as may be agreed between the Transmission Licensee and the Retailer;

“Confidential Information” means information has been provided by one Party to the other Party under this Agreement or the Transmission which is or Code that is in its nature confidential or commercially sensitive or is derived from information that is in its nature confidential or commercially sensitive, but shall not include information that is required by this Agreement or the Transmission Code to be disclosed to a third party other than under an obligation of confidentiality;

“Connected Facilities” means those facilities owned by a Consumer that are connected to the Transmission System;

“Consolidated Billing” means a billing arrangement under which a Retail Electricity Licensee bills a consumer for the delivered price of electricity and any related retail services provided directly by the Retail Electricity Licensee, and bills for and assumes the consumer's obligation to pay the applicable Market Support Services Licensee and the Transmission Licensee for market support services charges and transmission charges owed by that consumer;

“Consumer” means a person to whom electricity is supplied and sold, whose premises are connected to the Transmission System, and who receives a consolidated bill from their Retailer;

“Contracted Capacity Charge” means in respect of any premises of a Consumer, a payment due under an agreement between that Consumer and a Transmission Licensee to contribute to the cost of capital expenditure outlay by the Transmission Licensee in respect of that Consumer’s premises;

“Cure Period” has the meaning ascribed thereto in section 10.4;

“Default Notice” has the meaning ascribed thereto in section 10.3;

“Due Date” means, in respect of an invoice, the date which falls 10 days after the date of such invoice or such number of days as the Transmission Licensee and the Retailer may agree;

“Effective Date” means the later of the date on which the Transmission Code comes into force and the date on which the Parties execute this Agreement as first written above;

“Event of Default” has the meaning ascribed thereto in section 10.1;

“Force Majeure Event” means, in relation to a Party, any event or circumstance, or combination of events or circumstances, (a) that is beyond the reasonable control of that Party; (b) that adversely affects the performance by that Party of its obligations under this Agreement or the Transmission Code; and (c) the adverse effects of which could not have been foreseen and prevented, overcome, remedied or mitigated in whole or in part by that Party through the exercise of diligence and
reasonable care, and includes acts of war (whether declared or undeclared), invasion, armed conflict or act of a foreign enemy, blockade, embargo, revolution, riot, insurrection, civil disobedience or disturbances, vandalism or act of terrorism; strikes, lockouts, restrictive work practices or other labour disturbances; unlawful arrests or restraints by governments or governmental, administrative or regulatory agencies or authorities; orders, regulations or restrictions imposed by governments or governmental, administrative or regulatory agencies or authorities unless the result of a violation by the person of a permit, licence or other authorisation or of any Applicable Law; and acts of God including lightning, earthquake, fire, flood, landslide, unusually heavy or prolonged rain or lack of water arising from weather or environmental problems; provided however, for greater certainty, that (i) the lack, insufficiency or non-availability of funds shall not constitute a Force Majeure Event; and (ii) an act of a Party effected in accordance with the Transmission Code shall not constitute a Force Majeure Event in respect of the other Party; “High Tension Consumer” means a Consumer with a facility connected at 6.6kV and above; “Indemnified Party” has the meaning ascribed thereto in section 11.10; “Indemnifying Party” has the meaning ascribed thereto in section 11.10; “Load Facility” means a facility that draws energy from the Transmission System; “Party” means a party to this Agreement and “parties” means every Party; “Prescribed Rate” means the rate which is four percentage points (4%) above the arithmetic average of the rates quoted by the Development Bank of Singapore Limited, Oversea-Chinese Banking Corporation Limited, and United Overseas Bank Limited (or such other banks as the Authority may specify in writing from time to time) as being the respective prime lending rates of such banks for each day of the period for which interest accrues, and in respect of any day during such period which is not a day for which such a rate is quoted the last preceding rate quoted shall apply; “Retailer’s Consumer” means a Consumer that receives or has agreed to receive electricity supply and has also agreed to be billed by the Retailer on a Consolidated Billing basis; “Secure”, in respect of the operation of the Transmission System, means the operation of the Transmission System in a manner that would lead to or assist with maintaining the security and reliability of the Power System; “Third Party Claim” has the meaning ascribed thereto in section 11.9; “Transfer” means to sell, assign, lease, transfer or otherwise dispose of a thing; “Transmission Code” means the Code of Practice issued or approved by the Authority that describes the standards of performance in accordance with which the Transmission Licensee is required to perform Transmission Services;
“Transmission Services Charge” means the charge (including Contracted Capacity Charge) payable by the Retailer for Transmission Services provided by the Transmission Licensee to the Retailer’s Consumers, as approved by the Authority where such approval is required under the terms of the Transmission Licensee’s Electricity Licence; and

“Transmission Services Rate Schedule” means the schedule of the Transmission Licensee’s Transmission Service Rates in force from time to time, as approved by the Authority where such approval is required under the terms of the Transmission Licensee’s Electricity Licence.

1.5 **Interpretation:** In this Agreement, unless the context otherwise requires:

(a) words importing the singular include the plural and vice versa;

(b) words importing a gender include any gender;

(c) when capitalized, other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;

(d) any expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other private or public body corporate, and any government agency or body politic or collegiate;

(e) a reference to a thing includes a part of that thing;

(f) a reference to an article or to a section, subsection, provision, condition, part or schedule is to an article or a section, subsection, provision, condition, part or schedule of this Agreement;

(g) a reference to any statute, subsidiary legislation, proclamation, ordinance, by-law, resolution, rule, order, supplements, gazette notification or directive includes all statutes, subsidiary legislation, proclamations, ordinances, by-laws, resolutions, rules, orders, supplements, gazette notifications or directives Modifying, consolidating, re-enacting, extending or replacing it and a reference to a statute includes all subsidiary legislation, proclamations, ordinances, by-laws, resolutions, rules, orders, supplements, gazette notifications and directives of a legislative nature issued under that statute;

(h) a reference to a document or a provision of a document, including this Agreement and the Transmission Code or a provision of this Agreement or the Transmission Code, includes a Modification of or supplement to, or replacement or novation of, that document or that provision of that document, as well as any exhibit, schedule, appendix or other annexure thereto;

(i) a reference to a person includes that person’s heirs, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
a reference to a person (including an institute, association or authority), whether statutory or not, which ceases to exist or whose functions are transferred to another person is a reference to the person that replaces it or that substantially succeeds to its functions, powers or duties;

(k) a reference to sections of a document, including this Agreement and the Transmission Code, separated by the word “to” (i.e., “sections 1.1 to 1.4”) shall be a reference to the sections inclusively;

(l) a reference to the word “including” means “including but not limited to”; and

(m) a reference to the Market Rules includes a reference to:

   (i) any Market Manual adopted by the Board of Directors of the Market Company and approved by the Authority pursuant to section 8 of Chapter 1 of the Market Rules; and

   (ii) the System Operation Manual adopted by the Power System Operator pursuant to section 9 of Chapter 1 of the Market Rules.

1.6 **Headings:** The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement, nor shall they be construed as indicating that all of the provisions of this Agreement relating to any particular topic are to be found in any particular article, section, subsection, provision, condition, part or schedule.

1.7 **Currency:** All references in this Agreement to a monetary amount are expressed in Singapore dollars and any payment required to be made by or to the Transmission Licensee or by or to the Retailer pursuant to this Agreement shall be made in Singapore dollars.

**ARTICLE 2**

**MARKET RULES, CODES OF PRACTICE AND ELECTRICITY LICENCE**

2.1 **Supplementary Obligations:** Subject to section 2.2, this Agreement shall be supplemented by the rights and obligations of the Parties under the Market Rules, the Transmission Code and any other applicable Code of Practice and the provisions of this Agreement shall be construed, to the extent possible, in a manner consistent with the rights and obligations of the Parties under the Market Rules, the Transmission Code and any other applicable Code of Practice. Without limiting the generality of the foregoing, each of the Parties hereby agrees to be bound by and to comply with any directions or instructions issued to it by the Transmission Licensee under and in accordance with this Agreement or the Transmission Code.
2.2 Parties to Comply with Legal Obligations, Codes and Licence Obligations:

2.2.1 Nothing in this Agreement shall be construed as affecting the obligation of each of the Parties to comply with the provisions of relevant legislation, Market Rules, Electricity Licences and the Codes of Practice. In the event of inconsistency between this Agreement and the provisions of any relevant legislation, Market Rules, Electricity Licences and Codes of Practice, then the latter shall prevail to the extent of the inconsistency.

2.2.2 Where the Retailer has no rights or obligations under the prevailing document at section 2.2.1 of this Agreement, this Agreement shall prevail.

ARTICLE 3
CONSOLIDATED BILLING RETAILER

3.1 Consolidated Billing Retailer: This Agreement applies to billing, payment and provision of security arrangements for transmission services in respect of Retail Licensees providing Consolidated Billing services to Consumers, as per the Retail Licence and the Retailer Code of Conduct.

ARTICLE 4
CONNECTION, ENERGISATION AND TURN-ON

4.1 Conditions of Connection: The Retailer acknowledges and agrees that the Transmission Licensee will not Connect the facilities or equipment of the Retailer’s Consumer to the Transmission System unless all applicable conditions for Connection set forth in the Transmission Code and in the relevant Connection Agreement entered into between the Transmission Licensee and that Consumer have been met.

4.2 Conditions of Energisation: The Retailer acknowledges and agrees that the Connection Point in respect of those facilities or equipment of the Retailer’s Consumer that are intended to be connected to the Transmission System shall not be energised unless and until all applicable conditions for energisation set forth in the Transmission Code and the relevant Connection Agreement entered into between the Transmission Licensee and that Consumer, have been met by the Consumer and the Transmission Licensee within the time and in the manner required by the Transmission Code.

ARTICLE 5
INSPECTION, TESTING, OUTAGES AND PLANNED WORK

5.1 Notification of Planned Work by Transmission Licensee:

5.1.1 The Transmission Licensee shall notify the Retailer’s Consumers and the Retailers, if so requested by the Retailers, of any planned work that may be intended to be performed in respect of the Transmission System and that may
interrupt supply. Such notification will be by written or electronic notice or by telephone advice no less than seven days in advance of the planned work, detailing the timing and nature of planned work and the planned or potential impact on supply.

ARTICLE 6
DISCONNECTION AND RECONNECTION

6.1 Involuntary Disconnection: The Retailer acknowledges and agrees that the Transmission Licensee may Disconnect a Consumer’s Connected Facilities and equipment from the Transmission System at any Connection Point at any time in any of the following circumstances:

(a) in the event of an emergency, in the interest of public safety, in order to avoid undue interference with the efficient supply of electricity to other Consumers or for such other reason affecting the public interest;

(b) upon receipt of a direction or order from the Power System Operator to that effect;

(c) upon receipt of a direction or order from the Authority to that effect;

(d) if the Transmission Licensee,

(i) determines that any of the Consumer’s facilities or equipment Connected to the Transmission System do not comply with technical requirements or standards referred to in the Transmission Code;

(ii) concludes that such non-compliance may give rise to adverse material affects on the Reliability or Secure operation of the Transmission System; and

(iii) receives approval from the Power System Operator to Disconnect the Consumer’s facilities or equipment.

(e) for any other reason as required pursuant to the Act, the Transmission Code and the Market Rules.

6.2 Notice: The Transmission Licensee shall notify the Retailer of any involuntary Disconnection of a Consumer’s Connected Facilities or equipment pursuant to section 6.1 as follows:

(a) in the case of Disconnection effected pursuant to section 6.1(a), immediately following such Disconnection; and

(b) in the case of Disconnection effected pursuant to section 6.1(b), 6.1(c), 6.1(d) or 6.1(e), prior to such Disconnection if such prior notice is reasonably practicable in the circumstances, or otherwise immediately following such Disconnection.

6.3 Payment of Transmission Services Charges Pending Disconnection: The Retailer shall continue to pay, all applicable Transmission Services Charges
required to be paid pursuant to Article 7 for so long as the Consumer remains to be the Retailer’s Consumer.

6.4 **Transmission Licensee Costs Associated with Disconnection:** Where a Disconnection was caused by the action or inaction of the Transmission Licensee or the Retailer’s Consumer; or any of the circumstances outlined in section 6.1, the Transmission Licensee shall not require the Retailer to bear any of the costs associated with the Disconnection of facilities or equipment of the Retailer’s Consumer under this Article and with any associated operating and decommissioning procedures, including the cost of removing any of the equipment of the Transmission Licensee from the Consumer’s property.

6.5 **No Further Obligations of Transmission Licensee:** The Transmission Licensee shall not be required to comply with any provision of this Agreement, including in respect of the provision of Transmission Services, in respect of any facilities or equipment of the Retailer’s Consumer that have been Disconnected under this Article, save for any obligations relating to the Reconnection of such facilities or equipment, unless and until such facilities or equipment have been Reconnected in accordance with section 6.7.

6.6 **Reconnection After Disconnection:** The Transmission Licensee shall Reconnect the facilities or equipment of the Retailer’s Consumer that have been Disconnected under this Article provided that:

(a) the Retailer is not in default of its obligations under this Agreement as far as it relates to that Consumer;

(b) the Retailer’s Consumer meet the requirements set out in the Transmission Code and the Connection Agreement entered into between the Transmission Licensee and that Consumer;

(c) where the facilities or equipment were Disconnected under section 6.1, any applicable conditions set forth in section 6.7 have been met;

(d) Where a Disconnection was caused by the action or inaction of the Retailer’s Consumer, the Transmission Licensee has received all costs associated with such Reconnection and any associated commissioning procedures, including the costs of installing any of the equipment of the Transmission Licensee onto the Consumer’s property.

6.7 **Conditions for Reconnection After Involuntary Disconnection:** For the purposes of section 6.6(c), the conditions for Reconnection following Disconnection of any facilities or equipment of the Consumer under section 6.1 are as follows:

(a) where the facilities or equipment were Disconnected under section 6.1(a), the Transmission Licensee is satisfied that the emergency or other concern giving rise to the Disconnection has ceased, been rectified or is no longer in effect;

(b) where the facilities or equipment were Disconnected under section 6.1(b), 6.1(c) or 6.1(d), upon receipt by the Transmission Licensee of a direction
or order of the Power System Operator, or the Authority authorising the
Reconnection or upon the expiry of the period of Disconnection stipulated
in the Disconnection order or direction issued by the Power System
Operator, or the Authority; and

(c) where the facilities or equipment were Disconnected under section
6.1(d)(i), the breach giving rise to the Disconnection has been remedied to
the satisfaction of the Transmission Licensee;

ARTICLE 7
PROVISION OF TRANSMISSION SERVICES, TRANSMISSION SERVICES
CHARGES AND SECURITY

7.1 **Provision of Transmission Services:** The Transmission Licensee shall
commence conveying Electricity to and from the facilities or equipment of the
Retailer’s Consumer Connected to the Transmission System and providing other
Transmission Services to the Retailer’s Consumer on the later of the Effective
Date and the date on which such facilities or equipment are Connected to the
 Transmission System, subject only to:

(a) receipt by the Transmission Licensee of all applicable Connection fees as
described in the applicable Transmission Services Charge Schedule in
respect of that Consumer;

(b) the provision by the Retailer of any security as required under this Article
7;

(c) satisfaction of all applicable metering requirements, as required by the
applicable Code of Practice, in respect of such facilities and equipment;

(d) receipt by the Transmission Licensee of all information in respect of the
metering of such facilities and equipment that may reasonably be required
by the Transmission Licensee in order to calculate the Transmission
Services Charges payable by the Retailer in respect of the Transmission
Services provided to it; and

(e) satisfaction of the relevant terms of the Transmission Code and the
relevant Connection Agreement.

7.2 **Notification:** The Retailer shall notify, if so requested by the Transmission
Licensee, the Transmission Licensee of each new Consumer when they become
the Retailer’s Consumer, such notice to be given on the first Business Day
thereafter.

7.3 **Manner of Providing Transmission Services:** The Transmission Licensee shall
provide Transmission Services to each of the Retailer’s Consumers in accordance
with all applicable provisions of this Agreement, the Transmission Code and the
relevant Connection Agreement with that Consumer.

7.4 **Constraint on Provision of Transmission Services:** The Retailer acknowledges
and confirms the constraints that may exist or be imposed in respect of the use of
the Transmission System, the provision of Transmission Services to the Consumer or both arising under or in association with:

(a) the Operating Agreement which the Transmission Licensee has with the Power System Operator and the exercise by the Power System Operator of the right to direct the operation of the Transmission System thereunder; and

(b) the Market Rules.

7.5 **Payment for Transmission Services:**

7.5.1 The Retailer shall make the following payments to the Transmission Licensee in respect of that Retailer’s Consumers:

(a) the Transmission Service Charges; and

(b) security payments in accordance with section 7.12.

7.5.2 The Retailer, whose High Tension Consumer has terminated its existing supply contract and has agreed to take supply from another retailer (the “Incoming Retailer”) on a day other than the first day of the month, shall not invoice that Consumer for all Transmission Service Charges due for that particular month, nor be liable to the Transmission Licensee for such Transmission Service Charges.

7.5.3 Where the Retailer is the Incoming Retailer, the Retailer shall be liable to the Transmission Licensee in accordance with section 7.5.1 for all such Transmission Service Charges due for that particular month in which the Consumer made the change.

7.5.4 Where the Retailer’s Consumer is not a High Tension Consumer, the Transmission Licensee will invoice the Retailer for Transmission Service Charges of an amount that is proportionate to the actual number of days of that period for which that consumer was a Retailer’s Consumer.

7.6 **Communication of Transmission Services Rate Schedules:** The Transmission Licensee shall promptly provide the Retailer with a copy of its Transmission Services Rate Schedule in effect as of the Effective Date and of any modifications thereto as soon as possible but in any event no less than 20 Business Days prior to the coming into effect of such modifications.

7.7 **Monthly Invoicing:** The Transmission Licensee will invoice the Retailer for payments due for provision of Transmission Services under this Agreement on a monthly basis following the end of each calendar month in respect of the Transmission Services provided in that period. The invoice will show details of:

(a) inclusive dates for which payment for Transmission Service provision is claimed;

(b) dates, times, and amounts of Transmission Services provided, in accordance with the payment amounts set out in the Transmission Service Charges, supported by sufficient detail to enable the Retailer to validate the invoice with minimal administration.
7.8 **Payment Terms:** Subject to invoices being properly rendered, the Retailer will pay the Transmission Licensee on the Due Date. All payments by the Retailers under this Agreement shall be made:

(a) in immediately available and freely transferable funds to such account and with such bank as the Transmission Licensee may designate from time to time for such purpose;

(b) without deduction, set off or deferment in respect of sums the subject of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of appeals if this opportunity is taken) or which by agreement between the Parties may be so deducted or set off; and

(c) together with any taxes payable in respect thereof.

7.9 **Continuing Performance:** The Retailer shall pay each invoice on or before its due date during the continuance of any dispute resolution process under this Agreement. Upon resolution of any dispute in relation to an invoice or invoices in accordance with this Agreement, any amount which the Retailer may have overpaid or underpaid will be credited (with interest at the Prescribed Rate, which shall accrue daily on the amount overpaid, if it is determined that the Transmission Licensee was at fault) or debited (as the case may be) to an invoice to be issued to the Retailer under this Agreement.

7.10 **Interest on Overdue Payments:** The Transmission Licensee may charge interest on any amount owing for Transmission Services hereunder at a rate equal to the Prescribed Rate, which interest shall accrue daily on the amount unpaid on and from such due date to the date of actual payment, on any late payment due to the Transmission Licensee pursuant to this Article.

7.11 **Non-Payment:** Where the Retailer fails to make payment to the Transmission Licensee of any amount owing for Transmission Services hereunder, the Transmission Licensee shall, on the first Business Day after such payment was due, so notify the Retailer and shall work with the Retailer to remedy the default. If the amount owing remains unpaid for a period of five Business Days from the date of receipt of such notice by the Retailer, the Transmission Licensee may at any time thereafter commence to realize on any security provided by the Retailer. If, following any such realization of such security as may be effected within that time, an amount remains unpaid on the tenth Business Day following the date of such notice and the Parties have not agreed to alternative arrangements, the Transmission Licensee may terminate this Agreement.

7.12 **Obligation to Provide Security:** The Retailer shall, upon being required to do so by the Transmission Licensee, provide reasonable security to the Transmission Licensee, up to the maximum amount determined for the Retailer in accordance with section 7.15.

7.13 **Timing and Form of Security:** The Retailer shall provide the security referred to in section 7.12 within the time reasonably specified by the Transmission
Licensee and in such form as may be acceptable to the Transmission Licensee, including any one or more of the following:

(a) a cash deposit;
(b) an irrevocable letter of credit; or
(c) bankers’ guarantee or other financial guarantee in form and substance acceptable to the Transmission Licensee.

7.14 Interest on Cash Deposits: Where the Retailer provides security hereunder in the form of a cash deposit it shall not receive any interest on its deposit from the Transmission Licensee.

7.15 Maximum Security: Subject to section 7.16, the maximum security that a Transmission Licensee may require from a Retailer in respect of the provision to it of Transmission Services shall be equal to the Transmission Licensee’s estimate of the maximum financial exposure faced by it in respect of the Retailer, determined in accordance with section 7.16.

7.16 Maximum Financial Exposure:
7.16.1 The Transmission Licensee’s maximum financial exposure (MFE) in respect of the Retailer shall be calculated as follows:

\[(A \times 1.5)\]

where:

\(A\) is the Transmission Licensee’s estimate of the amount owing by the Retailer for Transmission Services for the Retailer’s Consumers in a typical month based on (a) historical billing information, adjusted to reflect any foreseen change in conditions that would affect use by the Retailer’s Consumers of the Transmission System, and (b) the Transmission Services Charges payable in the period to which the security applies.

7.16.2 In the event that the Retailer fails to make payment to the Transmission Licensee on the Due Date of any amount invoiced under section 7.7, and where a delay occurs for any three (3) Billing Periods over any 12 month period, the Transmission Licensee shall be entitled to revise the maximum security payable by that Retailer such that the reference to \“(A \times 1.5)\” in the MFE shall instead be read as \“(A \times 2)\”.

7.16.3 In the event that the Transmission Licensee revises a Retailer’s maximum security payable in accordance with section 7.16.2, and the Retailer does not delay in making payments for any Billing Period over the next 12 months subsequent to the revision, the Transmission Licensee shall thereafter re-adjust the MFE such that the reference to \“(A \times 2)\” in the MFE shall instead be read as \“(A \times 1.5)\”.

7.16.4 Nothing herein shall prejudice the rights of the Transmission Licensee under section 7.17.

7.17 Revisions to Maximum Financial Exposure: The Transmission Licensee shall at least once every three months, or more frequently as the Transmission Licensee
determines appropriate, revise its estimate of its MFE in respect of the Retailer and shall notify the Retailer accordingly. Where such revision results in:

(a) a decrease in its MFE by more than ten percent relative to the immediately preceding estimate, the Retailer may replace the security provided to the Transmission Licensee with security that reflects the decrease in the Transmission Licensee’s MFE or obtain from the Transmission Licensee a refund of part of any cash deposit provided as security that reflects the decrease in the Transmission Licensee’s MFE; or

(b) an increase in its MFE by more than ten percent relative to the immediately preceding estimate, the Retailer shall provide additional or replacement security, as the case may be, that reflects the increase in the Transmission Licensee’s MFE within twenty Business Days of the date of receipt of notice from the Transmission Licensee of the revised MFE.

7.18 **Failure to Provide Security Prior to Connection:** Where a Retailer fails to provide the security required under this Article prior to the Connection of any of its Consumer’s facilities or equipment to the Transmission System, the Transmission Licensee may refuse to Connect such facilities or equipment until such security has been provided.

7.19 **Failure to Provide Security Following Connection:** Where a Retailer fails to provide the security required under this Article following the Connection of any of its Consumer’s facilities or equipment to the Transmission System, the Transmission Licensee may terminate this Agreement.

7.20 **Where Security Becomes Inadequate or Invalid:** Where a Retailer fails to provide additional or replacement security, required under section 7.17, the Transmission Licensee may terminate this Agreement.

**ARTICLE 8**

**CONFIDENTIALITY**

8.1 **Confidentiality:** Subject to section 8.3, each Party shall keep confidential any Confidential Information of the other Party that comes into its possession or control or of which it becomes aware and shall:

(a) not disclose such Confidential Information to any person except as permitted by this Agreement or the Transmission Code;

(b) not permit access to such Confidential Information by any person not authorized to have such access pursuant to this Agreement or the Transmission Code;

(c) not use or reproduce such Confidential Information for a purpose other than the purpose for which it was disclosed or another purpose contemplated by this Agreement or the Transmission Code; and
ensure that any person to whom it discloses such Confidential Information observes the confidentiality provisions of this Article in relation to the Confidential Information.

8.2 Internal Measures: Each Party shall maintain internal measures relating to the protection of Confidential Information that enable the Party to comply and monitor compliance with its confidentiality obligations under this Article.

8.3 Exceptions: Nothing in section 8.1 shall prevent:

(a) the disclosure, use or reproduction of information if the information is, at the time of disclosure, generally and publicly available other than as a result of a breach of by the Party who wishes to disclose, use or reproduce the information or by any person to whom the Party has disclosed the information;

(b) the disclosure of Confidential Information by a Party to:

(i) its directors, officers, employees or agents where such person requires the Confidential Information for the due performance of that person's functions and duties; or

(ii) its legal or other professional advisor, auditor or other consultant where such person requires the information for purposes of this Agreement or the Transmission Code, or for the purpose of advising it in relation thereto;

(c) the disclosure, use or reproduction of Confidential Information with the consent of the Party that provided the Confidential Information pursuant to this Agreement or the Transmission Code;

(d) the disclosure, use or reproduction of Confidential Information to the extent required by Applicable Law or by a lawful requirement of any government or governmental body, regulatory body, authority or agency (including a stock exchange) having jurisdiction over a Party;

(e) the disclosure, use or reproduction of Confidential Information if required in connection with legal proceedings, arbitration, expert determination or other dispute resolution mechanism relating to this Agreement or the Transmission Code or for the purpose of advising a person in relation thereto;

(f) the disclosure, use or reproduction of Confidential Information by or on behalf of a Party to the extent reasonably required in connection with the Party’s financial arrangements, investment in that Party or a Transfer of the Party’s assets;

(g) the disclosure of Confidential Information if required to protect the health or safety of personnel, equipment or the environment;

(h) the disclosure by the Transmission Licensee of Confidential Information to the Power System Operator, to the extent that Confidential Information is required pursuant to the terms of the Operating Agreement between the
Power System Operator and the Transmission Licensee to be disclosed to the Power System Operator;

(i) the disclosure of Confidential Information:

(i) during an emergency or where the Power System is in a High-risk Operating State or an Emergency Operating State; or

(ii) where an emergency, a High-risk Operating State or an Emergency Operating State is anticipated by the Market Company or the Power System Operator;

(j) the disclosure of Confidential Information where and to the extent required by the Market Rules; or

(k) the disclosure, use or reproduction of Confidential Information as an unidentifiable component of an aggregate sum.

8.4 Additional Obligation Upon Disclosure: Prior to making any disclosure pursuant to:

(a) section 8.3(b) or 8.3(f), the Party wishing to disclose the Confidential Information shall inform the proposed recipient of the confidential nature of the Confidential Information to be disclosed and shall require the proposed recipient to ensure that it keeps the Confidential Information confidential in accordance with the confidentiality provisions of this Article and does not use the Confidential Information for any purpose other than that permitted under section 8.3(b) or 8.3(f), as the case may be; or

(b) section 8.3(d) or 8.3(e), the Party being requested or demanded to disclose the Confidential Information shall advise the other Party as soon as reasonably practicable so as where possible to permit the other Party to challenge such request or demand or seek terms and conditions in respect of any such disclosure.

8.5 Notice of Disclosure: In making any disclosure pursuant to section 8.3(g) or 8.3(i), the disclosing Party shall advise the other Party as soon as is reasonably practicable and shall use all reasonable endeavours to protect the confidentiality of the Confidential Information insofar as may be reasonably practicable in the circumstances.

8.6 Notice of Disclosure: Where the Transmission Licensee makes any disclosure pursuant to section 8.3(h), it shall so advise the Retailer as soon as is reasonably practicable in the circumstances.

8.7 Equitable Remedies: The Parties acknowledge and agree that a breach or threatened breach of the confidentiality obligations of this Article by one Party may cause irreparable harm to the other Party which may be difficult to quantify and/or which may not be compensable by monetary damages alone. Accordingly, the injured Party shall, in addition to any other rights and remedies which it may have, have the right to seek and obtain immediate injunctive relief against such breach or threatened breach by the other Party.
ARTICLE 9

COMMUNICATIONS

9.1 24-hour Contact: Each Party shall provide the other Party with the name and contact information of a person that the other Party may contact on a 24-hour basis in respect of any matter arising under this Agreement. Such person shall be a person with authority to bind the Party appointing him or her.

9.2 Communication Protocols: The Parties shall jointly establish such communication protocols for the exchange of information and communications under this Agreement as may be required to give full effect to the terms of this Agreement.

ARTICLE 10

EVENTS OF DEFAULT

10.1 Events of Default: An Event of Default means, in respect of a Party:

(a) a breach by that Party of a material provision of this Agreement or of any applicable material provision of the Transmission Code other than a breach by the Retailer of Article 7;

(b) a licence (including an Electricity Licence), permit or other authorization necessary to enable that Party to carry on its principal business or activities is suspended, revoked or otherwise ceases to be in full force and effect;

(c) it becomes unlawful for that Party to comply with any of its obligations under this Agreement or the Transmission Code or it is claimed to have become so by that Party;

(d) that Party ceases or threatens to cease to carry on its principal business or a substantial part of its principal business; or

(e) the occurrence of an Insolvency Event, as defined in section 10.2, in respect of that Party.

10.2 Insolvency Event: An Insolvency Event shall occur in respect of a Party when:

(a) that Party enters into or takes any action to enter into an arrangement, composition or compromise with, or an assignment for the benefit of, all or any class of their respective creditors or members or a moratorium involving any of them;

(b) that Party states that it is unable to pay from its own money its debts when they fall due for payment;

(c) a receiver, receiver and manager, judicial manager or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of any property of that Party which is used in or
relevant to the performance by that Party of its obligations under this Agreement, the Transmission Code or its Electricity Licence;

(d) an administrator, liquidator, trustee in bankruptcy or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of that Party or any action is taken to appoint such person;

(e) an application is made for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of that Party, except as part of a *bona fide* corporate reorganization of that Party;

(f) that Party is wound up or dissolved, except as part of a *bona fide* corporate reorganization of that Party, unless the notice of winding up or dissolution is discharged; or

(g) that Party is taken to be insolvent or unable to pay its debts under any Applicable Law.

10.3 Occurrence of Event of Default: If an Event of Default occurs in respect of a Party, the non-defaulting Party may serve the defaulting Party with a notice (the “Default Notice”) specifying the Event of Default.

10.4 Cure Periods: Upon receipt of a Default Notice, the defaulting Party shall in respect of an Event of Default under section 10.1(a) only, be entitled to remedy the Event of Default within a period of 10 Business Days or such longer period of time as may be agreed between the Parties (the “Cure Period”). During such Cure Period, the defaulting Party shall diligently seek to remedy the Event of Default specified in the Default Notice.

10.5 Failure to Remedy: If:

(a) the defaulting Party fails to remedy an Event of Default under section 10.1(a) within the applicable Cure Period or such longer period of time as may have been agreed between the Parties; or

(b) an Event of Default has occurred under section 10.1(b), (c), (d) or (e),

the non-defaulting Party may terminate this Agreement upon notice to the defaulting Party and the provisions of Article 16 shall apply.

10.6 Remedy Includes Payment of Costs: In respect of an Event of Default under section 10.1(a), a defaulting Party shall not be held as having remedied an Event of Default unless it has paid to the non-defaulting Party all of the non-defaulting Party’s costs and expenses relating to or arising from enforcement by the non-defaulting Party of the defaulting Party’s obligations hereunder.

10.7 Exceptions: Nothing in this Article shall:

(a) apply to the prejudice of the provisions of section 8.7;
(b) be construed as affecting any other right or remedy which the non-defaulting Party may have under this Agreement or Applicable Law, including a right to seek damages or indemnification where applicable, relating to or arising from an Event of Default; or

(c) apply to a default in payment for Transmission Services or a failure by the Consumer to provide security, which shall be governed by the provisions of Article 7.

ARTICLE 11
LIABILITY AND INDEMNIFICATION

11.1 Liability: To the extent permitted by applicable law, each Party's liability to the other Party shall be limited to direct losses resulting from material breach of contract, wilful misconduct or negligence of the relevant Party. Each Party’s liability resulting from a material breach of contract shall be capped at $50,000 in respect of each incident or series of related incidents. Each Party excludes all liability in respect of any indirect or consequential loss (including any loss of profits, business, goodwill or any economic loss) arising from or in connection with the execution of this Agreement, whether such liability arises in contract, tort, breach of statutory duty or otherwise.

11.2 Duty to Mitigate: Each Party shall have a duty to mitigate its losses, liabilities or damages arising out of or in connection with the execution of this Agreement.

11.3 Indemnification: Subject to section 11.1, each Party shall indemnify and hold harmless the other Party from all claims, losses or liabilities sustained as a result of that Party's negligence or wilful misconduct.

11.4 Direction by EMA, EMC or PSO: For the purposes of this Agreement, any act or omission of a Party carried out in strict compliance with:

(a) a direction of the PSO, the EMA or the EMC issued in accordance with (where applicable) the Electricity Act or the Market Rules; or

(b) its obligations under the Market Rules or an applicable Code of Practice.

shall be deemed not to constitute wilful misconduct, negligence nor a breach of this Agreement.

11.5 Liability for Death or Personal Injury: Nothing in this Agreement shall exclude or limit the liability of any Party for death or personal injury caused by that Party's negligence.

11.6 Breach of Confidentiality: Nothing in section 11.1 shall be construed as limiting the liability of a Party in respect of a breach of that Party of the confidentiality obligations in this Agreement.

11.7 Saving Provisions: Save as otherwise expressly provided in this Agreement:
(a) nothing in this Article 11 shall be construed so as to prevent either Party from bringing an action in debt against the other Party to this Agreement; and

(b) this Article 11 insofar as it excludes or limits liability, shall override any other provision in this Agreement,

Provided That, for the avoidance of doubt, nothing in this Article 11 shall limit or restrict the Transmission Licensee’s right to recover Transmission Service Charges, together with all interest which may have accrued pursuant to section 7.10, or prejudice the Retailer’s obligation to pay the same.

11.8 **Remedies Exhaustive:** The rights, obligations and remedies set out in this Agreement are intended to be the exhaustive rights, obligations and remedies of the Parties with respect to this Agreement and shall apply to all liabilities and claims of any kind, whether as a result of a breach of any obligations, warranty or representation, negligence, breach of a statutory duty, strict liability or otherwise howsoever arising on the part of either Party.

11.9 **Notice of Third Party Claims:** A Party that is served with notice of the commencement of a proceeding against it by a third party in relation to this Agreement (a “Third Party Claim”) shall promptly notify the other Party within five Business Days of receipt of the Third Party Claim.

11.10 **No Settlement Etc.:** Where a Third Party Claim relates to a matter in respect of which a Party (the “Indemnified Party”) will seek indemnification from the other Party (the “Indemnifying Party”):

(a) the Indemnified Party shall not, prior to receipt of the Third Party Claim or for a period of ten Business Days thereafter, accept, compromise, arbitrate or settle or agree to accept, arbitrate, compromise or settle the Third Party Claim without the prior approval of the Indemnifying Party; and

(b) the Indemnifying Party shall, within five Business Days of the date of receipt of notice of the Third Party Claim pursuant to section 11.9, give written notice to the Indemnified Party accepting or denying assumption of the defence of the Third Party Claim.

Failure by the Indemnifying Party to give notice within the time required by section 11.10(b) shall be deemed to constitute a denial by the Indemnifying Party of the assumption of the defence of the Third Party Claim and the Indemnifying Party shall be bound by any determination made in the Third Party Claim or any compromise or settlement of the Third Party Claim effected by the Indemnified Party in good faith.

11.11 **Where Defence Assumed by Indemnifying Party:** Where the Indemnifying Party assumes the defence of a Third Party Claim:

(a) the Indemnified Party shall have the right to employ, at its own cost and expense, its own counsel;
(b) the Indemnifying Party shall reimburse the Indemnified Party for all of its out-of-pocket costs and expenses reasonably incurred prior to or in connection with such assumption;

(c) the Indemnified Party shall use its best efforts to make available to the Indemnifying Party:

(i) those employees whose assistance, testimony or presence is necessary to assist the Indemnifying Party in evaluating and defending the Third Party Claim; and

(ii) all documents, records and other materials in its possession reasonably required by the Indemnifying Party in evaluating and defending the Third Party Claim; and

(d) the Indemnifying Party shall not compromise or settle the Third Party Claim without the approval of the Indemnified Party except where:

(i) the compromise or settlement does not involve the admission of any violation of Applicable Law or of the rights of any person;

(ii) the compromise or settlement does not and will not adversely affect any other claims that may be made against the Indemnified Party in respect of the event giving rise to the Third Party Claim;

(iii) the sole relief included in the compromise or settlement is the payment in full of monetary damages by the Indemnifying Party; and

(iv) the Indemnified Party will have no liability under the terms of the compromise or settlement.

11.12 **Where Defence Cannot be Assumed:** Notwithstanding section 11.10, the Indemnifying Party shall not assume the defence of a Third Party Claim where:

(a) the Indemnifying Party is also a party to the Third Party Claim; and

(b) the Indemnified Party determines in good faith that joint representation would be inappropriate because there may be defences available to it that are different from, in addition to or inconsistent with the defences available to the Indemnifying Party.

**ARTICLE 12**

**FORCE MAJEURE**

12.1 **Effect of Force Majeure Event:** Subject to the provisions of this Article, neither Party shall be liable to the other for any failure or delay in the performance of any obligation under this Agreement, other than the obligation to make payments of money, to the extent that such failure or delay is due to a Force Majeure Event, provided that the Party invoking a Force Majeure Event shall only be excused from performance pursuant to this section:
(a) for so long as the Force Majeure Event continues and for such reasonable period of time thereafter as may be necessary for the Party to resume performance of the obligation; and

(b) where and to the extent that the failure or delay in performance would not have been experienced but for such Force Majeure Event

12.2 Notice: Where a Party invokes a Force Majeure Event, it shall give notice to the other Party:

(a) of the invocation of the Force Majeure Event as soon as reasonably practical but in any event within two Business Days of the date on which the Party becomes aware of the occurrence of the Force Majeure Event, which notice shall include full particulars of the Force Majeure Event and of the effect that such Force Majeure Event is having on the Party’s performance of its obligations under this Agreement; and

(b) of the cessation of the Force Majeure Event and of the cessation of the effects of the Force Majeure Event on the Party’s performance of its obligations under this Agreement.

12.3 Duty to Mitigate: Where a Party invokes a Force Majeure Event, it shall:

(a) subject to section 12.4, use all reasonable endeavours to mitigate or alleviate the effects of the Force Majeure Event on the performance of its obligations under this Agreement; and

(b) continue to comply with its obligations under this Agreement to the maximum extent possible.

12.4 Exception for Strikes Etc: The settlement of any strike, lockout or other labour disturbance constituting a Force Majeure Event shall be within the sole discretion of the Party involved in such strike, lockout or other labour disturbance and nothing in section 12.3(a) shall require that Party to mitigate or alleviate the effects of such strike, lockout or other labour disturbance.

12.5 Exception for Emergencies Etc.: Nothing in sections 12.1 to 12.4 shall excuse a Party from performing any of their respective emergency-related obligations under this Agreement or the Transmission Code during an emergency or while the Power System is in a High-risk Operating State or an Emergency Operating State.

ARTICLE 13

DISPUTE RESOLUTION

13.1 Dispute Resolution: Subject to sections 13.2 and 13.3 and to the Electricity Licence of either Party, the provisions of section 3 of Chapter 3 of the Market Rules apply to any dispute arising under this Agreement and are hereby incorporated by reference herein, with all references in such section to a Market Participant being deemed to be a reference to the Transmission Licensee and to the Retailer.
13.2 Non-Application of Certain Provisions: Where the Retailer is not registered with the Market Company as a Market Participant at the relevant time, section 3 of Chapter 3 of the Market Rules shall be interpreted without reference to any dispute management system and the Parties shall jointly agree to substitute procedures in lieu of the application of the provisions of a dispute management system.

13.3 Exception: Notwithstanding section 13.1, [●][Reserved for matters in respect of which the Parties wish to be governed by a dispute resolution regime that differs from that set forth in the Market Rules.]

13.4 Attornment: Subject to sections 13.1 and 13.3 and to the Electricity Licence of either Party, each Party agrees:

(a) that any action or proceeding relating to this Agreement shall be brought in any court of competent jurisdiction in Singapore, and for that purpose that it hereby irrevocably and unconditionally attorns to the jurisdiction of such Singapore court;

(b) that it hereby irrevocably waives any right to, and will not, oppose any such Singapore action or proceeding on any jurisdictional basis, including forum non conveniens; and

(c) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from a Singapore court as contemplated by this section 13.4.

ARTICLE 14
COSTS AND EXPENSES AND INSURANCE

14.1 Costs and Expenses of Retailer: Except as may otherwise be expressly specified in this Agreement or the Transmission Code or as the Parties may otherwise agree, as between the Parties the Retailer shall bear all of the costs and expenses relating to the performance by the Retailer of its functions, duties and powers under this Agreement and the Transmission Code.

14.2 Costs and Expenses of Transmission Licensee: Except as may otherwise be expressly specified in this Agreement or the Transmission Code or as the Parties may otherwise agree, as between the Parties the Transmission Licensee shall bear all of the costs and expenses relating to the performance by the Transmission Licensee of its functions, duties and powers under this Agreement and the Transmission Code.

ARTICLE 15
REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties of Retailer: The Retailer hereby represents and warrants as follows to the Transmission Licensee, and acknowledges and confirms that the Transmission Licensee is relying on such representations and warranties without independent inquiry in entering into this Agreement:
(a) that it has all the necessary corporate or other power to enter into and perform its functions, duties and powers under this Agreement;

(b) that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate, governmental and/or other action and does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a violation or breach of or a default under or give rise to a right of termination, greater rights or increased costs, Modification or cancellation or the acceleration of any obligation under (i) any of its constituent or by-law instruments; (ii) any contracts or instruments to which it is a party or by which it is bound; or (iii) any Applicable Law governing it;

(c) that the individual(s) executing this Agreement, and any document in connection herewith, on its behalf has(ve) been duly authorized to execute this Agreement and any document in connection herewith, and has(ve) the full power and authority to bind it;

(d) that this Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with its terms;

(e) that, except for registration as a Market Participant with the Market Company if applicable, and/or the registration of any of its facilities under the Market Rules, it holds all permits, licences and other authorizations that may be necessary to enable it to carry on its principal business and perform its functions and duties under this Agreement and the Transmission Code;

(f) that it has, or will have by the Effective Date, adequate qualified employees and other personnel and organizational and other arrangements that are sufficient to enable it to perform all of its functions and duties under this Agreement.

15.2 **Representations and Warranties of Transmission Licensee:** The Transmission Licensee hereby represents and warrants as follows to the Retailer, and acknowledges and confirms that the Retailer is relying on such representations and warranties without independent inquiry in entering into this Agreement:

(a) that it has all the necessary corporate or other power to enter into and perform its functions, duties and powers under this Agreement;

(b) that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate, governmental and/or other action and does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a violation or breach of or a default under or give rise to a right of termination, greater rights or increased costs, Modification or cancellation or the acceleration of any obligation under (i) any of its constituent or by-law instruments; (ii) any contracts or instruments to which it is a party or by which it is bound; or (iii) any Applicable Law governing it;
(c) that the individual(s) executing this Agreement, and any document in connection herewith, on its behalf has(ve) been duly authorized to execute this Agreement and any document in connection herewith, and has(ve) the full power and authority to bind it;

(d) that this Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with its terms;

(e) that, except as disclosed in writing to the Retailer, the Transmission System meets, or will meet by the Effective Date, all applicable requirements of this Agreement and the Transmission Code;

(f) that, except for registration as a Market Participant with the Market Company and/or the registration of any of its facilities under the Market Rules, it holds all permits, licences and other authorizations that may be necessary to enable it to carry on its principal business and perform its functions and duties under this Agreement and the Transmission Code; and

(g) that it has, or will have by the Effective Date, adequate qualified employees and other personnel and organizational and other arrangements that are sufficient to enable it to perform all of the functions and duties under this Agreement and the Transmission Code.

ARTICLE 16

TERM AND TERMINATION

16.1 Term: This Agreement shall come into force on the Effective Date and shall remain in full force and effect until terminated in accordance with section 7.11, 7.18, 7.19, 16.2, 16.3 or 16.4.

16.2 Termination: Either party may terminate this Agreement in accordance with section 10.5.

16.3 Automatic Termination Upon Voluntary Disconnection: This Agreement shall automatically terminate upon the voluntary Disconnection of all facilities or equipment of the Retailer’s Consumers from the Transmission System and where no Re-connection has occurred within 30 days of such Disconnection. Where only some of the Consumer’s facilities or equipment have been voluntarily Disconnected from the Transmission System, or where the Retailer remains as retailer for some of its Consumers, this Agreement shall remain in full force and effect in respect of these remaining Consumers.

16.4 Automatic Termination Upon Involuntary Disconnection: This Agreement shall automatically terminate upon the involuntary Disconnection of all of the Retailer’s Consumer’s Connected Facilities or equipment under section 6.1 on the sixty-first day following the date of Disconnection. Where only some of the Retailer’s Consumer’s Connected Facilities or equipment have been Disconnected from the Transmission Licensee under section 6.1, the Transmission Licensee shall, subject to section 16.6, not be required to comply with any provisions of
this Agreement, including in respect of the provision of Transmission Services, in respect of such Disconnected facilities or equipment, save for any obligations relating to the Reconnection of such facilities or equipment, unless and until such facilities or equipment are Reconnected to the Transmission System. This Agreement shall remain in full force and effect in respect of any other of the Retailer’s Consumer’s Connected Facilities and equipment.

16.5 **Ongoing Liability:** Notwithstanding termination of this Agreement, in whole or in part, for any reason, each Party shall remain liable in respect of all obligations and liabilities owed to the other Party that were incurred or arose under this Agreement prior to the effective date of termination regardless of the date on which any claim relating thereto may be made, subject only to any applicable provisions of the Limitation Act (Cap. 163).

16.6 **Survival:** Termination of this Agreement for any reason shall not release the Parties from any obligations relating to this Agreement that by their nature survive termination, including all ongoing warranties, liabilities, indemnities and confidentiality obligations, subject only to any applicable provisions of the Limitation Act (Cap.163).

16.7 **Return of Security:** Upon termination of this Agreement and subject to section 16.8, the Transmission Licensee shall, once it is satisfied that the Retailer has no remaining financial obligations or liabilities under this Agreement, return to the Retailer all security held by the Transmission Licensee in respect of such obligations no later than 20 Business Days after such termination.

16.8 **Realization on Security:** Upon termination of this Agreement in respect of all of the Retailer’s Consumer’s facilities and equipment, the Transmission Licensee may, where the Retailer has financial obligations under this Agreement that are outstanding for more than ten Business Days from the effective date of termination, take such steps as may be necessary to realize on such security to the extent required to offset any such outstanding financial obligations. Where the security exceeds the value of such outstanding financial obligations, including the costs of the Transmission Licensee in realizing on such security, the Transmission Licensee shall return to the Retailer any remaining security held by the Transmission Licensee.

**ARTICLE 17**

**MISCELLANEOUS**

17.1 **Modification:** No Modification of this Agreement shall be effective unless made in writing, signed by the Parties and approved by the Authority.

17.2 **Assignment by Retailer:** Subject to section 17.4, the Retailer may not assign or Transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement without the prior written consent of the Transmission Licensee. Nothing in this section shall be construed as limiting the right of the Retailer to use such personnel, service providers or other agents as the Retailer considers appropriate in performing its functions, duties and powers
under this Agreement or the Transmission Code provided that, as between the Retailer and the Transmission Licensee:

(a) the Retailer shall be bound by and fully responsible for all acts or omissions of its personnel, service providers or other agents as if such acts or omissions were those of the Retailer; and

(b) the Retailer shall remain solely responsible and liable to the Transmission Licensee for the due performance of such functions, duties and powers.

17.3 Assignment by Transmission Licensee: Subject to section 17.4, the Transmission Licensee may not assign or Transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement without the prior written consent of the Retailer. Nothing in this section shall be construed as limiting the right of the Transmission Licensee to use such personnel, service providers or other agents as the Transmission Licensee considers appropriate in performing its functions, duties and powers under this Agreement or the Transmission Code provided that, as between the Retailer and the Transmission Licensee:

(a) the Transmission Licensee shall be bound by and fully responsible for all acts or omissions of its personnel, service providers or other agents as if such acts or omissions were those of the Transmission Licensee; and

(b) the Transmission Licensee shall remain solely responsible and liable to the Retailer for the due performance of such functions, duties and powers.

17.4 Sections 17.2 and 17.3 above shall not preclude an assignment by either Party of its rights under this Agreement to any person (and its successors and assigns), or any agent specified by such person, providing the Retailer with financing facilities as security for that Party’s obligation to such person under any financing agreement made between the Retailer and such person.

17.5 Consent: Where this Agreement or the Transmission Code provides for the giving by one Party of its consent or approval, such consent or approval shall:

(a) not be withheld if all applicable conditions for approval or consent set forth in this Agreement or the Transmission Code have, in the reasonable opinion of the Party from whom the approval or consent is sought, been met; or

(b) where no such conditions for approval or consent are specified, not be unreasonably withheld.

17.6 Successors and Assigns: This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective heirs, administrators, executors, successors, substitutes (including persons taking by novation) and permitted assigns.

17.7 Further Assurances: Each Party shall promptly execute and deliver or cause to be executed and delivered all further documents in connection with this Agreement that the other Party may reasonably require for the purposes of giving effect to this Agreement.
17.8 **Waiver:** A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred or implied by any failure to act or by the delay in acting by a Party in respect of any default, breach or non-compliance under this Agreement by the other Party or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party’s rights under this Agreement in respect of any continuing or subsequent default, breach or non-compliance (whether of the same or any other nature).

17.9 **Severability:** Any provision of this Agreement that is determined, by a court of competent jurisdiction from which no appeal can or has been made, to be invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that invalidity or unenforceability and shall be deemed severed from the remainder of this Agreement, all without affecting the validity or enforceability of the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

17.10 **Enforceability by third parties:** No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act, Cap 53B by a person who is not a party to this Agreement.

17.11 **Address for Notices:** Any notice, demand, consent, request or other communication required or permitted to be given or made under this Agreement shall be addressed in accordance with the information set forth in Schedule A.

Either Party may change its address and representative for notice as set forth in Schedule A by written notice to the other Party given as aforesaid. Such change shall not constitute a Modification of this Agreement for the purposes of the application of section 17.1.

17.12 **Manner of Notice:** Subject to section 17.14, any notice, demand, consent, request or other communication required or permitted to be given or made under this Agreement shall be given or made by courier or other form of personal delivery; by prepaid mail; by facsimile; or by electronic mail addressed to the party in accordance with section 17.11.

17.13 **Time of Notice:** Subject to section 17.14, notice, notification, service, filing, issuance or submission shall be treated as having been duly given, made or effected to a person by the sender:

(a) where given, made or effected by mail to an address in Singapore, on the fourth Business Day after the day on which it is mailed;

(b) where given, made or effected by mail to an address outside Singapore, on the twentieth Business Day after the day on which it is mailed;

(c) where given, made or effected by facsimile and a complete transmission report is issued from the sender's facsimile transmission equipment:
(i) where notice, notification, service, filing or submission is of the type in relation to which the addressee is obliged to monitor the receipt by facsimile outside of, as well as during, business hours, on the day and at the time of transmission as indicated on the sender's facsimile transmission report; and

(ii) in all other cases, on the day and at the time of transmission as indicated on the sender's facsimile transmission report, if a Business Day or, if the transmission is on a day which is not a Business Day or is after 5:00 pm, addressee's time, at 9:00 am on the following Business Day;

(d) where given, made or effected by electronic mail:

(i) where notice, notification, service, filing or submission is of a type in relation to which the addressee is obliged to monitor receipt by electronic mail outside of, as well as during, business hours, on the day and at the time when the notice or notification is recorded by the sender's electronic communication system as having been first received at the electronic mail destination;

(ii) in all other cases, on the day and at the time when the notice, notification or document or other material served, filed or submitted is recorded by the sender's electronic communications system as having been first received at the electronic mail destination, if a Business Day, or if that time is after 5:00 pm, addressee's time, or the day is not a Business Day, at 9:00 am on the following Business Day; or

(c) in any other case, when the person actually receives the notice, notification or document or other material served, filed or submitted.

17.14 **Notice by Voice Communication:** Where so provided in:

(a) the communication protocols established pursuant to section 9.2; or

(b) the Local Safety Procedures of a Party,

or as may be otherwise agreed by the Parties, notice, notification, service, filing, issuance or submission may be given or made by voice communication. In addition, instructions and directions of the Transmission Licensee may be given or issued to the Retailer by voice communication. In either case, the notice, notification, service, filing, issuance or submission shall be deemed validly given, made or issued at the time of communication.

17.15 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore.
17.16 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or faxed form and the Parties adopt any signatures received by a receiving facsimile machine as original signatures of the Parties, provided that any Party providing its signature in such manner shall promptly forward to the other Party an original signed copy of this Agreement which was so faxed.

In witness whereof the Parties have, by their respective duly appointed and authorized representatives, executed this Agreement on the date(s) set forth below.

[Insert Name of Transmission Licensee]

By: __________________________
Name: _________________________
Title: _________________________
Date: _________________________

Witnessed By: _________________________
Name: _________________________
Title: _________________________
Date: _________________________

[Insert Name of Retailer]

By: __________________________
Name: _________________________
Title: _________________________
Date: _________________________

Witnessed By: _________________________
Name: _________________________
Title: _________________________
Date: _________________________
Schedule A  
Address and Representative for Notice  
(section 17.11)

For the Transmission Licensee:

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<th>Name of Representative</th>
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<tr>
<td>Facsimile Number(s)</td>
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</table>
For the Retailer:

<table>
<thead>
<tr>
<th>Name of Representative</th>
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<tbody>
<tr>
<td>Title</td>
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</tr>
<tr>
<td>Address</td>
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</tr>
<tr>
<td>Email Address</td>
<td></td>
</tr>
<tr>
<td>Telephone Number(s)</td>
<td></td>
</tr>
<tr>
<td>Facsimile Number(s)</td>
<td></td>
</tr>
</tbody>
</table>