

LICENCE NO. **EMA/TE/002**

TYPE **TRANSMISSION**

LICENSEE **SP POWERASSETS LIMITED**

NOTIFICATION NO. **12**

1. Pursuant to Condition 2: Authorised Activities of the Electricity Licence (EMA/TE/002) (“**Licence**”) granted to SP PowerAssets Limited (“**Licensee**”), the Licensee is hereby notified that the Energy Market Authority of Singapore (“**Authority**”) has approved for the Licensee to engage in the following activities as allowed activities under the Licence, subject to the terms and conditions set out in paragraph 2:

(1) the leasing by the Licensee of its surplus space and equipment (being space and equipment which are for the time being not required by the Licensee in or for the conduct of its authorised business) (“**Surplus Space and Equipment**”):

(i) surplus space –

(a) in cable pipes and Pandan-Pulau Seraya undersea cable tunnel of the Licensee;

(b) at district offices, warehouses and substations of or occupied by the Licensee (excluding district offices, warehouses and substations that are located underground);

(c) at underground district offices, warehouses and substations of or occupied by the Licensee, where such lease is to the Power System Operator or any person authorised by an electricity licence to operate a wholesale electricity market or to provide market support services for the purpose of the conduct of their respective authorised business; and

(ii) equipment being the spare Optical Fibre Cables (“**OFCs**”) in the Jurong Island to Pioneer transmission cable tunnel,

(collectively referred to as the “**Leasing Business**”); and

(2) the provision of services that are incidental to the Leasing Business (“**Incidental Business**”).

2. The terms and conditions referred to in paragraph 1 are:

Scope

- (1) In this Notification, “**lease**” includes a tenancy and licence granted by the Licensee in respect of any part or all of the Surplus Space and Equipment referred to in paragraph 1.
- (2) Except under a lease duly granted by the Licensee in accordance and compliance with this Notification, the Licensee shall not permit any person to access, enter, occupy, use or exploit any part or all of any Surplus Space and Equipment unless otherwise permitted in writing by the Authority.
- (3) The Licensee shall ensure no encumbrance to the Licensee permitting any person to access or enter any part or all of any Surplus Space and Equipment for the purpose of the conduct of the Licensee’s authorised business and any business, undertaking or activity incidental thereto.
- (4) Except as otherwise provided in this Notification, this Notification shall come into effect on the date of this Notification and shall supersede Notification No. 10 dated 29 November 2018 with effect from the date of this Notification.
- (5) Save as otherwise provided in this Notification, this Notification shall apply to all contracts, leases, licences and other arrangements for or in relation to any Leasing Business or Incidental Business entered into or undertaken by the Licensee on or after the date of this Notification.
- (6) In respect of the lease of the Pandan-Pulau Seraya undersea cable tunnel:
 - (i) paragraphs 1, 2(1), 2(2) and 2(3) of this Notification came into effect on 29 November 2018 via Notification No. 10 and superseded paragraph 1 of Notification No. 2 dated 10 September 2004 (read with Notification No. 5 dated 3 July 2008) with effect from 29 November 2018;
 - (ii) Notification No. 2 (except for paragraph 1 thereof) and Notification No. 5 continued to have effect during the period of six (6) months from 29 November 2018 (the effective date of Notification No. 10); and
 - (iii) on the date immediately following the expiry of the period of six (6) months from 29 November 2018, Notification No. 10 superseded Notification No. 2 and Notification No. 5 in their entirety, and Notification No. 10 is superseded by this Notification with effect from the date of this Notification.
- (7) The Licensee shall ensure that all its contracts, leases, licences and other arrangements in relation to the Leasing Business entered into before 29 November 2018 (other than the lease of the Pandan-Pulau Seraya undersea cable tunnel) shall comply with Notification No. 2 and Notification No. 5.

- (8) In respect of any main or master contract, lease, licence or arrangement for or in relation to the Leasing Business entered into before 29 November 2018, the Licensee shall not, with effect from that date, extend any existing or enter into any new contract, lease, licence or other arrangement that is supplemental or subordinate to such main or master contract, lease, licence or arrangement.

Arms' Length Dealing, Separate Accounting and Other Records

- (9) The Licensee shall:
- (i) ensure that its conduct of the Leasing Business and Incidental Business with any party shall at all times be on an arm's length basis; and
 - (ii) not show undue preference in favour of, or undue discrimination against, any person or class of persons for or in relation to any grant of lease of Surplus Space and Equipment, any rate or fee charged by the Licensee under the lease, or any term or condition thereof.
- (10) The Licensee shall, in respect of the Leasing Business and the Incidental Business, comply with paragraphs 1 and 2 of Condition 3 of the Licence, which shall apply *mutatis mutandis* to the Leasing Business and the Incidental Business as if all references to "authorised business" therein include references to the Leasing Business and the Incidental Business.
- (11) The Licensee shall ensure that the Leasing Business and Incidental Business are ring-fenced from all its other businesses.
- (12) In respect of the Leasing Business for each financial year commencing on the first day of April of a calendar year until the last day of March in the following calendar year ("**Financial Year**"):
- (i) "**Leasing Revenue**" means the revenue derived from the Surplus Space and Equipment leased by the Licensee for the Financial Year subject to paragraph 2(17);
 - (ii) "**Commercial Rates**" means the commercial rental rates applicable to the leasing of Surplus Space and Equipment for the Financial Year, determined in accordance with the methodology (including relevant market benchmarks) reviewed from time to time and approved by the Authority;
 - (iii) "**Consumer Costs**" means the sum of: (a) depreciation cost of the Surplus Space and Equipment leased by the Licensee for the Financial Year and the associated returns based on the regulated rate of return on the book value of such Surplus Space and Equipment, determined in accordance with the methodology reviewed from time to time and approved by the Authority; and (b) Operating Costs;

- (iv) “**Net Income**” means Leasing Revenue less the sum of Consumer Costs and Incremental Operating Costs;
 - (v) “**Incremental Operating Costs**” means the costs and expenses reasonably and prudently incurred by the Licensee for or in relation to the conduct of the Leasing Business for the Financial Year, and the recovery of such costs and expenses from electricity consumers is not catered for under the authorised business of the Licensee; and
 - (vi) “**Operating Costs**” means the costs and expenses reasonably and prudently incurred by the Licensee for or in relation to the conduct of the Leasing Business for the Financial Year, and the recovery of such costs and expenses from electricity consumers is catered for under the authorised business of the Licensee.
- (13) In respect of each Financial Year, the Licensee shall return to electricity consumers:
- (i) Consumer Costs; and
 - (ii) Fifty per cent (50%) of Net Income.
- (14) The Licensee shall ensure that any financial losses suffered or incurred by the Licensee in respect of the Leasing Business and the Incidental Business shall be borne solely by the Licensee and shall not be passed to or recovered from electricity retailers or consumers whether directly or indirectly.
- (15) The Licensee shall ensure that all costs, expenses, liabilities, taxes and charges (including any development charge) suffered or incurred by the Licensee in or for the conduct of the Leasing Business and the Incidental Business shall not be passed to or recovered from electricity retailers or consumers whether directly or indirectly.
- (16) Where any cost, expense, liability, tax or charge (including any development charge or increase in taxation) is suffered or incurred by the Licensee in or for the conduct of the Leasing Business, the Incidental Business and one or more other businesses of the Licensee, such cost, expense, liability, tax and charge shall be allocated and apportioned amongst the business(es) referred to in this Notification (as may be applicable) in such proportion(s) as approved by the Authority in writing.
- (17) The Licensee shall conduct regular reviews in accordance with the frequency and timeline approved by the Authority to ensure that the **Leasing Revenue** for each Financial Year complies with the requirement (“**Leasing Revenue Requirement**”) that the Leasing Revenue is: (a) based on the rental rate of every lease of Surplus Space and Equipment being no less than the higher of Consumer Costs or Commercial Rates; and (b) such that the corresponding Net Income is non-negative. To this end, the Licensee shall ensure that it has secured for itself all the necessary contractual rights as will enable it to obtain all necessary information in relation to all leases for Surplus Space and Equipment granted by it for the

purposes of conducting such reviews and revising the rental rates under its leases as is necessary to comply with the Leasing Revenue Requirement and this Notification.

- (18) The Licensee shall maintain financial accounts and other records (for, *inter alia*, proper accounting and tracking of the Surplus Space and Equipment leased) with sufficient information and detail as will enable the Authority and independent auditors to monitor compliance by the Licensee with:
- (i) the Leasing Revenue Requirement;
 - (ii) the prohibition against cross-subsidisation in Condition 4 of the Licence; and
 - (iii) this Notification.

Agreements

- (19) In every case where the Licensee grants any lease of Surplus Space and Equipment to any party under this Notification, the Licensee shall ensure that there shall be a legally valid, binding and enforceable lease agreement entered into between the Licensee and that party, before that party is permitted to access, use, occupy or exploit any part or all of such Surplus Space and Equipment. The Licensee shall ensure that the terms and conditions of each and every such lease agreement complies with this Notification.
- (20) The Licensee shall ensure that it:
- (i) has or has secured for itself all necessary contractual rights as will enable it to obtain all necessary information in respect of any lease of Surplus Space and Equipment for the purpose of this Notification; and
 - (ii) has expressly reserved the right in each and every lease agreement for leased Surplus Space and Equipment entitling it to terminate the lease if any such information is not provided to it by the lessee on demand.
- (21) The Licensee shall upon the request of the Authority forthwith provide to the Authority copies of all up to date lease agreements and related documents (including all amendments and revisions made thereto from time to time to date) in respect of all leased Surplus Space and Equipment.

Confidential Information

- (22) The Licensee shall take reasonable measures to ensure that all information that the Licensee generates, owns, develops or acquires in the course of or in relation to its authorised business (including but not limited to information relating to the electricity and/or gas transmission system, all electrical installations, substations, plants, systems, apparatus, cables, equipment

and things used for the transmission of electricity, and all gas installations, pipelines, stations, plants, systems, apparatus, equipment and things used for the transportation of gas):

- (i) shall not be disclosed or otherwise made available to any person or used by the Licensee except in the following circumstances:
 - (a) where such disclosure or use is permitted or required by the Authority, this licence, any applicable code of practice, or the market rules, any applicable law, regulations, directives or requests of any government, statutory or regulatory body or any court or tribunal of competent jurisdiction;
 - (b) where the disclosure of such information is to the Licensee's directors, officers or employees and is necessary for the due performance of their lawful duties and functions, or is disclosed to an agent, service provider or partner of the Licensee who has agreed in writing to ensure the confidentiality of such information.
- (ii) is not used by the Licensee for any purpose other than that for which it was provided or for a purpose other than as permitted by this licence (including the purposes set out in (a) above), any applicable code of practice, the market rules, any applicable law, regulations, directives or requests of any government, statutory or regulatory body or any court or tribunal of competent jurisdiction; and
- (iii) is not used by the Licensee for any commercial advantage in the provision of any service other than a service comprised in the authorised business.

Information Access for the Authority

- (23) Without prejudice to the generality of Condition 29 of the Licence, and notwithstanding Condition 3 of the Licence, the Licensee shall provide:
- (i) accounting statements in respect of the Leasing Business and the Incidental Business annually after the end of each Financial Year together with a report by independent auditors stating whether in their opinion those statements provide a true and fair view of the financial affairs of the Leasing Business and the Incidental Business and have been properly prepared in accordance with this Notification; and
 - (ii) information in relation to all or any part of the Surplus Space and Equipment, the Leasing Business or the Incidental Business (including information on leasing revenue derived) as the Authority may from time to time require for the purpose of ensuring the Licensee's compliance with this Notification.

Reversion of Surplus Space and Equipment for Authorised Business

- (24) The Licensee shall ensure that vis-à-vis the Leasing Business and the Incidental Business, the Licensee's authorised business and the requirements (including contingency needs) of its authorised business shall be paramount. The Licensee shall at any time recover any Surplus Space and Equipment (that it has leased out) if the same is required for its authorised business or to meet its operational requirements (including contingency needs). The Licensee shall not pass to or recover from electricity retailers or consumers any costs or expenses of reverting, reinstating or recovering (including repairing) any Surplus Space and Equipment whether directly or indirectly.
- (25) Notwithstanding paragraph 2(24), where the Authority reasonably determines that any Surplus Space and Equipment is required for the Licensee's authorised business, the Licensee shall, upon the Authority giving the Licensee such prior written notice as the Authority considers reasonable, revert, reinstate or recover such Surplus Space and Equipment for use as part of its authorised business in such manner as may be required by the Authority, and shall not pass to or recover from electricity retailers or consumers any costs or expenses (including repair costs) in respect thereof whether directly or indirectly.

Protection of Assets

- (26) The Licensee shall take all necessary reasonable steps to protect its properties, equipment, facilities, Pandan-Pulau Seraya undersea cable tunnel, Jurong Island to Pioneer transmission cable tunnel, cable pipes, electricity cables and auxiliary cables in the Surplus Space and Equipment that it has leased out from damage and shall at its own cost ensure that all necessary precautions are taken to protect the same from damage.

Security and Permitted Use of Electricity Transmission and Distribution Facilities

- (27) The Licensee shall take all necessary reasonable steps to ensure the security of (including but not limited to the prevention of, trespass of or unauthorised access to) all its electricity transmission and distribution facilities (including but not limited to electrical substations, Pandan-Pulau Seraya undersea cable tunnel, Jurong Island to Pioneer transmission cable tunnel and cable pipes). The Licensee shall ensure that access by any third party to these facilities is only limited to activities relating to the Licensee's authorised business and allowed activity. The Licensee shall ensure that all third party access to these facilities must be escorted and supervised by the Licensee's staff at all times, and the security of these facilities is not compromised by any party's access, use, occupation or exploitation of any Surplus Space and Equipment allowed under this Notification.

- (28) The Licensee shall ensure that all of its electricity transmission and distribution facilities (including but not limited to electrical substations, Pandan-Pulau Seraya undersea cable tunnel, Jurong Island to Pioneer transmission cable tunnel and cable pipes) are used only for purposes approved/permitted by the relevant authorities, and in this connection, the Licensee shall ensure that all the necessary approvals, permits and clearances from the relevant authorities are obtained.

Consumer Rights

- (29) The Licensee shall ensure that consumer rights are not prejudiced by its conduct of the Leasing Business or the Incidental Business, or by the access or use of any Surplus Space and Equipment or the lease of any Surplus Space and Equipment.

Segregation of Leased Surplus Space and Equipment

- (30) The Licensee shall ensure that each leased Surplus Space and Equipment is physically segregated from the Licensee's power equipment by physical partition.
- (31) The Licensee shall at all times ensure that all leased surplus cable pipes and patch panels are distinguishable from its other cable pipes and patch panels which are used as part of the authorised business.

Security of Electricity Supply

- (32) The Licensee shall ensure that its conduct of the Leasing Business and Incidental Business shall not in any way:
- (i) endanger or compromise the security, reliability and stability of electricity supply in Singapore; or
 - (ii) be contrary or detrimental to public interest.

Termination of Notification

- (33) The Authority may, if the Licensee contravenes any term or condition of this Notification or any written law or any regulatory requirement of any authority related to the Leasing Business or the Incidental Business which results in embarrassment to the Authority, or if the Authority is not reasonably satisfied that the Licensee has complied fully with the terms and conditions of this Notification or any written law, or any regulatory requirement of any authority related to the Leasing Business or the Incidental Business which results in embarrassment to the Authority, terminate this Notification by giving the Licensee 6 (six) months' prior written notice.

Extent of Relief

- (34) Subject to the extent the Licensee is allowed to engage in the Leasing Business and the Incidental Business as an allowed activity pursuant to Condition 2 of the Licence and subject to the terms and conditions of this Notification, the Licensee shall continue to comply with all terms and conditions of the Licence.

Remedial Steps

- (35) Where there has been a contravention of any term or condition of this Notification, the Licensee shall without any delay take all actions necessary to remedy such contravention to the reasonable satisfaction of the Authority at the Authority's instructions and at the Licensee's own cost and expense, and the Licensee shall not pass to or recover any such costs and expenses directly or indirectly from electricity retailers or consumers.

General

- (36) For the avoidance of doubt, the terms and conditions of this Notification shall form an integral part of the Licence and any contravention of the terms and conditions of this Notification shall constitute a contravention of the terms and conditions of the Licence. Any word or expression used in this Notification shall, unless the contrary intention appears, have the same meaning as that used in the Licence.
- (37) This Notification shall come into effect on the date set out below.

12 January 2021

NGIAM SHIH CHUN
Chief Executive
Energy Market Authority of Singapore