ANNEXURE 1

DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement:

Abandon means:

(a) the failure by the Concession Company to perform any material part of the Building Works and the Principal Agency is of the reasonable opinion that there is no reasonable prospect of the Concession Company completing the Building Works by the Scheduled Commercial Operation Date; or

(b) the failure by the Concession Company to resume work within 30 Days after the Delay Event has been remedied, terminated or ceased,

and **Abandonment** and **Abandoned** shall be construed accordingly;

Abandonment Liquidated Damages means the liquidated damages payable by the Concession Company to the Principal Agency as contemplated under Clause 13.2;

Accounting Principles means the statement of accounting standards determined from time to time by the Institute of Certified Public Accountants of Singapore in the Republic of Singapore;

Affected Party shall have the meaning attributed to it in Clause 25.1;

Affiliate means, with respect to any person, any other person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with that person. For the purposes of this definition, "**control**" means direct or indirect ownership of more than 50% of the outstanding capital stock or other equity interests having ordinary voting power;

Agreement means this Concession Agreement;

Archaeological Finds means antiquities, fossils and other remains of archaeological interest and objects having artistic, historic or monetary value discovered on the Site;

Authorisation includes:

(a) any consent, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Government Agency; and

(b) in relation to anything which a Government Agency may prohibit or restrict within a specific period, the expiry of that period without intervention or action or notice of intended intervention or action;

Availability means with respect to any Tenant, the aggregate number of hours in any Operating Year during which the Chilled Water Service is available to that Tenant and **Available** shall be construed accordingly;

Availability Guarantee shall have the meaning attributed to it in Clause 12.5(a);

Proposal means all the documents, security and any other information submitted by or on behalf of the Concession Company in response to the Call for Proposal as amended, modified and supplemented in accordance with the Call for Proposal;

BT means the Schedule of Building Terms attached to the Lease Letter of Award;

Btu means British Thermal Unit;

Building Works means the works for or in relation to the design, engineering, construction, testing and commissioning of the Plant;

Business means the business of owning, managing and operating the Plant and the business of producing, selling, marketing and distributing the Chilled Water and generating, supplying, selling and delivering to the Grid System the electrical energy generated by the Plant;

Business Day means any Day excluding a Saturday, Sunday and any other Day which is a legal holiday in the Republic of Singapore or a Day on which banking institutions are authorised or required by Law or other governmental action to be closed in the Republic of Singapore;

Call for Proposal means the Call for Proposal issued by the Infocomm Development Authority of Singapore

Change in Law means:

(a) a new Law, representing an addition to, or amendment of, existing Laws; or

(b) a change in the manner in which a Law is applied or interpreted, after the Signing Date, and

  (i) applies expressly to the Project and not to similar projects in Singapore;

  (ii) applies expressly to the Concession Company and not to other persons; or

  (iii) applies expressly to the industry for the supply of chilled water to data centres as their primary source of chilled water for space cooling purposes in Singapore;

Chilled Water means the chilled water produced by the Plant;

Chilled Water Service means the supply of Chilled Water to the Tenants at their respective Declared Demand Load and at a Supply Temperature not higher than 7ºC (with a tolerance of an allowable range up to 7.5ºC which the Supply Temperature shall in no event exceed);

Chilled Water Supply Agreement or **CWSA** means the chilled water supply agreement to be entered into between a Tenant and the Concession Company in respect of the supply of Chilled Water;

Claim means any and all suits, sanctions, legal proceedings, claims, actions, assessments, judgements, penalties, demands or fines brought or enforced against a party;

Commercial Operation Date or **COD** means the date on which the Building Works have been completed in accordance with the requirements of this Agreement as certified in the Completion Certificate and countersigned or deemed to have been countersigned by the Principal Agency in accordance with Clause 10.4(d);

Commitment Period means with respect to any Tenant, the period commencing from the Target Supply Date and ending on the date falling 10 years from the Plant First Supply Date;

Concession shall have the meaning attributed to it in Clause 3.2;

Completion Certificate means the certificate issued by the Concession Company under Clause 10.4(b);

Concession Company Parties means:

(a) the Concession Company; and

(b) each of its Officers, employees, agents, representatives, Affiliates, contractors and licensees, and their respective Officers and employees;

Concession Company's Representative means any person notified in writing by the Concession Company to the Principal Agency from time to time for the purposes of Clause 3.4;

Concession Company Variation means any Variation other than a Principal Agency Variation;

Conditions Satisfaction Date means the date the Principal Agency certifies that all of the Conditions Precedent have been satisfied or waived in accordance with Clause 2.3;

Conditions Precedent means the conditions precedent specified in **Annexure 2**;

Confidential Information shall have the meaning attributed to it in Clause 32.5;

Confirmed Principal Agency Variation shall have the meaning attributed to it in Clause 26.1(c);

Construction Period means the period from and including the Conditions Satisfaction Date until and including the Commercial Operation Date;

Principal Agency Parties means:

(a) the Principal Agency; and

(b) each of its Officers, employees, Affiliates, agents, representatives, contractors and licensees, and their respective Officers and employees;

Principal Agency's Representative means any person notified in writing by the Principal Agency to the Concession Company from time to time for the purposes of Clause 3.4;

Principal Agency Variation means a Variation expressly instructed by the Principal Agency in writing;

Cut Off Date means the Business Day falling 90 Days from the Signing Date or such later date as may be agreed in writing by the Principal Agency at its sole discretion;

CWSA Charges means the charges imposed by the Concession Company for the supply of Chilled Water to the Tenants under the CWSAs;

CWSA Term Sheet means the term sheet of the CWSA annexed hereto as **Annexure 4**;

Data Centre means the data centre(s) to be designed, constructed, owned and operated by the Tenants located at the Data Centre Park (or any part thereof);

Data Centre Park or **DCP** means the data centre park located at the land known as Pte Lot **[●]** at **[●]**, also known as Government Survey Lot **[●]** Mukim No. **[●]** and situated in the Republic of Singapore as outlined (for identification purposes only) in blue on the plan set out in **Annexure 16**, and shall include any part of it[1];

Day means a calendar day, consisting of 24 hours from midnight to midnight;

Declared Demand Load means with respect to any Tenant, the capacity of Chilled Water that that Tenant has requested and the Concession Company has agreed to provide under the CWSA between the Concession Company and that Tenant;

Default shall have the meaning attributed to it in Clause 28.1;

Default Cure Period shall have the meaning attributed to it in Clause 28.2(a)(ii)(B);

Default Notice shall have the meaning attributed to it in Clause 28.2(a);

Delay Event shall have the meaning attributed to it in Clause 11.4;

Delay Liquidated Damages means the liquidated damages payable by the Concession Company to the Principal Agency as contemplated under Clause 13.1;

Design and Technical Specifications means the design and technical specifications for the Project set out in **Annexure 6**;

Direct Agreement means the agreement to be entered into between the Principal Agency, the Concession Company and the Financing Party in substantially the same form set out in **Annexure 12**;

Disclosed Information means all information of whatever nature which is obtained by or on behalf of the Concession Company or any of its Affiliates from the Principal Agency or any Government Agency including:

(a) the Call for Proposal and all documentation issued in connection with that document;

(b) all material disclosed in presentations by or on behalf of the Principal Agency in connection with the Project;

(c) all discussions and negotiations between the Principal Agency and the Concession Company and its Affiliates relating to the Project or the Project Agreements; and

(d) any other information disclosed to, or obtained by or on behalf of, the Concession Company or any of its Affiliates from the Principal Agency or which is otherwise acquired by or on behalf of, or comes to the knowledge of, the Concession Company or any of its Affiliates, whether the information is in oral, visual or written form or is recorded in any other medium (including all information contained on diskettes, CD-ROMs and other electronic media);

[1] Note to Participants: These blanks will be completed upon finalisation of the Concession Agreement as the required information is pending certain final planning adjustments by the Principal Agency.

Dispute shall have the meaning attributed to it in Clause 30.1;

Dispute Notice shall have the meaning attributed to it in Clause 30.2;

Electricity Licence means the licence required to be obtained by the Concession Company under the Electricity Act (Cap. 89A) to enable the Concession Company to own and operate the Plant, and deliver and sell electrical energy to the Grid System;

EMA means the Energy Market Authority of Singapore established under the Energy Market Authority of Singapore Act (Cap. 92B);

Employee shall have the meaning attributed to it in Clause 28.9(a);

Encumbrance means an interest or power:

(a) reserved in or over an interest in any asset, including any retention of title; or

(b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way, or having similar commercial effect, of security for the payment of a debt, any other monetary obligation or the performance of any other obligation and includes any agreement to grant or create any of the above;

Environmental Law means a Law, whether arising by statute or common law, relating to the environment including a law relating to the use of land, planning, environmental assessment, the environmental heritage, water catchments, pollution of sea, sea beds, sea coast, beaches, air, soil, groundwater or water, noise, soil, chemicals, pesticides, hazardous substances, the ozone layer, dangerous goods, building regulation, occupation of buildings, public health, occupational health and safety, environmental hazard, any aspect of the protection of the environment, or the enforcement or administration of any of those laws (whether that law arises under statute or the common law or pursuant to any Authorisation, notice, decree, order or directive of any Government Agency or otherwise);

EPC Contract means the contract to be entered into between the Concession Company and the EPC Contractor;

EPC Contractor means the contractor to be engaged by the Concession Company under the EPC Contract to undertake the design, engineering, procurement, construction, testing and commissioning of the Plant;

Equity means the capital of the Concession Company attributable to the Shareholders in respect of their investments in the Concession Company ;

Equity Lock-In Period means the period from the Signing Date until (and including) the date falling 5 Years from the Commercial Operation Date;

Exempt Refinancing means:

(a) a change in Tax or change in accounting treatment; or

(b) exercise of rights, waivers, consents and similar actions which relate to day to day administrative matters;

Expert shall have the meaning attributed to it in Clause 30.7;

Expiry Date means the last day of the Term;

Financial Model means the Concession Company's financial model of the Project as set out in **Annexure 15**;

Financing Documents means any and all loan agreements, notes, bonds, indentures, security agreements, registration or disclosure statements, subordination agreements, hedging agreements, mortgages, deeds of trust, credit agreements, note or bond purchase agreements, participation agreements and other documents entered into by the Concession Company relating to the financing of the design, engineering, procurement, construction, ownership, operation and maintenance of the Project and any refinancing of those provided by any Financing Party, including any modifications, supplements, extensions, renewals and replacements of that financing or refinancing;

Financing Party means any person or persons providing debt financing or refinancing under the Financing Documents to the Concession Company for the design, engineering, procurement, construction, ownership, operation and maintenance of the Project and their permitted successors and assigns, including any agent or trustee for them but not including a Shareholder or an Affiliate of a Shareholder with respect to indebtedness constituting Equity;

First Schedule Lease shall have the meaning attributed to it in the Lease Letter of Award;

Force Majeure shall have the meaning attributed to it in Clause 25.1;

Good Industry Practice means those standards, practices, methods, procedures and acts generally engaged in, or approved by, the engineering and construction industry or chilled water and power plant industry (as the case may be) in Singapore that, at that particular time, in the exercise of reasonable judgment in the light of the facts known or that reasonably should have been known at the time a decision is made, would be expected to accomplish the desired result in a manner consistent with Law, including:

(a) when the term **Good Industry Practice** is used in connection with the design, construction, testing and commissioning of the Plant, taking reasonable steps to ensure that:

    (i) the Building Works will be supervised by sufficient numbers of persons having full knowledge of such matters for the satisfactory and safe performance of the Building Works in accordance with this Agreement and having regard to the activities which are carried on, at or adjacent to the Site;

    (ii) the Building Works when completed will be fit for the purposes required;

    (iii) the Building Works are maintained in good order, kept in a safe condition and protected from damage, and working areas of the Site are secure against trespassers and clean and tidy so far as practicable having regard to the nature of the Building Works;

    (iv) the Building Works are constructed using suitable goods and equipment of good and merchantable quality and which satisfy the requirements of **Annexure 6** and **7**;

(v) the Building Works are carried out with due care and diligence by persons skilled (and qualified, as may be required by Laws) and experienced in their several professions, trades and callings, and adequately supervised;

(vi) in undertaking all other tasks, standards, practices, methods and procedures conforming to the Law are used, and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged in the same type of undertaking in Singapore under the same or similar circumstances are exercised;

(b) when the term **Good Industry Practice** is used in connection with the operation, maintenance and repair of the Plant, taking reasonable steps to ensure that:

(i) adequate materials, resources and supplies, including energy, are available to meet the Plant's needs under normal conditions and reasonably anticipated abnormal conditions;

(ii) sufficient and duly licensed (as required by Law) operating personnel are available and are adequately experienced and trained to operate the Plant properly, efficiently and taking into account manufacturer's guidelines and specifications and are capable of responding to abnormal conditions;

(iii) preventative, routine and non-routine maintenance and repairs are performed on a basis that ensures reliable long term and safe operation and taking into account manufacturer's recommendations and are performed by knowledgeable, trained and experienced personnel who are duly licensed as required by Law utilising proper equipment, tools and procedures;

(iv) appropriate monitoring and testing is done to ensure the Plant and equipment is functioning as designed and to provide assurance that equipment will function properly under both normal and abnormal conditions;

(v) equipment is operated in a manner safe to workers, the Principal Agency, the general public, the environment, the Plant and equipment and with regard to defined limitations such as temperature, moisture and chemical content; and

(vi) in undertaking all other tasks, standards, practices, methods and procedures conforming to the Law are used, and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking in Singapore under the same or similar circumstances are exercised;

Government means the Government of the Republic of Singapore;

Government Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, statutory board, tribunal, government Minister, agency or entity;

Grid Supply shall have the meaning attributed to it in Clause 15.2;

Grid System means the system of interconnected electric lines, electrical plants and substations used by the Transmission Licensee for the purpose of transmitting and conveying electricity to consumers;

Guaranteed Response Time means 4 hours from the time of commencement of any Outage;

Implementation Schedule means the schedule for the implementation of the Project set out in **Annexure 8**, as may be amended in accordance with this Agreement;

Individualised CWSA Tenant shall have the meaning attributed to it in Clause 14.4(b);

Insolvency Event means the happening of any of these events with respect to a party:

(a) the passing by that party of a resolution for, or that party being under, bankruptcy, judicial management, insolvency, winding up, liquidation, or other similar proceeding;

(b) the appointment of a trustee, judicial manager liquidator, custodian, or similar person in a proceeding referred to in paragraph (a) of this definition whose appointment has not been set aside or stayed within 30 Days;

(c) the making by a court having jurisdiction of an order winding up or otherwise confirming the bankruptcy or insolvency of that party, which order has not been set aside or stayed within 30 Days;

(d) a receiver, receiver and manager, official manager, trustee, administrator, controller or similar official is appointed over any of the assets or undertaking of that party for a period exceeding 6 Months;

(e) except to reconstruct or amalgamate while solvent, that party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them;

(f) that party is unable to pay its debts when they are due or states that it is insolvent; or

(g) that party suspends payment of its debts generally;

Insurance Proceeds shall have the meaning attributed to it in Clause 24.7(a);

Intellectual Property means all intellectual property rights existing worldwide including any patent, design (whether registered or not), copyright, trademark, protected circuit layout (or similar right), trade secret, confidential information or other right (including licences) whether existing under statute, at common law or in equity;

Issuing Bank shall have the meaning attributed to it in Clause 9.1(b)(i);

Law means any decree, resolution, law, statute, act, ordinance, rule, directive (to the extent having the force of law in the Republic of Singapore), order, treaty, code or regulation (including any relating to health or safety matters or any Environmental Law) or any interpretation of the foregoing, as enacted, issued or determined by any Government Agency and includes:

(a) any Authorisation; and

(b) any injunction or final non-appealable judgment directly applicable to the relevant party of any Government Agency having jurisdiction over the matter in question;

Lease means the lease of the Site to be granted by the Principal Agency to the Concession Company on the terms, covenants and stipulations set out in the Lease Documents;

Lease Documents includes the Lease Letter of Award, the BT, the First Schedule Lease and the Memorandum of Lease Number IB/293564T, as may be amended or supplemented by the Principal Agency from time to time;

Lease Term shall have the meaning attributed to it in the Lease Letter of Award;

Legitimate Circumstances means:

(a) a material default by the Principal Agency of its obligations under this Agreement and such default remains unremedied within 30 Days from the date of a notice given by the Concession Company specifying in reasonable detail such default; or

(b) the occurrence of a Force Majeure;

Lease Letter of Award means the Letter of Award issued by the Principal Agency to the Concession Company relating to the licence and lease of the Site and includes the BT, the First Schedule Lease, the Memorandum of Lease Number IB/293564T and all the documents attached thereto, as may be amended or supplemented by the Principal Agency from time to time;

Licence Term shall have the meaning attributed to it in the Lease Letter of Award;

Licence Commencement Date shall have the meaning attributed to it in the Lease Letter of Award;

Liquidated Damages means the Delay Liquidated Damages, Abandonment Liquidated Damages and Performance Liquidated Damages;

Loss means, subject to Clause 31.1, any damage, loss, liability, cost, charge or expense that any party pays, suffers or incurs or is liable for, including:

(a) all interest and other amounts payable to third parties; and

(b) all legal fees (on a full indemnity basis) and other expenses incurred in connection with investigating or defending any Claim;

Loss Proceeds shall have the meaning attributed to it in Clause 24.7(c);

Loss Proceeds Notification shall have the meaning attributed to it in Clause 24.7(c);

Market Rules means the Singapore Electricity Market Rules made under the Electricity Act (Cap. 89A), as amended from time to time in accordance with applicable Law;

Milestone Date means each of the dates referred to in the Implementation Schedule;

Minimum Load Factor or **M** means [*insert*] quoted as a percentage of the Declared Demand Load (as may be revised or adjusted pursuant to this Agreement);

Month means a calendar month (whether or not beginning on the first Day of any month);

Monthly Operation Reports means the monthly operation report prepared by the Concession Company in the form acceptable by the Principal Agency in respect of the performance and operation of the Plant and shall include in respect of each Tenant:

(a) its Declared Demand Load;

(b) its actual usage or consumption of the Chilled Water Service;

(c) the Supply Temperature of the Chilled Water Service supplied to it;

(d) any Outage affecting that Tenant, the cause of such Outage and the duration of the Response Time; and

(e) such other information as may be reasonably required by the Principal Agency to assess whether the Concession Company has met the Performance Guarantees and compute the Performance Liquidated Damages;

Non-Affected Party shall have the meaning attributed to it in Clause 25.1(1);

Officer means, in relation to a party, a board member, a director, company secretary, general manager or other duly authorised officer for the time being of that party;

O&M Contract means the contract to be entered into between the Concession Company and the O&M Contractor;

O&M Contractor means the contractor to be engaged by the Concession Company under the O&M Contract to undertake the operation and maintenance of the Plant;

O&M Plan means the operations and maintenance plan set out in **Annexure 10**;

Operating Period means the period from and including the Commercial Operation Date until and including the Expiry Date or the Termination Date (as the case may be);

Operating Year means the period commencing from the Plant First Supply Date and ending on 31 December of that year and thereafter each subsequent Operating Year shall be the period from 1 January and ending on 31 December of such year provided that the final Operating Year shall end on the Expiry Date or the Termination Date (as the case may be);

Operating Year Block means a group of 3 consecutive Operating Years;

Outage means with respect to any Tenant, any loss of, interruption or reduction in the availability of the Chilled Water Service to that Tenant;

Plant means the chilled water supply facility and associated equipment and facilities (including a [*insert type and generation capacity*] power plant) which is capable of producing efficiently at least [*insert*] Refrigerating Tons, to be designed, constructed, tested, commissioned, owned and operated by the Concession Company in the manner contemplated by this Agreement and includes the Plant Equipment and if applicable, the Building Works;

Plant Equipment shall have the meaning attributed to it in **Annexure 14**;

Plant First Supply Date means the earlier date of:

(a) the date the Plant first commences supply of the Chilled Water Service to a Tenant since the Commercial Operation Date; and

(b) 3 Years from the Commercial Operation Date;

Performance Bond shall have the meaning attributed to it in Clause 9.1;

Performance Guarantees means the performance parameters guaranteed by the Concession Company set out in Clause 12.5;

Performance Liquidated Damages means the liquidated damages payable by the Concession Company to the Principal Agency as contemplated under Clause 13.3;

Performance Requirements means the requirements in relation to, and the minimum performance criteria for, the Plant set out in **Annexure 7**;

Performance Tests means the performance tests that are required to be carried out on the Plant to ensure, amongst other things, that the Performance Requirements are met;

[Preferred Participant means the selected participant which incorporated the Concession Company to undertake the Project in response to the Call for Proposal;]*

Price Ceiling means:

(a) for the first Quarter Period (not exceeding $0.18 per RTh), S$[*insert*] per RTh; and

(b) for the subsequent Quarter Periods, the price as determined in accordance with the Price Ceiling Adjustment Formula;

Price Ceiling Adjustment Formula means the formula to be used to determine the Price Ceiling for each Quarter Period (other than the first Quarter Period) as set out in **Annexure 9** (as may be revised or adjusted pursuant to this Agreement);

Price Ceiling Review Data means the Concession Company's audited accounts and financial reports, balance sheet, profit and loss account, cash flow statement and expense report for the last 3 financial years of the Concession Company and such other documents, information or reports as may be reasonably required by the Principal Agency or, as may in the opinion of the Concession Company be relevant, for the review of the Price Ceiling Adjustment Formula as contemplated in Clause 17.2;

Project means the project to design, build, own and operate the Plant as contemplated by this Agreement;

Project Agreements means:

(a) this Agreement;

(b) the EPC Contract;

(c) the O&M Contract;

(d) the Financing Documents;

(e) the Shareholders' Agreement;

(f) the Lease Documents;

(g) the Direct Agreement; and

(h) any other agreements designated as such from time to time by the parties;

Proprietary Information of a person means information rightfully in the possession of that person, including a document, idea, policy, procedure, method, process, materials or other tangible or intangible thing, which information derives economic value from not being generally known to, and not being readily ascertainable by, proper means by another person who can obtain economic value from its disclosure and use, and which is the subject of reasonable efforts to maintain its secrecy;

Project Return means [*insert*]%, being the internal rate of return for the Project as set out in the Financial Model;

Refrigerating Tons or **RT** means one ton of refrigeration which is equivalent to 12,000 Btu per hour;

Response Time means the time starting from the commencement of an Outage affecting any Tenant and ending on the full restoration of the Chilled Water Service to that Tenant;

Quarterly Date means each of 31 March, 30 June, 30 September and 31 December in each Year;

Quarter Period means the period of 3 Months preceding a Quarterly Date, except that the first Quarter shall commence on the Commercial Operation Date and end on the next Quarterly Date and the final Quarter shall commence of the date after the last Quarterly Date of the Term and end of the last day of the Term;

Refinancing means:

(a) any amendment, variation, novation, supplement or replacement of any Financing Document;

(b) the exercise of any right, or the grant of any waiver or consent, under any Financing Document;

(c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Financing Document or the creation or granting of any other form of benefit or interest in either the Financing Documents or the contracts, revenue and assets of the Concession Company whether by way of security or otherwise; or

(d) any other arrangement put in place by the Concession Company or another person which has an effect which is similar to any of paragraphs (a) to (c) above or which has the effect of limiting the Concession Company's ability to carry out any of paragraphs (a) to (c) above;

Relevant Component shall have the meaning attributed to it in Clause 17.2;

;

Review shall have the meaning attributed to it in Clause 17.4(a);

Review Data means the Concession Company's audited accounts and financial reports, balance sheet, profit and loss account, cash flow statement and expense report for the last 3 financial years of the Concession Company and such other documents, information or reports as may be reasonably required

by the Principal Agency or, as may in the opinion of the Concession Company be relevant, for the review of the Relevant Component as contemplated in Clause 17.2;

Review Date shall have the meaning attributed to it in Clause 17.2;

Review Documents shall have the meaning attributed to it in Clause 17.4(a);

Review Period shall have the meaning attributed to it in Clause 17.5;

Scheduled Commercial Operation Date means the date falling 2 Years from the Conditions Satisfaction Date, as may be extended from time to time in accordance with this Agreement;

Shareholders means the shareholders in the capital of the Concession Company set out in **Annexure 3**;

Shareholders' Agreement means the agreement entered into by the Shareholders governing their rights and obligations in respect of their shareholdings in the Concession Company;

SIAC means the Singapore International Arbitration Centre;

Signing Date means the date on which this Agreement is executed by the parties;

Singapore Dollars or **S$** means the lawful currency of the Republic of Singapore;

Site means the land known as Government Survey Lot 869C, 1191L, 1190Xpt, 4388Xpt, 1192Cpt and 1189Cpt Mukim No. 6, and situated in the Republic of Singapore as outlined (for identification purposes only) in red on the plan set out in **Annexure 16**, and shall include any part of it;

Site's Original Condition means the state and condition of the Site when the Concession Company first takes possession of the Site;

Step-change in Technology means any significant technological improvements including modernisation of the processes and systems as used in the Plant and other equipment which results in improvements in the efficiency, quality and/or reliability of the processes, systems or the Plant, or significant reductions in fixed and/or variable operation maintenance costs and/or energy costs to the Concession Company;

Step-in Rights shall have the meaning attributed to it in Clause 29.1(a);

Successor Operator shall have the meaning attributed to it in Clause 28.6(a);

Supply Temperature means with respect to any Tenant, the temperature of the Chilled Water supplied to that Tenant, as measured by the temperature sensor at the secondary side of the heat exchanger(s) installed by the Concession Company in that Tenant's Data Centre;

Surviving Provisions means:

(a) Clause 1 (*Definitions and Interpretation*);

(b) Clause 9 (*Performance Bond*);

(c) Clause 13 (*Liquidated Damages*);

(d) Clause 18 (*Representations, Warranties and Covenants*);

(e) Clause 21 (*Intellectual Property*);

(f) Clause 22 (*Indemnity*);

(g) Clause 28 (*Default and Termination*);

(h) Clause 30 (*Dispute Resolution*);

(i) Clause 31 (*Limits on Liability*);

(j) Clause 32 (*Miscellaneous*); and

(k) Annexure 11 (*Purchase Price*);

Target Supply Date means with respect to any Tenant, the date by which the Concession Company has agreed to make the Declared Demand Load available to that Tenant as specified in the CWSA between that Tenant and the Concession Company;

Tax means any tax, charge, impost, tariff, assessment, duty or fee of any kind charged, imposed or levied, directly or indirectly, by any Government Agency, including any goods and services tax, sales tax, stamp duty, import duty, withholding tax (whether on income, dividends, interest payments, fees, equipment rentals or otherwise), tax on foreign currency loans or foreign exchange transactions, excise tax, property tax, registration fee or licence, water tax or environmental, energy or fuel tax, including any interest, penalties or other additions imposed on any of these;

Tenant means any of the Principal Agency's authorised lessees and/or licensees of the Data Centre Park (or any part thereof);

Term means the period commencing from the Signing Date and ending on the date falling 30 Years from the Conditions Satisfaction Date and if such period is reduced pursuant to Clause 4(b), **Term** means such reduced period;

Termination Date means the date on which termination of this Agreement takes effect in accordance with Clause 28.2 or 28.3 (as the case may be);

Termination Notice shall have the meaning attributed to it in Clause 28.2;

Third Party Chilled Water Supply shall have the meaning attributed to it in Clause 14.2;

TOP means a temporary occupation permit issued by the Building and Construction Authority (or any successor body) (or the issue of a certificate of statutory completion issued by the Building and Construction Authority (or any successor body) in lieu thereof);

Transmission Code means the Transmission Code issued or approved by EMA under the Electricity Act (Cap. 89A), as amended from time to time in accordance with applicable Law;

Transmission Licensee shall have the meaning attributed to it in the Transmission Code;

Transfer Items means the following items transferred or to be transferred by the Concession Company to the Principal Agency on the Expiry Date or the Termination Date (as the case may be) insofar as they are part of or used in the Project, the Plant or the Building Works:

(a) all raw materials, consumables and spare parts;

(b) all tangible personal property;

(c) all intangible personal property (including all Intellectual Property);

(d) all land, buildings and fixtures;

(e) computerised and non-computerised records, reports, data, files, and information;

(f) all plans, drawings, test results, operation and maintenance manuals, user manuals, training materials and documents (including those drawings, test results and documents that are described or referred to in this Agreement);

(g) all warranties of equipment, materials and work;

(h) all contract rights and insurance policies;

(i) all work in progress under contracts with vendors, suppliers, contractors and subcontractors (including the EPC Contractor and the O&M Contractor); and

(j) all rights with respect to any proceeds or monies payable to or for the account of the Concession Company under or pursuant to the insurance policies taken up by the Concession Company under Clause 24, but unpaid at the Expiry Date or the Termination Date (as the case may be), in respect of the Concession Company's right, title and interest in the Project and the Plant;

Year means a calendar year (whether or not beginning on the first Day of any year);

Validity Period shall have the meaning attributed to it in Clause 9.1(b)(iv); and

Variation means any change to the Building Works, the Design and Technical Specifications or other specifications or requirements of the Plant whether by addition, modification, omission or otherwise made in accordance with this Agreement.

1.2. Interpretation

In this Agreement, headings and bold type are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

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

(b) words indicating a gender include any gender;

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

(d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;

(e) a reference to any thing (including any right) includes a part of that thing but nothing in this paragraph 1.2(e) implies that performance of part of an obligation constitutes performance of the obligation;

(f) a reference to a Clause, party, Annexure, exhibit or schedule is a reference to a Clause of, and a party, Annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any Annexure, exhibit and schedule;

(g) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

(h) a covenant or agreement on the part of two or more persons binds them jointly and severally;

(i) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;

(j) a reference to any Authorisation, includes the Authorisation as varied or replaced;

(k) a reference to a body, other than a party to this Agreement (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(l) a reference to time is to local time in the Republic of Singapore;

(m) a reference to currency is a reference to Singaporean currency and all amounts payable under this Agreement shall be paid in the Republic of Singapore in Singapore Dollars;

(n) all periods of time are based on, and computed according to, the Gregorian calendar;

(o) any capitalised words, terms, phrases and abbreviations used specifically in any Annexure or any attachment to any Annexure will have the meanings set forth in that Annexure or attachment, as the case may be;

(p) in the event of any inconsistency between any capitalised word, term, phrase or abbreviation in paragraph 1.1 herein and any capitalised word, term, phrase or abbreviation contained in any Annexure or any attachment to any Annexure, the meaning contained in the Annexure or attachment takes precedence over the meaning in paragraph 1.1 herein unless the context of this Agreement otherwise requires;

(q) the words in this Agreement shall bear their natural meaning, save as otherwise defined. The parties have had the opportunity to take legal advice on this Agreement and no provision of this Agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Agreement or that provision;

(r) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding-up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure;

(s) the use of the words “includes” or “including” when introducing an item or list of items does not limit the meaning of the words which follow to that item or those items or to items of a similar kind; and

(t) a reference to “man-made or artificial features or obstructions” includes mains, pipes, wires, tubes, cables, fittings, devices, equipment, facilities or other apparatuses, whether or not forming part of the underground utility services, which are laid in, run through or located in, any part of the Site.