

MASTER INTERCONNECTION OFFER (ICO) AGREEMENT

NUCLEUS CONNECT PTE. LTD.
MASTER INTERCONNECTION OFFER (ICO) AGREEMENT

CONTENT PAGE

<u>No.</u>	<u>Clause</u>	<u>Page</u>
1.	STRUCTURE, DEFINITIONS AND INTERPRETATION	4
2.	SCOPE OF AGREEMENT	6
3.	COMMENCEMENT AND DURATION	6
4.	CHARGES AND PAYMENT.....	7
5.	ONGOING INFORMATION REQUIREMENTS.....	8
6.	NETWORK PROTECTION AND SAFETY	10
7.	WARRANTIES.....	10
8.	EQUIPMENT AND FACILITIES	11
9.	SUSPENSION	13
10.	TERMINATION.....	14
11.	CONSEQUENCES OF TERMINATION.....	17
12.	FORCE MAJEURE	18
13.	EXCLUSIONS AND LIMITATION OF LIABILITY	19
14.	INTELLECTUAL PROPERTY RIGHTS.....	20
15.	INSURANCE.....	20
16.	INSURANCE CREDIT MANAGEMENT AND SECURITY REQUIREMENTS.....	21
17.	CONFIDENTIALITY.....	22
18.	CUSTOMER BILLING RELATIONSHIP.....	25
19.	REPRESENTATIONS AND COMMUNICATIONS TO THIRD PARTIES	26
20.	ASSIGNMENT	26
21.	REVIEW AND AMENDMENTS	26
22.	THIRD PARTIES	27
23.	ENTIRE AGREEMENT.....	27
24.	GOOD FAITH AND NON-EXCLUSIVITY	27
25.	NOTICES.....	28
26.	SEVERABILITY	28
27.	COSTS AND EXPENSES	28
28.	INDEPENDENT CONTRACTORS AND AGENCY	28
29.	WAIVERS	29
30.	LAW AND JURISDICTION	29
31.	DISPUTES.....	29
	ANNEX 1	30
	ANNEX 2	38
	ANNEX 3	44
	ANNEX 4	48
	ANNEX 5	49
	ANNEX 6	50

THIS MASTER INTERCONNECTION OFFER (ICO) AGREEMENT

MADE ON: _____ **2010**

BETWEEN: **NUCLEUS CONNECT PTE. LTD.**, a company incorporated under the laws of Singapore with its registered office at 3 Tai Seng Drive #04-01, Singapore 535216 ("**Nucleus Connect**")

AND: **STARHUB LTD**, a company incorporated under the laws of Singapore with its registered office at 67 Ubi Avenue 1, #05-01 StarHub Green, Singapore 408942 ("**Contracting QP**")

(together, the "**Parties**" and each, a "**Party**").

RECITALS:

- (A) The Info-communications Development Authority of Singapore (the "**Authority**") has published a Singapore's Next Generation National Broadband Network ("**NGNBN**") Project Operating Company ("**OpCo**") Request for Proposal (the "**OpCo RFP**"). The OpCo RFP closed on 5 December 2008 and Nucleus Connect has been selected on 3 April 2009 as an OpCo to design, build and operate the active infrastructure of the NGNBN.
- (B) Under the OpCo FBO Licence (as defined in Annex 1 (Definitions)), the OpCo must offer certain mandated services to Qualifying Persons (as defined in Annex 1 (Definitions)) on the terms of an Interconnection Offer ("**ICO**"). Nucleus Connect's ICO was submitted approved by the Authority on 6 April 2010, with further amendments approved by the Authority on 19 April 2010 and and 21 July 2010 (collectively, "**NC ICO**").
- (C) On or about 7 May 2010, Nucleus Connect and the Contracting QP entered into NC ICO pursuant to which Nucleus Connect would supply certain mandated services to the Contracting QP (the "**Previous ICO Agreement**").
- (D) At the Contracting QP's request, the Parties agree to amend the Previous ICO Agreement, on the terms and conditions set out in the ICO Agreement (as described in Clause 1.1(a)).

THE PARTIES AGREE AS FOLLOWS:

1. STRUCTURE, DEFINITIONS AND INTERPRETATION

1.1 The following documents shall be deemed to be read and construed as part of the ICO Agreement:

- (a) this Master ICO Agreement, which includes the following Annexes;
- (i) Annex 1: Definitions;
 - (ii) Annex 2: Billing, Payment and Related Disputes;
 - (iii) Annex 3: General Dispute Resolution;
 - (iv) Annex 4: Nucleus Connect Details;
 - (v) Annex 5: Contracting QP Details; and
 - (vi) Annex 6: ON Charges;
- (b) Service Schedule(s) which come into force in accordance with the terms therein.

- 1.2 In the event of any inconsistency or conflict between the provisions of this Master ICO Agreement and the provisions of any Service Schedule in force, the provisions of this Master ICO Agreement shall prevail.
- 1.3 In this Master ICO Agreement and its Annexes, unless the subject or context otherwise requires and/or where specifically defined in the Service Schedules, all capitalised words and other expressions shall have the meanings respectively ascribed to them in Annex 1 (Definitions).
- 1.4 In the ICO Agreement, unless the subject or context otherwise requires:
- (a) words importing the singular include the plural and vice versa;
 - (b) a reference to a document includes all amendments or supplements to that document, or replacements or novations of it;
 - (c) all amounts are expressed in Singapore Dollars unless otherwise indicated;
 - (d) a reference to a period of time:
 - (i) which dates from a given day or the day of an act or event; or
 - (ii) which commences on a given day or the day of an act or event,is to be calculated inclusive of that day;
 - (e) a reference to a Clause is a reference to a clause of this Master ICO Agreement, and a reference to a paragraph is a reference to a paragraph of the Annexes to this Master ICO Agreement;
 - (f) a reference to a day is a reference to a calendar day, a month is a reference to a calendar month and a reference to a year is a calendar year;
 - (g) a reference to a party to a document includes that party's successors and permitted assigns;
 - (h) a reference to a third person or a third party is a reference to a person who is not a Party;
 - (i) a reference to a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a rule of an applicable stock exchange and is a reference to that law as amended, consolidated or replaced;
 - (j) the words 'include', 'including', 'for example' or 'such as' are not used as, and are not to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
 - (k) the headings in the ICO Agreement are for convenience only and shall not affect its interpretation; and
 - (l) the ICO Agreement or any part thereof may not be construed adversely against Nucleus Connect just because Nucleus Connect prepared it.
- 1.5 If the Parties mutually agree to vary the ICO Agreement, then subject to the Authority's written approval of such variation, it is no longer an ICO Agreement, but a Customised Agreement for the purpose of the Code.

- 1.6 Any Customised Agreement approved by the Authority shall be published by the Authority (save that the Authority may withhold from publication any portion of the Customised Agreement if it determines, at its own motion or at the request of either party, that it contains proprietary information or commercial sensitive information).

2. SCOPE OF AGREEMENT

- 2.1 The ICO Agreement sets out the terms and conditions upon which Nucleus Connect will, subject to Clause 2.3, supply the Mandated Services to the Contracting QP.
- 2.2 The Mandated Services eligible to be provided under the ICO Agreement are those Mandated Services for which Nucleus Connect has published the relevant Service Schedules.
- 2.3 The ICO Agreement applies only to the supply of Mandated Services where the Contracting QP is:
- (a) a Facilities-Based Operator;
 - (b) a Services-Based Operator; or
 - (c) a Broadcasting Licensee.
- 2.4 Each Mandated Service shall be supplied in accordance with this Master ICO Agreement and the Service Schedule in respect of such Mandated Service.

3. COMMENCEMENT AND DURATION

- 3.1 Nucleus Connect shall submit to the Authority a copy of the ICO Agreement.
- 3.2 This Master ICO Agreement shall (subject to Clause 3.3) commence on the Effective Date and shall continue in force until the earlier of:
- (a) the expiry of the OpCo FBO Licence, where Nucleus Connect is not simultaneously granted another licence of that type;
 - (b) the Contracting QP ceasing to be a Facilities-Based Operator, a Services-Based Operator, or a Broadcasting Licensee (as the case may be); or
 - (c) its termination in accordance with Clauses 9.6, 10 or 12, or any other right at law.
- 3.3 Notwithstanding anything in the ICO Agreement to the contrary, the Parties hereby acknowledge that this Master ICO Agreement will not be effective until approved by the Authority (or deemed approved by the Authority as provided for in the Code).
- 3.4 Each Service Schedule shall commence pursuant to and in accordance with the terms therein and shall continue in force until terminated in accordance with its terms or the terms of this Master ICO Agreement.
- 3.5 If this Master ICO Agreement expires or is terminated in accordance with the terms herein, all Service Schedules then in force shall be deemed to terminate on the same date as the date of expiry or termination of this Master ICO Agreement.
- 3.6 Subject to Clause 3.3, with effect from the Effective Date, the Previous ICO Agreement shall be terminated and replaced in its entirety by the ICO Agreement. For the avoidance of doubt, all orders submitted by the Contracting QP pursuant to

the Previous ICO Agreement shall (with effect from the Effective Date) be governed by the ICO Agreement.

4. CHARGES AND PAYMENT

4.1 The charges payable by the Contracting QP in relation to the Mandated Service(s) to be provided or provided to it shall be as follows:

- (a) Nucleus Connect’s charges as set out in, and calculated in accordance with, the applicable Service Schedules and Clause 4.1A (the “**NC Charges**”);
- (b) if applicable, OpenNet’s charges as set out in Annex 6 (ON Charges) (the “**ON Charges**”), calculated in accordance with the applicable Service Schedules;
- (c) if applicable, the third party charges as may be set out in the ICO Agreement from time to time (the “**Third Party Charges**”); and
- (d) any other third party and/or OpenNet’s charges agreed pursuant to and in accordance with the Service Schedules,

(collectively, the “**Charges**”). The Charges shall exclude GST or any other taxes which may be applicable to the provision of Mandated Services.

4.1A Without prejudice to Clause 4.1, the Contracting QP shall pay to Nucleus Connect the following non-refundable one-time charges as follows:

(a) DHCP Option 82 Setup Charges

Description	One-time Charges
(i) Setting up of DHCP Option 82 Service	\$10,000 due and payable upon activation of the DHCP Option 82 Service
(ii) Configuration to support DHCP Option 82 Service	
(iii) Testing and Commissioning of DHCP Option 82 Service	
(iv) Activation of DHCP Option 82 Service	
(v) Project Management	

(b) VLAN Translation Setup Charges

Description	One-time Charges
(i) Setting up of VLAN Translation	\$20,000 due and payable upon activation of VLAN Translation in respect of first Order for Basic Mandated Service(s) requiring VLAN Translation
(ii) Configuration to support VLAN Translation	
(iii) Testing and Commissioning of VLAN Translation	

(iv) Activation of VLAN Translation	
(v) Project Management	

(c) Non- Burstable Bandwidth Setup Charges

Description	One-time Charges
(i) Setting up of non-burstable bandwidth	\$20,000 due and payable upon activation of non-burstable Connection (as defined in General Service Terms and Conditions) in respect of first Order for Connection(s)
(ii) Configuration to bandwidth profile	
(iii) Testing and Commissioning of non-burstable bandwidth	
(iv) Project Management	

- 4.2 The Service Schedules set out the Charges for work done by Nucleus Connect on Business Days and non-Business Days, as the case may be.
- 4.3 The Parties shall comply with Annex 2 (Billing, Payment and Related Disputes) in relation to all aspects of billing and payment procedures, payment terms and conditions and disputes arising therefrom.
- 4.4 If there is a difference between any Charge for a Mandated Service as set out in the applicable Service Schedule and any Charge determined by the Authority, the latter shall prevail.
- 4.5 The Charges for a Mandated Service shall change as a result of an approval, order, direction, determination or requirement of the Authority.
- 4.6 Nucleus Connect shall be entitled to apply payments made by the Contracting QP towards any outstanding amount for any Mandated Service as it deems appropriate and to withhold or deduct any payment due from Nucleus Connect to the Contracting QP against any outstanding Charges.

5. ONGOING INFORMATION REQUIREMENTS

- 5.1 The obligations of each Party to provide information to the other Party are as set out in this Clause 5 (or as otherwise agreed in writing between the Parties), and are subject to the requirements of confidentiality imposed by Clause 17.
- 5.2 Each Party shall provide the other Party on a timely basis with all agreed information reasonably required to determine Charges to be billed by one Party to the other Party.
- 5.3 The Contracting QP must inform Nucleus Connect within seven (7) days if it ceases to be an FBO, SBO or Broadcasting Licensee, or it is no longer entitled to obtain any Mandated Services.
- 5.4 The Contracting QP acknowledges and agrees that information on certain service packages which directly or indirectly utilises Nucleus Connect’s Network that the Contracting QP offers or intends to offer to its End-Users is of interest to Nucleus Connect and the Authority. Accordingly, the Contracting QP agrees to provide to the

Authority, by the date falling thirty (30) days after the end of the month, a report stating:

- (a) the offered service packages during such month. Specifically:
 - (i) service packages of at least 100Mbps that utilise Nucleus Connect's Network for End-Users in the Residential Premises ("**Relevant Residential Service Packages**");
 - (ii) service packages of at least 100Mbps that utilise Nucleus Connect's Network for End-Users in the Non-Residential Premises ("**Relevant Non-Residential Service Packages**"); or
 - (iii) service packages, other than Relevant Non-Residential Service Packages, that utilise Nucleus Connect's Network for NBAPs ("**Relevant NBAP Service Packages**"); and
- (b) the total number of Connections the Contracting QP has under the Relevant Residential Service Package, Relevant Non-Residential Service Package and Relevant NBAP Service Package during such month. For the Relevant Non-Residential Service Packages, the total number of End-User subscriptions shall be further divided into number of subscriptions from Government and non-Government End-Users.

The Contracting QP understands and agrees to observe its obligations to submit true, complete and accurate information and in a timely manner to the Authority.

- 5.5 If it is necessary for Nucleus Connect to carry out any scheduled service interruption, including but not limited to planned repair, or replacement or upgrade to any equipment or facility forming part of any Mandated Service (as may be applicable), Nucleus Connect shall provide the Contracting QP with a least three (3) weeks' written notice in advance of such interruptions, repairs, replacements or upgrade. Nucleus Connect shall take reasonable measures to minimize any service disruption to the Contracting QP. Nucleus Connect will carry out the scheduled service interruption between 1am and 6am, unless it is not feasible for Nucleus Connect to do so.
- 5.6 Nucleus Connect shall make available to the Contracting QP, either in the ICO Agreement or as part of Mandated Services Information, the technical interfaces, specifications and standards, interoperability-testing related information, safety regulations and procedures, process and instructions, in each case, related to the provision to and usage by the Contracting QP of the Mandated Services.
- 5.7 Nucleus Connect will maintain full and comprehensive Mandated Services Information, in electronic format. Where the Platform is available, Mandated Services Information shall be made available to the Contracting QP on the Platform. Where the Platform is not available, Nucleus Connect shall provide the Mandated Services Information directly to the Contracting QP upon its request. To view and access Mandated Services Information, the Contracting QP shall be required to create a user account. A Charge of \$150 shall be imposed on the Contracting QP by Nucleus Connect for the creation of each user account by the Contracting QP. For the avoidance of doubt, the \$150 Charge per user account shall not be re-imposed on the Contracting QP once the Mandated Services Information is made available to the Contracting QP on the Platform.
- 5.8 If Nucleus Connect initiates any change to its Network system which affects any Mandated Service used by the Contracting QP, Nucleus Connect shall notify the Contracting QP and bear the costs of such system change, including changes that are necessary for the Contracting QP to continue using the Mandated Service in substantially the same manner as it did before the change.

- 5.9 For the avoidance of doubt, nothing in the ICO Agreement requires either Party to provide any information that is proprietary, confidential or commercially sensitive.
- 5.10 Nothing in the ICO Agreement shall oblige either Party to do anything which would cause it to be in breach of any statutory, regulatory or contractual obligation of confidentiality or any code of practice on the confidentiality of information issued by the Authority or pursuant to their respective licences.

6. NETWORK PROTECTION AND SAFETY

- 6.1 Each Party is responsible for the safe operation of its side of the Network, and shall, so far as is reasonably practicable, take all necessary steps to ensure that its side of the Network, its Network operations and implementation of the ICO Agreement:
- (a) do not endanger the safety or health of any person, including the employees and contractors of the other Party; and
 - (b) do not cause physical or technical harm to the other Party's Network, including but not limited to causing damage, interfering with or causing deterioration in the operation of the other Party's Network.
- 6.2 The Contracting QP shall not use or permit the use of any Mandated Service, or install, connect, link or use (or permit the installation, connection, linking or use of) any telecommunications equipment for any unlawful purpose. If Nucleus Connect considers that the Contracting QP is acting, or is likely to act, in contravention of this Clause 6, then Nucleus Connect may seek the Authority's approval to take necessary corrective action, unless an imminent threat to life or property to any party, arises (or is likely to arise) in which case Nucleus Connect may take immediate necessary corrective action. Upon receipt of the Authority's approval (except as otherwise provided in this Clause 6), Nucleus Connect may take the necessary corrective action.

7. WARRANTIES

- 7.1 The Contracting QP represents and warrants to Nucleus Connect that:
- (a) it has the requisite power to enter into and observe its obligations under the ICO Agreement;
 - (b) it has in full force and effect the authorisations necessary to enter into the ICO Agreement, observe obligations under it and allow it to be enforced;
 - (c) it has obtained and will maintain, at its own expense, all relevant licences, permissions, waivers or permits required to use the Mandated Services;
 - (d) its obligations under the ICO Agreement are valid and binding and are enforceable against it in accordance with its terms; and
 - (e) the information provided by it to Nucleus Connect prior to its entry into, and for the purpose of entering into, the ICO Agreement is complete, true and correct, and not misleading.
- 7.2 Nucleus Connect represents and warrants to the Contracting QP that:
- (a) it has the requisite power to enter into and observe its obligations under the ICO Agreement;

- (b) it has in full force and effect the authorisations necessary to enter into the ICO Agreement, observe obligations under it and allow it to be enforced;
- (c) its obligations under the ICO Agreement are valid and binding and are enforceable against it in accordance with its terms;
- (d) it has obtained and will maintain, at its own expense, all relevant licences, permissions, waivers or permits required to provide the Mandated Services; and
- (e) it will exercise the reasonable skill and care required of a competent telecommunications operator in performing its obligations under the ICO Agreement.

8. EQUIPMENT AND FACILITIES

8.1 Unless otherwise agreed, the Contracting QP shall procure and maintain at its own costs all necessary equipment to receive or use the Mandated Services (the “**Contracting QP Equipment**”) and the Contracting QP agrees and undertakes to Nucleus Connect:

- (a) to connect to the Mandated Services only Contracting QP Equipment that has been approved by Nucleus Connect or that is type-approved by the Authority or any party authorised by the Authority to do so, and which meets the relevant standards;
- (b) to obtain the prior written approval of Nucleus Connect before connecting any Contracting QP Equipment to Nucleus Connect's telecommunication systems or equipment, except where (i) the Contracting QP Equipment has successfully completed the interoperability tests under the IOT Service required for the respective Mandated Services; or (ii) where the equipment has been type-approved by the Authority or party authorised by the Authority;
- (c) that any Contracting QP Equipment connected to the Mandated Services must:
 - (i) be technically compatible with the Mandated Services; and
 - (ii) not harm Nucleus Connect's Network or equipment, or another third party's Network or equipment;

(for the purpose of sub-Clauses (a) to (c) above, Contracting QP Equipment that have successfully completed the interoperability tests under the IOT Service required for the respective Mandated Services shall be considered as approved by Nucleus Connect for the respective Mandated Services and shall be deemed to be technically compatible with the respective Mandated Services); and

- (d) to maintain and manage the Contracting QP Equipment to minimise disruption of the Mandated Services and where any disruption to the Mandated Services is caused by or attributable to the Contracting QP Equipment, to take such measures as may be necessary to restore the Mandated Services as soon as is reasonably practicable.

8.2 If the Contracting QP Equipment does not comply with any of the provisions of Clause 8.1, the Contracting QP must immediately disconnect them or Nucleus Connect may (but shall not be obliged to) do so, at the Contracting QP's expense. If the Contracting QP asks Nucleus Connect to test the Contracting QP Equipment to ensure that they meet the relevant instructions, standards or laws, the Contracting

QP agrees to pay Nucleus Connect any applicable Charges referred to in the relevant Service Schedule.

- 8.3 Nucleus Connect shall not be liable for failure to meet any service levels or other obligations under the ICO Agreement, if such failure is caused by any Contracting QP Equipment which is found to be connected or used otherwise than in accordance with Clause 8.1.
- 8.4 Where Nucleus Connect places or otherwise provides any NC Equipment at the Contracting QP's and/or End-Users' Sites, the Contracting QP agrees and undertakes to:
- (a) procure a suitable place and conditions for such NC Equipment including any necessary power supply;
 - (b) facilitate the means of entry and exit by Nucleus Connect or its personnel to the premises where such NC Equipment is to be located;
 - (c) maintain or procure the maintenance of such NC Equipment in good condition, fair wear and tear excepted, and prevent any modification, change or re-location of the same unless Nucleus Connect has given its written consent thereto;
 - (d) be responsible for the security and safe use of such NC Equipment;
 - (e) comply with such instructions, notices or directions issued by Nucleus Connect or the Authority in relation to the installation, use or operation of such NC Equipment; and
 - (f) abide by such other terms and conditions that may be imposed by Nucleus Connect in relation to such NC Equipment or enter into such other arrangements for the provision of the NC Equipment as may be required by Nucleus Connect.
- 8.5 The NC Equipment shall remain the property of Nucleus Connect at all times unless otherwise specifically agreed by the Parties in writing.
- 8.6 The Contracting QP agrees (and agrees to take reasonable steps) to, if necessary having regard to the particular Mandated Service:
- (a) ensure End-Users agree to allow the installation and use of NC Equipment at the End-Users' Sites;
 - (b) ensure that End-Users provide Nucleus Connect with access to End-Users' Sites and that End-Users provide a suitable and safe working environment for Nucleus Connect at the End-Users' Sites;
 - (c) prepare and provide a suitable place, conditions and connection points required by Nucleus Connect, for NC Equipment and electricity at the Site in accordance with Nucleus Connect's reasonable instructions, if any; and
 - (d) either:
 - (i) obtain all necessary third party consents (excluding wayleaves); or
 - (ii) provide reasonable assistance to Nucleus Connect where Nucleus Connect is the party obliged to obtain necessary third party consents,

in relation to building alterations or additions, access to land or permission to put NC Equipment on property if such consents are necessary for Nucleus Connect to provide the Mandated Services.

9. **SUSPENSION**

9.1 Either Party (the “**Suspending Party**”) shall be entitled to suspend this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, in each case, provided that Clause 9.2 is complied with, and take action to recover any monies outstanding, by giving written notice thereof to the other Party if:

- (a) the other Party is in material breach of any of its obligations (other than its payment obligations) under this Master ICO Agreement and/or the relevant Service Schedule, and has failed to remedy such breach within sixty (60) days after written notice of such breach is given by the Suspending Party to the other Party;
- (b) the other Party is in material breach of its payment obligations under this Master ICO Agreement and/or the relevant Service Schedule, and has failed to remedy such breach within fourteen (14) days (which period may operate concurrently with the period in Paragraph 3.3 of Annex 2 (Billing, Payment and Related Disputes)) after written notice of such breach is given by the Suspending Party to the other Party. For the avoidance of doubt, this sub-Clause shall not apply pending the resolution of any billing dispute in accordance with Annex 2 (Billing, Payment and Related Disputes);
- (c) compliance with legal or regulatory obligations requires immediate action;
- (d) the Suspending Party is directed or required to do so by the Authority, or by an emergency services organisation or by any other competent regulatory, administrative or judicial authority;
- (e) the other Party’s Network adversely affects the normal operation of the Suspending Party’s Network, is a threat to any person’s safety, or causes or is likely to cause physical or technical harm to any telecommunications network, system or services (whether of the Suspending Party or any other party) including but not limited to causing damage, interfering with or causing deterioration in the operation of the Suspending Party’s Network;
- (f) the other Party’s Network, the supply of Mandated Services to the other Party or the continued operation of the ICO Agreement may be unlawful or may pose an imminent threat to life or the property of the Suspending Party;
- (g) in the Suspending Party’s reasonable opinion, the other Party attempted to use, is likely to use, or has used any Mandated Service (whether with or without the authorisation and/or permission of the Suspending Party) in contravention of any law;
- (h) the other Party is unable to pay debts within the meaning of that expression in section 254(2) of the Companies Act (Cap. 50), or enters into an arrangement with, or making a general assignment for the benefit of, its creditors or the appointment of an administrator or administrative receiver over the whole or any part of its business or assets, or the other Party becoming the subject of any proceedings relating to insolvency or the protection of creditors’ rights, or where proceedings for winding up are commenced under the Companies Act (Cap. 50) (whether compulsorily or voluntarily) otherwise than for the purposes of amalgamation or reconstruction or where the other Party ceases to carry on business; or

- (i) any material information provided or representation made to the Suspending Party by the other Party is untrue, misleading or inaccurate and has an adverse material impact on the Suspending Party in relation to its provision of Mandated Services.
- 9.2 A Suspending Party will only suspend this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, to the extent necessary to address the relevant event. Prior to suspending this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, the Suspending Party shall notify the Authority and request the Authority's written approval of such suspension, and shall concurrently notify the other Party that the Suspending Party is requesting the Authority's written approval to such suspension. The other Party may, within three (3) Business Days after its receipt of such notice (or such other timeframe as may be stipulated by the Authority), make written submissions to the Authority regarding the proposed suspension. The Suspending Party's right to suspend this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule shall not be exercised without the Authority's prior written approval, unless imminent threats to life or property of any party, or compliance with other legal or regulatory obligations require immediate action, in which case the Suspending Party shall be entitled to immediately suspend the operation of this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule.
- 9.3 If the Authority issues an order or direction granting in whole or in part the request under Clause 9.2, the Suspending Party shall be entitled to immediately suspend (for such period of time as the Authority approves, or for such period as the Suspending Party deems proper if the Authority does not specify a period of time) the operation of the ICO Agreement or those parts of the ICO Agreement covered by the Authority's order or direction, by giving written notice thereof to the other Party.
- 9.4 Where the provision of any Mandated Service has been suspended (whether or not at the request of the Contracting QP), the Contracting QP shall:
 - (a) pay the disconnection Charges (if any) as set out in the relevant Service Schedule and, in the event such Mandated Service is reconnected, all reconnection Charges (if any) as set out in the relevant Service Schedule, unless such suspension is attributable to Nucleus Connect; and
 - (b) continue to pay the Charges in respect of such Mandated Service for the period during which the provision thereof has been suspended if such suspension is attributable to the Contracting QP.
- 9.5 If this Master ICO Agreement is suspended pursuant to and in accordance with this Clause 9, all Service Schedules shall be deemed to have been suspended on the same date as the suspension of this Master ICO Agreement.
- 9.6 If this Master ICO Agreement is suspended pursuant to and in accordance with this Clause 9 for more than sixty (60) days, the Suspending Party or (in the case of Clause 9.1(e) only) either Party shall be entitled, subject to Clause 10.4, to terminate the ICO Agreement with immediate effect by giving the other Party written notice thereof.
- 9.7 Additional rights of suspension relating to a specific Mandated Service may be set out in the Service Schedule pertaining thereto.
- 10. **TERMINATION**
- 10.1 Subject to the payment of any applicable Early Termination Charges, the Contracting QP may terminate:

- (a) this Master ICO Agreement by giving Nucleus Connect not less than three (3) months' prior written notice thereof; or
- (b) the provision of an entire Mandated Service under the relevant Service Schedule by giving Nucleus Connect not less than one (1) month's prior written notice thereof,

in each case, provided that Clause 10.4 is complied with,

10.2 If at any time the Contracting QP has not procured, and has not been provided with any Mandated Service, during the preceding eighteen (18) month period, Nucleus Connect may (but shall not be obliged to) terminate this Master ICO Agreement immediately by giving written notice thereof to the Contracting QP, provided that Clause 10.4 is complied with.

10.3 Either Party (the "**Terminating Party**") may immediately terminate this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, in each case, provided that Clause 10.4 is complied with, and take action to recover any monies outstanding, by giving written notice thereof to the other Party:

- (a) in the event of a material breach by the other Party which, if capable of remedy, has not been remedied within sixty (60) days from the date of written notice;
- (b) if the other Party is unable to pay debts within the meaning of that expression in section 254(2) of the Companies Act (Cap. 50), or enters into an arrangement with, or making a general assignment for the benefit of, its creditors or the appointment of an administrator or administrative receiver over the whole or any part of its business or assets, or the other Party becoming the subject of any proceedings relating to insolvency or the protection of creditors' rights, or where proceedings for winding up are commenced under the Companies Act (Cap. 50) (whether compulsorily or voluntarily) otherwise than for the purposes of amalgamation or reconstruction or where the other Party ceases to carry on business;
- (c) if the Terminating Party is required or directed to do so by the Authority, or by an emergency services organisation or any other competent regulatory, administrative or judicial authority;
- (d) if the Contracting QP is no longer entitled to acquire:
 - (i) the Mandated Services under the ICO Agreement; or
 - (ii) a particular Mandated Service under the ICO Agreement in which case termination shall be limited to those parts of the ICO Agreement that relate to the Mandated Service to which the Contracting QP is no longer entitled to acquire;
- (e) if the continued operation of the ICO Agreement would be unlawful or would pose an imminent threat to life or property of any party;
- (f) if, in the Terminating Party's reasonable opinion, the other Party attempted to use, is likely to use, or has used any Mandated Service (whether with or without the authorisation and/or permission of the Terminating Party) in contravention of any law; or
- (g) any material information provided or representation made by the other Party to the Terminating Party is untrue, misleading or inaccurate and has an

adverse material impact on the Terminating Party in relation to its provision of Mandated Services.

- 10.4 A Terminating Party will only terminate this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, to the extent necessary to address the relevant event. Prior to terminating this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule, the Terminating Party shall notify the Authority and request the Authority's written approval of such termination, and shall concurrently notify the other Party that the Terminating Party is requesting the Authority's written approval to such termination. The other Party may, within three (3) Business Days after its receipt of such notice (or such other timeframe as may be stipulated by the Authority), make written submissions to the Authority regarding the proposed termination. The Terminating Party's right to terminate this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule shall not be exercised without the Authority's prior approval, unless imminent threats to life or property of any party or compliance with other legal or regulatory obligations require immediate action, in which case the Terminating Party shall be entitled to immediately terminate this Master ICO Agreement or the provision of an entire Mandated Service under the relevant Service Schedule.
- 10.5 If the Authority issues an order or direction granting in whole or in part the request under Clause 10.4, the Terminating Party shall be entitled to immediately terminate the ICO Agreement, or those parts of the ICO Agreement covered by the Authority's order or direction, by giving written notice thereof to the other Party.
- 10.6 If the Nucleus Connect's ICO is or is to be revoked by the Authority, or if Nucleus Connect is exempted by the Authority from its obligation under the Code, the ICO Agreement will automatically and immediately terminate on and from the date of revocation or exemption notified by the Authority.
- 10.7 If the Authority removes a Mandated Service supplied under the ICO Agreement from being required to be supplied under Nucleus Connect's ICO or exempts Nucleus Connect from supplying a Mandated Service, Nucleus Connect may immediately terminate the supply of such Mandated Service and the Service Schedule which relate to such Mandated Service, by giving written notice to the Contracting QP with effect on or after the effective date of such removal or exemption as notified by the Authority.
- 10.8 For the avoidance of doubt, in the event of any of the circumstances identified in this Clause 10 (or the applicable clauses in a Service Schedule) arising and thereby giving either Party a right to terminate this Master ICO Agreement or a particular Service Schedule or to suspend the relevant Mandated Service, the dispute resolution process in Annex 3 (General Dispute Resolution) will not operate to extinguish, override or otherwise hinder the exercise of that right provided that any such suspension and/or termination right (including notice of and/or any reference to any such rights) is not used to unconscionably or unduly influence the outcome of that dispute process. Nothing in this Clause 10 restricts Nucleus Connect from suspending new Orders for Mandated Service(s) which have been suspended pursuant to and in accordance with Clause 9.
- 10.9 A Party is not obliged to suspend a Mandated Service or give a notice of suspension before exercising its right to terminate this Master ICO Agreement or a Service Schedule in force.
- 10.10 Additional rights of termination relating to a specific Mandated Service may be set out in the Service Schedule pertaining thereto.

- 10.11 For the avoidance of doubt, the automatic termination of a Service Schedule pursuant to and in accordance with its terms shall not require the prior written consent of the Authority.

11. CONSEQUENCES OF TERMINATION

- 11.1 In the event this Master ICO Agreement is terminated:

- (a) all Mandated Services provided to and all rights conferred on the Contracting QP under the ICO Agreement shall immediately terminate, upon which the Contracting QP shall cease to access and use such Mandated Services;
- (b) all sums due, accrued or payable to each Party under the ICO Agreement or with respect to the Mandated Services up to the date of termination and all sums due or payable to each Party shall upon termination become immediately due and payable to that Party, including any Early Termination Charges and/or disconnection costs for any Mandated Service that is terminated as a result of such termination as follows:
 - (i) where a Mandated Service is terminated within its Minimum Term, the Contracting QP will pay an Early Termination Charge of a sum equivalent to the prevailing Charges payable for such Mandated Service as at the date of termination for the remaining period of the Minimum Term; and
 - (ii) the amount of disconnection charges payable by the Contracting QP will be computed based on the extent of recovery or disconnection works that are required to be carried out pursuant to Clause 11.3 (apart from fibre recovery) and on a cost oriented basis (for the purpose of the ICO Agreement and in accordance with the RFP submission, "**cost oriented basis**" shall mean a thirty (30) percent mark-up on Nucleus Connect staff related costs and a ten (10) percent mark-up on all other costs),

provided that the Contracting QP shall not be liable for:

- (iii) the costs of the removal of Patching Services and reinstatement of site, where such termination is due to Nucleus Connect's fault; and
 - (iv) Early Termination Charges referred to in sub-Clause (i) above, unless such termination is due to the Contracting QP's fault; and
- (c) each Party shall, without undue delay, disconnect, remove and/or dispose, at its own cost, all of the equipment, facilities, plant and other property used by such Party under the ICO Agreement which are located on the other Party's premises.

- 11.2 In the event any Service Schedule in force is terminated, the provisions of this Clause 11 shall apply (to the extent applicable) with respect to the Mandated Service which is the subject of such Service Schedule. Additional consequences of terminating a particular Mandated Service may be set out in the Service Schedule pertaining thereto.

- 11.3 If the Contracting QP does not, within thirty (30) days after the date of termination of this Master ICO Agreement or a Service Schedule in force, disconnect, remove and/or dispose its equipment, facilities, plant and other property from Nucleus Connect's premises pursuant to and in accordance with Clause 11.1(c), Nucleus Connect may (but shall not be obliged to) do so and shall be entitled to charge the

Contracting QP for Nucleus Connect's reasonable costs for such disconnection, removal and/or disposal.

- 11.4 The expiry or termination of the ICO Agreement or any part thereof shall not operate as a waiver of any breach by either Party of any of the provisions of the ICO Agreement or any part thereof, and shall be without prejudice to any rights, liabilities or obligations of either Party which have accrued up to the date of such expiry or termination and any further rights, reliefs or remedies available to either Party caused by such termination, including Nucleus Connect's right to Early Termination Charges.
- 11.5 The Contracting QP shall observe such procedures as may be prescribed by Nucleus Connect from time to time when disconnecting or recovering any of the Contracting QP's equipment, facilities, plant and other property from Nucleus Connect's premises.
- 11.6 Notwithstanding the termination or expiry of the ICO Agreement or any part thereof, Clauses 4, 13, 14, 15, 16.7, 16.8, 17 and 29 inclusive shall continue in full force and effect until it expires in accordance with their respective terms (if applicable).
- 11.7 The Parties will notify the Authority of any mutually agreed termination within seven (7) days of such termination of the ICO Agreement.

12. **FORCE MAJEURE**

- 12.1 Neither Party shall be liable for any breach of the ICO Agreement (other than a breach by non-payment) caused by an act of God, insurrection or civil disorder, war or military operations, national emergency, acts or omissions of government, fire, flood, lightning, explosion, pandemic outbreak, subsidence, industrial dispute of any kind (whether or not involving that Party's employees), acts or omissions of persons or bodies for whom that Party affected thereby is not responsible ("**Force Majeure**"), provided always that (a) the Party affected by Force Majeure shall use commercial endeavours to mitigate the effects of such Force Majeure and (b) such Force Majeure shall not have been attributable to any default of the affected Party. For the avoidance of doubt, any failure or delay by the affected Party's suppliers and/or contractors shall not constitute Force Majeure under this Clause 12.1, unless the Authority determines that such suppliers and/or contractors are parties for whom the affected Party is responsible.
- 12.2 The Party affected by Force Majeure shall promptly notify the other Party of the estimated extent and duration of any inability to perform its obligations under the ICO Agreement ("**Force Majeure Notification**").
- 12.3 Upon the cessation of the delay or failure resulting from Force Majeure, the Party affected by Force Majeure shall promptly notify the other Party of such cessation.
- 12.4 If, as a result of Force Majeure, the performance by either Party of its obligations under the ICO Agreement is only partially affected, such Party shall, subject to the provisions of Clause 12.6, nevertheless remain liable for the performance of those obligations not affected by Force Majeure.
- 12.5 To the extent that the Party affected by Force Majeure is not able to provide all or part of the Mandated Services to be provided by it under the ICO Agreement, the other Party shall be released to such extent from its obligations to make payment in respect of those Mandated Services.
- 12.6 In the case of either Party making a Force Majeure Notification then:
- (a) if the Force Majeure lasts for a continuous period of sixty (60) days or less from the date of the Force Majeure Notification (whether or not notice of cessation has been given pursuant to Clause 12.3), any obligation

outstanding shall be fulfilled by the Party affected by the Force Majeure as soon as reasonably possible after the Force Majeure has ended, save to the extent that such fulfilment is no longer possible or is not required by the other Party; and

- (b) if the Force Majeure lasts for more than a continuous period of sixty (60) days from the date of the Force Majeure Notification, notice of cessation has not been given pursuant to Clause 12.3 and such Force Majeure continues to prevent the affected Party from performing its obligations in whole or in material part, the other Party shall be entitled (but not be obliged) to terminate the ICO Agreement by giving not less than thirty (30) days' written notice to the Party affected by the Force Majeure after expiry of the said sixty (60) days period. In the event that notice of cessation of the Force Majeure pursuant to Clause 12.3 is received by the other Party prior to the expiry of the thirty (30) days' notice the ICO Agreement may not be terminated under this Clause 12.6(b).

- 12.7 If the ICO Agreement is not terminated in accordance with the provisions of Clause 12.6 then any obligations outstanding shall be fulfilled by the Party affected by the Force Majeure as soon as reasonably practicable after the Force Majeure has ended, save to the extent that such fulfilment is no longer possible or is not required by the other Party.

13. EXCLUSIONS AND LIMITATION OF LIABILITY

- 13.1 To the extent that a Service Schedule contains remedies in relation to the provision of the applicable Mandated Service (including any service level guarantees), such remedies shall be the sole and exclusive liability of Nucleus Connect to the Contracting QP in connection therewith, and shall be the sole and exclusive remedies of the Contracting QP against Nucleus Connect in connection therewith.
- 13.2 The Contracting QP shall not be entitled to recover from Nucleus Connect hereunder more than once in respect of the same damage suffered. For example, Nucleus Connect shall not be liable in respect of a claim for its failure to meet the applicable service levels in respect of a Mandated Service, if and to the extent that the Contracting QP has submitted a claim for faults in Nucleus Connect's Network or equipment which has been satisfied in accordance with the relevant Service Schedule, nor shall Nucleus Connect be liable in respect of a claim for faults in Nucleus Connect's Network or equipment, if and to the extent that the Contracting QP has submitted a claim for Nucleus Connect's failure to meet the applicable service levels in respect of a Mandated Service which has been satisfied in accordance with the relevant Service Schedule.
- 13.3 Neither Party nor its officers, employees, contractors and agents or anyone else to whom such Party or such parties are responsible, shall be liable for any indirect or consequential loss or damage of any kind (including any loss of profits, revenue, business and anticipated savings), in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the aforesaid parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise.
- 13.4 Without prejudice to the foregoing but subject to Clause 13.5, in no event will either Party's liability under the Master ICO Agreement for damages, losses, costs or expenses suffered or incurred by the other Party (or anyone else) or claimed by the other Party (or anyone else through the other Party) whether in contract, tort, negligence, misrepresentation, strict liability or statute or otherwise, exceed the total Charges paid or payable by the Contracting QP for the affected service in the twelve (12)-month period prior to the event giving rise to such liability, provided that in the case where such liability relates to Intellectual Property, the applicable limit shall be

three (3) times the total Charges paid or payable by the Contracting QP for the affected service in the twelve (12)-month period prior to the event giving rise to such liability.

13.5 Nothing in the ICO Agreement shall exclude or cap a Party's liability for:

- (a) death of, or personal injury to, any person arising out of, in connection with, or by reason of the performance of its obligations under, the ICO Agreement;
- (b) its gross negligence; and
- (c) its wilful default of the terms of the ICO Agreement.

13.6 Each provision of this Clause 13 is a separate limitation applying and surviving even if one or more such provisions is inapplicable or held unreasonable in any circumstances.

14. **INTELLECTUAL PROPERTY RIGHTS**

14.1 Except as otherwise expressly provided in the ICO Agreement, all trademarks, inventions, patents, copyrights, designs, design rights, trading names (whether or not registered) and all other intellectual property rights ("**Intellectual Property**") shall remain in the ownership of the person creating or owning the same and nothing in the ICO Agreement shall confer or be deemed to confer on either Party any rights or licences in the Intellectual Property of the other Party or of any third party.

14.2 Without prejudice to Clause 14.1, neither Party shall be entitled to use any trademarks or service marks (whether registered or not) of the other Party in any document or other medium, without the prior written consent of the other Party.

14.3 The Parties will negotiate arrangements (including in respect of title) concerning Intellectual Property jointly developed in the course of performing the ICO Agreement or otherwise in connection with the ICO Agreement.

14.4 The Contracting QP shall be responsible and liable for obtaining and maintaining in its name and at its expense all Intellectual Property required for the provision of any Mandated Service by Nucleus Connect to it or the installation or the use of any equipment in conjunction therewith for the entire duration during which the Mandated Services are provided or made available to it.

14.5 Nucleus Connect shall be responsible and liable for obtaining and maintaining in its name and at its expense all Intellectual Property required for the provision of any Mandated Service to the Contracting QP or the installation or the use of any equipment in conjunction therewith for the entire duration during which the Mandated Services are provided or made available to the Contracting QP.

14.6 Each Party (referred to in this Clause 14.6 as the "**Indemnifying Party**") agrees, subject to Clause 13, to indemnify, and keep indemnified the other Party against all liability or loss arising directly or indirectly from, and all reasonable costs, charges and expenses incurred in connection with any claim, action, suit or demand alleging infringement by the other Party of the rights of a third party arising from use by the other Party of Intellectual Property disclosed or licensed by the Indemnifying Party under the ICO Agreement. This indemnification shall represent the only remedy and form of compensation available to the other Party in relation to Intellectual Property licensed or disclosed by the Indemnifying Party under the ICO Agreement.

15. **INSURANCE**

15.1 In the case where the Contracting QP is a Facilities-Based Operator or Broadcasting Licensee, without limiting either Party's obligations under the ICO Agreement unless otherwise agreed by Nucleus Connect, the Contracting QP shall have in force and maintain for the duration of the ICO Agreement a broad form public liability insurance policy to the value of \$10 million with an insurance company licensed in Singapore.

15.2 On Nucleus Connect's request, the Contracting QP will immediately produce evidence that it has complied with and continues to comply with its obligations under this Clause 15.

16. **INSURANCE CREDIT MANAGEMENT AND SECURITY REQUIREMENTS**

16.1 The Contracting QP must provide to Nucleus Connect, at its sole cost and expense, and maintain for the term of the ICO Agreement, the security requirements under this Clause 16 (the "**Security Requirement**"). On Nucleus Connect's request, the Contracting QP will immediately produce evidence that it has complied with and continues to comply with its obligations hereunder.

16.2 Nucleus Connect may from time to time request information from the Contracting QP to review and determine the Security Requirement of the Contracting QP. The Contracting QP must provide such information to Nucleus Connect within fourteen (14) days of receipt of a request from Nucleus Connect for such information.

16.3 The initial amount of the Security Requirement shall depend on the Contracting QP's estimated initial Monthly Recurring Charge:

(a) If the Contracting QP has a Monthly Recurring Charge of \$5,000 or less, the Security Requirement shall be \$10,000; and

(b) If the Contracting QP has a Monthly Recurring Charge of more than \$5,000, the Security Requirement shall be \$30,000.

16.4 The amount of the Security Requirement shall be revised six (6) months after the Effective Date, and every six (6) months thereafter, and if necessary, the Contracting QP shall provide an amended Security Requirement of either \$10,000 or \$30,000, depending on the Contracting QP's Monthly Recurring Charge at the point of revision, in accordance with Clauses 16.3(a) and (b) above. Notwithstanding the above, Nucleus Connect may at any time revise the amount of the Security Requirement, provided that the revised amount shall be either \$10,000 or \$30,000 depending on the Contracting QP's Monthly Recurring Charge at the time of revision.

16.5 The Contracting QP must provide the banker's guarantee or security deposit (or amended banker's guarantee or security deposit) to Nucleus Connect within thirty (30) days of receipt of Nucleus Connect's written request. Nucleus Connect may, at its absolute discretion, treat a failure by the Contracting QP to provide a banker's guarantee or security deposit in accordance with this Clause 16 as a material breach of the ICO Agreement.

16.6 The Contracting QP shall not require Nucleus Connect to use a banker's guarantee or security deposit it has provided to Nucleus Connect towards payment of the Charges. For the avoidance of doubt, the provision of a banker's guarantee or security deposit does not relieve the Contracting QP from its obligations to pay the Charges to Nucleus Connect as they become due and payable, nor does it constitute a waiver of Nucleus Connect's right to suspend, disconnect, or terminate the Mandated Services in accordance with the terms of the ICO Agreement.

- 16.7 Nucleus Connect may on reasonable notice in writing to the Contracting QP call on the banker's guarantee or use the security deposit (or part of it) to settle any amount due or payable to Nucleus Connect by the Contracting QP under the ICO Agreement.
- 16.8 Where the ICO Agreement has expired or is terminated in accordance with the terms herein, Nucleus Connect shall return the Security Requirement to the Contracting QP within:
- (a) seven (7) days of the termination of the ICO Agreement; or
 - (b) payment by the Contracting QP of all outstanding amounts under the ICO Agreement,
- whichever is later.
- 16.9 The Parties acknowledge that:
- (a) the Contracting QP had previously provided to Nucleus Connect a banker's guarantee of \$30,000 in favour of Nucleus Connect (the "**Previous Banker's Guarantee**"), in accordance with the Previous ICO Agreement;
 - (b) in accordance with Clause 16.5, the Contracting QP shall provide to Nucleus Connect a new banker's guarantee of \$30,000 in favour of Nucleus Connect, within thirty (30) days of the Effective Date; and
 - (c) upon Nucleus Connect's receipt of the banker's guarantee referred to in Clause 16.9(b), Nucleus Connect shall return the Previous Banker's Guarantee to the Contracting QP.

17. **CONFIDENTIALITY**

- 17.1 Notwithstanding any provision in the ICO Agreement, the Parties shall not reveal, make known or divulge to any third party in any manner howsoever the contents of those aspects of the ICO Agreement (in full or in part) which the Authority has withheld from publication.
- 17.2 Except as otherwise provided in the ICO Agreement, a Party that receives Confidential Information (the "**Receiving Party**") shall keep confidential all Confidential Information of the other Party (the "**Disclosing Party**") which:
- (a) is disclosed, communicated or delivered to the Receiving Party pursuant to the ICO Agreement; or
 - (b) comes to the Receiving Party's knowledge or into the Receiving Party's possession in connection with the ICO Agreement,
- whether such Confidential Information is received before during or after the date of the ICO Agreement.
- 17.3 For the purpose of the this Clause 17, "**Confidential Information**" shall mean information, know-how, ideas, concepts, technology, manufacturing processes, industrial, marketing and commercial knowledge of a confidential nature and includes but is not limited to, information of a commercial, technical or financial nature which contains amongst other matters, trade secrets, know-how, patent and ancillary information and other proprietary or confidential information, regardless of form, format, media including without limitation written, oral, or reduced to tangible product and also includes those communicated or obtained through meetings, documents, correspondence or inspection of tangible items, facilities or inspection at any site or place including without limitation:

- (a) research, development or technical information, confidential and proprietary product, intellectual property rights;
 - (b) business plans, operations or systems, financial and trading positions;
 - (c) details of customers, suppliers, debtors or creditors;
 - (d) information relating to the officers, directors or employees of the Disclosing Party and its Related Corporations;
 - (e) marketing information, brochures, printed matter, rates and rate tables; and
 - (f) details of the Disclosing Party's Network.
- 17.4 The Receiving Party shall not use or copy the Confidential Information of the Disclosing Party except in connection with and for the purposes of the ICO Agreement or for such other purposes related to the provision of Mandated Services under the ICO Agreement.
- 17.5 In the event of the Receiving Party visiting any of the facilities of the Disclosing Party, the Receiving Party undertakes that any further Confidential Information which may come to its knowledge as a result of any such visit and any Confidential Information relating to plant and equipment which may be seen at such facilities, the methods of operation thereof and the various applications thereof shall be kept strictly confidential and that any such Confidential Information will not be divulged to any third party and will not be made use of in any way (whether for its benefit or that of any third party) except in connection with and for the purposes of the ICO Agreement or for such other purposes related to the provision of Mandated Services under the ICO Agreement.
- 17.6 Except as otherwise provided in the ICO Agreement, the Receiving Party shall not disclose or communicate, cause to be disclosed or communicated or otherwise make available Confidential Information to any third party other than:
- (a) the Receiving Party's directors, officers, employees, agents, contractors or representatives to whom disclosure is necessary in connection with and for the purposes of the ICO Agreement or for such other purposes related to the provision of Mandated Services under the ICO Agreement;
 - (b) the Receiving Party's professional adviser only to the extent necessary for that adviser to provide advice or protect the rights of the Receiving Party under the ICO Agreement; and
 - (c) the Receiving Party's appointed financial adviser or appointed banker only to the extent necessary for the financial adviser or appointed banker to provide financial advice and/or financial services to the Receiving Party
- (each an "**Authorised Person**", and collectively, the "**Authorised Persons**"), provided that prior to a disclosure, the Receiving Party must inform the Authorised Person(s) that he is obligated to protect the Disclosing Party's Confidential Information in a manner consistent with this Clause 17 and shall take reasonable steps to ensure that the Authorised Person(s) safeguards the Confidential Information. In any event, the Receiving Party shall remain liable for any disclosure of the Disclosing Party's Confidential Information by the Authorised Person(s) to any other person.
- 17.7 A Receiving Party may disclose Confidential Information to a Related Corporation to the extent necessary under the ICO Agreement, subject to the Related Corporation undertaking to comply with obligations equivalent to those contained in this Clause

17. In any event, the Receiving Party shall remain liable for any disclosure of the Disclosing Party's Confidential Information by such Related Corporation to any other person.
- 17.8 Save as provided under the ICO Agreement, no news releases, public announcements or any other form of publicity concerning the ICO Agreement or the terms of the ICO Agreement shall be conducted or released by the Receiving Party without the prior written consent of the Disclosing Party.
- 17.9 The Receiving Party's obligations hereunder shall not apply to Confidential Information if the same:
- (a) is in or enters the public domain, other than by breach by the Receiving Party or any of its Authorised Persons of the ICO Agreement;
 - (b) is known to the Receiving Party on a non-confidential basis prior to disclosure under the ICO Agreement, at the time of first receipt, or thereafter becomes known to the Receiving Party or any of its Authorised Persons without similar restrictions from a source other than the Disclosing Party, as evidenced by written records; or
 - (c) is or has been developed independently by the Receiving Party without reference or reliance on the Disclosing Party's Confidential Information.
- 17.10 Except as permitted under the ICO Agreement, a Receiving Party may not disclose the Confidential Information of the Disclosing Party except to the extent required and in the following circumstances:
- (a) the disclosure is authorised in writing by the Disclosing Party to the extent of that authority;
 - (b) the disclosure is made pursuant to a directive issued by the Authority or any judicial, statutory or Governmental Agency;
 - (c) the disclosure is made to the Authority:
 - (i) for the purpose of registration of the ICO Agreement or any amendment, modification or alteration of the ICO Agreement;
 - (ii) under or pursuant to the IDA Act or the Act or under or pursuant to the Disclosing Party's or the Receiving Party's Licence;
 - (iii) for the purpose of a review by the Authority or a determination by the Authority; or
 - (iv) as otherwise specified in the ICO Agreement;
 - (d) the disclosure is made to Emergency Service Organisations;
 - (e) the disclosure is made to any arbitrator or expert appointed to resolve disputes under the ICO Agreement;
 - (f) the disclosure is made pursuant to any applicable laws, rules, regulations or directions of a statutory or regulatory authority or stock exchange or order of a relevant court of law; or
 - (g) the disclosure is made to any court of competent jurisdiction.
- 17.11 The Receiving Party shall inform the Disclosing Party of any disclosures to third parties by the Receiving Party under Clause 17.10 prior to any such disclosure, to

provide the Disclosing Party with the opportunity to mitigate or prevent such disclosure.

- 17.12 A Receiving Party shall exercise no lesser security or degree of care than that Party applies to its own Confidential Information of an equivalent nature, but in any event not less than the degree of care which a reasonable person with knowledge of the confidential nature of the information would exercise.
- 17.13 Confidential Information provided by one Party to the other Party is provided for the benefit of that Party only and shall be used solely for the purposes for which it is disclosed.
- 17.14 Each Party hereby irrevocably covenants to keep the other Party fully and effectively indemnified against all actions, claims, costs, damages, deficiencies, demands, expenses, liabilities and losses (including all legal costs incurred on a full indemnity basis) that may be suffered, incurred or sustained by the other Party in consequence of or in connection with any breach of this Clause 17 by the first-mentioned Party.
- 17.15 Each Party acknowledges that a breach of this Clause 17 by one Party may cause the other Party irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, a Party may seek injunctive relief against such a breach or threatened breach.
- 17.16 All written Confidential Information or any part thereof (including, without limitation, information incorporated in computer software or held in electronic storage media) together with any analyses, compilations, studies, reports or other documents or materials prepared by the Receiving Party or on its behalf which reflect or are prepared from any of the Confidential Information provided by the Disclosing Party shall be returned to the Disclosing Party or destroyed by the Receiving Party, when requested by the Disclosing Party at any time, or when the Receiving Party's need for such information has ended or when the ICO Agreement expires or is terminated, whichever is earlier. In the event of destruction, the Receiving Party shall certify in writing to the Disclosing Party within thirty (30) days that such destruction has been accomplished. The Receiving Party shall make no further use of such Confidential Information nor retain such Confidential Information in any form whatsoever.
- 17.17 The Parties acknowledge that the provisions of this Clause 17 shall continue in full force and effect regardless of variations, assignments or termination of other provisions of the ICO Agreement. The obligation to maintain confidentiality of the Confidential Information provided hereof and the undertakings and obligations in this Clause 17 shall continue for two (2) years upon the expiry or termination of the ICO Agreement.
- 17.18 The ICO Agreement contains the entire understanding between the Parties with respect to the safeguarding of the Confidential Information and supersedes all prior communications and understandings with respect thereto.

18. **CUSTOMER BILLING RELATIONSHIP**

- 18.1 The Parties shall implement all matters agreed to in respect of billing relationship and billing procedures as set out in Annex 2 (Billing, Payment and Related Disputes) on such terms and conditions as shall be consistent with the Authority's applicable principles and guidelines.
- 18.2 For the avoidance of doubt, the Contracting QP acknowledges that it will be solely responsible for billing its own Customers for the services it provides to them.
- 18.3 Where the Contracting QP receives Mandated Services under the ICO Agreement, the Contracting QP acknowledges and agrees that notwithstanding any failure by any

of its Customers to pay in respect of a Mandated Service, the Contracting QP is liable to Nucleus Connect in respect of the relevant Charges for Mandated Services supplied under the ICO Agreement.

19. **REPRESENTATIONS AND COMMUNICATIONS TO THIRD PARTIES**

19.1 Where the Contracting QP communicates with its Customers, such communications must not falsely attribute to Nucleus Connect:

- (a) blame for a fault or circumstance;
- (b) the need for network maintenance or upgrade; or
- (c) the interruption or suspension of a service,

provided that this requirement does not permit the Contracting QP to engage in unethical, misleading or deceptive conduct.

19.2 Neither Party nor its representatives and agents may represent expressly, impliedly, or by omission or implication that:

- (a) it is approved by, an agent of, or affiliated with the other Party;
- (b) in the case of the Contracting QP, that it is Nucleus Connect, for example, by claiming it is "from Nucleus Connect" or, in the case of Nucleus Connect, that it is the Contracting QP;
- (c) it has a special relationship with the other Party or special pricing from the other Party; or
- (d) the services provided by it to its Customers are the other Party's services.

20. **ASSIGNMENT**

20.1 The ICO Agreement shall be binding upon and enure to the benefit of each of the Parties and its successors and permitted assigns.

20.2 Subject to Clause 20.3, either Party may assign or transfer any or all of its rights and/or obligations under the ICO Agreement, subject to the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), provided that such assignee has an FBO or SBO Licence granted to it under the Act or is a Broadcasting Licensee, and provided further that the assigning or transferor Party will continue to remain fully responsible for the performance of all obligations owed to the other Party under the ICO Agreement.

20.3 The assigning or transferor Party shall give notice to the other Party of any assignment or transfer to be made seeking the other Party's consent as soon as practicable. The other Party may require the assigning or transferor Party to provide reasonable assurance that the assigning or transferor Party will remain fully responsible for the performance of all obligations owed to the other Party under the ICO Agreement.

21. **REVIEW AND AMENDMENTS**

21.1 Except as otherwise expressly stated, the ICO Agreement cannot be varied unless the variation is in accordance with this Clause 21.

- 21.2 A Party may vary its information set out in the relevant Annex 4 (Nucleus Connect Details) or Annex 5 (Contracting QP Details) in its sole discretion on five (5) Business Days' written notice to the other Party, and without the other Party's consent.
- 21.3 Nucleus Connect may review the ICO Agreement from time to time and, subject to the Authority's written approval, make such amendments to the ICO Agreement as it may consider necessary or desirable (including, without limitation, introducing a new Service Schedule). For the avoidance of doubt, no amendment to the ICO Agreement may be effective prior to the Authority's approval thereon.
- 21.4 The Contracting QP acknowledges and agrees that the Authority may from time to time review the ICO Agreement and direct Nucleus Connect to make amendments thereto, pursuant to and in accordance with the Code or the OpCo FBO Licence. Without prejudice to the foregoing, the Parties hereby acknowledge that they shall, if required by the Authority, amend this Agreement to incorporate any additional or modified Duties Related to the Provision of Mandated Services as required by the Authority during the term of the ICO Agreement.
- 21.5 The ICO Agreement will be automatically amended in accordance with any amendments approved or required by the Authority from time to time, and the Parties will accept and abide by such amendments.
- 21.6 Nucleus Connect will notify the Contracting QP in writing of any amendments to the ICO Agreement made in accordance with Clauses 21.3 to 21.5.

22. **THIRD PARTIES**

A person who is not a Party to the ICO Agreement has no right under the Contract (Rights of Third Parties) Act (Cap. 53B) to enforce any term of the ICO Agreement.

23. **ENTIRE AGREEMENT**

- 23.1 The ICO Agreement contains the whole agreement between the Parties and replaces all previous written or oral agreements relating to the Mandated Services supplied under the ICO Agreement (including, without limitation, the Previous ICO Agreement).
- 23.2 Each of the Parties acknowledges and agrees that in entering into the ICO Agreement it does not rely on, and will have no remedy in respect of, any statement, representation (other than any fraudulent misrepresentation), warranty or understanding (whether negligently or innocently made) of any person (whether party to the ICO Agreement or not) other than as set out in the ICO Agreement.

24. **GOOD FAITH AND NON-EXCLUSIVITY**

- 24.1 Each Party agrees that it will act in good faith in relation to the other Party with respect to all matters relating to or contemplated by the ICO Agreement.
- 24.2 The Parties acknowledge that nothing in the ICO Agreement shall prevent, limit or restrict in any way whatsoever either Party from supplying any Mandated Service to any person by means of such Party's Network.
- 24.3 Neither Party shall be prohibited in any way whatsoever from entering into an agreement with another person for similar Mandated Services.

25. **NOTICES**

25.1 Notices given under the ICO Agreement must be in writing and may be delivered by hand, facsimile, e-mail or pre-paid registered post to the following:

- (a) to the appropriate person indicated in Annex 4 (Nucleus Connect Details) or Annex 5 (Contracting QP Details); or
- (b) for all other matters, in the case of notices from Nucleus Connect, to the QP's registered office address or a facsimile number at its registered office or any alternative address or facsimile number or e-mail address which the Contracting QP notifies to Nucleus Connect.

25.2 In the absence of contrary evidence a notice shall be duly served:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by pre-paid registered post, three (3) Business Days after the date of posting;
- (c) if sent by legible facsimile transmission, at the time of transmission; and
- (d) if sent by email, at the time of successful receipt by the recipient (as may be evidenced by, but not limited to, the transmission of an automatic electronic read receipt from, or a manual acknowledgement by, the recipient).

26. **SEVERABILITY**

If any provision of the ICO Agreement shall be held to be illegal, invalid or unenforceable in any respect under any applicable law, then the remainder of the ICO Agreement, or the application of such provision to other situations or circumstances shall not be affected, and the Parties agree to amend the ICO Agreement to reflect the original intention of the Parties and/or the directions of the Authority (where applicable) to the extent permissible by such applicable law.

27. **COSTS AND EXPENSES**

The Parties agree to bear their own legal and other costs incurred in relation to the preparation, negotiation and execution of the ICO Agreement and all documents contemplated by it, except where the ICO Agreement or those other documents expressly provide to the contrary.

28. **INDEPENDENT CONTRACTORS AND AGENCY**

28.1 Each Party is and shall remain at all times an independent contractor fully responsible for its own acts or defaults (including those of its employees or agents). Neither Party is authorised and neither of the Parties nor their employees, agents or representatives shall at any time attempt to act or act on behalf of the other Party to bind the other Party in any manner whatsoever to any obligations. Neither Party nor its employees, agents or representatives shall engage in any acts which may lead any person to believe that such Party is an employee, agent or representative of the other Party. Nothing in the ICO Agreement shall be deemed to constitute a partnership between the Parties.

28.2 If either Party appoints an agent for the purposes of the ICO Agreement, and notifies the other Party, then the other Party shall deal with the appointed agent for such

purposes until the first Party notifies the other Party that the appointment has been terminated.

29. **WAIVERS**

29.1 No failure on the part of either Party to exercise, and no delay on its part in exercising, any right or remedy under the ICO Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof under the ICO Agreement or the exercise of any other right or remedy. Subject to Clause 14 and any other Clauses of the ICO Agreement specifying an exclusive remedy, the rights and remedies provided in the ICO Agreement are cumulative and not exclusive of any other rights or remedies (whether provided by law or otherwise).

29.2 Any consent or waiver by a Party under any provision of the ICO Agreement must be in writing signed by the Party or Parties to be so bound. Any such waiver or consent may be given subject to any conditions thought fit by that Party and shall be effective only in the instance and for the purpose for which it is given.

30. **LAW AND JURISDICTION**

The interpretation, validity and performance of the ICO Agreement shall be governed in all respects by the laws of the Republic of Singapore, including the Code.

31. **DISPUTES**

31.1 All disputes arising under or pursuant to the ICO Agreement will be resolved in accordance with the procedures set out in Annex 3 (General Dispute Resolution) with the exception of Billing Disputes which will be dealt with in accordance with Annex 2 (Billing, Payment and Related Disputes).

31.2 The Parties will comply with Annex 3 (General Dispute Resolution) in relation to any disputes which arise under the ICO Agreement.

31.3 The Contracting QP shall not commence or prosecute any action or proceeding in any jurisdiction outside the Republic of Singapore.

ANNEX 1

Definitions

Act	means the Telecommunications Act (Cap. 323);
Active Network	means the active transmission components of the NGNBN, implemented/ being implemented over passive infrastructure, by Nucleus Connect;
AE	refers to Active Ethernet, a technique that uses standards-based ethernet as the main transmission method over fibre using active components;
AG-EVC	means a Basic Mandated Service offered by Nucleus Connect under the ICO Agreement, being a bandwidth service to carry the Contracting QP's traffic between (a) QP-EVPL Service Port at the Aggregation Layer and (b) Per-End-User Connections, within the same OpenNet CO as the QP-EVPL Service Port;
Aggregation Network/Layer	means the Active Network components which aggregates traffic from End-Users on the Active Network for onward transmission to the Core Layer;
Ancillary Mandated Services	means the following services: <ol style="list-style-type: none"> 1. Co-location Service; 2. Patching Service; 3. Platform Connection Service; 4. L3 Virtual Routing Domain Setup Service; and 5. Interoperability Testing Service (IOT Service);
Authorised Person	has the meaning ascribed to it in Clause 17.6;
Authority	has the meaning ascribed to it in Recital (A);
Authorised Users	means those persons authorised by the Contracting QP in writing to Nucleus Connect to gain access to the Platform and place Orders and report Faults on behalf of the Contracting QP;
Basic Mandated Services	means the following services: <ol style="list-style-type: none"> 1. Residential Per-End-User Connection; 2. Non-Residential Per-End-User Connection; 3. NBAP Per-End-User Connection; 4. QP Ethernet Virtual Private Line Service Port (QP-EVPL Service Port); 5. Provider Backbone Ethernet Virtual Connection (PB-EVC); 6. Aggregation Ethernet Virtual Connection (AG-EVC); 7. L2 VPN Service; 8. E-LAN Service; 9. L3 VPN Service; and

	10. IP Multicast Connection;
Billing Dispute Notice	has the meaning ascribed to it in Paragraph 7.1 of Annex 2;
Billing Dispute Notification Period	has the meaning ascribed to it in Paragraph 7.1 of Annex 2;
Billing Disputes	has the meaning ascribed to it in Paragraph 1.1 of Annex 2 or (as the case may be) Paragraph 7.1 of Annex 2;
Building	means a building or development which has been assigned a six-digit postal code by Singapore Post Limited;
Building MDF	means an MDF located within a Building;
Building MDF Room or MDF Room	means a room within a Building, provided pursuant to COPIF, that is used to house a Building MDF and a telecommunication licensees' installation or equipment;
Business Day	means any day other than Saturday, Sunday or any gazetted public holiday of the Republic of Singapore;
Broadcasting Licensee	means any holder of a licence granted under the Broadcasting Act (Cap. 28) but excludes class licensees;
Cancellation or Cancel or Cancelled	in relation to an Order submitted by the Contracting QP, means the cancellation of such Order by the Contracting QP before the RFS Date applicable to such Order;
Charges	has the meaning ascribed to it in Clause 4.1;
Code	means the Code of Practice for Next Generation National Broadband Network OpCo Interconnection issued by the Authority pursuant to section 26(1) of the Act, which came into operation on 18 August 2009;
Co-located Equipment	has the meaning ascribed to it in the Service Schedule for Co-location Service, an Ancillary Mandated Service provided by Nucleus Connect under the ICO Agreement;
Co-location Space	means space and such facilities at the NC CO provided by Nucleus Connect to the Contracting QP, pursuant to and in accordance with the Service Schedule for Co-location Service, an Ancillary Mandated Service provided by Nucleus Connect under the ICO Agreement;
Confidential Information	has the meaning ascribed to it in Clause 17.3;

Contracting QP Equipment	has the meaning ascribed to it in Clause 8.1;
COPIF	means Code of Practice for Info-communications Facilities in Building;
Core Network/Layer	means Active Network components that switch traffic between the Aggregation Network;
cost oriented basis	has the meaning ascribed to it in Clause 11.1(b)(ii);
Customer	in relation to Party, means a person who is connected to such Party's Network or utilises a telecommunication service provided by such Party;
Customised Agreement	means an agreement for the provision of Mandated Services on prices, terms and conditions that are different from the ICO Agreement;
C-VLAN	means Customer VLAN;
DHCP Option 82	means DHCP Relay Agent Information Option;
DHCP Option 82 Service	means the provision of DHCP Option 82 information;
Disclosing Party	has the meaning ascribed to it in Clause 17.2;
Due Date	has the meaning ascribed to it in Paragraph 3.1 of Annex 2;
Duties Related to the Provision of Mandated Services	has the meaning ascribed to it in the Code;
Early Termination Charge	means a termination charge payable by the Contracting QP as specified in the relevant Service Schedule for the termination of a Mandated Service prior to the expiry of its Minimum Term;
Effective Date	means the date on which the last Party executes the Master ICO Agreement;
End-User	means a Customer who is a business or a residential end-user;
End-User Premise	means a Residential Premise or Non-Residential Premise situated in Singapore and/or connected islands;
Ethernet Virtual Connection (EVC)	means a service that connects two or more subscriber sites through the association of two or more UNIs (User Network Interface), as defined by the Metro Ethernet Forum (MEF6);

Ethernet Virtual Private Line (EVPL)	means a data service defined by the Metro Ethernet Forum (MEF6) which allows service multiplexing at the Service Port interfacing with the Contracting QP Equipment;
Facilities-Based Operator or FBO	means the holder of a Facilities-based Operator Licence issued by the Authority under the Act;
Facility	means installation and plant used for telecommunication as defined in the Act;
Fibre Distribution Frame or FDF	means the Facility used typically at the NC CO and Building MDF Room to terminate the end of a Wireline;
First Termination Point or 1 st TP	means the Network point within an End-User Premise, at which the NetCo Network is terminated, that is nearest to the point of entry of that End-User Premise;
FTTB Node	means a Network point located at the basement or ground floor of a Building where the in-building Wireline are terminated and cross-connected. Where the Building has a Building MDF Room or telecommunication equipment room, the FTTB Node shall be the Building MDF Room or telecommunication equipment room respectively;
Force Majeure	has the meaning ascribed to it in Clause 12.1;
Force Majeure Notification	has the meaning ascribed to it in Clause 12.2;
IDA Act	means the Info-communications Development Authority of Singapore Act (Cap. 137A).
Intellectual Property	has the meaning ascribed to it in Clause 14.1;
General Dispute Resolution Procedures	has the meaning ascribed to it in Paragraph 1.1 of Annex 3;
Government	means the Government of the Republic of Singapore as a whole including all its Ministries, government departments, statutory boards and Organs of State;
GPON	means Gigabit Passive Optical Network;
GST	means Goods and Services Tax imposed under the Goods and Services Tax Act (Cap. 117A);
Inter-Working	has the meaning ascribed to it in Paragraph 3.1 of Annex 3;

Group	
Jitter	means the packet sequence delay variance, that is, the variance in delay caused by packets travelling by different paths across networks;
Latency	means the one-way delay in packet delivery as a result of physical distance, and the Active Network components from the NTE to the Aggregation Network;
Main Distribution Frame or MDF	means a frame which is used as the main distribution point for all Wirelines within a Building or building development on which incoming main Wirelines and the local distribution Wirelines are terminated and cross-connected;
Mandated Services	means the Basic Mandated Services and Ancillary Mandated Services;
Mandated Services Information	has the meaning ascribed to it in the Code;
Minimum Term	in relation to the provision of a Mandated Service to the Contracting QP, means the period of twelve (12) months commencing from the RFS Date of such Mandated Service, unless otherwise prescribed in the Service Schedules or otherwise mutually agreed between the Parties;
Meet-Me-Room (MMR)	means a dedicated space within the NC CO(s) whereby a Contracting QP's FDF can be located for outside plant fibre termination and to be connected to Nucleus Connect's FDF in order to establish physical connectivity to the Active Network;
Monthly Recurring NC Charge	refers to the NC Charges the Contracting QP shall pay for the Mandated Service on a monthly basis;
NBAP	means a location in Singapore or connected islands other than Residential Premises or Non-Residential Premises.
NC Charges	has the meaning ascribed to it in Clause 4.1(a);
NC CO	means Nucleus Connect's premises where Nucleus Connect offer access to its infrastructure and co-location facilities;
NC Equipment	means any equipment supplied by Nucleus Connect for the purpose of providing a Mandated Service under the ICO Agreement;
Negotiation Period	has the meaning ascribed to it in Paragraph 8.5 of Annex 2;
Network	means a telecommunication system of a Party which is used or intended

	to be used for telecommunications;
Non-Residential Building	means a Building that contains one or more Non-Residential Premises but excludes all Housing Development Board apartment blocks regardless of height;
Non-Residential Premise	means any premise other than a Residential Premise;
Notice Period	has the meaning ascribed to it in Paragraph 2.2 of Annex 3;
OpCo FBO Licence	means the Facilities-based Operator Licence issued by the Authority under the Act to Nucleus Connect on 30 October 2009;
OpenNet	means OpenNet Pte. Ltd. (Company Registration Number: 200819712H);
OpenNet CO	means OpenNet's premises where OpenNet offer access to its infrastructure and co-location facilities;
ON Charges	has the meaning ascribed to it in Clause 4.1(b);
Order	has the meaning ascribed to it in the Service Schedules;
Packet Loss	means the average proportion of packets lost during transmission, within a set measurement period;
Patch Cables	means fibre optic or copper cables and accessories which conform to ITU-T or other equivalent standards. The Patch Cables have the following specifications: (a) Optical Patch Cables will be based on G.657A specification; and (b) UTP Patch Cables will be Cat 5, Cat 5E and/or Cat 6 types;
PB-EVC	is a Basic Mandated Service offered by Nucleus Connect under the ICO Agreement, being a bandwidth service to carry QPs' traffic between Nucleus Connect's Core Layer and Aggregation Layer;
Per-End-User Connections	means any of the following: (a) Residential Per-End-User Connection; (b) Non-Residential Per-End-User Connection; or (c) NBAP Per-End-User Connection, being Basic Mandated Services offered by Nucleus Connect under the ICO Agreement;
Platform	means the real-time, on-line information and ordering platform made available by Nucleus Connect to Authorised Users of the Contracting QP to place Orders and report faults using a web based interface;

Previous ICO Agreement	has the meaning ascribed to it in Recital (C);
QP-EVPL Service Port	is a Basic Mandated Service offered by Nucleus Connect under the ICO Agreement, being a service based on EVPL which allows a single physical connection through a Service Port designated by the Contracting QP, to the Contracting QP's Co-Located Equipment either at Nucleus Connect's Core and/or Aggregation Layer to multiplex multiple Ethernet Virtual Connections;
Receiving Party	has the meaning ascribed to it in Clause 17.2;
Related Corporation	in relation to a Party, means a company which is the holding company or subsidiary of such Party or a company which shares a common holding company with such Party. The words " holding company " and " subsidiary " shall have the same meanings as prescribed to them in the Companies Act (Cap. 50);
Relevant Invoice	has the meaning ascribed to it in Paragraph 7.1 of Annex 2;
Residential Building	means a Building other than a Non-Residential Building;
Residential Premise	means a premise designed or adapted or used for human habitation of a residential nature. In the event of any doubt as to whether a premise is of residential nature, the classification which the Inland Revenue Authority of Singapore applies to that premise for tax purposes shall be final and conclusive;
Residential Premises Passed	means Residential Premises for which Wireline Connectivity has been deployed to the distribution point of each floor (for a Building containing two or more Residential Premises) or to the gatepost (for Building containing one Residential Premises);
Residential Premises Reached	means Residential Premises for which Wireline Connectivity has been deployed to the First Termination Point;
RFP	means the Request for Proposal for Singapore's Next Generation National Broadband Network – Operating Company (OpCo) issued by IDA on 7 April 2008, including all subsequent addenda and amendments thereto;
RFS Date	has the meaning ascribed to it in the General Service Terms and Conditions;
Security Requirement	has the meaning ascribed to it in Clause 16.1;
Service Port	has the meaning ascribed to it in the General Service Terms and

	Conditions;
Service Request	means a “Service Request” as defined in the relevant Service Schedule;
Service Schedule	means the relevant service schedule to the ICO Agreement setting out the terms and conditions applying to a particular Mandated Service, including all Appendices to that Service Schedule;
Services-Based Operator or SBO	means the holder of a Services-based Operator Licence issued by the Authority under the Act;
Site	means any location either owned, managed or controlled by the Contracting QP, End-User or any other party other than Nucleus Connect where Nucleus Connect shall require access and/or shall install NC Equipment in order to provide a Mandated Service under the ICO Agreement;
Suspending Party	has the meaning ascribed to it in Clause 9.1;
Terminating Party	has the meaning ascribed to it in Clause 10.3;
Third Party Charges	has the meaning ascribed to it in Clause 4.1(c);
Unpaid Amount	has the meaning ascribed to it in Paragraph 4.1 of Annex 2;
VLAN	means ethernet frame header format composing of vlan id, priority bit and tag protocol identifier as defined in IEEE802.1q standards;
VLAN Translation	means the ability to perform a 1-to-1 translation or re-writing of the VLAN value (vlan id and priority bit) based on agreed translation rule when an Ethernet frame is received from an End User’s Service Port for upstream transmission to the Aggregation Layer. The same agreed translation rule will also apply in the 1-to-1 translation of VLAN value when an Ethernet frame from the Aggregation Layer is sent downstream to the End User’s Service Port;
Wireline	means the physical media used to transmit digital or analogue signals, e.g. optical fibre;
Wireline Connectivity	means the passive optical fibre cable deployed and owned by OpenNet; and
\$	means the legal currency of the Republic of Singapore.

ANNEX 2

Billing, Payment and Related Disputes

1. General

- 1.1 This Annex 2 describes the general billing and payment procedures, and payment terms and conditions, in respect of Charges for Mandated Services rendered to the Contracting QP by Nucleus Connect, as well as the procedures for the settlement of any dispute arising therefrom ("**Billing Disputes**").
- 1.2 Although it is the good faith intention of the Parties to use the procedures in this Annex 2 to the fullest extent to resolve Billing Disputes, nothing in this Annex 2 shall prevent either Party from pursuing any other remedy in law or equity that may be available to it if a Billing Dispute cannot be resolved in accordance with this Annex 2 to its satisfaction.
- 1.3 For the avoidance of doubt, Billing Disputes may not be referred to the General Dispute Resolution Procedures in Annex 3.

2. Billing

- 2.1 Nucleus Connect shall use its reasonable endeavours to issue to the Contracting QP invoice(s) each month for the amounts payable by the Contracting QP in relation to the Mandated Services supplied or to be supplied to the Contracting QP (which, for the avoidance of doubt, include one-time Charges):
 - (a) in electronic form via the Platform; and
 - (b) at the Contracting QP's request, in physical form by post or delivery by hand to the address of the "Primary contact person" specified in Annex 5.
- 2.2 Nucleus Connect may send any invoice to the Contracting QP on the date of issue of such invoice by way of facsimile transmission to the facsimile number of the "Primary contact person" specified in Annex 5, followed by a physical copy of such invoice in accordance with Paragraph 2.1(b) above.
- 2.3 Each invoice issued by Nucleus Connect hereunder shall contain all necessary information for the Contracting QP to verify the accuracy of the amount charged on such invoice.
- 2.4 Any invoice dispatched by Nucleus Connect pursuant to and in accordance with Paragraph 2.1 above shall be deemed to have been received by the Contracting QP:
 - (a) in the case of dispatch by electronic form via the Platform, on the date and at the time of dispatch;
 - (b) in the case of delivery by hand to the Contracting QP's address, on the date and at the time it was so delivered or left at the address; or
 - (c) in the case of dispatch by post, to any address in Singapore, on the next Business Day after it was posted by Nucleus Connect.

3. Payment

- 3.1 The Contracting QP shall make full payment of each invoice issued by Nucleus Connect by the date falling twenty-one (21) days from the date of such invoice (the “**Due Date**”). The relevant requirements set out in Paragraph 4 of this Annex 2 shall apply in relation to such payments. For the avoidance of doubt, the Contracting QP shall effect payment to Nucleus Connect regardless of whether the Contracting QP has received payment from its Customers.
- 3.2 The Contracting QP shall be solely responsible to pay all taxes (including GST) as may be levied or assessed by any competent authority in Singapore or imposed under Singapore law on the provision of the Mandated Services by Nucleus Connect under the ICO Agreement.
- 3.3 In addition to charging interest in accordance with Paragraph 4 below or exercising any other rights Nucleus Connect has at law or under the ICO Agreement, where an undisputed amount is outstanding and remains unpaid for more than seven (7) days after it is due for payment, Nucleus Connect reserves the right to take action, without further notice to the Contracting QP, to recover such amount as a debt due to Nucleus Connect. However, Nucleus Connect will not take such action if it triggers Clause 9.1(h) or Clause 10.3(b) giving rise to suspension or termination rights under Clauses 9 and 10 respectively, without following the relevant procedures outlined in Clauses 9 and 10.
- 3.4 Payments made by the Contracting QP are deemed to be received on the date the payment is received by Nucleus Connect, unless the payment is subsequently dishonoured, in which case, payment shall be deemed not to have been received until cleared funds are received by Nucleus Connect together with all dishonoured fees and charges.
- 3.5 All invoices issued by Nucleus Connect hereunder are due and payable in Singapore Dollars.
- 3.6 All payments for all invoices issued by Nucleus Connect hereunder shall be:
- (a) paid by cheque, banker’s draft or cashier’s order to Nucleus Connect or by electronic transfer directly to the nominated account(s) of Nucleus Connect;
 - (b) subject to the dispute resolution process set out in Paragraphs 5 to 8 below, paid without counter-claim and free and clear of any withholding or deduction; and
 - (c) accompanied by such information as is reasonably required by Nucleus Connect to properly allocate payments received.

4. **Interest**

- 4.1 If the Contracting QP does not make full payment of an invoice issued by Nucleus Connect by the Due Date in respect thereof, Nucleus Connect shall be entitled to charge interest on the unpaid amount of such invoice (“**Unpaid Amount**”) at the rate specified in Paragraph 4.2 below, for the period from the Due Date to the date that such unpaid amount is received by Nucleus Connect in accordance with Paragraph 3.4 above (both before and after judgment). The Contracting QP agrees to pay such interest on demand.
- 4.2 Interest shall accrue on the Unpaid Amount at a fluctuating rate per annum equal to six percent (6%) plus the average of the respective prevailing prime lending rates of the Reference Banks. The Reference Banks will comprise the Overseas-Chinese Banking Corporation Limited, The Development Bank of Singapore Ltd and United Overseas Bank Limited.

4.3 For the purposes of calculating the fluctuating rate in Paragraph 4.2 above, Nucleus Connect shall adopt the applicable prime lending rate of the Reference Banks for the last day of the previous month.

4.4 Where interest in respect of any Unpaid Amount is due to be paid by the Contracting QP, Nucleus Connect may add the amount of such interest to its next invoice to the Contracting QP.

4.5 Interest shall not accrue or become payable in respect of amounts added to an invoice which had been made in error. If interest is paid in respect of such amounts, it shall be repaid to the Contracting QP as soon as practicable after detection of the error.

5. **Invoice Errors**

5.1 If the Contracting QP discovers an error in an invoice issued by Nucleus Connect, the Contracting QP shall notify Nucleus Connect in accordance with the procedure set out in Paragraph 7.1 below. If Nucleus Connect is able to verify the error to its reasonable satisfaction, it shall make the necessary adjustment to correct that error in its next invoice to the Contracting QP.

5.2 If Nucleus Connect has omitted or miscalculated Charges from an invoice to the Contracting QP, Nucleus Connect may include or amend those Charges in a later invoice to the Contracting QP, so long as Nucleus Connect is able to substantiate such inclusions or amendments to the Contracting QP and such inclusion or amendment is made within six (6) months of the issuance of the first-mentioned invoice.

5.3 If the Contracting QP erroneously makes an overpayment of an invoice from Nucleus Connect, the Contracting QP shall notify Nucleus Connect of such overpayment within thirty (30) days of the date on which such overpayment, such notice to contain sufficient details for Nucleus Connect to verify the overpayment. Nucleus Connect will investigate and if the Contracting QP's overpayment claim is found to be legitimate, Nucleus Connect shall return or credit the amount overpaid to the Contracting QP in Nucleus Connect's next invoice to the Contracting QP following such investigation in accordance with Nucleus Connect's billing cycle.

5.4 Notwithstanding any other provision in this Annex 2, interest shall not accrue or become payable in respect of amounts added to an invoice from Nucleus Connect in error. Any overpayment by the Contracting QP with respect to any amount, item, entry or matter stated in the invoice in error shall be credited by Nucleus Connect, without interest, to the Contracting QP's account after Nucleus Connect has completed its investigations and is satisfied as to the error or inaccuracy of that amount, item, entry or matter.

5.5 The Parties acknowledge that invoices issued by Nucleus Connect cannot be warranted as being free from errors.

6. **Joint Investigation of Invoice Discrepancies**

A Party may request a joint investigation of invoice discrepancies after that Party has conducted a comprehensive internal investigation, including an examination of its own Billing System.

7. **Billing Dispute Notification**

- 7.1 Subject to Paragraph 7.2 below, if the Contracting QP wishes to dispute in good faith an invoice ("**Relevant Invoice**") issued by Nucleus Connect ("**Billing Dispute**"), the Contracting QP must notify Nucleus Connect in writing ("**Billing Dispute Notice**") within thirty (30) days after the date of the Relevant Invoice ("**Billing Dispute Notification Period**"). Such notices must be sent by facsimile or email to the facsimile number or email address of the "Primary contact person" specified in Annex 5. Without prejudice to Paragraph 5 above, the Contracting QP shall be deemed to have accepted any invoice from Nucleus Connect if no dispute is raised within the Billing Dispute Notification Period in respect thereof.
- 7.2 The Contracting QP may only raise a Billing Dispute where it has reasonable grounds to believe that an error has arisen from one of the following circumstances:
- (a) Nucleus Connect's Billing System is, or has been, defective or inaccurate in respect of the recording of the Mandated Services acquired by the Contracting QP which are the subject of the Billing Dispute;
 - (b) there is, or has been, a discrepancy between the Relevant Invoice and the records generated by the Contracting QP's Billing System;
 - (c) there is, or has been, a fraud perpetrated by Nucleus Connect; or
 - (d) Nucleus Connect has made some errors in respect of the recording or calculation of the Charges which are the subject of the Billing Dispute.
- 7.3 The Billing Dispute Notice shall minimally contain the following details:
- (a) the reasons for which the Contracting QP disputes the Relevant Invoice, together with supporting documents or records;
 - (b) the amount which is the subject of the Billing Dispute;
 - (c) all information necessary for identifying the Relevant Invoice and the amount which is the subject of the Billing Dispute, including the account number, the invoice reference number, the invoice date, and the invoice amount; and
 - (d) all information necessary to substantiate the amount which is the subject of the Billing Dispute.

8. **Billing Dispute Resolution**

- 8.1 The Contracting QP agrees to pay the undisputed portion of any invoice issued by Nucleus Connect in accordance with the obligations set out in Paragraph 3 above, without prejudice to the disputing party's rights with respect to the disputed portion of such invoice. If the dispute is resolved against the Contracting QP, the Contracting QP shall be required to pay interest on the amount payable by the Contracting QP at the rate specified in Paragraph 4.2 above.
- 8.2 Where the Contracting QP makes payment of an invoice issued by Nucleus Connect in full while a Billing Dispute in respect thereof is in progress, Nucleus Connect is not required to pay interest on any such paid amount if such Billing Dispute is resolved against Nucleus Connect.
- 8.3 If the Contracting QP makes payment of an invoice by Nucleus Connect and subsequently submits a Billing Dispute Notice within the Billing Dispute Notification Period in respect of such invoice, Nucleus Connect shall not be obliged to refund any such paid amount until the Billing Dispute in respect of such paid amount is resolved, and shall not be required to pay interest on any paid amount refunded.

- 8.4 The Parties shall use their reasonable endeavours to promptly resolve any Billing Dispute notified under Paragraph 7 above. Each Party will appoint a designated representative that has the authority to discuss and negotiate in good faith in an effort to resolve such Billing Dispute. Each Party shall keep in good order back-up records of any billing arrangements for a period of twelve (12) months from the time such records were issued, and all reasonable requests for such records in connection with the subject of a Billing Dispute made by one Party to the other Party, shall be complied with.
- 8.5 If the Parties are not able to resolve any Billing Dispute within thirty (30) days from the date on which the Billing Dispute Notice is received by Nucleus Connect (or such other period as the Parties may mutually agree in writing) ("**Negotiation Period**"), either Party may seek the consent of the other Party for a time extension stating its reasons therefor. However, the other Party is not obliged agree to such time extension.
- 8.6 Once the dispute is resolved, any overpayment or any sum to be paid or repaid, shall be made within seven (7) days by the relevant Parties.
- 8.7 If the Parties are unable to agree on a time extension pursuant to Paragraph 8.5 above, or resolve the Billing Dispute by the expiry of the Negotiation Period (as may be extended), the Billing Dispute may be referred by either Party for resolution either by:
- (a) mediation in Singapore in accordance with the Mediation Rules of the Singapore Mediation Centre for the time being in force, and Paragraphs 8.8 to 8.11 below; or
 - (b) arbitration in Singapore in accordance with the Domestic Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, and Paragraphs 8.12 to 8.16 below.

The referring Party shall provide a written notice to the other Party of the selected dispute resolution mechanism. If the referring Party selects to resolve the dispute by mediation and the other Party refuses to agree to mediation, the Billing Dispute may be referred by either Party to be resolved by arbitration.

If either Party refers the Billing Dispute to arbitration, the other Party shall be bound by such arbitration proceedings. For the avoidance of doubt, once a Billing Dispute is referred to arbitration, it may not be referred to mediation.

Mediation

- 8.8 In addition to the qualifications of the mediator contemplated by the Mediation Rules of the Singapore Mediation Centre for the time being in force, the mediator shall have an understanding of the relevant aspects of the telecommunications industry but not be an officer, director or employee of a telecommunications company or otherwise have a potential for conflict of interest.
- 8.9 Mediation settlement agreements or the information therein shall not be published or publicised without the prior written consent of the Parties and on terms mutually agreed in writing by the Parties.
- 8.10 Each Party shall bear its own costs for the mediation and the Parties shall bear in equal proportion the costs of the mediator.
- 8.11 If the Parties fail to resolve the Billing Dispute by mediation, the Billing Dispute may be referred by either Party to be resolved by arbitration.

Arbitration

- 8.12 The arbitral tribunal will consist of one (1) arbitrator to be appointed by agreement of the Parties. The arbitrator will have the appropriate qualification and experience to arbitrate the Billing Dispute, including knowledge of the telecommunications industry and legal qualifications, and shall not be an officer, director or employee of a telecommunications company or otherwise have a potential for conflict of interest.
- 8.13 If the Parties fail to appoint an arbitrator within ten (10) Business Days from the date the Billing Dispute is referred to arbitration by a Party, the arbitrator shall be appointed on the request of either Party by the Chairman of the Singapore International Arbitration Centre.
- 8.14 The language to be used and all written documents provided in arbitration shall be in English. Each Party shall not be precluded from applying for urgent interlocutory relief from any court of competent jurisdiction.
- 8.15 The parties acknowledge and agree that cost allocation between the Parties shall be determined by the arbitrator.
- 8.16 The arbitrator's decision shall be binding on the Parties in the absence of manifest error of fact or law.

ANNEX 3

General Dispute Resolution Procedures

1. General

- 1.1 The terms and conditions in this Annex 3 (“**General Dispute Resolution Procedures**”) apply to any disputes (other than Billing Disputes, which are to be dealt with in accordance with Annex 2) that arise under or in connection with the ICO Agreement.
- 1.2 The procedures set out in this Annex 3 are without prejudice to any other rights and remedies that may be available in respect of any breach of any provisions of the ICO Agreement including urgent interlocutory relief.
- 1.3 Any time limits or provisions contained in this Annex 3 may only be varied by agreement of the Parties.
- 1.4 Each Party will continue to fulfil its obligations under the ICO Agreement during the pendency of a dispute or any procedures in this Annex 3.

2. Initial Escalation Procedures

- 2.1 The Parties will initially raise issues arising under the ICO Agreement with each other by exchanging correspondence setting out clearly and in reasonable detail the basis and justification of the dispute.
- 2.2 If the Parties do not reach an agreement on an issue raised through correspondence under Paragraph 2.1 above within ten (10) Business Days, either Party may give ten (10) Business Days written notice (“**Notice Period**”) to the other Party of its intention to escalate the issue and outlining the details of the issue.
- 2.3 If the issue is not resolved prior to the expiry of the Notice Period, then either Party may notify the other Party (the “**Receiving Party**”) that it wishes to refer the issue to:
 - (a) an Inter-Working Group established under Paragraph 3 below;
 - (b) dispute resolution by the Authority under Paragraph 4 below;
 - (c) mediation, which shall be conducted in accordance with Paragraph 5 below;
or
 - (d) arbitration, which shall be conducted in accordance with Paragraph 6 below.
- 2.4 If both Parties agree on the forum of dispute resolution under Paragraph 2.3(a), 2.3(c) or 2.3(d) above, the issue shall be referred to such forum in accordance with the applicable provisions of this Annex 3. If both Parties fail to reach any such agreement, or if Paragraph 2.3(b) above applies, then the issue shall be referred to the Authority for dispute resolution in accordance with Paragraph 4 below.
- 2.5 If the Authority declines to intervene to resolve an issue referred to it under Paragraph 2.4 above:
 - (a) the Parties may, by mutual agreement, refer such issue to:
 - (i) an Inter-Working Group established pursuant to Paragraph 3 below;
 - (ii) mediation, which shall be conducted in accordance with Paragraph 5 below; or

(iii) arbitration, which shall be conducted in accordance with Paragraph 6 below; or

(b) either Party may submit such issue to be determined by a court of competent jurisdiction.

3. **Inter-Working Group**

3.1 If a dispute is referred to an Inter-Working Group under Paragraphs 2.3(a) or 2.5(a)(i) above, the Parties shall promptly form a committee with an equal number of appropriate representatives from each Party ("**Inter-Working Group**").

3.2 The Inter-Working Group to which an issue has been raised will meet within ten (10) Business Days of the receipt by the Receiving Party of a notice under Paragraphs 2.3(a) or 2.5(a)(i) above.

3.3 If the Inter-Working Group has not resolved an issue within twenty (20) Business Days after it first meets to review such issue under Paragraph 3.2 above:

(a) either Party may refer such issue to the Authority in accordance with the Code, such issue to be resolved in accordance with Paragraph 4 below;

(b) the Parties may, by mutual agreement, refer such issue to mediation, which shall be conducted in accordance with Paragraph 5 below; or

(c) the Parties may, by mutual agreement, refer such issue to arbitration, which shall be conducted in accordance with Paragraph 6 below.

4. **Dispute Resolution by Authority**

4.1 The resolution of a dispute referred to the Authority will be conducted in accordance with the Code and be subject to any binding resolution imposed on the Parties by the Authority.

4.2 If the Authority does not have the power under the Act or the Code, or is unwilling to resolve the dispute, the Authority will notify the Parties forthwith, and the provisions of Paragraph 2.5 above shall apply.

5. **Mediation**

5.1 A dispute may only be referred to mediation if the provisions in Paragraph 2 above have been complied with.

5.2 Any referral of a dispute to mediation by a Party must be made by written notice, including a statement of the matters in the dispute.

5.3 The mediation must be conducted in accordance with the Mediation Rules of the Singapore Mediation Centre for the time being in force, which rules shall be incorporated by reference into this Paragraph 5. In the event of any inconsistency or conflict between this Paragraph 5 and the said Mediation Rules, this Paragraph 5 shall prevail.

5.4 The mediation shall be conducted in private.

5.5 In addition to the qualifications of the mediator contemplated by the Mediation Rules of the Singapore Mediation Centre for the time being in force, the mediator shall have an understanding of the relevant aspects of the telecommunications industry but not be an officer, director or employee of a telecommunications company or otherwise have a potential for conflict of interest.

- 5.6 Mediation settlement agreements or the information therein shall not be published or publicised without the prior written consent of the Parties and on terms mutually agreed in writing by the Parties.
- 5.7 Each Party must notify the other Party no later than forty-eight (48) hours prior to mediation of the names of their representatives who will attend the same. Nothing in this Paragraph 5.7 is intended to suggest that either Party is able to refuse the other Party's chosen representatives or to limit other representatives from the other Party attending the mediation.
- 5.8 The mediation will terminate in accordance with the Mediation Rules of the Singapore Mediation Centre for the time being in force.
- 5.9 Each Party will bear its own costs for the mediation (including the costs of any representatives) and the Parties shall bear in equal proportion the costs of the mediator.
- 5.10 Any agreement from mediation will bind the Parties on its terms.
- 5.11 If the Parties fail to reach an agreement on a dispute by mediation, they may, by mutual agreement, refer the matter to arbitration under Paragraph 6 below.

6. **Arbitration**

- 6.1 A dispute may only be referred to arbitration if the provisions in Paragraph 2 above have been complied with.
- 6.2 The arbitration must be conducted in Singapore and in accordance with the Domestic Arbitration Rules of the Singapore International Arbitration Centre for the time being in force (the "**SIAC Rules**"), which rules shall be incorporated by reference into this Paragraph 6. In the event of any inconsistency or conflict between the SIAC Rules and this Paragraph 6, this Paragraph 6 shall prevail.
- 6.3 Once a dispute is referred to arbitration, it may not be referred to mediation.
- 6.4 The arbitral tribunal will consist of one (1) arbitrator to be appointed by agreement of the Parties. The Arbitrator:
- (a) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the telecommunications industry and legal qualifications;
 - (b) need not be a Singapore citizen or resident; and
 - (c) will not be an officer, director, or employee of a telecommunications company or otherwise have a potential for conflict of interest.
- 6.5 If the Parties fail to appoint an arbitrator within ten (10) Business Days of referral of a dispute to arbitration, the arbitrator shall be appointed by the Chairman of the Singapore International Arbitration Centre.
- 6.6 The following procedure will apply to the arbitration:
- (a) each Party will present its written submissions on the dispute in question to the Arbitrator and the other Party within fifteen (15) Business Days of the appointment of the arbitrator; and
 - (b) each Party may respond in writing to the other Party's written submissions, and shall present such written response to the arbitrator and the other Party,

within fifteen (15) Business Days of the date of the second-mentioned Party's written submissions.

- 6.7 Unless (i) the Parties mutually agree otherwise or (ii) the arbitrator determines that the arbitration shall be by documents only, in each case, within five (5) Business Days of the last written submission pursuant to Paragraph 6.6(b) above, an arbitral hearing will be held within fifteen (15) Business Days of the last written submission pursuant to Paragraph 6.6(b) above.
- 6.8 In the event an arbitral hearing is to be held, each Party will have the right to appoint one (1) expert to appear at such arbitral hearing and will have the opportunity of making an oral submission. The arbitration will be conducted in private.
- 6.9 The procedure of the arbitral hearing will be determined by the arbitrator (including number and duration of oral submissions by the Parties and experts) but in any case, the arbitral hearing will last no longer than three (3) Business Days.
- 6.10 The arbitrator will deliver his/her award within fifteen (15) Business Days of the arbitral hearing or of the last written submission pursuant to Paragraph 6.6(b) above where the arbitration is by documents only.
- 6.11 Every dispute referred to arbitration will be arbitrated separately such that the time limits for each dispute as set out in this Paragraph 6 are complied with.
- 6.12 The language to be used and all written documents provided in any such arbitration shall be in English.
- 6.13 Each Party shall not be precluded from applying for urgent interlocutory relief from any court of competent jurisdiction.
- 6.14 The arbitrator's decision will be binding on the Parties (in the absence of manifest error of fact or law).

ANNEX 4

Nucleus Connect Details

1. Address for notices pursuant to Clause 25 pertaining to general administration and implementation of the ICO Agreement:

Primary contact person

Account Manager:	
Address	
E-mail	
Facsimile	

Secondary contact person

Account Manager:	
Address	
E-mail	
Facsimile	

ANNEX 5

Contracting QP Details

1. Address for notices pursuant to Clause 25 pertaining to general administration and implementation of the ICO Agreement:

Primary contact person

Name:	
Address	
E-mail	
Facsimile	

Secondary contact person

Name:	
Address	
E-mail	
Facsimile	

ANNEX 6

ON Charges

1. General

This Annex 6 sets out the ON Charges that the Contracting QP shall bear in the course of the provision to it of any Mandated Service.

2. Residential End-User Connection

These ON Charges shall apply to any Connection/NTE/Service Port located in a Residential Premises when the Contracting QP places an Order for the following:

- Residential Per-End-User Connection
- L2 VPN Service
- L3 VPN Service
- E-LAN Service

2.1 One-Time Charge

DESCRIPTION	ON CHARGES	REMARKS
Patching Service (i) OpenNet CO (ii) MDF Room Patching Service Ordering Charge	\$5 per end-user connection \$160 per patch point \$50 per order	The charge for Patching Service at OpenNet FDF at OpenNet Central Office based on a split ratio of 1:24 is applicable to every order. If imposed by OpenNet where Patching Service is required. If Nucleus Connect requires to use any OpenNet Patching Service.
OpenNet Installation Charge for providing internal cabling within the Residential Premise using PVC trunking up to a maximum distance of 15 metres with the use of open ducting deployment technique to the 1 st Termination Point, measured from the point of entry to the Residential Premise to the 1 st Termination Point. (i) High-Rise Residential Building (ii) Landed Residential Premise	 \$220 per end-user connection \$450 per end-user connection	If Residential End-User had refused entry to OpenNet's staff or agent the first time. The charge payable for the Patching Service within the Building MDF Room, onsite manpower charges and cable drop from DP to 1 st TP
OpenNet installation of internal cabling that exceeds fifteen (15) metres, measured from the point of entry to the Residential Premise to the 1 st Termination Point using PVC trunking	\$33 per five(5) metres	If Residential End-User requires 1 st TP exceeding 15m from Residential Premise point of entry.

<p>OpenNet Onsite Charge</p> <p>Subsequent hour blocks spent: <u>Period</u> Mon-Fri (9am-5pm) Mon-Fri (after 5pm-9am the next day) Sat (9am-1pm) Sat (after 1pm-12am the next day) Sun & Public Holidays (12am-9am the next day)</p>	<p>Minimum charge of \$130 per visit per staff up to the 1st 2 hrs</p> <p><u>Rate(\$/hr)</u> \$20/hr \$30/hr \$20/hr \$30/hr \$40/hr</p>	<p>OpenNet charge for every onsite visit according to the time spent by OpenNet's staff</p> <p>OpenNet Onsite Charges shall apply if more than 1 visit from OpenNet staff or agent is required for installation at the request of the Contracting QP/End-User or due to the Contracting QP's/End-User's action or inaction. For the avoidance of doubt, such OpenNet onsite charges related to the fault management procedure would not be on-pass to the Contracting QP.</p>
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2.2 Cancellation Charge

a) If the Cancellation Order is received before OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
<p>OpenNet Cancellation Charge</p> <p>(i) High-Rise Residential Building</p> <p>(ii) Landed Residential Premise</p>	<p>Same as OpenNet Installation Charge</p> <p>\$220 per end-user connection</p> <p>\$450 per end-user connection</p>	<p>If Residential End-User had refused entry to OpenNet's staff for the first time and Order is subsequently Cancelled by Residential End-User before OpenNet RFS Date.</p>
<p>Other OpenNet Cancellation Charges</p>	<p>Other associated OpenNet Residential Installation Charges under (2.1) above (where applicable)</p>	<p>If imposed by OpenNet.</p>

b) If the Cancellation Order is received after OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
<p>OpenNet Pre-mature Termination Charge</p>	<p>100% of OpenNet remaining contractual value</p>	<p>If Cancellation Order is received after OpenNet RFS Date</p>
<p>Removal of Patching Service</p> <p>(i) OpenNet CO</p> <p>(ii) MDF Room</p>	<p>\$30 per patch</p> <p>\$150 per patch</p>	<p>If imposed by OpenNet</p>

2.3 Deactivation

ITEM	ON CHARGES	REMARKS
Removal of Patching Service		If imposed by OpenNet.
(i) OpenNet CO	\$30 per patch	
(ii) MDF Room	\$150 per patch	

3. Non-Residential Per-End-User Connection

3.1 Installation Charge

These ON Charges shall apply to any Connection/NTE/Service Port located in a Non-Residential Premises when the Contracting QP places an Order for the following:

- Non-Residential Per-End-User Connection
- L2 VPN Service
- L3 VPN Service
- E-LAN Service

ITEM	ON CHARGES	REMARKS
Patching Service		
(i) OpenNet CO	\$20 per end-user connection	The charge for Patching Service at OpenNet FDF at OpenNet Central Office based on a split ratio of 1:16 is applicable to every order.
(ii) MDF Room	\$160 per patch point	If imposed by OpenNet where Patching Service is required.
(iii) FTTB Node	\$160 per patch point	If imposed by OpenNet where Patching Service is required.
Patching Service Ordering Charge	\$50 per order	If Nucleus Connect requires to use any OpenNet Patching Service.
OpenNet Standard Installation Charge includes charges for Patching Service at the Building MDF Room and onsite manpower charges	\$150 per connection	If required by Contracting QP.
OpenNet Installation of Network Charge including installation of vertical fibre / in-building cabling, ducting, enclosure and/or cable tray from the FTTB Node to the 1 st TP of the Non- Residential Premise.	\$363 per end-user connection	If required by Contracting QP.
OpenNet Onsite Charge	Minimum charge of	OpenNet charge for every onsite visit

Subsequent hour blocks spent: <u>Period</u> Mon-Fri (9am-5pm) Mon-Fri (after 5pm-9am the next day) Sat (9am-1pm) Sat (after 1pm-12am the next day) Sun & Public Holidays (12am-9am the next day)	\$130 per visit per staff up to the 1 st 2 hrs <u>Rate(\$/hr)</u> \$20/hr \$30/hr \$20/hr \$30/hr \$40/hr	according to the time spent by OpenNet's staff. OpenNet Onsite Charges shall apply if more than 1 visit from OpenNet staff or agent is required for installation at the request of the Contracting QP/End-User or due to the Contracting QP's/End-User's action or inaction. For the avoidance of doubt, such OpenNet onsite charges related to the fault management procedure would not be on-pass to the Contracting QP.
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3.2 Cancellation Charge

a) If the Cancellation Order is received before OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
OpenNet Cancellation Charge i) Standard Installation Charge ii) Installation of Network Charge (incl. of vertical fibre/in-building cabling)	Same as OpenNet Installation Charge \$150 per connection \$363 per end-user connection	If Contracting QP requires OpenNet to provide vertical fibre/in-building cabling and Order is subsequently Cancelled by Non-Residential End-User
Other OpenNet Cancellation Charges	Other associated OpenNet Non-Residential Installation Charges under (3.1) above (where applicable)	If imposed by OpenNet

b) If the Cancellation Order is received after OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
ON Pre-mature Termination Charge.	100% of OpenNet remaining contractual value.	If Cancellation Order is received after OpenNet RFS Date.
Removal of Patching Service (i) OpenNet CO (ii) Building MDF Room FTTB Node	\$30 per patch point \$150 per patch point \$150 per patch point	If imposed by OpenNet

3.3 Deactivation

ITEM	ON CHARGES	REMARKS
Removal of Patching Service		If imposed by OpenNet
(i) OpenNet CO	\$30 per patch	
(ii) Building MDF Room	\$150 per patch	
(iii) FTTB Node	\$150 per patch	

4. NBAP Per-End-User Connection

4.1 Installation Charge

These ON Charges shall apply to any Connection/NTE/Service Port located in a NBAP location when the Contracting QP places an Order for the following:

- NBAP Per-End-User Connection
- L2 VPN Service
- L3 VPN Service
- E-LAN Service

ITEM	ON CHARGES	REMARKS
Patching Service		
(i) OpenNet CO	\$20 per end-user connection	The charges for Patching Service at OpenNet FDF at OpenNet Central Office based on a split ratio of 1:16 is applicable to every order.
(ii) MDF Room	\$160 per patch point	If imposed by OpenNet where Patching Service is required.
(iii) FTTB Node	\$160 per patch point	If imposed by OpenNet where Patching Service is required.
(iv) NBAP DP	\$160 per patch point	If imposed by OpenNet where Patching Service is required.
Patching Service Ordering Charge	\$50 per order	If Nucleus Connect requires to use any OpenNet Patching Service.
OpenNet Standard Installation Charge includes charges for Patching Service at the Building MDF Room and onsite manpower charges	\$150 per connection	If imposed by OpenNet
OpenNet Digging/Trenching Work performed in order to lay the ducts	Case-by-case basis	If imposed by OpenNet.

<p>OpenNet Onsite Charge</p> <p>Subsequent hour blocks spent: <u>Period</u> Mon-Fri (9am-5pm) Mon-Fri (after 5pm-9am the next day) Sat (9am-1pm) Sat (after 1pm-12am the next day) Sun & Public Holidays (12am-9am the next day)</p>	<p>Minimum charge of \$130 per visit per staff up to the 1st 2 hrs</p> <p><u>Rate(\$/hr)</u> \$20/hr \$30/hr</p> <p>\$20/hr \$30/hr \$40/hr</p>	<p>OpenNet charge for every onsite visit according to the time spent by OpenNet's staff.</p> <p>OpenNet Onsite Charges shall apply if more than 1 visit from OpenNet staff or agent is required for installation at the request of the Contracting QP/End-User or due to the Contracting QP's/End-User's action or inaction. For the avoidance of doubt, such OpenNet onsite charges related to the fault management procedure would not be on-pass to the Contracting QP.</p>
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4.2 **Cancellation Charge**

a) If the Cancellation Order is received before OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
<p>OpenNet Cancellation Charge</p> <p>(i) Standard Installation Charge</p> <p>(ii) OpenNet Digging/Trenching Work performed in order to lay the ducts</p>	<p>\$150 per connection</p> <p>Case-by-case basis</p>	<p>If Contracting QP has agreed to proceed with OpenNet Digging/Trenching Work and Order is subsequently Cancelled</p>
<p>Other OpenNet Cancellation Charges</p>	<p>Other associated OpenNet NBAP Installation Charges under (4.1) above (where applicable)</p>	<p>If imposed by OpenNet</p>

b) If the Cancellation Order is received after OpenNet's RFS Date:

ITEM	ON CHARGES	REMARKS
<p>OpenNet Pre-mature Termination Charge.</p>	<p>100% of ON remaining contractual value.</p>	<p>If Cancellation Order is received after OpenNet RFS Date.</p>
<p>Removal of Patching Service</p> <p>(i) OpenNet CO</p> <p>(ii) Building MDF Room</p> <p>(iii) FTTB Node</p> <p>(iv) NBAP DP</p>	<p>\$30 per patch point</p> <p>\$150 per patch point</p> <p>\$150 per patch point</p> <p>\$150 per patch point</p>	<p>If imposed by OpenNet.</p>

4.3 Deactivation

ITEM	ON CHARGES	REMARKS
Removal of Patching Service		If imposed by OpenNet
(i) OpenNet CO	\$30 per patch point	
(ii) Building MDF Room	\$150 per patch point	
(iii) FTTB Node	\$150 per patch point	
(iv) NBAP DP	\$150 per patch point	

5. **QP-EVPL Service Port**

5.1 Installation Charge

These Charges shall apply to QP-EVPL Service Port located in an OpenNet CO when the Contracting QP places an Order

ITEM	ON CHARGES	REMARKS
Patching Service		
(i) OpenNet CO	\$40 per patch point	If imposed by OpenNet where Patching Service is required.
Patching Service Ordering Charge	\$50 per order	If Nucleus Connect requires to use any OpenNet Patching Service.
RL TO RL Interconnect Service		If imposed by OpenNet
(i) Project Study	Case-by-case basis	The Charges shall include site preparation work (M&E works); setting up direct connections between two Requesting Licensees and charges for acquiring permits (where necessary) from the Fire Safety Bureau and Building & Construction Authority.
(ii) Site Preparation & Installation Charge	Case-by-case basis	
RL TO RL Interconnect Service Ordering Charge	\$50 per order	If Nucleus Connect requires to use any OpenNet RL TO RL Interconnect Service.
OpenNet Onsite Work and escort Charge in their CO		OpenNet charge for every supervision of onsite work and escort services according to the time spent by OpenNet's staff
<u>Period</u>	<u>Rate(\$/hr)</u>	
- During Office Hours (Mon-Fri 9am-5pm).	\$90.50/hr (min of 2hrs)	
- After Office Hours (Mon-Fri (after	\$135.80/hr (min of 2 hrs)	

Removal of Patching Service (i) OpenNet CO	\$30 per patch point	If imposed by OpenNet
RL TO RL Interconnect Service (i) Project Study (ii) Site Preparation & Installation Charge	Case-by-case basis Case-by-case basis	If imposed by OpenNet If imposed by OpenNet
OpenNet Onsite Work and escort Charge in their CO Period - During Office Hours (Mon-Fri 9am-5pm). - After Office Hours (Mon-Fri (after 5pm-9am the next weekday, or Fri after 5pm to Sat 12am). - Saturday. - Sunday to 9am the next day (requiring less than 4hrs). - Sunday to 9am the next day (requiring more than 4hrs). - Public Holiday to 9am the next day Transport Charge for OpenNet's staff	Rate(\$/hr) \$90.50/hr (min of 2hrs) \$135.80/hr (min of 2 hrs) \$135.80/hr (min of 4 hrs) \$800 (per activation) \$1600 (per activation) \$1500 (per activation) Case-by-case basis	OpenNet charge for every supervision of onsite work and escort services according to the time spent by OpenNet's staff If imposed by OpenNet

5.3 Deactivation

ITEM	ON CHARGES	REMARKS
Removal of Patching Service (i) OpenNet CO	\$30 per patch point	If imposed by OpenNet
OpenNet Onsite Work and Escort Service Charge in their CO <u>Period</u> - During Office Hours (Mon-Fri 9am-5pm). - After Office Hours (Mon-Fri (after 5pm-9am the next weekday, or Fri after 5pm to Sat 12am). - Saturday. - Sunday to 9am the next day (requiring less than 4hrs). - Sunday to 9am the next day (requiring more than 4hrs). Public Holiday to 9am the next day Transport Charge for OpenNet's staff	<u>Rate(\$/hr)</u> \$90.50/hr (min of 2hrs) \$135.80/hr (min of 2 hrs) \$135.80/hr (min of 4 hrs) \$800 (per activation) \$1600 (per activation) \$1500 (per activation) Case-by-case basis	If imposed by OpenNet if Onsite Work and Escort Service is required. If imposed by OpenNet

6. PB –EVC, AG-EVC and IP Multicast

6.1 Cancellation Charge

ITEM	ON CHARGES	REMARKS
Removal of Patching Service (i) OpenNet CO	\$30 per patch point	If imposed by OpenNet
CO to CO Connection (i) Per segment fibre (ii) Standard Installation Charge	\$6000/month \$50 per segment	The Charges shall be imposed if Nucleus Connect has procured or committed to procure segment fibre from OpenNet to fulfill Contracting QP requirement If imposed by OpenNet
OpenNet Pre-mature Termination Charge on CO to CO Connection	100% of OpenNet remaining contractual value	If imposed by OpenNet
OpenNet Onsite Charge Subsequent hour blocks spent: <u>Period</u> Mon-Fri (9am-5pm) Mon-Fri (after 5pm-9am the next day) Sat (9am-1pm) Sat (after 1pm-12am the next day) Sun & Public Holidays (12am-9am the next day)	Minimum charge of \$130 per visit per staff up to the 1 st 2 hrs <u>Rate(\$/hr)</u> \$20/hr \$30/hr \$20/hr \$30/hr \$40/hr	OpenNet charge for every onsite visit according to the time spent by OpenNet's staff. OpenNet Onsite Charges shall apply if more than 1 visit from OpenNet staff or agent is required for installation at the request of the Contracting QP/End-User or due to the Contracting QP's/End-User's action or inaction. For the avoidance of doubt, such OpenNet onsite charges related to the fault management procedure would not be on-pass to the Contracting QP.
OpenNet Onsite Work and escort Charge in their CO <u>Period</u> - During Office Hours (Mon-Fri 9am-5pm). - After Office Hours (Mon-Fri (after 5pm-9am the next weekday, or Fri after 5pm to Sat 12am). - Saturday. - Sunday to 9am the next day (requiring less than 4hrs). - Sunday to 9am the next day (requiring more than 4hrs). - Public Holiday to 9am the next day Transport Charge for OpenNet's staff	<u>Rate(\$/hr)</u> \$90.50/hr (min of 2hrs) \$135.80/hr (min of 2 hrs) \$135.80/hr (min of 4 hrs) \$800 (per activation) \$1600 (per activation) \$1500 (per activation) Case-by-case basis	OpenNet charge for every supervision of onsite work and escort services according to the time spent by OpenNet's staff If imposed by OpenNet

