

1. Subject:

Whether:

- a. the amount of \$X in excess of each \$1,000 in principal amount of the Notes (defined below) (i.e. the additional amount over the principal amount of the Notes) in the computation of the Total Consideration (defined below) (the “**Tender Fees**”) would be treated as “break cost” (as defined in Section 13(16) of the Income Tax Act 1947 (2020 Revised Edition) (“**ITA**”)) under the qualifying debt securities (“**QDS**”) scheme, in which case the Tender Fees would not be subject to withholding tax when paid or deemed paid by the issuer of the Notes (“**Issuer**”) to non-resident holders of the Notes (“**Holders**”); and
- b. Holders would also be entitled to the QDS tax exemptions and concessions in respect of such amount under Sections 13(1)(ba) and 43H of the ITA and individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income pursuant to Section 13(1)(zk) of the ITA.

2. Relevant background and facts:

- a. The Issuer, a company incorporated in Singapore, had issued the Notes due in Year (1+T) (the “**Notes**”). The Notes are QDS for the purposes of the ITA.
- b. The Issuer has made an offer to purchase the Notes pursuant to a tender offer. The Issuer made the tender offer to reduce certain existing debt of the parent guarantor and its subsidiaries. All Notes purchased in the tender offer will be retired and cancelled. The terms of the tender offer are set out in the offer to purchase in respect of the Notes (“**Offer to Purchase**”).

The Tender Offer

- c. Pursuant to the Offer to Purchase and subject to the terms thereof, the Issuer has made an offer to purchase (the “**Tender Offer**”), for cash, up to an aggregate principal amount of the Notes that will not result in the aggregate purchase price for the Notes validly tendered (and not validly withdrawn) and accepted for purchase pursuant to the Tender Offer to exceed a specified maximum amount (subject to any increase in such maximum amount as described in the Offer to Purchase).

- d. The consideration payable per \$1,000 principal amount of Notes validly tendered (and not validly withdrawn) at or prior to the applicable early tender deadline and accepted for purchase (subject to proration, if any) pursuant to the Tender Offer (the “**Total Consideration**”) is equal to the Clearing Price (details below), as determined pursuant to a specified procedure as described below and includes an applicable early tender payment (defined below). The consideration payable per \$1,000 principal amount of Notes validly tendered after the applicable early tender deadline but at or prior to the applicable expiration deadline and accepted for purchase (subject to proration, if any) pursuant to the Tender Offer (the “**Tender Offer Consideration**”) shall be equal to (i) the applicable Total Consideration minus (ii) the applicable early tender payment.
- e. The Bid Price (as described below) specified by the Holder, the applicable Clearing Price (as described below), and the Total Consideration in the Tender Offer, each include an early tender payment amount (the “**Early Tender Payment**”). Holders will only be eligible to receive such Early Tender Payment for such Notes that the Holders validly tender (and do not validly withdraw) at or prior to the applicable early tender deadline and that are accepted by the Issuer for purchase in the Tender Offer. Acceptance of tendered Notes may be subject to proration as further described in the Offer to Purchase.
- f. The Total Consideration and the Tender Offer Consideration will be payable in cash. In addition to the Total Consideration or the Tender Offer Consideration, as applicable, Holders who validly tender (and do not validly withdraw) Notes that are accepted for purchase pursuant to the Tender Offer will also receive the applicable accrued interest from the last interest payment date on the Notes up to, but not including, the specified settlement date for the Notes accepted for purchase.
- g. The Tender Offer is subject to the satisfaction of certain conditions, as set forth in the Offer to Purchase.

Procedure for determining Clearing Price

- h. Tender instructions may be submitted in the form of either a “Competitive Offer” or a “Non-Competitive Offer” (both as summarised below). Under the procedure, the Issuer will accept Notes validly tendered (and not validly withdrawn) in the Tender Offer in the order of the lowest to the highest Bid Prices specified or deemed to have been specified by tendering Holders at or prior to the early tender deadline (if the Tender Offer is fully or oversubscribed at such time) or the expiration deadline. The Issuer will select the single lowest Bid Price (i.e. the Clearing Price) so specified that will enable the Issuer to purchase the maximum principal amount of Notes validly tendered (and not validly withdrawn) at or prior to the early tender deadline (if the Tender Offer is fully or oversubscribed at such time) or the Expiration Deadline, such that the aggregate purchase price for such Notes would not exceed the specified maximum amount.

i. Competitive Offers

- i. The Bid Price that Holders specify for each \$1,000 in principal amount of Notes must be in the specified increment amount and at least the specified minimum price (the “**Minimum Price**”) but not greater than the specified maximum price (the “**Maximum Price**”) (such range, the “**Accepted Bid Price Range**”).
- ii. If the Issuer accepts a competitive offer, the relevant Holder will receive the Clearing Price for the Notes. In respect of each competitive offer that is accepted, the Issuer will pay the Clearing Price to each Holder whose competitive offer of Notes is accepted, even if the Clearing Price is higher than the Bid Price specified by the tendering Holder in its tender instruction. In the event that the competitive offers submitted at the Clearing Price result in more Notes being offered than the increased maximum amount, such competitive offers will be accepted on a pro rata basis.

j. Non-Competitive Offers

- i. Instead of submitting competitive offer(s), Holders may submit one or more non-competitive offers in respect of the Notes on or prior to the applicable early tender deadline or applicable expiration deadline, provided that the aggregate principal amount of the Notes that are the subject of these non-competitive offers does not exceed the aggregate principal amount of the Notes that each such Holder holds.
- ii. Non-competitive offers must specify the principal amount of the Notes, in the specified minimum denomination for the Notes, and in integral multiples of \$1,000 in excess thereof that the relevant Holder is offering pursuant to such non-competitive offer. Tender instructions that either (I) do not specify a Bid Price or (II) specify a Bid Price equal to the Minimum Price will be treated as “Non-Competitive Offers”. Each non-competitive offer, whether falling within (I) or (II) above, will be deemed to have specified the Minimum Price. Tender Instructions that specify a Bid Price below the Minimum Price or above the Maximum Price will be rejected.

Undersubscription at the early tender deadline

- k. If the Tender Offer is undersubscribed at its early tender deadline, the Issuer will determine the Clearing Price for such Tender Offer, pursuant to the procedure described in paragraph (h) above, with Notes validly tendered (and not validly withdrawn) up to the expiration deadline. Accordingly, any Bid Price specified by a tendering Holder with respect to Notes validly tendered after the early tender deadline but at or prior to the expiration deadline of the Tender Offer will be used for purposes of

calculating the Clearing Price for the Tender Offer. The Issuer will purchase, on the settlement date, such Notes validly tendered at or before the expiration deadline and selected for purchase pursuant to the procedure in paragraph (h) above, subject to acceptance priority and proration, as described in the Offer to Purchase.

- l. As of the early tender deadline, the aggregate purchase price for the Notes that have been validly tendered (and not validly withdrawn) was less than the Maximum Amount. As such, the Issuer will determine the Clearing Price for the Tender Offer, pursuant to the procedure in paragraph (h) above, subject to acceptance priority and proration, as described in the Offer to Purchase, with Notes validly tendered (and not validly withdrawn) up to the expiration deadline.
- m. The Issuer announced that, among others, it will accept for purchase all of the Notes that have been validly tendered (and not validly withdrawn) up to the expiration deadline, without any proration. The Issuer determined that the Clearing Price and the Total Consideration for the Tender Offer to be $\$(1,000+X)$.

Tender fees

- n. In arriving at the Acceptable Bid Price Range, the Issuer's dealer managers set the Minimum Price generally around the market bid price of the Notes on the secondary market on the launch date in Year 1, and agreed on the Maximum Price after considering, *inter alia*, the tender premiums of recent tender offers, the target participation rates in the Asian markets and the appropriate amount the Holders would consider accepting as constituting sufficient compensation to them to offer their Notes to the Issuer pursuant to the Tender Offer. Taking into account the bid price on the launch date, the dealer managers after deliberation with the Issuer subsequently set the Minimum Price at a specified amount.
- o. The Tender Fees paid to the Holders (over the principal amount of their Notes) was determined pursuant to the procedure described in paragraph (h) above and the amount of which is within the Acceptable Bid Price Range (which was determined after taking into account the various considerations set out above). In essence, the Tender Fees was computed in light of the various considerations set out above so that Holders would be adequately compensated for their loss or liability arising from the Notes being redeemed early.

3. Relevant legislative provisions:

- a. Income Tax Act 1947 (2020 Revised Edition) – Sections 13(1)(ba), 13(1)(zk), 13(2F), 13(16) and 43H
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4. The ruling:

- a. The Tender Fees would be treated as “break cost” (as defined in Section 13(16) of the ITA) under the QDS scheme. Therefore, subject to meeting all the other requisite conditions under Sections 13(2F) and 43H of the ITA, and the Income Tax (Qualifying Debt Securities) Regulations, where applicable:
 - i. Holders deriving the Tender Fees would be entitled to the tax exemptions and tax concessions available under Section 13(1)(ba) and 43H of the ITA, and individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income pursuant to Section 13(1)(zk) of the ITA; and
 - ii. The Tender Fees would not be subject to withholding tax when paid or deemed paid by the Issuer to non-resident Holders.
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5. Reason(s) for the decision:

- a. The Notes are QDS. The purchase of the Notes pursuant to the Tender Offer by the Issuer before the Notes’ maturity date of Year (1+T) constitutes an early redemption of the Notes.
 - b. The Total Consideration is an amount that the Holders would consider accepting as constituting sufficient compensation to them to offer their Notes for purchase by the Issuer. The Tender Fees being part of the Total Consideration, is determined by any loss or liability incurred by the Holders in connection with the redemption of the Notes. Accordingly, the Tender Fees falls within the definition of “break cost” under Section 13(16) of the ITA.
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