

## ANNOUNCEMENT

### ENTRY INTO MEMORANDUM OF UNDERSTANDING IN RELATION TO A PROPOSED ACQUISITION

#### 1. INTRODUCTION

The Board of Directors (the “**Board**”) of EMS Energy Limited (the “**Company**”, and together with its subsidiaries, the “**Group**”) is pleased to announce that the Company had on 31 December 2018 entered into a binding memorandum of understanding (the “**MOU**”) with NVS Holdings Pte. Ltd. and Son Truong Co Ltd (the “**Vendors**”) in relation to the proposed acquisition of 52.76% of the issued and paid-up share capital of Nosco Shipyard Joint Stock Company (the “**Target**”) (the “**Proposed Acquisition**”).

The MOU sets out certain terms and conditions that will form the broad basis of the sale and purchase agreement (the “**SPA**”), to be entered into in relation to the Proposed Acquisition. The Proposed Acquisition is expected to constitute:

- (a) a very substantial acquisition as defined under Chapter 10 of Section B: Rules of Catalist of the Listing Manual (the “**Catalist Rules**”) of the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”), and is subject to, *inter alia*, approval of (i) the SGX-ST; and (ii) the shareholders of the Company (the “**Shareholders**”) at an extraordinary general meeting to be convened (the “**EGM**”) pursuant to Rule 1015 of the Catalist Rules; and
- (b) an interested person transaction (“**IPT**”) as defined under Chapter 9 of the Catalist Rules and will be subject to approval of the Shareholders at the EGM pursuant to Rule 906 of the Catalist Rules.

#### 2. INFORMATION ON THE PROPOSED ACQUISITION

*The information on the Target and the Vendors was provided by the Vendors. In respect of such information, the Company and the Directors have not independently verified the accuracy and correctness of the same and the Company’s responsibility is limited to the proper extraction and reproduction herein in the context that the information is being disclosed in this Announcement.*

##### 2.1 Information on the Target

The Target is incorporated in Vietnam with its registered address at Hamlet 4, Tien Phong Commune, Quang Yen Town, Quang Ninh Province. It has 52,803,483 issued ordinary shares and an issued and paid-up share capital of 528,034,830,000 Vietnamese Dong. It is in possession of a 100 hectares industrial land with a 50-year lease, of which 50 hectares are currently used in the business of ships repairing, ships and other marine assets construction and recycling. The remaining 50 hectares of land is currently vacant and is authorised for expansion and other projects to support the industrial development.

##### 2.2 Information on the Vendors

(a) NVS Holdings Pte. Ltd.

NVS Holdings Pte. Ltd. is a company incorporated in Singapore with its registered address at 25 International Business Park #02-57, German Centre, Singapore 609916. It holds 23,056,879 shares in the Target representing a 43.67% shareholding interest. The shareholders of NVS Holdings Pte. Ltd. are Titanium Holdings LLC, Claymore Investment Co Ltd and Ting Teck Jin and their respective shareholdings are 58%, 38% and 4%. NVS Holdings Pte. Ltd. is primarily involved in the business of investment holding.

Titanium Holdings LLC is a company incorporated in the Cayman Islands with its registered address at c/o The Grand Commercial Centre, Oleander Way, 802 West Bay Road, PO Box 32052, Grand Cayman, KY1-1208, Cayman Islands. The shareholders of Titanium Holdings LLC are Ting Teck Jin and Ting Teck Seh and their respective shareholdings are 99.9% and 0.01%. It is primarily involved in the business of investment holding.

Claymore Investment Co Ltd is a company incorporated in Vietnam with its registered address at #701, 92F Nguyen Huu Canh Street, Binh Thanh District, Ho Chi Minh City, Vietnam. The shareholder of Claymore Investment Co Ltd is Bui Pham Ngan Phuong who is holding 100%. It is primarily involved in the business of investment and consultancy.

Mr. Ting Teck Jin has a 4% shareholding in NVS Holdings Pte. Ltd. He is also a controlling shareholder of the Company due to his direct interest of 0.07% in the Company as well as his deemed interest in the 79.47% shareholding interest in the Company held by Titanium Holdings LLC in which he is a controlling shareholder and a director.

(b) Son Truong Co Ltd

Son Truong Co Ltd is a company incorporated in Vietnam with its registered address at 325 Park 6, Quan Toan Ward, Hong Bang District, Hai Phong City, Vietnam. It holds 4,800,000 shares in the Target representing a 9.09% shareholding interest. The capital contribution members of Son Truong Co Ltd are individuals in the same family, including Ta Vu Luong, Ta Quyet Thang, Vu Thi Thuan, Ta Lan Phuong who hold 46%, 25%, 20% and 9% respectively. Son Truong Co Ltd is primarily involved in the business of construction.

The Vendors' interests in the Target comprise 52.76% shareholding interest in the Target. The remaining 47.24% are held by parties unrelated to the Vendors.

## 2.3 Rationale for and benefits of Proposed Acquisition

The trading in the shares of the Company ("**Shares**") have been suspended since 26 September 2016 pursuant to Rule 1303(3) of the Catalist Rules and the Company is therefore required to submit a proposal through its sponsor to the SGX-ST with a view to resume trading (the "**Resumption Proposal**"). The SGX-ST had previously on 19 October 2017 granted the Company a 12-month extension of time till 25 September 2018, and on 19 November 2018 granted a further extension of time till 31 December 2018 for the Company to enter into binding agreement(s) with investor(s) to address issues pertaining to its financial and business viability as well as demonstrate its ability to operate as a going concern.

The Board believes that the Proposed Acquisition would allow the Company to acquire a new business which could potentially resolve its financial and business viability issues. The entry into the MOU would allow the Company more time to finalise the finer terms of the Proposed Acquisition with the Vendors, with a view to sign the SPA with the Vendors by 15 April 2019.

Pursuant to this, the Company will be seeking a further time extension from the SGX-ST to submit the Resumption Proposal.

## 2.4 Indicative and key terms of Proposed Acquisition

(a) Proposed Acquisition

Subject to the terms and conditions contained in the SPA to be entered and the requirements of the Catalist Rules, including in relation to reverse takeovers and/or very substantial

acquisitions, the Company will acquire 52.76% of the issued ordinary shares in the capital of the Target (the “**Sale Shares**”) from the Vendors.

(b) Consideration

The aggregate consideration (the “**Consideration**”) for the Sale Shares shall be S\$16.6 million, subject always to further negotiations between the parties and taking into account, *inter alia*, the audited net tangible assets of the Target for the financial year ended 31 December 2018 (such audit to be conducted by a reputable Singapore-based audit firm) and the market value of 52.76% of the equity interest in the Target as set out in the Independent Business Valuation Report. The Consideration is expected to be satisfied by the allotment and issuance of 11,062,006,625 new Shares in the Company to the Vendors (the “**Consideration Shares**”), in such proportion between the Vendors as reflected by their respective shareholding percentages in the 52.76% equity interest in the Target being acquired, in accordance with the terms in the SPA. For the avoidance of doubt, such further negotiations considering the foregoing may result in the Consideration, the issue price for the Consideration Shares, as well as the Consideration Shares being adjusted.

For the purposes of this Announcement, “Independent Business Valuation Report” shall mean the valuation report to be produced in connection with the Proposed Acquisition valuing the business of the Target by an independent business valuer (acceptable to the financial adviser of the Company) to be appointed by the Company pursuant to Rule 1015(2) of the Catalist Rules.

The Consideration Shares shall be issued fully paid and shall rank equally with all the Shares existing then.

(c) SPA

Subject to the parties’ satisfactory broad-based due diligence to be conducted on the Target, the parties shall use their best endeavours to negotiate and enter into the SPA within a period of fifteen (15) calendar days from the end of the due diligence period (being a period of three (3) months commencing on the date of the MOU or such longer period as may be agreed in writing between the parties).

In the event the SPA is not entered into by 15 April 2019 (and unless there is a mutually agreed extension between the parties), the MOU shall automatically terminate and the provisions of the MOU shall cease to have any force or effect (other than the clauses expressed therein to survive termination) and there shall be no liability on the part of either party, without prejudice to the accrued rights and liabilities of the parties which shall subsist.

(d) Conditions Precedent

Completion of the Proposed Acquisition shall be conditional upon, *inter alia*, the following being fulfilled or satisfied within eighteen (18) months from the date of execution of the SPA:

- (i) to the extent required by the Catalist Rules and/or applicable laws, the approval of the Shareholders in general meeting having been obtained for the entry into and completion of the Proposed Acquisition, including but not limited to the acquisition of the Sale Shares, the issue and allotment of the Consideration Shares and the transfer of a controlling interest to a Vendor (if any);

- (ii) approval in-principle for the listing and quotation of the Consideration Shares on the Official List of the SGX-ST having been obtained from the SGX-ST and remaining in full force and effect and where such approval is given subject to conditions which must be fulfilled on or before the date of completion of the Proposed Acquisition, such conditions being reasonably acceptable to the Vendors or fulfilled by the Company, as the case may be;
- (iii) the approval of the SGX-ST in respect of the circular to be issued by the Company to its shareholders in respect of the Proposed Acquisition as well as ancillary matters and if such approval is subject to conditions, such conditions being reasonably acceptable to the Parties and if required by the SGX-ST, such conditions being fulfilled or satisfied before completion of the Proposed Acquisition, and such approval remaining in full force and effect;
- (iv) the approval of independent shareholders of the Company being obtained at an extraordinary general meeting of the Company for the Whitewash Waiver (as defined below);
- (v) if required, the approval of the Securities Industry Council (“**SIC**”) having been granted (and not having been withdrawn, suspended, amended or revoked) to the Vendors and persons acting in concert with the Vendors to waive their obligation to make a mandatory general offer (arising from or in connection with the issuance of the Consideration Shares) under Rule 14 of the Singapore Code on Take-overs and Mergers (the “**Takeover Code**”) to the independent shareholders and from having to comply with the requirements of Rule 14 of the Takeover Code, and where any waiver is subject to conditions, such conditions being satisfactory to the Company in its sole and absolute discretion and if required to be fulfilled by a particular date, being so fulfilled, and such approvals, waivers or consents remaining valid and in full force and effect (the “**Whitewash Waiver**”), where applicable;
- (vi) the results of further extensive due diligence to be conducted by the Company on the Target after the signing of the SPA being satisfactory to the Company in its sole discretion;
- (vii) the Independent Business Valuation Report being in compliance with the Catalist Rules and in such form and substance reasonably acceptable to the Company;
- (viii) all necessary consents, approvals and waivers of the relevant authorities, financial institutions or other third parties for the transactions contemplated in the SPA having been obtained by the Vendors or the Company (including without limitation, (A) any such consents, approvals, waivers and releases required from any banks to whom any of the Vendors may have pledged shares of the Target and (B) any waivers of pre-emption rights or first refusal that may be set out in the constitutional documents of the Target or any shareholders’ agreement in relation to the Target in respect of the transfer of the Sale Shares to the Company), as the case may be, such consents, approvals and waivers not having been amended or revoked before the date of completion of the Proposed Acquisition, and to the extent that such consents, approvals and waivers are subject to any conditions required to be fulfilled before the date of completion of the Proposed Acquisition, all such conditions having been duly so fulfilled;
- (ix) the Vendors or the Company not having received notice of any injunction or other order, directive or notice restraining or prohibiting the consummation of the transactions contemplated by the SPA, and there being no action seeking to restrain

or prohibit the consummation thereof, or seeking damages in connection therewith, which is pending or any such injunction, other order or action which is threatened; and

(x) the representations and warranties given by the Vendors in the SPA being true, accurate and correct as if made on the date of completion of the Proposed Acquisition, with reference to the then existing circumstances and the Vendors having performed all of their obligations therein to be performed on or before the date of completion of the Proposed Acquisition.

(e) Exclusivity

In order to induce the Company to commit the resources, forego other potential opportunities, and incur the legal, accounting and incidental expenses necessary to evaluate the possibility and to negotiate the terms of, and to consummate, the Proposed Acquisition, the Vendors agree, acknowledge and undertake that from the date of hereof until the termination of the MOU or the date of signing of the SPA relating to the Proposed Acquisition or the date when the parties have mutually agreed that they will not proceed with the Proposed Acquisition, whichever is earlier, the Vendors, his affiliates, and their respective officers, directors, employees, and agents shall not initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal, regarding the Proposed Acquisition by any person other than the Company and/or its representatives, and shall not provide any confidential information regarding the Proposed Acquisition to any person other than the Company and its representatives.

(f) Undertakings, covenants, representations and warranties

The SPA shall contain undertakings, covenants, representations and warranties from the Vendors and the Company customary for transactions of this nature.

**2.5 Waiver from SIC**

Following completion of the Proposed Acquisition and pursuant to Rule 14 of the Takeover Code, the Vendors and their concert parties will incur an obligation to make a mandatory general offer for all the remaining issued Shares not already owned, controlled or agreed to be acquired by them. As such, the Vendors will be seeking a waiver of the obligation of the Vendors and their concert parties to make a mandatory general offer under Rule 14 of the Takeover Code from the SIC.

**3. RELATIVE FIGURES COMPUTED ON THE BASES SET OUT IN RULE 1006 OF THE CATALIST RULES**

Based on the Group's latest announced unaudited consolidated financial statements for the financial period ended 30 September 2018, the relative figures of the Proposed Acquisition, taken as a whole, computed on the bases set out in Rule 1006(a) to (e) of the Catalist Rules are set out below.

<b>Rule 1006</b>	<b>Bases of Calculation</b>	<b>Relative Figure (%)</b>
(a)	Net asset value of the assets to be disposed of compared with the Group's net asset value	N.A. <sup>(1)</sup>
(b)	(i) The net profit attributable to the Target, compared with the Group's net profits <sup>(2)</sup> for the 9-month period ended 30 September 2018	-2.99 <sup>(3)</sup>

(ii)	The net profit attributable to the Target, compared with the Group's net profits <sup>(2)</sup> for the financial year ended 31 December 2017	1.94 <sup>(3)</sup>
(c)	The aggregate consideration of the Proposed Acquisition compared with the Company's market capitalisation based on the total number of issued shares excluding treasury shares <sup>(4)</sup>	168.15
(d)	The number of Shares to be issued by the Company for the Proposed Acquisition, compared with the number of Shares (excluding treasury shares) previously in issue	2465.15 <sup>(5)</sup>
(e)	The aggregate volume or amount of proved and probable reserves to be disposed of, compared with the Company's proved and probable reserves	N.A. <sup>(6)</sup>

**Notes:**

- (1) Not applicable to an acquisition of assets.
- (2) "Net profits" means profit or loss before income tax, minority interests and extraordinary items.
- (3) Based on the net profit of Target for the financial year ended 31 December 2017 of Vietnamese Dong ("VND") 11,652,255,542 (or equivalent to S\$678,403 based on the closing exchange rate of VND0.000058:S\$1 on 31 December 2017), being the latest available audited financial results of the Target based on Vietnam Generally Accepted Accounting Principles.
- (4) Based on the consideration of S\$16.6 million, and the market capitalisation of the Company of approximately S\$9,872,175, which was determined by multiplying the number of total issued Shares, being 448,735,224 Shares (excluding treasury shares), by S\$0.022 (being the volume-weighted average traded price of such Shares on 23 September 2016, being the last market day immediately preceding the suspension in the trading of the Shares. The consideration of S\$16.6 million is subject to negotiations between the parties and taking into account, *inter alia*, the audited net tangible assets of the Target for the financial year ended 31 December 2018 (such audit to be conducted by a reputable Singapore-based audit firm) and the market value of 52.76% of the equity interest in the Target as set out in the Independent Business Valuation Report. For the avoidance of doubt, such further negotiations taking into account the foregoing may result in the Consideration being adjusted and in the event of such adjustments, updated calculations will be announced by the Company.
- (5) Based on the issue of 11,062,006,625 Consideration Shares.
- (6) Not applicable as neither the Company nor the Target is not a mineral, oil and gas company.

## **4. THE ACQUISITION AS AN INTERESTED PERSON TRANSACTION**

### **4.1 Details of Interested Persons**

The Proposed Acquisition is an IPT as the “Vendors” are “interested persons” for the purposes of Chapter 9 of the Catalist Rules for the following reasons:

- (a) as at the date of this Announcement, Mr. Ting Teck Jin (who has a direct and indirect interest of 62% shareholding in NVS Holdings Pte. Ltd., one of the Vendors) is a controlling shareholder of the Company due to his direct interest of 0.07% in the Company as well as his deemed interest in the 79.47% shareholding interest in the Company held by Titanium Holdings LLC in which he is a controlling shareholder and a director; and
- (b) Mr. Ting Teck Jin is also the Executive Chairman and Chief Executive Officer of the Company.

### **4.2 Materiality Thresholds Under Chapter 9 Of Catalist Rules**

- (a) Under Chapter 9 of the Catalist Rules, Shareholders' approval is required for an interested person transaction of a value equal to, or exceeding, 5% of the Group's latest audited NTA.
- (b) The value of the Proposed Acquisition (being the amount at risk to the Company) is S\$16.6 million. The Group's latest audited NTA as at 31 December 2017 is approximately -S\$71.7 million. As the value of the Proposed Acquisition against the Group's latest audited NTA is 23%, which exceeds 5% of the Group's latest audited NTA, the approval of the Shareholders for the Proposed Acquisition must be obtained at the EGM.

### **4.3 Total value of IPTs**

During the current financial year ended 31 December 2018 up to the date of this Announcement, there has been no transaction between the Company and the Target as well as no other interested person transactions save for the Proposed Acquisition.

## **5. INTERESTS OF DIRECTORS AND CONTROLLING SHAREHOLDERS**

Save for Mr. Ting Teck Jin, none of the directors of the Company or controlling Shareholders has any interests, direct or indirect, in the Proposed Acquisition, other than through their respective shareholding interests in the Company.

## 6. INDEPENDENT FINANCIAL ADVISER

The Company will appoint an independent financial adviser to the independent Shareholders and the independent directors of the Company in connection with the Whitewash Waiver and IPT respectively in due course.

## 7. FURTHER INFORMATION

### 7.1 Announcement

The Company will make further announcements to inform Shareholders of the final terms of the Proposed Acquisition when the SPA is signed and/or when there are any material developments in respect of the Proposed Acquisition and/or the Resumption Proposal (including the extension of time to submit the Resumption Proposal).

### 7.2 Circular

Subject to SGX-ST's approval, a circular setting out, *inter alia*, the terms of the Proposed Acquisition and the opinion and recommendation of the independent financial adviser in relation to the Whitewash Waiver and IPT, together with a notice of EGM (the "**Circular**"), will be dispatched by the Company to the Shareholders in due course.

### 7.3 Documents for inspection

Copies of the MOU will be made available for inspection during normal business hours at the registered office of the Company at 25 International Business Park #02-57 German Centre Singapore 609916, for a period of three months from the date of this Announcement.

## 8. CAUTION IN TRADING

The Company would like to remind all shareholders that trading in the Company's shares is currently suspended and the Proposed Acquisition is subject to, amongst others, and the clearance of the Resumption Proposal by the SGX-ST. As such, shareholders and investors are advised to exercise caution when dealing in the Company's Shares and to refrain from taking any action in respect of their shares and/or investment in the Company which may be prejudicial to their interest. Persons, who are in doubt, as to the action they should take, should consult their stockbroker, bank manager, solicitor, accountant or other professional advisers.

## 9. RESPONSIBILITY STATEMENT

The directors of the Company collectively and individually accept full responsibility for the accuracy of the information given in this Announcement and confirm after making all reasonable enquiries that to the best of their knowledge and belief, this Announcement constitutes full and true disclosure of all material facts about the Proposed Acquisition, the Company and its subsidiaries, and the directors of the Company are not aware of any facts the omission of which would make any statement in this Announcement misleading. Where information in this Announcement has been extracted from published or otherwise publicly available sources or obtained from a named source, the sole responsibility of the directors of the Company has been to ensure that such information has been accurately and correctly extracted from those sources and/or reproduced in this Announcement in its proper form and context.



By Order of the Board  
EMS Energy Limited

Wee Woon Hong  
Company Secretary

2 January 2019

*This announcement has been prepared by EMS Energy Limited (the “**Company**”) and its contents have been reviewed by the Company’s sponsor, UOB Kay Hian Private Limited (the “**Sponsor**”) for compliance with the Singapore Exchange Securities Trading Limited (“**SGX-ST**”) Listing Manual Section B: Rules of Catalist. The Sponsor has not verified the contents of this announcement.*

*This announcement has not been examined or approved by the SGX-ST. The Sponsor and the SGX-ST assume no responsibility for the contents of this announcement, including the accuracy, completeness or correctness of any of the information, statements or opinions made or reports contained in this announcement.*

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