

**IN THE MATTER OF A DISCIPLINARY PROCEEDING
UNDER THE SGX-ST LISTING MANUAL MAINBOARD RULES**

BETWEEN

SINGAPORE EXCHANGE SECURITIES TRADING LIMITED

(the “Exchange”)

AND

**TEE INTERNATIONAL LIMITED
PHUA BOON KIN ERIC**

(collectively, the “Relevant Persons”)

GROUND OF DECISION

11 December 2023

This document constitutes the written grounds of decision of the SGX Listings Disciplinary Committee as required under Mainboard Rule 1417(1), and is prepared for the Exchange and the Relevant Persons who are parties to SGX-LDC-2022-006.

This document is confidential and meant to be read by the parties and their legal representatives only, until such time as these grounds of decision are published by the Singapore Exchange Securities Trading Limited pursuant to Mainboard Rule 1418(1).

I. CHARGES BROUGHT BY THE EXCHANGE

1. The Exchange brought charges against:

- (a) TEE International Limited (the “**Company**”, and together with its subsidiaries, the “**Group**”); and
- (b) Mr. Phua Boon Kin Eric (“**Phua**”), former Group Chief Executive Officer (“**CEO**”) and Managing Director (“**MD**”);

for contraventions of the Mainboard Rules of the Exchange in relation to the failure to disclose various material claims received by its principal subsidiaries in a timely manner.

2. The Company was charged as follows:

Charge	Relevant Rule	Short Description
1 st Charge	Mainboard Rule 703(1)(a)	Failing to disclose the Aggregated Claims ¹ on or about 19 October 2020, that disclosure being necessary to avoid the establishment of a false market.
2 nd Charge	Mainboard Rule 703(1)(a)	Failing to disclose the Fuji Claim ² on or about 2 December 2020, that disclosure being necessary to avoid the establishment of a false market.
3 rd Charge	Mainboard Rule 703(1)(a)	Failing to disclose the Power-Link Claims ³ on or about 16 December 2020, that disclosure being necessary to avoid the establishment of a false market.
4 th Charge	Mainboard Rule 719(1)	Failing to have in place adequate and effective systems of internal controls and risk management systems to monitor the claims received by the Group and escalate such matters to the Board for timely disclosure.
5 th Charge	Mainboard Rule 705(2) read with paragraph 10 of Appendix 7.2	Failing to disclose or provide commentary on the Aggregated Claims, the Fuji Claim and the Power-Link Claims in the financial statements for the half year ended 30 November 2020 (the “ HY2021 Statements ”), that information being of material impact to the Group

¹ As defined in paragraph 12 below.

² As defined in paragraph 13 below.

³ As defined in paragraph 14 below.

Charge	Relevant Rule	Short Description
6 th Charge	Mainboard Rule 705(2) read with paragraph 10 of Appendix 7.2	Failing to disclose or provide commentary on the Aggregated Claims, the Fuji Claim and the Power-Link Claims in the financial statements for the third quarter ended 28 February 2021 (the “ 3QFY2021 Statements ”), that information being of material impact to the Group

3. Having regard to Mainboard Rule 1402(6)⁴, Phua was charged for causing the Company to be in breach of the following rules:

Charge	Relevant Rule	Short Description
1 st Charge	Mainboard Rule 703(1)(a)	Causing the Company to breach Mainboard Rule 703(1)(a) by failing to disclose the Aggregated Claims on or about 19 October 2020, that disclosure being necessary to avoid the establishment of a false market.
2 nd Charge	Mainboard Rule 703(1)(a)	Causing the Company to breach Mainboard Rule 703(1)(a) by failing to disclose the Fuji Claim on or about 2 December 2020, that disclosure being necessary to avoid the establishment of a false market.
3 rd Charge	Mainboard Rule 703(1)(a)	Causing the Company to breach Mainboard Rule 703(1)(a) by failing to disclose the Power-Link Claims on or about 16 December 2020, that disclosure being necessary to avoid the establishment of a false market.
4 th Charge	Mainboard Rule 719(1)	Causing the Company to breach Mainboard Rule 719(1) by failing to have in place adequate and effective systems of internal controls and risk management systems to monitor the claims received by the Group and escalate such matters to the Board for timely disclosure.
5 th Charge	Mainboard Rule 705(2) read with paragraph 10 of Appendix 7.2	Causing the Company to breach Mainboard Rule 705(2), read with paragraph 10 of Appendix 7.2, by failing to disclose or provide commentary on the Aggregated Claims, the Fuji Claim and the Power-Link Claims in the financial statements for the half year ended 30 November 2020 (the “ HY2021 Statements ”), that information being of material impact to the Group.
6 th Charge	Mainboard Rule 705(2) read with paragraph 10 of Appendix 7.2	Causing the Company to breach Mainboard Rule 705(2), read with paragraph 10 of Appendix 7.2, by failing to disclose or provide commentary on the Aggregated Claims, the Fuji Claim and the Power-Link Claims in the financial statements for the third quarter ended 28 February 2021 (the “ 3QFY2021 ”

⁴ Mainboard Rule 1402(6) provides that a Relevant Person is deemed to have contravened a Relevant Rule when a Relevant Person has caused another Relevant Person to omit to do an act which resulted in a breach of a Relevant Rule. “Relevant Rule” is defined under Mainboard Rule 1401 as the relevant provision(s) in the Exchange’s Listing Rules.

Charge	Relevant Rule	Short Description
		Statements ”), that information being of material impact to the Group.

II. RESOLUTION AGREEMENT

4. In the course of the proceedings, the Exchange and the Relevant Persons agreed on the terms for disposing of the disciplinary actions with “no contest”.
5. On 24 July 2023, a resolution agreement signed by the parties (“**Resolution Agreement**”) was submitted to the LDC for the LDC’s approval.
6. The Resolution Agreement stated that:
 - (a) the Company accepted liability for the 2nd, 3rd and 4th charges against it, and consented for the LDC to take into consideration the 1st, 5th and 6th charges against it for the purposes of determining the sanctions; and
 - (b) Phua accepted liability for the 2nd, 3rd and 4th charges against him, and consented for the LDC to take into consideration the 1st, 5th and 6th charges against him for the purposes of determining the sanctions.
7. The Resolution Agreement also set out the relevant facts, the Exchange’s regulatory concerns and the proposed sanctions which the parties had agreed on.

III. RELEVANT FACTS

Background of the Group and the Relevant Persons

8. The Company was listed on the SGX Sesdaq on 22 March 2001 and subsequently transferred to the SGX Mainboard on 3 September 2008. The Group is principally engaged in the engineering and construction (“**E&C**”), and infrastructure business. Of its wholly owned subsidiaries, Trans Equatorial Engineering Pte. Ltd. (“**Trans Equatorial**”) and PBT Engineering Pte. Ltd. (“**PBT Engineering**”) are in the E&C business.
9. Phua had been an Executive Director (“**ED**”) of the Company and/or had held senior management positions within the Group since 2008. He became the Interim Group CEO and MD in September 2019, and subsequently assumed that position permanently on 1 November 2020 until 20 December 2021. At all material times, Phua was also concurrently an ED of Trans Equatorial and PBT Engineering as well as MD of the Group’s E&C business.

Key events relating to the charges

10. Pursuant to a disclaimer of opinion issued by the Group’s statutory auditors in respect of the Group’s financial statements for the full year ended 31 May 2019, the Company

was required to report its financial statements every quarter with effect from 7 February 2020.

11. Starting from 15 April 2020, Trans Equatorial and PBT Engineering began to receive adjudication determinations, letters of demand and/or writs of summons from various claimants for varying amounts.
12. By 19 October 2020, Trans Equatorial and PBT Engineering had been served with claims from various creditors for an aggregated amount of \$4,281,971.68 (the **"Aggregated Claims"**), representing approximately 22.3% and 22.5% of the Group's net asset value ("**NAV**") and cash and cash equivalent balance ("**CCE**"), respectively⁵.
13. On or about 2 December 2020, Trans Equatorial was served with a claim from Fuji SMBE Technology Pte. Ltd. for the outstanding sum of S\$2,694,000 (the **"Fuji Claim"**), representing approximately 13.9% and 14.1% of the Group's NAV and CCE, respectively.
14. On or about 16 December 2020, Trans Equatorial was served with two claims from Power-Link Engineering Pte. Ltd. for the total sum of S\$5,115,127.51 (the **"Power-Link Claims"**), representing approximately 26.6% and 26.8% of the Group's NAV and CCE, respectively.
15. Phua, as MD of the Group's E&C business as well as ED of Trans Equatorial and PBT Engineering, was aware of the above claims as and when they were received by the subsidiaries.
16. On 12 January 2021, during the meeting of the board of directors (the **"Board"**), Mr. Gn Hiang Meng, Non-Executive Independent Director ("**NEID**"), highlighted the need for the incoming Audit Committee ("**AC**") Chairman to look into various issues, including "the Group's cashflow constraint" and the "unbilled receivables which have negatively impacted the cashflow of the Group". In addition, Mr. Aric Loh Siang Khee (NEID) requested Phua and other management personnel to address the auditors' concern on the Group's ability to continue as a going concern. However, there was no mention by Phua of any claims made against Trans Equatorial or PBT Engineering. The Board also approved the announcement of its HY2021 Statements later on the same day. There was no mention of any of the significant claims received by the Group in the HY2021 Statements.
17. On 19 February 2021, a Board meeting was held to discuss the proposed disposal of the Group's E&C business and/or how the Group could look for new strategic investors for the E&C business. As the Board meeting was convened to discuss the aforesaid issues and not operational matters, Phua did not mention any specific claim(s) which were made against Trans Equatorial or PBT Engineering.

⁵ Group NAV of S\$19,229,000 and CCE of S\$19,062,000 as at 31 August 2020, as stated in the Company's financial statements for the first quarter ended 31 August 2020.

18. At the request of the AC Chairman, Mr. Hoon Chee Wai David ("**Hoon**"), a cash flow projection was prepared and tabled during the AC meeting on 12 April 2021. Following discussions, Hoon promptly requested for a cash flow projection based on the worst-case scenario to be prepared, so that the Company could be made aware if there was any shortfall in cash. There was no mention of any specific claim(s) which were made against Trans Equatorial or PBT Engineering during this meeting⁶.
19. During the Board meeting held after the AC meeting (the "**12 April Board Meeting**"), Phua mentioned the need to raise the sum of S\$30 million, with S\$15 million required for ongoing expenses in relation to existing projects and the other S\$15 million required for new projects, including working capital and monies to secure performance bonds.
20. While Phua mentioned that the Group was facing financial difficulties and cashflow issues, Phua did not refer to specific claim(s) which were made against the Group. During this meeting, the Board also approved its 3QFY2021 Statements for release on the same day. The 3QFY2021 Statements did not make reference to any specific claim(s) which were received by the Group.
21. On 26 April 2021, at NEID, Mr. Yeo Kian Wee Andy's ("**Yeo**") initiation, the NEIDs and Phua had an informal lunch meeting at Yeo's office premises. The NEIDs asked Phua whether there was anything that they should be concerned about. While Phua repeated the need for additional funds, he did not inform the NEIDs about the receipt of letters of demand and/or claims against Trans Equatorial and PBT Engineering⁷.
22. On 12 May 2021, a Board meeting was held where Phua informed the Board that the Company had an outstanding loan of about S\$4.3 million owing to DBS Bank Ltd ("**DBS**"). The Board agreed that the Company should negotiate with DBS and seek its forbearance. The Board also discussed the revised cash flow projections and noted that the Group had a negative cash position every month. The Board then requested management to prepare a proposal on cost-cutting measures and to revisit this issue. While Mr Sim Geok Soon ("**Sim**"), an Executive Director of Trans Equatorial, informed the Board that the Group's sub-contractors were issuing letters of demand and writs of summons, which led to the deterioration of the Group's cash position, neither Sim nor Phua mentioned the specific claim(s) which were made against the Group.
23. On 28 May 2021, a Board meeting was held where Phua informed the Board that the Group was facing immediate cash flow issues. In the absence of immediate cash

⁶ According to Eric, he attended a meeting with Mr Teo Yi-Dar (a director of the Company) sometime on or around 26 March 2021. The meeting was requested by Eric. Eric informed Mr Teo that in view of the imminent expiry of certain COVID-19 reliefs, Trans Equatorial had approximately S\$12 million of outstanding claims to settle by 31 March 2021. Mr Teo Yi-Dar disputes Eric's account of the meeting on or around 26 March 2021.

⁷ The Company's account of this meeting (as set out in paragraph 21) is disputed by Phua. Phua's account of the meeting is as follows:- "On 26 April 2021, at NEID, Mr. Yeo Kian Wee Andy's ("**Andy**") initiation, the NEIDs and Eric had an informal lunch meeting at Andy's office premises. The NEIDs asked Eric whether there was anything that they should be concerned about. Eric mentioned that Trans Equatorial and PBT Engineering had received a voluminous amount of claims, to the extent of receiving claims almost on a daily basis, and that he (i.e. Eric) had spent a considerable amount of time dealing with these claims. Eric also repeated the need for additional funds. Eric did not make reference to specific claim(s) which were made against Trans Equatorial or PBT Engineering." The Company disputes Phua's account of the meeting.

injection, it would be impossible for the Group to continue with its existing E&C projects due to the stop-work by sub-contractors and the claims arising from various writs of summons and letters of demand from creditors, including the banks. Phua did not mention the specific claim(s) which were made against the Group or provide any further details on these claims.

24. On 2 June 2021, a Board meeting (the “**2 June Board Meeting**”) was held where the Board and management discussed the immediate payments that the Group was required to make to its trade creditors and banks in the coming week.
25. Following the 2 June Board Meeting, Hoon sent an email on the same day, reminding management to promptly inform the Board of any material claims, as the Board might need to decide on any necessary announcements to be made.
26. On 3 June 2021, management provided the Board with a summary of claims (the “**Summary**”). From the Summary, the total outstanding amount attributable to Trans Equatorial and PBT Engineering as of 3 June 2021 was S\$26,087,000. This sum was greater than the Group’s NAV and CCE as stated in the 3QFY2021 Statements⁸.
27. On 8 June 2021, a Board meeting was held where the Board discussed the Summary. Among other matters, the following were raised:
 - (a) Hoon commented that there was insufficient information provided in the Summary to understand the nature of the claims and the materiality of the claims from a disclosure point of view;
 - (b) Hoon was concerned if this information was required to be disclosed under the Mainboard Rules given that the total amount of claims was worth S\$26 million and it was a material figure; and
 - (c) The Board suggested to consult the company secretary on the necessity to disclose the legal claims.
28. In view of the above, management consulted the company secretary and was advised to make an announcement as soon as practicable.
29. Between 9 and 15 June 2021, numerous Board and AC meetings were held where further information on the claims was provided, and the Board and AC questioned management on why the specific details of the claims were not brought to their attention prior to 3 June 2021.
30. On 15 June 2021, the Company called for a trading halt, which was converted to a trading suspension on 18 June 2021.
31. On 19 June 2021, the Company made an announcement explaining the trading suspension. Among other things, the announcement stated the following:

⁸ Group NAV of S\$14,433,000 and CCE of S\$16,971,000 as stated in the 3QFY2021 Statements.

*“...on 8 June 2021 received a letter of demand from DBS Bank Ltd (“DBS”) for a sum of S\$2.0 million. The Company’s wholly-owned subsidiaries, Trans Equatorial Engineering Pte Ltd. (“**Trans Equatorial**”) and PBT Engineering Pte. Ltd. (“**PBT Engineering**”) have also on 8 June 2021 received letters of demand from DBS for the sums of S\$0.8 million and S\$0.4 million, respectively. Trans Equatorial and PBT Engineering have each also received other claims for the aggregate sums of S\$30.4 million and S\$5.2 million, respectively, from various creditors...”*

[Emphasis added]

32. On 29 June 2021, in response to the Exchange’s queries, the Company disclosed, among other things, the following extract:

Trans Equatorial

Details of claims amounting to S\$1 million and above each made against Trans Equatorial by certain sub-contractors and suppliers are as follows:

S/N	Date of Claim	Brief Description of Claim	Amount of Claim (\$ million)
1	July 2020	In respect of a claim from sub-contractor for the non-payment for provision of goods, equipment and services	2.1
2	November 2020	In respect of a claim from sub-contractor for the non-payment for provision of goods, equipment and services.	3.2
3	December 2020	In respect of a claim from sub-contractor for the non-payment for provision of goods, equipment and services.	2.5
4	December 2020	In respect of a claim from sub-contractor for the non-payment for provision of goods, equipment and services.	2.6
5	February 2021	In respect of a claim from sub-contractor for the non-payment for provision of goods, equipment and services.	1.3
6	February 2021	In respect of a claim from supplier for the non-payment for provision of goods, equipment and services.	1.8
7	February 2021	In respect of a claim from sub-contractor for a breach of Settlement Agreement in connection to retention monies related to a project.	2.0
8	April 2021	In respect of a claim from sub-contractor for non-payment of works carried out.	1.3
9	April 2021	In respect of a claim from sub-contractor for non-payment of works carried out	1.4

Additionally, Trans Equatorial had received 73 claims relating to amounts less than S\$1 million each. The aggregate sum claimed pursuant to such claims amounts to approximately S\$12.2 million. These claims were mainly trade-related, arising from sub-contractors and the supply of goods and services to Trans Equatorial.

PBT Engineering

PBT Engineering had received 36 claims relating to amounts less than S\$1 million each. The aggregate sum claimed pursuant to such claims amounts to approximately S\$5.2 million. These claims were mainly trade-related, arising from sub-contractors and the supply of goods and services to PBT Engineering.

33. From the extract above, the earliest claim exceeding S\$1 million occurred as early as July 2020. However, no details of these claims were announced by the Company prior to June 2021.
34. The Exchange sought, and the Company provided further details on these claims in a full list which the Company confirmed to be accurate. Based on the extract in paragraph 32 and this list, there was a total of 118 claims received by Trans Equatorial and PBT Engineering between April 2020 and June 2021 (the “**Relevant Period**”).

IV. RELEVANT PROVISIONS OF THE MAINBOARD RULES

Disclosure of information

35. Mainboard Rule 703(1) provides as follows:

An issuer must announce any information known to the issuer concerning it or any of its subsidiaries or associated companies which: -

*(a) is **necessary to avoid the establishment of a false market in the issuer’s securities**; or*

(b) would be likely to materially affect the price or value of its securities.

[Emphasis added]

36. Paragraph 3(a) of Appendix 7.1 on Corporate Disclosure Policy (“**Appendix 7.1**”) provides that, inter alia, “[a] *false market may exist if information is not made available that would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell the securities*”.
37. Paragraph 4 of Appendix 7.1 states that “*material information includes information, known to the issuer, concerning the issuer’s property, assets, business, financial condition and prospects... that affect materially the present or potential rights or interests of the issuer’s shareholders.*”
38. Paragraph 8 of Appendix 7.1 provides a non-exhaustive list of situations which require immediate disclosure. Amongst these, paragraph 8(l) provides that one such situation is where there is “[o]ccurrence of an event of default under debt or other securities or financing or sale agreements”.
39. Paragraph 4.9 of Practice Note 7.1 on Continuing Disclosure states that:

*As another example, the service or receipt of a letter of demand or the commencement of a lawsuit may require disclosure if the amount or action claimed otherwise has a material impact, notwithstanding that negotiations on the letter of demand may be ongoing or the outcome of the lawsuit is not yet known. **This is particularly so if the claim may, so long as it succeeds in part, materially impact the issuer’s performance, even if the exact***

quantum of the claim may still be uncertain. However, if the claim or action could reasonably be characterised as bound to fail (for example, if the issuer has received legal advice to that effect), disclosure may not be necessary.

[Emphasis added]

40. Regarding Mainboard Rule 703(1), the Resolution Agreement submitted to the LDC by the parties stated that in determining whether the receipt of a claim or letter of demand warrants immediate disclosure to avoid the establishment of a false market in the issuer's securities, it is necessary to consider the following:

- (a) firstly, whether there is any clear indication or reasonable grounds that the claim or letter of demand is wholly without merit or bound to fail. If there are none, the receipt of the claim or letter of demand by an issuer gives rise to the obligation for the issuer to repay the claim, failing which there is a high likelihood of a subsequent legal action on the amount claimed; and
- (b) secondly, the impact of the claim amount against an issuer's key financial figures, such as its NAV or CCE. This approach is similar to the assessment of the relative size of a transaction pursuant to Chapter 10 of the Mainboard Rules, which deals with the classification of transactions by their relative size⁹. Where the amount claimed, on an individual or aggregated basis, accounts for a significant proportion of an issuer's assets (i.e. $\geq 10\%$ ¹⁰), the requirement for disclosure is imperative, and not discretionary. This is because the repayment of a substantial claim would inevitably result in a significant deterioration of the issuer's financial position and diminution in the value of its assets, and potentially affect the Group's ability to operate as a going concern.

41. Mainboard Rule 705(2) states that:

An issuer must announce the financial statements for each of the first three quarters of its financial year (as set out in Appendix 7.2) immediately after the figures are available, but in any event not later than 45 days after the quarter end if: -

...

(d) its auditors have issued an adverse opinion, a qualified opinion or a disclaimer of opinion on the issuer's latest financial statements; or

(e) its auditors have stated that a material uncertainty relating to going concern exists in the issuer's latest financial statements.

⁹ For information, Listing Rule 1006 provides for several bases to be used in assessing the size of a transaction for the purpose of determining the compliance requirements required in respect of such transaction under the Listing Rules (e.g. whether the transaction needs to be disclosed or shareholders' approval is required). These bases include the net asset value of the issuer's group, and net profits of the issuer's group, amongst others.

¹⁰ As provided in the checklist for disclosures of financial statements, as part of the Listing Compliance Toolkit, an issuer should provide an explanation on "material changes" to its financial figures. As a guiding principle, a figure that is $\geq 10\%$ deviation from its comparative is considered a "material change".

42. Paragraph 10 of Appendix 7.2 on Financial Statements and Dividend Announcement (“**Appendix 7.2**”) requires the financial statements disclosed under Mainboard Rule 705(2) to include “[a] commentary at the date of the announcement of the significant trends and competitive conditions of the industry in which the group operates and any known factors or events that may affect the group in the next reporting period and the next 12 months”.

Adequate and effective system of internal controls

43. Mainboard Rule 719(1) provides as follows:

An issuer should have adequate and effective systems of internal controls (including financial, operational, compliance and information technology controls) and risk management systems. The audit committee may commission an independent audit on internal controls and risk management systems for its assurance, or where it is not satisfied with the systems of internal controls and risk management.

Responsibility to ensure compliance with the Mainboard Rules

44. Under Mainboard Rule 720(1), directors and executive officers of an issuer are required to provide personal undertakings that they shall, inter alia, use their best endeavours to comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules from time to time in force, and to procure that the issuer shall so comply.
45. In addition, paragraph 1.6 of the Code of Corporate Governance 2018 provides that the role of the management team is to provide the board of directors with complete, adequate and timely information prior to meetings and on an on-going basis to enable them to make informed decisions, and discharge their duties and responsibilities.
46. With regard to the liability of directors and executive officers for contraventions of the Mainboard Rules by an issuer, Mainboard Rule 1402(6) provides that a Relevant Person is deemed to have contravened a Relevant Rule when a Relevant Person has caused another Relevant Person to omit to do an act which resulted in a breach of a Relevant Rule.

V. MAINBOARD RULE BREACHES

Failure to disclose the Aggregated Claims on or about 19 October 2020, that disclosure being necessary to avoid the establishment of a false market

47. Regarding the facts relating to the 1st Charges against the Company and Phua, the LDC noted that:
- (a) Since April 2020, Trans Equatorial and PBT Engineering began to receive adjudication determinations, letters of demand and/or writs of summons from various claimants for varying amounts. On 19 October 2020, a claim from System Air (Sea) Pte Ltd for \$507,019.50 and a claim from Alpine Dynamic Pte Ltd for \$140,806.65 were received. Coupled with the claims previously

received, the aggregate claims received by the Group as of 19 October 2020 amounted to \$4,281,971.68 (i.e. the Aggregated Claims), representing approximately 22.3% and 22.5% of the Group's NAV and CCE, respectively;

- (b) Claims (on an individual or aggregated basis at any point of time) can be considered to be material to an issuer when they account for more than, or equal to, 10% of the issuer's NAV and CCE. Given that the claim amount represented a substantial proportion of the Group's assets, satisfaction of the Aggregated Claims would inevitably result in a significant outflow of the Group's cash, and in turn would result in a substantial deterioration of the Group's financial position and diminution of the value of the Group's assets, potentially affecting the Company's ability to operate as a going concern;
 - (c) In this regard, the Aggregated Claims constituted material information that, if not made available, would or would be likely to influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell the securities, and the omission or failure to disclose this material information would result in market participants trading in the Company's securities on an uninformed basis;
 - (d) Pursuant to Phua's personal undertaking provided to the Exchange under Mainboard Rule 720(1) as a director, Phua was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
 - (e) While Phua had informed the Board that the Group was facing cashflow issues and financial difficulties, Phua did not specifically inform the Board of the Aggregated Claims. This led to the Board being unaware of the magnitude of the Aggregated Claims. Consequently, the Company was unable to promptly disclose the information as required under Mainboard Rule 703(1)(a).
48. As stated in paragraph 6 of these Grounds of Decision, the Company and Phua have consented for the LDC to take into consideration the 1st Charges against them for the purposes of determining the sanctions.

Breach of Mainboard Rule 703(1)(a) by failing to disclose the Fuji Claim on or about 2 December 2020, that disclosure being necessary to avoid the establishment of a false market

49. Regarding the facts relating to the 2nd Charges against the Company and Phua, the LDC noted that:
- (a) On or about 2 December 2020, the Group was served with the Fuji Claim for the outstanding sum of S\$2,694,000, representing approximately 13.9% and 14.1% of the Group's NAV and CCE, respectively;

- (b) Given that the claim amount, in and of itself, represented a substantial proportion of the Group's assets, satisfaction of the Fuji Claim would inevitably result in a significant outflow of the Group's cash, and in turn would result in a substantial deterioration of the Group's financial position and diminution of the value of the Group's assets, potentially affecting the Company's ability to operate as a going concern;
- (c) In this regard, the Fuji Claim constituted material information that, if not made available, would or would be likely to influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell the securities, and the omission or failure to disclose this material information would result in market participants trading in the Company's securities on an uninformed basis;
- (d) Pursuant to Phua's personal undertaking provided to the Exchange under Mainboard Rule 720(1) as a director, Phua was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
- (e) By failing to inform the Board of the Fuji Claim despite his knowledge, Phua had caused the Board to be uninformed and consequently, the Company was unable to promptly disclose the information as required under Mainboard Rule 703(1)(a).

50. As such, the LDC finds that:

- (a) the Company had breached Mainboard Rule 703(1)(a) in that it had failed to promptly disclose the Fuji Claim on or about 2 December 2020, that disclosure being necessary to avoid the establishment of a false market in the Company's securities; and
- (b) pursuant to Mainboard Rule 1402(6), Phua is deemed to have breached Mainboard Rule 703(1)(a) for causing the Company to fail to promptly disclose the Fuji Claim on or about 2 December 2020, that disclosure being necessary to avoid the establishment of a false market in the Company's securities.

Breach of Listing Rule 703(1)(a) by failing to disclose the Power-Link Claims on or about 16 December 2020, that disclosure being necessary to avoid the establishment of a false market

51. Regarding the facts relating to the 3rd Charges against the Company and Phua, the LDC noted that:

- (a) On or about 16 December 2020, the Group was served with the Power-Link Claims for the total sum of S\$5,115,127.51, representing approximately 26.6% and 26.8% of the Group's NAV and CCE, respectively;

- (b) Given that the claim amount, in and of itself, represented a substantial proportion of the Group's assets, satisfaction of the Power-Link Claims would inevitably result in a significant outflow of the Group's cash, and in turn would result in a substantial deterioration of the Group's financial position and diminution of the value of the Group's assets, potentially affecting the Company's ability to operate as a going concern;
- (c) In this regard, the Power-Link Claims constituted material information that, if not made available, would or would be likely to influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell the securities, and the omission or failure to disclose this material information would result in market participants trading in the Company's securities on an uninformed basis;
- (d) Pursuant to Phua's personal undertaking provided to the Exchange under Listing Rule 720(1) as a director, Phua was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
- (e) While Phua had informed the Board that the Group was facing cashflow issues and financial difficulties, Phua did not make specific reference to the Power-Link Claims. This led to the Board being unaware of the magnitude of the Power-Link Claims. Consequently, the Company was unable to promptly disclose the information as required under Mainboard Rule 703(1)(a).

52. As such, the LDC finds that:

- (a) the Company had breached Mainboard Rule 703(1)(a) in that it had failed to promptly disclose the Power-Link Claims on or about 16 December 2020, that disclosure being necessary to avoid the establishment of a false market in the Company's securities; and
- (b) pursuant to Mainboard Rule 1402(6), Phua is deemed to have breached Mainboard Rule 703(1)(a) for causing the Company to fail to promptly disclose the Power-Link Claims on or about 16 December 2020, that disclosure being necessary to avoid the establishment of a false market in the Company's securities.

Breach of Mainboard Rule 719(1) by failing to have in place adequate and effective systems of internal controls and risk management systems to monitor the claims received by the Group and escalate such matters to the Board for timely disclosure

53. Regarding the 4th Charges against the Company and Phua, the LDC noted that:

- (a) With regard to an issuer's internal controls, to enable directors to oversee an issuer's continued compliance with the Mainboard Rules, it is imperative that directors ensure that the issuer's internal controls and policies are adequate

and effective in ensuring, inter alia, that the management team escalates material information to the directors in a timely manner;

- (b) Beyond merely having in place internal control policies and procedures, an issuer must consider such internal controls on an ongoing basis to ensure that they are still fit for purpose by design, have been fully implemented, and are working effectively. This is an essential component of investor protection and market quality. The public expects and deserves that the companies in which they invest are operating with a culture, and in an environment, in which risks are appropriately assessed and addressed;
- (c) In relation to matters that were required to be escalated to the Board, the Company and Phua had explained to the Exchange as follows:
 - (i) When a claim is received by Trans Equatorial and/or PBT Engineering in respect of a project, the recipient¹¹ is required to inform the MD of the E&C business (i.e. Phua at the material time) about the claim;
 - (ii) The MD of the E&C business (i.e. Phua at the material time) would review the claim and thereafter forward a copy of the claim to the relevant MD, ED, project director (“PD”), financial controller (“FC”) and the contract manager (“CM”) in charge of the project. At this point, the CM (if he was not the one who received the claim in the first instance) is required to record the claim in his own claim register for working reference;
 - (iii) Thereafter and if necessary, the MD (i.e. Phua at the material time) will arrange a meeting with the relevant MD, ED, PD and CM to discuss the appropriate next steps to address and resolve each claim, including engaging legal counsel to advise on and defend the claim. The FC will be informed of the outcome of these discussions;
 - (iv) The FC, who is in charge of Trans Equatorial’s and PBT Engineering’s financial affairs, prepares the subsidiary’s financial statements and ensures the timely reporting of any claims made against the subsidiary in the financial statements. Other than reporting to the MD of the relevant business segment, the FC¹² also reports to the Group Chief Financial Officer (“CFO”);
 - (v) At all material times, the Board expected the MD / Group CEO (i.e. Phua at the material time) and the Group CFO to apprise them of the claims;

¹¹ A claim may not necessarily be addressed to and/or received by the Contract Manager (“CM”). The person who receives the claim could be one of the MDs, EDs, project directors (“PD”), procurement directors, financial controller (“FC”) and/or the CM. Sim Geok Soon was the MD for Special Projects and Florence Saw Chin Choo was the MD of PBT Engineering.

¹² According to Phua, the FC would be expected to inform the CFO of any material claims which were made against Trans Equatorial and/or PBT Engineering.

(paragraph 53(c)(i) – (v) collectively referred to as the “**Process**”)

- (vi) Beyond the above, the Group’s internal guidelines and standard operating procedures did not prescribe any further guidelines on the monitoring and escalation of claims that were received by the Group either on an individual or aggregated basis;
 - (vii) Prior to 3 June 2021, while claims received by PBT Engineering and Trans Equatorial would be recorded by the CM, the Group did not have a formal register of claims received by the Group;
 - (viii) During the Relevant Period, the Board had reasonably expected claims to be escalated for its consideration. Hence, the Company did not have formalised procedures on the monitoring and escalation of claims received by the Group to the Board to decide on courses of action and to ensure compliance with the continuing disclosure obligations under the Mainboard Rules. It was only after 3 June 2021 that the Board implemented a weekly reporting process;
 - (ix) Prior to the 12 April Board Meeting, Phua was the sole director in the Company aware of the specifics of all the claims. The rest of the Board only became aware of the specifics of all the claims on or about 3 June 2021;
- (d) In the context of Mainboard Rule 719(1);
- (i) The Company should have clear and established policies, as well as appropriate systems of internal checks and controls, that are adequate and effective in ensuring that all material matters, which may potentially require disclosure by the Company pursuant to the Mainboard Rules, are escalated to the entire Board in a timely manner, for the directors’ collective consideration and assessment, to ensure compliance with the Company’s obligations under the Mainboard Rules;
 - (ii) The abovementioned processes are important in a disclosure-based regime where investors rely on the information disclosed in SGXNET announcements to make informed decisions with regard to trading in the Company’s securities;
- (e) In this connection, and having regard to the facts set out in paragraph 53(c) above, the Process, in and of itself, fell short of the standard required under Mainboard Rule 719(1), and its inadequacies contributed to the occurrence of the Company’s 1st, 2nd, 3rd, 5th and 6th Charges, for the following reasons:
- (i) The Process was not designed to provide for the person who received the claim to concurrently forward a copy of the claim each to the MD of the E&C business, the subsidiary’s FC (for independent reporting to the Group CFO) and the relevant MD, ED, PD and CM in charge of the

project. The recipient was only required to inform the MD of the E&C business (i.e. Phua at the material time) about the claim;

- (ii) Consequently, it gave rise to a risk of omissions in the reporting and escalation of claims to the Group CFO and the Board, given that information on all claims was only channelled through Phua (as the MD of the E&C business) to the other relevant parties;
- (iii) In essence, one individual director at the subsidiaries had complete control, without a clear check-and-balance framework, over the decision-making process as to whether a given matter should be escalated to the Board for consideration;
- (iv) Under the Process, even the Group CFO would have no independent means of being aware of the claims without any escalation by Phua to the relevant parties, including the subsidiaries' FCs. The Company had confirmed to the Exchange that at the material time, the subsidiaries' FCs had not duly reported the claims to the Group CFO in accordance with the Process;
- (f) Pursuant to Phua's personal undertaking provided to the Exchange under Mainboard Rule 720(1) as a director, Phua was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
- (g) During the Relevant Period, Phua (as a key player in the Process) failed to comply with the procedures and caused a major breakdown of the internal controls relating to the monitoring and escalation of claims to the Board. Consequently, the rest of the Board only became aware of the specifics of the various claims belatedly on or about 3 June 2021.

54. As such, the LDC finds that:

- (a) the Company had breached Mainboard Rule 719(1) for failing to have in place adequate and effective systems of internal controls and risk management systems to monitor the claims received by the Group and escalate such matters to the Board for timely disclosure; and
- (b) pursuant to Mainboard Rule 1402(6), Phua is deemed to have breached Mainboard Rule 719(1) by failing to ensure that the Company had in place adequate and effective systems of internal controls and risk management systems to monitor the claims received by the Group and escalate such matter to the Board for timely disclosure.

Failure to disclose or provide commentary on the Aggregated Claims, the Fuji Claim and the Power-Link Claims in the HY2021 Statements, that information being of material impact to the Group

55. Regarding the facts relating to the 5th Charges against the Company and Phua, the LDC noted that:

- (a) The HY2021 Statements did not include information on the Aggregated Claims, the Fuji Claims, or the Power-Link Claims (collectively, the “**Claims**”) even though all of them were material debts to the Group as at the time of the announcement;
- (b) Pursuant to Mainboard Rule 705(2), read with paragraph 10 of Appendix 7.2, an issuer must include in its quarterly financial statements a commentary on any known factors or events that may affect the group in the next reporting period and the next 12 months;
- (c) As the Company was not promptly apprised of the Claims, the Company did not disclose or provide any commentary on the Claims in the HY2021 Statements, notwithstanding that they represented a significant proportion of the Group’s NAV and CCE as at the time of the announcement;
- (d) It was not disputed that Phua was aware of the Claims and that they should have been disclosed in the HY2021 Statements;
- (e) Pursuant to Phua’s personal undertaking provided to the Exchange under Mainboard Rule 720(1) as a director, he was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
- (f) As the Group CEO and MD, and the person signing the HY2021 Statements on behalf of the rest of the Board, Phua had attested in it that nothing had come to the attention of the Board which may render the HY2021 Statements to be false or misleading in any material aspect. However, the HY2021 Statements should have disclosed and provided a commentary on the Claims.

56. As stated in paragraph 6 of these Grounds of Decision, the Company and Phua have consented for the LDC to take into consideration the 5th Charges against them for the purposes of determining the sanctions.

Failure to disclose or provide commentary on the Claims in the 3QFY2021 Statements, that information being of material impact to the Group

57. Regarding the facts relating to the 6th Charges against the Company and Phua, the LDC noted that:

- (a) The 3QFY2021 Statements likewise did not include information on the Claims even though all of them were material debts to the Group as at the time of the announcement. This is because the Company was not promptly apprised of the Claims as at the time of the announcement;

- (b) Pursuant to Mainboard Rule 705(2), read with paragraph 10 of Appendix 7.2, an issuer must include in its quarterly financial statements a commentary on any known factors or events that may affect the group in the next reporting period and the next 12 months;
 - (c) The Company did not disclose or provide any commentary on the Claims in the 3QFY2021 Statements, notwithstanding that they represented a significant proportion of the Group's NAV and CCE as at the time of the announcement;
 - (d) It was not disputed that Phua was aware of the Claims and that they should have been disclosed in the 3QFY2021 Statements;
 - (e) Pursuant to Phua's personal undertaking provided to the Exchange under Mainboard Rule 720(1) as a director, he was required to use his best endeavours to (a) comply with the requirements of the Exchange pursuant to or in connection with the Mainboard Rules, and (b) procure that the Company shall so comply; and
 - (f) As the Group CEO and MD, and the person signing the 3QFY2021 Statements on behalf of the rest of the Board, Phua had attested in it that nothing had come to the attention of the Board which may render the 3QFY2021 Statements to be false or misleading in any material aspect. However, the 3QFY2021 Statements should have disclosed and provided a commentary on the Claims.
58. As stated in paragraph 6 of these Grounds of Decision, the Company and Phua have consented for the LDC to take into consideration the 6th Charges against them for the purposes of determining the sanctions.

VI. THE EXCHANGE'S REGULATORY CONCERNS

59. The LDC noted the Exchange's regulatory concerns which are summarised in this section.

Regarding the Company

60. In a disclosure-based regime, shareholders and investors rely on accurate and timely information in the public domain to make their investment decisions. The Company's financial problems amplified the need for prompt and clear disclosures of all material financial events, such as the claims. The omission of information relating to the receipt of the claims and/or letters of demand resulted in investors and shareholders trading in the Company's securities on an uninformed basis, without the knowledge that there existed factors that might adversely affect the Company's value and prospects.
61. In the current case, not only were shareholders not promptly apprised of the various claims, which were likely to have materially affected the Group's value and prospects, all the potential issues arising from the claims and letters of demand did in fact

materialise, resulting in a significant adverse impact on the value of their shareholdings. Trading in the Company's securities has been suspended since 18 June 2021. The Company has also completed the disposal of PBT Engineering and is in the process of liquidating Trans Equatorial.

62. In light of the above, there is a need for corresponding visible enforcement of the Exchange's regulatory regime, in order for the investing public to be assured that appropriate enforcement actions are being taken to deal with the misconduct by the Company and Phua.

Regarding Phua

63. According to Phua, he honestly believed that the demands from creditors were common in the ordinary course of business and subject to negotiations for resolution, and that discussions / negotiations with creditors could culminate in a resolution which would mitigate any significant impact on the Group. However, the fact that there were ongoing negotiations to settle the claims does not remove the obligation for the Company to disclose, particularly where the claims are material as the fact of the existence of the debt still remains. It is not uncommon for parties to attempt to negotiate a settlement in order to preserve the relationship between the debtor and the creditor and facilitate the recovery of a debt owed. However, such negotiations do not constitute any promise, or even consideration, by the creditors not to pursue legal claims or forgive the debt. Accordingly, disclosure is not discretionary if a claim may, so long as it succeeds in part, materially impact the issuer's performance, even if the exact quantum of the claim may still be uncertain and under negotiations. A director of any listed company is expected to be fully apprised of the disclosure obligations under the Listing Rules, and Phua is no exception.
64. As an ED and key executive overseeing the principal subsidiaries, Phua's role was to provide the Board with complete, adequate and timely information prior to meetings, and on an ongoing basis to enable the Board to make informed decisions. He himself had an obligation to ensure that the Company complies with its obligations under the Mainboard Rules. While Phua had informed the Board that the Group was experiencing cashflow issues and financial difficulties, Phua did not provide the Board with the specific details of the material claims. This was despite the many opportunities to do so at Board and AC meetings. According to the Company, it was only during the Board meeting on 28 May 2021 that Phua belatedly informed the Board that letters of demand and/or claims had been issued against Trans Equatorial and PBT Engineering. By that time, the total amount of claims received by the Group had already ballooned to approximately S\$26 million, in excess of the Group's NAV and CCE. The Exchange was of the view that Phua's assessment of the Claims and consequent decision not to escalate them to the Board time and again ran contrary to what a reasonable director in his position would do.
65. As a result of Phua's multiple failures to inform the Board about the specifics of the Claims, the Board was not able to promptly address and publicly disclose the existence

of these various claims. This is exacerbated by the fact that the Claims were also not reflected in the HY2021 Statements and 3QFY2021 Statements, which were supposed to provide clarity on the Group's financial position. Consequently, a disclaimer of opinion was issued by the external auditors in respect of the Group's financial statements for the 16-month financial period ended 30 September 2021, on the basis that there existed material uncertainties arising from the various claims which may cast significant doubt on the Group's ability to continue as a going concern.

66. There are allegations by Phua that some details of the claims were mentioned by him to specific directors of the Company, which are disputed and not accepted by the Company and the directors in question. For the purposes of these proceedings, these are contested facts and are matters on which the Exchange does not seek a finding by the LDC. The parties to this Resolution Agreement are not precluded from supplementing any additional facts in any other forum beyond the current LDC proceedings.
67. In light of the foregoing, Phua's breaches warrant the imposition of restrictive covenants to make clear the gravity of the offending conduct, and to deter other would-be offenders who may have similar misinterpretations of the disclosure requirements under the Listing Rules, in order to provide assurance to the investing public that such breaches of the Listing Rules are met with robust regulatory action.

VII. SANCTIONS IMPOSED BY THE LDC ON THE RELEVANT PERSONS

68. The LDC considered the facts disclosed in Resolution Agreement and the Exchange's regulatory concerns included therein. On 19 October 2023, the LDC posed further questions to the parties on the adequacy of the proposed sanctions, and the parties responded on 27 October 2023 and 2 November 2023. Having assessed that the sanctions were appropriate and in line with precedent cases, the LDC has unanimously decided to impose the following sanctions on the Relevant Persons:

The Company

- (a) A public reprimand is issued to the Company.

Phua

- (b) A public reprimand is issued to Phua.
- (c) In addition, Phua shall provide a signed written undertaking to the Exchange not to seek any directorship on the board of directors, or role as a key executive officer (as defined in the SGX listing rules), of issuers whose securities are listed on the SGX Mainboard or Catalist for a period of two years from the date of these grounds of decision.

END