

## EXPLANATORY MEMORANDUM

1. This Explanatory Memorandum sets out the reasons for the Direction dated 12 September 2011, issued by the Info-communications Development Authority of Singapore (“**IDA**”) to Nucleus Connect Pte Ltd (“**Nucleus Connect**”), directing it to incorporate modifications to its proposed terms and conditions for connection to Nucleus Connect’s real-time, on-line information and ordering platform (“**Platform**”).
2. Unless the context requires otherwise, all capitalised terms used in this Explanatory Memorandum shall have the same meanings as in Nucleus Connect’s proposed Service Schedule – Platform Connection Service (“**PCS Schedule**”) under its Interconnection Offer (“**ICO**”) for the provision of services over the Next Generation Nationwide Broadband Network (“**Next Gen NBN**”).

### Background

3. Under Section 9 of the Code of Practice for Next Generation National Broadband Network OpCo Interconnection (“**Code**”), among other things, Nucleus Connect is required to provide a Platform by November 2011.
4. In order to fulfil the above requirement, Nucleus Connect has submitted to IDA its proposed terms and conditions under which it will offer its Qualifying Persons (“**QPs**”) access/connection to the Platform. To ensure that the proposed terms and conditions are appropriate for the industry, IDA sought feedback from the industry via a public consultation which commenced on 4 July 2011. At the close of the consultation on 18 July 2011, IDA received comments from one (1) respondent, namely M1 Limited.

### Issues

#### Suspension of the Platform Connection Service

5. The respondent commented that Nucleus Connect ought to inform QPs five (5) working days prior to any planned maintenance to allow affected parties sufficient time to assess the impact or implications at the QPs’ end and to properly manage any pending fault or trouble tickets. The respondent further commented that Nucleus Connect should not suspend QPs’ access to the Platform without providing prior notice to the QPs in the event of a planned maintenance or repair.
6. IDA is of the view that the above proposal is fair and reasonable as it will help to provide better clarity to the QPs in managing their fault reporting processes. In addition, in the interest of clarity, IDA considers that it would be reasonable and beneficial to the QPs for Nucleus Connect to include the relevant details (e.g., date and duration of maintenance, type of maintenance and affected modules, functions and

features of the Platform) in its notification to the QPs. IDA will therefore require Nucleus Connect to incorporate the above in its ICO.

7. The respondent also submitted that QPs should be given one (1) hour prior notice for any unplanned outages on the Platform Connection Service due to reasons beyond the control of Nucleus Connect. By doing so, the respondent explained that Nucleus Connect would allow affected QPs to efficiently manage their fault or trouble tickets.
8. In IDA's view, it may not be possible for Nucleus Connect to provide prior notification where the unplanned outage is unforeseeable or caused by reasons beyond Nucleus Connect's control. Nevertheless, IDA finds it necessary for Nucleus Connect to specify that it will suspend QPs' access to the Platform, without providing prior notification to the QPs, only (a) in situations where the outage is unforeseeable; (b) due to an emergency; (c) when there is a need to protect the integrity of the Platform; or (d) if there are reasons beyond the control of Nucleus Connect. IDA will therefore require Nucleus Connect to incorporate this in its ICO.

#### Manual Ordering Process

9. IDA notes that Nucleus Connect has not proposed an alternative channel for QPs to place orders for Nucleus Connect's services (including the taking up, modification or deactivation of Nucleus Connect's ICO services) in situations where (a) a QP's order to take up the Platform Connection Service has been rejected; (b) the Platform Connection Service needs to be suspended; or (c) the use of the Platform needs to be suspended.
10. To ensure that QPs can continue to place orders for Nucleus Connect's services in the ICO in the above situations, IDA is of the view that it is reasonable to require Nucleus Connect to allow such QPs to procure Nucleus Connect's services by sending requests to Nucleus Connect via email or fax. IDA will therefore require Nucleus Connect to clarify the above in its ICO.

#### Modifications to the Platform

11. IDA notes that Nucleus Connect may modify the Platform (or any services or content therein), at any time, in order to keep pace with prevailing demands and technological developments. While IDA understands that such modifications are beneficial to the Platform, IDA is of the view that performing modifications to the platform would likely affect QPs who are connected to it. Therefore, IDA finds it necessary and reasonable for Nucleus Connect to put in place clearly articulated principles to govern any changes made to the Platform. These include:

- (a) Any changes to the Platform should not disrupt the systems and operations of QPs who are connected to the Platform. Without limitation, if there is a need to make changes to the Platform at the request of a certain QP (i.e., customisation), such changes should not affect the systems and operations of other QPs who are connected to the Platform.
- (b) If there is a need to make changes to the Platform that will affect the systems and operations of QPs who are connected to the Platform (regardless whether such changes are initiated by Nucleus Connect or at the request of other QPs) (“**Industry Affecting Changes**”), there must be a process for Nucleus Connect to work with the industry (including seeking feedback from the QPs in advance and agreeing on the changes and implementation schedule of such changes) before it makes the Industry Affecting Changes. In situations where the parties have any disagreement over these proposed changes, they should resolve their disagreement using the process already provided in the ICO.
- (c) The exceptions to paragraph (b) for Industry Affecting Changes are emergencies or certain exceptional situations. In IDA’s view, such emergencies or exceptional situations would comprise situations where: (i) Nucleus Connect needs to take immediate actions to protect the interests of QPs where the integrity of the Platform is at risk due to the actions of other QPs; (ii) there are imminent threats to life or property; or (iii) Nucleus Connect needs to take immediate actions to comply with legal or regulatory obligations. For the avoidance of doubt, any changes to the Platform permissible under paragraph (c) must be reasonable and only to the extent necessary to resolve such emergencies or exceptional situations.
- (d) As stated in Paragraph 15.1 of Appendix 1 to the Code, if Nucleus Connect initiates any changes to its System, it shall bear the cost of the changes to its System and those changes that are consequently necessary for the QPs to continue to provide the Mandated Services in substantially the same manner as before the changes are made to the System. Therefore, the above requirement shall generally apply to Industry Affecting Changes to the Platform. Nucleus Connect and affected QPs are expected to come together and decide on the cost bearing responsibilities for changes arising from emergencies or exceptional situations. If the parties are unable to agree on such cost bearing responsibilities, they are expected to resolve the issue using the General Dispute Resolution Procedures in the ICO.

(the “**Change Management Process**”)

### Platform Connection Service Third Party Charges

12. The respondent requested Nucleus Connect to clarify if a QP would be charged third party charges if the QP did not submit any order to take up Professional Services under the B2B Option. IDA understands that the QP will be liable for third party charges if it requests the Platform Connection Service, even when Professional Services are not required, as long as the involvement of a third party is necessary. Therefore, third party charges may be applicable even when QPs do not submit any order to take up Professional Services but submit an order to take up the Platform Connection Service under the B2B Option. IDA also understands that it may not be feasible for Nucleus Connect to anticipate, and to state upfront in the ICO, all third party charges which may arise. Furthermore, Nucleus Connect has allowed QPs, in paragraph 6.2 of the PCS Schedule, to raise to Nucleus Connect any terms in the Project Schedule, including the third party charges, which they find unacceptable. Notwithstanding this, IDA expects Nucleus Connect to recover any third party charges from its QPs only if such third party charges are reasonable and necessary. In addition, Nucleus Connect is required to share the details of any third party charges (including the purpose of the third party charges and the third party who will receive the charges) and obtain the agreement of the QPs before such charges are imposed on them.

### QP's Confirmation upon Fault Rectification Completion

13. The respondent is of the view that any fault raised by a QP to Nucleus Connect for rectification should be deemed fully rectified only upon verification by the QP. IDA notes that Nucleus Connect will complete any fault rectification after it has provided a confirmation to the QP that the fault has been rectified.
14. While there is merit in the respondent's view, IDA understands that Nucleus Connect's proposed fault rectification process in the PCS Schedule is consistent with the fault rectification process in the General Service Terms and Conditions of the ICO. Requiring the QP to verify that a fault is fully rectified will introduce an additional layer to the process and may possibly introduce unnecessary delays in the entire fault rectification process. Nevertheless, IDA notes that a QP who initiates a fault rectification with Nucleus Connect will be allowed, in accordance to the Master ICO Agreement – Annex 3 – General Dispute Resolution Procedures, to raise any disputes with Nucleus Connect if it disagrees with Nucleus Connect that a fault has been fully rectified. With an existing process already in place in the ICO for QPs to resolve disputes with Nucleus Connect, IDA views that the respondent's suggestion for Nucleus Connect to commit that any fault rectification should be deemed completed only upon the QPs' acknowledgement is not necessary for now. Notwithstanding this, IDA expects Nucleus Connect to ensure that it fully rectifies the fault before providing a confirmation to the QP. Where IDA finds that Nucleus Connect

repeatedly provides confirmation to the QPs that faults have been fully rectified when they are not, IDA reserves the right to require Nucleus Connect to amend its ICO to include a need for the QP to verify that a fault has been fully rectified.

### Operating Hours of Platform

15. The respondent commented that the Platform has to be available daily on a 24-hour basis for the trouble ticketing functions under the WEB Option and for all functions under the B2B Option. While IDA agrees that customer/technical support should be provided on an uninterrupted basis, IDA appreciates that the Platform should be allowed time for daily scheduled maintenance. Furthermore, Nucleus Connect has committed in Clause 12.2 of the PCS Schedule to use all reasonable endeavours to ensure that the Fault Management Hotline is available to QPs on a 24 by 7 basis. In this regard, there will still be an avenue which QPs can use to raise faults to Nucleus Connect during the time when the Platform is unavailable.
16. Notwithstanding this, IDA is of the view that it is in the public interest if the Platform is able to cater for longer operating hours. IDA understands that Nucleus Connect intends to align its Platform's operating hours to those of OpenNet Pte Ltd's online service provisioning platform ("**OpenNet's Platform**"). Therefore, if there is a change in the operating hours of OpenNet's Platform in the future, Nucleus Connect will align the operating hours of its Platform accordingly, subject to IDA's approval.

### Platform Features Enhancements

17. The respondent made several comments relating to the features of Nucleus Connect's Platform.
18. The respondent proposed that Nucleus Connect should provide flexibility to the QPs by offering more than one user account with user administrative rights to each QP and allowing multiple users with administrative rights over different sub-groups of a QP's user accounts. Secondly, it was suggested by the respondent that QPs should be allowed to configure "read-only" access and/or full access for each of the key functions for all user accounts. On the QP's access to monthly bills and reports, the respondent mentioned that Nucleus Connect should provide a secured File Transfer Protocol under the B2B Option. The respondent also recommended Nucleus Connect to implement Request Quota checks (to enable QPs to query on the remaining availability of the Request Quota on a given day) and to introduce a real-time field resource availability status (on a given day for Termination Point and Optical Network Terminal on-site installations) on the Platform.

19. IDA has considered the above comments to be recommendations for enhancing the features of Nucleus Connect's Platform. As the Platform Connection Service provides QPs with the connection/access to Nucleus Connect's Platform, the comments as stated in paragraph 18 are thus not applicable to the Platform Connection Service and this ICO review. Notwithstanding, IDA will urge Nucleus Connect to consider taking in these suggestions to enhance the Platform and to provide a more user-friendly Platform for QPs.