

SMART ENERGY CARD TERMS AND CONDITIONS

CONDITIONS OF ISSUE AND USE FOR SMART ENERGY CARDS

These Conditions shall be binding on all persons (“**Card Holders**”) to whom or on whose behalf a *Smart Energy Pte Ltd* stored value facility, “**Energy Card**” for short, is sold, or who otherwise acquires an *Energy Card*.

1. DISTRIBUTION OF ENERGY CARDS AS A STORED VALUE FACILITY

- 1.1 The Energy Card is sold or otherwise distributed under Smart Energy Pte Ltd’s (“SEPL”) brand name “*Energy Card*”.
- 1.2 The Energy Card is an accepted stored value facility under the Smart Payment Systems. Being a stored value facility, the stored value on the Energy Card is required to be held by an Approved Holder (as defined in clause 1.6).
- 1.3 These Conditions are published by SEPL and govern the possession and use of the *Energy Card*.
- 1.4 SEPL operates the *Energy Card* system in respect of the Card Holder's use of the Energy Card in accordance with these Conditions. The Energy Cards are distributed by SEPL and/or SEPL’s agents (“*Agents*”).
- 1.5 The money advanced by the Card Holder for the Stored Value (as defined in clause 1.6) of the Energy Card or for topping up the Stored Value of the Energy Card, as the case may be, is collected by SEPL and/or the Agents for and on behalf of SEPL as Approved Holder.
- 1.6 For the purposes of these Conditions:-

“**Approved Holder**” shall mean the party approved under the Smart Payment System to be the holder in respect of the Energy Card stored value facility.

“**Cards**” and “**Energy Cards**” shall include any stored value facility, whether in the form of a card or otherwise, which are sold or distributed under SEPL’s brand name “Energy Card”.

“**Stored Value**” or “**stored value**” shall mean the initial monetary value paid for and stored in an *Energy Card* or the residual value remaining therein from time to time, excluding the Card Cost. The Card Cost is valued at S\$5.00, or such other amount as SEPL may stipulate from time to time.

“**Smart Payment System**” means any payment device forming part of the Payment System including SEPL’s Point of Sales System (Automated Payment Device, iKIOSK & iPOS) which is used to effect the payment of Qualified Goods and/or Services.

“**Qualified Goods and/or Services**” shall mean the goods sold and/or the services rendered by qualified Merchants; and shall include but not be limited to the purchase of CNG, Diesel Fuel and any future goods and services offered by SEPL at any of SEPL’s Stations in Singapore, and

“**Qualified Merchants**” shall mean persons approved by SEPL to be engaged in the sale of the Qualified Goods and/or the provision of Qualified Services. Qualified Merchant shall be authorized by SEPL to accept debits on the Stored Value of the *Energy Card* cards as a means of payment for such Qualified Goods and/or Services in Singapore.

2. CONDITIONS OF USE

2.1 All Energy Cards are issued subject to these Conditions which shall be binding on all Card Holders.

2.2 The purchase of the *Energy Card* and/or the subsequent use thereof by the Card Holder shall be deemed to be acceptance by the Card Holder of these Conditions and any revisions to these Conditions.

2.3 The purchase of the Energy Card and/or the subsequent use thereof by the Card Holder shall be deemed to be acceptance by the Card Holder that SEPL may collect, use and disclose Card Holder’s personal data, as provided in the application form or obtained by our SEPL as a result of Card Holder’s membership registration process, for the purposes in accordance with the Personal Data Protection Act 2012 and SEPL’s data protection policy (available at our website), including communicating marketing material to the Card Holder such as information from SEPL and its related companies about new products and services, including updates on our latest promotions and new products and services, via the following channels: Email, Text Message, Phone Call to the Card Holder.

2.4 The Card Holder agrees:-

- (a) to comply with all the notices, guidelines, rules and instructions pertaining to the use of the *Energy Card* as issued by SEPL from time to time, including operating rules and/or policies that may be published from time to time by SEPL;
- (b) to abide by all applicable laws and regulations in the use of the *Energy Card*;
- (c) not to tamper or allow anyone to tamper with the *Energy Card*;
- (d) to use the *Energy Card* only as a means of payment for Qualified Goods and/or Services;
- (e) not to intentionally deface, damage and/or destroy the *Energy Card*;
- (f) to take proper care of the *Energy Card* to avoid damage; and
- (g) not to affix, print, attach and/or place any markings, stickers, objects and/or any other material onto the *Energy Card* (unless such markings, stickers, objects and/or any other material is approved by SEPL) or to otherwise alter, remove and/or replace any notices, trademarks, trade names, logos, artwork or designs on the *Energy Card*.

2.5 The Card Holder also agrees that:-

- (a) SEPL as the Approved Holder shall hold and be fully liable for all monies deposited by the Card Holder onto the *Energy Card*, and be responsible to the Card Holder for refunds of the Stored Value when the Card Holder presents the *Energy Card* for refund subject to the terms and conditions in clauses 8 and 10. SEPL shall meet the Card Holder's redemption by making payment to Qualified Merchants who have provided Qualified Goods and/or Services to the Card Holder, provided that the Card Holder's Energy Card and transactions are deemed by SEPL to be valid and correct during and after the Card Holder's redemption. SEPL shall be responsible to the Card Holder for all administrative matters relating to the distribution and/or use of the *Energy Card* as contemplated under these Conditions, and SEPL may appoint Agents to carry out such functions on its behalf; and
- (b) The Card Holder shall examine the *Energy Card* and/or any change tendered upon the purchase of the *Energy Card* before leaving the Cashier Counter or i-Kiosk, as the case may be. SEPL and/or the Agents shall not be liable for any error or omission not drawn to their attention at the time of issue of the *Energy Card*.

3. VALIDITY OF THE ENERGY CARD

- 3.1 An *Energy Card* is valid for use for 5 years from the date that it is encoded for use by SEPL (the “**Validity Period**”), and thereafter the *Energy Card* shall expire. SEPL may in its discretion and from time to time extend the Validity Period for any or all types of *Energy Card*.
- 3.2 SEPL may at its discretion blacklist any *Energy Cards*:
 - (a) suspected of being counterfeited, stolen, lost, tampered with or fraudulently issued or procured; or
 - (b) the Stored Value on the *Energy Cards* have been fraudulently or illegally revalued; or
 - (c) the *Energy Cards* are or otherwise suspected of being faulty, damaged or invalid for use.
- 3.3 Where any *Energy Card* has been blacklisted, the Card Holder shall not be entitled to use the *Energy Cards*, and the Stored Value on the blacklisted *Energy Cards* shall not be refunded to the Card Holder except with the approval of SEPL.

4. CARD COST

- 4.1 SEPL may collect from the Card Holder an amount to cover the cost of the card (“**Card Cost**”) when the *Energy Card* is first purchased. The Card Cost, which is up to a maximum of S\$5.00, is non-refundable.
- 4.2 To purchase an *Energy Card*, the Card Holder will also be required to purchase a minimum amount of Stored Value. This amount will be determined by SEPL and may vary for different types of *Energy Cards*. The *Energy Card* is issued subject to the payment of the minimum amount of Stored Value required by the Card Holder, and the Card Cost.

5. TRANSACTIONS

- 5.1 The *Energy Card* shall and can be used as a means of payment for Qualified Goods and/or Services, subjected to these Conditions.
- 5.2 SEPL and/or the Qualified Merchants may reject the use of the *Energy Card* for payment of Qualified Goods and/or Services if:-
- (a) the *Energy Card* has expired; or
 - (b) the *Energy Card* is suspected to have been fraudulently issued, stolen or tampered with or may in any way pose a risk to the *Energy Card* system; or
 - (c) the *Energy Card* system is unable to process the payment for any reason whatsoever or if a force majeure event (see clause 19) arises which disables and/or prevents the Qualified Merchants from accepting and/or processing the *Energy Card* as a means of payment.
- 5.3 The Card Holder agrees that each of the Qualified Merchants is responsible for deducting payment for Qualified Goods and/or Services that the Card Holder has agreed with the Qualified Merchant or is agreeable (with the Qualified Merchant) to pay from the Stored Value, in such manner as may be required by such Qualified Merchant.
- 5.4 The Qualified Merchants accepting the use of *Energy Cards* may be changed from time to time without prior notice.

6. QUALIFIED GOODS AND/OR SERVICES OF QUALIFIED MERCHANTS

- 6.1 It is expressly acknowledged by the Card Holder that neither SEPL nor any Agent is involved in the provision of the Qualified Goods and/or Services offered by any Qualified Merchant accepting the *Energy Card* for payment. Neither SEPL nor any Agent shall be liable in any way for the Qualified Goods and/or Services sold, rendered or provided by the Qualified Merchants (including without limitation any defect, disruption, failure or unavailability of or relating to any of such Qualified Goods and/or Services, as the case may be) or for any other disputes concerning the Qualified Goods and/or Services, all of which shall be the sole responsibility of the Qualified Merchants.

7. PAYMENT FOR FUEL PURCHASE

- 7.1 The Card Holder shall exercise due care and diligence when presenting his/her Card onto any SEPL's Automated Payment Device so as to enable the proper deduction of Sales. Without prejudice to the generality of the foregoing, a Card Holder shall:
- (a) not attach onto his/her Card any object which may interfere with the read/write mechanism of any Automated Payment Device; and
 - (b) ensure that his/her Card has sufficient value before presenting it for Sales payment.

7.2 A Card Holder shall present his/her Card and/or proof of identity to any authorized personnel of SEPL and/or the Agents upon demand whenever the same is presented for the purposes of Sales payment.

7.3 SEPL is at liberty to determine the Sales Amount (including any discounts deductible) payable and the manner in which such Sales are payable. The Card Holder agrees to the deduction from the Stored Value of his/her Card of such Sales as are due to the Stations when purchasing fuel.

8. REJECTION OF CARD

8.1 SEPL and/or the Agents shall be entitled to reject the use of a Card as a Payment and as a means of Sales payment in any of SEPL's Refueling Stations if:-

- (a) the Card has expired;
- (b) the Stored Value of the Card is insufficient or has been exhausted;
- (c) the Card is suspected by SEPL and/or the Agents:
 - (i) to be a counterfeit;
 - (ii) to have been fraudulently or illegally issued or re-valued;
 - (iii) to have been stolen or tampered with in any way;
 - (iv) to have been used by a person to whom it was not issued or who is otherwise not entitled to the use thereof; or
- (d) the Card is damaged, corrupted, defective, faulty or otherwise poses a risk of damage to SEPL's Point Of Sales System (including any Automated Payment Device);
- (e) the Card has been blacklisted by SEPL and/or the Agents or has been made the subject of any recall or retention by the SEPL and/or the Agents;
- (f) the Card has not been activated for use in SEPL's Point Of Sales System;
- (g) the Card is not capable or has ceased to be capable of functioning as a means for the payment of Sales in the SEPL's Point Of Sales System for any other reason whatsoever.

8.2 In the event that a Card is rejected, the Card Holder shall pay any unpaid purchases in cash or with the use of a valid Card.

9. RETENTION OF CARD

9.1 SEPL shall be entitled, at its/his discretion which shall be final and binding, to seize and/or retain any Card which is rejected pursuant to Clause 8.1 except where the Card is rejected pursuant to Clause 8.1 (a), (b), (f) and (g).

- 9.2 A Card Holder shall surrender his/her Card to SEPL or the Agents upon demand and shall, in connection thereto, provide SEPL and/or the Agents with his/her name, NRIC or other identification number, address and contact number and shall, where duly requested to do so, provide his/her fullest cooperation in connection with the investigations which may be carried out by SEPL and/or the Agents in relation to such retained Card.
- 9.3 In the event that a Card is retained, the Card Holder shall pay any unpaid Sales in cash or with the use of a valid card. Pursuant to Clause 10, The Card Holder shall be entitled to refund of excess in the event of the retention of the card. The Card Holder shall also present relevant proofs for such rebate claims within five (5) days.
- 9.4 Card Holders can call SEPL's Office after five (5) working days to check on the status of a retained Card by stating their name and NRIC or other identification number. No query or claim made in respect of any retained Card shall be entertained in the event that the Card Holder is unable to state accurately their name and NRIC or other identification number as found in our records.
- 9.5 SEPL and/or the Agents shall not be obliged to return a retained Card and may retain it permanently if, further to its or their investigations, the Card is determined by SEPL and/or the Agents whose determination shall be final and binding:
- (a) to be a counterfeit;
 - (b) to have been fraudulently or illegally issued or revalued;
 - (c) to have been stolen or tampered with in any way;
 - (d) to have been used by a person to whom it was not issued or who is otherwise not entitled to the use thereof;
 - (e) to pose a risk of damage to any Smart Payment System;
 - (f) to be faulty, damaged or invalid for use;
 - (g) to possess encoded data and/or external card number that is not reliably readable for any reason whatsoever as determined by SEPL and/or its agents;
 - (h) to have been blacklisted by the SEPL; or
 - (i) to have been made the subject of any recall or retention by the SEPL.
- 9.6 Any and all claims by a Card Holder in respect of a retained Card (including, without limitation, the refund of any Stored Value, the return of any retained Card and/or for compensation) must be made within a period of ~~three (3) months~~ 5 days commencing from the date on which the Card was retained, failing which the Card Holder shall be deemed to have waived his right to claim and shall not be entitled to any payment whatsoever in respect thereof or to the return of the retained Card. SEPL and the Agents shall be under no further obligation to entertain any such claim and the Card shall be deemed lost and/or abandoned.

9.7 For the avoidance of doubt, nothing herein shall be construed as to relieve or release the Card Holder in any way of his/her liability under law (including, without limitation, the payment of any penalty fee, as may from time to time be prescribed by SEPL).

10. REFUNDS

10.1 Subject to clauses 3, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7 and 10.8, a refund of the Stored Value remaining on an *Energy Card* (whether valid or expired) can only be obtained by a Card Holder if the *Energy Card* is presented at any Smart Energy's Cashier Counter or at such other places as may be designated by SEPL. The amount of Stored Value remaining on such *Energy Card* (whether valid or expired) shall be as determined by SEPL and/or the Agents and will be refunded free of interest. The *Energy Card* shall be returned to SEPL after refund. Notwithstanding the foregoing, SEPL or its Agent may require the *Energy Card* to be retained for investigations to determine the remaining Stored Value. Where the *Energy Card* requires investigations, the Stored Value will be refunded upon completion of the investigations. Subject to clauses 10.4 and 10.5, the residual Stored Value on the *Energy Card* will be determined based on the electronic data encoded. However, no refund of the Stored Value will be made on any expired *Energy Card* after 5 years from the date the *Energy Card* was first encoded by SEPL for use whereupon the Card Holder shall have no claim against SEPL in respect of the Stored Value remaining on such *Energy Card*, whereupon SEPL shall be fully entitled to deal with any unclaimed Stored Value as it thinks fit.

10.2 Other than as provided in clause 10.1 above, neither SEPL nor any of the Agents shall be obligated to make a refund to any Card Holder or to process any Card Holder's request for refund on any *Energy Card* (whether valid or expired). Notwithstanding the foregoing provision, each of SEPL and the Agents may at their absolute discretion make a refund or process a refund in respect of the Stored Value or any part thereof, and any such refund may be made and/or processed subject to conditions imposed by SEPL and/or the Agents on SEPL's behalf. SEPL and/or the Agents shall not be obliged to effect an immediate refund, and may, in its absolute discretion, refund the amount on any *Energy Card* in such manner and upon due verification as it deems fit.

10.3 In any case, each of SEPL and the Agents will not be liable to make a refund of the Stored Value if:-

- (a) the *Energy Card* is not surrendered by the Card Holder at the time of a request for refund; or
- (b) the encoded data on the *Energy Card* is erased wholly or in part, or otherwise altered or interfered with as determined by SEPL and/or the Agents; or
- (c) the *Energy Cards* electronic data and its external card number are not reliably readable for any reason whatsoever as determined by SEPL and/or the Agents; or
- (d) the *Energy Card* is faulty, damaged or invalid for use whether intentionally or by failure by the Card Holder to take proper care of the *Energy Card* as determined by SEPL and/or the Agents; or

- (e) the *Energy Card* is counterfeited, stolen, lost, tampered with or fraudulently issued or procured; or .
- (f) the Stored Value on the *Energy Cards* have been fraudulently or illegally re-valued.
- (g) The Stored Value on the *Energy Cards* was erroneously determined by SEPL or Smart Payment Systems

10.4 Where the *Energy Card*'s electronic data is not reliably readable for any reason, SEPL and/or the Agents may in its discretion allow a deferred refund of the residual Stored Value on the *Energy Card* based on the available system records of SEPL and/or the Agents, provided that the *Energy Card*'s external card number is readable.

10.5 A Card Holder who presents an *Energy Card* for refund at the designated places referred to in clause 10.1 above shall, upon request, produce his/her NRIC or passport for inspection. Each of SEPL and the Agents may at their absolute discretion refuse any request for the refund of the Stored Value, if the Card Holder does not produce his/her identification.

10.6 The Card Holder shall, upon receipt of the refund, be deemed to have accepted the amount thereof as correct, and agrees to discharge each of SEPL and the Agents from any liability whatsoever to the Card Holder, including but not limited to any shortfall or error in the amount of such refund.

10.7 All obligations of SEPL hereunder are payable solely at and by SEPL in Singapore, subject to the laws of Singapore (including any governmental actions, orders, decrees, and regulations).

10.8 A Card Holder may only claim a refund of the Stored Value of a Card which has been retained pursuant to clause 9.1 where such Stored Value is rightfully due to the Card Holder, Provided Always that such refunds shall be managed by in accordance with the SEPL's Terms and/or refund policies for the time being in force.

10.9 A Card Holder may claim a refund from SEPL of any excess charge ("Excess Charge") which may have been deducted from a Card (including in circumstances where an expected discount or promotional sales was not given although the Terms & Conditions for a promotion or discount, as the case may be, have been met) Provided That such claim is made within five (5) days of the incident. The Card Holder shall be entitled to refund of any excess charge Provided Always that the rejection of the card is not through the Card Holder's fault and the Card Holder can present relevant proofs for such rebate claims within five (5) days.

11. DETERMINATION OF VALUE IN *ENERGY CARD*

11.1 The determination by SEPL and/or the Agents as to the residual Stored Value of an *Energy Card* shall be final and conclusive. For the purpose of such determination, the residual Stored Value as determined by SEPL and/or the Agents from either the value encoded in the *Energy Card* (where the electronic data on the card is reliably readable) or the records of SEPL or the information generated by the *Energy Card* system shall, save for manifest error, be deemed to be conclusive and binding against the Card Holder.

12. REPLACEMENT OF DEFECTIVE *ENERGY CARD* CARDS

12.1 Subject to clauses 12.2, 12.3, 12.4 and 12.5 below, a Card Holder may replace a defective *Energy Card* by presenting it at any SEPL's Cashier Counter. The Stored Value as determined by SEPL on the defective *Energy Card* shall be refunded to the Card Holder in accordance with clause 10. A free replacement *Energy Card* shall be issued to the Card Holder provided that the Card Holder pays the minimum Stored Value amount. The defective *Energy Card* shall be surrendered to and retained by SEPL and/or the Agent upon such request for replacement. For the purposes of these Conditions, a *Energy Card* shall only be regarded as "defective" in the event its electronic data cannot be reliably read for any reason whatsoever as determined by SEPL and/or the Agents.

12.2 Other than as provided in clause 12.1 above, neither SEPL nor any of the Agents shall be obligated to replace any *Energy Card* (whether defective or not). Notwithstanding the foregoing provision, each of SEPL and the Agents may at their absolute discretion replace the *Energy Card*, and any such replacement may be made subject to conditions and/or a cost imposed by SEPL and/or the Agents on SEPL's behalf.

12.3 In any case, each of SEPL and the Agents will not be liable to replace the *Energy Card* for free as provided in clause 12.1 if:-

- (a) the *Energy Card* is not surrendered by the Card Holder at the time of request for replacement;
or
- (b) SEPL and/or the Agents in its discretion determine that the *Energy Card* has been damaged whether intentionally or by failure to take proper care of the *Energy Card* or otherwise used or handled in breach of clause 2.3 herein; or
- (c) the *Energy Card* has de-laminated, peeled, broken or otherwise damaged due to wear and tear;
or
- (d) the external card number is not reliably readable for any reason whatsoever as determined by SEPL and/or the Agents; or
- (e) the *Energy Card* has exceeded a period of more than 5 years from the date it was encoded for use.

12.4 A Card Holder who presents an *Energy Card* for replacement at the designated places referred to in clause 12.1 above shall, upon request, produce his/her NRIC or passport (in the case of non-Singapore citizens) for inspection. Each of SEPL and the Agents may at their absolute discretion refuse any request for replacement of the *Energy Card*, if the Card Holder does not produce his/her identification.

12.5 The determination by SEPL and/or the Agents as to the amount of Stored Value on a defective *Energy Card* shall be final and conclusive (see clause 11 above). SEPL reserves the right to subsequent adjustments to such determination should any transaction records received later indicate a different value than that determined at the time of replacement.

13. OWNERSHIP OF ENERGY CARD CARDS

13.1 Notwithstanding payment of the applicable Card Cost for any *Energy Card* purchased, all *Energy Cards* shall remain the property of SEPL. All *Energy Cards* shall be produced at any time on demand for inspection by any authorised officer or employee of SEPL, any Agent and/or any Qualified Merchant.

13.2 SEPL and/or the Agents shall be entitled without assigning any reason therefore to retain any *Energy Card* which it reasonably suspects or has reason to believe to have been fraudulently issued, stolen, tampered with and/or used any *Energy Card* (including but not limited to personalised and corporate *Energy Cards*) which was not issued to the person using such *Energy Card* or which the person is not entitled to the use thereof, or where the *Energy Card* has been blacklisted.

14. LOSS OF ENERGY CARDS

14.1 Card Holders are responsible for safeguarding their *Energy Cards* against loss, damage or theft, and ensuring that their *Energy Cards* are not used by any person without the Card Holder's permission. Each of SEPL, the Agents and the Qualified Merchants accepting the *Energy Card* for payment for Qualified Goods and/or Services are not responsible for any financial losses incurred due to the loss of an *Energy Card* and have no obligation whatsoever to prevent the use of a lost *Energy Card* by a person other than the Card Holder.

14.2 Where SEPL and/or the Agents are in possession of any lost *Energy Card*, the Card Holder may reclaim the *Energy Card* provided that the Card Holder is able to produce proof of ownership to the satisfaction of SEPL and/or the Agents. Card Holder shall not have any claim to any lost *Energy Card* or the Stored Value therein if the lost *Energy Card* remains unclaimed after two weeks in SEPL and/or the Agents' possession. SEPL shall be fully entitled to deal with the Stored Value remaining on such lost *Energy Card* as it thinks fit.

15. EXCLUSION / LIMITATION OF LIABILITY

15.1 Notwithstanding anything to the contrary contained herein, each of SEPL and the Agents shall not be liable, whether or not arising out of the negligence of each of SEPL, the Agents and/or their respective officers, employees, or agents, for any losses, damages, expenses, claims, liability and costs (including cost on a solicitor and client basis) that the Card Holder may incur or suffer in connection with:-

- (a) the use or issue of *Energy Cards*; or
- (b) any delay in issuing of *Energy Cards* or suspension or in the case of any retained Card, the return of such Card or discontinuance of issuing of *Energy Cards*; or
- (c) the retention, suspension, discontinuance or revocation of any Card; or
- (d) any period where any equipment, software or system is unavailable for processing the use of the *Energy Cards* for payment or any breakdown or fault in the Smart Payment System; or

(e) any delay or detention arising from use of *Energy Cards* (including but not limited to any damaged, corrupted, defective, or faulty *Energy Cards*).

15.2 Damaged or defective *Energy Cards* may not be accepted in the equipment used by the Qualified Merchants. Neither SEPL nor the Agents shall be liable for any loss, delay or inconvenience that may be incurred if the *Energy Card* is not accepted in such equipment.

15.3 Notwithstanding any other provision of these Conditions, should any liability be attributed to the SEPL and/or any Agents in connection with the use of any Card as a means of Sales payment or whatsoever, including but not limited to any event or incident arising from any negligence, SEPL's and such Agent's total liability to the Card Holder under these Conditions and at law shall not exceed in aggregate the sum of S\$ 500.00 per Card Holder; and

15.4 SEPL's total liability to a Card Holder shall not exceed the aggregate of the Stored Value of such Card Holder's *Energy Card* as of the date the Card Holder's claim arises.

16. AMENDMENT

16.1 SEPL may (for and on behalf of itself and/or Agents) from time to time amend, modify or vary any part of these Conditions. SEPL will give notice of any amendment by posting the same at its Stations or the premises of the Agents and/or such other premises as may be determined by SEPL. The Card Holder agrees that any notification of amendments as aforementioned shall be sufficient notice for the purpose of this clause. If the Card Holder does not accept any amendments, he shall cease all use of the *Energy Card*. The Card Holder's continued use of the *Energy Card* after the date of such notification shall constitute an affirmative acknowledgement by the Card Holder of the amendments and shall be deemed to be the Card Holder's acceptance of such revised Conditions.

17. NO WAIVER

17.1 No failure or delay on the part of SEPL in exercising any power, right, or remedy under these conditions shall operate as a waiver of such power, right, or remedy.

18. RIGHT OF THIRD PARTIES

18.1 A person or entity who is not a party to these Conditions shall have no right under the Contracts (Rights of Third Parties) Act, chapter 53B of Singapore to enforce any term of these Conditions, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. For the avoidance of doubt, nothing in this clause shall affect the rights of any permitted assignee or transferee of these Conditions.

19. FORCE MAJUERE

19.1 Neither SEPL nor any Agents shall be liable for non-performance, error, interruption or delay in the performance of their obligations under these Conditions, in the *Energy Card* system's

operation, if this is due, in whole or in part, directly or indirectly to an event or failure which is beyond its reasonable control which includes without limitation:-

- (a) flood, lightning, acts of God, exceptional weather conditions, floods, droughts, storms, high winds, typhoons, fire, earthquakes and other natural disasters;
- (b) circumstances arising indirectly or directly from, impacts with or by aircrafts or any aerial objects, terrorism (whether actual or threatened), explosions, wars, warlike operations, hostilities, insurgencies, invasions, epidemics, quarantines, acts of foreign or public enemies, hijacking or unlawful seizure or wrongful exercise of control of vehicles, civil commotion, civil unrest, riots, strikes or lock-outs on a city or industrial scale, industrial disputes, industrial actions by workmen, shortage of labour, goods, fuel and materials;
- (c) judgements, legislation, acts, orders, directives, policies, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any court, governmental, parliamentary and/or regulatory authority imposed or to be imposed after the fact;
- (d) power failure;
- (e) acts or defaults of any telecommunications network operator;
- (f) circumstances where communications lines and/or computer systems of SEPL, the Agents and/or the Qualified Merchants cannot be used for reasons attributable to third party telecommunications carriers; and
- (g) acts or omissions of any Qualified Merchant or any party for whom SEPL and/or the Agents are/is not responsible.

20. INDEMNITY

20.1 The Card Holder hereby undertakes and agrees to indemnify SEPL and keep SEPL at all times fully indemnified from and against all actions, proceedings, claims, liabilities (including statutory liability), penalties, demands and costs (including without limitation, legal costs of SEPL on a solicitor and own client basis), awards, damages, losses and/or expenses however arising directly or indirectly by reason of and/or as a result of any breach or noncompliance by the Card Holder of the terms and conditions herein.

21. GOVERNING LAW

21.1 The construction, validity and performance of these Conditions shall be governed by and construed in accordance with Singapore law. Each party mentioned herein hereby submits to the non-exclusive jurisdiction of the Singapore courts, in the case of unsuccessful arbitration between parties.

22. SUPERSEDES PREVIOUS AGREEMENTS



22.1 This Agreement supersedes and replaces all previous oral or written agreements, memoranda, correspondence or other communications between the parties mentioned in this agreement relating to the subject matter hereof.

SMART Energy Card T&C version 1.3
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SMART ENERGY PTE LTD

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