

1. PURCHASING CONDITIONS

1.1. Preamble

- a. **Conditions.** These General Purchasing Conditions (the "Conditions") (as amended and published on its website from time to time) by APM Terminals B.V ("APMT") and/or its affiliate entities ("Buyer") shall apply to any agreement between Buyer and the supplying entity ("Supplier") (hereinafter individually referred to as "Party" and collectively referred to as "Parties") and/or Purchase Order(s) (as defined below).
- b. **Agreement.** By confirming to any agreement, Purchase Order(s), supplying/performing any goods and/or services set forth in the Purchase Order(s) and/or agreement, and/or invoicing pursuant to any agreement and/or Purchase Order(s) (including the framework agreement), Supplier expressly agrees and accepts all terms of the agreement (including the framework agreement), Purchase Order(s) and these Conditions, APM Terminals Third Party Code of Conduct, APM Terminals Third Party Compliance Code, Safety, Health and Environmental Requirements which shall together with any documents referred to, shall form the agreement (the "Agreement") covering the delivery of the respective goods and/or services. Any additional or different terms or conditions proposed by Supplier are deemed void and rejected unless expressly agreed to in writing by Buyer.

1.2. Purchase Order

- a. "Purchase Order(s) or PO(s)". means a commercial document issued by Buyer to Supplier, indicating the type, quantity, quality, agreed prices etc. for the supply of goods and/or services.
- b. Modifications to Purchase Order(s). Any modification to any Purchase Order(s) shall be in writing, mutually agreed and signed by both the Parties.
- c. Supplier shall deliver the Products to the Buyer, upon receipt of specific Purchase Orders or annual Purchase orders (as agreed during the contract signing) made any time during the Term.
- d. Supplier shall be obligated to stock at the minimum, number/type of Products as per the order requirements. Any deficit in these minimum stock requirements, at any given time during the Term, shall be promptly reordered and stocked by the Supplier to avoid occurrence of such deficit.
- e. The volume/ unit requirement of goods are indicative list only and Actual consumption requirements of the Buyer may vary lower or higher, based on which the total amount or price payable to the Supplier may vary.
- f. 'Price Per Unit' specified in the schedule of rates, shall be inclusive of any packing, transportation and other charges/expenses incurred by the Supplier in relation to the Product or delivery of the Product to the Buyer

1.3. Scope

- a. The Parties acknowledge and agree that Supplier shall deliver such goods and/or services as agreed, in such quantity and quality, and on such date and time, as mutually agreed and as indicated by means of the Agreement.

1.4. Price, Invoicing, Payment and Taxes

- a. Price and charges. The price and charges for the provision of the goods and/or services shall be the price shown for each of such goods and/or services on the face of the Agreement. Price and charges shall be firm and fixed for any and all Purchase Order(s) issued by Buyer during the term of the Agreement.
- b. **No other charges.** Apart from VAT (as set out below), the fees and charges shall include all costs and expenses, whether internal or external or direct or indirect incurred by Supplier in complying with the obligations set out in the Agreement or required by law.
- c. Where Company disputes an item invoiced by Contractor or requires additional supporting documentation, Company shall notify Contractor thereof within thirty (30) days, specifying the disputed item, and requesting Contractor to issue a credit note for the unaccepted part or whole of the invoice as applicable. In any event Company shall in such circumstances be obliged to pay only the undisputed part of a disputed invoice. If Contractor disagrees with Company's decision regarding the disputed item, Contractor shall inform Company accordingly within 7 days after receipt of Company's statement. Otherwise, Company's decision shall be considered as agreed by Contractor
- d. **E-Catalogue.** If requested by Buyer in writing, Supplier shall submit or upload all relevant information of the goods and/or services (including prices), as the case may be in excel format or directly to Buyer's "e-Catalogue System". The details shall include, but are not be limited to: (i) Supplier part number, (ii) Short description of each goods, (iii) Unit of Measure, (iv) Export Controlled (Yes/No – including required Export Control information, "Compliance", when yes) and (v) Lead Time. Supplier is responsible for keeping the aforesaid information updated at all times and must notify Buyer without undue delay on discovery of any incorrect data. Buyer will rely on Supplier's data in the excel spreadsheet or, as the case may be, the e-Catalogue when making a purchase under Purchase Order(s) and/or the framework agreement.
- e. **Invoicing.** Unless agreed otherwise, invoices shall be in English, addressed to the Finance Department of Buyer and shall include all necessary references to the specific goods and/or services provided and Buyer's references including Buyer's name, contact person and department, Purchase Order(s) number, place of delivery, quantity and description of the goods and/or services (in the same sequence as in the Purchase Order(s)). With regards to taxes each invoice shall show (i) the governing VAT rate applicable to the goods and/or services being invoiced; (ii) the VAT registration number of Supplier; and (iii) the VAT registration number of Buyer.

- f. **Additional Cost.** In the event that Supplier has incurred any additional cost, such costs are to be invoiced separately, subject to the prior written approval of Buyer and upon issuance of the amended Purchase Order(s) only.
- g. **Original invoice-** Local suppliers based in Nigeria shall submit original invoices to the Finance department of Buyer. Foreign suppliers (based outside Nigeria) shall submit a copy of their invoice via email to **XDAPPAPMTAPFIN@maersk.com** (i.e., group email id for Accounts Payable) and to the concerned executive at the Procurement department of Buyer; and if required by Buyer, Supplier shall send 3 original invoices to Buyer along with the delivery of goods and/or services. Irrespective of Supplier being local or foreign, Buyer may accept invoices generated by Supplier via e-invoicing system.
- h. **Due payment and non-payment.** Payment shall be due and payable Thirty (30) days from delivery unless otherwise agreed by Buyer and Buyer's receipt of complete and correct invoice at the address stated in the Agreement if not disputed by Buyer in writing. In the event Buyer has not received invoice of the goods and/or services under a Purchase Order(s) at the address stated in the Purchase Order(s) one hundred and eighty (180) days after the delivery of the goods and/or completion of the services such goods and/or services shall not qualify for invoicing and shall not be payable. Supplier agrees that under no circumstances, Buyer shall be held liable to pay any penalties, interest or charges, including the ones in relation to delayed settlement of invoices.
- i. **Right to set off payment.** Buyer reserves the right to set off payments against any amount including but not limited to penalties, claims, fees, dues, charges, liquidated damages, expenses, debts, liabilities and invoices other monies validly in dispute or owed to Buyer or its Group Entity by Supplier or its Group Entity.
- j. Contractor's invoices shall be submitted to Company as follows:
- APM Terminals
Container Terminal Apapa Port
Wharf Road
Apapa-Lagos
Attn: Finance Department
XDAPPAPMTAPFIN@maersk.com

1.5. Delivery, Title and Risk

- a. **Incoterms.** Unless otherwise provided in Purchase Order(s) and/or framework agreement, delivery terms for (i) the goods shall be DDP (Incoterms 2010) at the delivery point and on the date stated in the Purchase Order(s) and/or framework agreement with all necessary customs invoices and delivery notes (issued in duplicates in English), advice notes, bills of lading and other

documents ordinarily accompanying such goods and (ii) the services shall be at the delivery point and on the date stated in Purchase Order(s).

- b. **Title and risk.** Without prejudice to Buyer's rights and remedies herein, title and risk of the services shall pass to Buyer upon written confirmation of Buyer as to the completion of the services, unless otherwise provided in the Agreement. Supplier remains fully responsible for all goods leased to Buyer.
- c. **Assistance and technical support.** Supplier shall ensure that due assistance and technical support, if any, sought by Buyer post-delivery of the goods and/or services is extended at no additional cost.
- d. **Delay.** Time is of the essence in the performance of the Agreement, and if delivery of goods is not made in the quantities and at the times specified in the Agreement, or rendering of services is not completed at the times specified in the Purchase Order(s) and/or framework agreement, Buyer reserves the right without liability, and in addition to its other rights and remedies, to take either one or all of the following actions: (i) terminate Purchase Order(s) by issuing notice which becomes effective when received by Supplier, as to the delayed goods not yet shipped and/or services not yet rendered and to purchase substitute goods and/or services elsewhere and charge Supplier with any loss or extra cost incurred; (ii) charge liquidated damages calculated at (1%) one per cent of the total charges to be paid under relevant Purchase Order(s) per each week of delay to the Supplier, however such liquidated damages shall not exceed a total of (5%) five per cent of the total charges of relevant Purchase Order(s) in question; (iii) immediately deliver via the fastest means of transportation available at the cost of Supplier; (iv) Apply proportionate reduction of the price of the goods and/or services where they are defective and/or (v) perform or require Supplier to perform all corrective measures which are necessary to remedy any defects arising from any delay, at the sole cost of Supplier.
- e. **Liability of delay.** Supplier shall be liable for excess transportation charges, costs, expenses, delays or claims, resulting from Supplier's deviation from Buyer's routing instructions. Neither Party shall be liable for excess costs of deliveries or defaults due to causes beyond its control, without its fault or negligence and which it could not have mitigated; provided, however, that when Supplier has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay shall be given immediately to Buyer. If Supplier's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Supplier and subcontractor and without the fault or negligence of either of them and which they could not have mitigated and the goods to be furnished and/or services to be rendered were not obtainable from other sources in sufficient time to permit Supplier to meet the required delivery or performance schedule.
- f. **Excess delivery.** Buyer will have no liability for payment for goods delivered to Buyer which are in excess of quantities specified in the Purchase Order(s).

Such goods shall be subject to rejection and return at Supplier's expense, including transportation and other associated charges both ways.

- g. **Non-delivery or partial delivery.** Supplier shall be held fully accountable and liable to make good any and all direct losses, damages, charges, costs and/or expenses incurred by Buyer due to the non-delivery or partial delivery or delay in delivery or defective delivery of the goods and/or services. The said amount shall be payable by Supplier on demand or be deducted from any amounts due to Supplier. In such events, wherein Buyer is compelled to order the required goods and/or services from an alternative service provider/supplier, any extra amount paid to such alternative service provider/supplier shall be deducted from the amount due to Supplier or shall be payable on demand.
- h. **Completion of delivery.** Unless otherwise provided in the Purchase Order(s), delivery shall not be deemed to have taken place until the goods and/or services have been received in full and in conformance with the timeline and milestones set out in the Purchase Order(s) and/or the framework agreement with all certificates of approval, test certificates and other certification or necessary documentation required according to the Agreement or by the Buyer or at law.

1.6. Quality

- a. **Description.** For each goods and/or services, Supplier shall provide the description of goods and/or services to Buyer and also enclose all technical specifications of the goods and/or services with the quotation.
- b. **Standards of quality.** Supplier shall maintain consistent standards of quality control in respect of the goods and/or services in accordance with samples (if any) and/or quality/specification/descriptions provided to Buyer and all improvements to the standards of goods and/or services that are developed and agreed on.
- c. **Legal requirement.** In addition to the above, Supplier undertakes, at its own expense, to timely apply for, and to submit all official approvals, permits, licenses and documentation necessary for the purchase, shipment and use of the goods and/or services and only to supply the goods and/or services that comply with applicable legal requirements.

1.7. Packing, Marking and Restricted Articles

- a. **Packing requirements.** Unless otherwise required by Buyer in writing, all goods shall be delivered in a secure and appropriate packing suitable for domestic or overseas transport with due consideration to the generic nature and composition of the goods supplied. Each Purchase Order(s) must be packed separately to ensure proper registration and receipt. Supplier is allowed to pack several Purchase Order(s) on the same pallet, as long as each Purchase Order(s) is packed in its own package. Pallets containing packages for several Purchase Order(s) shall be labelled with an A4 sized sign "Mixed Pallet" or "Split Pallet". Supplier must pack multiple packages for a single Purchase Order(s) on the same pallet. Supplier may not split a Purchase Order(s) with multiple packages over several pallets unless the Purchase Order(s) is so large that it fills one pallet and needs to be packed on a second pallet. Supplier shall otherwise follow any

reasonable handling and packing instructions given by Buyer. In case the above requirements are not complied with, Buyer has the right to reject the delivery and cancel the Purchase Order(s) or re-package the goods at Supplier' expense.

- b. **Marking.** Each delivery shall be clearly marked with Buyer's name and address, Buyer's Purchase Order(s) number, place of delivery on the exterior of the package(s) and be included in the documentation. Restricted articles must be marked and packed according to the IMO/IATA/ADR/RID rules and regulations in force at the time of delivery. Likewise all documents/ certificates prescribed in IMO/IATA/ADR/RID must accompany the goods but should not be enclosed in the package(s).

1.8. Performance

- a. **Performance of the obligations.** Supplier shall perform its obligations under the Agreement promptly, diligently and efficiently in a professional manner and shall observe the standard of care and assume the degree of responsibility which is normally observed and assumed by the high calibre professionals or service providers.
- b. **Competence to Perform.** Supplier undertakes and agrees that it is competent to perform the obligations stipulated under the Agreement. The Supplier shall be responsible for the training and development of its personnel.

1.9. Inspection and Acceptance

- a. **Inspection.** If specifically agreed between the Parties in writing, Buyer shall examine the goods and/or services delivered but only with regards to quantities and externally visible damages/defects.
- b. **Refusal and rejection.** Buyer reserves the right to reject and refuse acceptance of goods and/or services which are not in accordance with the instructions, specifications, drawings and data or Supplier's warranties (express or implied). Goods not accepted shall be collected by the Supplier within 7 days from the date of notice. If the goods are not collected by the Supplier within 7 days from the date of notice, the Buyer reserves the right to transport such goods to the Supplier's address. Goods not accepted will be returned to Supplier for full credit or replacement at Buyer's option and at Supplier's risk and expense, including transportation and other associated charges both ways. No replacement of rejected goods shall be made unless specified by Buyer in writing. If any services are rejected, then Buyer shall not be liable to pay any charges. Any amount paid towards the provision of such goods and/or services shall be reimbursed by Supplier to Buyer within fifteen (15) days of such rejection.
- c. **Failure to accept.** Buyer shall not be liable for failure to accept any of the goods and/or services, if such failure is the result of any cause beyond the control of Buyer. Among such causes, but not definitive thereof are fires, floods, force majeure, strikes, differences with employees, casualties, delays in transportation, inability to obtain necessary materials or machinery or total or partial shutdown of Buyer's location for any cause. Acceptance of any of the goods shall not bind Buyer to accept future shipments.

- d. **No deemed waiver.** Inspection and/or acceptance of all or any part of the goods shall not be deemed to be a waiver of Buyer's right either to cancel or to return at Supplier's risk and expense all or any portion of the goods because of failure to conform to the Agreement, or by reason of defects, latent or current, or other breach of warranty, or to make any claim for direct damages, including damage to materials, or articles caused by improper boxing, crating or packing or loss of business. Such rights shall be in addition to any other remedies provided by law.

1.10. Compliance

- a. **General compliance.** Supplier shall comply with and shall ensure that all sub-contractors comply with all national and international laws, rules, regulations, orders, conventions, directives and ordinances in force from time to time which are applicable to the delivery or performance of goods and/or services and/or relate to the provision, licensing, approval or certification of the goods and/or services, including but not limited to those relating to anti-corruption, occupational health and safety, environmental matters, wages, working hours and conditions of employment, International Bill of Human Rights, sub-contractor selection, discrimination, data protection and privacy, APM Terminals Third Party Code of Conduct, APM Terminals Third Party Compliance Code, Safety, Health and Environmental Requirements.

- b. **Export Control Regulation.** Supplier shall comply with and shall ensure that all sub-contractor's comply with all laws, regulations and rules applicable to delivery of the goods and/or services including without limitation, United States and European Union ("U.S. or EU") regulations and controls involving export and re-export of goods, software and technology as well as in regards to any countries embargoed under U.S. laws or regulations or any decision, directive or regulation issued by the Commission or Council of the EU plus all other relevant Trade Regulations including but not limited to USA, EU and Singapore if applicable. To the extent any goods or parts of goods (including software and technology) supplied by Supplier to Buyer are subject to any such economic sanctions or export control laws and regulations of the U.S., EU or Singapore, Supplier shall upon Buyer's placement of a request for quotation or a Purchase Order(s), whichever is the earliest, or in case of defective goods at the time of re-delivery without delay provide in a form satisfactory to Buyer the following export control data of the goods: (i) the specific U.S. and/or EU export classification including the Export Control Classification Number ("ECCN") and/or any similar forms of classification identification, (ii) country of manufacture, (iii) percentage of U.S. content integrated to each of the goods, (iv) confirmation as to whether or not the goods are direct products of U.S. technology and software, (v) Harmonized System Code ("HS Code"). This information shall be stated on quotations/order confirmations / commercial invoices / packing lists, when relevant. All costs incurred in complying with this clause 10 shall be for the sole account of Supplier and Supplier shall indemnify and hold Buyer harmless from all fines, penalties, liabilities, claims, suits, fees, dues, charges, expenses, damages, debts and all associated expenses arising out of or resulting from the violation by Supplier of any of its obligations in this clause10. Buyer shall have the right, to appoint at its own cost, charge and expense a firm of chartered

accountants to audit and verify Supplier's compliance with this clause¹⁰. Equipment, components, parts or other goods falling under the United States International Traffic in Arms Regulations (ITAR) and/or EU regulations covering goods on the EU Common Military List or similar goods subject to other national regulations governing military related goods may only be supplied subject to prior written agreement with Buyer. If Supplier anticipates that the goods that are contemplated under the Agreement may be within such categories of controlled goods, Supplier shall immediately notify Buyer thereof.

- c. **Anti-Corruption.** As regards to the Agreement each Party shall (i) comply with all applicable anti-corruption laws and regulations, including without limitation the US Foreign Corrupt Practices Act and the UK Bribery Act of 2010 and (ii) undertakes and warrants to the other Party that it and its officers, directors, shareholders, employees, agents and other intermediaries, and any other person acting directly or indirectly on its behalf, shall not, directly or through third parties, give, promise or attempt to give, or approve or authorize the giving of, anything of value (including facilitation payment) to any person or any entity where such action would be prohibited by applicable law, for the purpose of (a) securing any improper advantage for Supplier or Buyer, (b) inducing or influencing a public official improperly to take action or refrain from taking action in order for either Party to obtain or retain business, or to secure the direction of business to either Party; or (c) inducing or influencing a public official to use his/her influence with any government or public international organization for such purpose. Supplier shall not offer or give, or agree to give, to any employee, agent, servant or representative of Buyer or any other public body or person employed by or on behalf of Buyer or any other public body any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or having done or refrained from doing, any act in relation to the Agreement or any other arrangement with Buyer or any other public body or person employed by or on behalf of Buyer or any other public body.
- d. **Costs.** All costs incurred in complying with this clause 10 shall be for the sole account of Supplier and Supplier shall indemnify and hold Buyer harmless from any and all fines, penalties, liabilities, claims, suits, fees, dues, charges, expenses, damages, debts and all associated expenses, arising out of or resulting from the violation by Supplier of any of its obligations in this clause 10. Buyer shall have the right to undertake or to appoint at its own cost, charge and expense a designated representative to audit and verify Supplier's compliance with this clause 10.

1.11. Responsible Procurement

- a. The Contractor shall comply with all applicable laws, rules, regulations, orders, conventions, or ordinances of the country(i.e.) where Services/Work is performed or where Goods are produced and/or relate to the provision, licensing, approval or certification of the Services/Goods, including, but not limited to, those relating to occupational health and safety, environmental matters, wages, working hours and conditions of employment, subcontractor selection, discrimination, data protection and privacy. Further the Contractor shall respect and commit to implementing APMM's Contractor Code of Conduct as amended from time to time and found at;

<http://www.maersk.com/Sustainability/Pages/ThirdPartyCodeofConduct.aspx>(the "Code") or alternatively an internationally recognized standard within the areas of human rights, anti-corruption, environment and labour, such as but not limited to United Nations Global Compact (UNGC) or Business Social Compliance Initiative (BSCI), and Contractor agrees to accommodating any potential audit pursuant to verification of the same by Buyer/APMM. The Contractor shall require their own Contractors to implement similar rules and as appropriate pass on such requirements to their sub-Contractors and so on. The original English version of the Code (as of August 2013) shall prevail in case of any disputes or discussions concerning the content and obligations of either Party. Should the Contractor be unable to meet the listed requirements, the Contractor will agree to develop and execute an improvement plan

- b. Company shall have the right to appoint at its own cost, charge and expense a well reputed third party auditor (hereinafter referred to as "Company's Auditor") to audit and verify all matters in connection with Contractor's compliance with the previous Clause. Contractor shall cooperate with the Company's Auditor and provide access to all relevant sites, people and interviews with workers and documents. Alternatively, if approved in writing by Company, Contractor shall, within a reasonable period of time at its own cost, charge and expense appoint an internationally well reputed third party auditor "Contractor's Auditor" to audit and verify all matters in connection with Contractor's compliance with the previous Clause.
- c. Company's Auditor may conduct an audit of Contractor on behalf of Company at any time whenever it is considered necessary by Company.
- d. If the audit has been conducted by Contractor's Auditor, the Contractor must share the results of the audit in full with the Company within one week of having received the audit report from its auditors and latest two weeks after conclusion of the audit.
- e. If the Company's Auditor or the Contractor's Auditor uncovers any material concern, Contractor shall without any undue delay present Company with an improvement plan which shall ensure that all concerns are dealt with and remediated in a manner satisfactory to Company.
- f. Contractor's repeated violation of [the Code/UNGC/BSCI/International Bill of Human Rights] and/or its failure to collaborate with Company's Auditor during an audit and/or its failure to collaborate with Company in implementing or developing improvement plans shall be considered a material breach of this Agreement. If Contractor commits any such breach of or fails to observe or perform any material obligation contained in [the Code/UNGC/BSCI/International Bill of Human Rights], and/or any agreed improvement plan, and such breach or failure has not been remedied to the satisfaction of Company within twenty-eight (28) days of receipt by the Contractor of a notice from Company requiring Contractor to remedy the same (or such longer period as may be specified in the said notice), Company shall be entitled to terminate the Contract in accordance with termination clause of the agreement

1.12. Intellectual Property Rights (IP)

- a. **Intellectual property rights.** All intellectual property rights in and to goods, documentation or other deliverables and materials specifically developed by Supplier to fulfil the obligations under the Agreement shall vest in Buyer upon creation. Supplier hereby irrevocably assigns to Buyer by way of present and future assignment (as applicable) its whole right, title and interest in and to such intellectual property rights free from all liens, charges and encumbrances at no cost to Buyer and without imposing further conditions, with the intent that the same shall vest in Buyer immediately or, in the case of goods, documentation or other deliverables not yet in existence, that the intellectual property rights shall so vest immediately upon coming into existence.
- b. **Enjoy and use of IP rights.** Without prejudice to Clause 1.12.a, Supplier grants to Buyer's Group Entity a worldwide, royalty free, perpetual, irrevocable, transferable and non-exclusive license to use any and all goods, data, services and Intellectual Property Rights including but not limited to those described in the paragraph above, to the extent necessary for Buyer's Group to enjoy full benefit of the goods, data and services for such purpose as intended under the Agreement. This clause shall remain in force after the termination of the Agreement as well.
- c. **Data ownership.** Any and all data generated, created or collected from the goods and/or services under the Agreement, including any data on the performance of the goods generated by any system and/or software forming part of the goods (the "Data"), shall become the sole property of Buyer. Supplier will ensure connectivity to any such system or software forming part of the goods and take any reasonable measures to provide transmission of the Data, to ensure unrestricted access and submission of the Data to Buyer. Any use of the Data by Supplier is subject to prior written approval by Buyer.

1.13. Confidentiality and Reference

- a. General obligations. "Confidential Information" for the purposes of the Agreement shall include, but not be limited to: (i) All information of Group Entities concerning employees, products, services, customers, suppliers, contractors, other third parties conducting business with Group Entities or other technical and commercial matters, (ii) the terms of the Agreement, (iii) any information developed by reference to or use of Group Entities' information referenced above and (iv) any information which according to applicable law is confidential whether in written, oral or visual form disclosed by a Party ("Disclosing Party") to another Party ("Receiving Party") in relation to the Agreement. "Group Entity(ies)" means Buyer or Supplier including their respective affiliates and associated companies. Such Confidential Information shall remain the property of the Disclosing Party and shall not be given or disclosed to any third party without Disclosing Party's prior written consent. Receiving Party shall only use the Confidential Information for the purposes of the Agreement and shall limit internal dissemination hereof.
- b. **Disclosure to Group Entities.** Nothing in this clause 1.13 may be deemed or construed to prevent Buyer from disclosing any Confidential Information obtained from Supplier or its Group Entities (i) to any Buyer's Group Entities, employees or other recipients of the goods and/or services; (ii) if such

disclosure is in the discharge of a recipient's obligations to supply information for the purpose of complying with any law; or (iii) if such disclosure is made for due diligence purposes under strict and customary confidentiality obligations in relation to a divestment of business activities or assets of Buyer subject to such persons having an equal duty of confidentiality as Buyer.

- c. **Reference and advertising.** Supplier is not permitted without prior written consent from Buyer to use the Buyer's name symbols, or marks or any commercial relation with Buyer or a company associated with Buyer for the purpose of advertising or publicity or as a reference or make any representation with regards to Buyer.

1.14. **Information Security Controls**

- a. **Data protection.** Supplier shall take all necessary technical and organizational measures to prevent Buyer's data from being accidentally or illegally destroyed, lost or impaired, from coming to the attention of any third parties, from being subject to unauthorized use, or from being processed contrary to applicable laws on data protection.
- b. **Reporting of any data security breach.** Supplier shall immediately report to the designated contact person in Buyer's company, any (suspected) criminal activities, serious threats or breaches of information security, related to Buyer's systems and data.
- c. **Securing of data.** Supplier shall secure and protect proprietary information, Buyer's employee proprietary information, Buyer's customer proprietary information, and/or other information resources from unauthorized or improper use, theft, or accidental or unauthorized modification, disclosure or destruction.
- d. **Physical access to Buyer's company premises.** If supplier access to Buyer's premises is required for the completion of the business activities, Supplier shall access the specific premises required for the completion of the business only. Supplier shall ensure the following:
 - e. Only the specified Supplier employees (to whom the access has been granted) shall access Buyer's premises. (ii) The specified Supplier employees do not access or attempt to access any premises or parts of Buyer's premises that they are not authorized to access. (iii) The specified Supplier employee shall comply to and follow the internal Buyer's safety guidelines.
- d. **Need to have basis.** Supplier shall ensure that only the authorized employees of Supplier on a need to have basis have access to the premises of Buyer. Supplier shall ensure that access is revoked if and when a specific employee no longer requires access (including but not limited to when the employee is terminated). Supplier shall ensure that their premises and facilities (relevant to the services delivered) are secured with effective physical security controls.
- e. **Safety Awareness Program.** Supplier shall ensure that it has a safety awareness program in place. to continuously deliver information on security

awareness to employees and external parties to create a compliant environment.

1.15. Supplier Registration and Port Entry Conditions

- a. **Documents required for Supplier Registration.** Supplier, prior to establishing a business relationship with Buyer, shall ensure that the following documents are prepared, signed by the authorized signatory of Supplier and submitted, as required by the Buyer:
 - (i) Duly completed and signed 'Supplier Registration Form', in the form prescribed by Buyer.
 - (ii) Duly completed and signed 'Business Partner Due Diligence Questionnaire' (if requested), in the form prescribed by Buyer along with the set of due diligence documents requested by the Supplier registration.
 - (iii) Such other documents or details/information as may be requested by Buyer to complete adequate due diligence checks on Supplier.

- b. **Ongoing Due Diligence.** As part of the ongoing due diligence process, Supplier shall submit a renewed certificate of registration of Buyer upon the expiry of the then current certificate, and shall also immediately notify Buyer of any changes in its authorized signatories.

- c. **Compliance with safety rules of the Port.** While delivering the goods and/or services, Supplier understands and agrees the mandatory requirement of Buyer to comply with the safety rules and regulations existing at APM Terminals Apapa Limited and other concession areas currently managed by Buyer. Supplier further understands and acknowledges that while performing services and/or delivering goods, Supplier's personnel, shall be equipped with appropriate personnel protective equipment including but not limited to the safety boots, vest and helmet.

- d. **Security gate pass.** Delivery vehicles should be equipped with flash lights. Goods other than those ordered by Buyer are not allowed to gain admission into APM Terminals Apapa Limited or other concession area premises, currently managed by Buyer. For port entry gate pass, Supplier shall provide its personnel name for whom entry is required; vehicle registration number and type of vehicle and send request to Buyer's Security before 3 days in advance via email at: APPAPMTPURS <APPAPMTPURS@apmterminals.com> to confirm your gate pass(es) request. If Supplier is a frequent visitor to Buyer (i.e., more than 3 times visit per year), Supplier would be required to contact security department of Buyer to complete the port security procedures and obtain port entry pass valid for one (1) year, post payment of nominal cost.

- e. **Permit to work.** Supplier if engaged, in providing goods and/or services of the nature including but not limited to hazardous works, electrical, mechanical, pressure systems, hoisting, construction work to be carried out in confined spaces, hot works or near or above water etc., shall ensure that any such work is carried out post issuance of Permit to Work by the end user department manager or Work Permit Authority of Buyer.

- f. **Violation.** Any violation with the above requirements (specifically the safety requirements) shall be deemed a valid ground for termination of the Agreement. In all such events, Supplier violating the compliance/safety provisions shall be liable to make good any losses, damages, claims, suits, actions, fines, penalties, costs or expenses incurred by Buyer.

1.16. Communication

- a. Supplier shall ensure at all times that there is no communication in any form whatsoever, with any department(s), other than the Procurement department of Buyer's company to discuss any and all commercial issues. An exception to this rule may be granted by the manager of the Procurement department of Buyer's company in accordance with the rules and procedure of Buyer's company.

1.17. Warranties

- a. **Skills and expertise.** Supplier represents and warrants that Supplier is highly skilled and experienced in providing the goods and/or services required hereunder. Supplier acknowledges that Buyer is relying on Supplier's skills and expertise and agrees to notify Buyer whenever Supplier does not have the necessary skills and experience to fully perform hereunder.
- b. **Supplier's warranties.** Supplier warrants and undertakes that (i) the goods shall be new, of good quality and workmanship, free from defects and faults in design and fit for the intended purposes, including complying with any applicable regulation and specifications, including applicable standards; (ii) the services shall be delivered in accordance with market standards and good professional practices or such other level of standards agreed between the Parties, and (iii) the goods and/or services or any rights conferred to Buyer pursuant to the Agreement do not infringe the rights of any third party. Supplier further warrants that the goods and/or services complies with all applicable regulations and specifications, including applicable standards.
- c. **High industry standards.** The goods and/or services provided by Supplier shall be delivered in a timely and professional manner in accordance with the highest industry standards or such other level of standards agreed between the Parties.
- d. **Defective and unsuitable.** If during the warranty period, any of the goods, materials or designs used therein are found to be defective or unsuitable for the purpose, initially ordered (except for the normal wear and tear) or otherwise not in conformity with the requirements prescribed under the Agreement, Buyer in addition to any rights that it may have under warranties or otherwise, shall have the right to reject and/or return such goods and/or services, at Supplier's expense.
- e. **Alteration, repair and replacements.** Alternatively, at Buyer's option and at no cost to Buyer, Supplier shall make such alterations, repairs and replacements that may be necessary to meet the specifications and the warranties/guarantees.

However, if the defect cannot be corrected, Supplier shall replace the goods and/or services at no cost to Buyer at Buyer's option.

- f. **Spare parts.** Supplier also warranties to make available relevant spare parts and/or services (as and when requested by Buyer) for goods and/or services for the contract period from delivery of the goods and/or services.
- g. **Survive.** This clause shall remain in force after the termination of the Agreement as well.

1.18. Remedies

- a. **Breach.** Without prejudice to any other remedies Buyer might have under the Agreement or the law, breach of the Agreement, including breach of warranties, or failure in timely delivery of correct and non-defective goods and/or services, shall entitle Buyer to terminate the Agreement and/or any and all relevant Purchase Order(s) and/or claim direct damages, including but not limited to damages to Buyer's or third parties property as well as loss of business resulting from the breach of the Agreement. All costs and expenses incidental to remedying defects shall be for the sole account of Supplier.
- b. **Occurrence of Defect.** A defect shall deem to exist in relation to the goods and/or services if: (i) the goods and/or services fail to meet the requirements set out in the Agreement, (ii) Supplier is in breach of a service level, or (iii) the goods and/or services breach Supplier's warranties as set out in Clause 1.17.
- c. **Proportionate reduction.** Buyer shall be entitled to a proportionate reduction of the price and/or the fees payable for the goods and/or services where they are defective and Supplier shall pay, or deduct a proportionate amount from such agreed price and/or fees which Buyer has paid or shall pay in respect of that defective part of those goods and/or services with due consideration to the actual reduction in their value and benefit to Buyer.
- d. **Extension of warranty.** Following Supplier's remedy of a defect and/or re-delivery, a new warranty period of the same length as the original warranty period shall apply.
- e. **Step-in right.** Unless otherwise agreed in the Agreement, if Buyer decides that the timing or impact of the corrective measures will be prejudicial to its interests or if Supplier fails to promptly correct any defective goods and/or redeliver services in accordance with its obligations, Buyer may, subject to informing Supplier in writing and allowing twenty four(24) hours for Supplier to propose an alternative solution acceptable to Buyer, undertake Supplier's responsibilities for such corrective measures, which may include engaging a third party to carry out remedial work and/or supply alternative goods and/or services and may either deduct from any amount due to Supplier or recover from Supplier all costs reasonably and directly incurred by Buyer in undertaking the corrective measures.
- f. **Overcharging under a Purchase Order(s).** Supplier shall at Buyer's request, assist Buyer and/or any third-party auditor appointed by Buyer in any review of

charges for the goods and/or services delivered. In the event that Supplier has overcharged Buyer, Supplier shall refund any overcharged amount plus interest from the relevant date(s) of (either directly or through a deduction from any amount due or becoming due). In the event that such overcharge comprises more than three (3) percent of the goods and/or services under a relevant Purchase Order(s), Supplier shall also be liable for the reasonable costs of the third-party auditor.

- g. **Direct Damages.** The Parties shall be liable for any direct damages arising out of or relating to the performance or non-performance of their respective obligations under the Agreement or applicable Purchase Order(s). Such losses shall inter alia comprise direct additional operational and administrative cost and expenses, direct costs related to the purchase of alternative goods and/or services and direct charges or other fees relating to other goods and/or services or costs rendered unnecessary as a result of any default by Supplier.
- h. **Total loss.** In the event that Buyer's premises becomes a total loss (which includes a constructive, arranged and/or comprised total loss as well as loss due to expropriation) the Agreement shall automatically be considered terminated without notice as from the moment of the incident directly leading to the total loss occurred and except for Buyer's obligation to pay Supplier any amounts due for goods and/or services delivered and accepted prior to the termination. Neither Party shall have any claims whatsoever towards the other in connection with such termination.
- i. **Consequential Losses.** Neither Party shall be liable to the other for any Consequential Losses whatsoever arising out of or in connection with the performance or non-performance of the Agreement, nor shall each Party protect, defend and indemnify the other from and against all such claims from its respective Group Entity.
- j. **Cumulative Remedies.** No remedy and/or penalties shall be deemed exclusive. Unless otherwise expressly provided, the remedies and/or penalties provided by this Agreement are cumulative to each other and to the remedies and/or penalties available under all other laws.

1.19. Indemnity

- a. Supplier agrees to indemnify and hold harmless Buyer and its agents, employees, directors and officers from and against any claim, demand, suit, judgment, decree, order, liability, loss, damages, fees, penalties, costs or expenses and to assume at Supplier's own expenses any defense of any claim or action brought by any person arising out of or in connection with– (i) injury to or death of persons or damage to property caused by or arising out of or in connection with the goods and/or services provided by Supplier under the Agreement; (ii) alleged or actual infringement of patents, copyrights, trademarks, trade secrets or other intellectual property rights (including but not limited to, by reason of the possession, intended use or sale of any services and/or goods furnished hereunder by Supplier, or by reason of the performance of any services hereunder by Supplier); (iii) breach of its confidentiality or information security obligations; or (iv) fraud, misrepresentation, wilful

misconduct, and/or negligence by any of its employees, officers, directors, sub-contractors or agents; (v) breach by Supplier of any other provisions of the Agreement. This clause shall remain in force after the termination of the Agreement as well.

1.20. Force Majeure

- a. A Party shall not be responsible for any failure to fulfil any terms or conditions of the Agreement caused by an unforeseen, extraordinary and serious event (including wars, riots, civil disturbance, strikes and lock-outs, hurricanes etc. but not including economic hardship or generally adverse weather conditions, except where such are extraordinarily adverse) not within its control and not caused by its default or error and which said Party could not have provided against or mitigated. If such event continues for thirty (30) consecutive days, Buyer may terminate the Agreement and/or any or all relevant Purchase Order(s) and neither Party shall have any further claim against the other, except to the extent that actual delivery has been made under such Agreement, where Buyer shall pay Supplier a fair value of the delivered goods and/or services in accordance with the Agreement and as agreed between the Parties. The Party invoking force majeure shall, as soon as possible, notify the other Party hereof.

1.21. Liability

- a. Notwithstanding any other provision of the Agreement and to the extent not otherwise decided by mandatory law, nothing in the Agreement shall exclude or limit Supplier's liability under or in connection with the Agreement for (i) fraud or misrepresentation, (ii) death or personal injury resulting from the negligence of that Party, (iii) breach of law, (iv) breach of any actual or implied terms of transfer of title of the goods and/or services, (v) breach of its obligations of confidentiality under clause 1.13; (vi) any claim under the indemnities herein and (vii) for any other matter in respect of which liability cannot by applicable law be limited or excluded,.

1.22. Insurance

- a. Scope of insurance coverage. Without limitation to its obligations and responsibilities under this Agreement, Supplier shall at its own cost obtain and maintain third party liability insurance, which is adequate and sufficient to cover its legal liabilities arising out of performance of work under the Agreement, including such liability for bodily injury, death, and property, cargo damages. The third party liability coverage shall state that the Buyer and subcontractors of the Supplier are added as additional insured under the third party liability policy, but only in respect of liability arising out of the goods and/or services provided by the Supplier.
- b. **Insurance for the duration of the Agreement.** The Supplier shall, at its sole cost, provide and maintain for the duration of this Agreement comprehensive workmen's compensation insurance for its personnel, comprehensive motor vehicle insurance for the vehicles deployed in relation to the goods and/or services and other statutory insurances that may be required under the laws of Nigeria.

- c. **Insurance for subcontractor.** Supplier shall ensure that each subcontractor shall carry and maintain insurances, which each such subcontractor is obliged to carry under any applicable laws.
- d. **Reasonable evidence of insurance coverage.** Supplier shall furnish promptly to the Buyer upon request reasonable evidence of the insurance coverage set out in this Article 22 (and undertakes promptly to ensure similar co-operation from its subcontractors, if relevant).

1.23. Termination

- a. Termination of Agreement. Buyer shall, at any time, have the right to terminate the Agreement without any liability thereof by giving Supplier a prior written notice of thirty (30) days.
- b. **Rights and obligations upon termination.** Upon expiry or termination of the Agreement, (i) Buyer's right to purchase goods and/or services under the Agreement shall immediately terminate; (ii) Supplier shall immediately, return to the other Party and/or destroy all property and materials containing any or all Confidential Information belonging to the Buyer; (iii) Unless specifically terminated, termination of the Agreement and/or any specific Purchase Order(s) shall not operate to terminate any other Purchase Order(s) then in force. Accordingly, the respective rights and obligations of Parties in relation to the goods and/or services to which the pre-existing Purchase Order(s) relate shall continue in force, subject to the provisions for termination set out in the relevant Purchase Order(s) and this Conditions. Notwithstanding the foregoing, Buyer shall not be required to return and/or destroy any Confidential Information which it has received pursuant to the Agreement as part of the goods and/or services.

1.24. Assignment

- a. **Buyer's right to assign or subcontract rights and obligations.** Buyer is entitled to assign, subcontract or otherwise transfer its rights and obligations under the Agreement in whole or in part to any APMT Group Entity. Buyer shall within reasonable time of such assignment notify Supplier in writing hereof.
- b. **Supplier's right to assign rights and obligations.** Supplier shall not be entitled to assign or otherwise transfer any rights or obligations under the Agreement without the prior written consent of Buyer. .

1.25. Sub-contractors

- a. Use and liability. Supplier may, subject to prior written consent of Buyer, use sub-contractors in the delivery or performance of the goods and/or services. However Supplier shall be liable for all acts and omissions of its sub-contractors (including any sub-sub-contractors) to the same extent as Supplier is itself liable to Buyer.

1.26. Conflict of interest

- a. **Actual or potential conflict.** Supplier shall take appropriate steps to ensure that neither Supplier nor any Supplier's personnel are placed in a position where

there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of Supplier or Supplier's personnel and the duties owed to Buyer and/or its Affiliates under the provisions of the Agreement.

- b. **Notice.** Supplier shall promptly notify and provide full particulars to Buyer or any other relevant body, if such conflict (as referred in clause 1.26.a) arises or may reasonably be foreseen as arising.
- c. **Right to terminate.** Without prejudice to any other rights it may have under the Agreement and under the law, Buyer reserves the right to terminate the Agreement immediately by giving notice in writing to Supplier and/or to take such other steps it deems necessary, if in the reasonable opinion of Buyer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of Supplier and the duties owed by Buyer under the provisions of the Agreement.

1.27. Law, Jurisdiction and Disputes

- a. **Applicable Law.** Any specific agreement (including framework agreement) and/or Purchase Order(s) for goods and/or services between a Buyer and a Supplier (which shall then be deemed to incorporate and include these Conditions) and any non-contractual obligations arising out of or in connection therewith shall be governed, construed and enforced in accordance with the laws of Federal Republic of Nigeria to the exclusion of any other law and without regard to any conflict of law principles.
- b. **Jurisdiction.** The courts of the Federal Republic of Nigeria shall have exclusive jurisdiction and venue for resolution of all such disputes, and the Parties hereto do hereby irrevocably submit to such jurisdiction and venue, waiving any objection to the contrary hereafter.

1.28. Waiver

- a. **Failure to exercise a right.** The failure or delay of a Party to insist upon performance of any provision or part of a provision of the Agreement or the failure or delay of a Party to exercise any right or remedy to which it is entitled hereunder shall not constitute a waiver thereof and shall not cause a diminution of the obligations created by the Agreement.
- b. **Subsequent defaults.** A waiver of any breach of the Agreement by a Party shall not constitute a waiver of any other breach (of the same term or of any other term) of the Agreement.

1.29. Entire Agreement and Miscellaneous

- a. **Entire Agreement.** The Agreement constitutes the entire Agreement and understanding between the Parties in respect of the matters dealt with in them and supersedes any previous agreement between the Parties relating to such matters, notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.
- b. **No warranty.** Each of the Parties acknowledges and agrees that in entering into the Agreement, it does not rely on and will have no remedy in respect of

any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in the Agreement.

- c. **APMT Group Entity.** Any Buyer and APMT beneficiary Affiliate may enforce the terms of the Agreement against Supplier. In the event of Buyer selling or transferring the goods and/or services to any third party or APMT beneficiary Group Entity in any bona fide transaction, Buyer shall be entitled to assign the rights and benefits of existing warranties and other representations and covenants hereunder in favour of any such third-party buyer or APMT beneficiary Group Entity. Except as provided in the foregoing, no term of the Agreement is intended to confer a benefit on or to be enforceable by any person who is not a Party to the Agreement. The Parties may by Agreement, rescind or vary the Agreement or any terms of the Agreement without the consent of any person who has the right to enforce the Agreement or the term in question notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under that right.

1.30. General

- a. **Independent Contractor.** Supplier is an independent contractor of Buyer. Nothing in the Agreement shall render Supplier as an employee, agent or partner of Buyer and Supplier shall not hold itself out as such.
- b. **Non-Exclusivity.** The Agreement is of a non-exclusive nature. Nothing in the Agreement shall be construed as obligating Buyer to purchase a particular quantity, volume or value of goods and/or services. Buyer may in its sole discretion procure, from any third party, goods identical or similar to that of Supplier or services provided by Supplier.
- c. **Commission.** Supplier warrants that it has not paid commission or agreed to pay any commission to Buyer or any other public body or any person employed by or on behalf of Buyer or any other public body in connection with the Agreement and/or any other arrangement with Buyer or any other public body or person employed by or on behalf of Buyer or any other public body.
- d. **Counterparts.** The Agreement may be executed in any number of counterparts by the Parties hereto on separate counterparts each of which, when executed and delivered, shall constitute an original and all such counterparts together shall constitute one and the same. The Agreement may also be executed by each Party hereto by facsimile signature or electronic counterparts, which shall be deemed to be an original signature of such Party hereto.
- e. **Heading.** The headings used in this document are for information only and not to be construed as the exhaustive description of any goods and/or services discussed elsewhere in the Agreement.
- f. **Representations and Warranties.** Each Party represents and warrants to the other Party that: (i) It is a legal entity duly organized and validly existing under the laws of its state and/or country of incorporation, as applicable; (ii) It has the

power and authority to execute and deliver the Agreement and to perform its obligations hereunder; and (iii) The execution, delivery and performance by it of the Agreement and its compliance with the terms and conditions hereof does not and will not conflict with or result in a breach of any other agreement or relationship by a Party with any other party.

- g. **Severability.** Should any part or provision of the Agreement be held invalid or unenforceable, the invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible and lawful, the original business purpose and the intent of such part or provision in a valid and enforceable manner, and the remainder of the Agreement shall remain effective and binding upon the Parties. In case the provision so affected is fundamental to the Agreement, the Agreement may be terminated with mutual consent of both the Parties.
- h. **Policies and procedures.** Supplier shall be obligated to comply with the requirements laid out under Buyer's policies and procedures, including but not limited to the 'Safety, Health and Environmental Requirements' of Buyer and other policies and procedures that are discussed and enclosed as part of the Conditions of Buyer.

1.31. Survival of Agreement

- a. **Survival.** Any release, indemnity, liability, intellectual property rights, warranties and/or any obligation of confidence under the Agreement is independent and survives expiration and/ or termination of the Agreement. Any other terms and conditions that by its nature is intended to survive termination of the Agreement survives termination of the Agreement, unaffected by anything that might have the effect of prejudicing, releasing, discharging or affecting in any other way the liability of the party giving the indemnity.