

General Purchasing Conditions

1. Preamble

- 1.1. **Conditions.** These Conditions shall apply to Agreement between Buyer and the Supplier including any Purchase Order(s) (as defined below).
- 1.2. **Agreement.** By executing Agreement, supplying any Deliverables (as defined below) set forth in the Purchase Order(s) and/or Agreement, and/or invoicing pursuant to any agreement and/or Purchase Order(s), Supplier expressly agrees and accepts all terms of the Agreement, including, but not limited to Framework Agreement(s), Purchase Order(s) and these Conditions. Any additional, different terms and/or conditions proposed or added/modified by the Supplier are deemed void ab initio, rejected and shall not be applicable, unless expressly agreed to in writing by Buyer.

2. Definition

- 2.1. **"Agreement"** means any and/or all of the following:
 - (i) Any agreement including, but not limited to the Framework Agreement(s) executed by both the Parties;
 - (ii) Conditions;
 - (iii) APM Terminals Third Party Code of Conduct;
 - (iv) APM Terminals Third Party Compliance Code;
 - (v) Safety, Health and Environmental Requirements; and
 - (vi) Purchase Order(s); and
 - (vii) Any document(s) referred to therein
- 2.2. **"APMTB" or "Buyer"** means APM Terminals Bahrain B.S.C. (c)
- 2.3. **"Bidder"** means an entity participating in the tender or any other procurement process of Buyer for procurement of certain Deliverables pursuant to the Tender Notice and/or request for proposal issued by the Buyer
- 2.4. **"Conditions"** means these General Purchasing Conditions (as amended and published on its website from time to time) by APMTB including the documents referred therein
- 2.5. **"Deliverables"** means goods and/or services to be supplied pursuant to the Agreement
- 2.6. **"Framework Agreement"** means Product Framework Agreement and/or Services Framework Agreement and/or Tender Agreement
- 2.7. **"Government"** means any national or local government/authority, including any department, agency or other instrumentality thereof, and any government owned or controlled enterprise
- 2.8. **"Group Entity(ies)"** means Buyer or Supplier including their respective affiliates and associated companies
- 2.9. **"Party"** means Buyer or Supplier
- 2.10. **"Parties"** means Buyer and Supplier
- 2.11. **"Product Framework Agreement"** means an agreement entered between

the Buyer and the Supplier for the supply of the goods

- 2.12. **"Purchase Order(s) or PO(s)"** means a commercial document issued by Buyer to Supplier, indicating the type, quantity, quality, agreed prices, applicable terms, etc. for the supply of Deliverables
- 2.13. **"Representatives"** means directors, officers, employees, Subcontractors, agents or advisers (including, without limitation, lawyers, accountants, consultants, bankers, financial advisers and any representatives of their advisers)
- 2.14. **"Services Framework Agreement"** means an agreement entered between the Buyer and the Supplier for the provision of services
- 2.15. **"Subcontractor"** means any person (excluding employees of Supplier and including agency staff), firm, corporation or any other entity except Buyer who has entered into an agreement with Supplier or its subcontractors of each and every tier for performance or who otherwise performs and/or delivers a part or all of the Deliverables in accordance with the terms of the Agreement
- 2.16. **"Supplier"** means the entity entering into the Agreement with the Buyer and/or in whose name Purchase Order(s) is/are issued for the supply of the Deliverables
- 2.17. **"Supplier's Group"** means Supplier and its subsidiaries and its or their Subcontractors and its or their respective officers, directors, employees, agents and invitees and other personnel retained by or engaged in business for the benefit of such entities and where each of the foregoing may sometimes be referred to as a member of Supplier's Group
- 2.18. **"Tender Agreement/Document"** means an agreement entered, pursuant to a tender, between the Buyer and the Supplier for the supply of Deliverables

3. Purchase Order

- 3.1. **Modifications to the Agreement.** Any modification to any document of the Agreement shall be in writing, mutually agreed and signed by both the Parties.

4. Scope

- 4.1. **Scope.** The Parties acknowledge and agree that Supplier shall deliver such Deliverables, in such quantity and quality, and on such date and time, as mutually agreed in the Agreement and/or as indicated in Purchase Order(s).

5. Price, Invoicing, Payment and Taxes

- 5.1. **Price and charges.** The price and charges for the provision of Deliverables shall be the price as mentioned for each of such Deliverables in 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. Without prejudice to any payment, Buyer shall not be deprived of any rebates as agreed between the Parties.
- 5.2. **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.

- 5.3. **VAT and Taxes.** Unless otherwise agreed, all prices and rates contained in the Agreement are exclusive of VAT but inclusive of all other taxes, duties and charges including, but not limited to, corporate income taxes, individual taxes and other social contributions (labour law taxes). Supplier acknowledges that it may have tax obligations outside of its state of residence or incorporation or the state from where it operates, including specific tax reporting or filing obligations.
- 5.4. **E-Catalogue.** If requested by Buyer in writing, Supplier shall submit or upload all relevant information of the Deliverables (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 Deliverables, (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.
- 5.5. **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 Deliverables provided and Buyer's references including Buyer's name, contact person and department, Purchase Order(s) number, place of delivery, quantity and description of Deliverables (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 Deliverables being invoiced; (ii) the VAT registration number of Supplier; and (iii) the VAT registration number of Buyer.
- 5.6. **Additional Cost.** Buyer shall not be liable to pay any additional cost, unless agreed in advance in writing by the Buyer and upon issuance of the amended Purchase Order(s) and/or executing an amendment to the Agreement, prior to incurring such costs. In the event that Supplier has incurred any additional cost with Buyer's prior written consent as mentioned in this clause, such costs are to be invoiced separately.
- 5.7. **Original invoice.** Suppliers shall submit invoice(s) via email to fpdbah@apmterminals.com (i.e., group email id for Accounts Payable) and to the concerned executive at the Procurement department of Buyer or in original and if required by Buyer, Supplier shall send 3 original invoices to Buyer along with the delivery of Deliverables. Irrespective of Supplier being local or foreign, Buyer, in its sole discretion, may accept invoices generated by Supplier via e-invoicing system.
- 5.8. **No right to invoice Buyer's Customers.** Supplier has no right to invoice any of the Buyer's customers (such as vessel owners, container lines, vessel agents, container agents, freight forwarders, shippers, consignees etc.) in relation to the Deliverables.

- 5.9. **Due payment and non-payment.** Unless otherwise agreed by the Buyer in the Agreement, payment shall be due and payable within ninety (90) days from delivery and receipt of complete and correct invoice by the Buyer at the address stated in the Agreement if not disputed by Buyer in writing. In the event Buyer has not received invoice of the Deliverables at the address stated in the Agreement within one hundred and eighty (180) days of the delivery of the goods and/or completion of the services, such Deliverables 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.
- 5.10. **Disputed invoice.** Notwithstanding anything agreed in the Agreement, if Buyer disputes invoice(s), then the Supplier shall issue a credit note for the amounts disputed. In case Supplier does not agree to the dispute raised by the Buyer, Supplier shall notify Buyer in writing within thirty (30) days of Buyer's notification. Unless otherwise notified by the Supplier within thirty (30) days of Buyer's notification, the dispute raised by the Buyer shall be deemed to be agreed and accepted by the Supplier and accordingly the amounts payable by the Buyer pursuant to such disputed invoice(s) shall be deemed to be reduced by such amounts.
- 5.11. **Submission of final invoices.** Supplier shall submit the final invoice to Buyer for all the amounts due under the Agreement within thirty (30) days of termination of the Agreement. If no invoice is received within thirty (30) days of termination of the Agreement, then the Buyer shall be released from all financial liabilities, obligations and claims arising out of or in relation to the Agreement.
- 5.12. **Settlement of invoices.** Payments by Buyer shall not constitute approval of the invoice and/or Deliverables and/or settlement of a dispute and/or relieve Supplier of any obligations or liabilities under the Agreement. Without prejudice to the generality of the foregoing statement, (i) Buyer may dispute any sum previously paid if such sum was incorrectly charged by the Supplier; (ii) there was an overpayment to the Supplier and/or (iii) any Deliverables in respect of which payment was made, does not comply with the terms of the Agreement.
- 5.13. **Right to set off payment.** Without prejudice to any other rights of the Buyer, the Buyer shall have 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 other monies in dispute (including disputed invoices/amounts) and/or owed to Buyer or its Group Entity by Supplier or its Group Entity.

6. Title, Risk and Delivery

- 6.1. **Incoterms.** Unless otherwise provided in the Agreement, delivery terms for (i) the goods shall be DDP (Incoterms 2010) at the delivery point and on the date stated in the 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 the Agreement.

- 6.2. **Title and risk.** Without prejudice to Buyer's rights and remedies herein, title and risk of the Deliverables shall pass to Buyer upon written confirmation by Buyer of the acceptance of the Deliverables, unless otherwise agreed in the Agreement. At all times, Supplier shall remain fully responsible for all goods leased to Buyer.
- 6.3. **Assistance and technical support.** Supplier shall ensure that immediate and due assistance and technical support, if any, sought by Buyer post-delivery of the Deliverables is extended at no additional cost.
- 6.4. **Delay, defect and less quantity.** Time is of the essence in the performance of the Agreement, and if delivery of Deliverables is not made in the quantities, quality and at the times specified in the Agreement, and/or rendering of services is not completed in the same quality and at the times specified in the 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 and to purchase substitute Deliverables 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) at the sole cost of Supplier, immediately deliver the Deliverables to Buyer via the fastest means of transportation available; (iv) Apply proportionate reduction of the price of the defective Deliverables and/or (v) at the sole cost of Supplier, perform or require Supplier to perform all corrective measures which are necessary to remedy any defects arising from any delay, deficient quality, less quantity etc.
- 6.5. **Liability of delay.** Without prejudice to any other rights, Supplier shall be liable for excess transportation charges, costs, expenses, delays or claims, resulting from Supplier's delays and/or deviation from the quality and/or quantity as agreed in the Agreement. Neither Party shall be liable for excess costs of deliveries due to causes beyond its control, except where such costs arises due to its fault, negligence, fraud, misconduct, willful default, breach of law 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 well in advance, at minimum atleast before half of the delivery time to Buyer as agreed in the Agreement. 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.
- 6.6. **Excess delivery.** Buyer shall have no liability for payment for goods

delivered to Buyer which are in excess of quantities specified in the Agreement. Such goods, at Supplier's sole discretion, shall be subject to rejection and return at Supplier's expense, including transportation and other associated charges both ways. If any information and/or service is provided in excess of the description specified in the Agreement or request for proposal or is provided without any Agreement then the Buyer shall not be liable for any payment towards such information and/or services.

- 6.7. **Non-delivery or partial delivery.** Supplier shall be held fully accountable and liable to make good any and all 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 Deliverables. The said amount shall be payable by Supplier on first demand or the Buyer, in its sole discretion, shall have the right to set off from any amounts due to Supplier. In such events, wherein Buyer is compelled to order the required Deliverables from an alternative supplier, any extra amount paid to such alternative supplier shall be payable by the Supplier on first demand or the Buyer, in its sole discretion, shall have the right to set off from the amount due to Supplier.
- 6.8. **Completion of delivery.** Unless otherwise provided in the Agreement, delivery shall not be deemed to have taken place until the Deliverables have been received in full and in conformance with the timeline and milestones set out in the 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.

7. Quality

- 7.1. **Description.** For each Deliverables, Supplier shall provide the description of Deliverables to Buyer and also enclose all technical specifications of the Deliverables with the quotation.
- 7.2. **Standards of quality.** Supplier shall maintain consistent standards of quality control with respect to the Deliverables in accordance with samples (if any) and/or quality/specification/descriptions provided to Buyer and all improvements to the standards of Deliverables that are developed and agreed on.
- 7.3. **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 Deliverables and only to supply those Deliverables that comply with applicable legal requirements.

8. Packing, Marking and Restricted Articles

- 8.1. **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 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 shall 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.

- 8.2. **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 Deliverables, but should not be enclosed in the package(s).

9. Instructions and Variation to the Work

- 9.1. **Instructions by Buyer.** Subject to the provisions of the Agreement, Buyer shall have the right to increase, decrease, omissions, substitutions and changes to the equipment, personnel, time schedules, or any other part of the Deliverables, in relation to, including but not limited to, its quality, form, character, kind and/or dimension. Supplier shall provide all necessary personnel, equipment and services required to deliver the Deliverables as specified in the Agreement. No Deliverables shall be delivered by the Supplier, unless specifically agreed by means of the Agreement or written amendment to the Agreement.
- 9.2. **Additional Price.** In the absence of any specific provisions to the contrary in the Agreement, adjustments to the total price in respect to any variations shall be evaluated in accordance with the prices detailed in the Framework Agreement and/or PO(s).

10. Inspection and Acceptance

- 10.1. **Inspection.** Buyer reserves the right to examine the Deliverables delivered with regards to quantities, externally visible damages/defects etc. at any reasonable place and time and in any reasonable manner.
- 10.2. **Refusal and rejection.** Buyer reserves the right to reject and refuse acceptance of Deliverables 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 at the sole cost of the Supplier. 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 Deliverables shall be reimbursed by Supplier to Buyer within fifteen (15) days of such rejection.

- 10.3. **Failure to accept.** Buyer shall not be liable for failure to accept any of the Deliverables, 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.
- 10.4. **No deemed waiver.** Inspection and/or acceptance of all or any part of the Deliverables 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 Deliverables 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.

11. Subcontractors

- 11.1. **Failure by Subcontractors.** Supplier shall be liable to Buyer for all of the work performed and/or delivered or failed to be performed and/or delivered by a Subcontractor appointed by the Supplier, as if performed and/or delivered or failed to be performed and/or delivered by Supplier itself. Each Subcontractor shall be responsible only to Supplier, who in turn shall be responsible to Buyer.
- 11.2. **Appointment of Subcontractors.** Supplier shall at all times require prior written consent of Buyer, prior to the appointment of a Subcontractor in relation to the delivery and/or performance of Deliverables. For the avoidance of doubt, such consent shall not relieve the Supplier of its obligations and liabilities under the Agreement.

12. Business Ethics and Labour Harmony

- 12.1. **Commissions, remuneration, gifts.** Supplier warrants not to pay, nor attempt to pay, any salaries, commissions, fees, remuneration or rebates to any employees of 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 (or any designee of the aforementioned) or favor any such person with gifts or entertainment of significant cost.
- 12.2. **Maintain workable and harmonious relations.** Supplier shall maintain workable and harmonious relations with its Representatives and Buyer's Representatives. Whenever Supplier has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of services and/or delivery of goods, Supplier shall immediately give notice thereof including all relevant information to Buyer, besides arranging for alternative resources to meet business requirements.
- 12.3. **Acceptance of gifts, commissions.** Supplier or its employees shall not accept any commissions, fees, favor or gift from any customer of the Buyer and shall only act in accordance with instructions given by the Buyer and/or terms of the Agreement.

13. Compliance

- 13.1. 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 Deliverables and/or relate to the provision, licensing, approval or certification of the Deliverables, 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.
- 13.2. 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 13 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 clause 14. 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 clause 14. 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.

- 13.3. **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.
- 13.4. **Costs.** All costs incurred in complying with this clause 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. 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.

14. Responsible Procurement

- 14.1. **Code of conduct.** In addition to the obligations of this clause, Supplier shall respect and commit to implement APMT's Supplier Code of Conduct (the "**Code**") as amended from time to time and published as a Schedule 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), and Supplier agrees – if and when so requested - to provide necessary documentation as well as accommodate any audit by Buyer in order to verify the same. Supplier shall require their own suppliers to implement similar rules and, as appropriate, pass on such requirements to their sub-suppliers and so on. Supplier's non-compliance with this clause 14 shall be considered a material breach of the Agreement. Should Supplier be unable to meet the listed requirements, Supplier shall agree to develop and execute an improvement plan.

15. Intellectual Property Rights (IP)

- 15.1. **Intellectual property rights.** All intellectual property rights in and to the Deliverables and materials specifically developed by Supplier to fulfil the obligations under the Agreement shall vest with 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.

15.2. Enjoy and use of IP rights. Without prejudice to clause 15.1, 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.

15.3. Data ownership. Any and all data generated, created or collected from and/or in relation to the Deliverables under the Agreement, including any data on the performance of the goods generated by any system and/or software forming part of the Deliverables (the "**Data**"), shall be the sole property of Buyer. Supplier shall ensure connectivity to any such system or software forming part of the Deliverables 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.

16. Confidentiality and Reference

16.1. Confidential Information of the Buyer. shall mean all information disclosed by the Buyer, to or acquired by the Supplier, whether oral, graphic or written, or received through electronic transmission, observation, meetings or otherwise, whether furnished before, on or after the date hereof, in any way relating to the Agreement or to the business and affairs of the Buyer including, but not be limited to: (i) All information of Buyer's Group Entities concerning employees, products, services, customers, suppliers, contractors, other third parties conducting business with Buyer's Group Entities or other technical and commercial matters, (ii) tender documents (iii) request for proposal (iv) the terms of the Agreement, (v) all recommendations, specifications, notes, analyses, compilations, reports, photographs, layouts, copies, extracts, reproductions, data (including data in electronic/ hard copy form), memoranda, and other documents prepared or developed by the Supplier/Bidder individually or jointly with the Buyer or any of their Representatives based on or containing any of the foregoing information (vi) any information received pursuant to the Agreement as part of the Deliverables (vii) the fact that any negotiations or discussions are taking place concerning the potential engagement and (viii) any information which according to applicable law is confidential whether disclosed in written, oral or visual form. Confidential Information of Buyer shall be considered proprietary in nature and remain the property of the Buyer. Supplier/Bidder shall disclose the information to its Representatives only on a need to know basis. Supplier/ Bidder Group Entities shall not disclose (directly or indirectly) Buyer's Confidential Information to any third party without

Buyer's prior written consent. Supplier/Bidder shall only use the Confidential Information for the purposes of the Agreement and/or evaluating the potential engagement. Supplier/Bidder shall obtain a written confidentiality undertaking from all to whom any Confidential Information of the Buyer has been disclosed.

- 16.2. **Confidential Information of the Supplier.** shall mean all information disclosed by the Supplier in writing in relation to its customers,. Buyer shall not disclose (directly or indirectly) Supplier's Confidential Information to any third party without Suppliers prior written consent.
- 16.3. **Disclosure to Group Entities.** Nothing in this clause 16 may be deemed or construed to prevent Buyer from disclosing any Confidential Information of the Supplier/Bidder obtained from Supplier/Bidder or its Group Entities to any Buyer's Group Entities, employees or other recipients of the Deliverables (i) if such disclosure is in the discharge of a recipient's obligations to supply information for the purpose of complying with any law; or (ii) 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 similar duty of confidentiality as Buyer.
- 16.4. **Reference and advertising.** Supplier/Bidder is not permitted without prior written consent from Buyer to use Buyer's name symbols, logos 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.
- 16.5. **Breach of confidentiality.** Supplier/Bidder agrees that damages may not be an adequate remedy for any breach of confidentiality by the Supplier/Bidder or any of its Representatives. Buyer shall be entitled to obtain any legal and/or equitable relief, including injunctive relief, in the event of breach of the confidentiality obligation in clause 16.

17. Information Security Controls

- 17.1. **Data protection.** Supplier shall take all necessary technical and organizational measures to prevent Buyer's data (including but not limited to Confidential Information of the Buyer) 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.
- 17.2. **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.
- 17.3. **Securing of data.** Supplier shall secure and protect Confidential Information of the Buyer, Buyer's proprietary information, Buyer's employee information, Buyer's customer information, and/or other information resources from unauthorized or improper use, theft, or accidental or unauthorized modification, disclosure or destruction.

17.4. Physical access to Buyer's company premises. If Supplier's 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:

- (i) 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.

17.5. 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.

17.6. Awareness Program. Supplier shall ensure that there is an awareness program delivered at its end to all the Representatives involved in the performance and delivery of the Deliverables. The main goal of the program should be to continuously deliver information security awareness amongst its Representative to create a security-positive environment.

18. Supplier Registration and Port Entry Conditions

18.1. 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.

18.2. 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.

18.3. Compliance with safety rules of the Port. While delivering the Deliverables, Supplier understands and agrees the mandatory requirement of Buyer to comply with the safety rules and regulations existing at the Khalifa Bin Salman Port 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. In the event that conditions arise or occur which do or are likely to endanger the safety of any person and/or damage to any property and/or equipment during the performance of services and/or delivery of goods or other related operations by Supplier or Supplier's Subcontractor, Supplier shall so inform Buyer and proceed to take such action as Buyer deems necessary.

- 18.4. **Security gate pass.** Delivery vehicles should be equipped with flash lights. Deliverables other than those procured by Buyer are not allowed to gain admission into the Khalifa Bin Salman Port or other concession area premises, currently managed by Buyer. For port entry gate pass, Supplier shall provide its personnel CPR copy 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: SecurityGatePass@apmterminals.com and mention Procurement department in cc purbah@apmterminals.com to confirm your gate pass(es) request and contact via telephone no. +973 17365546 or +973 17365547. If Supplier is a frequent visitor to Buyer (i.e., more than 3 times visit per year), Supplier shall 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.
- 18.5. **Permit to work.** Supplier if engaged, in providing Deliverables 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.
- 18.6. **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.

19. Communication

- 19.1. Supplier/Bidder 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 the Buyer in accordance with the rules and procedure of the Buyer.

20. Warranties

- 20.1. **Warranty for repair, modification, replacement.** The warranty period shall be for 5 years from the date of delivery of Deliverables at the Buyer's premises or such extended time as otherwise agreed in writing between the Parties. 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.
- 20.2. **Warranty for Service.** In case of Services for repair, the warranty period shall be at least 90 days from the date of completion of such Service, unless

otherwise specifically agreed between the Parties. For the avoidance of doubt, the warranty in case of remedy of a defect and/or redelivery shall be as per clause 20.1.

- 20.3. **Manufacturer's warranty.** Without prejudice to clause 20.1, Supplier shall ensure that the Deliverables shall comply with standard warranties of the manufacturer as extended to the Supplier.
- 20.4. **Skills and expertise.** Supplier represents, warrants and undertakes that Supplier is highly skilled, experienced and competent in providing the Deliverables 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 the obligations under the Agreement.
- 20.5. **Supplier's warranties.** Supplier warrants and undertakes that (i) it shall perform its obligations under the Agreement promptly, diligently and efficiently in a professional manner; (ii) it shall observe the standard of care and assume the degree of responsibility which is normally observed and assumed by high caliber international level of professionals and service providers; (iii) 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; (iv) the Deliverables shall be delivered in accordance with international market standards and good international professional practices or such other level of standards agreed between the Parties, and (v) the Deliverables or any rights conferred to Buyer pursuant to the Agreement do not infringe the rights of any third party. Supplier further warrants that the Deliverables complies with all applicable regulations and specifications, including applicable standards.
- 20.6. **Competence to Perform.** Supplier undertakes and agrees that it is competent to perform the obligations stipulated under the Agreement. Supplier shall be responsible for the training and development of its personnel. Supplier shall also ensure that all facilities, services and equipment used for provision of the Deliverables shall be fit for their intended purpose and of good quality and workmanship throughout the term of the Agreement. Any employee of Supplier or its Subcontractors deemed by Buyer, in its sole opinion, to be objectionable, superfluous or unqualified shall be removed by Supplier from performance of services and/or delivery of goods immediately upon Buyer's request and shall be promptly replaced by Supplier at no extra expense to Buyer. However, Buyer will not use this right unreasonably.
- 20.7. **High industry standards.** Deliverables 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.
- 20.8. **Defective and unsuitable.** If during the warranty period, any of the Deliverables or part thereof (including, but not limited to, 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 Deliverables, at Supplier's expense.

- 20.9. **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 Deliverables at no cost to Buyer at Buyer's option. In addition, Supplier shall, at no cost to Buyer, carry out such further inspection as the Buyer may reasonably require in order to ensure that there are no similar defects that fail to conform with the requirements under the Agreement.
- 20.10. **Spare parts.** Without prejudice to clause 20.1 and 20.2, Supplier warranties to make available relevant spare parts and/or services (as and when requested by Buyer) for the Deliverables for a minimum of five (5) years from delivery of the Deliverables.
- 20.11. **Survive.** This clause shall remain in force after the termination of the Agreement as well.

21. Remedies

- 21.1. **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 Deliverables, the Buyer have the right to terminate the Agreement and/or any and all relevant Purchase Order(s) and/or claim direct damages, including but not limited to damage 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.
- 21.2. **Occurrence of Defect.** A defect shall deem to exist in relation to the Deliverables if: (i) the Deliverables fail to meet the requirements set out in the Agreement, (ii) Supplier is in breach of a service level, and/or (iii) the Deliverables breach Supplier's warranties as set out in clause 20.
- 21.3. **Proportionate reduction.** Without prejudice to any other rights, with respect to the defective Deliverables, with due consideration to the actual reduction in the value of such defective Deliverables and benefit to Buyer, Buyer shall be entitled to a proportionate reduction of the price and/or the fees payable for such defective Deliverables. In case the Buyer has already paid for such defective Deliverables, then the Supplier shall pay such proportionate amount to Buyer on first demand, which the Buyer has already paid in respect of those defective Deliverables.
- 21.4. **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 and/or redeliver any defective Deliverables in accordance with its obligations, Buyer may,

subject to informing Supplier in writing and allowing 24 (twenty four) 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 Deliverables 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.

- 21.5. **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 Deliverables 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 3 (three) percent of the Deliverables under relevant Purchase Order(s), Supplier shall also be liable for the reasonable costs of the third-party auditor.
- 21.6. **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 Deliverables and direct charges or other fees relating to other Deliverables or costs rendered unnecessary as a result of any default by Supplier.
- 21.7. **Total loss.** In the event that Buyer's premises become 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 the Deliverables delivered and accepted prior to the termination. Neither Party shall have any claims whatsoever towards the other in connection with such termination.
- 21.8. **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 any third party.
- 21.9. **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.
- 21.10. **Additional regulatory compliance covenants and remedies.** Supplier warrants that all responses and related information it has given to Buyer's regulatory-compliance questions (if requested) prior to execution of the Agreement are, and undertakes that answers to all such subsequent questions shall be, accurate and complete. Supplier shall save, indemnify, defend and hold harmless Buyer's Group Entities from all fines, penalties

and all associated expenses arising out of or resulting from the violation by Supplier of any of its obligations as stated above. Buyer shall have the right to terminate the Agreement and recover from Supplier as a debt the amount of any loss or damage resulting from such a termination if any member of Supplier's Group Entities commits an act which Supplier has undertaken not to commit as included in clauses above, whether or not such act was committed before, on or after the date of the Agreement.

21.11. Unsatisfactory Performance. In the event of any failure to provide Deliverables in a safe, efficient manner and/or in accordance with the terms of the Agreement, Buyer may, in its sole discretion and without prejudice to its other rights or remedies under the Agreement or at law, make no payment towards the Deliverables provided by the Supplier and/or suspend the Agreement as it deems necessary.

22. Indemnity

22.1. Supplier/Bidder agrees to indemnify and hold harmless Buyer and Representatives 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, including but not limited to– (i) injury to or death of persons or damage to property caused by or arising out of or in connection with the Deliverables 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 Deliverables 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, willful 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; (vi) breach by Supplier of any provisions of legislations, rules and regulations including but not limited to having valid permits, licenses, clearance etc. This clause shall remain in force after the termination of the Agreement as well.

23. Force Majeure

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, 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.

24. Liability

24.1. 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/Bidder'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 Deliverables, (v) breach of its obligations of confidentiality under clause 16, (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.

25. Insurance

25.1. **Third Party Insurance.** 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, but not limited to such liability for bodily injury, death, property, cargo, container damages etc. 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 Deliverables provided by the Supplier.

25.2. **Personnel, Motor Vehicle and Other Statutory Insurance.** In addition to the Insurance required under clause 25.1, 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 Deliverables and other statutory insurances that may be required under the laws of Bahrain.

25.3. **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.

25.4. **Reasonable evidence of insurance coverage.** Supplier shall furnish promptly to the Buyer upon request reasonable evidence of the insurance coverage set out in this clause 25 (and undertakes promptly to ensure similar co-operation from its Subcontractors, if relevant).

26. Termination and Suspension

26.1. **Suspension.** Buyer, in its sole discretion, may require Supplier to suspend the delivery of goods and/or performance of services completely or partially. Upon receiving any such notice of suspension, Supplier shall promptly suspend the delivery of goods and/or performance of services to the extent specified in the notice. During the period of such suspension, Supplier shall properly take care for and protect the Deliverable and part thereof.

26.2. **Termination of Agreement for convenience.** Buyer shall, at any time, have the right to terminate the Agreement without any liability thereof by giving Supplier a prior written notice of at least seven (7) calendar days.

26.3. **Rights and obligations upon termination.** Upon expiry or termination

of the Agreement, (i) Buyer's right to purchase the Deliverables 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 Deliverables 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.

27. Assignment

27.1. **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 Buyer Group Entity. Buyer shall within reasonable time of such assignment notify Supplier in writing hereof.

27.2. **Supplier's right to assign rights and obligations.** Supplier shall not be entitled to assign, sublet or otherwise transfer any rights and/or obligations under the Agreement without the prior written consent of Buyer. Any such assignment shall be void.

28. Sub-contractors

28.1. **Use and liability.** Supplier may, subject to prior written consent of Buyer, and subject to the terms and conditions of the Agreement, 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 for Supplier's acts and omissions.

29. Conflict of interest

29.1. **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 Group Entities under the provisions of the Agreement.

29.2. **Notify.** Supplier shall promptly notify and provide full particulars to Buyer or any other relevant body, if such conflict (as referred in clause 29.1) arises or may reasonably be foreseen as arising.

29.3. **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.

30. Law, Jurisdiction and Disputes

- 30.1. **Applicable Law.** Any Agreement (including Purchase Order(s)) for the Deliverables 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 Kingdom of Bahrain to the exclusion of any other law and without regard to any conflict of law principles.
- 30.2. **Jurisdiction.** The courts of the Kingdom of Bahrain 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.

31. Waiver

- 31.1. **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.
- 31.2. **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.

32. Entire Agreement and Miscellaneous

- 32.1. **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.
- 32.2. **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.
- 32.3. **APMT Group Entity.** Buyer and its Group Entity may enforce the terms of the Agreement against Supplier. In the event of Buyer selling or transferring the Deliverables to any third party or Group Entity in any bona fide transaction, Buyer shall be entitled to assign the rights and benefits of the terms of the Agreement including, but not limited to the existing warranties and other representations and covenants hereunder in favour of any such third-party buyer or beneficiary of APMT 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.

33. General

- 33.1. **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.

33.2. **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 Deliverables. Buyer may in its sole discretion procure, from any third party, goods identical or similar to that of Supplier/Bidder or services provided by Supplier.

33.3. **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.

33.4. **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.

33.5. **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. *The person executing the Agreement shall be an authorized signatory as per the company CR/incorporation certificate, or authorized by the board resolution or a letter on the letterhead from the Supplier showing such authority to sign.

33.6. **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.

33.7. **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.

34. Survival of Agreement

34.1. **Survival.** Any release, indemnity, liability, intellectual property rights, warranties and/or any obligation of confidentiality 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.

35. Schedules

Schedule A- [Safety, Health and Environmental Requirements](#)

Schedule B- [APM Terminals Third Party Code of Conduct](#)

Schedule C- [APM Terminals Third Party Compliance Code \(Manual\)](#)