

General Terms of Agreement - Vendor Services Agreement

1. TERMS

These terms form an integral part of the Agreement and shall come into effect from the 'Effective Date'. Said terms govern the arrangement between the Vendor and APMTTP and form a part of the Agreement. All the terms hereunder shall apply on the Vendor unless the contrary is specifically mentioned in the Agreement.

2. DEFINITIONS AND INTERPRETATION

2.1. In this Agreement, the following words and expressions shall have the following meanings unless the context otherwise requires:

2.1.1. "**Agreement**" means the Vendor Services Agreement and all its Schedules and Appendices including agreed amendments and additions in writing to said agreement;

2.1.2. "**Confidential Information**" shall include any and all information, relating to a Party or developed by a Party and disclosed by a Party to the receiving Party which is confidential, proprietary and/or not generally available to the public, including, but not limited to information relating in whole or in part to the terms and conditions of this Agreement, any and all information, data, business operations information, services, copyright, techniques, any business/ customer information and trade secrets, business forecasts, research, work in progress, program formats, projects, sales and marketing plans future development, personnel information and information relating to any research, including but not limited to, all aspects pertaining to and relating to the business practices of the Party in connection with this Agreement or otherwise, and includes proprietary information.

2.1.3. "**Authorized Employees**" means Vendor's employees who have a need to know or otherwise access to confidential Information to enable Vendor to perform its obligations under this Agreement.

2.1.4. "**Effective Date**" means the date upon which said agreement shall be considered to take effect as per clause 2 of this Agreement.

2.1.5. "**Scope of Work/SOW**" means the document, annexed hereto and marked as **Annexure A**, specifying the Services to be provided by the Vendor to APMTTP in respect of any specific assignment that the Vendor may take up for APMTTP pursuant to this Agreement. The terms of any SOW may be varied by mutual agreement signed by both Parties and appended to the relevant SOW;

2.2. In this Agreement, unless the context otherwise requires:

2.2.1. GPPL, APMTTP and APM Terminals Pipavav, all have the same meaning and have been used herein interchangeably.

2.2.2. words denoting the plural number include the singular and vice versa;

2.2.3. words denoting persons include corporations, partnerships, associations of persons (whether incorporated or not), individuals, Hindu undivided families, or governmental or quasi-governmental bodies or authorities and vice versa;

2.2.4. where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have the corresponding meanings;

2.2.5. references to Recitals, Clauses, Sub-clauses, and Appendices are references to recitals, clauses and sub-clauses of, and appendices to, this Agreement;

2.2.6. the captions and headings in this Agreement are for the sake of convenience and reference only and do not in any way govern or affect the interpretation of this Agreement or become a part of the substance thereof;

2.2.7. references to any document are, unless the context otherwise requires, references to that document as amended, supplemented, novated or replaced from time to time;

2.2.8. references to the singular number shall include references to the plural number and vice versa; and

2.2.9. words denoting one gender include all genders.

3. APPOINTMENT:

3.1. APMTTP hereby appoints the Vendor on a non-exclusive and principal to principal basis to provide the Services inside the Port during the Term and the Vendor accepts such appointment.

3.2. APMTTP shall have no obligation to avail the Services of the Vendor and shall at all times have the option to appoint any other like Vendor to provide the said Services.

4. SCOPE

4.1. The Vendor shall, subject to terms and conditions of this Agreement, provide services inside Port as described in the SOW set out in Annexure A to this Agreement.

4.2. The Vendor agrees to provide any additional services or increase the ambit of services to APMTTP whenever required by APMTTP during the Term this Agreement at the same rates and terms of the Agreement.

5. PAYMENT FOR THE SERVICES

5.1. APMTTP shall pay to the Vendor for the Services provided in a manner set out below:

5.1.1. In consideration of the Services provided by the Vendor to APMTTP as described under this Agreement, the Vendor shall be paid charges at the standard rates which are particularly set out in **Annexure B**;

5.1.2. APMTTP shall only be liable to pay the Vendor the transportation charges as set out in **Annexure B** and no other. The Vendor alone shall be liable to bear:

- (a) Operational Costs;
- (b) Lubrication prices; and
- (c) Personal salaries, wages, provident funds, insurance, bonus social charges, profits, overheads due to the personnel/staff employed by the Vendor for performing the Services;
- (d) Cost of personal protection equipment and safety gear; and
- (e) All taxes and duties required to be paid to various government authorities as applicable under various laws being in force.

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- (f) Costs incurred in disciplinary actions, enquiries and other investigations carried out by the vendor against its employees.
- 5.1.3. The Vendor shall raise its invoice on **Assistant Manager, Finance, 'Gujarat Pipavav Port Limited'** in the first seven days of every month for the services rendered in the preceding month. The payment towards all undisputed invoices (after deduction of taxes as may be applicable) will be made by APMTP within 45 (Forty Five) working days from the date on which APMTP Finance Department acknowledges the receipt of undisputed invoice. Said date shall be considered as the date of receipt of the invoice by APMTP for the purposes of the Agreement.
- 5.1.4. The invoice raised by the Vendor shall be free of any discrepancies. In cases of any discrepancy, the same shall be rectified immediately and a revised invoice shall be raised. Payment of the invoice will be made within 45 (Forty Five) days from the date on which APMTP Finance Department acknowledge the receipt of the revised undisputed invoice.
- 5.1.5. All payments/transactions shall be made in INR (Indian Rupee) via e-payment system only subject to Vendor fulfilling all obligations as laid down in the Agreement.
- 5.1.6. In the event any dispute arises in relation to the invoice, the same shall be resolved mutually by the Parties.
- 5.1.7. The Vendor shall submit a payment reconciliation ledger on a quarterly basis to APMTP Finance team. In case any discrepancy is found in the transactions between APMTP & Vendor, then said discrepancy shall be mutually resolved between the Parties within 90 days from the date the discrepancy was discovered.
- 5.1.8. The Vendor shall issue a "No Dues Certificate" for every quarter on or before the 10th day from the date of commencement of the subsequent quarter.
- 5.1.9. The Vendor shall vary the Services as required by APMTP but shall not be entitled to claim payment for any variation unless such additional payment is authorized in writing by APMTP. The price of any variation authorized in writing by APMTP shall be added or deducted from the contract sum. Such a variation shall be valued in accordance with the rates in the agreement, if applicable; otherwise a reasonable valuation shall be made by APMTP.
- 5.1.10. Before becoming entitled to the final payment towards the invoice raised, the Vendor shall execute a note stating the following:
- Upon receipt of the full payment from APMTP to the Vendor towards the particular invoice raised, the Vendor releases APMTP from all and any further claims, if any, related to the payment of the Services rendered by the Vendor under the said invoice; and
 - The Vendor has paid all the wages and sums due to its employees and all those permitted individuals engaged to provide the Services under this Agreement and no such payment due to its employees or other permitted individuals is outstanding. The Vendor agrees and shall ensure that no employee of the Vendor shall claim such outstanding dues from APMTP. APMTP shall in any event not be liable to pay the dues of the Vendor's employees or permitted individuals engaged to provide the Services.
- 5.1.11. The invoice for payment shall be accompanied by the following additional information, wherever applicable:
- PAN No.;
 - Sales Tax registration number (to be printed on the invoice);
 - Service tax registration number (to be printed on the invoice);
 - VAT registration number (to be printed on the invoice);
 - PF Deposit challan, where applicable;
 - ESI Deposit challan, where applicable;
 - MLWF Deposit challan, where applicable; and
 - Proof of payment of any other payments required to be made under any applicable laws for time being in force.
- 5.1.12. The Vendor may be asked to submit proof of deposit of taxes collected from APMTP to which the Vendor shall oblige and promptly furnish the desired information.
- 6. DEDUCTIONS**
- Both Parties agree that in the event of failing to provide satisfactory Services as listed in **Annexure A**, the Vendor shall deduct certain amount from the payments due to it by APMTP as the non-conformity discount more particularly set out at **Annexure C** to the Agreement. However, such non-conformity discount may not be deducted from the payments due to the Vendor, if such events take place due to unforeseen circumstances or for reasons beyond human control or deviations that are acceptable by APMTP at its sole discretion.
- 7. TAXES**
- 7.1. The charges set out at **Annexure B** are exclusive of all applicable taxes and duties, if any. All payments due to the Vendor are subject to deduction of taxes as may be applicable. APMTP will deduct any withholding tax such as tax deductible at source (TDS) at applicable rates in force at the time of the monthly payment.
- 7.2. The standard rates set out at **Annexure B** are also exclusive of service tax. The Vendor shall furnish necessary documentation related to the tax paid to avail Cenvat credit as applicable, in absence of which Vendor will not be able to claim for the service tax paid.
- 7.3. Vendor shall print/stamp the service tax registration number of the Vendor on its monthly invoices and submit to APMTP other relevant documents whenever required.
- 7.4. Vendor alone shall be responsible and withhold from its employee's salary, or pay, as the case may be, and as required by law, all contributions and

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applicable taxes and any benefits including the provident fund.

8. STATUTORY OBLIGATIONS

- 8.1. The Vendor shall at its own expense comply with all statutes, acts, laws, regulations, ordinances or by-laws of any authority which has jurisdiction affecting the Services of the Vendor or its employees, personnel, workmen, consultants and agents. This includes without limitation, compliance of Labor laws, Environmental laws, Trade Union related laws and all freedoms provided under the Constitution of India. All relevant costs with respect to compliance of these laws and regulations shall be borne by the Vendor alone.
- 8.2. The Vendor shall pay the personnel and/or workmen engaged by him no less than the minimum wages prescribed under the Minimum Wages Act, 1948 or any other legislation and extend to its personnel all benefits such as ESIC, provident fund, gratuity, leave and wages, annual bonus, national public holidays, house rent allowance and other benefits which may be prescribed by the prevailing law.
- 8.3. The Vendor shall obtain all necessary registrations and permits under ESI Act, EPF Act, Contract Labor (Regulation and Abolition Act) and any other laws, statutes, acts, regulations as may be applicable from time to time.
- 8.4. The Vendor shall have a separate PF/ESI code numbers and license issued by the Labor Commissioner in absence of which the Vendor shall not be entitled to recover any dues under this Agreement from APMTP.
- 8.5. All personnel employed by Vendor shall be deemed to be Vendor's employees / workmen in all respects implied or expressed. The responsibility whatsoever, incidental or direct, arising out of or for compliance with or enforcement of the provisions of various labor laws applicable in India shall be that of the Vendor alone. The Vendor shall specifically ensure compliance with the following labor laws / Acts and their enactments / amendments in addition to any other laws, regulations and rules as may be applicable from time to time.
 - 8.5.1. The Payment of Wages Act, 1936
 - 8.5.2. The Factory Act, 1948
 - 8.5.3. The Workmen's Compensation Act, 1923
 - 8.5.4. The Employees' Provident Fund Act, 1952
 - 8.5.5. The Contract Labor (Regulation & Abolition) Act, 1970 and Rules 1971
 - 8.5.6. The Payment of Bonus Act, 1965
 - 8.5.7. The Payment of Gratuity Act, 1976
 - 8.5.8. The Equal Remuneration Act, 1976
 - 8.5.9. The Employees State Insurance Act, 1948
 - 8.5.10. The Industrial Disputes Act, 1947
 - 8.5.11. The Employment of Children Act, 1938
 - 8.5.12. The Motor Vehicles Act, 1988
 - 8.5.13. The Dock Workers (Regulation of Employment) Act, 1948 with Rules
 - 8.5.14. The Fatal Accidents Act, 1855
 - 8.5.15. The Dangerous Machine including Regulation Act, 1983 with Rules
 - 8.5.16. The Minimum Wages Act, 1948 with Rules

9. COMPLIANCE WITH PROVISIONS OF CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

- 9.1. The Contract Labor (Regulations & Abolition) Act, 1970; Rules, 1971, and the Central Rules as

modified from time to time are applicable to the Agreement. The Vendor agrees and undertakes to comply with these and obtain requisite license(s) from the labor authorities under the Act and also take steps for getting the agreement registered under the Act. It shall also indemnify APMTP from and against any claims under the aforesaid Act and the rules and other applicable rules and regulations hereunder.

- 9.2. The Vendor shall pay the personnel deployed by it wages as per the provisions of the aforesaid Act and the rules, wherever applicable. The Vendor is required to pay bonus or ex gratia once a year or festival bonus to its employees. The Vendor shall be solely responsible to make such payments to its employees and it shall be solely to the Vendor's account. APMTP shall not be liable for any such payments.
- 9.3. In every case in which, by virtue of the provisions of the aforesaid Act or the rules, APMTP is obliged to pay any amount of wages to a workman employed by the Vendor in execution of the work or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Act and the rules or to incur any expenditure on account of contingent liability of APMTP due to the Vendor's failure to fulfill his statutory obligations under the aforesaid Act or the rules, APMTP shall be at liberty to withhold or adjust from the payments due to the Vendor the amount of wages as required to be paid or the amount of expenditure so incurred, and without prejudice to the rights of APMTP under Section 20(2) and Section 21(4) of the aforesaid Act, APMTP shall be at liberty to recover such amount or part thereof by deducting, adjusting, recovering it from [bank guarantee, if applicable under the terms of this Agreement or any other Agreement/Order](#) and/or from any sum due by APMTP to the Vendor whether under this particular Agreement or otherwise. APMTP shall not be bound to contest any claim made against it under Section 20(1) and Section 21(4) of the aforesaid Act except on the written request of the Vendor and upon it giving to APMTP security for all costs for which APMTP may become liable to incur for contesting such claim. The Vendor agrees to accept the decision of APMTP regarding the amount actually recoverable from the Vendor as stated and agrees that the decision shall be final and binding on it. The Vendor shall provide any payment and / or security to APMTP without any demur or dispute.
- 9.4. The Vendor shall not employ any person below the age of 18 years. The Vendor shall indemnify APMTP from and against all claims and penalties which may be suffered by APMTP or any person employed by it by reason of any default on the part of the Vendor to observe and / or in the performance of the provisions of Employment of Children Act XXVI of 1938 or any reenactment or modification of the same.
- 9.5. The Vendor shall be responsible for compliance with the provisions of the Payment of Wages Act, 1936 or any statutory modifications thereof and any Rules made there under in respect of the staff employed by him and shall keep APMTP indemnified against all loss, damage or claim arising directly or indirectly through any failure or omission to comply with the requirements of the said Act and Rules.
- 9.6. The Vendor shall pay not less than the fair wage to the employees engaged on the work, the fair wage

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being the wage including the allowances notified at the time of signing of the Agreement or as notified from time to time by the competent authority for the work, and, where not notified, the wages paid for similar work in the neighborhood. The labor wages and allowances shall not be less than those prescribed by under any laws, regulations and guidelines. The Vendor shall keep a proper record of it making such a payment, and submit a certificate every month to APMTP for the same.

- 9.7. If APMTP shall at any time consider the mode adopted by the Vendor of paying its employees / workmen objectionable, it shall have the power of requiring a change of system. Such change shall be implemented by the Vendor within one week from the date of a notice in writing to the effect, and in case of non-compliance with such notice, all payments to the Vendor may be withheld during such non-compliance. However, the Vendor shall continue to make all payments to its employees / workers and to any statutory authorities as prescribed by the prevailing law.
- 9.8. A notice showing the rate of wages to be paid to the employees/workers shall be published by the Vendor and exhibited prominently near the place of work and should be made easily accessible to all the employees / workers.
- 9.9. The Vendor shall ensure that its deployed personnel are covered under the Employees Provident Fund Act from day one and Vendor is complying with all the provisions of the Act.
- 9.10. The Vendor shall ensure that its deployed personnel are being paid their salaries/wages timely through bank transfer.

10. WORKMEN'S COMPENSATION ACT, 1923

- 10.1. The Vendor shall submit a copy of its Workmen's Compensation policy to APMTP within 15 (fifteen) days from the '**Effective Date**' at the Port.
- 10.2. The Vendor shall at all times indemnify APMTP against, all claims which may be made under the Workmen's Compensation Act, 1923 or any statutory modifications thereof or otherwise for or in respect of any damages or compensation payable in consequence of any accident, injury sustained by any laborer/worker or person in its employment and engaged in the performance of the Services under this Agreement and shall take responsibility for all risks of accidents or damages which may cause failure of the performance of the Services under this Agreement arising out of such accident such employee or worker and shall be responsible for the sufficiency of all means used by him for the fulfillment of Agreement. If any such accident occurs which may involve any such liability under the said Act, APMTP shall be at liberty to withhold or adjust or recover such amount from the payments of the Vendor and also deposit the same with the Commissioner under Workmen's Compensation Act.

11. HOURS OF EMPLOYMENT REGULATIONS

- 11.1. The Vendor shall be responsible for compliance with the provisions of the Hours of Employment Regulations in respect of the personnel deployed by it in the manner decided upon by the appropriate authority.
- 11.2. Vendor's employees (by whatever name called) hired / engaged in the services under the terms of the Agreement are to be deemed as employees of the Vendor for all the purposes including but not

limited to statutory requirements or other enactments that may be applicable from time to time.

- 11.3. The Vendor shall comply with all the laws, regulations and rules for the benefit of workers/laborers/employees that are in force or may come into force from time to time and the Vendor shall indemnify and keep APMTP indemnified against all loss, damage, claims and costs arising in any manner whatsoever out of or through or as a result of any failure or omission on the part of the Vendor to comply with any such laws, regulations and/or rules.

12. ENGAGEMENT OF STAFF FOR PERFORMANCE OF SERVICES

- 12.1. All individuals engaged in performing the Services on behalf of the Vendor shall be employed solely by the Vendor. The Vendor shall not engage any individual to perform the Services unless such individual is employed by it. In the event, the Vendor wishes to engage an individual who is not its employee to perform the Services, it shall obtain APMTP's prior written approval before doing so and shall be liable towards all payments to such individuals. Such individuals shall be referred to as 'pre-approved non-employees' deployed by the Vendor. In any event, the Vendor alone shall solely be responsible and liable for acts and omissions of the 'pre-approved non-employees' so engaged notwithstanding APMTP's approval for such an engagement.
- 12.2. The Vendor alone shall be liable towards all payments of its employees as well as all pre-approved non-employees deployed towards providing the Services. Under no circumstances shall APMTP be liable for making any such payments.
- 12.3. The Vendor shall deploy at its own cost and expenses sufficient, competent and trained personnel for providing the Services, as may be reasonably required in the opinion of APMTP for the fulfillment of the Vendor's obligations under this Agreement.
- 12.4. The Vendor has agreed to engage through labor contract a sufficient number of employees required for the purpose of rendering the Services to the full satisfaction and requirements of APMTP. The Vendor will obtain the requisite license from the licensing authority under Contract Labor (R&A) Act, 1970 according to the number of workers engaged by it and maintain the criteria to hold the license and renew the license from time to time from the appropriate authority and produce the same when called upon to do so.
- 12.5. The Vendor agrees to properly maintain a muster roll of the employees employed for performing the Services at the Port.
- 12.6. Before appointing any employees or engaging any pre-approved non-employees for providing the Services, the Vendor shall ensure that all such individuals being deployed shall:
- 12.6.1. be over 18 years of age and medically fit to carry out the duties allocated to them to perform the Services under this Agreement;
- 12.6.2. have no negative police record;
- 12.6.3. not be under the influence of any alcohol or prohibited drugs, at any time during its working hours in APMTP;

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- 12.6.4. not consume, use, possess, conceal, transport, promote, or sell alcohol or prohibited substances;
- 12.6.5. have no chronic or contagious diseases. A medical examination shall be conducted at the Vendor's cost by APMTP's pre-approved agencies only;
- 12.6.6. be physically and mentally fit and provide proof of medical fitness;
- 12.6.7. have proper skill, training and expertise to provide the Services under this Agreement;
- 12.6.8. be provided with protective equipment (safety Helmet, Safety Shoes, Safety Jacket, working gloves) at the Vendor's cost;
- 12.6.9. have completed the basic safety training course in co-ordination with HSSE and training department of APMTP;
- 12.7. The Vendor shall at its own select, recruit and employ its workforce and APMTP shall in no manner be associated with the same.
- 12.8. **Disciplinary Action / enquiries: The cost of all enquiries or other investigations conducted against any employee by the Vendor, or any disciplinary action taken by the Vendor against its employees, whether instructed by GPPL or otherwise, shall be borne solely by the Vendor only.**
- 12.9. The Vendor shall maintain and furnish to APMTP on demand, all employment documents (like appointment letter, bio-data, I-card, and other documents as may be required by APMTP) related to its employees employed to perform the services inside the Port.
- 12.10. The Vendor shall ensure that at all times adequate number of employees are available to perform the Services under this Agreement. The Vendor shall not be entitled to additional remuneration for an increase in manpower required at any time.
- 12.11. All employees deployed by the Vendor shall carry the requisite pass issued by APMTP at all times as required by Port authorities while at the Port.
- 12.12. The Vendor shall ensure that its employees or other pre-approved individuals deployed by it do not remain inside the Port after completion of their duty hours each day under this Agreement.
- 12.13. The Vendor shall immediately replace any of its employees or deployed individuals if APMTP considers such employee's presence at the Port or otherwise is undesirable without assigning any reasons.
- 12.14. The Vendor shall ensure that all personnel deployed by the Vendor carry all valid licenses such as vehicle driver's license issued by the appropriate RTO for tractor trailers, along with a copy of registration documents for the respective tractor trailer. **(applicable as per nature of contract)**
- 12.15. The employees or pre-approved individuals deployed by the Vendor to provide the Services shall not develop any kind of relationship whatsoever with employees of APMTP and such personnel engaged by APMTP shall not attempt or involve themselves in any activities which are likely to affect the interest of APMTP in any manner whatsoever and shall maintain a very high order of trust and confidence.
- 12.16. The employees employed by the Vendor shall at all times be the employees of the Vendor and not of APMTP and the Vendor alone shall be responsible for all acts of commission or omission of its employees employed and other individuals deployed by it to perform the Services under this Agreement.
- 12.17. It is specifically agreed that there is no relationship of master and servant between APMTP and the Vendor or between APMTP and the employees employed by the Vendor or other pre-approved individuals deployed by the Vendor to provide the Services. Neither the employees employed by the Vendor nor any pre-approved individual non-employees deployed by the Vendor shall have a right or claim of any nature whatsoever against APMTP.
- 12.18. Neither the employees employed by the Vendor nor other pre-approved individuals deployed by the Vendor will be permitted to stay inside the Port after their duty hours. However, all such employees of the Vendor's and other individuals deployed by it shall always be subject to APMTP's rules and regulations regarding entry and exit at the Port.
- 12.19. All the employees and other pre-approved individuals deployed by the Vendor shall be provided with entry permits and will be subject to security check by the authorized security personnel of APMTP. The employees of the Vendor working inside the Port shall also observe all restrictions placed on them and shall not indulge in any activities which otherwise affect or likely to affect the operations of APMTP.
- 12.20. All the employees of the Vendor and pre-approved individuals deployed by it must comply with rules applicable to APMTP's site, as applicable from time to time, including but not limited to entry and exit. The Vendor shall issue identity cards to each of its employees deployed to provide the Services and such identity card shall bear a photograph duly approved by APMTP for gate entry. Similarly, all and pre-approved individuals deployed by the Vendor shall also be issued identity cards which state that they are on contract with the Vendor. All such individuals shall wear the identity card at all the times while they are inside the Port or otherwise in relation to providing the Services to APMTP.
- 12.21. The Vendor shall ensure that its employees shall dress neatly, maintain personal hygiene and shall wear the uniform along with the safety gear provided at the time of their duty in relation to the Services.
- 12.22. The Vendor shall remove and replace any individual forthwith on whom APMTP has lost confidence and/or considers not suitable for any reason whatsoever and APMTP need not give any reasons for the same, if APMTP considers that it is in the interest of APMTP to remove such of the employee(s) of the Vendor/ individual deployed by it. Vendor shall in such an event forthwith replace such individual at its own cost and ensure a seamless transition/hand-over.
- 12.23. The Vendor shall be responsible for compliance of various labour, industrial and all other applicable laws, statutory obligations such as payment of salaries, statutory minimum wages and other legal dues such as Employee Provident Fund, Bonus, Gratuity, Employee State Insurance and other statutory obligations as may be required by prevailing laws time to time, to the workers/employees who are employed by the Vendor at the Designated Area. APMTP shall not be responsible or liable for any payments to be made to the workers/employees of the Vendor. The

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records evidencing the aforesaid payments – challans along with a statement as proof of deposit of Provident Fund and Employee State Insurance contribution will be submitted by the Vendor to APMTM every month for verification.

- 12.24. The Vendor shall provide information as may be required by APMTM in respect of all its employees to enable APMTM to monitor compliance of Provident Fund, Employee State Insurance.
- 12.25. The Vendor shall ensure that its employees observe and maintain the standards of safety, cleanliness, decorum, good behavior and discipline as per APMTM's policy and it shall be in APMTM's discretion to decide as to whether or not the Vendor and /or its employees and/ or other deployed individuals have observed the same.
- 12.26. The Vendor shall maintain all the records as required under various acts for the time being, in force. The Vendor shall obtain the necessary permissions/licenses/permits/registrations from the concerned government agencies and make the necessary deposits wherever necessary as may be required from time to time at its own costs.

13. INSURANCE

- 13.1. Without limitation of its obligations and responsibilities under the Agreement and at law, the Vendor shall maintain for the duration of the Agreement all applicable statutory insurances, including the following insurances with insurers and on a basis satisfactory to the APMTM, and shall, for all insurances other than Employers Liability/Workmen's Compensation, include the APMTM as additional insureds. All insurances, including Employers Liability/ Workmen's Compensation, shall be endorsed to provide that the underwriters waive their rights of recourse, including subrogation rights against the APMTM.
- 13.2. Employer's Liability Insurance/Workmen's Compensation with a minimum indemnity as required by statute covering personal injury to or death of the employees of the Vendor engaged in the performance of the Agreement and such additional insurance as deemed necessary by the Vendor to cover all of its liabilities. APMTM shall have the right but not the obligation to review the level of Vendor insurance deemed appropriate to cover its liabilities and may deem a higher minimum level necessary for the Agreement. The Vendor shall be obliged to procure any additional insurance, as instructed by APMTM, to cover the revised minimum requirements.
- 13.3. Third party and passenger liability insurance and as may be required by statute or similar regulations in India for motor vehicles provided/deployed by the Vendor in connection with the performance of the Agreement and shall ensure that Sub-Contractors maintain such insurance for motor vehicles provided/deployed by them.
- 13.4. The Vendor shall furnish to APMTM at the operating address all Certificates of insurance for those insurances required by this Clause and when requested for insurance giving evidence of type and scope of each insurance and a statement from the insurers that no insurance shall be cancelled or materially changed during the Term of this Agreement without 30 (thirty) days prior written notice by the insurers to APMTM at the same address.
- 13.5. Before commencing the execution of work at APMTM, the Vendor shall insure in the joint names

of the GUJARAT PIPAVAV PORT LIMITED. and the Vendor, covering Third Party Liability (TPL) against any damage or loss or injury caused due to Vendors execution of services as provided herein or tractor trailers (**as per nature of contract**) or Vendor's personnel to any person or property or employee of APMTM or any other third party. The value of TPL policy shall be Minimum of Rupees Ten Lakhs per incidence per vehicle value or as may be directed by APMTM from time to time.

- 13.6. Such insurance shall be affected with an Indian Insurance Company, which shall be approved in writing by APMTM. The Vendor shall submit the copy of insurance policy and the receipt for the payment of the current premiums to APMTM. It shall be in the interest of the Vendor to obtain an open insurance policy specified in carrier's Insurance Policy. Since this is a policy which protects the Vendor, it is advisable for him to obtain such for a value that is not a mandatory requirement of APMTM for fulfillment of this Agreement. The Insurance shall not absolve the Vendor from any other liabilities and any other recourse that APMTM may have.

14. SUB- CONTRACT

- 14.1. The Vendor shall not sub-contract any of its rights or obligations under this Agreement without APMTM's prior written consent. In case the Vendor contravenes this condition, APMTM shall be entitled to terminate this Agreement and [invoke the bank guarantee, if applicable under terms of this Agreement or any other Agreement/Order](#) and execute the Services under this Agreement through any other third party at the sole discretion of APMTM on such terms and conditions considered suitable by APMTM at the cost and risk of the Vendor.
- 14.2. If APMTM gives its written consent to the Vendor for such sub-contract, the same shall be subject to the Vendor fulfilling the following:
 - 14.2.1. The Vendor guarantees and shall remain liable for the performance of all such sub-contracted obligations of this Agreement to the sub-contractor;
 - 14.2.2. The Vendor indemnifies APMTM for all damages and costs of any kind incurred by APMTM or any third party and caused by the acts and omissions of its sub-contractors; and
 - 14.2.3. The Vendor shall be liable and responsible to make all the payments to its sub-contractors without any claim being made to APMTM.

15. ASSIGNMENT

- 15.1. The Vendor shall not assign any of its rights or delegate any of its obligations under this Agreement without APMTM's prior written consent. Any attempted assignment or delegation without APMTM's prior written consent shall entitle APMTM to terminate this Agreement. For the purpose of this Clause, any amalgamation or merger of the Vendor or merger of the Vendor with any corporation or other legal entity shall be deemed to be an assignment. Breach of this Clause shall entitle APMTM to immediately terminate this Agreement.
- 15.2. APMTM may at its sole discretion have a right to assign its rights or delegate its obligations under this Agreement without a prior notice or consent of the Vendor.

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16. UNSATISFACTORY PERFORMANCE

- 16.1. Breach or violation of any of the conditions under this Agreement and/or non-compliance with the APMTP policies listed under this Agreement including without limitation safety, security, traffic, and/or any other failure by the Vendor or its agents or employees to fulfill its obligations under this Agreement to the fullest satisfaction of APMTP the same shall be deemed to be counted as unsatisfactory performance of the Services by the Vendor.
- 16.2. In the event of unsatisfactory performance of Services, the APMTP shall deduct certain amount from the payment due to the Vendor as the non-conformity discount which may extend upto Rs.50,000/- occasion of unsatisfactory performance of the services. The structure of such non-conformity discount is more particularly set out at **Annexure C**.
- 16.3. The decision of APMTP shall be final and binding in deciding whether a particular default on part of the Vendor will be counted as the unsatisfactory performance of the Services. The non-conformity discount shall be recovered from any payments due and payable to the Vendor by APMTP. Furthermore, in case of repeated unsatisfactory performances of the Services by the Vendor, APMTP shall have the right to terminate this Agreement by giving a prior notice in writing to that effect. If the Vendor does not within 30 days of receipt of such notice cure its default, APMTP shall be entitled to terminate this Agreement in whole or part hereof. In the event of such termination of the Agreement, APMTP shall be entitled to -
- 1.1.1 Forfeit the bank guarantee as it may consider fit, , in case the option of Bank Guarantee is applicable under this work agreement.
- 16.3.1. Get the balance work done by making an alternative arrangement as deemed necessary and, recover from the Vendor any extra expenditure incurred by APMTP in getting the work done and damages which APMTP may sustain as a consequence of such action.
- 16.3.2. To certify the sum payable to the Vendor, if the work in question has been carried out by it under terms of the Agreement. Such certification shall be final and binding on the Vendor.
- 16.3.3. If the excess expenditure incurred by APMTP is more than the bank guarantee in case applicable which is proposed to be forfeited, the total expenditure in case no Bank Guarantee or expenditure over and in excess of such bank guarantee may be recovered by deducting the said amount from any pending bills of the Vendor or from moneys then due and payable to the Vendor by APMTP under this or any other of its Agreement with APMTP anywhere in India or otherwise. The Vendor agrees that it shall have no claim whatsoever including but not limited to compensation for loss of profit against APMTP in consequence of the termination of Agreement as stated above.
- 16.4. If the Vendor's employees declare a strike which would include what is understood as a stay in strike or if there is suspension of work due to non-availability of personnel or any other cause or if the

progress of the work is affected due to shortage / inadequate provision of equipment / trailers / staff or any other failure on part of Vendor to do any work either in full or part as stipulated under the Agreement or deliberate slowdown of operations by drivers, APMTP shall be at liberty to carry on work under this Agreement through any other agency or by engaging trailers directly for the work and all expenses incurred on this account shall be at the sole risk and responsibility of the Vendor and shall be recovered from any money due to it or from its bank guarantee in case such Bank Guarantee is referred to in this Agreement.

- 16.5. The Competent Authority of APMTP (CEO/COO of APMTP) solely at its own discretion shall be empowered to consider waiver of the above mentioned non-conformity discount either wholly or in part.

17. RESPONSIBILITY OF VENDOR FOR LOSS OR DAMAGE

- 17.1. The Vendor shall be liable to compensate APMTP in full for all damages, losses and claims in respect of injuries or damage to any person or material or physical damage to property or any damage to container or cargo whether in the Vendor's possession or not, through negligence, misconduct, default or any other act of commission or omission of the Vendor or its agents or employees.
- 17.2. All costs, damages or expenses incurred by APMTP in this connection shall be recovered by APMTP from the Vendor. APMTP also reserves the right to retain any payments or part thereof due to the Vendor under the Agreement against such claims.
- 17.3. The Vendor agrees that the services offered under the Agreement is a crucial function for business of APMTP and that, any shortfall / deficiency in the Services rendered by the Vendor can cause serious losses / damages to APMTP. APMTP therefore reserves all rights to claim liquidated damages from the Vendor in case there is any loss caused to APMTP, without ascribing any justification to the amount claimed from the Vendor by APMTP. In case such damages as claimed are not made good within the stipulated time, then APMTP has the right to invoke the bank guarantee provided by the Vendor in case applicable under this Agreement; or to recover any amount so claimed from any payments under this or any other agreement/order that may be due to the vendor.
- 17.4. The Vendor's employees and representatives shall be granted permits to visit the Port for the purpose of work, on receipt of a formal written request. The Vendor shall be fully responsible for any injury (whether fatal or otherwise) to any of its representatives or for any loss or damage to property or for any other loss, damage, costs and expenses whatsoever caused which would not have arisen had such permission not been granted.
- 17.5. APMTP shall not be liable for any amounts remaining payable against hypothecation of the tractor trailer (**applicable as per nature of contract**) of the Vendor deployed for work at APMTP premises. Repayment of Loans taken by Vendor for purchase or for any other purpose, secured by the tractor trailer, is completely a responsibility of the Vendor and not of APMTP.

18. SAFETY AND BUSINESS PRINCIPLES

- 18.1. The Vendor shall at all times exercise all necessary precautions for the safety of all persons at the Port

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and the public, appropriate to the nature of the work and the conditions under which this Agreement is to be carried out. All safety precautions, approvals, licenses, as may be required under any applicable laws and regulations shall be obtained by the Vendor before commencement of work and the Vendor shall continue to keep them valid during the Term or any extension thereof. The Vendor shall comply with all statutory requirements and any directions provided by APMTP's HSSE department as set out under clause 43 of this GTA. The cost of the provision of all safety precautions, equipment and clothing shall be borne by the Vendor alone.

- 18.2. The Vendor shall ensure that its employees/personnel/workers/staff always wear Personal Protective Equipment (PPE) as per APMTP's policy at all times.
- 18.3. The Vendor shall ensure that it along with its employees complies with the business principles of APMTP which are set out in clause 43 of this GTA.

19. CONTROL OF VENDORS STANDARDS' COMPLIANCE (Fatal 5)

- 19.1. The Vendor shall conduct proper Risk Assessment for the work and shall submit to APM Terminals Pipavav, a mitigation plan for the risks identified before commencement.
- 19.2. The Vendor shall ensure before starting execution of the work that appropriate Permit to Work (PTW) is obtained, wherever necessary. The Vendor's supervisor at site shall always be in possession of the PTW. The Vendor shall also ensure that the PTWs are promptly closed before expiry of the same. The Vendor needs to submit the 'closed PTWs' along with their invoice for claiming payments.
- 19.3. The Vendor shall be subject to Consequence Management policy of APM Terminals Pipavav. Details of the policy shall be made available upon request by the Vendor.
- 19.4. Non Conformity Clause: In the event of unsatisfactory service or any failure at any time on the part of the Vendor, non-conformity charges shall be levied as detailed below. Penalty amount may change from works to works; however, the minimum penalty amount shall be as follows:

| S.No. | Nature of Non-Conformity | Penalty (INR) (per instance) |
|-------|---|------------------------------|
| 1 | Not following Standard Operating Procedure, Violation of safety rule. | 5000/- |
| 2 | Supervisory lapses | 1000/- |
| 3 | Sleeping on duty | 1000/- |
| 4 | Working without PPE | 1000/- |
| 5 | Non reporting of incident/accident | 1000/- |
| 6 | Not following APMTP Safety Policy | 1000/- |
| 7 | Working without PTW | 2000/- |
| 8 | Non-closure of PTW | 1000/- |
| 9 | Person working more than 12 hours if the same is repetitive | 3000 per person per shift |

| | | |
|----|--|-----------------------------|
| | | 5000/- per person per shift |
| 10 | Running of vehicle above fixed limit | 1000/- |
| 11 | Carrying of personnel in open space vehicles | 5000/- |
| 12 | Chewing and spitting of Tobacco, Gutka, Mava or any such substances in the port area | 500/- |

20. CONFIDENTIALITY

- 20.1. Each Party agrees to respect the other Party's proprietary rights in respect of the Confidential Information provided by such other Party, to use such Confidential Information exclusively for the purposes of or as contemplated by this Agreement, and not to disclose said confidential information directly or indirectly at any time whether during or after the termination of this Agreement to any third party save and except to its employees who have entered into a written confidentiality and non-disclosure agreement. The Vendor undertakes that all its workers/employees, agents and officers shall enter into a written confidentiality and non-disclosure agreement in respect of this Agreement and such written agreement shall comply with all the confidentiality obligations of the Vendor under this Agreement.
- 20.2. The Vendor shall ensure that neither the Vendor nor any of its workers / employees, agents and officers shall disclose to any third party at any time either verbally or in written form that the Vendor is undertaking the said Services to APMTP;
- 20.3. All Confidential Information, including copies thereof disclosed by APMTP to the Vendor pursuant to this Agreement shall on the expiry / termination of this Agreement and, at any time, upon request of APMTP be returned to APMTP;
- 20.4. Confidential Information shall not include any information which:
 - 20.4.1. is known to the receiving Party prior to receipt hereunder from a source other than one having an obligation of confidentiality to the disclosing Party;
 - 20.4.2. becomes lawfully known (independently of disclosure by the disclosing Party) to the receiving Party from a source other than one having an obligation of confidentiality to the disclosing Party;
 - 20.4.3. becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement; or
 - 20.4.4. is independently developed by the receiving Party without use of the Confidential Information of disclosing Party.
 - 20.4.5. The receiving Party agrees that it will not use the Confidential Information of the disclosing Party in any way, for its own account or the account of any third Party, except for the purpose of performing this Agreement after obtaining a written consent from the disclosing Party, nor will the receiving Party disclose the Confidential Information of the disclosing Party to any third Party except when required by law.

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Provided, that In the event that either Party is required by law to make any disclosure of any Confidential Information, by subpoena, judicial or administrative order or otherwise, such Party must first give written notice of such requirement to the other Party, and must permit such Party to intervene in any relevant proceedings to protect its interests in the Confidential Information, and provide full cooperation and assistance in seeking to obtain such protection. The receiving Party will take reasonable precautions to protect the confidentiality of such Confidential Information.

20.5. These aforesaid confidentiality obligations shall survive the termination of this Agreement.

21. REPRESENTATIONS AND WARRANTIES OF APMTP

21.1. APMTP hereby represents and warrants to the following:

21.1.1. It is a limited liability company duly incorporated and validly existing under the laws of India and has the power to carry on its business and more particularly the Function as it is now being conducted;

21.1.2. It has the power to enter into this Agreement and to exercise its rights and perform its obligations hereunder and that all necessary corporate and other actions required to authorize the execution of this Agreement and performance of its obligations hereunder have been duly undertaken;

21.1.3. The execution, delivery or performance of this Agreement or compliance with its provisions will not (a) contravene any existing law, statute, rule or regulation or any judgment, decree or order; (b) conflict with, or result in any breach of any of the terms of, or constitute a default under any other agreement or instrument to which it is a party; or (c) conflict with any provision of its Articles of Association or the Memorandum of Association or any other constitutional documents; and

21.1.4. It is entitled to appoint the Vendor for performing the Services inside the Port.

22. REPRESENTATIONS AND WARRANTIES OF THE VENDOR

22.1. The Vendor hereby represents and warrants to APMTP as follows:

22.1.1. It has the power to carry on its business as it is now being conducted;

22.1.2. It has the power to enter into this Agreement and to exercise its rights and perform its obligations hereunder and that all necessary corporate and other actions required to authorize the execution of this Agreement and performance of its obligations hereunder have been duly undertaken;

22.1.3. The execution, delivery or performance of this Agreement or compliance with its provisions will not (a) contravene any existing law, statute, rule or regulation or any judgment, decree or order; (b) conflict with, or result in any breach of any of the terms of, or constitute a default under any other agreement or instrument

to which it is a party; or (c) conflict with any other contract signed by the Vendor with any third party; and

22.1.4. It is free to undertake the Services inside the Port and under this Agreement in general;

22.1.5. It has a valid certificate of registration necessary to conduct its business in India issued pursuant to the applicable laws and it undertakes to renew the same from time to time and keep the same valid and subsisting during the entire Term of this Agreement;

22.1.6. It has all other necessary licenses, consents, permits and authorities necessary to carry on its business in the places and in the manner in which it is now carried on, all of which are valid and subsisting and will be kept subsisting during the Term of this Agreement;

22.1.7. It shall ensure that the tractor trailers used for providing the Services under this Agreement has all documents, permits, consents including but not limited NOC from Pollution Control Board, Vehicle Insurance and such other necessary documents for fulfilling the obligations under the Agreement. It shall keep all such documents, permits, consents valid and subsisting during the Term of this Agreement. **(this clause shall be enforceable if applicable to the Agreement)**

22.1.8. it is and shall at all times during the Term of this Agreement comply with the provisions of the Road Act and all other applicable rules, regulations, notifications, circulars and orders issued thereunder as also of all other applicable laws or statutory enactments;

22.1.9. it shall comply with all applicable international, federal, state, municipal and local laws, orders and regulations, including without limitation any applicable environmental and safety laws, orders or regulations local and national laws and regulations pertaining to its performance of its obligations under this Agreement. In addition, the Vendor shall comply with all reasonable policies and guidelines of APMTP from time to time, including but not limited to APMTP's Fundamental Business Principles, and APMTP's HSSE instructions;

22.1.10. all the tractor trailers provided to APMTP shall be of a first class quality and meet the APMTP specified standards set out at **Annexure A; (this clause shall be enforceable if applicable to the Agreement)**

22.1.11. all the individuals deployed by the Vendor or in the alternate on contract, to provide the Services to APMTP shall be skilled, trained and experienced to provide the Services to APMTP as per the terms and conditions of this Agreement;

22.1.12. all the personnel deployed to provide the Services to APMTP shall possess valid driving licenses, badge number and other necessary permits and have a good track record. They shall always follow the rules

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and regulations as specified by APMTM under **Annexure A** to this Agreement and clause 43 of this GTA;

- 22.1.13. all the personnel deployed by the Vendor to provide the Services to APMTM who are required to be insured under the workman's compensation policy shall at all times be so insured by the Vendor who shall also ensure compliance with all applicable industrial and labour statutes relating to the payment of wages and minimum wages and all other employee/workmen protection laws, maintain records as per the industrial and labour laws and rules, deduct and pay the provident fund contribution to the provident fund authorities, obtain all licenses, permits and approvals under all applicable industrial and labour laws.

23. LIMITATION OF LIABILITY

Notwithstanding any other term of this Agreement to the contrary, in no event shall APMTM be liable to the Vendor or any third party for any direct, indirect, special, incidental, consequential, punitive or exemplary damages or loss of any kind (including but not limited to loss of profit, loss of revenues and the like) howsoever caused, in connection with the Services whether arising out of an agreement, tort (including without limitation negligence) or otherwise.

24. INDEMNITY

The Vendor shall indemnify and keep indemnified APMTM, its officers and employees from and against all claims, demands, actions, suits and proceedings, whatsoever that may be brought or made against APMTM by or on behalf of any person, body, authority whatsoever and all duties, penalties, levies, taxes, losses, damages, costs, charges and expenses and all other liabilities of any whatsoever nature which APMTM may now or hereafter be liable to pay, incur or sustain by virtue of or as a result or the performance or non-performance or observance or non-observance by the Vendor of any of the terms and conditions of this Agreement and the Vendor binds itself and its successors and assigns to make good all costs, charges and expenses, claims, demands, penalties, fines, losses or damages which the Vendor may sustain or incur or become liable to pay as a consequence of any decree, award or orders of any Civil Court or Labour Court or Industrial Court or High Court and APMTM shall be entitled to realize all costs, charges, expenses, claims, demands, penalties, fines, losses or damages from the Vendor without APMTM raising any dispute or contention whatsoever in respect thereof. Without prejudice to APMTM's other rights, APMTM shall be entitled to deduct from any remuneration, or other dues payable to the Vendor, the amount payable by APMTM as a consequence of any claims, demands, costs, charges and expenses.

25. CODE OF CONDUCT IN VENDOR'S BUSINESS

- 25.1. APMTM prohibits engagement of the Vendor or its employees or its Sub-contractor during the term of this Contract from engaging directly or indirectly in any fraudulent behavior, corrupt practices, illegal actions, bribery or any other activity which is unethical, in violation of any prevailing law and also

against APMTM's fundamental business policy, or in any work, business or professional activities which could conflict with the activities assigned to the Vendor under this Contract.

- 25.2. The Vendor shall make all efforts to avoid any activities that may adversely reflect on the integrity of its business and shall always stand by ethical business practices. APMTM shall reserve the right to terminate the Contract within 30 days from the date of notice issued to the Vendor informing the Vendor of violation of this clause, if the Vendor fails to clear the defect within 10 days from the date of such notice.
- 25.3. Vendor undertakes to indemnify APMTM against any loss/claim/damage incurred by APMTM due to such Vendor's violation of the instant clause.

26. ILLEGAL GRATIFICATIONS

- 26.1. Any bribe, commission, gift or advantage given/promised or offered by or on behalf of the Vendor or its sub-contractor or agents or employee/personnel/ worker or any one on behalf of the Vendor to any employees(s) of APMTM or to any person on his or their behalf in relation to obtaining or executing this Agreement or any other Agreement with APMTM shall be treated as a material breach of contract and in addition to any criminal liability the Vendor may incur.
- 26.2. APMTM shall be entitled to rescind this Agreement and all other Agreements with the Vendor forthwith. APMTM shall also be entitled to hold the Vendor liable to pay to APMTM any loss/damage resulting from such decision and to recover the amount from any money due to the Vendor in respect of this and all other Agreements, between the Vendor and APMTM.
- 26.3. The Vendor and its directors, employees, agents, representatives shall not lend to or borrow from or have or enter into any monetary dealing or transaction either directly or indirectly with any of APMTM's directors, employee(s), representatives, agents and, if it shall do so, APMTM shall be entitled to terminate this Agreement forthwith.
- 26.4. In the event of any question or dispute by either Party as to the commissions of any offence or compensation payable to APMTM under this clause shall be settled by the APMTM's CEO or COO in such manner as he shall consider fit and sufficient and his decision shall be final and conclusive.
- 26.5. The Vendor shall forbid and take all possible steps within its powers to prevent all employees/workers/ laborers and other persons employed by him from demanding or receiving from any person other than the Vendor or its representatives, employees or its agents any remuneration or gratuity whatsoever.

27. Stamp Duty

The stamp Duty is to be borne by the contractor and in case of any dispute arises under this work order then responsibility of compliances about stamp duty liability as per the appropriate law is to be borne by Contractor

28. DATA PROTECTION:

- 28.1. Vendor shall be solely responsible for the collection, receipt, transmission, storage, disposal, use and disclosure of the confidential information (CI) and also for the unauthorized collection, receipt, transmission, access, storage, disposal, use and

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- disclosure of said CI under its control or in its possession by all Authorized Employees.
- 28.2. Vendor shall be responsible for, and remain liable to APMTP, for the actions and omissions of all its Authorized Employees concerning such data.
- 28.3. Vendor agrees that it shall:
- (i) Access, processing, exchange or management of said information by Vendor and its employees is limited to a need to know basis.
 - (ii) keep and maintain all information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure;
 - (iii) use and disclose the information solely and exclusively for the purposes for which the information, or access to it, is provided pursuant to this Agreement, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available said information for Vendor's own purposes or for the benefit of anyone other than APMTP, in each case, without APMTP's prior written consent; and
 - (iv) not, directly or indirectly, disclose any information to any person other than its Authorized Employees, without express written consent from APMTP unless and to the extent required by Government Authorities or as otherwise, to the extent expressly required, by applicable law, in which case, Vendor shall (i) use best efforts to notify APMTP before such disclosure or as soon thereafter as reasonably possible; (ii) be responsible for and remain liable to APMTP for the actions and omissions of a Third Party concerning the treatment of such information as if they were Vendor's own actions and omissions; and (iii) require the Third Party that has access to information to execute a written agreement agreeing to comply with the terms and conditions of this Agreement relating to the treatment of such information.
- 28.4. Vendor shall implement all administrative, physical and technical safeguards to protect information that are no less rigorous than accepted industry practices and shall ensure that all such safeguards, including the manner in which said information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.
- 28.5. At a minimum, Vendor's safeguards for the protection of such information shall include: (i) limiting access of such information to Authorized Employees; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, etc.
- 29. AUDIT**
- 29.1. APMTP shall be entitled to monitor the information usage by the Vendor upon furnishing a request to the Vendor for same.
- 29.2. APMTP shall also have the right to conduct regular audits and reviews at the Vendors premises relating to the information shared by APMTP.
- 30. TERMINATION**
- 30.1. The Agreement shall remain in force for the Term set out in Clause 2 of the Agreement unless mutually extended / renewed by the Parties.
- 30.2. This Agreement may be terminated by APMTP with or without cause upon 30 days' written notice.
- 30.3. APMTP reserves the right to terminate the Agreement forthwith and recover the expenditure incurred by APMTP on happening of the following events:
- 30.3.1. The Vendor or its agents or employees commit a breach of any of the terms and conditions of this Agreement and fails to cure such breach within 30 (thirty) days of receipt of termination notice from APMTP.
 - 30.3.2. The Vendor or any of its employees acting with / without authority is found guilty of any criminal act / conduct by any of the competent courts in India.
 - 30.3.3. The Vendor goes into liquidation voluntarily or otherwise.
 - 30.3.4. An attachment is levied or continues to be levied for a period of 7 days upon Vendor's equipment / infrastructure / tractors trailers or other equipment or the Vendor is otherwise prohibited from providing the Services as stated in the Agreement. **(applicable as per contract requirement).**
 - 30.3.5. After providing notice of 30 (thirty) days' for curing the breach, the progress regarding execution of work by the Vendor is found to be unsatisfactory.
- 30.4. In the event of termination on grounds stated in this Clause during the Term of this Agreement, the Vendor agrees that APMTP reserves the right at its sole discretion to appoint a third party of its choice to provide the Services for the balance Term of this Agreement including any extension thereof, if applicable. The Vendor shall, upon receipt of such a communication of termination from APMTP, withdraw all its equipment/tractor trailers **(if applicable to contract)**, from the Port or APMTP premises and allow such another party to function peacefully.
- 30.5. The Vendor also agrees that in such an event of APMTP appointing a third party service provider for execution of the Services during the balance Term of this Agreement, the Vendor shall make good for the additional expenditure incurred by APMTP due to APMTP requiring to appoint such third party service provider.
- 30.6. APMTP reserves the right to recover such dues/expenses payable by the Vendor to APMTP from any amount outstanding to the credit of the Vendor, including the pending bills and/or invoking the bank guarantee, if any, under this Agreement or any other Agreement/order.
- 30.7. APMTP shall also have the right to terminate this Agreement by serving a prior written notice of 30 days' for any reason whatsoever.
- 30.8. In the event of the Agreement being terminated by the Vendor, the Vendor is obligated to provide the Services to APMTP for such further period (maximum up to 4 months) as per the terms of this Agreement.
- 30.9. In the event of breach of clauses related to Confidentiality and Data Protection, APMTP shall be entitled to terminate the agreement immediately. The Vendor shall be responsible to return, transfer or destroy any shared information in the presence of APMTP.
- 31. EFFECT OF EXPIRATION OR TERMINATION**
- 31.1. On the expiration of this Agreement or any earlier determination thereof, the Vendor shall forthwith remove its employees and all other personnel

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deployed by it from the Port and every part thereof. On such expiry or earlier determination of this Agreement, the Vendor, its employees, agents, servants all other personnel, shall be deemed to be trespassers and on their failure to leave the Port, APMTP shall be entitled to remove them from the Port and also prevent them from entering into the APMTP Port.

- 31.2. It is agreed between the Parties that as a consequence of the termination or earlier determination of this Agreement, APMTP shall be under no legal obligation either to absorb or recruit the Vendor's deployed personnel / employees or to pay any compensation or otherwise to the Vendor or its employees.
- 31.3. On the expiry or termination or earlier determination of this Agreement, the Vendor shall not hold itself out as the Vendor or the ex-Vendor of APMTP.
- 31.4. On the date of expiration or termination of this Agreement, the Vendor and APMTP shall return to each other any equipment, material, confidential and/or proprietary information of the other Party.

32. INTELLECTUAL PROPERTY

- 32.1. Neither Party shall :
- 32.1.1. Have any rights to use in any manner whatsoever the other Party's intellectual property including trademarks, service marks and logos without prior written authorization of that other Party.
- 32.1.2. Use the name/logo of the other Party for any of its marketing or promotion activities without the prior written consent of the other Party.
- 32.2. Parties acknowledge that the respective intellectual property owned by each Party is unique and valuable and any threatened or actual Intellectual Property Infringement may result in immediate and irreparable harm, damage and/or injury to a Party for which there might not be an adequate remedy in law; therefore, the Parties agree that in the event of an actual or threatened Intellectual Property Infringement, each party shall be entitled to seek an injunction or any other order of a Court of competent jurisdiction as per clause 33 in addition to, and not in lieu of, any other available legal or equitable remedies.

33. FORCE MAJEURE

- 33.1. Any delay or failure in the performance by either Party hereunder shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism, accident, restraint of government, governmental acts, injunctions, labour strikes (of employees other than those of APMTP, the Vendor or its sub-contractors) and other like events that are beyond the reasonable anticipation and control of the Party affected thereby, despite such Party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a Party's failure to perform its obligations under this Agreement.

- 33.2. In the event of the occurrence of any such force majeure event, the affected Party shall promptly notify the other Party in writing of such occurrence as also the likely or anticipated period for which such force majeure event is likely to continue. Further, the affected Party shall take all commercially reasonable endeavors to perform its obligations under this Agreement during the continuance of such force majeure event.
- 33.3. If the affected Party fails to promptly notify the other Party in writing of the occurrence of a force majeure event, such affected Party shall have no right to appeal to the other Party on this ground for discharge from its liability.
- 33.4. In the event a force majeure event continues for more than 30 (thirty) days, either Party may terminate this Agreement in writing.

34. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION (ARBITRATION)

- 34.1. The laws of India shall govern this Agreement and the interpretation thereof. The Parties agree that courts at Ahmedabad shall have exclusive jurisdiction to try any dispute arising out of this Agreement.
- 34.2. Any and all disputes, differences, or claims or controversies that arise between the Parties hereto during the subsistence of this Agreement or thereafter under this Agreement or out of or in connection with the execution, interpretation, performance, or non-performance of this Agreement or any or all of the foregoing including the question as to the expiration of this Agreement and/ or termination by one Party hereto has been legitimate, the Parties hereto shall endeavor to settle such dispute amicably. The attempt to bring about an amicable settlement will be considered to have failed as soon as one of the Parties hereto, after reasonable attempts, which attempt shall continue for not less than 30 (thirty) days, gives 15 (fifteen) days' notice thereof to the other Party in writing.
- 34.3. In case of failure to resolve the dispute amicably, the dispute shall be finally settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996 or its statutory modifications in force for the time being.
- 34.4. All arbitration proceedings shall be conducted in the English language.
- 34.5. The arbitration shall be conducted by a sole arbitrator mutually agreed upon and appointed by the Parties ("Arbitrator"). In the event the Parties fail to mutually agree and appoint a sole arbitrator, the arbitration shall be conducted by a panel of 3 (three) arbitrators, consisting of 1 (one) arbitrator appointed by APMTP and the second arbitrator appointed by the Vendor, which arbitrators shall in turn appoint a third arbitrator, who shall preside as the presiding arbitrator (the "Arbitral Tribunal").
- 34.6. The award of the Arbitral Tribunal shall be final and binding on the Parties. The Arbitral Tribunal shall have the power to order specific performance of this Agreement.
- 34.7. The arbitration proceedings shall be held in Ahmedabad, India. Parties shall co-operate in good faith to expedite, to the maximum extent practicable, the conduct of any arbitral proceedings commenced under this Agreement.
- 34.8. The costs and expenses of the arbitration, including, without limitation, the fees of the arbitration, and including, without limitation, the

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fees of the Arbitral Tribunal, shall be borne by Parties equally, or as may be determined by the Arbitral Tribunal.

34.9. In the event a Party seeks to challenge the Arbitral Award, then the Courts in Ahmedabad, India shall have the jurisdiction for instituting a proceeding.

35. RELATIONSHIP

This Agreement shall be on a principal-to-principal basis and shall always be construed accordingly and nothing in this Agreement will be construed to make the Vendor an agent or partner of APMTP, wherein the Vendor will provide said Services as an independent entity. APMTP shall not be responsible for the acts of employees of the Vendor nor shall APMTP be liable for payments to employees of the Vendor. Under no circumstances will employees of the Vendor who are providing such Services be deemed to be employees of APMTP. The Vendor will have no authority to make any contract in the name of / or otherwise to bind APMTP or any of its subsidiaries or affiliates and shall not be deemed to be the agent of APMTP in any way. Furthermore, the Vendor shall not represent APMTP before any statutory body / tax department / bank / LIC or any other authority / ies without a specific written authorization from APMTP.

36. ENTIRE AGREEMENT

These terms form an integral part of the Agreement and together constitute the entire Agreement between the Parties hereto with regard to the Services and supersedes all prior discussions, understandings, agreements, letters, writings, documents and all other arrangements, whether written or oral in this regard. In the event of any conflict between the Agreement and these terms, the Agreement shall prevail.

37. NOTICE

37.1. Any and all notices given in connection with this Agreement shall be deemed adequately given only if in writing and addressed to the party for whom such notices are intended at the aforementioned registered address.

37.2. All notices shall be sent by personal delivery, FedEx or other overnight messenger service, or by first class certified mail, postage prepaid, return receipt requested.

37.3. A written notice shall be deemed to have been given to the recipient party on the earlier of (a) the date it is delivered to the address required by this Agreement; (b) the date on which delivery is refused at the address required by this Agreement; or (c) with respect to notices sent by mail, the date as of which the postal service indicates such notice to be undeliverable at the address required by this Agreement.

37.4. Any party hereto may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

38. AMENDMENT

No part of this Agreement may be waived, amended, modified or supplemented in any manner whatsoever except by a written document signed by the authorized representatives of both the Parties.

39. WAIVER

Any failure by any Party to exercise its rights or remedies hereunder or any delay by such Party in the exercise of any of its rights and remedies hereunder shall not, to the extent permitted by law, operate as a waiver or variation of such or any other right or remedy hereunder.

40. FURTHER ASSURANCES

The Vendor shall perform (or procure the performance of), all further acts and things, and execute and deliver (or procure the execution or delivery of) all further documents, required by law or which APMTP requests in relation to the commuting Services.

41. SURVIVAL

Clauses relating to Confidentiality, Limitation of liability, Indemnity, Arbitration, Notices shall survive the termination of this Agreement.

42. SEVERANCE/PARTIAL INVALIDITY

If any provision of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entirety of this Agreement, but rather, unless a failure of consideration would result, the entirety of this Agreement shall be construed as if not containing the particular invalid or unenforceable provision, and the rights and obligations of the Parties shall be construed and enforced accordingly. No covenant or provision shall be dependent upon any other covenant or provision unless so expressed herein.

43. APMTP HSSE Instructions

- (1) Drugs and alcohol is not allowed inside APMTP. Working or entering APMTP premises under influence of alcohol/ drugs is strictly prohibited.
- (2) Smoking inside APMTP strictly prohibited. Nobody is allowed to carry match box or any inflammable articles either in person or in vehicle including stove.
- (3) Talking on mobile phone while driving inside APMTP is prohibited.
- (4) Wearing of PPE, appropriate to the jobs, is compulsory. Otherwise basic safety kits like safety jackets, helmets & safety shoes should be worn when inside the Port by all.
- (5) All drivers shall strictly adhere to a maximum speed limit of 20 KMPH inside APMTP while on routine rounds (this restriction not applicable during emergencies and mock drills) and while driving seatbelt has to be worn.
- (6) Only those personnel having appropriate valid licenses are permitted to drive vehicle inside APMTP. Yellow board/Tourist permit vehicle shall only be used on agreement with APMTP. Tourist license is a must for driving tourist vehicles.
- (7) Walking is not allowed inside the Port. Shuttle Bus to be used even for a short distance travel inside the Port.
- (8) No person is allowed to sleep inside the vehicle while in APMTP.
- (9) All deployed persons should rush to nearby assembly area in case of emergency and follow instructions of APMTP staff.
- (10) Conduct and attend tool box talk daily; discuss about incidents/accidents occurred during previous shifts if any. Otherwise, shall discuss safety and security instructions.
- (11) Entry into restricted area is strictly prohibited.

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- (12) All deployed personnel of the Vendor shall undergo prior medical checkup and safety induction and basic trainings with the APMTP safety department prior to deployment for duty with APMTP.
- (13) It is mandatory for all the agents or employees of the Vendor including the tractor trailer drivers (**if applicable to contract**) to be in possession of the access card allotted by APMTP subject to fulfillment of certain conditions as listed out in this Agreement.
- (14) In case the access card is lost, a fresh access card shall be issued at cost of Rs.500/- (Rupees Five Hundred Only).
- (15) At the termination of this Agreement, the employee of the Vendor shall return the access card to APMTP. It shall be the responsibility of the Vendor to ensure that all the access cards allotted to its employees are returned back to APMTP. Rs 1,000/- (Rupees One Thousand Only) shall be charged for the loss/non return of each access card.
- (16) No weapon/arms of any nature shall be carried inside the Port premises of APMTP.
- (17) Explosives are banned in the port area.
- (18) All vehicles are subjected to security checks at gate at the time of entry and exit and the drivers shall co-operate with Security to get their vehicles checked thoroughly.
- (19) The Vendor shall provide police verification for its employees at the time of appointment inside APMTP.
- (20) The Vendor must ensure that none of its employees or personnel deployed to provide the Services has a criminal record.
- (21) Random alcohol and drug test shall be conducted on all the employees and personnel deployed by the Vendor at the Port as per the APMTP Policy.
- (22) Any other safety and security instructions as laid out in APMTP's Safety and Security Manuals shall be strictly followed.
- (23) Violation of APMTP's safety and security rules/instructions shall invite non-conformity discount as particularly set out under Annexure C to this Agreement.

Note: In case of any additions or modifications to these instructions, the same shall be communicated by APMTP's representatives to the Vendor during the Term of this Agreement.

44. APMTP's Fundamental Business Principles

At APMTP, our vision is to be a world-class company, known and highly respected, an attractive business partner and employer, and a good corporate citizen.

APMTP core values include regards for our employees, the demonstration of constant care, uprightness, humbleness and protecting our good name. Our reputation and success depend on the way we live these values while conducting our business. The purpose of APMTP Fundamental Business Principles is to outline the key principles that form part of our corporate citizenship. These principles govern how APMTP shall conduct its business. Compliance with applicable national as well as international legislation is obviously a necessary part of this.

- (1) **Corporate Citizenship Policy:** Being a good corporate citizen has always been an integral part of the way we do business. It implies that we believe in constant care and that we strive

to be upright, responsible and environment conscious in our activities, globally as well as locally.

- (2) **Business Behavior:** We recognize the power of good examples and the importance to communities of companies conducting business in an ethical and lawful manner. In all our activities, we strive to be role models for good business behavior. This includes acting according to high ethical standards, respecting local laws and culture. We are against corruption and it is our policy to work against corrupt practices by constantly focusing on anti-corruption measures that we are able to take as a company. This includes refraining from bribery. We expect the same from the Vendors / vendors engaged with us.
- (3) **Employees:** Our employees are one of our core values and we wish to create an inspiring Environment attracting the right people for us. This is pursued by offering a wide range of training, global job - rotation and other development opportunities for our employees. All our career development programmers are designed to promote learning and ensure that a career is not just a job but an exciting challenge with individual responsibilities and opportunities, and a lifelong learning experience. We provide safety and operational training to the Agreement employees engaged in APMTP.
- (4) **Equal Opportunity Employer:** APMTP is a multifaceted and diverse organization. With employees from all over the country, the understanding and acceptance of cultural and religious differences are a natural part of our mindset and behavior. We thus respect and use our difference as strengths on our daily work. We have implemented local and global practices that strive to ensure equal job, career, and reward and development opportunities throughout APMTP such as our global recruitment processes. We have a firm policy that any form of discrimination - or ridicule - pertaining to race, color, gender, sexual orientation, age, disability, language, religion, political or other opinion, cultural background, ethnicity or other distinguishing characteristics shall not be tolerated.
- (5) **Freedom of Association:** Open communication and direct engagement between employees and management is the most effective way to address workplace issues. We, respect the right of our employees to associate freely, join labor unions and/or join workers councils and to bargain collectively in accordance with local laws and regulation. We also recognize the right of our employees to refrain from collective representation. Our employees are free to communicate openly with management regarding working conditions without fear of reprisals, intimidation or harassment. Whereas we recognize freedom of expression, we do not accept any form of propaganda in our workplace. We expect the same from the vendors and Agreement employees engaged with us.
- (6) **Forced Labor and Child Labor:** APMTP does not employ children nor do we use forced labor in any form.

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- (7) **Environment:** In APMTTP we believe in sustainability, and we support initiatives that promote environment responsibility. Complying with environmental legislation is obviously fundamental, but where we believe it right, we shall strive to do more than what is simply necessary to comply with legislation, recognizing that individual contributions make a difference. We pursue a balanced and sustainable approach to long term economic growth and quality of life, while seeking solutions that help minimize the impact on the environment. Consequently, our Environment Policy is as follows:

APMTTP is committed to protect the environment from hazards related to the nature of the container Port business and ensure pollution free environment for the employees, agreement workers and visitors. Also review continually towards better working environment.

- (8) **Health and Safety:** We are committed to conducting our activities in a manner that protects the health and safety of all personnel working under our direction. Including vendors working at our facilities, and we seek to continuously reduce and mitigate health and safety risk at work. All our employees have, as prime responsibility, the obligation to protect themselves, their colleagues and third parties from any harm arising from our activities. Accordingly, our Health & Safety Policy is as follows:

44.1. APMTTP is committed to ensure that all employees, Agreement workers and visitors are protected from health hazards at their work place by preventing injuries and illness and make continuous improvement towards providing a better health for all of them.

44.2. APMTTP is committed to providing all personnel with a safe place of employment. It shall be company's objective to review policy continually and make improvement towards better safety for all personnel, Agreement workers and visitors within the ambit of related safety guidelines, regulations and legislation.

We encourage our employees to freely report ways and means that improve overall safety performance.

- (9) **Security:** It is our policy to seek to protect the group and its employees from illegal acts with respect to security and to show constant care to prevent breaches of security associated with our operations.

45. Compliance & Responsible Procurement.

45.1. Definitions

- (a) **Associated Person** means a Party's Affiliates, officers, directors, shareholders, employees, agents and other intermediaries, any other person acting directly or indirectly on its behalf.

(b) **Government** means any national or local government, including any department, agency or other instrumentality thereof, and any enterprise owned, managed or otherwise controlled by any government agency or instrumentality.

(c) **The word "including"** means including without limitation.

(d) **Public Official** means any (a) appointed official or any director, officer or other person employed in any capacity (i) at any level of Government, (ii) in a labor union controlled by any Government or political party, or (iii) in any public international organization, such as the United Nations or the European Union, including any department, agency or other instrumentality thereof, (b) any candidate or officer or other person employed by a political party, or (c) any person acting in any official capacity for or on behalf of any person or organization listed in (a) or (b);

45.2. Foreign Trade Controls.

(a) Vendor shall comply with all foreign trade control and export control legislation, regulations and sanctions applicable to the transactions that are the subject of this Agreement, including those imposed by the United States ("US") or the European Union ("EU") or any of its member states ("Foreign Trade Controls").

(b) As regards this Agreement, Vendor may not: 1) deal with any party that is subject to sanctions imposed by, or that is listed on any blacklist administered by, the EU or the government of the US or any EU member state, except with Company's prior written consent; or 2) undertake any action, which although not in violation of any applicable Foreign Trade Controls, could significantly damage Company's commercial or other reputation interests, including without limitation its commercial interests involving any government or major commercial business partner.

(c) To the extent any goods, software and/or technology) procured by Vendor on Company's behalf under this Agreement are subject to the such Foreign Trade Controls, Vendor shall, upon placement of an order by Company under this Agreement, or at an earlier date requested by Company, provide in a form satisfactory to Company a certification of the specific export/re-export classification of each of the Items, including the US export control classification number ("ECCN"), EU dual use item classification, or other relevant means of classification for dual use or other restricted items under relevant Foreign Trade Controls, such as those applicable to military related items. Vendor shall further identify the country of manufacture of all goods Delivered and whether 10% thereof comprises components or other content made/produced in the United States. Vendor shall maintain all documentation required under all relevant Foreign Trade Controls, and shall provide the same to Company without delay at Company's reasonable request.

45.3. Anti-Corruption, Competition and Sanctions Laws and Regulations

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- (i) Each Party represents that in the context of this Agreement
 - (a) neither itself nor, to the best of its knowledge, any of its affiliates, directors or officers has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption, competition or anti-money laundering laws or regulations and it has instituted and maintain policies and procedures designated to prevent violation of such laws, regulations and rules; and
 - (b) neither itself nor, to the best of its knowledge, any of its affiliates, directors or officers is: (i) the subject of any sanctions (a "**Sanctioned Person**") or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of sanctions broadly prohibiting dealings with such government, country, or territory (a "**Sanctioned Country**").
 - (ii) Each Party undertakes that it shall not:
 - (a) engage in any activity or conduct which would violate any applicable anti- bribery, anti-corruption, competition or anti-money laundering laws or regulations; and
 - (b) directly or indirectly, lend, contribute or otherwise make available any amount received under this Agreement to a Sanctioned Person or a person located in a Sanctioned Country or otherwise violate any applicable foreign trade control regulation or sanction.
 - (iii) **Audit and Inspection Rights:**

During the term of this Agreement, at the reasonable request of a Party with at least [three (3)] business days' prior notice, either Party may at its own expense during regular business hours [inspect] [have a mutually-agreed independent third party inspect] [the facility and] audit the other Party's books, records, and other documents as necessary to verify compliance with the terms and conditions of this Agreement
 - (iv) **Remedies:** If a Party breaches any of its obligations or representations in this Clause [45.3] (Compliance):
 - (a) such Party shall indemnify and hold the other Party harmless from all fines, penalties and all associated expenses arising out of or resulting from such violation. Notwithstanding the foregoing, no Party shall be liable for any indirect or consequential loss or damage or any loss or damage due to loss of goodwill or reputation; and
 - (b) the other Party may terminate this Agreement and recover from the violating Party as a debt the amount of any loss or damage resulting from the termination
 - (v) **Additional regulatory compliance covenants and remedies.**
 - a) Vendor warrants that all responses and related information that it has given to Company's regulatory-compliance questions prior to execution of this Agreement are, and undertakes that answers to all such subsequent questions shall be, accurate and complete. Vendor shall cooperate in any reasonable, additional regulatory or other compliance due diligence that Company determines is necessary to ensure compliance with this Clauses to this addendum.
 - b) Vendor shall save, indemnify, defend and hold harmless Company from all fines, penalties and all associated expenses arising out of or resulting from the violation by Vendor of any of its obligations in Clauses 2 and 3 above.
 - c) Company may terminate the Agreement and to recover from Vendor as a debt the amount of any loss or damage resulting from such a termination if Vendor commits an act which Vendor has undertaken not to commit, or has failed to undertake an act it has undertaken to perform, as included in Clauses 2 and 3, above, whether or not such act was committed before, on or after the date of this Agreement.
 - d) Vendor shall ensure that its sub-vendors comply with the provisions of the clauses in this addendum.
- (vi) **Responsible procurement**
- The Vendor 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, sub vendor selection, discrimination, data protection and privacy. Further the Vendor shall respect and commit to implementing APMM's Vendor Code of Conduct (the "Code") as amended from time to time and found at;
- <https://www.maersk.com/about/sustainability/third-party-code-of-conduct>
- 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 Vendor agrees to accommodating any potential audit pursuant to verification of the same by Buyer/APMM. The Vendor shall require their own Vendors to implement similar rules and as appropriate pass on such requirements to their sub-Vendors and so on. The original English version of the Code (as of March 2012) shall prevail in case of any disputes or discussions concerning the content and obligations of either Party.
- a) 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 Vendor's compliance with the previous Clause. Vendor shall cooperate

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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, Vendor shall, within a reasonable period of time at its own cost, charge and expense appoint an internationally well reputed third party auditor "Vendor's Auditor" to audit and verify all matters in connection with Vendor's compliance with the previous Clause.

Company's Auditor may conduct an audit of Vendor on behalf of Company at any time whenever it is considered necessary by Company.

If the audit has been conducted by Vendor's Auditor, the Vendor 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.

If the Company's Auditor or the Vendor's Auditor uncovers any material concern, Vendor 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.

- b) Vendor'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 Vendor 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 Vendor of a notice from Company requiring Vendor 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.

46. Goods & Service Tax related Compliances to be adhered to by the Vendor as attached GST clause.

- a. The Company/Firm undertakes to submit all the necessary information and documents including in particular, GSTIN of the Company/Firm, Company/Firm site, billing location, certificate of GST Registration and such other documents that may be required by Gujarat Pipavav Port Limited ('GPPL') to adhere to statutory compliances as applicable under the Goods and Service Tax ('GST') law. GPPL shall not be responsible for verification of GST registration number. Any tax Liability arising consequent to non-compliance of law or due to furnishing

of incorrect registration number shall be borne by the Company/Firm. In the event if the Company/Firm fails to furnish GST registration number, it will be treated as "unregistered"

- b. The Company/Firm acknowledges and agrees that it would adhere to all the applicable GST compliance and accept / modify / reject the output supply as mentioned in GSTR - 1 filed by the Company within the statutory timelines as may be prescribed from time to time by the Government. The Company/Firm undertakes to intimate in case of any modifications required to be made in outward supply mentioned by GPPL in GSTR -1 against the Company/Firm, to GPPL within the statutory timelines prescribed by the Government.
- c. The Company/Firm acknowledges and agrees that in the event any enquiry, scrutiny, audit assessment or any other tax proceedings are initiated against GPPL, the Company/Firm shall fully co-operate with GPPL by furnishing the relevant information related to the service provided by GPPL on timely basis as may be required by GPPL from the Company/Firm.
- d. In case the GST credit is denied, or demand is recovered from GPPL on account of any non-compliance by the Company/Firm, including non-payment of GST Charged and recovered, the Company/Firm shall indemnify GPPL in respect of any claims of Tax, Penalty, Interest, Loss, Damage Cost, expense and liability that may arise due to such non-compliance.

47. Other

- 47.1. The contractor before accepting the work order and before commencing the work shall thoroughly study and acquaint himself with the details, specification and nature of work, working conditions rate and terms of work order.
- 47.2. The contractor hereby agrees that he will pay all the necessary taxes & statutory requirements applicable for the equipment / Labour/ Technician supplied and furnishes the details of the same to GPPL. In case of any breach by the contractor he shall be solely responsible to make good all losses direct or consequential being caused to GPPL by his lapse.
- 47.3. Contractor shall maintain attendance & wage register which has to be certified and countersigned by the dealing department. Contractor shall arrange to remain compliant by virtue of availing Labor License, WC Policy & making PF Deposits As per certification by GPPL per attendance register. Deviations if any will be subject to GPPL withholding proportionate Payment against service charge bill as per advice. Withheld payment will be released against submission of deposit receipts. The GPPL shall reserve the right to terminate work order if contractor will not follow statutory requirement and provide required documents. Such termination by the GPPL shall be final and binding on the Contractor.
- 47.4. The contractor/s hereby agrees that he/they will comply with provisions of all labour laws, general and specific, the provisions of Factories Act,

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Minimum Wages Act, Payment of Bonus, Provident Fund, Workmen Compensation Act, PF Act etc. and extend all benefits available there under to the employees. In case of any breach by the contractor he shall be solely responsible to make good all losses direct or consequential being caused to GPPL by his/their lapse.

- 47.5. The contractor will be responsible for utilization of manpower for full shift, late arrival and early departure will be subject to proportionate recovery from service charge bill of the contractor
- 47.6. The contractor shall, at his own cost and expense, arrange all necessary insurances to cover his liability in respect of injuries to or death of his employees and those of the sub-contractors employed by him and damage to property of GPPL and any other third party arising out of or in the course of execution of the works.
- 47.7. In case of any delay/failure in providing the service or stoppage of service during the period of work/vessel operations, all demurrage and consequential damages claimed by the vessel and/or cargo interest for such delay/stoppage will be borne by the Contractor.
- 47.8. In case of any delay in carrying out the work, another party at the risk and cost of contractor shall complete it.
- 47.9. The contractor/s hereby agrees that he/they will give the undertaking in attached format that the workers/labours engaged by him have no background of any criminal/anti national activity
- 47.10. Contractor shall take all necessary precautions towards safety of human life, material, machinery etc. of GPPL and their customers/associates provide safety gear including Personal Protective Equipment like helmets, boots, high visibility jackets, seat belt etc. to his supervisors/operators/labours, as per safety norms / rules of GPPL and considering the nature of the work, all at his cost.

GPPL has fixed the limit of vehicle running in the port as under,

Outside custom bonded area – 40 km per hour

Inside custom bonded area – 30 km per hour

At Jetty – 20 km per hour

Chewing and spitting of tobacco, Gutka, Mava or any such substances in the port area is strictly prohibited. This is being implemented to ensure the safety and security of all personal working or operating within our port premises.

- 47.11. Carrying of personnel in open space vehicles is not permitted. This applies to all kind of vehicle i.e. pick up, dumper, tractor, chakra, trailer etc. Transfer of personnel will only be permitted in closed vehicles designed for such purpose. Also, number of persons sitting inside the vehicle should not exceed carrying capacity of the vehicle. Contractor shall arrange closed vehicle for transfer of their staff/labour in the port premises, at their cost and risk. This is being implemented to ensure the safety and security of all personnel working or operating within our port premises.
- 47.12. **SAFETY, HEALTH AND ENVIRONMENTAL REQUIREMENTS AND ETHICS**
- 47.12.1. Contractor is responsible for the safe delivery of service and shall give the highest priority to safety in order to avoid injury to any person and/or damage to any property and Contractor must strive for a continuous improvement of health, safety,

security and environmental performance and ensure that management of health, safety, security and environment is an integral and visible part of Contractor's work planning and execution processes.

- 47.12.2. Contractor shall monitor and evaluate its safety performance, as a minimum based on fatalities and number of Lost Time Injuries (LTIs), and take such actions as are required or appropriate to rectify and improve its overall safety performance and establish and maintain a casualty/emergency response plan to deal with unforeseen events, such as but not limited to fire and explosion, and carry out periodical drills - with the involvement of relevant employees, servants, agents and Subcontractors.
- 47.12.3. Contractor shall ensure that both contractor and its subcontractors shall comply with any local or international applicable health, safety and environmental laws, rules, regulations and any other requirements referred to by GPPL or any of the foregoing as may be varied or supplemented from time to time. All costs incurred in complying with this Clause 47.12 shall be for the sole account of Contractor.
- 47.12.4. Contractor shall ensure that its hazardous waste (including such waste that contractor is required to handle) is being collected, stored and disposed or recycled in an environmentally sound manner and shall further establish programs to monitor greenhouse gas emissions and waste amounts from its facility.
- 47.13. You shall ensure good conduct and proper behavior of your personnel, while they are on duty. In case any misconduct or misbehavior of your personal observed by any of our officer, penalty up to a maximum of a 10% on monthly bill value will be recovered from your bills. If any of the jobs entrusted to you are remaining in complete or not up to our satisfaction, in such cases penalty of Rs. 250/- per complaint will be deducted from your bill. Our decision in this regard will be final and binding on you.
- 47.14. The rates are inclusive of all taxes except GST, which are prevailing on the date of issue of work order, or imposed later on by Government/ statutory body. GST will be paid extra as applicable against appropriate supportive.
- 47.15. Any damage claims due to inefficiency in service, accidents etc. will be adjusted against the Contractor's monthly bill.
- 47.16. The Stamp Duty is to be borne by the contractor and in case of any dispute arises under this work order then responsibility of compliances about stamp duty liability as per the appropriate law is to be borne by Contractor.
- 47.17. Any disputes arising shall be subjected to Ahmedabad jurisdictions only.
- 47.18. All / Any differences arising and related to the WO shall be settled through mutual discussion and the decision of the GPPL will be final and binding on the contractor.
- 47.19. All taxes, duties, levies etc. with regard to this agreement shall be to the account of the contractor and no extra claim on this account shall be entertained by GPPL. Income tax if applicable shall

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- be deducted at source and proof of payment will be furnished to the contractor upon request. Service tax payable extra as applicable.
- 47.20. The contractor shall ensure proper safety standards, goggles, safety belts, gas masks, helmets, safety shoes etc must be used wherever required, as applicable. The contractor shall ensure usage of safety light provided by GPPL while on duty within customs bonded area.
- 47.21. The contractor is an independent contractor. It is agreed and understood that there is no nexus of employment or any employer-employees relationship between the GPPL and contractor employees and the contractor shall keep the GPPL indemnified in respect of any and all claims arising on account of the contractor employees.
- 47.22. This work order supersedes all earlier written and oral communication and understanding that may have been entered into between GPPL and the contractor, and shall constitute the entire agreement governing relationships between the parties.
- 47.23. The contractor shall be liable & keep GPPL indemnified from all costs & consequences arising due negligence/accident ensuring proper cover for 3rd party risks.
- 47.24. Contractor shall not engage in any sort of other business dealing with the customers of GPPL, unless confirmed by GPPL. If Contractor engaged staff is found not comply they will be liable for termination and further action may be prosecuted.
- 47.25. All the necessary tools tackle; consumables etc shall be arranged by the contractor. All such operational expenses shall be borne by the contractor
- 47.26. The Contractor shall comply with the regulations /instructions of the Port Facility Security Officer (PFSO) in order to ensure compliance of International Ship and Port facility security code (ISPS) by the Port.
- 47.27. Subject to the provisions contained herein the Contractor shall be responsible to make good all liabilities brought upon GPPL on account of loss or damage to the GPPL's property and/or any third party losses resulting from any act of failure, non-performance, omission or negligence of the Contractor or due to any other reason attributable solely to the Contractor, the Contractor shall make good all such liabilities by way of payment of penal charges upon receipt of a demand from GPPL to do so. The Contractor hereby undertakes to pay all liabilities brought upon GPPL on account of loss or damage to the GPPL's property and/or any third party losses resulting from any act of failure, non-performance, omission or negligence of the Contractor or due to any other reason attributable solely to the Contractor.
- 47.28. Please note that all vendors involved in working within the CBZ shall take permission from customs for deployment of labour or their equipment.

Gujarat Pipavav Port Limited

VENDOR