

GENERAL CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

We are pleased to be able to engage you for the purchase of goods and/or services. This document sets out the applicable general conditions.

1 Definitions

- 1.1 (i) **Goods** shall mean the Material(s), service(s), supplies of works as specified in this PURCHASE ORDER and any part thereof to be incorporated therein. (ii) **“Vendor”** means the party that supplies the goods, works, services and/or a combination thereof as specified in the agreement. (iii) **“PT2SB”** shall mean the Company or its Appointed Contractor, who places the Purchase Order. (iv) The **“Owner”** shall mean the Buyer’s client. (v) The **“Company”** shall mean **PENGERANG TERMINALS TWO SDN BHD** and/or its affiliates and/or its subsidiaries.

2 General

- 2.1 This general conditions apply to all offers and orders for the supply to, construction and/or performance of goods, works, services and/or a combination thereof by Vendor to PT2SB and to all agreements entered into with PT2SB in this regard.
- 2.2 The applicability of conditions of the Vendor of PT2SB is hereby expressly excluded.
- 2.3 Parties may only rely on any provision deviating from these general purchase conditions if and to the extent parties agreed such provision in writing.
- 2.4 The general purchase conditions shall also apply to all future offers to and agreements with PT2SB.

3 Offers, conclusion of the agreement

- 3.1 All offers or acceptances of orders by the Vendor are binding and irrevocable.
- 3.2 Agreements are binding upon PT2SB only if and as accepted and/or confirmed and/or otherwise laid down by PT2SB in writing.
- 3.3 In the absence of a binding agreement as described in article 3.2 or an order of PT2SB, the execution of supply of goods, works or services shall be for the full risk and account of the Vendor and does not bind PT2SB except and insofar as PT2SB accepts in writing.

4 Price

- 4.1 The agreed price includes all costs and rights, proper packaging, inspections, tests, certificates, (un)loading and transport charges, cost of insurance, duties, taxes, social security contribution, required permits, (compliance with) safety instructions, all other delivery costs, all other items specified in the agreement and similar costs that PT2SB may reasonably expect to be included in the agreed price.
- 4.2 The agreed price is fixed and in no event subject to any price increase or surcharge.

5 Payment

- 5.1 The Vendor will invoice PT2SB in accordance with the agreed payment schedule.
- 5.2 The invoices of the Vendor shall include: (i) the invoice number, (ii) the order number, (iii) certified copies of the time/material sheets earlier approved by PT2SB on which the Vendor has relied in calculating the amount of the invoice if no fixed price for the services or works has been agreed, (iv) the amount of GST together with the Vendor’s GST number if GST should be charged by the Vendor in accordance with the applicable legislation, (v) reference to the applicable part of the payment schedule, (vi) the G account number or local equivalent (if applicable) and (vii) details as to name, address and place of residence of all of Vendor’s personnel and any of its subcontractors engaged.
- 5.3 PT2SB will pay the Vendor within 30 (thirty) days of the receipt of an invoice complying with article 5.2.

6 Delivery

6.1 Delivery of goods shall take place on the basis of the INCO term DDP (Delivered Duty Paid) that applies at the date of the agreement.

6.2 The agreed delivery date is of the essence. The Vendor is automatically in default, without any notice of default being required, if the agreed date of delivery is not met.

6.3 The Vendor shall timely and adequately inform PT2SB in advance of the exact time of delivery and possible delays in delivery. The Vendor shall upon request provide PT2SB with a production and/or progress planning and shall enable PT2SB to verify the actual progress made.

6.4 When the Vendor encounters a delay in delivery, it shall as soon as practicable, but latest within 3 (three) days, give written notice to PT2SB of such occurrence. The notice shall specify: (i) the circumstances, (ii) the likely duration of the circumstances (if known) and (iii) a recovery plan with the steps necessary to remedy such occurrence.

6.5 Partial deliveries or deliveries scheduled before the agreed date of delivery require PT2SB's prior written approval.

6.6 Goods, works or services shall be deemed to be delivered only if delivered complete and fully in accordance with the agreement and including all related documentation such as test, quality, inspection and warranty certificates, drawings, maintenance and instruction manuals, user guides and, if applicable, signed certificates of acceptance.

6.7 The Vendor is responsible for obtaining all applicable certificates and all necessary approvals, import licenses, custom clearing and satisfy all excise duties.

7 Planning

7.1 The Vendor shall conform to the working hours and/or planning of PT2SB. The Vendor shall plan its work in such way that the activities of PT2SB and other (sub)contractors or suppliers of PT2SB are not interrupted or disturbed.

7.2 For peak times the Vendor shall provide for extra labor and have activities carried out in overtime or in shifts to the extent necessary for delivery in time to PT2SB and/or securing proper progress of the activities of PT2SB and other (sub)contractors or suppliers.

8 Packaging and transport

8.1 The goods must be marked to PT2SB's instructions and must be properly packed according to the requirements of transport and destination. The goods shall be packed in a way to prevent damage or deterioration during transport.

8.2 All packaging used shall be taken back by the Vendor upon first request of PT2SB.

9 Supporting materials, tools, energy etc.

9.1 The Vendor shall provide for all the auxiliary materials, tools, (personal protection) equipment including appropriate clothing and safety devices necessary for the execution of the agreement.

9.2 If by or on behalf of PT2SB auxiliary materials, tools, (personal protection) equipment or gas, electricity, light or water is made available to the Vendor, PT2SB is entitled to charge the costs thereof to the Vendor. The use of the materials, tools, (personal protection) equipment or energy made available shall be for the own risk and account of Vendor.

10 Contracting out

10.1 Without the written approval of PT2SB, the Vendor may not assign or subcontract the execution of the agreement in whole or in part to any third party, or make use of personnel of third parties.

10.2 Approval by PT2SB as referred to above shall not release the Vendor from any obligation under the agreement.

11 Inspection and testing

11.1 PT2SB is at all times and at any place entitled to (procure to) carry out inspections, tests and audits with regard to the goods, works or services ordered.

11.2 Inspection and/or testing by or on behalf of PT2SB do not release the Vendor from any obligation, warranty or liability.

12 Risk and title

12.1 Vendor warrants that the goods are not subject to any retention of title or any other (limited) rights of third parties. Upon the request of PT2SB, Vendor shall deliver proof of its full and unencumbered title to the goods.

12.2 Goods to be delivered and/or goods (of PT2SB) in respect of which works or services are supplied shall be for the account and at the risk of the Vendor until completion of delivery in accordance with article 6.6. The title to the goods (to be) supplied to PT2SB, transfers to PT2SB, at the latest when these goods are placed at a location of PT2SB or any of its agents or contractors.

12.3 If PT2SB makes any payment prior to delivery and acceptance, the title to the goods in respect of which such payment was made, and/or the parts or materials present at the Vendor's site that pertain to these goods shall pass to PT2SB at the time of payment. The Vendor shall identify and keep identifiable the goods it holds on behalf of PT2SB and give PT2SB free access to and control of such goods. The Vendor shall be considered to hold the goods on behalf of PT2SB and shall undertake to have the goods insured adequately with a reputable insurance company until the completion of the delivery as defined in article 6.6.

13 Intellectual and industrial property rights

13.1 The Vendor warrants that (the use of) the goods delivered and works or services supplied does not infringe any intellectual or industrial property right. The Vendor shall indemnify and hold PT2SB harmless for and against any claim by third parties in this respect, and pay any loss or costs incurred on the part of PT2SB in that respect.

13.2 Drawings, sketches, illustrations, designs, models, calculations, formulas, working methods, equipment and other such information and tools furnished by PT2SB or made under orders of PT2SB or made by or on behalf of the Vendor in connection therewith, and the intellectual and industrial property rights related thereto, shall vest in PT2SB only. PT2SB shall be considered as their maker and designer, all irrespective of whether they have been separately charged to PT2SB. The Vendor hereby to the extent necessary and possible transfers these rights to PT2SB and shall do all what is necessary or conducive to enable PT2SB to exercise these rights.

14 Confidentiality

14.1 The Vendor undertakes to keep strictly confidential the materials and all business and technical information provided to it by or on behalf of PT2SB (together to be referred to as: the "Confidential Information") and undertakes to only use the Confidential Information for the execution of the agreement. The Vendor undertakes to impose the same obligations on any employees and third parties which obtain Confidential Information for the execution of the agreement and warrants that such employees and third parties will comply with such obligations.

15 Business conduct, safety and environment

15.1 The Vendor, its employees and any third party it engages shall comply with all codes of conduct i.e. Anti-Bribery and Corruption Policy, rules and regulations PT2SB has in place pertaining without limitation to the relevant Safety, Health and Environment policy, Alcohol & Drugs policy, and the PT2SB Code of Conduct, as may be amended from time to time.

16 Warranty

16.1 The Vendor warrants that all goods delivered and works or services supplied shall be first class in terms of design, construction, performance, material, composition and quality in accordance with drawings, other documentation and the standards and specifications used by PT2SB, fit for the intended use, safe and in conformity with any government regulation, and that the goods delivered and works or services supplied are free from any defects in terms of design, construction, material or manufacturing.

16.2 PT2SB may rely on any warranty given or otherwise pertaining to the goods and/or works and/or services, irrespective of PT2SB having conducted any inspection or having filed any previous complaint.

16.3 A warranty period under the agreement shall mean a term from delivery within which the Vendor is required to arrange for repair of any failure or defect or redelivery at no charge and without prejudice to Vendor's liability under the agreement.

16.4 The warranty period on the part of the Vendor within which the Vendor is required to correct defects shall be at least 24 (twenty-four) months from the date of delivery.

16.5 If pursuant to this article (parts of) goods delivered and/or works and/or services supplied are replaced, repaired or altered, the full warranty period shall apply to these (parts of) goods and/or works and/or services as of the time of delivery.

16.6 If Vendor states that PT2SB is not entitled to invoke a warranty, Vendor shall have to prove the relevant facts.

16.7 Vendor (hereby) assigns all rights under warranties given by manufacturers or suppliers of goods, works or services forming (part of) the goods, works and services delivered to PT2SB. PT2SB (hereby) authorizes the Vendor to rely on such warranty rights, if necessary for the fulfillment of Vendor's obligations under this article 16.

17 Force Majeure

17.1 It shall include but not be limited to Acts of God, wars, rebellion, insurrection, acts of terrorists, acts of government (including legislative bodies), strike, boycotts, lockouts or other labour disturbances, or any other similar matters beyond the control of or which could not have reasonably foreseen and/or avoided by the party affected.

18 Taxes

18.1 The Vendor bears and shall pay all taxes, social security contributions, duties, levies and charges assessed on the Vendor, its subcontractors and the officers, employees and agents of the Vendor and the subcontractor, by competent authorities in connection with the supply of goods and/or works and/or services.

18.2 The Vendor warrants complying with the obligations arising from social security laws and tax laws. The Vendor shall be liable for and hold PT2SB harmless from all damages, including interest, penalties and costs, incurred by PT2SB in relation to any claims of the tax authorities resulting from the Vendor's non-compliance with such laws. The vendor shall take all measures which PT2SB may reasonably require to avoid that it becomes liable for any claims and/or additional levies for social security charges and/or taxes related to personnel of or hired by the Vendor. The Vendor shall indemnify PT2SB against any claims and/or additional levies for social security charges and/or taxes related to the agreement.

19 Non-assignment

19.1 Without the written approval of PT2SB the Vendor is not permitted to assign its claims against PT2SB to any third party.

20 Suspension/Rescission/Termination

20.1 PT2SB is entitled to suspend its obligations in whole or in part and without any prior notice of default, if and when the Vendor fails to timely or adequately fulfill any of its obligations towards PT2SB, as well as in case of (filing a petition for) moratorium or bankruptcy of the Vendor, attachment of (a part of) the Vendor's property or the goods intended for the execution of the agreement, closing down or liquidation of its business.

20.2 Non-timely fulfillment as referred to in article 20.1 also is deemed to occur if the presumption is reasonably justified by the relevant facts that a delay will occur in the fulfillment of (part of) any obligation under the agreement.

20.3 PT2SB is entitled to terminate the agreement in the events specified in article 20.1 if the failure and/or occurrence have not been fully remedied within a period of 14 (fourteen) days from PT2SB's demand. PT2SB may terminate the agreement without the observance of the 14 (fourteen) days period if the Vendor is already in default with respect to a contractual obligation. In the event of termination PT2SB is only obligated to compensate the Vendor at the pro rata price for works or services supplied and for goods already delivered, but only insofar PT2SB keeps the goods or the benefit of the works or services delivered, all this without prejudice to PT2SB's other right.

20.4 PT2SB is without cause and at any time entitled to terminate the agreement either in whole or in part by means of a 30 (thirty) days written notice. In this event, PT2SB is only obligated to compensate the Vendor at the pro rata price for works or services supplied or goods already delivered and for commitments already assumed by the Vendor for the execution of the agreement at the time of termination to the extent included in the agreed price. PT2SB is not liable for any other loss or damage suffered by the Vendor as a result of termination of the agreement

20.5 If due to an event of force majeure PT2SB or the Vendor is unable to fulfill its obligations under the agreement for a term exceeding 30 (thirty) days, either party shall be entitled to terminate the agreement by means of written notice against compensation at the pro rata price for works or services supplied or goods already delivered if PT2SB keeps the goods or the benefit of the works or services delivered.

21 Miscellaneous

21.1 Any reference in the general purchase conditions to PT2SB pertains to the user of these general purchase conditions or the legal entity that is specified in the order or accepted the order in writing only.

21.2 If a provision of the general purchase conditions is or becomes invalid or nonbinding, the parties shall remain bound to the remaining part of the general purchase conditions. The parties shall replace the invalid or non-binding provision by a provision which is valid and binding, and the effect of which, given the contents and purpose of the general purchase conditions, is to the greatest extent possible, equal or similar to that of the invalid or non-binding part.

21.3 If the Vendor is of the opinion that a provision of the general purchase conditions conflicts with another provision of the general purchase conditions, it shall inform PT2SB thereof. Within 7 (seven) days thereafter PT2SB shall advise the Vendor which provision prevails if PT2SB agrees that the provisions are conflicting.

21.4 If the agreement is a framework agreement, PT2SB, any subsidiary or affiliate of PT2SB, or any joint venture of the aforementioned partners and/or any other party that is part of the PT2SB Network (e.g. terminals operated by PT2SB but not majority owned) shall have without limitation the right to place orders under this agreement with application of the agreed terms and conditions, if and to the extent PT2SB approved the placing of such orders. The same applies to contractors of PT2SB who desire goods and/or services of the Vendor for delivery of goods and/or services to PT2SB. PT2SB shall not be liable in relation to orders placed under a framework agreement by any party other than PT2SB.

21.5 The obligations of the Vendor under article 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 will be of a continuing nature and survive the termination or expiration of the agreement.

21.6 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right power or remedy.

21.7 Except as otherwise provided in the general purchase conditions, the following principles shall be applied for the interpretation of these general purchase conditions: (i) the singular includes the plural and the plural the singular, (ii) references to "writing" include only letters (by courier, registered or unregistered), faxes and e-mail, (iii) the words "include", "including" and "includes" shall be deemed to be followed by the words "without limitation", and (iv) headings of clauses and annexes are for convenience only and shall not affect the interpretation of these general purchase conditions.

21.8 Each party must pay its own costs of negotiating, preparing and executing the agreement.

22 Governing Law & Arbitration

All disputes or disagreement arising from these terms and conditions may be referred to arbitration following the ICC Rules of Arbitration in Malaysia or to any Courts of competent jurisdiction in Malaysia. The proceedings shall be conducted at Kuala Lumpur, Malaysia. The Governing Law shall be the Law of Malaysia.

23 Cancellation / Term

For PT2SB shall have the right to cancel Purchase Order or part thereof by written notice to Vendor if: -

- i) Vendor fails to comply with the terms and conditions of the Purchaser Order and does not initiate to remedy such failure and/or prosecute with diligence and remedial action thereafter within 7 days after written notification from PT2SB of the subject of the default and specifying PT2SB'S intention to cancel Purchaser Order totality of partially; or
- ii) Any authority having jurisdiction takes or institutes any action or proceedings for the dissolution or liquidation of Vendor or for the suspension of its operations; or iii) Vendor is wound up or becomes insolvent or enter into a scheme of arrangement with its creditor to settle its debts or rearranging its financial structures or admits in writing its inability to pay its debts as they fall due; or
- iii) A receiver or manager is appointed for the benefit of debenture holders or other creditors of Vendor.

24 Contract Renewal

PT2SB has the option to renew the Contract for a certain period as per agreed terms in Letter of Award after the initial Contract period upon the same terms and conditions contained herein and at the agreed prices. Exercise of the renewal option is at PT2SB's sole discretion and shall be conditioned, at a minimum, on the Vendor's performance of the Contract and subject to availability of funds. PT2SB, if it desires to exercise its renewal option, will provide written notice to the Vendor no later than thirty (30) days prior to the Contract expiration date. The renewal term shall be considered separate and shall require exercise of the renewal option should PT2SB choose to renew the Contract.

25 Notice of Non-Renewal

Should PT2SB decide not to renew the contract at its conclusion, notice of such determination of non-renewal shall be given in writing to the Vendor no later than 30 days prior to the Initial Term expiration. However, failure to so provide notice of non-renewal shall not automatically renew the contract to the Extended Term