

Terms & Conditions

1 Terms

1.1 These Terms comprise:

(1) the terms set out below, any additional instructions or terms appearing on the Website in relation to Protected Services which the Registered User uses (together the “Registered User Terms”); and

(2) any terms from time to time agreed between the parties and described as special terms which apply to the access to or use of particular Protected Services (“Special Terms”);

1.2 The Registered User Terms set out the terms on which APM Terminals provide Protected Services and will apply to

(1) the Registered User if it is not already bound by the Registered User Terms (in which case the Individual User warrants that he is authorised to agree and does agree on the Registered User’s behalf to the Registered User Terms); and

(2) the Individual User acting on his own behalf, to the extent that such User utilises the Protected Services and/or the Website.

1.3 The Registered User Terms shall not affect, or form part of, the terms of any contract of terminal services or other services with APM Terminals.

1.4 Subject to the Registered User Terms, APM Terminals agrees to permit the Registered User to use the Website, Content and Protected Services as the parties agree.

2 Definitions

2.1 “Content” means any information, data, text, images, video or audio or any other materials available from APM Terminals via or generated on, posted to or uploaded to the Website or Protected Services;

2.2 “The Individual User” means the person identified in the “First Name” and “Last Name” fields of the registered user application form. “Individual Users” and “an Individual User” mean any other person identified, in the “First Name” and “Last Name” fields of a registered user application form which names the Registered User in the “Company” field.

2.3 “APM Terminals” means APM Terminals BV;

2.4 “Protected Services” means any services or facilities requested, made available or received via the Website;

2.5 “Registered User” means the entity identified in the “Company” field of the registered user application form;

2.6 “User Materials” means any information, data or other content or materials posted or uploaded by the User to the Website.

2.7 “Website” means those parts of the www.apmterminals.com website which require a credentials for access.

3 Authorisation to Use the Website

3.1 The Individual User shall, and the Registered User shall, ensure that Individual Users shall observe any term, instruction or agreement with APM Terminals in connection with the website at www.apmterminals.com and only access and use the Protected Services and the Content in accordance with the restrictions and conditions set out in the Registered User Terms and with any procedures from time to time in force on the Website.

3.3 APM Terminals is not liable for any delay or loss caused by the misuse or misapplication of Individual User credentials.

3.5 A Registered User and Individual Users may be unable to access or use any Protected Services unless the Registered User and/or Individual Users installs, implements and maintains appropriate communication facilities (including software and hardware meeting the minimum requirements from time to time notified by APM Terminals at www.apmterminals.com or otherwise). However, APM Terminals does not warrant that the local set-up of the Registered User and/or Individual Users in accordance with such minimum requirements will ensure access to, full functionality of or effective operation of the Website. The Registered User shall ensure that any party using such Protected Services on its behalf obtains any consents and/or licences required by law for such use.

4 Communications

4.1 When an Individual User accesses the Website, APM Terminals will implement an automated check that an apparently valid credentials has been applied. APM Terminals or its agents may treat any apparently valid communication, instruction or notification in the form received by APM Terminals apparently from an Individual User (“Communication”) as properly authorised by and legally binding upon the Registered User, even if in fact no such authority was given or if any Communication it receives was fraudulent or conflicts or appears to conflict with other instructions of the Registered User. APM Terminals and its agents shall be under no further obligation to check the authenticity of the Communication or the authority of the Individual User transmitting it.

4.2 Where APM Terminals or its agents have reason to believe that a Communication which any of them receives has not been properly authorised or that any breach of security or of the Registered User Terms has occurred, APM Terminals and its agents reserve the right at their sole discretion not to act or to delay acting upon the Communication.

4.3 The Registered User is responsible for the accuracy and completeness of Communications received by APM Terminals or its agents and for ensuring that they achieve the Registered User's intended purpose and that they are transmitted correctly to APM Terminals or its agents. APM Terminals and its agents are not liable for any delay or loss where the contents of a Communication they receive are inaccurate, incomplete or where a Communication is not received by them.

4.4 If the Registered User for whatever reason requests the cancellation or modification of a Communication which APM Terminals or its agents have received, APM Terminals will make reasonable endeavours to comply with the request. However, APM Terminals and its agents are not liable for any failure to cancel or modify such a Communication if such a request is received at a time or under circumstances that render it unreasonable to comply with the request.

5 Agency

5.1 If any Communication received by APM Terminals or its agents requires them to deal for the benefit of the Registered User (or on its behalf) with a third party, the Registered User appoints them to do so as its agent. The Registered User shall indemnify and hold harmless APM Terminals, its affiliates, associates and agents against any claims, losses, actions, proceedings, damage or other liabilities whatsoever (including damages or compensation paid by them to compromise or settle a claim), and all legal costs or other expenses, suffered by them as a result of, arising out of or otherwise relating to its activities as the Registered User's agent unless caused by APM Terminals's negligence.

5.2 Where APM Terminals or its agents pass Communications, information or content they receive to a third party or otherwise deal with a third party for the benefit of the Registered User (or on its behalf), APM Terminals and its agents are not responsible for:

(a) any delay or failure by the third party in processing the Communication, information or content; or

(b) the use of or reliance on any Communication, information or content by the third party.

6 Payment

6.1 The Registered User will promptly pay all fees and charges applicable to any product or Protected Service within the time and in the manner for payment specified on the Website or as otherwise specified by APM Terminals.

6.2 All sums specified on this Website or otherwise are exclusive of any sales and/or any other taxes relating to the supply of the products or services which shall be paid by the Registered User at the applicable rate.

7 Security

7.1 The Individual User and the Registered User agree to comply with any reasonable instructions APM Terminals may from time to time issue to them regarding the Website's security. The Registered User agrees that it shall implement, maintain and keep current appropriate security arrangements concerning its and Individual Users' access to and use of the Website, Protected Services, Content and information stored on the Registered User's and Individual Users' computer systems. The Individual User, the Registered User and APM Terminals shall each take all reasonable precautions to ensure that their communications through the Website and their own systems are not affected by computer viruses or other destructive or disruptive components, and to ensure no such components are transmitted to or via APM Terminals or the Website.

7.2 APM Terminals shall apply commercially reasonable security measures in relation to the Website. The Registered User confirms that the level of security provided by the proper use of the user credentials is adequate to protect its interests.

7.3 The Individual User and the Registered User must not reverse engineer, decompile or otherwise interfere with or publish or make available to any third party the credentials or any other software, data, tools or facilities made available to them in connection with the Website or the Protected Services.

7.4 The Individual User and the Registered User must notify APM Terminals as soon as reasonably possible upon becoming aware of any actual or attempted unauthorised access to the Website or any unauthorised transaction or attempt to execute an unauthorised transaction in connection with the Protected Services or any other circumstance that might be reasonably likely to result in any prejudice to the security of the Website.

7.5 The Individual User shall not, and the Registered User shall ensure that it, its employees and representatives do not do anything which may result in the security of the Website, Protected Services, Content, or the systems or security of APM Terminals or its affiliates, associates, agents or any other parties, being compromised.

8 Copyright/Other Rights

8.1 Ownership of all copyrights, database rights, patents, trade or service marks, product names or design rights (whether registered or unregistered), trade secrets and confidential information and any similar rights existing in any territory now or in future (“Intellectual Property Rights”) and similar rights and interests in all domain names, trade marks, logos, branding appearing on the Website and all Content, or otherwise relating to the structure of the Website and the Protected Services vests in APM Terminals or its licensors.

8.2 The Individual User and the Registered User may use this Website, the Content and Protected Services only for the purposes reasonably anticipated on the Website or as otherwise might reasonably be expected in the course of their relationship with APM Terminals and in accordance with any procedures from time to time in force on the Website. The Individual User and the Registered User may not:

(1) use or permit any other party to use all or any part of the Website, Content or Protected Services in connection with activities that breach any relevant laws, infringe any third party’s rights, or breach any applicable standards, content requirements or codes;

(2) post to, upload to, temporarily store on (if such facility is provided) or transmit through, the Website any information, materials or content that might be or might encourage conduct that might be unlawful, threatening, abusive, defamatory, obscene, vulgar, discriminatory, pornographic, profane or indecent;

(3) use the Website for the purpose of or as a means to send “flame” or “spam” emails.

8.3 The Individual User and the Registered User shall procure the waiver of any moral rights in any information, data or other content or materials posted or uploaded at any time by the Individual User to the Website (“User Materials”). The Individual User and the Registered User hereby irrevocably authorise APM Terminals and its licensees to use any User Materials for all reasonable business purposes, including without limitation copying, amending, incorporating in other materials, publishing or otherwise providing to third parties (and permitting such third parties to use and sublicense the User Materials) anywhere in the world any such User Materials. The Individual User and the Registered User agree to take any steps (including completing any further document) that may be required in any jurisdiction to give effect to this clause.

8.4 APM Terminals does not warrant or represent that the Registered User’s, Individual Users’ or any other party’s use of the Website, Content or the Protected Services will not infringe rights of third parties.

9 Warranties

9.1 APM Terminals will use reasonable endeavours to make the Protected Services available to the Registered User via the Website and to ensure that the Protected

Services operate in substantial conformity with their description and any description appearing on the Website.

9.2 APM Terminals will use reasonable endeavours to ensure that the Content accurately reflects either

(1) the relevant part of APM Terminals's records held on APM Terminals's computer systems; or

(2) information received from a party other than APM Terminals. Certain Content may be labelled as indicative only, in which case APM Terminals makes no warranties at all in relation to its quality, accuracy, completeness or timeliness.

9.3 The Registered User and the Individual User are responsible for the accuracy and completeness of any User Materials. The Registered User and the Individual User shall ensure that the User Materials do not infringe any Intellectual Property Rights or other right of any third party and are not defamatory, unlawful, immoral or otherwise likely to breach or infringe any right or requirement or to give rise to any claim for loss or damage by any third party. The Registered User and the Individual User shall jointly and severally indemnify and hold harmless APM Terminals and its affiliates, associates and agents against any claims, losses, actions, proceedings, damage or other liabilities whatsoever (including damages or compensation paid by APM Terminals to compromise or settle a claim) and all legal costs or other expenses, suffered by APM Terminals or its affiliates and associates as a result of any actual or potential breach of this clause 9.3.

10 Hyperlink Websites

10.1 The Website may contain certain links or references to websites operated by third parties. APM Terminals makes no warranties or representations whatsoever regarding any third party website which the Registered User or the Individual User may access through this Website or which the Registered User or the Individual User may use or access to enable access to or use of this Website and any of its Content or Protected Services. Any such website is wholly separate and independent from this Website and APM Terminals does not have any control over the content or operation of such website. APM Terminals does not endorse any third party website and does not accept any responsibility for the existence, operation, content or use of such website.

10.2 The Registered User or the Individual User may not place hyperlinks to any area of this Website.

11 Liability

11.1 The total liability of APM Terminals, its affiliates, associates and agents to the Registered User, the Individual User and any person acting on their behalf, howsoever arising out of or in connection with the Registered User Terms and/or the

Website, Protected Services or Content (including in relation to negligence) shall, in aggregate, in respect of any claim, or series of connected claims arising out of the same cause in any calendar year, not exceed USD 10,000 (United States Dollars Ten Thousand).

11.2 The Registered User shall ensure that no claims for more than the aggregate limit of liability set out in clause 11.1 are brought against APM Terminals, its affiliates, associates or agents.

11.3 The Registered User is advised to obtain, if it considers appropriate, insurance cover at its cost, in particular for any loss exceeding the limit set out in clause 11.1 above.

11.4 The Registered User shall indemnify and hold harmless APM Terminals, its affiliates, associates and agents against any claims, losses, actions, proceedings, damage or other liabilities whatsoever (including damages or compensation paid by them to compromise or settle a claim), and all legal costs or other expenses, suffered by APM Terminals, its affiliates, associates and agents arising out of any actual or potential breach by the Registered User or any of the Individual Users of any duties or obligations (including negligence) owed by the Registered User or any of the Individual Users to APM Terminals or its affiliates, associates or agents relating to the Registered User Terms, the Website, the Protected Services, User Materials or Content.

11.5 Nothing in these Registered User Terms shall exclude or limit liability for death or personal injury resulting from negligence or for fraud on the part of APM Terminals.

11.6 Except as set out in these Registered User Terms APM Terminals, its affiliates, associates and agents shall have no liability whatsoever in respect of Protected Services, Content, User Materials or the Website howsoever arising (including, without limitation, under any implied warranty, condition or term).

12 Termination and Suspension

12.1 APM Terminals may (in its discretion) may amend the Registered User Terms at any time. Additionally APM Terminals may (in its discretion) terminate all or part of any Individual User's and/or Registered User's access to or use of the Website, Protected Services, Content,:

12.1.1 Immediately on giving written notice if:

(1) the Individual User or Registered User fails within 7 days of written notice from APM Terminals to make any payment;

(2) the Individual User or Registered User is in material or persistent breach of any provision of any part of the Registered User Terms and, in the case of breaches that may be remedied, fails to remedy that breach within 7 days of request; or

(3) in relation to the Registered User, an order is made or a resolution is passed for its winding up or if an order is made for the appointment of an administrator to manage its affairs, business and property or if a receiver is appointed of any of its assets or undertakings or if circumstances arise which entitle a court or a creditor to appoint a receiver or manager or provisional liquidator or which entitle a court to make a winding-up order in relation to it or if it enters into any other formal or informal insolvency process in any relevant jurisdiction; or

12.1.2 On giving 14 days' written notice.

12.2 The Registered User may terminate any individual set or sets of Special Terms or its use of the Website and/or its Protected Services:

12.2.1 immediately on giving notice if:

(1) APM Terminals is in material or persistent breach of any provision of the Registered User Terms and, in the case of breaches that may be remedied, fails to remedy that breach within 7 days of request; or

(2) in relation to APM Terminals, an order is made or a resolution is passed for its winding up or if an order is made for the appointment of an administrator to manage its affairs, business and property or if a receiver is appointed of any of its assets or undertakings or if circumstances arise which entitle a court or a creditor to appoint a receiver or manager or provisional liquidator or which entitle a court to make a winding-up order in relation to it or if it enters into any other formal or informal insolvency process in any relevant jurisdiction; or

12.2.2 on giving 14 days' written notice.

12.3 The Individual User may terminate any individual set or sets of Special Terms insofar as they relate to the Individual User on giving 14 days' written notice.

12.4 Termination of all or part of the agreement between APM Terminals and the Registered User shall automatically terminate the relevant part of the agreement between APM Terminals and the Individual Users.

12.5 From time to time APM Terminals may suspend some or all access to or use of the Website, Content, Protected Services or User Materials for scheduled or unscheduled routine, non-routine or emergency maintenance or for any other reason where APM Terminals reasonably considers it necessary to do so. In the event of such a suspension, APM Terminals will, where reasonably practicable, use reasonable efforts to give notice of the suspension via the Website beforehand.

12.6 Termination of these Registered User Terms will not affect the rights and remedies of the parties accrued prior to termination, nor affect any provision intended to continue after termination.

13 Miscellaneous

13.1 If a conflict arises between:

(a) these Registered User Terms and the general terms of use of the www.apmterminals.com website, these Registered User Terms shall prevail to the extent of that conflict;

(b) these Terms and any Special Terms, those Special Terms shall prevail to the extent of that conflict.

13.2 Use of the Website, the Protected Services or the Content may be subject to certain legal or regulatory requirements in particular jurisdictions. The Individual User and the Registered User may only access or use the Website, Protected Services or Content to the extent such access or use is permitted in the jurisdiction in which they access or use the Website, Protected Services or Content.

13.3 APM Terminals may make modifications to the Registered User Terms at any time (including the addition of new products, Content or Protected Services or changes in fees, rates or charges for their use) without prior notice. However, in respect of changes in fees, rates or charges APM Terminals shall, insofar as reasonably practicable, give the Individual User or the Registered User not less than 14 days' notice. Subject to the right to terminate under clauses 12.2 and 12.3, the change shall take effect on the date of expiry of the notice. Exceptionally, APM Terminals may give a shorter notice period (other than in the case of any variation to fees, rates or charges) as it deems reasonably necessary for the effective operation of the Website or Protected Services (in which case the Registered User or Individual User shall be entitled to terminate its use of the Protected Services, and/or the Website with immediate effect by giving written notice at any time during such notice period).

13.4 APM Terminals may give notice in writing to the address (or the email address) specified by the Individual User in the registered user application form (or a subsequent address notified to APM Terminals from time to time) or via the Website. Service of any notice on the Individual User shall (if applicable) also be deemed to be service on the Registered User. Proof of posting or transmission of any notice shall be deemed to be proof of receipt of the notice at the time when the notice would in the ordinary course be delivered or received. Any notice sent via the Website shall be deemed to have been received when the notice is first available through the Website for access by the Individual User.

13.5 APM Terminals and its affiliates, associates and agents will not be liable for any loss (including without limitation loss of profit), damage, delay or failure in performing any of its duties relating to the Registered User Terms caused in whole or in part by the action of any government or governmental agency, natural occurrence, law or regulation (or any change in the interpretation thereof), injunction, currency restriction, sanction, exchange control, industrial action (whether involving its staff or not), war, terrorist action, equipment failure, interruption to power supplies or anything else beyond its reasonable control.

13.6 The Registered User Terms supersedes all previous agreements, communications, representations and discussions between the parties relating to the

Website. Save as expressly stated, no party will have a right of action against APM Terminals or its affiliates, associates or agents arising from any previous agreement, communication, representation and discussion in respect of the Website (except in the case of fraudulent misrepresentation) and it is acknowledged by the Registered User and the Individual User that they have not relied on any terms, warranties, representations or conditions other than those expressly stated in the Registered User Terms. No modification or waiver shall be binding on APM Terminals unless it is in writing and agreed by an authorised representative of APM Terminals.

13.7 References in the Registered User Terms to “in writing” or “written” include communication by email or other electronic form. References in the Registered User Terms to the singular include the plural and vice versa.

13.8 Each of the provisions of the Registered User Terms is severable from the others and if one or more of them becomes void, illegal or unenforceable, the remainder will not be affected in any way.

13.9 The rights of APM Terminals, its affiliates, associates and agents under the Registered User Terms may be exercised as often as necessary and are cumulative and not exclusive of their rights under any applicable law. Any delay in the exercise or non-exercise of any such right is not a waiver of that right.

13.10 The Registered User and the Individual User may not assign, part with or otherwise transfer any right or benefit under any provision of the Registered User Terms without APM Terminals’s prior written consent.

13.11 APM Terminals may assist or co-operate with authorities in any jurisdiction in relation to any direction or request to disclose personal or other information regarding any Registered User or Individual User or the use of the Website, Content or Protected Services.

13.12 APM Terminals’s affiliates, associates and agents (“Relevant Third Parties”) shall have the benefit of all provisions of the Registered User Terms which are expressed to be for their benefit, as well as the law and jurisdiction clause. In entering into the Registered User Terms, APM Terminals does so (to the extent of such provisions) not only on its own behalf but also as agent and trustee for such persons.

13.13 To the extent that clause 13.12 is not effective to give such benefit to any Relevant Third Party, it may enforce such provisions in its own name pursuant to the Contracts (Rights of Third Parties) Act 1999. The Registered User Terms may be varied or rescinded, by agreement or in accordance with its terms, without the consent of any Relevant Third Party.

13.14 APM Terminals may process, for the purpose of providing the Website and Protected Services, any personal information it receives from the Registered User and/or the Individual User in connection with the Registered User Terms. Such processing may take place in countries outside the European Economic Area. The Registered User and the Individual User warrant that processing of such information by APM Terminals in accordance with the Registered User Terms will not put APM

Terminals in breach of any applicable law, including without limitation the Data Protection Act 1998, or of the Registered User Terms.

14 Law and Jurisdiction

14.1 The parties agree that the Registered User Terms shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the High Court of Justice in London.