

STANDARD TERMS AND CONDITIONS OF SUPPLY (IMPORTED STEEL MATERIALS)

INDEX

1. GENERAL
2. QUOTATIONS AND ORDER ACCEPTANCE TERMS
3. PACKING, SHIPPING, INSURANCE & FREIGHT DETAILS, AND DELIVERY
4. GUARANTEE / WARRANTY
5. QUALITY CERTIFICATION
6. TERMS OF PAYMENT
7. INSPECTION AND TESTING
8. MISCELLANEOUS

ANNEXURE

1. STACS ACCEPTANCE FORMAT
2. BID BOND / EMD BANK GUARANTEE FORMAT
3. SECURITY DEPOSIT BANK GUARANTEE FORMAT
4. SHIPPING INSTRUCTIONS

ST-1 GENERAL

- **ST-101** The word 'Purchaser' refers to MAZAGON DOCK LIMITED, (MDL), a Company registered under the Indian Companies Act 1913 and it includes its successors or assigns.
- **ST-102** The word 'Manufacturer / Supplier ' means the person / firm / Company who undertakes to manufacture and or supply and or undertake work of any nature assigned by the Purchaser from time to time and includes its successors or assigns.
- **ST-103** The word 'Owner' means the person or authority with whom Mazagon Dock Limited (Purchaser) has contracted to carry out work in relation to which orders are placed by the Purchaser on the Manufacturer / Supplier under this contract for supply or manufacture of certain materials / items and would include Department of Defence Production & Supplies, Ministry of Defence, Government of India, the Indian Navy, the Coast Guard and any other specified authority.
- **ST-104** The Manufacturer / Supplier shall not either wholly or partly sell, transfer, assign or otherwise dispose of the rights, liabilities and obligations under the contract between him and the Purchaser without prior consent of the Purchaser in writing.
- **ST-105** Any letter, facsimile message, e-mail intimation or notice sent to the Manufacturer / Supplier at the last known address mentioned in the offer / order shall be deemed to be valid communication for the purpose of the contract.
- **ST-106** All contracts shall be deemed to have been wholly made in Mumbai and all claims thereunder are payable in Mumbai City and it is the distinct condition of the order that no suit or action for the purpose of enforcing any claim in respect of the order shall be instituted in any Court other than that situated in Mumbai City, Maharashtra State, India.

- **ST-107** The Purchaser reserves the right to accept and or reject any or all tenders and or to withdraw the tender in toto without assigning any reason whatsoever.

ST-2. Quotations and Order Acceptance Terms:

ST-201 Tenderer shall pay special attention to the following points. Failure to comply with these may disqualify the tenderer.

- a. Tender number and due date to be superscribed on all the envelopes.
- b. Tender to be submitted on or before the due date and time.
- c. Offer to be as per specifications and complying with tender conditions.
- d. The envelopes to be sealed properly.

ST-202 Unless otherwise stated, the offers shall be in 'Two Bid System' only, in two separately sealed envelopes: -

(a) PART-I - 'Techno-Commercial Bid' and marked thus. In addition, Part-I shall include-

- i. Proforma Price Schedule blanking the prices and indicating 'Quoted / Not Quoted' (as applicable against each item on tender) both on FOB as well as on C & F basis.
- ii. Duties / Taxes, freight charges, insurance and or any other Statutory levies payable, specifying incidence clearly / separately against each head.
- iii. Compliance Statement clearly highlighting deviations / exceptions, if any, to Technical Specifications / Standard Terms and Conditions of Supply, Specific Tender Conditions. Non-specifying of deviations against any or all clauses would be construed as compliance to any / all conditions of tender. Any deviations to STACS, having financial implications, would be considered suitably for loading the quoted price. (STACS Acceptance Format is placed at Annexure 1).
- iv. Earnest Money Deposit @ 2% of the total bid value by way of a bank guarantee from a bank of international repute or value of Bid Bond as stipulated in the tender, to be provided by overseas bidder / supplier as per format provided by the Purchaser. (Format placed at Annexure 2).
- v. Tenderers shall confirm that they are in possession of valid Export Licence and shall be able to obtain necessary export clearances well in time to meet accepted delivery schedule. A copy of the Export Licence is required to be enclosed in support of such confirmation.
- vi. Copy of IS 9000: 2000 or equivalent Quality System Standards certificate valid as of date.
- vii. Delivery Schedule.

(b) PART-II - 'Price Bid' - Quotes to be written in figures and words duly authenticated / signed by the authorised person and marked thus.

ST-203

a) Both these sealed envelopes-Part I and Part II, shall be put in a third envelope duly super scribing the Tender number and Due Date for closing and sealed properly and

deposited as specified in the enquiry by 14.00 hrs in the Tender Box kept at Materials Group, 2nd Floor, Mogul House OR East Yard Commercial Section, VI floor, 'A' Building OR Offshore Commercial Section, 1st Floor, Mazdock House. Overseas Bidders / Tenderers shall forward their offers addressed to Additional General Manager (Materials), Deputy General Manager (Commercial - East Yard) OR Chief Manager (Commercial-Offshore), Mazagon Dock Limited, Dockyard Road, Mumbai 400 010, either by courier service or by speed post so as to reach 48 hours in advance of the due date of tender or by hand delivery before due date and time of tender closing. Purchaser shall not be responsible for any postal / courier delay and it is attributable solely to the tenderer.

b) Offer in "Two Bid System" received by fax / e-mail and or offer received beyond due date and time of tender is liable to be rejected.

ST-204 (a) The offer shall be valid for 90 days for acceptance and the prices shall remain firm and fixed until delivery of the full quantity of the goods in the Purchaser's Yard. If not, the Manufacturer / Supplier shall indicate the period during which the quoted price shall remain valid for supply of the materials / article/s contracted for supply to Purchaser's Yard for both on FOB as well as on C & F basis.

Should the Purchaser desire postponement of delivery of the materials / article within or beyond validity date of the offer, the Manufacturer / Supplier shall indicate –

i. the date by which such communication must be received by him for deferring delivery without any financial implication to the Purchaser,

and

ii. terms and conditions for effecting postponement of delivery beyond the price validity period.

(b) Purchaser reserves the right at his own discretion and without having to assign any reasons-

i. to consider placement of Purchase Order in part or in full against the tendered quantity.

ii. increase or decrease the quantities indicated in the Tender documents depending on actual requirement and subject to finalisation of Project.

iii. apportion the total quantity on order amongst qualified tenderers.

iv. reject the tenders submitted on either FOB basis only or on C & F basis only and or without keeping offer valid as required.

v. conclude contract(s) with successful tenderer(s) on FOB and or on C & F, Mumbai basis at Purchaser's option.

(c) The cost incidence against each head shall be clearly indicated for F.O.B. inclusive of packing, transport and delivery to port of shipment.

ST-205

The Manufacturer / Supplier shall inform the Purchaser in advance in case he is unable to participate in the tender for whatsoever reason. Failure to comply with this will be viewed seriously and consecutive three failure on the part of Manufacturer / Supplier to do so is liable for disqualification / debarring of the Manufacturer / Supplier from all future tender enquiries and or delisting from the list of 'Approved Registered Vendors.'

ST-206

Tenders will be opened on the tender due date after 15.00 Hours in the Materials Purchase-II Floor, Mogul House OR Commercial Section, East Yard OR Offshore Commercial Section, Mazdock House, as the case may be. Only authorised representatives of tenderers are permitted to witness the Part I tender opening, in case of Press Tenders only. Tender opening shall neither be delayed nor withheld / postponed on account of absence of any one or more Tenderers. All the envelopes marked as 'PRICE BID' received at the time of Tender opening will be noted and held unopened separately.

ST-207

In case of only Press Tenders authorised representatives of technically qualified tenderers, who have submitted EMD / Bid Bond, as applicable, and complied with tender terms, will only be permitted to be present and note the proceedings of the Price Bid - Part II opening in a manner as directed by the tender opening officers. Qualifying tenderers not present during price bid opening will not be parted with information on prices at a later date. EMD of unsuccessful tenderers will be refunded only on submission of original copy of 'Money Receipt' / Bid Bond will be returned within seven days of finalisation of order. EMD, if not claimed within one year from the date of notification to the tenderer for refund, will be forfeited.

ST-208

With the acceptance of the successful bidder's offer by the Purchaser, which is as per the Terms and Conditions of the tender, by means of LOI / Purchase Order, the Contract is concluded.

The Manufacturer / Supplier shall, on receipt of the Purchase Order, communicate his unconditional acceptance within two weeks of from the date of mailing / receipt of the same in its entirety, duly signed by the authorised person and without any qualification. Communicating acceptance of the Purchase Order subject to any other terms and conditions of the contract on the part of the Manufacturer / Supplier shall not bind the Purchaser in respect of those conditions which are less favourable to the Purchaser as compared with the conditions mutually agreed to and or stipulated in the Purchase Order. It shall be the responsibility of the Manufacturer / Supplier to enumerate specifically any error or discrepancy in the Purchase Order at the time of acceptance. Failure to do so shall make the Purchase Order binding on the Manufacturer / Supplier in all respects.

Any delay in acknowledging the receipt of the Purchase Order within the specified time limit or any qualification or modification of the Purchase Order in the acknowledgement of the Purchase Order by the Manufacturer / Supplier shall be a breach of the contract on the part of Manufacturer / Supplier. Compensation for the loss caused by the breach will be recovered by the Purchaser by forfeiting the Earnest Money, invoking Bid Security / Bid Bond given by the Manufacturer / Supplier. If the Manufacturer's / Supplier's bid contains

any condition and any correspondence which are contrary to the Notice Inviting Tender (NIT) then they shall be considered as superseded and void on the acceptance of the bid by the Purchaser.

Recovery of compensation by the Purchaser from the Manufacturer / Supplier by forfeiting the Earnest Money or by invoking the Bid Security / Bid Bond shall be regarded as cancellation of the contract which has come in to existence on the acceptance of the offer by the Purchaser.

ST-209 Security Deposit

The successful overseas Tenderer is required to submit Security Deposit @ 5% of the value of the Order in the form of Bank Guarantee by a bank of international repute, drawn in favour of Purchaser. The format for the same will be provided by the Purchaser (Annexure - 3). The Bank Guarantee will be returned only after the successful execution of the order. In the event of failure to execute the order satisfactorily or default by the Manufacturer / Supplier, the Security Deposit will be forfeited.

ST-210

Tenderers shall quote for invoicing against the supplies to be made on THEORETICAL weight basis only. (Weight @ 7.85 Metric Ton / Cubic Metre only will be considered). In case offer is made on 'Actual Weight Basis,' prices on Theoretical Weight basis will be computed by adding 3% of quoted prices towards difference in weight for the purpose of evaluation of offers. In the absence of any mention about basis for invoicing, it will be assumed that invoicing will be on Theoretical Weight Basis only.

ST-211

Order will generally be placed on FOB basis. However, at Purchaser's discretion, Order may be amended / converted to C & F basis also. The shipment to be consigned to CFS, Mulund, Jawaharlal Nehru Port for container cargo and Mumbai Port for break bulk cargo unless or otherwise indicated in the Purchase Order.

ST-3 Packing, Shipping, Insurance & Freight details and Delivery:

ST-301

Thinner Plates (i.e. Sheets) in thickness between 2 mm and 5 mm shall be packed in bundles and strapped at intervals of 1.5 Mtrs. lengthwise to protect from buckling during handling and transit. Each bundle shall have plates of same size and specification and shall not weigh more than 2 tonnes.

ST-302

Every package shall contain a packing list in triplicate and the order number, package number, number of pieces in the consignment, description and quantity of each item packed shall be clearly shown in the packing list. The description and quantity of each item shall tally with that specified in the order, wherever applicable.

ST-303

Storage and Demurrage will be claimed from the Manufacturer / Supplier for all shipments that reach the Purchaser without proper despatch documentations and not accompanied by packing lists, invoices etc. The Manufacturer / Supplier shall be responsible for such fines due to errors or omissions in description, weight or measurements and for increased handling charges due to improper packing.

ST-304 Shipping Instructions:

Shipments to be arranged as per shipping instructions detailed in Annexure - 4 to these '*Standard Terms and Conditions of Supply*'.

- i. Shipping arrangement of the consignment will be arranged by M/s. Transchart, Ministry of Surface Transport, New Delhi, through nominated Forwarding Agent. The Consignment has to be handed over to the respective forwarding Agents for onward despatch to Mumbai, India on Freight to collect basis, if the Contract / Order is on FOB terms.
- ii. In the event, the order is placed on C & F basis, the Insurance Premium will also be borne by MDL, as such it must be ensured that shipment is made on Vessels not more than 15 years old. If shipment is made on Vessels over 15 years, the difference between the Normal and Overage Insurance Premium applicable to such Vessels will have to be borne by the Manufacturer / Supplier.

ST-305 Insurance

Transit Insurance shall be arranged by Purchaser. Manufacturer / Supplier shall immediately on despatch of the items, inform the despatch details such as Order number, Bill of Lading number, number of packages, value of consignment, invoice number directly to New India Assurance Company Limited, General Insurance Department, Commerce Centre, First Floor, Tardeo, Mumbai - 400 034, Fax no.: 91-022-494 8559 and quoting our air / marine insurance policy number 130500 11 00 00126 dated: 25.08.2000.

ST-306

Where so stipulated in the order, the Manufacturer / Supplier shall render such reports from time to time as regards the progress of the contract and in such a form as may be called for by the Purchaser. The Purchaser reserves the right to cancel an order forthwith without any financial implications on either side, if on completion of 50% of the scheduled delivery period the progress of manufacture is not to the satisfaction of Purchaser / Owner and failure on the part of the Manufacturer / Supplier to comply with the delivery schedule is inevitable. In such an event the Manufacturer / Supplier shall repay all the advances together with interest at prevailing bank rates (presently @ 14.5% p.a.) from the date of receipt of such advances till date of repayment.

PE-4.0 Guarantee / Warranty

ST-401

Inspection and approval of the materials / items by the Inspecting Authority/ies does not absolve the Manufacturer / Supplier of the responsibility of guarantee for the materials / items. It will be the sole responsibility of the Manufacturer / Supplier to ensure that the materials / items supplied are complete in all respects and perform / meet their designed physical / chemical parameters.

ST-402

Defects notified, if any, are not remedied within a reasonable / stipulated time, the Purchaser may proceed to rectify the defects at the Manufacturer's / Supplier's risk and cost and or encash the Performance Bank Guarantee, but without prejudice to any other rights which the Purchaser may have against the Manufacturer / Supplier in respect of the failure of the Manufacturer / Supplier to remedy such defects. The Purchaser's decision shall be final and binding on Manufacturer / Supplier in this regard.

ST-403

The defective / rejected material noticed during receipt inspection stage or at manufacturing stage will be returned to Manufacturer / Supplier, if so desired by him, on FOB basis only and through nominated shipping agent to facilitate replacement. In the event Manufacturer / Supplier is not desirous of taking away the rejected material for any reason whatsoever, the applicable customs duty that will become payable shall be paid by / recoverable from the Manufacturer / Supplier.

ST-5.0 Quality Certification:

ST-501

Purchase preference will be considered in case the Manufacturer / Supplier is accredited with ISO 9000: 2000 or equivalent International Quality System Standards in respect of equipment / Products and or items on tender.

ST-502

The Manufacturer / Supplier shall submit as proof, in Part-I of the bid documents, a copy of ISO 9000: 2000 or equivalent international Quality System Standards certificate valid as of date.

ST-503

The Manufacturer / Supplier shall engage sub-contractors and avail supplies from suppliers with prior approval of Purchaser and such sub-contractors and suppliers shall also be accredited with ISO 9000: 2000 or equivalent international Quality System Standards.

ST-504

In the event the Manufacturer / Supplier is not being ISO 9000: 2000 accredited firm, the fact shall clearly be stated and the Quality Assurance / Quality Control organisation of the company be described in detail. Pursuant to scrutiny of such statement / documentation, the Purchaser may decide to accept the offer with pre-conditions specified for acceptance or reject the bid submitted.

ST-6.0 Terms of Payment:

ST-601

Unless or otherwise mutually agreed upon and stipulated in the Purchase Order, 90% payment of the Purchase Order value shall be made on collection basis within 30 days on presentation and receipt of the following documents by the Purchaser's Bankers. Letter of Credit will permit partial shipment.

- a. Original and four copies of Clean Bill of Lading / Airway Bill.
- b. Six copies of invoice showing item wise FOB prices along with packing lists.
- c. Certificate confirming that Manufacturer/Supplier have air-mailed directly to Purchaser the following non-negotiable shipping documents immediately on shipment: -
 - i. 3 Copies of Bill of Lading
 - ii. 3 Copies of Invoices.
 - iii. 2 Copies of Packing List.
 - iv. Copies of Certificate of Country of Origin issued by the Chamber of Commerce.
 - v. 3 Copies of Mill's Certificates / Manufacturer's Test Certificates.
 - vi. 3 Copies of Inspection Certificates.
 - vii. Manufacturer's / Supplier's certificate of Inspection and Approval as per Clause. No.ST-7.
 - viii. Manufacturer's / Supplier's warranty valid for three years from date of delivery against manufacturing defects.

- d. A Certificate along with Shipping Documents as under: -

"Certified that the goods shipped have been inspected and approved by the prescribed inspection authority in accordance with the terms of the contract / purchase order and required copies of the Inspection Certificates issued in this regard are enclosed."

- e. Certificate of country of origin, in triplicate issued by the Chamber of Commerce.
- f. Warranty certificate, in triplicate.

- g. Six copies of Manufacturer's Test Certificate / Mill's Test Certificate.
- h. Three copies of Certificate of Inspection and Approval from ABS / LRS / DNV/ BV / DOT / NMD or any other nominated Inspection Authority, (whichever is applicable).
- i. Certificate regarding Liquidated Damage/ Penalty vis-à-vis delivery schedule.

All the documents -Invoices, Packing Note and Bill of Lading clearly indicate the Purchaser's Order number, Import Licence Number, Bill of Lading Number and Date on Invoice and Packing Lists.

Balance 10% payment would be remitted through Bank Transfer after successful completion of receipt inspection at Purchaser's Yard after deducting liquidated damages as applicable and other deductions, if any, shall be recovered from the supplier.

ST-602 Liquidated Damages / Risk Purchase:

ST-602.1 In the event that-

- a. Manufacturer / Supplier (Seller) fails to deliver the materials / items or documentation meeting the requirement of the Purchase Order on or before dates specified, or
- b. the materials / items when tested in accordance with the performance requirement of the Purchase Order, fails to meet those performance parameters, the buyer (Purchaser) will suffer damages in an amount that is not susceptible to calculation with reasonable certainty. Therefore, any Liquidated Damages set forth in this Purchase Order represent a reasonable determination of the amount of damages that the Purchaser will suffer, and are not penalties. Seller hereby waives any defence to Purchaser's recovery of such Liquidated Damages on the plea that actual damages are ascertainable or that such Liquidated Damages do not represent a reasonable determination of damages suffered by Purchaser or are penalties.

ST-602.2

Manufacturer / Supplier will be liable to pay Liquidated Damages for late delivery of materials / items / documentation as stated in the Purchase Order. Unless otherwise expressly specified, the rate of Liquidated Damages for late delivery of product shall be at the rate of 0.5% of the total price of undelivered product per week of delay upto a maximum of 5% of the value of undelivered product. Such Liquidated Damages shall be deducted by the Purchaser from any monies due to Manufacturer / Supplier. Payments made by the Manufacturer / Supplier of Liquidated Damages shall be in addition to any other remedies (other than any other remedy for the recovery of damages) available to the Purchaser, including without limitation the remedy of cancellation of Order for default.

ST-602.3

If the materials / items or any portion thereof be not delivered by the scheduled delivery date, the Purchaser shall be at liberty, without prejudice to the right of the Purchaser to recover Liquidated Damages / penalty as provided for in these conditions or to any other remedy for breach of contract, to terminate the contract either wholly or to the extent of such default. Amounts advanced or part thereof corresponding to the undelivered supply shall be recoverable from the Manufacturer / Supplier at the prevailing bank rate of interest (currently @ 14.5% p.a.).

ST-602.4

The Purchaser shall be at liberty to purchase or supply from stock as it deems fit, other materials / items of the same or similar description to make good such default and or deficiency and or in the event of the contract being terminated, the balance of the materials / items of the remaining to be delivered there under. Any excess over the purchase price or value of any materials / items supplied from the stock, as the case may be, over the contract price shall be recoverable from the Manufacturer / Supplier.

ST-603

The amount under the contract will be paid through a Usance Letter of Credit. However, interest for the usance period will be borne by the Purchaser. This arrangement for credit period of 180 days will be made between the Purchaser's bankers and the Manufacturer's / Supplier's bankers. The Manufacturer / Supplier shall furnish the name and the branch of the bank they have dealings with along with a no objection letter to avail such a facility by the Purchaser.

ST-604

Payments made under Purchaser's one order shall not be assigned or adjusted to any other order except to the extent agreed upon in writing by the Purchaser

ST-7.0 Inspection and Testing:

ST-701

The Steel materials on order will be inspected by one or more agencies indicated below for Quality and Quantity and an inspection certificate(s) shall accompany the equipment.

Statutory : D. O. T. or N. M. D. or Governmental Agency.

Regulatory: Classification Society - L. R. S., A. B. S., D. N. V., B. V., etc.

Others : Owners, W. P. S. (Mb), MDL.

ST-702

It shall be the responsibility of the Manufacturer / Supplier to ensure that only such Steel materials as have been duly inspected, approved and certified by the Inspecting Authority, are shipped.

ST-703.

The Manufacturer / Supplier will have to also ensure that the Material to be supplied for receipt in Purchaser's yard must be in freshly rolled / produced condition or not earlier than 3 to 6 months old and conforming to quality of surface as specified in the Contract / Purchase Order / relevant Specification Standards. Material supplied will also be inspected on receipt in Purchaser's Yard by its representative / representative of its customer to establish the condition and correctness of material and documentations supplied for each consignment.

ST-704.

The Manufacturer / Supplier will have to also ensure that the following requirements are to met with and are to be overseen by the Inspection Authority –

- a. All Plates / Sections will have to be inspected and stamped by third party inspection agencies / Classification Society as per Purchaser's order requirements, with Certification that all tests having been carried out as per specification.
- b. Rimmed or capped Steel shall not be supplied / not acceptable. The material supplied is to be certified as sound and free from impurities and manufacturing defects, such as segregations, cracks, and laminations or surface flaws as might preclude their use for Shipbuilding application.
- c. Each piece of Plate / Section shall be legibly marked preferably by Hard Die Stamping for Heat / Cast Numbers / Plate Numbers for identification and by which the Steel can be related to the relevant Test Certificates.
- d. Manufacturers / Suppliers must supply duly signed relevant Test Certificates indicating the process of manufacturing, results of Chemical and Mechanical Tests including all specified tests for the material. Each Test Certificate shall bear the heat number and other identification marks such that the same shall be co-related with the material. Each Test Certificate 'MUST' bear Purchaser's Order Number.
- e. Test Certificates by the LRS / ABS / Classification Society /Nominated Inspection Agency must be provided in addition to the Mills' Quality Control Certificates endorsed by the Inspection Agency, in confirmation of having inspected the Steel as per specificational requirements.

ST-705

The decision of the inspecting authority or his agent, as the case may be, on any question of the intent, meaning and the scope of specifications / standards shall be final, conclusive and binding on the Manufacturer / Supplier.

ST-706

The Manufacturer / Supplier shall accord all facilities to Purchaser's / Owner's Inspectors / Nominated Agency to carry out Inspection / Testing during course of manufacture and final testing at Manufacturer's / Supplier's Works.

ST-8.0 Miscellaneous:

ST-801 Force Majeure

If at any time during the execution of the supply order, the performance in whole or in part by either Purchaser or and by the Manufacturers / Suppliers is / are prevented or delayed by any reason of force majeure situations such as acts of public unrest, civil commotion, sabotage, hostilities, war, fires, explosions, epidemics, quarantine restrictions, strikes, lock outs, natural calamities like floods, earthquakes, volcanoes, storms or any other causes beyond the control of either parties, hereinafter referred to as "events", provided notice of the occurrence of such event/s is / are communicated by either party, to the other party within 21 days from the date of occurrence thereof, neither party shall by reason such events be entitled to terminate the contract nor shall either party have any claim for damages against the other in respect of such non performance and or delay in performance of the contract / order. Executions on either side shall be resumed as soon as practicable after such event has come to an end or ceased to exist and the decision of Purchaser as to whether activities can resume or not, shall be conclusive and final.

The performance in whole or in part under the captioned tender / contract is prevented or delayed by reason of any such event for a period exceeding sixty days either party may at its option terminate the contract / further processing of the tender.

The Purchaser may extend the delivery schedule as mutually agreed, on receipt of written communication from the Manufacturer / Supplier regarding occurrence of 'Force Majeure' conditions, but not exceeding six months from the scheduled delivery date. If the 'Force Majeure' conditions extend beyond this period, the Purchaser shall have the right to cancel the order without any financial implication to the Purchaser or on terms mutually agreed to.

ST-802 Arbitration

Any dispute / differences between the parties arising out of and in connection with the contract shall be settled amicably by mutual negotiations. Unresolved disputes/ differences, if any, shall be settled by Arbitration and the arbitration proceedings shall be conducted at Mumbai (India) in English language, under the Indian Arbitration and Conciliation Act, 1996.

In case of unresolved difference / dispute between Purchaser and Manufacturer/ Supplier, being a Public Sector Enterprise, shall be referred by either party to the Department of Public Enterprises, as per extant guidelines.

ST-803 Agents / Agency Commission:

The Manufacturer / Supplier shall confirm and declare to the Purchaser his genuine status as either the original manufacturer of equipment or as the stockist / supplier of the

equipment / machinery / items referred to in this contract and that he has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Purchaser or any of its functionaries, whether officially or unofficially, to the award of the contract to the Manufacturer / Supplier nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Manufacturer / Supplier shall agree that if it is established at any time to the satisfaction of the Purchaser that the present declaration is in any way incorrect or if at a later stage it is discovered by the Purchaser that the Manufacturer / Supplier has engaged any such individual / firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the Manufacturer / Supplier shall be liable to refund that amount to the Purchaser. The Manufacturer / Supplier will also be debarred from entering into any supply contract with the Purchaser for a minimum period of five years. The Purchaser will also have a right to consider cancellation of the contract either wholly or in part, without any entitlement or compensation to the Manufacturer / Supplier who shall in such event be liable to refund all payments made by the Purchaser, along with interest at the rate of 2% per annum above the LIBOR rate. The Purchaser will also have the right to recover any such amount from any contracts concluded earlier with the Purchaser.

ST-804 Use of Undue Influence / Corrupt Practices:

- a. The Manufacturer / Supplier should give an undertaking that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the Purchaser or otherwise in procuring the contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract with the Purchaser for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Purchaser. Any breach of the aforesaid undertaking by the Manufacturer / Supplier or any one employed by him or acting on his behalf (whether with or without the knowledge of the Manufacturer / Supplier) or the commission of any offence by the Manufacturer / Supplier or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1980 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruption shall entitle the Purchaser to cancel the contract and all or any other contracts with the Manufacturer / Supplier and recover from the Manufacturer / Supplier the amount of any loss arising from such cancellation. A decision of the Purchaser or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the Manufacturer / Supplier.
- b. The Manufacturer / Supplier shall not offer or agree to give any person in the employment of Purchaser any gift or consideration of any kind as "Inducement" or "reward" for doing or forbearing to do or for having done or foreborne to do any act in relation to the obtaining or execution of the contract/s. Any breach of the aforesaid condition by the Manufacturer / Supplier or any one employed by them or acting on their behalf (whether with or without the knowledge of the Manufacturer / Supplier) or the commission of any offence by the Manufacturer / Supplier or by any one employed by them or acting on their behalf which shall be punishable under the Indian Penal Code 1980 or the Prevention of Corruption by Public Servants, shall entitle Purchaser to cancel the contract/s and all or any

other contracts and then to recover from the Manufacturer / Supplier the amounts of any loss arising from such contracts' cancellation, including but not limited to imposition of penal damages, forfeiture of Security Deposit, encashment of the Bank Guarantee and refund of the amounts paid by the Purchaser.

- c. In case, it is found to the satisfaction of the Purchaser that the Manufacturer / Supplier has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents / Agency Commission and use of undue Influence, the Manufacturer / Supplier, on a specific request of the Purchaser shall provide necessary information / inspection of the relevant financial document / information.

ST-805 Immunity of Government of India Clause

It is expressly understood and agreed by and between M/s. (Manufacturer / Supplier) and Mazagon Dock Limited, Dockyard Road, Mumbai - 400 010 (the Indian PSU) is entering into this Agreement solely on its own behalf and not on the behalf of any person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that Mazagon Dock Limited, Dockyard Road, Mazagaon, Mumbai - 400 010 (the Indian PSU) is an independent legal entity with power and authority to enter into contracts solely in its own behalf under the applicable of Laws of India and general principles of Contract Law. The (Manufacturer / Supplier) expressly agrees, acknowledges and understands that Mazagon Dock Limited, Dockyard Road, Mazagon, Mumbai- 400 010 (the Indian PSU) is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions and commissions, breaches or other wrongs arising out of the contract. Accordingly, (Manufacturer / Supplier) hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this contract and covenants not to sue Government of India in any manner, claim, cause of action or thing whatsoever arising of or under this Agreement.

ST-806 Banned or de-listed Contractors:

The bidders shall give a declaration that they have not been banned or de-listed by any Government or quasi Government agencies or PSUs. If a bidder has been banned or de-listed by any Government or quasi Government agencies or PSUs, this fact must be clearly stated and it may not necessarily be a cause for disqualifying him.

ST-807

A Public Grievance Cell headed by General Manager (Design) has been set up in the Company. Members of public having complaints or grievances are advised to contact him on Wednesday between 10.00 hours and 12.30 hours in his office on 3rd floor, Design Complex Building or send their complaints / grievances to him in writing for redressal. His Telephone No. is 373 8152.

GNS: 18.12.2001