

General Terms & Condition for Foreign Vendors

1. EMD

- EMD where called for will have to be submitted by the participating bidder in the form and manner specified in the NIT so as to reach the purchaser at the address mentioned in the NIT on or before the due date and time mentioned in the NIT.
- Non receipt of EMD as per above, will result in rejection of bid without any reference to the bidder, except in cases given under Clause no. 2.3 below.
- The following categories of bidders are exempted from submission of EMD:
 - i) Bidders having valid registration with Directorate of Purchase and Stores, Department of Atomic Energy;
 - ii) Micro and Small Enterprises having valid registration with MSME or NSIC or Udyog Aadhaar in respect of procurement of goods and services, produced and provided by MSE and startups recognized by Department of Industrial Policy & Promotion (DIPP) are eligible for exemption according to government policies.
 - iii) Foreign Bidder directly submitting bid (not through their Indian Agent or Indian Counterpart or Indian subsidiary) in the currency other than INR.
- Forfeiture of EMD
 - i) EMD shall be forfeited if the bidder withdraws or amends impairs or derogates from the tender in any respect within the validity of his bid.
 - ii) If the successful bidder fails to furnish the required Security Deposit, the EMD furnished shall be forfeited.
- REFUND OF EMD
 - i) EMD of unsuccessful bidders will be returned within thirty days after finalisation of the tender or after expiry of validity of their bid, whichever is later.
 - ii) EMD of successful bidders will be returned within thirty days of submission of security deposit as called for in the contract.

2. Bid /Open Authorization shall be submitted online only complying specified schedule and complete in all respects with technical specifications, including pamphlets and catalogues.

3. A Proforma Invoice may also be given which should contain the following information:

- a) The FOB/FCA value, the C and F value for import by Sea freight / Air freight up to and for air parcel post up to..... should be separately indicated.
- b) Agency Commission: The amount of commission included in the price and payable to the Indian Agent of the Contractor shall be paid directly to the Indian Agent by the Purchaser in equivalent Indian Rupees on the basis of an Invoice from him applying T.T.

buying rate of exchange ruling on the date of placement of the Purchase Order and which shall not be subject to any further exchange variations. This payment will be released to the Indian Agent immediately after Customs clearance of the goods in India.

- c) The Contractor shall invoice only for the net amount payable to deducting the amount of Agency Commission included in the invoice which will be paid to the Indian Agent directly by the Purchaser. However, the Contractors invoice should separately reflect the amount of commission payable to his Indian Agent.
 - d) The earliest delivery period and country of origin of the Stores.
 - e) Bankers name, address, telephone/fax Nos. and eMail ID of the Contractor.
4. The FOB/FCA and C and F prices quoted should be inclusive of all taxes, levies, duties arising in the tenderers country.
 5. Samples, if called for, should be sent free of all charges.
 6. Late and delayed tenders will not be considered. Quotations by cable must be followed by detailed offers.
 7. Offers made by Indian Agents on behalf of their Principals, should be supported by the proforma invoice of their Principals.
 8. Instructions / Operation Manual containing all assembly details including wiring diagrams should be sent wherever necessary in duplicate. All documents/correspondence should be in English language only.
 9. The Purchaser reserves the right to accept or reject the lowest or any offer in whole or part without assigning any reason.
 10. It is expressly agreed that the acceptance of the Stores Contracted for is subject to final approval in writing by the Purchaser.
 11. a) Part shipment is not allowed unless specifically agreed to by us.

b) As far as possible stores should be despatched by Indian Flag Vessels / Air India through any Agency nominated by us.
 12. Inspection / Test Certificate should be provided for the goods after testing it thoroughly at the Contractors works. If any Inspection by Lloyds or any other testing agency is considered necessary, it shall be arranged by Contractors.
 13. For items having shelf life, those with maximum shelf life should be supplied if order is placed.

TERMS AND CONDITIONS

1. DEFINITIONS:

- (a) The term Purchaser shall mean the President of India or his successors or assignees.
- (b) The term Contractor shall mean, the person, firm or company with whom or with which the order for the supply of stores is placed and shall be deemed to include the Contractor's Successors, representatives, heirs, executors and administrators unless excluded by the Contract.
- (c) The term Purchase Order shall mean the communication signed on behalf of the Purchaser by an officer duly authorised intimating the acceptance on behalf of the Purchaser on the terms and conditions mentioned or referred to in the said communication accepting the Tender or offer of the Contractor for supply of stores of plant, machinery or equipment of part thereof.
- (d) The term Stores shall mean what the Contractor agrees to supply under the Contract as specified in the Purchase Order.

2. PRICES:

Tenders offering firm prices will be preferred. Where a price variation clause is insisted upon by a tenderer, quotations with a reasonable ceiling should be submitted. Such offers should invariably be supported by the base price taken into account at the time of tendering and also the formula for any such variations.

3. DEMURRAGE:

If applicable, Supplier shall bear demurrage charges, if any, incurred by the purchaser due to delayed presentation of shipping documents to the bankers within a reasonable time (say within 10-12 days) from the date of bill of lading for sea consignments and within 34 days from the date of Air Way Bill for air consignments.

4. ADDRESS OF INDIAN AGENTS:

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5. GUARANTEED TIME DELIVERY:

The time for and the date of delivery stipulated in the Purchase Order shall be deemed to be the essence of the Contract. Delivery must be completed within the date specified therein.

6. INSPECTION AND ACCEPTANCE TEST:

6.1 The Purchaser representatives shall also be entitled at all reasonable times during manufacture to inspect, examine and test on the Contractors premises the material and workmanship of all stores to be supplied under this Contract and if part of the said stores is being manufactured on other premises, the Contractor shall obtain for the purchasers representative permission to inspect, examine and test as if the equipment were being manufactured on the Contractors premises. Such inspection, examination and testing shall not release the Contractor from the obligations under this Contract.

6.2 For tests on the premises of the Contractor or of any of his sub Contractors, the Contractor shall provide free of cost assistance, labour, material, electricity, fuel and instruments as may be required or as may be reasonably needed by the purchasers representative to carry out the test efficiently.

6.3 When the stores have passed the specified test, the purchasers representative shall furnish a certificate to the effect in writing to the Contractor. The Contractor shall provide copies of the test/s certificates to the purchaser as may be required.

7. MODE OF DESPATCH:

Generally, stores should be dispatched through Indian Flagged Vessel / Air India or through any other Agency nominated by the purchaser. A copy of the invoice and packing list should invariably be kept inside each of the packages.

8. PORT OF ENTRY: IGI airport New Delhi/Mumbai

9. CONSIGNEE: Purchase and Stores Officer, Stores,
10. SHIPPING MARKS.

The mark on the shipping documents such as invoice, bill of lading and on the packages should be as follow:

PURCHASE ORDER NO.
DATED
SEMI CONDUCTOR LABORATORY
GOVERNMENT OF INDIA

Destination: and
Port of Entry:

11. INSURANCE OF THE STORES:

The necessity or otherwise of insurance will be as indicated in the Purchase Order.

12. CONTRACTORS DEFAULT LIABILITY:

The purchaser may upon written notice of default to the Contractor terminate the Contract in whole or in part in circumstances detailed hereunder:

- a) If in the judgement of the Purchaser the Contractor fails to make delivery of Stores within the time specified in the Contract/ agreement or within the period for which extension has been granted by the Purchaser to the Contractor.
- b) If in the judgment of the Purchaser the Contractor fails to comply with any of the other provisions of this Contract.

13. In the event the Purchaser terminates the Contract in whole or in part, the Purchaser reserves the right to Purchase, upon such terms and in such a manner as he may deem appropriate, stores similar to that terminated and the Contractor shall be liable to the Purchaser for any additional costs for such similar stores and/or for liquidated damages for delay as defined until such reasonable time as may be required for the final supply of stores.

14.1 If this Contract is terminated as the Purchaser in addition to any other rights provided in this Article, may require the Contractor to transfer title and deliver to the Purchaser under any of the following clauses in the manner and as directed by the Purchaser:

- a) Any completed stores.
- b) Such partially completed stores, drawing, information and Contract rights (hereinafter called manufacturing material) as the Contractor has specifically produced or acquired for the performance of the Contract as terminated. The Purchaser shall pay to the Contractor the Contract price for completed stores delivered to and accepted, by the purchaser and for manufacturing material delivered and accepted.

14.2 In the event the Purchaser does not terminate the Contract, the Contractor shall continue the performance of the Contract in which case he shall be liable to the purchaser for liquidated damages for delay until the stores are accepted.

15. REPLACEMENT:

If the stores or any portion thereof is damaged or lost during transit, the

Purchaser shall give notice to the Contractor setting forth particulars of such stores damaged or lost during transit. The replacement of such stores shall be effected by the Contractor within a reasonable time to avoid unnecessary delay in the intended usage of the Stores. In case the purchaser agrees, the price towards replacement items shall be paid by the purchaser on the basis of original price quoted in the tender or as reasonably worked out from the tender.

16. REJECTION:

In the event that any of the stores supplied by the Contractor is found defective in material or workmanship or otherwise not in conformity with the requirements of the Contract specifications, the purchaser shall either reject the stores or request the Contractor, in writing, to rectify the same. The Contractor, on receipt of such notification, shall either rectify or replace the defective stores free of cost to the purchaser. If the Contractor fails to do so, the purchaser may at his option either :

- a) replace or rectify such defective stores and recover the extra cost so involved from the Contractor, or
- b) terminate the Contract for default, or
- c) acquire the defective stores at a reduced price considered equitable under the circumstances. The provision of this article shall not prejudice the Purchaser's rights.

17. EXTENSION OF TIME:

If the completion of supply of stores is delayed due to reason of *force majeure* such as acts of god, acts of public enemy, acts of Government, fires, floods, epidemics, quarantine restriction, strikes, freight embargoes, etc., the Contractor shall give notice within 15 days to the purchaser in writing of his claim for an extension of time. The purchaser on receipt of such notice after verification, if necessary, may agree to extend the Contract delivery date as may be reasonable but without prejudice to other terms and conditions of the Contract.

18. REQUIREMENT OF ADDITIONAL NUMBERS OF THE STORES ORDERED:

The Contractor shall also undertake the supply of additional number of items covered by the order as considered necessary by the purchaser at a later date, the actual price to be paid shall be mutually agreed to after negotiations.

19. LANGUAGE AND MEASURES:

All documents pertaining to the Contract including specification, schedule, notice, correspondence, operating and maintenance instructions, drawings or any other writings shall be written in English language. The metric system of measurement shall be used exclusively in the Contract.

20. INDEMNITY:

The Contractor shall warrant and be deemed to have warranted that all Stores supplied against this Contract are free and clean of infringement of any patent, copyright or trade mark and shall at all times indemnify the purchaser against all claims which may be made in respect of stores for infringement of any right protected by Patent, Registration of design or Trade Mark, and shall take all risk of accident or damage which may cause a failure of the supply from whatever cause arising and the entire responsibility for the sufficiency of all the means used by him for the fulfillment of the Contract.

21. COUNTER TERMS AND CONDITIONS OF SUPPLIERS:

Where counter terms and conditions/printed or cyclostyled conditions have been offered by the supplier, the same shall not be deemed to have been accepted by the purchaser unless specific written acceptance thereof is obtained.

22. SECURITY INTEREST:

On each item to be delivered under this Contract, including an item of work in progress in respect of which payments have been made in accordance with the terms of the Contract, purchaser shall have a security interest in such items which shall be deemed to be released only at the time when the applicable deliverable item is finally accepted and delivered to the purchaser in accordance with the terms of the Contract. Such security interest of the purchaser shall constitute a prior charge as against any other charge or interest created in respect of such items by any entity.