

**MMTC LIMITED, NIC BUILDING, 4th floor, 8 INDIA EXCHANGE
PLACE, KOLKATA – 700001, INDIA**

**NOTICE INVITING E -TENDER NO. MMTC/KOL/FERT/2020-21/SUL/02 DATED 19.08.2020
FOR SUPPLY OF SULPHUR IN BULK FROM GLOBAL SUPPLIERS**

1.	COMMODITY	BRIGHT YELLOW CRUDE SULPHUR IN BULK OTHER THAN COLLOIDAL PRECIPITATED & SUBLIMED SULPHUR
2.	QUANTITY	4000 MT +/- 10 %
3.	DISCHARGE PORT	VIZAG, INDIA
4.	SHIPMENT PERIOD	LATEST BY 30.09.2020
5.	COUNTRY OF ORIGIN	TO BE INDICATED BY BIDDERS.
6.	SULPHUR SPECIFICATIONS	<p>BRIGHT YELLOW CRUDE SULPHUR OTHER THAN COLLOIDAL PRECIPITATED & SUBLIMED SULPHUR.</p> <p>i) PURITY OF SULPHUR 99.5% MINIMUM ON DRY BASIS, COMMERCIALY FREE FROM ARSENIC, SELENIUM & TELLURIUM</p> <p>ii) FORM: GRANULES/FLAKES/PELLETS/PRILLS FREE FROM LUMPS</p> <p>iii) ASH CONTENT: 0.05% MAX.</p> <p>iv) HYDROCARBONS: 0.05% MAX.</p> <p>v) ACIDITY (AS H₂SO₄): 0.05% MAX.</p> <p>vi) MOISTURE: 3% MAX. HOWEVER, MOISTURE IN EXCESS OF 0.50% WILL BE PROPORTIONALLY REDUCED FROM THE INVOICED WEIGHT.</p>
7.	COLOUR OF SULPHUR	BRIGHT YELLOW
8.	PRICE OFFER	MAY BE INDICATED BY BIDDERS BOTH ON FOBT BASIS WITH LOAD RATE AND ON CIF BASIS WITH DISCHARGE RATE OF 2000 MTS <u>PWWD SHEX EIU</u> BASIS 5 OR MORE AVAILABLE/WORKABLE HATCHES AND PRO-RATA, IF LESS. OFFERS INDICATING PRICE ONLY ON CIF BASIS ARE LIABLE FOR REJECTION. CIF OFFERS TO

		<p>INDICATE SEPERATELY OCEAN FREIGHT FROM LOAD PORT TO DISCHARGE PORT. DEMMURAGE/DESPATCH RATE TO BE PROVIDED AT THE TIME OF NOMINATING THE VESSEL AS PER CHARTER PARTY SUBJECT TO COPY OF C/P IS GIVEN AND ACCEPTANCE TAKEN IN ADVANCE.</p> <p>BIDDER SHALL SUBMIT PRICE OFFER IN ELECTRONIC MODE ONLY AS PER ENCLOSED PRICE BID FORMAT AT ANNEXURE I.</p>
9.	PAYMENT TERMS	PAYMENT SHALL BE MADE FOR 100% VALUE OF GOODS IN US DOLLARS ON CAD BASIS WITHIN FIVE DAYS FROM THE DATE OF RECEIPT OF DOCUMENTS IN BUYER'S NOMINATED BANK.
10.	VALIDITY	OFFER TO BE KEPT VALID TILL 21.09.2020 .
11.	DISCHARGE RATE	2000 MT PWWD SHEX EIU AT VIZAG PORT ON THE BASIS OF FIVE OR MORE AVAILABLE WORKABLE HATCHES AND PRORATA IF LESS. TIME SHALL NOT COUNT BETWEEN 1400 HRS ON SATURDAY AND 0800 HOURS ON MONDAY AND BETWEEN 1400 HOURS ON THE DAY PRECEDING A LEGAL HOLIDAY AND/ OR PORT LABOUR HOLIDAY AND 0800 HOURS ON THE FIRST WORKING DAY THEREAFTER, EVEN IF USED AND IF THE VESSEL IS ON DEMURRAGE.
12.	SETTLEMENT OF DEMURRAGE/DESPATCH AMOUNT	DEMURRAGE/DISPATCH RATE TO BE ADVISED AT THE TIME OF VESSEL NOMINATION/ ACCEPTANCE, WHICH SHALL BE BINDING ON BUYER AND SELLER. DEMURRAGE / DESPATCH / DEAD FREIGHT, IF ANY, TO BE SETTLED MUTUALLY BETWEEN BUYER AND SELLER ONLY. DEMURRAGE /DESPATCH CLAIM TO BE SETTLED/ WITHIN TWENTY (20) DAYS FROM THE DATE OF RECEIPT OF THE SUPPORTING DOCUMENTS UPON THE COMPLETION OF DISCHARGE AT DISCHARGE PORT.
13.	EMD/BIDBOND	CATEGORY- I - "PRODUCERS" - WHO SUBMIT THE BIDS DIRECTLY (OR THROUGH AUTHORIZED REPRESENTATIVE/AGENT IN INDIA) AND OFFERING SULPHUR FROM THEIR OWN PRODUCTION UNITS ARE

		<p>EXEMPT FROM SUBMISSION OF BID BOND. MTPL SINGAPORE, 100% SUBSIDIARY OF MPMC, IS ALSO EXEMPTED FROM SUBMITTING BID BOND AND PERFORMANCE GUARANTEE BOND</p> <p>CATEGORY - II - "ACCREDITED SUPPLIERS" AS RECOGNIZED BY MPMC (WHO HAVE PERFORMED SATISFACTORILY AT LEAST FOR TWO YEARS IN LAST FIVE YEARS.) SHALL SUBMIT A BID BOND AT THE RATE OF US \$ 1.00 PMT OF THE QUANTITY OFFERED.</p> <p>CATEGORY- III - "ALL OTHER BIDDERS" WHO ARE NOT COVERED AS ABOVE SHALL SUBMIT A BID BOND @ US \$ 2.00 PMT OF THE QUANTITY OFFERED.</p> <p>TENDERERS MUST FURNISH ALONGWITH THEIR OFFER, BID SECURITY IN US DOLLARS BY MEANS OF A BANK GUARANTEE ISSUED BY A SCHEDULED BANK IN KOLKATA IN ORIGINAL, FOR VALUES AS MENTIONED ABOVE STRICTLY IN THE PRESCRIBED PROFORMA (ANNEXURE-II) IN FAVOUR OF MPMC LIMITED AND SHOULD BE KEPT VALID FOR A MINIMUM PERIOD OF ONE MONTH FROM THE LAST DATE OF VALIDITY OF OFFER. DEVIATIONS IN THE FORMAT OF BID BOND ARE NOT ACCEPTABLE. BIDS ARE LIABLE TO BE REJECTED IN CASE OF CONDITIONAL BID BONDS.</p> <p><u>CATEGORY II & III BIDDERS</u> HAVE TO SUBMIT BANK REFERENCE TO SHOW CREDIT WORTHINESS OF BIDDER ALONGWITH THE BID.</p> <p><u>CATEGORY III BIDDERS</u> ARE ALSO REQUIRED TO SUBMIT A CREDIT RATING REPORT FROM ANY OF THE FOLLOWING INTERNATIONAL CREDIT RATING AGENCIES:</p> <ul style="list-style-type: none">i) DUN & BRADSTREETii) MOODY'Siii) STANDARD & POOR <p>CREDIT RATINGS NEED TO BE MINIMUM SATISFACTORY OR EQUIVALENT. REPORT TO BE SUBMITTED TO MPMC IN A SEALED COVER, BEFORE DUE TIME/DATE OF THE TENDER.</p> <p>BID BOND FORMAT IS ENCLOSED AT ANNEXURE II.</p>
--	--	--

14.	HOLIDAY-LISTING:-	NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT, MPMC'S POLICY FOR HOLIDAY-LISTING OF AN AGENCY MUTATIS MUTANDIS APPLIES TO THIS AGREEMENT AND IN THE EVENT, THE AGENCY(S) WHILE DISCHARGING ITS OBLIGATIONS UNDER THE AGREEMENT OR OTHERWISE, COME(S) WITHIN THE AMBIT OF THE SAID POLICY, MPMC AT ITS SOLE DISCRETION RESERVES THE RIGHT TO SUSPEND/DISCONTINUE DEALING OR TAKE ANY CURATIVE MEASURES WITH THE AGENCY(S) IN ACCORDANCE WITH THE POLICY IN FORCE.
15.	GENERAL	<p>A. PLEASE NOTE THAT THE FORM OF MATERIAL/GOODS SHOULD BE STRICTLY AS PER SPECIFICATIONS AS MENTIONED ABOVE.</p> <p>B. <u>BIDS SHOULD SPECIFY COUNTRY OF ORIGIN OF PRODUCT AND IS MANDATORY AND BIDS WITH 'OPEN ORIGIN' OF GOODS SHALL NOT BE ACCEPTABLE. BIDDERS SHALL CLEARLY STATE COUNTRY (S) OF ORIGIN OF GOODS BEING OFFERED IN THEIR TECHNICAL BID. BIDS, OFFERING MATERIAL FROM COUNTRIES OF ORIGIN AGAINST WHICH SANCTIONS HAVE BEEN IMPOSED INCLUDING IRANIAN ORIGIN / FACING SANCTIONS, SHALL NOT BE CONSIDERED AND PRICE BIDS OF SUCH TENDERS SHALL NOT BE OPENED/ENTERTAINED.</u></p> <p>C. INDIAN AGENT'S COMMISSION, IF ANY, WILL BE PAID ONLY IN INDIAN RUPEES AND DEDUCTED FROM THE INVOICE VALUE. PAYMENTS ARE SUBJECT TO STATUTORY DEDUCTIONS.</p> <p>D. VESSEL SHOULD BE DULY FITTED WITH GRAB FOR SMOOTH UNLOADING AT DISCHARGE PORT. IN CASE, GRAB IS REQUIRED TO BE HIRED, THE CHARGES FOR IT SHALL BE BORNE BY SUPPLIER.</p> <p>E. MPMC RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL TENDERS OR TO RE-TENDER AT MPMC'S SOLE DISCRETION WITHOUT ASSIGNING ANY REASONS.</p> <p>F. DRAFT CONTRACT (ANNEXURE IV) IS ATTACHED FOR BIDDER'S READY REFERENCE AND ACCEPTANCE.</p> <p>G. ON AWARD OF THE CONTRACT, SUPPLIER SHALL ESTABLISH A PERFORMANCE GUARANTEE BOND IN</p>

		<p>THE FORMAT PRESCRIBED BY MMTC FOR US \$ 25,000, AS PER ANNEXURE -III.</p> <p>H. ALL OTHER TERMS SHALL BE AS PER MMTC'S STANDARD TERMS FOR SUCH IMPORT. ANNEXURE –V FORMS A PART OF THE TENDER DOCUMENT.</p> <p>I. BIDS ARE TO BE SUBMITTED LATEST BY 1100 HRS. ON 08.09.2020 (INDIAN STANDARD TIME) THROUGH ELECTRONIC MODE FOR WHICH BIDDERS MAY LOG ON TO WEBSITE https://mmtc.abcprocure.com. BID BOND MAY BE SUBMITTED IN CLOSED ENVELOPE TO BE DROPPED IN TENDER BOX PLACED AT MMTC LIMITED NIC BUILDING, 4th floor, 8 INDIA EXCHANGE PLACE, KOLKATA – 700001 BEFORE THE CLOSING TIME OF RECEIPT OF THE TENDERS AS ABOVE.</p> <p>J. TECHNICAL BID WILL BE OPENED AT 1115 HRS IST ON 08.09.2020 AND PRICE BID WILL BE OPENED AFTER VERIFICATION OF TECHNICAL BID.</p> <p>K. BIDS ARE TO BE SUBMITTED IN TWO BID SYSTEM – TECHNICAL BID AND PRICE BID.</p>
--	--	--

NOTE: CLASS III DIGITAL SIGNATURE CERTIFICATE (DSC) IS MANDATORY TO PARTICIPATE IN E-AUCTION/E-TENDERING. PARTICIPATING BIDDERS HAVE TO MAKE SURE THAT THEY HAVE THE VALID DSC IN THEIR NAME. IF NOT, THEY CAN PROCURE FROM ANY OF THE RSA APPROVED BY CCA. MINIMUM TIME TO PROCURE DSC IN 5 WORKING DAYS.

Annexure -I

PRICE BID (ELECTRONIC ONLY)

**NOTICE INVITING E -TENDER NO. MMTc/KOL/FERT/2020-21/SUL/02 DATED
19.08.2020 FOR SUPPLY OF SULPHUR IN BULK FROM GLOBAL SUPPLIERS**

Sl No	Description	Rate quoted (USD per Metric Ton)
1	FOBT price	
2	Freight	
3	CIF Price (Vizag basis)	

ANNEXURE-II
(BID BOND PROFORMA)

(ON A STAMP PAPER OF RS. 100/- TO BE EXECUTED BY A KOLKATA BRANCH OF ANY SCHEDULED BANK OF INDIA)

M/S. MPMC LTD.,
NIC BUILDING, 4th floor,
8 INDIA EXCHANGE PLACE,
KOLKATA – 700001
INDIA.

DEAR SIRs,

WHEREAS M/S. _____(OFFEROR) HAS OFFERED TO SUPPLY A QUANTITY OF _____ MTS OF SULPHUR TO MPMC AND THE OFFEROR IS REQUIRED TO SUBMIT A BID BOND IN US DOLLARS AT THE RATE OF USD PMT FOR THE QUANTITY OFFERED ALONGWITH THE OFFER AS A GUARANTEE FOR FULFILLMENT OF ALL THE TERMS AND CONDITIONS OF SUBSEQUENT SALE, WE (BANK WITH FULL ADDRESS) HEREBY GUARANTEE AND UNDERTAKE TO PAY IMMEDIATELY ON DEMAND BY MPMC LIMITED, KOLKATA THE AMOUNT OF US\$ _____ IN CASE THE OFFER OR FAILS TO PERFORM ANY OR ALL THE OBLIGATIONS, UNDERTAKEN BY HIM AS PER MPMC'S ACCEPTANCE WITHOUT RESERVATION, PROTEST, DEMUR AND RECOURSE TO SAID OFFEROR. ANY SUCH DEMAND IN WRITING MADE BY MPMC SHALL BE CONCLUSIVE AND BINDING ON US IRRESPECTIVE OF ANY DISPUTE OR DIFFERENCE RAISED BY THE OFFEROR.

NOTWITHSTANDING ANYTHING MENTIONED HEREIN BEFORE, OUR LIABILITY UNDER THE GUARANTEE IS RESTRICTED TO US\$ _____ (US DOLLARS _____ ONLY) AND IT WILL REMAIN IN FORCE UPTO _____ UNLESS A CLAIM UNDER THE GUARANTEE IS FILED AGAINST US ON OR BEFORE _____ ALL YOUR RIGHTS UNDER THE SAID GUARANTEE SHALL BE FOREFEITED AND WE SHALL BE RELIEVED AND DISCHARGED FROM ALL THE LIABILITIES THEREUNDER. WE, _____ BANK FURTHER AGREE THAT THE GUARANTEE HEREUNDER CONTAIN SHALL NOT SO AFFECTED BY CHANGE IN THE TERMS OF PURCHASE ORIGINALLY OFFERED BY THE OFFEROR.

DATED:
PLACE:

FOR
BANK

ANNEXURE III

(PERFORMANCE BANK GUARANTEE PROFORMA)

BANK GUARANTEE NO. _____ DATED _____

(ON A STAMP PAPER OF APPLICABLE AMOUNT TO BE EXECUTED BY A KOLKATA BRANCH OF A SCHEDULED BANK OTHER THAN GRAMIN BANK OR COOPERATIVE BANK)

TO
MMTC LIMITED
NIC BUILDING- 4th floor,
8 INDIA EXCHANGE PLACE,
KOLKATA – 700001

DEAR SIRs,

1) WHEREAS, MMTC LIMITED, HAVING ITS REGISTERED OFFICE AT CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI -110 003 INDIA AND ONE OF ITS REGIONAL OFFICE AT NIC BUILDING, 4th floor, 8 INDIA EXCHANGE PLACE, KOLKATA – 700001 (HEREINAFTER CALLED "THE MMTC) HAVE ENTERED INTO CONTRACT NO. _____ DATED _____
_____(HEREINAFTER CALLED 'THE CONTRACT') FOR _____
_____ WITH M/S. _____ (NAME)
ADDRESS _____, (HEREINAFTER CALLED THE XX)

2) AND WHEREAS THE 'XX' UNDER THE CONTRACT IS REQUIRED TO FURNISH A SECURITY FOR THE PERFORMANCE OF THE CONTRACT AND MMTC HAS AGREED TO ACCEPT THE BANK GUARANTEE IN LIEU OF SECURITY DEPOSIT OF THE SAID SUM OF US DOLLARS

3) AND WHEREAS AT THE REQUEST OF THE 'XX', WE _____ BANK,
_____(ADDRESS), HEREBY IRREVOCABLY AND UNCONDITIONALLY GUARANTEE AND UNDERTAKE TO PAYMENT TO THE MMTC, IMMEDIATELY ON DEMAND UP TO AND NOT EXCEEDING THE SUM OF US DOLLARS _____ PAYABLE BY THE 'XX' IN THE EVENT OF FAILING TO PERFORM ANY OR ALL THEIR OBLIGATIONS UNDER THE CONTRACT. THE DECISION OF THE MMTC THAT THE 'XX' HAS FAILED TO PERFORM ALL OR ANY OF ITS OBLIGATIONS UNDER THE CONTRACT SHALL BE CONCLUSIVE, FINAL AND BINDING ON US.

4) WE, _____ BANK, UNDERTAKE TO PAY THE AMOUNT DEMANDED BY THE MMTC NOT EXCEEDING THE SUM OF US DOLLARS _____ ONLY WITHOUT ANY DEMUR, DELAY, PROTEST AND WITHOUT ANY REFERENCE OR RECOURSE TO THE 'XX' NOTWITHSTANDING ANY DISPUTE RAISED BY 'XX' IN ANY SUIT PROCEEDINGS RELATING THERE TO PENDING BEFORE ANY COURT OR TRIBUNAL OUR LIABILITY UNDER THESE PRESENTS BEING ABSOLUTE AND UNEQUIVOCAL. THE PAYMENT SHALL BE MADE TO THE MMTC ACROSS THE COUNTER OF THE BANK ON THE SAME DAY OF RECEIPT OF INVOCATION OF THIS PERFORMANCE BANK GUARANTEE.

5) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREINABOVE, LIABILITY UNDER THE GUARANTEE IS RESTRICTED TO US DOLLARS. OUR GUARANTEE SHALL REMAIN IN FORCE UNTIL _____(DATE).

6) ALL YOUR RIGHTS UNDER THE GUARANTEE SHALL BE FORFEITED AND WE SHALL BE RELIEVED AND DISCHARGED FROM ALL LIABILITY THEREUNDER UNLESS A CLAIM UNDER THE GUARANTEE IS MADE ON OUR BANK IN WRITING ON OR BEFORE _____(EXPIRY DATE).

7) YOUR LETTER OF DEMAND IN WRITING MAY BE PRESENTED TO THE BANK BY REGISTERED POST OR IN PERSON AND THE SAME SHALL BE BINDING ON US.

8) THIS GUARANTEE COMES INTO FORCE FORTHWITH.

9) WE FURTHER AGREE THAT MMTc SHALL HAVE THE FULLEST LIBERTY WITHOUT OUR CONSENT AND WITHOUT EFFECTING IN ANY MANNER, OUR OBLIGATIONS HEREUNDER TO VARY ANY OF THE TERMS AND CONDITIONS OF THE DELIVERY OR EXTEND TIME OF PERFORMANCE BY THE SAID "XX" FROM TIME TO TIME OR TO POSTPONE FOR ANY TIME OR FROM TIME TO TIME, ANY OF THE POWERS EXERCISABLE BY MMTc AGAINST THE SAID "XX" AND TO FORBEAR OR ENFORCE ANY PART OF THE TERMS AND CONDITIONS RELATING TO THE SAID CONTRACT AND WE SHALL NOT BE RELIEVED FROM OUR LIABILITY BY REASON OF ANY SUCH VARIATION OR EXTENSION BEING GRANTED TO THE SAID M/S 'XX'.

10) THE LIABILITY OF THE BANK UNDER THIS GUARANTEE SHALL BE DISCHARGED ON RECEIPT OF US DOLLARS _____ ONLY BY MMTc.

11) WE _____(BANK) LASTLY UNDERTAKE NOT TO REVOKE THIS GUARANTEE DURING ITS CURRENCY EXCEPT WITH THE PREVIOUS CONSENT OF MMTc LIMITED IN WRITING.

12) THIS GUARANTEE WILL NOT BE DISCHARGED DUE TO CHANGE IN THE CONSTITUTION OF THE BANK OR THE SAID 'XX'.

13) WE HAVE THE POWER TO ISSUE THIS GUARANTEE IN YOUR FAVOUR UNDER THE CHARTER OF OUR BANK AND THE UNDERSIGNED HAVE FULL POWER TO EXECUTE THIS GUARANTEE UNDER THE POWER OF ATTORNEY GRANTED TO US BY THE BANK.
SIGNED AND DELIVERED THIS _____ DAY OF _____ 2020.

YOURS FAITHFULLY,

FOR AND ON BEHALF OF
BANK (ADDRESS)

(BANKERS SEAL)

**ANNEXURE IV
(DRAFT CONTRACT)**

REFERENCE _____ OFFER DATED _____ AGAINST MMTC'S SULPHUR TENDER NO. _____ DATED _____ AND LOA DATED _____, FOR SUPPLY OF **4000 MT** + /- 10% AT SELLER'S OPTION BRIGHT YELLOW CRUDE SULPHUR IN BULK.

SELLER AND BUYER AGREE TO SELL AND BUY THE "PRODUCT" SPECIFIED HEREIN AT THE PRICE AND SUBJECT TO THE TERMS AND CONDITIONS HEREIN SET FORTH:

1	BUYER	MMTC LIMITED NIC BUILDING - 4th floor, 8 INDIA EXCHANGE PLACE, KOLKATA – 700001 TEL: +91-33-24546002/24546011/8697511714 E-MAIL: SUBRATASAHA@MMTCLIMITED.COM , MALAYC@MMTCLIMITED.COM
2	SELLER	
3	COMMODITY	BRIGHT YELLOW CRUDE SULPHUR IN BULK OTHER THAN COLLODIAL PRECIPITATED & SUBLIMED SULPHUR
4	SPECIFICATIONS	BRIGHT YELLOW CRUDE SULPHUR OTHER THAN COLLOIDAL PRECIPITATED & SUBLIMED SULPHUR. i) PURITY OF SULPHUR 99.5% MINIMUM ON DRY BASIS, COMMERCIALY FREE FROM ARSENIC, SELENIUM & TELLURIUM ii) FORM: GRANULES/FLAKES/PELLETS/PRILLS FREE FROM LUMPS iii) ASH CONTENT: 0.05% MAX. iv) HYDROCARBONS: 0.05% MAX. v) ACIDITY (AS H ₂ SO ₄): 0.05% MAX. vi) MOISTURE: 3% MAX. HOWEVER, MOISTURE IN EXCESS OF 0.50% WILL BE PROPORTIONALLY REDUCED FROM THE INVOICED WEIGHT.
5	COUNTRY OF ORIGIN	_____

6	QUANTITY	_____MT +/- 10% TOLERANCE AT SELLER'S OPTION
7	PRICE OFFER	US \$ _____ CIF VIZAG PORT, INDIA, AT SIGHT BASIS DISCHARGE RATE OF 2000 MT PWWWD SHEX EIU WITH FIVE (5) OR MORE AVAILABLE HATCHES AND PRO-RATA IF LESS
8.	SHIPMENT PERIOD	LATEST BY 30.09.2020
9.	INSURANCE COVER	TO BE ARRANGED BY THE SELLERS. ICC (A) INSURANCE COVER TO BE TAKEN UP TO VIZAG PORT, INDIA
10.	QUALITY/ QUANTITY DETERMINATION	QUALITY AND QUANTITY INSPECTION/ DETERMINATION IS TO BE DONE AT LOAD PORT BY AN INTERNATIONALLY REPUTED INSPECTION AGENCY VIZ. SGS, INSPECTORATE, INTERTEK, GEOCHEM, COTECNA, ETC. ON SELLER'S ACCOUNT AND SHALL BE TREATED AS FINAL BY BOTH THE PARTIES.
11.	PRE-SHIPMENT INSPECTION (PSI) AND SUPERVISION OF LOADING	<p>I. THE BUYER RESERVES THE RIGHT AT HIS OPTION TO CARRY OUT INSPECTION OF GOODS PRIOR TO SHIPMENT AT LOAD PORT FOR QUALITY TO ENSURE THAT PRODUCTION COMPLIES WITH SPECIFICATIONS OF THE BUYER AND/OR THE TERMS OF A CONTRACT/ PURCHASE ORDER OR LETTER OF CREDIT THROUGH AN INDEPENDENT INSPECTION AGENCY LIKE SGS/ INSPECTORATE/ COTECNA/ ICS/ GEOCHEM ETC TO BE NOMINATED BY THE BUYER.</p> <p>II. THE SELLER SHALL TENDER THE GOODS FOR INSPECTION TO THE INDEPENDENT INSPECTION AGENCY DULY NOMINATED BY THE BUYER AS ABOVE AND SHALL GIVE ALL ASSISTANCE IN THIS REGARD TO THE NOMINATED INSPECTION AGENCY. A PSI CAN BE PERFORMED AT DIFFERENT STAGES BEFORE SHIPMENT, SUCH AS CHECKING THE TOTAL AMOUNT OF GOODS AND PACKING, CONTROLLING THE QUALITY OR CONSISTENCY OF GOODS, CHECKING OF ALL DOCUMENTATION, AS FOR EXAMPLE TEST REPORTS, PACKAGING LIST, OR VERIFICATION OF COMPLIANCE WITH STANDARDS OF THE DESTINATION COUNTRY LIKE ASME, CE MARK AND IMPORT DUTIES ETC.</p> <p>III. GOODS AS PER SPECIFICATION AND AS APPROVED BY THE BUYER NOMINATED INDEPENDENT INSPECTION AGENCY ONLY WILL BE SHIPPED BY THE SELLER.</p>

		<p>IV. THE LOAD PORT QUALITY INSPECTION ANALYSIS AND ACCEPTANCE OF GOODS BY THE INSPECTION AGENCY NOMINATED BY THE BUYER SHALL BE FINAL FOR THE PURPOSE OF PAYMENT IN TERMS OF CONTRACT WITH REGARD TO ALL TECHNICAL PARAMETERS AS PER THE TECHNICAL SPECIFICATIONS PERTAINING TO THE INSTANT CONTRACT.</p> <p>V. THE INSPECTION AND SUPERVISION OF LOADING CHARGES PAYABLE TO THE INSPECTION AGENCY NOMINATED BY THE BUYER SHALL BE BORNE BY THE SELLER.</p> <p>VI. THE SELLER SHALL ENSURE THAT THE GOODS SHIPPED CONFORMS TO AGREED / SIGNED TERMS OF INSTANT CONTRACT.</p> <p>VII. <u>THE DUTIES OF THE INSPECTION AGENCY DULY NOMINATED BY THE BUYER AND SUPERVISION OF THE CARGO AT ANY OF THE PORTS AND LOCATIONS IN TERMS OF THE CONTRACT ARE AS STATED BELOW: -</u></p> <p>a) SAMPLES SHALL BE DRAWN IN ASSOCIATION WITH THE SELLERS FOR THE PURPOSE OF INSPECTION BY THE INDEPENDENT INSPECTION AGENCY NOMINATED BY THE BUYER.</p> <p>b) THE INDEPENDENT INSPECTION AGENCY DULY NOMINATED BY THE BUYER SHALL ANALYSE THE SAMPLES AS PER THE INTERNATIONAL STANDARD METHODS OR AS PRESCRIBED IN THE CONTRACT AND SUCH ANALYSIS CERTIFICATE SHALL FORM AN IMPORTANT PART OF THE SHIPPING DOCUMENTS FOR RELEASE OF PAYMENT.</p> <p>c) THE WEIGHT AT LOAD PORT SHALL BE FINAL AND SHALL BE DETERMINED THROUGH DRAFT SURVEY AND SHALL BE BINDING ON BOTH THE SELLER AND THE BUYER.</p> <p>d) INITIAL DRAFT SURVEY IN ASSOCIATION WITH THE MASTER OF THE VESSEL, PRIOR TO COMMENCEMENT OF LOADING IS MANDATORY. INITIAL DRAFT SURVEY SHALL</p>
--	--	--

		<p>BE FOLLOWED BY DRAFT SURVEY TO BE CONDUCTED UPON COMPLETION OF LOADING OF CARGO.</p> <p>e) THE INDEPENDENT INSPECTION AGENCY NOMINATED BY THE BUYER SHALL FURNISH A CERTIFICATE REGARDING INSPECTION OF THE SHIP'S HATCHES / HOLDS INDICATING THAT THEY HAVE INSPECTED THE HATCHES / HOLDS AND FOUND THEM TO BE CLEAN, DRY AND FREE FROM ANY FOREIGN MATERIAL AND SUITABLE FOR LOADING OF GOODS. INSPECTION AGENCY SHALL ALSO EXAMINE THE POSSIBILITY OF LEAKS AND CONTAMINATION BY SEA WATER IF ANY, AND SHALL ALSO INDICATE/INFORM TIMELY OF THE NATURE OF THE HATCH COVERS.</p> <p>f) THE INDEPENDENT INSPECTION AGENCY SHALL ALSO INDICATE ABOUT THE WEATHER CONDITIONS DURING THE COURSE OF LOADING, THAT MAY AFFECT/INFLUENCE THE QUALITY AND WEIGHT OF THE CARGO/GOODS.</p> <p><u>PRIOR TO COMPLETION OF LOADING, IF ANY OF THE FOLLOWING CONDITIONS ARISE:</u></p> <p>i) BREAK DOWN OF FIRE ii) LEAKAGE IN THE VESSEL, OR iii) CARGO IN PART/FULL BLOWN AWAY WHILE LOADING DUE TO HIGH WINDS ETC.</p> <p>THE INDEPENDENT INSPECTION AGENCY SHALL REPORT HAPPENINGS/EVENTS/CONDITIONS AS ABOVE AND ENSURE THAT LOADING IS PERMITTED ONLY WHEN NORMAL CONDITIONS PREVAIL. ANY DEVIATIONS NOTICED WILL BE NOTIFIED IMMEDIATELY TO THE SELLER, MASTER OF THE VESSEL AND THE BUYER, BY THE INSPECTION AGENCY IN WRITING.</p> <p>a) CERTIFICATES OF WEIGHT, QUANTITY AND QUALITY ETC. ISSUED BY THE INDEPENDENT INSPECTION AGENCY SHALL BE COUNTERSIGNED BY THE SUPPLIER / SHIPPER.</p> <p>b) ON COMPLETION OF THE INSPECTION OF THE MATERIAL FOR EACH SHIPMENT, A CERTIFICATE OF INSPECTION, SAMPLING, WEIGHT AND QUALITY,</p>
--	--	---

		<p>PACKING LIST ETC SHALL BE ISSUED BY THE INDEPENDENT INSPECTION AGENCY TO THE BUYER AND THE SELLER OR ANY OTHER PARTY AS MAY BE NOTIFIED BY THE BUYER FROM TIME TO TIME.</p> <p>c) THE INDEPENDENT INSPECTION AGENCY HAVE TO TAKE SPECIAL CARE DURING THE COURSE OF LOADING AS IN MANY COUNTRIES WATER IS SPRINKLED TO PREVENT FIRE DUE TO FRICTION. THE INDEPENDENT INSPECTION AGENCY IN THEIR REPORT SHOULD QUANTIFY THE QUANTUM OF WATER SPRINKLED DURING THE COURSE OF LOADING OPERATIONS, AS SULPHUR DOES NOT ABSORB ANY WATER BUT SUCH WATER GETS ACCUMULATED INTO THE HOLDS OF THE VESSEL. WHILE CALCULATING THE DRAFT SURVEY WEIGHT, THEY SHOULD CLEARLY SPECIFY THE QUANTUM OF WATER SPRAYED AND THEN DETERMINE THE NET TONNAGE OF THE MATERIAL LOADED.</p> <p>d) THE INDEPENDENT INSPECTION AGENCY SHALL BE RESPONSIBLE TO KEEP PROPER SUPERVISION OF THE SHIPMENT SO AS TO ENSURE THAT THE BUYER DOES NOT INCUR ANY LOSS ON ANY ACCOUNT WHATSOEVER IN THE SUPERVISORY OPERATIONS AT THE LOADING PORT AND THE GOODS/CARGO ARE SHIPPED AS PER THE INSTANT CONTRACT.</p>
12.	SAMPLING AND ANALYSIS AT DISPORT	<p>THE BUYER SHALL AT THEIR OPTION AND EXPENSES SHALL APPOINT AN INDEPENDENT INSPECTION AGENCY AT THE DISPORT FOR CARRYING OUT CONTINUOUS SAMPLING AND ANALYSIS AT THE TIME OF DISCHARGE OF GOODS OF EACH CONSIGNMENT. SAMPLES WILL BE COLLECTED FOR ANALYSIS FOR EVERY 500 MTS OF GOODS DISCHARGED. THE SELLER MAY AT THEIR OPTION AND EXPENSES MAY DEPUTE THEIR REPRESENTATIVES TO WITNESS COLLECTION OF THE SAMPLES. HOWEVER, IN TERMS OF THE INSTANT CONTRACT, SAMPLING AND ANALYSIS REPORT ONLY AT LOAD PORT SHALL BE BINDING ON BOTH THE SELLER AND BUYER.</p>
13.	WEIGHT	<p>THE SELLER SHALL, AT THEIR COST, DETERMINE THE WEIGHT OF THE GOODS DELIVERED AT THE LOAD PORT AS WELL AS AT DISPORT BY MEANS OF DRAUGHT SURVEY. DRAFT SURVEY SHALL BE CONDUCTED BY THE INDEPENDENT INSPECTION AGENCY (THROUGH</p>

		<p>APPROVED MARINE SURVEYORS) WHO SHALL ISSUE THE CERTIFICATE OF DRAFT SURVEY WEIGHT.</p> <p>THE BUYER MAY AT HIS OWN COST, DETERMINE THE WEIGHT OF THE MATERIAL DELIVERED IN EACH CONSIGNMENT AT THE DISPORT BY MEANS OF DRAFT SURVEY, WHICH SHALL BE CONDUCTED BY THE INDEPENDENT INSPECTION AGENCY (THROUGH APPROVED MARINE SURVEYORS) APPOINTED BY THE BUYER.</p> <p>VARIATION OF MORE THAN 0.5% IN WEIGHT DETERMINED AT DISPORT THROUGH JOINT DRAFT SURVEY SHALL BE TO ACCOUNT OF THE SELLER.</p>
14.	PAYMENT TERMS	<p>PAYMENT SHALL BE MADE FOR 100% VALUE OF GOODS IN US DOLLARS ON CAD BASIS WITHIN FIVE DAYS FROM THE DATE OF RECEIPT OF DOCUMENTS IN BUYER'S NOMINATED BANK. <u>SELLER TO PRESENT FOLLOWING DOCUMENTS:</u></p> <p>1) COMMERCIAL INVOICE IN ORIGINAL – IN QUADRUPLICATE</p> <p>2) 3/3 SET OF ORIGINAL, CLEAN ON BOARD SHIPPED BILL OF LADING MADE OUT 'TO ORDER' AND BLANK ENDORSED, MARKED "FREIGHT PREPAID"</p> <p>NOTIFY PARTIES IN B/L TO BE:</p> <p>MMTC LIMITED NIC BUILDING - 4th floor, 8 INDIA EXCHANGE PLACE, KOLKATA – 700001</p> <p>3) 1) ONE ORIGINAL AND 2 COPIES OF CERTIFICATE OF INSPECTION AT LOAD PORT SHALL BE ISSUED BY AN INTERNATIONALLY REPUTED INSPECTION AGENCY. ON NO ACCOUNT, THE ANALYSIS REPORT OF GOODS/CARGO SHALL NOT EXCEED THE ABSOLUTE MAXIMUM/ MINIMUM TOLERANCE LIMITS AS STIPULATED IN THE SPECIFICATION CLAUSE OF THE INSTANT CONTRACT. WITH RESPECT TO INSPECTION AGENCY APPOINTED BY THE BUYERS, ANALYSIS REPORT AS PROVIDED BY THE INSPECTION AGENCY SHALL ALSO BE SUBMITTED BY THE</p>

		<p>SELLER AS A PART OF THE SHIPPING DOCUMENT.</p> <p>i) CERTIFICATE ISSUED BY AN INTERNATIONALLY REPUTED INSPECTION AGENCY CONFIRMING THAT THEY HAVE INSPECTED THE HATCHES/HOLDS ETC OF THE VESSEL AT LOAD PORT AND FOUND THEM TO BE CLEAN, DRY AND FREE FROM ANY FOREIGN MATERIAL AND SUITABLE FOR LOADING OF SULPHUR. THE NATURE OF THE HATCH COVERS IS ALSO TO BE INDICATED/INFORMED IN TRIPLICATE.</p> <p>ii) TWO ORIGINAL PLUS TWO COPIES OF CERTIFICATE OF ORIGIN FROM THE CHAMBER OF COMMERCE OF THE COUNTRY OF ORIGIN.</p> <p>iii) LOAD PORT DRAFT/DRAUGHT SURVEY WEIGHT CERTIFICATE ISSUED BY THE INDEPENDENT INSPECTION AGENCY AT LOAD PORT IN TRIPLICATE.</p> <p>iv) COPY OF SELLERS INTIMATION/ADVICE THROUGH EMAIL/FAX WITH RESPECT TO SHIPMENT INDICATING PORT OF LOADING, NAME OF THE VESSEL, QUANTITY LOADED AS PER DRAFT SURVEY AND VALUE THEREOF WITH BILL OF LADING NUMBER AND DATE, SAILING DATE AND ETA OF VESSEL AT DISPORT SENT TO BUYERS WITHIN TWO DAYS FROM THE DATE OF SHIPPED ON BOARD, CLEAN B/L.</p> <p>v) ORIGINAL INSURANCE ICC(A) COVER UPTO WAREHOUSE AT VIZAG PORT, INDIA.</p> <p>vi) PACKING LIST IF ANY</p> <p>vii) <u>BENEFICIARY'S CERTIFICATE TO THE EFFECT THAT THE FOLLOWING DOCUMENTS HAVE BEEN DISPATCHED TO THE BUYERS BY E-MAIL/FAX, WITHIN THREE (3) DAYS FROM THE DATE OF SHIPPED BILL OF LADING:</u></p> <p>i) NON NEGOTIABLE SHIPPED B/L MADE OUT TO ORDER AND BLANK ENDORSED SHOWING NOTIFY PARTY AS PER CLAUSE (11 VII B) ABOVE.</p> <p>ii) TWO COPIES OF COMMERCIAL INVOICE.</p>
--	--	--

		<p>iii) COPY OF CERTIFICATE OF INSPECTION ON QUALITY ISSUED BY THE INDEPENDENT INSPECTION AGENCY.</p> <p>iv) COPY OF CERTIFICATE ISSUED BY INSPECTION AGENCY AT LOAD PORT CONFIRMING THAT THEY HAVE INSPECTED THE HATCHES/HOLDS ETC OF THE VESSEL AND FOUND THEM TO BE CLEAN, DRY, FREE FROM ANY FOREIGN MATERIAL AND SUITABLE FOR LOADING OF SULPHUR. THE NATURE OF THE HATCH COVER IS ALSO TO BE INDICATED.</p> <p>v) COPY OF CERTIFICATE OF ORIGIN.</p> <p>vi) COPY OF LOAD PORT DRAFT SURVEY WEIGHT CERTIFICATE ISSUED BY THE INDEPENDENT INSPECTION AGENCY.</p> <p>vii) COPY OF INSURANCE POLICY WITH ICC(A) COVER UPTO WAREHOUSE AT VISAKHAPATNAM PORT INDIA.</p>
15	DELIVERY	<p>THE TIME OF DELIVERY IS THE ESSENCE OF THIS CONTRACT. THE DATE OF BILL OF LADING SHALL BE THE DATE OF DELIVERY IN RESPECT OF THE CONSIGNMENT IMMEDIATELY AFTER RECEIPT OF THIS ORDER THE SELLER SHALL CHARTER SUITABLE VESSEL AND SHIP THE MATERIALS IMMEDIATELY AS PER THE STIPULATED DELIVERY SCHEDULE.</p> <p>THE TERMS OF THE DELIVERY OF THE MATERIALS SHALL BE AS PER SHIPPING TERMS</p> <p>FOR ANY DELAY IN CLEARANCE AT DISPORT ON ACCOUNT OF NON-SUPPLY OF SHIPPING DOCUMENTS IN TIME AND / OR DUE TO DISCREPANT DOCUMENTS, THE SELLER WOULD BE HELD RESPONSIBLE FOR ANY DEMURRAGE, PORT RENT ETC. WHICH THE PURCHASER MAY BECOME LIABLE TO PAY TO THE CONCERNED AUTHORITIES AT THE DISPORT IN INDIA.</p>
16	LIQUIDATED DAMAGES	<p>IN THE EVENT OF THE SELLER'S FAILURE TO DELIVER THE GOODS WITHIN THE TIME(S) SPECIFIED FOR DELIVERY AS PER THE INSTANT CONTRACT, THE SELLER SHALL HAVE TO PAY AS LIQUIDATED DAMAGES (NOT BY WAY OF PENALTY), A SUM EQUIVALENT TO MINIMUM ONE</p>

		<p>PERCENT (1%) OR MORE OF THE PRICE OF GOODS WHICH THE SELLER HAS FAILED TO DELIVER AS ABOVE, FOR UNSHIPED/DELAYED QUANTITY FOR EACH MONTH OR PART THEREOF DURING WHICH THE GOODS ARE NOT DELIVERED AFTER THE CONTRACTED DELIVERY PERIOD PROVIDED. HOWEVER, SUCH LIQUIDATED DAMAGES SHALL NOT APPLY TO ANY PERIOD OF EXTENSION GRANTED BY THE BUYER/UNDER FORCE MAJEURE CONDITIONS. AND THE FORCE MAJEURE CONDITIONS SHALL BE ESTABLISHED BY THE SELLER DULY SUPPORTED BY DOCUMENTARY EVIDENCE. THE MAXIMUM AMOUNT OF LIQUIDATED DAMAGES LEVIED ON ANY SHIPMENT WILL BE 5% OF THE VALUE OF THE GOODS IN THAT SHIPMENT. DELIVERY AND ACCEPTANCE OF THE GOODS BY THE SELLER/BUYER, AFTER THE SAME HAS BECOME LIABLE FOR LEVY OF LIQUIDATED DAMAGES UNDER THE INSTANT CLAUSE, SHALL NOT BE TREATED/OPERATED AS A CONDITION FOR WAIVER OF CLAIM OF BUYER ON LIQUIDATED DAMAGES FROM THE SELLER. THIS IS WITHOUT ANY PREJUDICE TO PARA TITLED RISK PURCHASE.</p>
17	DEFAULT	<p>SHOULD THE SELLER FAIL TO DELIVER THE GOODS IN TERMS OF INSTANT CONTRACT AND AS PER AGREED DELIVERY SCHEDULE OR TIMES STIPULATED AND / OR EXTENDED BY THE BUYER OR SHOULD THE SELLER IN ANY MANNER OR OTHERWISE FAIL TO PERFORM THE CONTRACT, THE BUYER SHALL HAVE THE RIGHT TO TERMINATE THE CONTRACT AT THE RISK AND COST OF THE SELLER IN EVERY WAY. IN SUCH A CASE, THE SELLER SHALL BE LIABLE TO PAY TOWARDS LIQUIDATED DAMAGES FOR DELAY MENTIONED AS ABOVE AND FOR ANY EXPENSES, DAMAGES OR LOSSES WHICH THE PURCHASER MAY INCUR, SUSTAIN OR BE SUBJECT TO BY REASON OF OR IN CONNECTION WITH SELLER'S DEFAULT. DEFAULT CLAUSE IS HOWEVER SUBJECT TO FORCE MAJEURE.</p>
18	RISK PURCHASE	<p>THE TERMINATION OF THE CONTRACT AS STATED IN PARA TITLED "DEFAULT" HEREINABOVE MAY BE EITHER FOR WHOLE OR PART OF THE SAID ORDER AT BUYERS OPTION. IN THE EVENT OF THE BUYERS TERMINATING THE CONTRACT IN WHOLE OR PART, THEY MAY PROCURE GOODS, ON SUCH TERMS AND IN SUCH A MANNER AS DEEMED APPROPRIATE BY THE BUYER. SUPPLIES SIMILAR TO THOSE SO TERMINATED, THE SELLER SHALL BE LIABLE</p>

		TO PAY TO THE BUYERS FOR ANY EXCESS COSTS INCURRED ON SUCH SIMILAR SUPPLIES. HOWEVER, IN CASE OF PART TERMINATION OF CONTRACT BY THE BUYER, THE SELLER SHALL CONTINUE TO PERFORM IN TERMS OF CONTRACT TO THE EXTENT IT IS NOT TERMINATED UNDER THE PROVISIONS OF THIS CLAUSE. THIS IS WITHOUT PREJUDICE TO PARA TITLED, "LIQUIDATED DAMAGES" AND "DELIVERY".
19	RESPONSIBILITY & OBLIGATION	AS SUCH THERE IS NO OBLIGATION ON THE PART OF THE BUYER TO PROCURE GOODS THROUGH THE INSTANT TENDER. HOWEVER, UPON SIGNING OF CONTRACT, THE BUYER ON THE ONE HAND AND THE SELLER ON THE OTHER HAND SHALL BEAR RESPONSIBILITY FOR THE PERFORMANCE OF ALL THEIR RESPECTIVE OBLIGATIONS UNDER THE SIGNED CONTRACT.
20	TRANSFER AND SUB-LETTING	THE SELLER SHALL NOT SUBLET, TRANSFER, ASSIGN OR OTHERWISE PART WITH THE CONTRACT OR ANY PART THEREOF, EITHER DIRECTLY OR INDIRECTLY, WITHOUT THE PRIOR WRITTEN PERMISSION OF THE BUYER ON SUCH TERMS AND CONDITIONS AS MAY BE DECIDED BY THE BUYER. THE SELLER SHALL BE ENTIRELY RESPONSIBLE FOR THE EXECUTION OF THE CONTRACT BY THE SUB-CONTRACTOR, IF ANY, PROVIDED THE SAME HAS BEEN PERMITTED BY THE BUYER. FOR THIS PURPOSE, THE SELLERS SHALL AT THEIR OWN COST ENSURE ADEQUATE INSPECTION OF THE SUB-CONTRACTOR'S WORK BY AN AUTHORIZED/APPROVED INSPECTION ORGANIZATION ACCEPTABLE TO THE BUYER.
21	EXPORT LICENCE	IT SHALL BE THE RESPONSIBILITY OF THE SELLERS TO OBTAIN THE REQUISITE EXPORT LICENCE AND COMPLY WITH THE OTHER RELEVANT LAWS OF THEIR RESPECTIVE COUNTRIES FOR EXPORT OF THE GOODS. SELLERS SHALL KEEP THE BUYERS DULY INDEMNIFIED OF ANY LOSSES WHICH MAY ACCRUE TO THE BUYERS BECAUSE OF ANY DEFECT/DISCREPENCY THEREIN.
22	COMPLETENESS OF THE CONTRACT AND MODIFICATION	THE INSTANT CONTRACT CANCELS ALL PREVIOUS NEGOTIATIONS/CONTRACTS ENTERED INTO BETWEEN THE BUYERS AND THE SELLERS. AT THE TIME OF SIGNING THE INSTANT CONTRACT, ANY UNDERSTANDINGS OR AGREEMENTS, OR STATEMENTS WHETHER IN ORAL OR IN WRITING OF ANY KIND, MADE PRIOR TO SIGNING OF THE INSTANT CONTRACT, AND ARE NOT FULLY EXPRESSED HEREIN SHALL, CEASE TO BE OF EXISTENCE BETWEEN THE BUYERS AND THE SELLERS AND SHALL

		NEITHER AFFECT OR MODIFY THE TERMS OF THE INSTANT CONTRACT THEREAFTER, NOR OTHERWISE SHALL BE A BINDING ON THE BOTH THE BUYERS AND THE SELLERS. NO CHANGES CARRIED OUT IN RESPECT OF THE TERMS COVERED BY THE INSTANT CONTRACT SHALL BE VALID UNLESS THE SAME IS AGREED TO/ STATED/ DEFINED IN WRITING BY BOTH THE SELLERS AND THE BUYERS SPECIFICALLY AND SHALL BE TREATED AS AN AMENDMENT TO THE INSTANT CONTRACT.
23	WAIVER	FAILURE TO ENFORCE ANY CONDITION HEREIN CONTAINED IN THE INSTANT CONTRACT SHALL NOT BE CONSIDERED/OPERATED AS A WAIVER OF THE CONDITION ITSELF OR ANY SUBSEQUENT BREACH OF INSTANT CONTRACT THEREOF.
24	FORCE MAJEURE	<p>IF EITHER OF THE SELLERS OR BUYERS BE PREVENTED FROM DISCHARGING THEIR OBLIGATIONS UNDER THE INSTANT CONTRACT BY REASONS OF STRIKES, RESTRAINS BY GOVERNMENTS, WAR, BLOCKADES, REVOLUTIONS, INSURRECTIONS, MOBILIZATIONS, CIVIL COMMOTIONS, ACTS OF GOD, PLAGUE OR BREAKDOWN OF EPIDEMICS, DESTRUCTION OF THE GOODS BY FIRE OR FLOOD OR DUE TO ANY OTHER NATURAL CALAMITIY INTERFERING WITH THE PRODUCTION, LOADING OR DISCHARGE OF CARGO DURING THE SCHEDULED TIME FOR THE DELIVERY IN TERMS OF CONTRACT OR MUTUALLY AGREED UPON, SHALL BE EXTENDED BY THE TIME OR TIMES NOT EXCEEDING ONE YEAR, DURING WHICH PRODUCTION, LOADING OR DISCHARGE IS PREVENTED BY ANY SUCH CAUSES AS MENTIONED HEREIN ABOVE. THE PARTY INVOKING PRODUCTION UNDER THIS CLAUSE SHALL WITHIN 15 DAYS OF THE OCCURRENCE OF FORCE MAJEURE CAUSES NOTIFIES THE OTHER PARTY SUPPORTED BY CERTIFICATE FROM CHAMBER OF COMMERCE OR CONCERNED GOVERNMENT AUTHORITY AND SHALL LIKEWISE INTIMATE THE CESSATION OF SUCH CAUSES. THE DELIVERY SHALL BE RESUMED BY THE PARTY/PARTIES WITHIN 15 DAYS FROM CESSATION OF THE FORCE MAJEURE CAUSES.</p> <p>SHOULD THERE BE ANY INTERRUPTION IN THE DELIVERY OF THE MATERIAL DUE TO FORCE MAJEURE CIRCUMSTANCES MENTIONED ABOVE, THE PERIOD OF <u>OFF TAKE</u> OF THE GOODS/CARGO BY THE BUYER/PERIOD OF DELIVERY OF THE GOODS/CARGO BY THE SELLER</p>

		SHALL AUTOMATICALLY STAND EXTENDED BY A PERIOD NOT EXCEEDING ONE YEAR OR EQUAL TO THE ACTUAL DURATION OF THE CAUSES INTERRUPTING THE OFF TAKE BY THE PURCHASER AND /OR DELIVERY OF THE GOODS/CARGO BY THE SELLER WITHIN 15 DAYS, BUT NOT EXCEEDING A PERIOD OF SIX WEEKS TO ENABLE THE AFFECTED PARTY TO MAKE SUITABLE ARRANGEMENTS FOR RESUMPTION OF SHIPMENT.
25	ARBITRATION	ANY DISPUTE OR DIFFERENCE WHATSOEVER ARISING BETWEEN THE PARTIES OUT OF OR RELATING TO THE CONSTRUCTION, MEANING, SCOPE, OPERATION OR EFFECT OF THIS CONTRACT OR THE VALIDITY OR THE BREACH THEREOF SHALL BE SETTLED BY ARBITRATION IN ACCORDANCE WITH THE RULES OF ARBITRATION OF THE INDIAN COUNCIL OF ARBITRATION AND THE AWARD MADE IN PURSUANCE THEREOF SHALL BE BINDING ON THE PARTIES. THE VENUE FOR ARBITRATION SHALL BE KOLKATA. THE APPROPRIATE COURTS IN KOLKATA SHALL HAVE EXCLUSIVE JURISDICTION AND INDIAN LAWS SHALL GOVERN THIS CONTRACT.
26	LEGAL INTERPRETATION	<p>i) THE INSTANT CONTRACT AND THE RELATED ARBITRATION SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF INDIA FOR THE TIME BEING IN FORCE.</p> <p>ii) TO INTERPRET ALL THE COMMERCIAL TERMS AND ABBREVIATIONS USED HEREIN WHICH HAVE NOT BEEN OTHERWISE DEFINED, THE LATEST RULES OF "INCOTERMS" SHALL BE APPLIED.</p> <p>iii) ONLY THE COMPETENT COURT/ COURTS OF INDIA SHALL HAVE THE JURISDICTION OVER ANY DISPUTE ARISING OUT OF AND/ OR RELATING TO THE INSTANT CONTRACT.</p>
27	SHIPPING TERMS	<p>1.0. TYPE OF VESSELS:</p> <p>1.1 THE SELLER SHALL EFFECT SHIPMENTS IN SINGLE-DECKER, SELF TRIMMING TYPE OF VESSELS CLASSED WITH APPROVED CLASSIFICATION SOCIETIES EQUIVALENT TO LLOYD'S 100 A1, SUITABLE FOR BULK DISCHARGE WITH SELF-DISCHARGING GEAR/CRANES OF SUITABLE CAPACITY FITTED WITH GRABS FULLY AUTOMATIC REQUIRING NO MANUAL OPERATION AND CAPABLE OF MAINTAINING THE DISCHARGE RATE</p>

		<p>GUARANTEED BY THE BUYER AS PER PARA 7 HEREIN BELOW. SUCH VESSELS SHALL NOT NORMALLY BE OVER 15 YEAR OF AGE. HOWEVER, IN CASE OF VESSELS OVER 15 YEARS OF AGE BUT NOT OVER 25 YEARS OF AGE, HAVE TO BE ENGAGED, THE SELLER SHALL SEEK PRIOR CLEARANCE OF BUYER AND THE OVERAGE INSURANCE PREMIUM IN RESPECT OF SUCH VESSELS SHALL BE BORNE BY THE SELLER. VESSELS NOMINATED SHALL HAVE <u>MINIMUM 5 WORKABLE HATCHES</u> FITTED WITH MINIMUM ONE GRAB PER HATCH CAPABLE OF LIFTING MINIMUM FOUR TONES (5.5 CU.M) OF THE MATERIAL PER GRAB PER CYCLE (GUARANTEED CYCLE TIME BEING THREE MINUTES MAXIMUM) SO THAT GUARANTEED DISCHARGE RATE PER WEATHER WORKING DAY IS ACHIEVABLE WITH NORMAL EFFORT. THE HOLDS OF EACH VESSEL SHALL BE CLEARED BEFORE LOADING TO AVOID CONTAMINATION.</p> <p>SHIPMENT MAY ALSO BE MADE IN NORMAL GEARED VESSEL, SUITABLE FOR BULK DISCHARGE, SELF TRIMMING TYPE WITH SELF DISCHARGING GEAR / CRANES OF SUITABLE CAPACITY, FULFILLING THE REQUIREMENTS LAID DOWN IN <u>SUB PARA 1.1</u> ABOVE, EXCEPT WITH REGARD TO GRAB FITMENT, PROVIDED THE VESSEL IS CAPABLE OF MAINTAINING THE DISCHARGE RATE AS GUARANTEED BY THE BUYER AS PER <u>PARA 7</u> HEREIN BELOW.</p> <p>1.2 IF, ON ARRIVAL OF THE VESSEL AT THE INDIAN PORT OF DISCHARGE, IT IS CONSIDERED BY THE BUYER THAT THE VESSEL MAY NOT BE CAPABLE OF MAINTAINING THE DISCHARGE RATE AS GUARANTEED BY THE BUYER AS <u>PARA 7</u> HEREIN BELOW, A MUTUALLY ACCEPTABLE INDEPENDENT MARINE SURVEYOR SHALL BE APPOINTED AT THE PORT OF DISCHARGE TO INVESTIGATE AND TO ASSESS THE CAPACITIES OF THE SELF-DISCHARGING GEAR/CRANES/GRABS OF THE VESSEL AND TO ESTABLISH THE EFFECTIVE RATE OF DISCHARGE WHICH THE VESSEL IS CAPABLE OF MAINTAINING. THE FINDINGS OF THE INDEPENDENT MARINE SURVEYORS SHALL BE FINAL AND BINDING ON BOTH THE BUYER AND THE SELLER. THE SURVEY CHARGES SHALL BE BORNE AND PAID FOR BY THE SELLER AND THE BUYER IN EQUAL PROPORTIONS.</p>
--	--	--

	<p>1.3 IF, ACCORDING TO THE FINDINGS OF THE INDEPENDENT MARINE SURVEYORS, THE VESSEL IS NOT FOUND TO BE CAPABLE OF MAINTAINING THE DISCHARGE RATE GUARANTEED BY THE BUYER FOR THE RELEVANT PORT OF DISCHARGE, THE EFFECTIVE RATE OF DISCHARGE WHICH THE VESSEL MAY IN FACT BE FOUND TO BE CAPABLE OF MAINTAINING AS PER FINDINGS OF THE INDEPENDENT MARINE SURVEYOR, SHALL BE RECORDED THE STATEMENT OF FACTS REFERRED TO IN <u>PARA 8</u> HEREIN BELOW AND THE COMPUTATION OF LAY TIME USED SHALL BE BASED ON THE RATE OF DISCHARGE AS ASSESSED BY THE INDEPENDENT MARINE SURVEYOR, WHEREVER IT IS LESS THAN THE DISCHARGE RATE GUARANTEED BY THE BUYER FOR THE RELEVANT PORT OF DISCHARGE.</p> <p>1.4 KEEPING IN VIEW THE LIMITATIONS AT THE INDIAN PORT THE SELLER SHALL ENSURE THAT THE VESSELS ENGAGED BY THEM FOR SHIPMENT OF THE MATERIAL AGAINST THIS CONTRACT, KNOW THE RESTRICTIONS AT THE INDIAN PORT OF VISAKHAPATNAM.</p> <p>2.0 GENERAL PROVISIONS TO BE INCORPORATED IN THE CHARTER PARTIES GOVERNING SHIPMENT OF THE MATERIAL: -</p> <p>2.1 <u>THE SELLER SHALL ENSURE THAT THE CHARTER PARTIES GOVERNING SHIPMENT OF THE GOODS/CARGO AGAINST THE INSTANT CONTRACT CONTAIN, INTER-ALIA, THE FOLLOWING PROVISIONS:</u></p> <p>2.1.1 ON SAILING AND FOURTEEN DAYS PRIOR TO VESSEL'S ETA AT VISAKHAPATNAM, THE MASTER OF THE VESSEL SHALL GIVE E-MAIL/FAX ADVICE TO THE BUYER. THEREAFTER, THE MASTER OF THE VESSEL SHALL E-MAIL/FAX AT INTERVALS OF 10 DAYS / 7 DAYS / 72 HOURS / 24 HOURS REGARDING ETA OF VESSEL, TO THE BUYER.</p> <p>2.1.2 THE SELLER SHALL ARRANGE FOR THE VESSEL TO BEAR AND TO PAY ALL PORT DUES / CHARGES (EXCEPT PORT UNLOADING CHARGES), TONNAGE DUES, LIGHT DUES, AND OTHER TAXES, ASSESSMENTS AND CHARGES</p>
--	---

		<p>THAT ARE CUSTOMARILY PAYABLE AT THE INDIAN PORT(S) OF DISCHARGE ON OR WITH REQUEST TO THE VESSEL(S).</p> <p>2.13 EACH VESSEL SHALL HOLD A VALID GEAR CERTIFICATE IN CONFORMITY WITH THE INTERNATIONAL DOCK SAFETY CONVENTION, COVERING THE DURATION OF EACH VOYAGE AND CONFIRMING THAT ALL THE GEARS HAVE BEEN DULY TESTED. THE GEAR CERTIFICATE SHALL BE MADE AVAILABLE BY MASTER OF THE VESSEL TO THE REPRESENTATIVE OF THE BUYER FOR PERUSAL, AFTER THE BERTHING OF THE VESSEL.</p> <p>2.14 THE MASTER OF THE VESSEL SHALL ALLOW ON BOARD THE VESSEL THE REPRESENTATIVES OF THE INDEPENDENT CARGO INSPECTIONS AGENCY/MARINE SURVEYORS APPOINTED BY THE BUYER AND PROVIDE SUCH INFORMATION / ASSISTANCE AS MAY BE REQUIRED BY THEM IN CONNECTION WITH THE PERFORMANCE OF THEIR ASSIGNED DUTIES.</p> <p>2.15 MASTER OF THE VESSEL SHALL PROVIDE FREE USE OF LIGHT ON BOARD OF THE VESSEL AS MAY BE REQUIRED FOR WORKING IN THE VESSEL AT THE PORT OF DISCHARGE AT ALL TIMES AND IN EACH CASE FREE OF EXPENSE TO THE BUYER.</p> <p>2.16 THE OPENING AND CLOSING OF THE HATCHES OF THE VESSEL SHALL ALWAYS BE DONE BY THE VESSELS' CREW AND THE COST INVOLVED THEREIN AND THE TIME USED THEROF SHALL BE TO THE ACCOUNT OF THE VESSEL UNLESS THE VESSEL IS ON DEMURRAGE IN WHICH EVENT ONLY THE TIME WILL COUNT. THE TIME USED IN THE INITIAL OPENING AND FINAL CLOSING OF THE HATCHES SHALL BE TO THE ACCOUNT OF THE VESSEL, EVEN IF THE VESSEL IS ON DEMURRAGE.</p> <p>2.17 IN THE EVENT OF THE MASTER OF VESSEL EXERCISING LIEN ON THE CARGO (I.E. THE MATERIALS) FOR NON-PAYMENT OF FREIGHT, EXTRA FREIGHT, DEAD FREIGHT, DEMURRAGE AND DAMAGES FOR DETENTION OF THE VESSEL AT THE INDIAN PORT OF DISCHARGE, THE SELLER SHALL, ON RECEIPT OF E-MAIL/FAX INTIMATION FROM THE BUYER TAKE IMMEDIATE REMEDIAL</p>
--	--	---

		<p>MEASURES AND SHALL CAUSE APPROPRIATE INSTRUCTIONS BEING ISSUED TO THE MASTER OF VESSEL TO PROCEED WITH THE DISCHARGE OF CARGO (I.E. THE MATERIALS). ANY TIME LOST BETWEEN THE RECEIPT OF NOTICE OF LIEN BY THE BUYER FROM THE MASTER OF THE VESSEL AND THE WITHDRAWAL OF SUCH NOTICE SHALL BE TO THE ACCOUNT OF VESSEL / SELLER.</p> <p>218 THE OVERTIME OF THE CREW SHALL BE TO THE ACCOUNT OF THE VESSEL UNLESS ORDERED BY THE BUYER.</p> <p>219 AS REGARDS DAMAGES, IF ANY, CAUSED TO THE VESSEL BY THE BUYER STEVEDORES, THE BUYER WILL BE RESPONSIBLE ONLY FOR THE DAMAGES CAUSED TO THE VESSEL DURING DISCHARGE. IN PRINCIPLE, CLAIMS FOR SUCH DAMAGE ARE TO BE SETTLED DIRECTLY BETWEEN THE SHIP-OWNERS AND THE STEVEDORES. SUCH CLAIM SHALL BE LODGED BY THE MASTER OF THE VESSEL ON THE STEVEDORES PROMPTLY AFTER THE DAMAGE HAS BEEN SUSTAINED AND THEN CONFIRMED IN WRITING DULY SUPPORTED BY THIRD PARTY DAMAGE REPORT PRIOR TO THE VESSEL'S DEPARTURE FROM THE PORT OF DISCHARGE, FAILING WHICH THE CLAIM SHALL STAND BARRED AND STEVEDORES SHALL STAND ABSOLVED AND RELIEVED OF ALL RESPONSIBILITY.</p> <p>3.0 INTIMATIONS TO BE SENT BY THE SELLER TO THE BUYER ON NOMINATION OF VESSELS FOR SHIPMENT AND ON COMPLETION OF LOADING OF VESSEL AT LOAD PORT.</p> <p>3.1 SELLER SHALL SO ARRANGE FOR THE SHIPMENT OF GOODS/CARGO HEREUNDER AND CONFORM TO PROVISIONS OF CLAUSE 1 OF SHIPPING TERMS AND SHALL NOMINATE EACH VESSEL 10 DAYS IN ADVANCE TO THE BUYER BY E-MAIL/FAX INCLUDING THE FOLLOWING DETAILS OF THE VESSEL(S) VIZ.</p> <ul style="list-style-type: none">I) NAME OF THE VESSELII) FLAGIII) YEAR BUILTIV) NAME AND NATIONALITY OF THE SHIP- OWNERSV) CLASS
--	--	--

	<p>VI) TYPE VII) LENGTH OVERALL VIII) BEAM LENGTH IX) NUMBER OF HATCHES / HOLDS X) DIMENSIONS OF HATCH OPENINGS XI) NUMBER OF CRANES AND THEIR CAPACITIES XII) NUMBER OF GRABS AND THEIR SIZES AND LIFTING CAPACITY PER CYCLE XIII) QUANTITY OF THE MATERIALS PROPOSED TO BE LOADED XIV) LAY DAYS AND ETA OF THE VESSEL AT LOADING PORT</p> <p>THE BUYER SHALL E-MAIL/FAX TO THE SELLER WITHIN 48 (FORTY-EIGHT) WORKING HOURS HIS ACCEPTANCE OF OTHERWISE OF THE ABOVE NOMINATION.</p> <p>32 THE BUYER RESERVES THE RIGHT TO APPOINT HIS OWN PROTECTIVE AGENT AT THE INDIAN PORT(S) OF DISCHARGE AT THE CUSTOMARY AGENCY FEES PAYABLE BY THE VESSEL/SELLER TO SUCH AGENT. THE VESSEL SHALL APPOINT ITS OWN AGENTS AT THE INDIAN PORT OF DISCHARGE.</p> <p>33 WITHIN 48 HOURS OF SAILING OF THE VESSEL FROM THE LOAD PORT, THE SELLER SHALL GIVE THE FOLLOWING DETAILS BY E-MAIL/ FAX TO THE BUYER:</p> <ul style="list-style-type: none"> i) NAME OF THE VESSEL ii) B/L WEIGHT AND VALUE OF THE CARGO iii) NAME OF THE PORT OF SHIPMENT iv) DATE AND TIME OF COMMENCEMENT AND COMPLETION OF LOADING v) DATE AND TIME OF SAILING OF THE VESSEL FROM THE PORT OF SHIPMENT vi) ETA AT DISCHARGE PORT. <p>4.0 OPTION TO DISCHARGE CARGO FROM THE VESSEL AT A SECOND SAFE BERTH AT THE SAME PORT.</p> <p>4.1 THE BUYER SHALL HAVE THE OPTION TO DISCHARGE CARGO FROM THE VESSEL AT A SECOND SAFE BERTH AT THE SAME PORT OF DISCHARGE. IN THE EVENT OF BUYER EXERCISING THE OPTION AS AFORESAID THE</p>
--	--

		<p>EXPENSES INVOLVED IN SHIFTING THE VESSEL TO THE SECOND SAFE BERTH SHALL BE TO THE ACCOUNT OF THE VESSEL AND THE TIME USED IN SHIFTING SHALL NOT COUNT AS LAYTIME. IF THE PORT AUTHORITIES ORDER THE SHIFTING OF THE VESSEL TO ANOTHER SAFE BERTH AT THE SAME PORT OF DISCHARGE, THE TIME INVOLVED IN SHIFTING AND THE COST THEREOF SHALL BE TO THE ACCOUNT OF VESSEL.</p> <p>5. SERVICE OF NOTICE OF READINESS FOR DISCHARGE OF CARGO (I.E. THE MATERIALS) BY THE MASTER OF THE VESSEL (MASTER'S N/R):</p> <p>5.1 UPON ARRIVAL OF THE VESSEL WITHIN THE PORT LIMITS AT THE PORT OF DISCHARGE AND IN FREE PRATIQUE AND AFTER BEING READY IN ALL RESPECTS TO DISCHARGE THE CARGO, THE MASTER OF THE VESSEL SHALL SERVE ON THE CONCERNED PORT OFFICE(S) OF THE BUYER THE NOTICE OF READINESS OF THE VESSEL TO DISCHARGE CARGO (MASTER N/R) IN WRITING IN BUSINESS HOURS BETWEEN 1000 HOURS AND 1630 HOURS ON WORKING DAYS (MONDAY TO SATURDAY).</p> <p>6.0.THE SELLER SHALL ARRANGE TO HAND OVER LOCAL DELIVERY ORDER (LDO) TO THE BUYER OR HIS AGENT AT DISPORT WITHIN ONE HOUR FROM THE BERTHING OF THE VESSEL. ANY TIME LOST IN ISSUE OF LDO, THEREBY CAUSING DELAY IN DISCHARGE, WILL BE TO THE SELLER'S ACCOUNT.</p> <p>7.0 LAYTIME AND EXCEPTED PERIODS:</p> <p>7.1 THE LAYTIME AT DISCHARGE PORT SHALL COMMENCE AS PER 1/8 GENCON. THE LAYTIME AT DISCHARGE PORT SHALL COMMENCE AT 1:00 PM IF MASTER'S N/R IS SERVED IN THE AFTERNOON, EVEN IF USED.</p> <p>7.2 IF THE TURN TIME AT EACH DISCHARGE PORT EXPIRES ON SUNDAYS, HOLIDAYS, THE LAY TIME SHALL COMMENCE AT 8 AM ON THE NEXT WORKING DAY, EVEN IF USED.</p> <p>7.3 THE TIME TAKEN BY THE VESSEL FOR PROCEEDING</p>
--	--	---

	<p>FROM ANCHORAGE TO THE BERTH SHALL BE TREATED AS TRANSIT TIME AND SHALL BE TO THE ACCOUNT OF THE VESSEL, EVEN IF THE VESSEL IS ON DEMURRAGE.</p> <p>74 THE TIME TAKEN FOR INITIAL DRAFT SURVEY SHALL BE TO THE ACCOUNT OF THE VESSEL, EVEN IF THE VESSEL IS ON DEMURRAGE.</p> <p>75 TIME SHALL NOT COUNT BETWEEN 1400 HOURS ON SATURDAYS AND 0800 HOURS ON MONDAYS AND BETWEEN 1400 HOURS ON THE DAY PRECEDING A LEGAL HOLIDAY AND/OR PART LABOR HOLIDAY AND 0800 HOURS ON THE FIRST WORKING DAY THEREAFTER, EVEN IF USED AND EVEN IF THE VESSEL IS ON DEMURRAGE.</p> <p>76 IF, AFTER BERTHING, THE VESSEL, IS FOUND BY THE PORT AUTHORITIES / BUYER, NOT READY IN ALL RESPECTS TO DISCHARGE, LAYTIME WILL NOT COMMENCE UNTIL THE VESSEL IS IN FACT READY IN ALL RESPECTS TO DISCHARGE IRRESPECTIVE OF ACCEPTANCE OF 'NOTICE OF READINESS'. THE SPECIFIC GROUNDS ON WHICH THE VESSEL IS FOUND NOT TO BE READY TO DISCHARGE, SHALL BE RECORDED BY THE BUYER IN ALL THE 'STATEMENT OF FACTS' WHICH IS ALSO TO BE ACCEPTED AND SIGNED BY THE MASTER/AGENT OF THE VESSEL.</p> <p>7.7 IN THE EVENT OF BREAKDOWN OF GEAR/ CRANES/GRABS/WINCHES AND OTHER EQUIPMENT OF THE VESSEL BY REASON OF DISABLEMENT OR INSUFFICIENT POWER ETC. THE PERIOD OF SUCH INSUFFICIENCY SHALL NOT COUNT AS LAY TIME.</p> <p>7.8 TIME LOST BY REASON OF ANY OR ALL OF THE FOLLOWING CAUSES PREVENTING DISCHARGE OF THE CARGO SHALL NOT BE COMPUTED AS LAYTIME EVEN IF THE VESSEL IS ON DEMURRAGE.</p> <p>7.8.1 WAR, REBELLION, TUMULT, POLITICAL DISTURBANCES, INSURRECTIONS.</p> <p>7.8.2 LOCKOUTS, STRIKES, RIOTS, CIVIL COMMOTION.</p> <p>7.8.3 EPIDEMICS, QUARANTINE, LANDSLIPS, FLOODS,</p>
--	---

	<p>FROST OR SNOW, BORE TIDES, BAD WEATHER.</p> <p>7.8.4 STOPPAGE OF WORK, WHETHER PARTIAL OR GENERAL, BY WORKMEN, LONGSHOREMEN, TUG-BOAT MEN OR OTHER HANDS ESSENTIAL TO THE WORKING OF THE VESSEL OR DISCHARGE OF CARGO FROM THE VESSEL.</p> <p>7.8.5 ACCIDENTS AT THE WHARF.</p> <p>7.8.6 INTERVENTION OF SANITARY, CUSTOMS AND/OR OTHER CONSTITUTED AUTHORITIES.</p> <p>7.8.7 ANY OTHER CAUSE BEYOND THE CONTROL OF THE BUYER.</p> <p>8.0 GUARANTEED DISCHARGE RATE</p> <p>8.1 THE SELLER SHALL DELIVER THE MATERIALS FREE IN VESSEL'S HOLDS IN ONE OR TWO SAFE BERTHS, REACHABLE ON ARRIVAL ALWAYS AFLOAT AT THE NOMINATED PORT(S) OF DISCHARGE.</p> <p>8.2 THE MASTER OF THE VESSEL SHALL MAKE AVAILABLE ALL THE HATCHES FOR DISCHARGE OF CARGO THROUGHOUT THE PERIOD THE VESSEL IS WORKED FOR DISCHARGE OF CARGO, UNLESS THE MATERIALS IN OTHER HATCHES IS COMPLETELY DISCHARGED.</p> <p>8.3 SUBJECT TO THE PROVISIONS OF <u>PARA 1.3, 6 AND 7.2</u>, HEREIN ABOVE, THE BUYER SHALL GUARANTEE THE MINIMUM DISCHARGE RATE OF 2000 MT PER DAY AT VISAKHAPATNAM PORT ON THE BASIS OF FIVE OR MORE AVAILABLE WORKABLE HATCHES AND PRORATA IF LESS, PER WEATHER WORKING DAY (PWW) OF 24 CONSECUTIVE HOURS AND PRORATA FOR PART OF WWD, SUNDAYS, HOLIDAYS EXCEPTED, EVEN IF USED (SHEXEIU).</p> <p>8.0 STATEMENT OF FACTS</p> <p>IMMEDIATELY AFTER COMPLETION OF DISCHARGE AND BEFORE SAILING OF THE VESSEL FROM THE PORT OF DISCHARGE, A STATEMENT OF FACTS SHALL BE MADE</p>
--	---

		<p>OUT AT THE PORT OF DISCHARGE DULY SIGNED BY AND DISTRIBUTED AMONGST:</p> <p>a) MASTER OF THE VESSEL/AGENTS OF THE VESSEL AT PORT OF DISCHARGE.</p> <p>b) AGENTS/REPRESENTATIVE(S), IF ANY, OF THE SELLER AT THE PORT OF DISCHARGE.</p> <p>c) REPRESENTATIVE OF THE BUYER AT THE PORT OF DISCHARGE.</p> <p>10. SETTLEMENT OF DEMURRAGE / DESPATCH IN RESPECT OF THE SHIPMENT.</p> <p>IN THE TIME SHEET BASED ON THE AFORESAID STATEMENT OF FACTS, THE COMPUTATION OF LAY TIME ALLOWED AND LAY TIME USED BE BASED ON THE PROVISIONS CONTAINED IN PARA 6 AND 7 HEREINABOVE, DESPATCH, IF ANY SHALL BE CALCULATED ON THE BASIS OF 'WORKING TIME SAVED'. THE RATE OF DEMURRAGE / DESPATCH MONEY SHALL BE AS PER CHARTER PARTY, SUBJECT TO A MAXIMUM OF US \$ 4000 / US \$ 2000 PER DAY OR PRO-RATA. IN THE CASE OF DEMURRAGE, THE BUYER SHALL ENDEAVOR TO REMIT TO THE SELLER THE AGREED AMOUNT OF DEMURRAGE WITHIN ABOUT 20 (TWENTY) DAYS FROM THE DATE OF RECEIPT OF THE CLAIM OF THE SELLER TOGETHER WITH ALL SUPPORTING DOCUMENTS. IN CASE OF DESPATCH MONEY, THE SELLER SHALL ENDEAVOR TO REMIT TO THE BUYER THE AGREED AMOUNT OF DESPATCH MONEY WITHIN 20 (TWENTY) DAYS FROM THE DATE OF THE CLAIM OF THE BUYER TOGETHER WITH THE SUPPORTING DOCUMENTS.</p>
28	HOLIDAY-LISTING:-	<p>NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT, MMTC'S POLICY FOR HOLIDAY-LISTING OF AN AGENCY MUTATIS MUTANDIS APPLIES TO THIS AGREEMENT AND IN THE EVENT, THE AGENCY(S) WHILE DISCHARGING ITS OBLIGATIONS UNDER THE AGREEMENT OR OTHERWISE, COME(S) WITHIN THE AMBIT OF THE SAID POLICY, MMTC AT ITS SOLE DISCRETION RESERVES THE RIGHT TO SUSPEND/DISCONTINUE DEALING OR TAKE ANY CURATIVE MEASURES WITH THE AGENCY(S) IN ACCORDANCE WITH THE POLICY IN FORCE.</p>

--	--	--

IN WITNESS WHEREOF THIS CONTRACT IS MADE IN DUPLICATE ON THIS DAY OF _____ AND DULY AUTHORIZED REPRESENTATIVES OF THE SELLER AND BUYER HAVING SIGNED ON THIS DAY. RETAINED ONE COPY EACH.

FOR AND ON BEHALF OF
SELLER

FOR AND ON BEHALF OF BUYER

M/S MMTC LIMITED
NIC BUILDING, 4th floor,
8 INDIA EXCHANGE PLACE,
KOLKATA – 700001

ANNEXURE V
(FRAUD PREVENTION POLICY)

- (1) COMMITMENTS OF THE BIDDER(S) / CONTRACTOR(S) / BUYER(S) / VENDER(S):**
THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) SHALL BE BOUND TO TAKE ALL MEASURES NECESSARY TO PREVENT FRAUD AND CORRUPTION WHILE DEALING WITH MMTc. THEY AGREE AND UNDERTAKE TO OBSERVE THE PRINCIPLES/PROVISIONS AS LAID DOWN IN "FRAUD PREVENTION POLICY" OF MMTc (FULL TEXT OF WHICH IS AVAILABLE ON MMTc'S WEBSITE AT <http://mmtclimited.gov.in> DURING THEIR PARTICIPATION IN THE TENDER PROCESS, DURING THE EXECUTION OF CONTRACT AND IN ANY OTHER TRANSACTION WITH MMTc.
- a.** THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) SHALL NOT, DIRECTLY OR THROUGH ANY OTHER PERSON OR FIRM OFFER, PROMISE OR GIVE OR OTHERWISE ALLOW ANY OF MMTc'S EMPLOYEE(S) ANY MATERIAL OR OTHER BENEFIT WHICH HE/SHE IS NOT LEGALLY ENTITLED TO, IN ORDER TO OBTAIN IN EXCHANGE ANY ADVANTAGE OF ANY KIND, WHATSOEVER, DURING THE TENDER PROCESS OR DURING THE EXECUTION OF THE CONTRACT.
- b.** THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) SHALL NOT ENTER WITH OTHER BIDDERS INTO ANY UNDISCLOSED AGREEMENT OR UNDERSTANDING, WHETHER FORMAL OR INFORMAL. THIS APPLIES IN PARTICULAR TO PRICES, SPECIFICATIONS, CERTIFICATIONS, SUBSIDIARY CONTRACTS, SUBMISSION OR NON-SUBMISSION OF BIDS OR ANY OTHER ACTIONS TO RESTRICT COMPETITIVENESS OR TO INTRODUCE CARTELIZATION IN THE BIDDING PROCESS.
- c.** THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) SHALL NOT COMMIT OR ALLOW ANY EMPLOYEE OF MMTc TO COMMIT ANY OFFENCE UNDER THE RELEVANT PROVISIONS OF IPC/PREVENTION OF CORRUPTION ACT; FURTHER THE BIDDER(S)/CONTRACTOR(S) / BUYER(S)/VENDER(S) WILL NOT USE IMPROPERLY OR ALLOW ANY EMPLOYEE OF MMTc, FOR PURPOSE OF COMPETITION OR PERSONAL GAIN OR PASS ON TO OTHERS ANY INFORMATION OR DOCUMENT PROVIDED BY MMTc AS PART OF THE BUSINESS RELATIONSHIP, INCLUDING INFORMATION CONTAINED OR TRANSMITTED ELECTRONICALLY.
- d.** THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) SHALL NOT INSTIGATE THIRD PERSON TO COMMIT OFFENCES/ACTIVITIES OUTLINED IN FRAUD PREVENTION POLICY OR BE AN ACCESSORY TO SUCH OFFENCES.

e. THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) IF IN POSSESSION OF ANY INFORMATION REGARDING FRAUD/SUSPECTED FRAUD, HEREBY AGREE AND UNDERTAKE TO INFORM MMTC OF SAME WITHOUT ANY DELAY.

(2) DISQUALIFICATION FROM TENDER PROCESS AND EXCLUSION FROM FUTURE CONTRACTS: IF THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S), BEFORE AWARD OR DURING EXECUTION HAS COMMITTED A TRANSGRESSION THROUGH A VIOLATION OF "FRAUD PREVENTION POLICY" OF MMTC IN ANY OTHER FORM SUCH AS TO PUT THEIR RELIABILITY OR CREDIBILITY, IN QUESTION, MMTC, OTHER THAN TAKING RECOURSE AVAILABLE UNDER LAW, SHALL BE ENTITLED TO DISQUALIFY THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) FROM UNDERTAKING ANY TRANSACTION WITH MMTC AND/OR DECLARE THE BIDDER(S)/CONTRACTOR(S)/BUYER(S)/VENDER(S) INELIGIBLE TO BE AWARDED A CONTRACT EITHER INDEFINITELY OR FOR A STATED PERIOD OF TIME.

(3) DAMAGES: IF MMTC HAS DISQUALIFIED THE BIDDER(S) FROM THE TENDER PROCESS PRIOR TO THE AWARD OR DURING EXECUTION ACCORDING TO CLAUSE (2), MMTC SHALL BE ENTITLED TO DEMAND AND RECOVER FROM THE CONTRACTOR LIQUIDATED DAMAGES OF THE CONTRACT VALUE OF THE AMOUNT EQUIVALENT PERFORMANCE BANK GUARANTEE.