

## **ANNEXURE - I**

### **General Commercial Terms & Conditions for Purchase of Indigenous Supplies**

Unless otherwise agreed in writing or in Special Conditions to Contract, the Purchaser i.e., JSW ISPAT Steel Limited (which shall include its legal successors & assigns), shall be subject to terms & conditions set forth below which shall form an integral part of each order/purchase order/contract.

#### **1. Orders/Contract**

- 1.1 Order/purchase order/contract by the Purchaser shall be binding only if it is signed & issued by its authorised signatory, and its acceptance thereof is duly communicated in writing by the Seller/Contractor within seven days from the receipt of such order/purchase order/contract.
- 1.2 These General Commercial Terms & Conditions shall govern relationship between the Purchaser and the Seller unless a deviation from these conditions is specifically stated in the individual order or is issued as Special Conditions to Contract , it supersedes all prior understanding & agreements whether written or oral in respect to the subject matter hereof. Any conditions of Seller/Contractor (e.g. bids, sales conditions, etc.) shall not be applicable unless made an integral part of the order and issued as Special Conditions to Contract and accepted by the Purchaser. Any amendments made to this order shall be valid only if issued in writing as an “Amendment to Order” and accepted and duly signed by both the parties.
- 1.4 In case of any ambiguity/inconsistency, the following order of precedence shall apply for the purpose of interpretation :

Written Order/Contract

Special Terms & Conditions to Contract

General Commercial Terms & Conditions

Contract Specification

Quality Assurance Plan

All headings and marginal sub headings are merely for convenience and shall not be taken into consideration for interpretation of these conditions.

Party/Parties shall mean the Seller or the Purchaser or both, as the context may require.

- 1.5 Except as provided in clause 1.7 below, this General terms and conditions for Import of supplies is an integral part of the contract/purchase order/order that has been issued to the Seller and the Seller shall not, without the written consent of the Purchaser, assign, charge or dispose of any of the rights hereunder, or subcontract or otherwise delegate any of the obligations as set forth in the Contract.
- 1.6 Nothing contained in the Contract/purchase order/order is intended to create a partnership or joint venture of any kind between the parties, or to authorise either party to act as agent for the other. Save where expressly so stated in the Contract neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other.
- 1.7 The Seller agrees to take all such measures as may be required to fulfill its obligations under the Contract and the Seller shall give priority to the Purchaser over and above any other customer of the Seller.
- 1.8 The Seller shall use its best endeavours to manufacture and maintain sufficient stock of the materials/supplies as more particularly set forth in Clause 10 to fulfill its obligations under the Contract.

## **2.0 Contract Price**

The contract price as stated in the contract / order covers all obligations of the seller under this order and all things necessary for design, supply including its intended use and for remedying any defects. Unless otherwise agreed contract price/rate shall remain fixed and firm during the currency of order and shall not be subject to any escalation whatsoever and is inclusive of but not limited to all taxes, duties, levies as detailed in Clause No.3 including cost of packing, documentation, technical tests, paint, corrosion protection measures, marking, stamping, , freight and all risks inland transit insurance for delivery of supplies by road on DDP (Delivered Duty Paid)Dolvi,Central Stores basis. The expression DDP shall be as per INCOTERMS 2011 of International Chamber of Commerce, Paris, ICC Publication No.560. In case supply of an item envisages incorporation of any imported components, payment of any custom duties, freight and other charges relating to such import shall be deemed to have been included in the contract price by the Seller..

## **3.0 Taxes and Duties**

- 3.1 Wherever applicable the contract price is inclusive of excise duties, central sales tax (CST), local sales tax, value added tax as and when applicable, entry tax, octroi, custom duties and other charges applicable on imported supplies.
- 3.2 In case of interstate sales of goods Purchaser shall issue necessary sales tax declaration Form "C" to the Seller once in each financial year and the CST charged would be at concessional rate of 4%. All interstate sale of goods shall be "Sale In Transit" as per section 6 (2) of the Central Sales Tax Act 1956.

In case of sale of goods within the state of Maharashtra, the contract price as indicated above shall be inclusive of local sales tax prevalent on the date of supply.

- 3.3 The Seller shall ensure despatch of supplies are made in such a manner that the Purchaser gets the benefit of CENVAT on account of excise duty paid. In case of direct supply a duplicate copy of invoice in original marked as "duplicate copy for transporter" under rule 11 of the Central Excise Rules 2002, will be provided. No excise duty shall be paid if the Seller fails to furnish relevant excise paying document as per CENVAT Credit Rules, 2002, as amended .
- 3.4 Should there be any variation in existing taxes and duties and/or a new tax / duty is imposed by a new legislation / enactment during the period which would be considered for the performance of this order, the same shall be solely to the Seller's account.

Wherever applicable payment to the Seller/Contractor shall be subject to tax deduction at source.

#### **4. Contract Specification**

The Seller/Contractor undertakes to make all supplies against this Order strictly in conformity with Purchaser's approved specifications, drawings and samples as annexed with this order and generally accepted International Standards for material or the type ordered .

Prior to commencement of design & manufacture, the Seller shall submit the Quality Assurance Plan (QAP) as per ISO 9001, for Purchaser's approval and all supplies shall be strictly as per approved QAP.

Notwithstanding any approval granted by the Purchaser, the Seller shall be solely responsible for supplies in accordance with contract.

**5.0 Inspection, Testing & Rejection:**

Inspection and Tests at Seller's/Manufacturer's Premises.

- 5.1 Purchaser or his authorised agent shall have the right of inspecting and testing the contract work or any part thereof at any stage during the manufacture and the Seller on demand from the Purchaser shall carry out such tests in appropriate manner in the presence and free of charge to Purchaser. Should the Seller himself not be in a position to carry out the tests, he shall, on the Purchaser's demand prepare specimen and samples and send them at his own cost to such testing station as the Purchaser may specify and the cost of tests so effected shall be to the Seller's account. However, cost pertaining to the Purchaser's inspection personnel shall be borne by the Purchaser.
- 5.2 Should a part of the supplies be manufactured not on Seller's own premises but on other's premises, the Seller shall like wise obtain permission for the Purchaser/his authorised representative to inspect and test the work as if the said Supplies were being manufactured on the Seller's premises.
- 5.3 The inspection, examination or testing carried out by the Purchaser shall not relieve the Seller from any of his obligations under this Contract. The inspection procedure will be discussed and finalised.
- 5.4 The inspection and tests shall be so conducted as not to unreasonably impede the progress of manufacture.
- 5.5 The Purchaser shall have the right to be present during all tests carried out by the Seller. The Seller on being requested so to act, shall present sufficient documentary evidence that the material used will meet the specified requirement. If called for, samples and specimen shall become the Purchaser's property. The Seller shall notify the contract work, particularly before any assembly, in order that the inspection or tests can be carried out as may be required to ascertain without prejudice to the Seller's liability, whether the materials and/or services are in conformity with the requirement of the contract. All inspection and tests shall be carried out as per the approved procedure unless otherwise specified.
- 5.6 The Purchaser upon giving 7 days notice in writing and stating any grounds of objection, shall have the right to reject any or all equipment or demand rectification or replacement thereof, if the equipment is not in accordance with the Contract/purchase order/order

specification. In addition to the above the purchaser may also terminate the contract if the goods are not as per the specification of the contract/Purchase order/order. In the event the seller/contractor is not able or fails to rectify /remedy/replace the equipment as desired by the purchaser , the purchaser at its sole discretion and choice, make alternate arrangement and the seller /contractor shall be liable for additional expenses on that account if any.

- 5.7 The Seller shall submit to the Purchaser quarterly programme of inspection and tests one month in advance of the commencement of the quarter. The Seller shall give the Purchaser a minimum of 21 days clear notice of any work being ready for inspection and tests specifying the period likely to be required for such inspection and tests. Thereafter, the Purchaser or his inspector shall, unless inspection or test is voluntarily waived, attend at the Seller or his Sub Vendor's premises, to such inspection and tests within 10 days or such extended time period as may be agreed of the date on which the equipment is notified as being ready for inspection and test. Should the Purchaser fail to attend such inspection and test, the Seller may proceed with the inspection and test at his option which shall be deemed to have been made in the Purchaser's presence and shall forthwith forward to the Purchaser copies of inspection/test certificates for acceptance by the Purchaser. The proforma and number of copies for inspection/test certificates shall be mutually agreed.
- 5.8 In all cases whether at the premises or works of the Seller or of any sub-vendor, the Seller shall, provide free of charge to the Purchaser such labour, materials, electricity, fuel, water, stores, apparatus and instrument and/or facilities as may reasonably be required to carry out efficiently such tests of the supplies in accordance with the contract and shall give all such facilities to the Purchaser or his authorised representative to accomplish such tests.
- 5.9 When the inspection/tests have been satisfactory completed at the Seller's or his sub-vendor's premises, the Purchaser shall issue a certificate to that effect. If a final certificate can not be issued a provisional certificate shall be issued. If the tests were not witnessed by the Purchaser or his representative the certificate shall be issued on receipt of manufacturer's test certificate especially for proprietary items such as bearings, motors, pumps etc. Issuance of such Inspection Certificate shall not bind the Purchaser to accept the supplies/work, should it on further tests during or after erection be found the goods supplied do not comply with the contract.

However any test, checks and inspections conducted by Purchaser would not in any way relieve the Seller/Contractor from his liability against all claims arising on account of non-performance, faulty workmanship, defects etc.

5.10 No supplies/contract work shall be shipped or left or otherwise despatched unless despatch Clearance Certificate is issued by the Purchaser.

5.11 In case any supplies/equipment fails in inspection/tests, re-inspection/re-test shall be carried out only necessary rectification work/replacement by Seller. All costs incurred by the Purchaser's personnel to attend reinspection/retest shall be to the Seller's account. Should any supplies fail even after rectification/replacement, as stated above, the Purchaser shall have the right to reject the goods. Any goods so rejected may be stored by the Purchaser solely at Seller's risk and cost or may be disposed off in any manner the Purchaser may deem fit & proper after 30 days of such rejection.

The Purchaser may at its sole option accept the goods so rejected at a discounted price and decision so taken by the Purchaser shall be final and binding upon the Seller.

5.12 The Seller shall furnish to the Purchaser authorised Inspector two (2) copies of purchase orders including detailed technical specification and drawings placed on his vendors as soon as such orders placed by the Seller, but in any case not more than two (2) months before the expected date of equipment getting ready for inspection.

Inspection at Purchaser's Premises :

Whenever goods supplied have been agreed to be inspected at Purchaser's premises provisions of this clause shall apply :

5.13 In case of supplies, equipment, structurals, etc., on which tests set forth above cannot be conducted partially or fully in Seller's/sub-vendor's premises but have to be conducted at site only during erection, the provisions under this clause shall apply. However, in such cases prior approval of Purchaser shall be obtained by the Seller prior to dispatch.

5.14 Materials that shall be purchased are subject to inspection and final approval by the purchaser. The inspection carried out by the purchaser does not relieve the seller from guarantee or responsibility to furnish satisfactory materials as per the specification of the contract. If all or any of the materials supplied are not as per the specification of the contract, or required, they may either be rejected or accepted at a price to be fixed by the

purchaser and the purchaser decision as to rejection and the price to be fixed shall be final and binding on the seller. The said material may also be sold by the purchaser at the risk and cost of the seller. The seller shall be responsible and be liable to replace or repair, at our option, free of cost to us, rejected items within a reasonable time.

**6. Weight / Quantity Variations :-**

Notwithstanding any weight/quantity shown in the documentation furnished by the Seller the weight/quantity for the purpose of payment shall be that taken by the Purchaser on its weighment bridge at its Dolvi works or quantity verified by the Purchaser's Stores Dept. Any decision of the Purchaser in this regard shall be final and binding on the Seller.

**7. Terms of Payment:**

Subject to any deductions from the contract price as per contract the Seller shall be entitled to payment of contract price as per terms of payment detailed in order.

7.1 All advance payment shall be made excluding any applicable taxes & duties and shall be secured by a Advance Bank Guarantee of an equivalent amount as per Purchaser's Proforma in Annexure\_\_\_\_ which shall be kept valid until the entire advance paid to the Seller has been fully recovered.

7.2 Retention Payments wherever applicable shall be released upon completion of supplies against a Performance bank guarantee as per the purchaser's format of equivalent amount valid until end of warranty period or after the expiry of warranty period.

Unless otherwise agreed, all payments shall be released by the Purchaser through accounts payee cheque drawn at Mumbai within 60 days from acceptance of Seller's Invoice provided non-interest bearing cash security deposit/performance bank guarantee, if applicable has been received by the Purchaser.

Wherever payment by telegraphic transfer has been agreed by the Purchaser, bank charges, if any, incurred by Purchaser in remittance of payment shall be to the Seller's account

7.3 If payment through Commercial Letter of Credit has been agreed the same shall be in accordance with Uniform Customs & Practices of Documentary Credits(UCP 500)of ICC,Paris.Standby letter of credits shall be as per International Standby Practice(ISP,98)of ICC,Paris.

.All bank charges for opening, confirmation or, extension of Letter of Credit including amendment thereof and usance interest, if any shall be to Seller's account. The format of letter of credit shall be as per Annexure\_\_\_\_.

Payment by Purchaser , in no way would constitute any acceptance of supplies by the Purchaser or waiver of its rights with regard to performance of supplies, warranty, under the conditions of this order.

### **8.0 Documentation and Despatch ( It may be verified by Logistic Department)**

8.1 The Seller/Contractor shall submit the following documents in favour of Purchaser with each despatch of goods:

- (a) 3 copies of the Seller/Contractor invoice ;
- (b) 3 copies of the challan/detailed packing list ;
- (c) 3 copies of the manufacturer's test certificate or inspection certificate duly signed/witnessed by the representative of Purchaser or waiver thereof ;
- (d) 3 copies of the lorry receipt/railway receipt showing consignee as Purchaser ;
- (e) Copy of the relevant excise duty paying document(s) for availing CENVAT ;
- (f) Shipment advice to the insurers as communicated by Purchaser prior to despatch of goods or copy of the cover note of Inland Transit All Risk Insurance Clause "A" with Purchaser as co-insured. ;
- (g) Weighment Slip for goods supplied on weight basis ;
- (h) Despatch Clearance Certificate issued by the Purchaser ;
- (i) Operation & Maintenance Manual including manufacturing drawings, wherever applicable.

One set of aforementioned documents may be sent to the purchaser at the address JSW ISPAT Steel Limited, Dolvi, Tal : Pen, Dist : Raigad, Maharashtra immediately on despatch of goods.

8.2 Invoices furnished by the Seller must contain the following information :-

- (a) Order No. and Date
- (b) Item Code
- (c) Gross / Net Weight
- (d) No. of Packages
- (e) CST / MST / VAT No., whichever is applicable
- (f) Excise Regn. No. with Tariff Classification No. of the items supplied.

### **9. Packing and Marking**

Unless otherwise agreed Purchaser's standard instruction of packing and marking shall be applicable to all supplies covered under this order. All consignments booked by rail

shall be packed in conformity with the packing requirements stipulated by Railways in IRCA Goods Tariff No.29. Packages should be clearly marked/stencilled "JSW ISPAT Steel Limited-PEN" duly giving the following on each package :-

Purchaser Order No.

Consignor

Consignee : JSW ISPAT Steel Limited.

Package No.

Gross Wt.

Net Wt

Irrespective of the Seller/Contractor having packed the goods as per Purchaser's requirement, the Seller shall at all times ensure goods covered by the order are securely protected and packed to avoid any rusting, loss or damage during shipment handling and transport by sea, air, rail or road.

Notwithstanding anything contained herein or in the standard packing condition of Purchaser the Seller/Contractor shall be entirely responsible for loss, damage or deterioration to the materials and supplies due to faulty and insecure packing or deficiency in packing befitting the requirement of the mode of shipment or transport.

**10. Time Schedule/Delayed Delivery :**

**Time being the essence of the contract**, the time schedule/delivery shall reckon from acceptance of order by the Seller/Contractor. Detailed Delivery Schedule shall be furnished by the Seller for Purchaser's acceptance for phase-wise deliveries. The delivery schedule so furnished by the Purchaser to the seller shall be treated as an integral part of the contract. Wherever the delivery of spares are envisaged the same shall not be made by Seller/Contractor before the delivery of main equipment at site.

In the event delivery is delayed by the Seller, the Purchaser reserves to exercise either of the following options to its sole discretion :-

- (i) Levy liquidated damages as per the rates given below :-
- 1% (One Percent) of the contract price per week of delay or part thereof ;
  - 2% (Two Percent) of the contract price per week of delay or part thereof after four weeks ;
  - 3% (Three Percent) of the contract price per week of delay or part thereof after eight weeks;

subject to a maximum of 10% of the contract price .

Notwithstanding the Seller having paid liquidated damages to the Purchaser, it shall remain committed for faithful performance of the contract.

The liquidated damages either be paid directly by the Seller to the Purchaser or be recovered from any outstanding dues / performance security lying at the Purchaser. All delayed payment of liquidated damages shall be subject to interest @ 12% p.a.

- (ii) Without prejudice to the above right of claiming liquidated damages terminate the order and procure supplies covered by the order from open market at Seller's risk and cost as per clause 11.1.
- (iii) Cancel the order and recover all losses and damages incurred by the Purchaser on account of delay in delivery.

Non-exercise or delay in exercise of right by the Purchaser shall not be construed as a waiver under this contract.

#### **11.0 Termination/Cancellation /Suspension**

The Purchaser may at any time terminate the contract in case of the following :-

- 11.1 In the event of Seller's breach of contract, which has not been remedied by the Seller/Contractor, within a reasonable period (usually two weeks)

The Seller/Contractor shall provide the Purchaser all documentation and other information in its possession or in Seller's sub-vendor / sub-contractor's possession to enable the Purchaser to have the defective and/or insufficient supplies remedied/procured from a third party. The costs incurred by the Purchaser shall be recovered from any outstanding invoice(s) of the Seller or shall be directly invoiced to the Seller for settlement.

- 11.2 In the event of liquidation, bankruptcy or winding-up except voluntary winding-up for amalgamation and reconstruction or other insolvency proceedings imminent or instituted against the Seller/Contractor or in the event of change of ownership of the Seller / Contractor, the Purchaser shall be entitled to terminate the contract in whole or in part and to take over the supplies and /or services and in particular to recover all documents concerning the same which are in possession of the Seller/Contractor or its sub-vendor /sub-contractor.

- 11.3 Notwithstanding anything contrary provided in the order/contract the Purchaser shall have the right at any time to partly or wholly cancel the contract at his discretion without

assigning any reason to the Seller, even though the Seller/Contractor is not in default of its obligations under the order. In such circumstances the seller shall return back the advance amount so paid by the purchaser after deducting the amount for the work done. The seller shall not have any loss claim on this account.

11.4 The Purchaser shall have the right to instruct the Seller to suspend the performance of the Contract. In the event of such suspension, the Seller undertakes to suspend the delivery/performance until such time it receives the notification from Purchaser to commence / restart the suspended works/supplies. The Purchaser shall not entertain any claims from Seller on this account

11.5 The Purchaser may advise Seller to withhold despatch and warehouse supplies until further notice. All such warehousing shall be at Sellers risk & cost.

In the event of such termination/cancellation/suspension/warehousing, the Seller/Contractor shall not be entitled for any compensation/damage whatsoever except for the payment of supply/materials already delivered at site until the date of such termination/cancellation/suspension.

Any waiver by the Purchaser of a breach of any provision of the general terms and conditions contained herein and the Contract shall not be considered as a waiver of any subsequent breach of the same or any other provision.

The right to terminate, cancel the Order or the Contract under the clause 11 herein shall not prejudice any other right or remedies which the Purchaser may have against the Seller in respect of the breach concerned or any other breach under the applicable law or otherwise.

This clause shall survive any termination of this contract.

11.6

11.7

## **12. Arbitration/Jurisdiction/Applicable Law.**

12.1 All disputes or differences arising between the parties with reference to the purchase order/contract/order shall be settled mutually by the parties failing which such dispute or differences shall be referred to an Arbitral Tribunal consisting of three arbitrators. Each party shall appoint one arbitrator and the two appointed arbitrator shall appoint the third arbitrator who shall be the presiding arbitrator. The proceeding of the said arbitration shall be in English. The venue of arbitration shall be Mumbai and the governing law shall be Indian Law and in accordance with the provisions of Indian Arbitration & Conciliation

Act 1996/rules thereof as amended and in force during the material time. The award that shall be passed by the arbitrator shall be final and binding on both the parties. The cost of the said arbitration shall be shared equally by both the parties.

12.2 During the pendency of arbitration proceedings the parties shall continue to fulfill the part of their obligation.

13. Governing Law:-

The Purchase Order/ Contract/ order shall be governed by Laws of India and Court at Mumbai shall have the Jurisdiction to the exclusion of others.

**14.0 Defect Notification Period/Warranty /Guarantee**

14.1 The Seller/Contractor warrants that the document & supplies made under this contract are new based on best engineering practices and employing up-to-date proven and established technology and is free from faulty workmanship, any defect whether inherent or latent in design, material, manufacture, packing for a period of 36 months from the date of final delivery at Purchaser's \_\_\_\_\_ site or 12 months from its industrial use. The Seller/Contractor further warrants for completeness and suitability of supplies for its continuous operation in the operating conditions prevalent at Purchaser's \_\_\_\_\_ Works.

14.2 Should any material be found defective during the warranty period requiring rectification/replacement the Seller shall be obliged to carry out the same at the Seller's cost upon such notification by the Purchaser. All goods which are replaced/repared on account of defect or faulty workmanship, the warranty period for such replaced/repared goods shall recommence for 12 months from the date of replacement. Wherever the defect has made the entire supplies unavailable the warranty period of the entire supplies shall be extended by the period of its unavailability..

Should the Seller fails to promptly carry out necessary repairs/rectification as stated above, Purchaser shall be entitled to withhold any payment due to the Seller until such time the defective goods are repaired/rectified by the Seller or to have the defective goods repaired/replaced at Seller's risk and cost without prejudice to its rights to encash the performance security furnished by the Seller.

Decision of the Purchaser in regard to replacement, of defective goods shall be "Final & Binding " on the Seller. All replaced supplies shall be delivered by the Seller on DDP (Delivered Duty Paid) basis as per INCOTERMS, 2011.

Should the Purchaser decides to reject the goods, the Seller shall be obliged to refund amount paid to the Seller upon purchase of respective supplies including any other losses suffered by the Purchaser.

14.3 The Seller/Contractor shall not raise any objection due to delayed notice of defect, a notice of defect may be raised until one month after the expiry of warranty period. The limitation period provided by law for instituting legal proceedings against the Seller/Contractor in respect to warranty claims shall start upon expiry of warranty / guarantee period.

14.4 In case of spare, fast wear and exchange parts the warranty shall commence from 12 months from the date of its installation . The Seller/Contractor further guarantees the availability of spare, wear and exchange parts for at least 10 years from the end of guarantee period.

14.5 Remedies provided under this clause are in addition to and not in substitution to common law or other rights which the Purchaser may have under the law in force.

14.6 Nothing herein shall be construed to limit the Seller's liability in case of fraud, deliberate default or reckless conduct.

14.7 The Seller shall be solely responsible for any third party claims arising out of defects / faulty workmanship during the warranty period.

### **15.0 Indemnity**

The seller /contractor shall indemnify the purchaser against any loss, claims, demands that the purchaser might suffer due to commission/omission/of the seller in performing the obligation under the contract/purchase order/order.

### **16.0 Title & Risk /Insurance**

16.1 The title & property in goods shall pass to the Purchaser unconditionally free from any liens & encumbrances upon the earliest of the following times :

- (a) upon the Seller's entitlement for payment by the Purchaser ;
- (b) upon despatch of supplies by the Seller to the Purchaser marked for \_\_\_\_\_ site.

The risk shall pass upon the Purchaser as per INCOTERMS, 2011.

16.2 Unless otherwise agreed Inland -Transit All Risk Insurance until delivery of goods to the Purchaser at its \_\_\_\_\_site shall be arranged by the Seller/Contractor and wherever required Purchaser would be the co-insured in such insurances which shall contain a waiver of subrogation in favour of the Purchaser.

## **17.0 Confidential Information**

17.1 All manufacturing/detailed engg. drawings, G.A drawings or good for construction drawings alongwith other technical data or information forming part of the contract specification supplied by the Purchaser shall be held 'STRICTLY CONFIDENTIAL' by the Seller/Contractor and any of its sub-vendor's personnel.. All such information shall remain property of the Purchaser and the Seller shall not acquire any right, title or interest in the same and further, the Seller shall not copy, use or disclose to any third party without prior written approval of the Purchaser and the same shall be returned immediately to the Purchaser on completion of supplies.

17.2 The Seller shall remain liable towards the Purchaser against all costs & damages suffered on account of Seller's failure under clause 16.1, above

17.3 The Seller grants royalty free right to the Purchaser in relation to seller's documentation.

17.4 This clause shall survive termination of this contract.

## **18. Force Majeure**

18.1 Either Party shall be wholly or partly discharged from due performance of contract if prevented by an event which is beyond Party's control or which such Party could not reasonably have provided against before entering into contract or which having arisen such Party could not have reasonably avoided and is not substantially attributable to the Party claiming Force Majeure which shall be limited to exceptional events such as fire, floods, earthquake, hurricane, war, civil commotion, riots, strikes or lock outs other than that of Seller's personnel and the personnel employed by its sub-vendor/sub-supplier. If the Seller considers it has been impeded by an event of force majeure, it shall be entitled to claim force majeure only if it submits to the Purchaser, a notice by registered mail at the address set forth in this order within five days from commencement of force majeure giving details of date of commencement, expected duration and consequences of that event.

The Party claiming Force Majeure after receipt of notice from the other Party shall be excused in performance of those obligations which are affected by Force Majeure .

18.2 The Contractor shall make all efforts to minimise its effect and shall keep the Purchaser fully informed in this regard. The date and terms which cannot be kept due to force majeure event shall be postponed/extended by the duration or effect of force majeure without prejudice to the Purchaser's right in respect of previous breach of the Seller.

18.3 If the force majeure extends beyond the period of four weeks, the Purchaser shall be entitled to terminate the contract in whole or in part. The Purchaser in no way shall be liable for any damages/consequences resulted to the Seller on account of force majeure.

## **19. Notices :**

All notices shall be deemed to have been served upon the Seller/Purchaser after having been delivered, sent or transmitted, at their registered addresses stated in the order.

## **20.0 Performance Security : ( This clause is not required as clause 7.2 speaks about the PBG as per our standard format)**

The Seller shall furnish within 15 days from the acceptance of order, the Performance Security for 5% of the contract price as adjusted by variations, if any in form of Bank Guarantee in favour of the Purchaser for faithful performance of the contract.

The Performance Security shall be issued by a Bank approved by the Purchaser in the format specified in the Annexure \_\_\_\_ which shall be valid until schedule date of expiry of warranty period and shall be extended for any further period as may be instructed by the Purchaser.

The Purchaser shall be free to encash the said performance security if the Seller is in breach of any of the conditions under this contract or fails to pay any amount demanded by the Purchaser under these conditions or fails to extend the same as requested by the Purchaser.

The Performance Security shall be non-interest bearing and all costs for its issuance, amendment and extension thereof shall be to the Seller's account. No payment shall be released to the Seller until such Performance Security has been furnished to the Purchaser.

## **20.0 Disclaimer of Liability to Indirect/Consequential ,Remote Damages / Losses:-**

The rights & obligations of the Parties are conclusively defined under this contract and under no circumstances whatsoever the Purchaser shall be liable towards the Seller for any indirect , consequential or remote damage / loss such as loss of profit, loss of business, loss of opportunity, loss of data, loss of use etc.

## **21.0 Validity**

If any provision of this GCC will be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which will remain in full force and effect.

**22.0 Waiver:** Non-exercise or delayed exercise of any rights by the Buyer or payment to the Seller against despatch/receipt of goods shall not be construed as acceptance of the Buyer or

waiver of its rights and the Buyer shall be entitled to bring action against the Seller for such non-performance.