



BUYER SPECIFIC TERMS & CONDITIONS (BSTC)

1.0 INTERPRETATION

- 1.1 MSTC Ltd. shall be hereinafter referred to as "MSTC" or Administrator and the participating parties or individuals shall be hereinafter referred to as "Bidders", the successful bidder shall hereinafter be referred to as the buyer or purchaser. The organisation on whose behalf MSTC will conduct auction as their Selling Agent shall be referred to as the principal who is otherwise the owner and stock holder of materials to be sold.
- 1.2 The general terms & conditions (hereinafter referred to as the GTC) are common for all auctions and are in addition to Special Terms & Conditions(hereinafter referred to as the STC), if any, for any particular auction and shall form an integral part of the auction and so far as it has not been altered or modified by the STC. In case of any conflict or difference between any provision of the GTC and STC, the provision of STC will prevail for that particular auction.
- 1.3 **If any account is deactivated for non-compliance of any terms & conditions of e-auction, then the registration fees for that account will stand forfeited. In case the same party wants to re-register itself, it shall be required to pay a penalty to be decided by MSTC Management. However, the acceptance of such re-registration fees shall be at the sole and absolute discretion of MSTC.**

TRADEMARKS AND COPYRIGHTS

The bidder acknowledges and agrees that wherever applicable, the content, including but not limited to text, software, music, sound, photographs, graphics, video, or other material contained in Website, including advertisements or information is protected by domestic and international copyrights, trademarks, service marks, patents, or other proprietary rights and laws. The bidder is permitted to utilize this material and information only for personal use, and shall not copy, reproduce, transmit, distribute, or create derivative works of such content or information without express authorization. MSTC shall not be held liable for any misuse or infringement of any trademark or copyright by the bidder, and the bidder shall be solely liable for any damages, claims, actions, etc. for infringement or violation of the same. MSTC reserves the right at its sole discretion to terminate the access of the bidder to the Website, if the bidder violates the provisions of this clause.

ARBITRATION

Any dispute or difference arising between the seller, MSTC and the bidder/buyer in connection with the interpretation or implementation of the terms and conditions shall be referred to a Sole Arbitrator to be appointed by the Chairman-cum-Managing Director, MSTC Limited, Kolkata on reference by any of the parties. The provisions of the Arbitration and Conciliation Act, 1996, as amended, shall apply to such arbitration. The place where the concerned office of MSTC conducting the e-auction is situated shall be the venue of such arbitration proceedings and the language of such arbitration shall be English. The award of such Sole Arbitrator shall be final and binding on the parties.

JURISDICTION

Only the Courts at KOLKATA, INDIA shall have the exclusive jurisdiction to entertain any dispute connected with the arbitration proceedings or any other matter or claim arising out of or in connection with the e-auction.

BIDDING AND BUYING

All bids on the Site are a firm commitment to purchase. If you are the highest bidder at the end of an auction (meeting the applicable minimum bid or reserve requirements) and your bid is accepted by the seller, you are obligated to complete the transaction with the seller. Bids may be increased in price or volume later but may not be withdrawn. Bids cannot be cancelled. All bids must be in **Indian Rupees Only**.

By bidding on an item you agree to be bound by the conditions of sale included in the item's description (or linked to form the description) so long as those conditions of sale are not in violation of this Agreement or unlawful. In case of consumer good, sellers on the Site may or may not specify the retail prices of the items being sold. You are advised to independently verify the retail prices of such items if you so desire.

MSTC strongly advises you not to test the auction process with false bids, as it will put you at substantial personal legal risk. It is a crime to use a false name, other false personal information or known invalid credit card to bid. Willfully entering erroneous or fictitious bids may result in prosecution by MSTC.

In the event of Dual Winners displayed online for a Single Auction, the bidder who has received by Winning Email will be rightful Winner, and beyond that there is not liability.

PRIORITY IN BIDDING

In Order to qualify and be identified as a successful bid, the following priority parameters will be follows :

- | | | |
|-----|--------------|--|
| (a) | Price | The higher price bids always supersedes the lower price bids. |
| (b) | Time | Between bids of the same price, the bid, which was placed prior in point of time, shall supersede. |

MSTC's decision on the success or otherwise of a bid shall be final and binding. It reserves the right to reject or void bids, whether winning or not, that it deems not to have been made in good faith, or that are restricted or prohibited.

FORCE MAJEURE

MSTC/Owner shall not be liable for any failure or delay in performance due to any reason / cause beyond their control including fires, floods, go-slow, lock-out, closure, pestilence, dispute with staff, dislocation of normal working conditions, war, riots, epidemics, political upheavals, government action, civil commotion, breakdown of machinery including technical failures, shortage of labour, acts demands or otherwise or any other cause or conditions beyond the control of aforesaid cause or not and the existence of such cause or consequence may operate at the sole discretion of MSTC / Owner to extend the time of performance on the part of MSTC / Owner by such period as may be necessary to be necessary to enable MSTC/Owner to effect performance after the cause of delay will have cause exist. The provisions aforesaid shall not be limited or abrogated by any other terms of the contract whether printed or written.

2.0 MODE/ PROCEDURE OF PAYMENT IN e-AUCTION

- 2.1 All intending bidders and buyers for participating in E-Auction will have to register on line. All intending bidders and buyers should fill in the relevant details all on line and pay non-refundable registration fee of Rs.10,000/- off line
- 2.2 On completion of details as per registration format and payment of registration fee, **all such bidders will be able to access the auction floor with the the user id and password they have chosen at the time of registration. Such bidders will henceforth be called as "registered bidders"**.
- 2.3 None other than the registered bidders will have any access to the details of the auction.
- 2.4 The auction notification mentioning the starting date, list of materials, location of materials, name of principal or owner will however, be available on our web-site for all Internet users.
- 2.5 The details of the auction will be hyper-linked to the unique auction number for each individual auction. The registered bidder can enter into the details which will be as follows :-
 - a) Opening and closing date and time
 - b) Name and location [address] of the principal of the owner of the material
 - c) Brief description of the materials with its location and approximate quantity put up for sale.
 - d) Period of inspection.

3.0 AUCTION FLOOR

3.1 After selecting the desired auction, all user can finally arrive at the auction floor containing list of items, quantity, unit of measurement and column for bidding.

a) Each item name of the materials will be hyper-linked to details of the items.

3.2 The following information will be present in the auction floor :-

- Opening date and time
- Closing date and time
- Item number
- Item name, hyper-linked to relevant details containing duties etc./ special terms of lifting etc.
- Quantity and unit of measurement
- Location of material/item
- Last bid or basic price, if any.
- Your bid in Rs./UOM
- Bid history

3.3 The closing time of an auction shall automatically be extended by 5 minutes for all Coal auctions and by 8 minutes for all other auctions if bid continues (e.g. in case the closing time is 5-30 p.m. of any particular date and if any bidder bids at 5.29 p.m. then the closing time will be automatically extended to 5-37 p.m. in case of auctions other than Coal Similarly, if any bidder again bid at 5-36 p.m. then the closing time will automatically be extended to 5-44 p.m. in case of auctions other than Coal and so on).

3.4 A bid once given cannot be retracted.

3.5 **AUTOMATIC/PROXY BIDDING**

Each bidder will have the option to declare his maximum value of bid (which can not be viewed by any bidder) up-to which his automatic bidding will continue. This maximum value of the bid / increment value may be enhanced by the bidder at any time before the closing of the auction. In case there is a tie in the highest bid offered by some one else with the maximum value opted by a automatic / proxy bidder then the bid of the automatic / proxy bidder will be acknowledged as H1 bidder and a flash would appear to inform the bidder other than the automatic / proxy bidder that there is a tie and he may bid a higher amount.

4.0 The respective items will be marked "sold" after closing of the auction when the highest bid is greater than the reserve price and automatically intimation to the concerned buyer will be sent on line for making payment as detailed in the subsequent paras.

4.1 Only STA will appear against a lot after closing of the auction for which final approval will be intimated separately. STA marking will only appear when the price fetched as the highest bid in the auction is below the reserve price up-to a certain percentage, as indicated by the principal before the starting of auction.

4.2 A lot or item can be withdrawn from the auction before starting of the auction as well as during the auction without assigning any reason.

5.0 **PAYMENT FOR ACCEPTED BIDS**

5.1 All payments are to be made physically i.e. either by Demand Draft/Pay Order/Banker's Cheque etc. and will be accepted in any of the offices (Branch/Region/Hqs.) of MSTC.

5.2 The bid value together with all taxes as applicable shall have to be paid by the successful bidder by Demand Draft/Pay Order/Banker's Cheque drawn as stipulated in the relevant provision of special terms & conditions. The payment can be staggered being opted by the buyer for which buyers are requested to see the payment schedule in 'STC'.

d) Notwithstanding anything continued in STC the buyer will have option to make full payments in all respect within the period of 1st installment.

e) The sale value including all taxes if not paid within the above time limits, it shall be paid within such time limit as may be extended by the principal or MSTC in consultation with principals, together with ground rent. Such ground rent shall be charged for a minimum period of one week or multiple thereof @ 1% of the value of materials for a week or part thereof.

f) The sale value, as well taxes, Excise duty plus any other levies as applicable and payable by DD/PO will have to be deposited with the authority as specifically mentioned in the relevant clauses of Special Terms & Conditions.

5.3 In case of payment made by Bank Draft/Pay Order, the same will have to be deposited with the appropriate authority within the stipulated time/extended time. In the event of any default thereof, the successful bidder shall be liable to pay additional amount by way of ground rent as mentioned above. Should however the buyer fails to make the requisite payment within the time / extended time stipulated, the sale relating to such lot can be cancelled at the discretion of MSTC and the registration money given by the bidder shall be forfeited in full and MSTC shall, in addition, to registration money, be entitled to recover any incidental / consequential loss suffered by it as a result of such failure. The authority shall not be bound to give any notice to the buyer for the said forfeiture.

5.4 Delivery order or permission to remove the goods will be issued by MSTC or even by principal themselves or as has been indicated in relevant clauses of STC, after all payments of installments value or sale value including duties, taxes and levies are made in full by the buyer.

6.0 SALE OF LOTS/ITEMS ON SUBJECT TO APPROVAL BASIS

6.1 In case of lots where bids have been kept open for the decision by the higher authority of the principal or owner of the material at a later date, the buyer will have to pay the earnest money @ 10% of the sale value plus applicable taxes and duties within 3 working days from the next date of the closure of auction. On final approval, the payment of balance sale value will have to be made in the same procedure as at clauses 5.2 (a) to (f). The date of acceptance of bid will be the date on which the principal/MSTC sends the acceptance message to the buyer. In the event of payment on accepted bids not being completed within the time specified, the earnest money in addition to the registration fee shall be forfeited without any further notice to the buyer. For delay in making payment, the ground rent as mentioned at para-5.2 (e) will apply. In case the earnest money as mentioned above are not deposited within the time specified, the registration fee will be forfeited without any further notice, where the bids are not accepted finally, the earnest money deposit by the bidder shall be refunded to the buyer.

7.0 CONDITION OF GOODS

7.1 The goods are sold as and where they lie, on as is where is basis, the whole of the lot/lots shall be taken from the site of accumulation with all faults and errors in description. Otherwise the quantities, qualities, size or sizes, measurement, numbers and weights as stated in the auction floor and or in any delivery documents are only approximate and no guarantee or guarantees shall be implied. The goods are sold on the specific assumption that whether the bidders have inspected the lots or not the principle of Caveat-emptor will apply. No complaint will be entertained after sale.

7.2 Quantities made in the lot are approximate and MSTC holds out no warranty as regards the quantity and fitness of the goods for any particular purpose. The value paid in auction for the approximate quantity. proportionate value for the quantity falling short in a lot at the time of delivery will be refunded to the buyer. Any quantity found excess in a lot over the approximate quantity mentioned in the auction floor will have to be taken by the buyer after depositing the proportionate amount along with the final installment. In the event the materials are found in excess of the materials, specified in the sale order, the buyer will be allowed to deposit the balance amount within 10 days from the date of the incident of the removal as mentioned in the sale order, failing which, the buyer shall deposit such balance value with ground rent at the same rate mentioned in previous para per week or part thereof.

8.0 RISK

8.1 The goods shall be and remain in every respect at the risk of the buyer from the date of acceptance of his offer by the principal who shall have no liability whatsoever for the safe-custody or preservation thereof.

9.0 DELIVERY

9.1 Delivery Order or Sale Order or Delivery-cum-Sale Order will be issued automatically on line at the instance of any competent officer of MSTC or principal on confirmation of payment of full material value as per clause 5.0 and subsequent sub-clauses. The full sale value means payment of material value, duties & local taxes and any other levies under the above mentioned clauses.

9.2 The goods are to be completely removed by the buyer from the site of accumulation within the time specified in the Delivery Order/Sale Order/Delivery-cum-Sale Order. However, the delivery will be made during working hours on all working days on presentation of the aforesaid order to the custodian of the materials of the principal concerned.

9.3 The buyer will make his own arrangement for loading & transport and will not be entitled to claim any facilities or assistance either for loading or for transport from the premises of the owner of the materials except where it has been specifically mentioned in the Special Terms & Conditions. The specified delivery period will be counted from the next day of the date of issue of the order.

- 9.4 Should the original buyer wish to take delivery of the stores purchased by him, through a representative, he must authorise the lifter by a letter of authority, which the lifter should present to the appropriate officer concerned/custodian of the stores of the principal. Delivery by proxy will be at the buyer's sole responsibility and risk and no claim shall lie against the principal or MSTC at any account whatsoever if delivery is affected on such proxy.
- 9.5 The buyers and his authorised representative/s or person/s or agent/s engaged by them would be responsible for processing, loading and transporting out only those materials, for which, delivery advice has been issued. If any other material is found being processed/loaded/transported it will be regarded as the mis-conduct/irregularities in executing the sale order.
- 9.6 The buyer will be held responsible for such acts of irregularities/mis-conduct of his own or committed by his authorised representative or persons engaged by them for executing the sale order. Any irregularities/mis-conduct may lead to forfeiture of earnest money/security deposit, portion or whole money of material value as the case may be in addition to cancellation of sale and or stoppage of further business and/or appropriate legal action as may be deemed fit at the sole and absolute discretion of MSTC/Principal.

10.0 NON-DELIVERY

- 10.1 Where the goods are sold in lots and not in number or unit and in the event of the number or unit being found deficient in quantity, quality, size, measurement and weight as indicated in the catalogue/description of materials/details in the auction floor or any other documents, the buyer shall have no claim against the principal or against MSTC for refund of whole or any part of the purchasers money or for loss of profit, interest, damage or otherwise.
- 10.1 (b) Where the stores are sold by weight or number and not on the basis of lots and in the event of the buyer fails to obtain delivery of the whole or portion of the stores sold he shall not be entitled to claim any damage, loss of interest or compensation or any other account but shall be entitled to proportionate refund of sale value.
- 10.2 The buyer shall not be entitled to re-sale any item, lot or part of lot while the goods are still lying within the premises of the principal and any such sale or assignment of the buyer's right to the material sold in auction will not be recognised. All paper documents for releasing materials will be made out in the name of the buyer only.
- 10.3 No interest will be paid on the amount deposited by the buyer and subsequently found refundable under any of the condition mentioned herein before.

11.0 FAILURE TO TAKE DELIVERY AFTER PAYMENT

- 11.1 In the event of non-removal of sold material after expiry of time allowed in the relevant order and subsequent extension (s) thereof, if any, the principal/owner of the material shall have the right to order re-sale of the said material as also to forfeit relevant payments (as specified in GTC, BSTC & STC) paid by the defaulting buyer in respect thereof. The principal/owner of the stores may, however, in its discretion give the buyer further extension beyond the time stipulated for taking delivery of the materials in exceptional circumstances and/or relief against payment of further ground rent in part or in whole.
- 11.2 The buyer shall be responsible for any damage that may be caused to the premises, equipments, machineries and/or any other installations of the plant/establishment of the principal/owner of the materials in taking away or removing the lot or lots purchased by him. The principal/owner of the materials may at their own option arrange themselves to make good such damages and the buyer shall have to bear the cost thereof on demand. The authority fully reserves the right to recover the cost of such damages from any sum due to the buyer.
- 11.3 The principal/owner of the materials reserves the right to withdraw at any stage the sale of any item or quantity of material either by number or by weight even after issue of sale order/delivery order when the material are required for their internal use. The principal/owner will not be bound to assign any other reason or details thereof excepting internal use. Value of the materials so withdrawn, if any, and paid by the buyer will be refunded. The principal will however, not be responsible for any damage, loss direct or consequential compensation whatsoever to the buyer nor for payment of any interest.

12.0 GENERAL

- 12.1 The principal/MSTC reserves the right/option to produce any or all such documents off line i.e. by paper hard copy wherever such situation warrants, however, excepting the bidding process.
- 12.2 Neither the principal nor MSTC will be held responsible for authorising any on line payment by any buyer/bidder and subsequent loss or damage caused to that buyer or bidder for such authority.

12.3

The safe-custody of gate pass, challans, authorising delivery or any such hard copy documents will be the sole responsibility of the buyer once the same are made over to them. The principal or MSTC will not be liable for any delay or damage for mis-placement of any such hard copy document by the buyer.

- 12.4 So long the workers, employees, agent or any representative of the buyer are required to work within the premises of the principal/owner of the material, the relevant Labour Laws & Rules, Factory Acts and Rules and any other statutory provision will be equally applicable as in the case of workers and employees of the principal. It will be in their own interest to know this provision before starting the job. It shall be responsibility of the buyer to see that the statutory provisions are complied with and they will be only and solely responsible in any manner for their employees, workers, agents, representatives employed for the job.
- 12.5 In respect to forthcoming auctions, MSTC reserves the right to alter, postpone, modify, cancel any or all of the contents of the notification without any prior intimation to the prospective buyers.

13.0 **AUTO CANCELLATION OF BUYER REGISTRATION**

- 13.1 In case any Buyer fails to make the payment towards Registration Fees to MSTC within 30 days from the date of his registration, then the registration is automatically cancelled. He can, however, re-register himself for the purpose of paying Registration Fees and activate his account for participation in the forthcoming auctions.

14.0 **AUTO DEACTIVATION**

- 14.1 If any buyer's account is de-activated for non-compliance of any of the terms and conditions of the e-auction, then the registration / re-registration fees of that buyer's account will stand forfeited without any further reference to the buyer and the buyer registration de-activated. In case the buyer desires to re-register, they shall request the regional / branch office of MSTC conducting the e-auction, under which the non-compliance had taken place. Requests for such re-registration will be examined by MSTC, keeping in view the lot value, the past record of the Buyer, recommendations from the principal, recommendations from the concerned regional / branch office of MSTC and other relevant factors. Based on such considerations, MSTC may either reject the request or levy a re-activation fee on the basis of the above parameters assessed by the MSTC. On receipt of the re-activation fee as may be levied along with service tax / education cess and any other charges for the time being in force as applicable, the Buyer's account shall be re-activated, On such terms and considerations as MSTC may deem fit. MSTC's decision in this regard shall be final and binding on the buyer.

15.0 **ACTUAL CONTRACT**

- 15.1 The actual contract between MSTC & Buyer will be deemed to have been concluded only after the ink signed copy of Acceptance Letter/Sale Order has been issued.

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Agree

Disagree