



**Mazdock Modernisation Project**  
**100Tonne Level Luffing Jib Crane Contract**  
**Conditions of Contract**  
**Volume II**

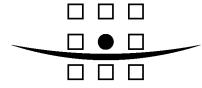
Mazagon Dock Ltd., Mumbai

November 2008

Final

3H6543/R011 Vol. II

A COMPANY OF



**ROYAL HASKONING**

**HASKONING NEDERLAND BV**

Barbarossastraat 35  
P.O. Box 151  
Nijmegen 6500 AD  
The Netherlands  
+31 (0)24 328 42 84 Telephone  
0044191 2111313 Fax  
[info@nijmegen.royalhaskoning.com](mailto:info@nijmegen.royalhaskoning.com) E-mail  
[www.royalhaskoning.com](http://www.royalhaskoning.com) Internet  
Arnhem 09122561 CoC

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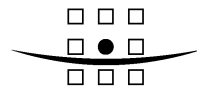
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Conditions of Contract  
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**Mazdock Modernisation Project**  
**100Tonne Level Luffing Jib Crane Contract**  
**Tender No: MMP/LLC/100T/01 dated 24<sup>th</sup>**  
**November 2008**

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<b>VOLUME II</b>	<b>CONDITIONS OF CONTRACT</b>
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**LETTER OF TENDER**

(To be submitted with Part 1 (Techno-Commercial Bid) and also with Part 2 (Price Bid))

**MAZDOCK MODERNISATION PROJECT  
100 Tonne Level Luffing Jib Crane**

To: MAZAGON DOCK LIMITED  
Dockyard Road  
Mumbai 4000 010  
India

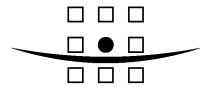
We have examined the Conditions of Contract, Employer's Requirements, Schedules, the attached Appendix and Addenda No. ....dated for the above-named Works. We have examined, understood and checked these documents and have ascertained that they contain no errors or other defects. We accordingly offer to design, execute and complete the Works and remedy any defects therein, in conformity with this Tender which includes all these documents and the enclosed Proposal, for the lump sum of:For the sum\* of Rs. \_\_\_\_\_ (Rupees) \_\_\_\_\_ and

Foreign Currency \_\_\_\_\_ (in words) \_\_\_\_\_

(To be left blank in Part 1 Bid)

(\*i) Only Indian Rupee for Indian Companies or Indian Tenderers, and (ii) Indian Rupee and Foreign currency/ies for overseas Companies/ Tenderers).

1. We agree that the Dispute, if any, shall be resolved in accordance with Clause 20 of the Conditions of Contract.
2. We agree to abide by this Tender until ..... or any other date thereafter agreed by us, and it shall remain binding upon us and may be accepted at any time before that date. We acknowledge that the Appendix forms part of this Letter of Tender.
3. If this offer is accepted, we will provide the specified Performance Security, commence the Works as soon as is reasonably practicable after the Commencement Date, and complete the Works in accordance with the above-named documents within the Time for Completion.
4. Unless and until a formal Agreement is prepared and executed this Letter of Tender, together with your written acceptance thereof, shall constitute a binding contract between us.
5. We have independently considered the amounts of liquidated damages shown in the Appendix to Tender and agree that they represent a fair estimate of the damages likely to be suffered by you in the event of the work not being completed by us in time.



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6. We understand that you are not bound to accept the lowest or any tender you may receive.

Signature ..... in the capacity of .....

duly authorise to sign tenders for and on behalf of.....

.....

Address: .....

Date: .....Company Seal

Two Witnesses

Signature \_\_\_\_\_

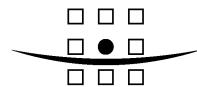
Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

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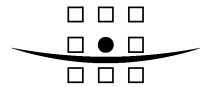
Date \_\_\_\_\_



**APPENDIX TO TENDER**

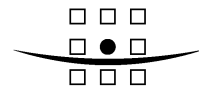
[Note: with the exception of the items for which the Employer's requirements have been inserted, the following information is to be read with Conditions of Contract and must be completed before the Tender is submitted]

Item	Sub-Clause of General Conditions of Contract	Entry
Employer's name and address	1.1.2.2 & 1.3	MAZAGON DOCK LIMITED Dockyard Road Mumbai 4000 010 India It is clarified that representative of Indian Navy such as 'Warship Overseeing Team' and 'Submarine Overseeing Team' would be part of Employer.
Contractor's name and address	1.1.2.3 & 1.3	..... ..... .....
Engineer's name and address	1.1.2.4 & 1.3	Haskoning Nederland BV Barbarossastraat 35 P.O. Box 151 Nijmegen 6500 AD The Netherlands  Represented by: Haskoning Nederland BV Marlborough House Marlborough Crescent Newcastle upon Tyne NE1 4EE United Kingdom
Time for Completion of the Works	1.1.3.3	463 days (435 days for completion of erection of crane-Stage 1)
Defects Notification Period	1.1.3.7	548 days
Electronic transmission systems	1.3	Facsimile
Governing Law	1.4	The Law of India
Ruling language	1.4	English
Language for communications	1.4	English
Time for access to the Site	2.1	7days after Commencement Date
Amount of Performance Security	4.2	10% of the Accepted Contract Price, in the currencies in, which Contract Price is payable



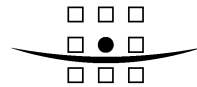
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Item	Sub-Clause of General Conditions of Contract	Entry
Period for notifying unforeseeable errors, faults and defects in the Employer's Requirements	5.1	45 days
..... Initials of signatory of Tender		



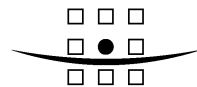
**APPENDIX TO TENDER (CONT'D)**

Item	Sub-Clause of General Conditions of Contract	Entry
Normal working hours	6.5	0800 hrs to 2000 hrs. Monday to Saturday inclusive
Delay damages for the Works	8.7 & 14.15(b)	(a) Delay in completion of Erection: 0.036% of the contract price per day subject to maximum of 2.5% of the contract price. (b) Delay in completion of the whole of the work: 0.072% of the contract price per day subject to maximum of 5% of the contract price (c) Damages will be in the currencies in which the contract price is payable. (d) Damages indicated at (a) and (b) above shall be calculated and charged independently.
Percentage for adjustment of Provisional Sums	13.5(b)	This sub-clause does not apply
Adjustments for Changes in Cost; Table(s) of adjustment data	13.8	This sub-clause does not apply
Total advance payment	14.2	This sub-clause does not apply
Number and timing of instalments	14.2	This sub-clause does not apply
Currencies and proportions	14.2	This sub-clause does not apply
Start repayment of advanced payment	14.2(a)	This sub-clause does not apply
Repayment amortisation of advance payment	14.2(b)	This sub-clause does not apply
Percentage of retention	14.3 (c)	10%
Limit of Retention Money	14.3 (c)	5% of Contract Price.
Plant and Materials for payment when shipped en route to the Site	14.5(b)	This sub-clause does not apply
Plant and Materials for payment when delivered to the Site	14.5(c)	This sub-clause does not apply
Minimum amount of interim payment Certificates	14.6	This sub-clause does not apply



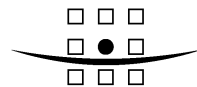
**APPENDIX TO TENDER (CONT'D)**

Item	Sub-Clause of General Conditions of Contract	Entry
Financial charges for delayed payment	14.8	@ 10% p.a. at simple interest for INR and @LIBOR monthly at simple rate for foreign currency.
Currency/currencies of payment	14.15	As named in the Letter of Tender
Periods for submission of insurance: (a) evidence of insurance (b) relevant policies	18.1 18.1	15 days 60 days
Maximum amount of deductibles for insurance of the Employer's risks	18.2(d)	Not applicable.
Insurance limit per occurrence not less than	18.3	Rs.5 Crore or its equivalent
Professional indemnity/Insurance for design .	18.5	Rs.15 Crore or its equivalent
<p>..... Initials of signatory of Tender</p>		
The Dispute Adjudication Board shall be	20.2	Amended Clause 20.2 applies
Appointment (if not agreed) to be made by	20.3	This sub clause does not apply
<p>..... Initials of signatory of Tender.</p>		

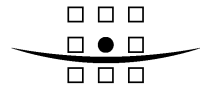


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## GENERAL CONDITIONS OF CONTRACT

The Conditions of Contract comprise the “General Conditions”, which form part of the “Conditions of Contract for Plant and Design-Build” (for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor), First Edition 1999 published by Federation Internationale Des Ingenieurs-Conseils (FIDIC), and the following “Particular Conditions”, which include amendments and additions to the General Conditions. Whenever there is a conflict between the General and Particular Conditions, the provisions contained in the Particular Conditions shall prevail over those in the General Conditions of Contract.

FIDIC website is <http://www.fidic.org/bookshop/>

**Hardcopies on payment can be obtained from:**

**Address (A): FIDIC P.O. Box 86 CH-1000 Lausanne 12 Switzerland**

**(Address (B): CEAI’s Secretariat, East Court, Zone 4, Core 4B, 2<sup>nd</sup> Floor, India Habitat Centre, Lodhi Road, New Delhi – 110 003).**

## PARTICULAR CONDITIONS OF CONTRACT

### (A) AMENDMENTS TO THE GENERAL CONDITIONS

#### 1.6 Contract Agreement

In first line replace “28 days” with “21 days”.

#### 1.12 Confidential Details

Insert “to the Engineer”, after the words “shall disclose all such confidential and other information.”

Add the following:

The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the Employer whose decision shall be final.

#### 2.4 Employer’s Financial Arrangements

This clause is deleted.

#### 3.1 Engineer's Duties

At the end of the existing clause add the following:

The Engineer is required to obtain the specific written approval of the Employer before carrying out his duties in accordance with the following clauses and Sub-Clauses:

- (a) Clause 8.4 - determination of extensions of time pursuant to this Clause and any entitlement to additional costs incurred thereby;
- (b) Clause 13 - issuing Variation Orders pursuant to Clause 13 where the aggregate value exceeds the Accepted Contract Amount;
- (c) Clause 20.1 - assessment of validity of any claim pursuant to Clause 20.1.

Notwithstanding the obligations, as set out above, to obtain approval, if during any period of site erection, in the opinion of the Engineer an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. Where considered appropriate the Engineer shall determine an addition to the Contract price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.

**4.2 Performance Security**

Delete paragraph “The Employer shall indemnify and hold.....to make the claim”.

Performance Bank guarantee shall be as per the format included in Volume II – Conditions of Contract and shall meet the requirements stated at paragraphs (titling “Tender Security”) 13.4 and 13.5 of Vol.I – Instructions to Tenderers.

**4.4 Subcontractors**

At the end add “(d) unsuccessful tenderer can not be engaged as sub-contractor in the course of execution of contract”

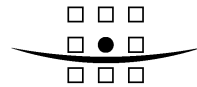
**4.15 Access Routes**

Add the following at the end of existing Sub-Clause 4.15

Where the nature of the Works is such as to require the use by the Contractor of water-borne transport, the forgoing provisions of this clause shall be construed as though ‘road or bridge’ include navigable waterway, lock, dock, seawall or other structure related to the waterway and “vehicles” include water-borne vessels/craft and marine plant and Equipment and shall have effect accordingly.

**4.17 Contractor’s Equipment**

Add the following paragraph at the end of existing paragraph



The Contractor shall obtain the Engineer's permission to anchor/moor Contractor's marine plant and Equipment in the water areas in and around the Site as and when required by him. The Contractor is to request permission twenty eight (28) days in advance of his requirement so as to allow co-ordination with the Employer's operations. Use of such water areas by the Contractor's marine plant and Equipment must not affect the movement of vessels being moved by the Employer / Mumbai Port Trust (MbPT) in these waters. Suitability of the areas for such anchorages/moorings shall be ascertained solely by the Contractor. The Employer will not be held liable in the event of loss of or damage to the Contractor's marine plant and Equipment.

#### **4.19 Electricity, Water and Gas**

Delete paragraphs "The Contractor shall be entitled to .....these amounts to the Employer" of this Sub-Clause and insert :

(a) Water and sewerage charges

Water required by the Contractor to complete the Works shall be arranged by the Contractor at his own cost. Sources, as well as suitability of water, will have to be approved by the Engineer prior to using.

Water and sewerage charges as per rules of the Municipal Corporation of Greater Mumbai (M.C.G.M) will have to be borne by the Contractor. Where the Contractor opts to use the water from tankers for his work, the necessary "No objection" certification from M.C.G.M will have to be obtained by the Contractor and the charges shall be borne by the Contractor. Sewerage charges, if any, as per M.C.G.M rules shall also be borne by the Contractor. Proof of payments made to M.C.G.M by the Contractor for approvals and consumption shall be submitted from time to time to the Employer.

(b) Electricity

Employer would consider providing electrical power, which may be provided at one point only if possible and available, and only on CHARGEABLE BASIS, if so desired by the Tenderer.

(c) Gases / Compressed Air

Gases / compressed air, including its storage & handling, required for the work shall be arranged by the Contractor at their own risk & cost.

(d) The Contractor shall, at his risk and cost, provide any apparatus necessary including but not limited to those mentioned above, for his use of above services and for measuring the quantities consumed.

## **6.2 Wages and Conditions of Labour**

Insert the following at the end of Sub-Clause 6.2

Notwithstanding the provisions of above paragraph the Contractor shall at all times comply fully with the provisions of any law or ordinance in force relating to all labour employed by him and the Employer shall be entitled to deduct from any monies due or which may become due to the Contractor, all sums (if any) together with administrative charges (which at present are monthly Rs 10/- per head) payable by the Employer under such ordinance in respect of any default of the Contractor.

## **6.4 Labour Laws**

Insert the following at the end of Sub-Clause 6.4

The Contractor shall at all times during the continuance of the Contract comply fully with all existing Acts, Regulations, ordinances, Laws and Bye-Laws including all statutory Amendments, enactment's, notifications, Acts and re-enactment's for the time being in force of Central and State Government and other Local Authorities dealing with the employment of persons including, but not limited to;

- (a) Inter-State Migrant Workman Act (Regulation of Employment and Conditions of Service) Act 1979
- (b) The Employment of Children Act 1938
- (c) The Workman's Compensation Act 1923
- (d) The Factories Act 1948
- (e) The Minimum Wages Act 1948
- (f) The Contract Labour (Regulation & Abolition) Act 1970
- (g) The Apprentices Act 1970
- (h) The Apprentices Act 1961
- (i) The Equal Remuneration Act 1976
- (j) Employee's Provident Fund Act
- (k) Employee's Family Pension Scheme
- (l) Employee's Deposit Linked Insurance Scheme
- (m) Employee's State Insurance Act

and any statutory amendment or re-enactment thereof for the time being in force.

## **6.5 Working Hours**

Insert the following at the end of Sub-Clause 6.5

Subject to any provision to the contrary contained in the Contract none of the Permanent Works shall, save as hereinafter provided, be carried on between sunset and 8.00a.m. or during the night or on Sundays (or locally recognised days of rest) or Public Holidays or outside the normal working hours stated in the Appendix to Tender without permission in writing of the Engineer save or when the work is unavoidable or absolutely necessary for the saving of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer or the Engineer's Representative. Provided always that the provisions of this Clause shall not be applicable in the case of any work which it is customary to carry out by rotary or double or multiple shifts, or which has to be carried out under tidal conditions.

All work at night, if required, and approved by the Engineer, shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or carrying out the work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability.

Where permission of the Engineer is requested as aforesaid, such permission will not be unreasonably withheld. However granting of such permission will be entirely at the discretion of the Engineer or his Representative and cannot be claimed by the Contractor as a matter of right and the refusal to grant such permission will not be accepted as a ground or excuse for not completing the Works within the specified Contract Period.

### **6.7 Health and Safety**

In paragraph 1, line 2 add the following after “the Contractor’s personnel”;

“and comply with or cause to be complied with all the rules and regulations of the sanitary and other authorities or as framed by the Employer from time to time for the protection of health and sanitary arrangements for all workers”

Add the following paragraph after paragraph 2:

The Contractor shall in connection with the Works provide and maintain at his own Cost all lights, guards, fencing, warning lights, warning signs and watching when and where necessary or required by the Engineer or the Engineer’s Representative or by any duly constituted authority for the protection of the Works or for the safety and convenience of the public or others.

The Contractor shall at his own Cost comply with all precautions as required for the safety of the workmen by the I.L.O Convention (No62) as far as they are applicable to the Contract and shall at his own expense arrange for all the safety provisions as per the safety codes of CPWD, Bureau of Indian Standards, The Electricity Act and such other Acts as applicable. The Contractor shall observe and abide by all fire and safety regulations of the Employer before starting and during execution of the Works. The Contractor shall make good to the satisfaction of the Employer any loss or damage to any portion of the work done or to be done under this Contract or to any of the Employer’s existing property. The Contractor shall provide all necessary personal safety equipment to the workmen and staff.

The Contractor shall be responsible for observance by his Sub-Contractor’s of the forgoing provisions.

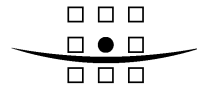
### **7.3 Inspection**

The 1<sup>st</sup> line to be reworded as “The Employer’s Personnel, Engineer, Engineer’s representative shall at all reasonable times:”

In paragraph 2, line 1 insert “or/and any authorised representatives after Employer’s Personnel.”

### **8.3 Programme**

Insert the following paragraphs between existing paragraphs 1 and 2.



The execution of the Works shall be so planned as to cause as little impediment as practicable to the Employer's programme of launching vessels from adjoining slipways and the movement of vessels in the surrounding basins and dock areas and the vicinity of the Site in general.

The submission of the Contractor's programme or the provision of the above listed particulars shall not relieve the Contractor of any of his duties or responsibilities under the Contract, and the Contractor shall be solely responsible for the methods employed in carrying out the Works.

### **8.6 Rate of Progress**

Insert the following paragraph at the end

If the Contractor, to expedite the progress of the work, requests permission to work by night as well as by day, then if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for doing so.

### **10.2 Taking Over of Part of the Works**

In 4<sup>th</sup> paragraph, sub-clause "(jj) be entitled subject.....in the Contract Price" be deleted and read as "(ii) be entitled subject to Sub-Clause 20.1 [*Contractor's Claims*] to payment of any such cost".

### **10.3 Interference with Tests on Completion**

In paragraph 3, sub-para "(b) payment of any such Cost.....Contract Price" be deleted and read as "(b) payment of any such cost".

### **11.8 Contractor to Search**

In 4<sup>th</sup> line delete the words "plus reasonable profit".

### **12 Test after Completion**

Delete Clause 12.

### **13.3 Variation Procedure**

In paragraph 4 delete the second sentence "These adjustments.....if applicable" and read as "These adjustments shall take account of Contractor's submissions under Sub-Clause 13.2 [*Value Engineering*] if applicable.

### **13.5 Provisional Sums**

Delete the clause.

### **13.6 Daywork**

Insert the following in paragraph 3, sub paragraph (b) line 2

After Works insert "other than all hand and pneumatic tools, light and small tools etc. the provision and use of which is covered by Daywork rates for labour".

### **13.7 Adjustments for Changes in Legislation**

In paragraph 1 and 2 replace the words “the Base Date” with “seven days prior to latest date of the submission of the tender”.

The variations in statutory terminal taxes, duties and levies on completed crane on account of changes in tax laws would be payable, unless the break-up in respect of terminal taxes, duties and levies is clearly and separately furnished in the Bid. The Bidder to indicate the nature of taxes, duties and levies considered by them along with percentage and not the amount in Part-1 Bid. However Bidder to indicate the percentage and price in the price offer.

### **13.8 Adjustments for Changes in Cost**

Delete the entire content of the sub-clause and replace with the following:

For Indian Contractor, where the payments are on Local Currency, Contract Price shall be adjusted for exchange rate variation (ERV). For calculating ERV following shall be applicable:

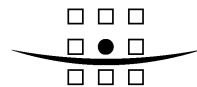
- (a) Base date shall be the date of the Contract.
- (b) Variation in exchange rate shall be limited upto a date three months prior to schedule time of completion.
- (c) Variation shall be allowed if the resulting increase / decrease is more than 2% of the Contract price and shall be limited to 10% of Contract price.
- (d) Variation shall not be payable on the portion of Contract price to the extent of interest free advance paid, if any, to the Contractor.
- (e) For claiming variation, following documents are to be furnished by the Contractor, alongwith claim statement:
  - (i) Banker’s Certificate / Debit Advice detailing FE paid and Exchange rate, date of the transaction.
  - (ii) Copies of the import orders placed on the suppliers.
  - (iii) Invoice of the supplier for the relevant import orders.

### **14.2 Advance Payment**

14.2.1: An initial interest bearing advance payment of up to 15% of the value of order on placement of order against submission of Bank Guarantee by the contractor, for an equivalent amount within 7 to 10 days.

14.2.2: This advance payment will be recovered against each stage payment on pro-rata basis along with the interest component thereof.

14.2.3: Interest bearing advance would be payable excluding the cost for installation, testing and commissioning of the crane at site and the amount of terminal taxes, duties, levies etc.



14.2.4: Interest rate applicable shall be the SBI PLR rate + 2% in respect of Indian bidder and LIBOR/EURIBOR rate + 2% for overseas bidder applicable on the date of tender.

14.2.5: The interest rates applicable are

For Indian Tenderers, Prime Lending Rate (PLR) of State Bank of India (SBI) +2%. PLR rate at present is 13.75%.

For Overseas Tenderers: At LIBOR (for currencies other than Euro) / EURIBOR (for Euro) +2%. Presently, LIBOR @ 3.76% p.a. and EURIBOR @ 5.14% p.a.

### **14.3 Application for Interim Payments**

Delete first paragraph "The Contractor...[*Progress Reports*]" and substitute the following:

"Payments will be made in accordance with the Schedule of Payments. When the Contractor considers that one of the milestones given in the Schedule of Payments has been reached then the Contractor shall submit to the Engineer, in a form approved by the Engineer, a Statement (4 copies) detailing the amounts to which the Contractor considers himself to be entitled, along with all the necessary documentation (4 copies) as described in the Schedule of Payments. The supporting documents shall also include the relevant reports on the progress during this month in accordance with Sub-Clause 4.21 [*Progress Reports*]"

### **14.4 Schedule of Payments**

Delete the 2<sup>nd</sup> paragraph of Clause 14.4 "If the Contract...been issued for the Works" and substitute the following:

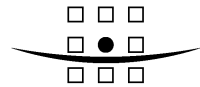
"The Contractor will be entitled to be paid in accordance with the Schedule of Payments on completion of milestones indicated below:

For Part A of the Price Schedules.

1<sup>st</sup> stage: 10% of the Base Price of Part-A on successful completion of 25% of steel fabrication of major structural elements such as crane jib portal column machinery house, acceptance of the same during test/inspection by the Employer or its authorised representative; and receipt of Bank guarantee for equivalent amount valid till stage 5.

2<sup>nd</sup> stage: 10% of the Base Price of Part-A on successful completion of 50% of steel fabrication of major structural elements such as crane jib portal column machinery house, acceptance of the same during test/inspection by the Employer or its authorised representative; and receipt of Bank guarantee for equivalent amount valid till stage 5.

3<sup>rd</sup> stage: 10% of the Base Price of Part-A on successful completion of 75% of steel fabrication of major structural elements such as crane jib portal column machinery house, acceptance of the same during test/inspection by the Employer or its authorised representative; and receipt of Bank guarantee for equivalent amount valid till stage 5.



**ROYAL HASKONING**

- 4<sup>th</sup> stage: 10% of the Base Price of Part-A on successful completion of 100% of steel fabrication of major structural elements such as crane jib portal column machinery house, acceptance of the same during test/inspection by the Employer or its authorised representative; and receipt of Bank guarantee for equivalent amount valid till stage 5.
- 5<sup>th</sup> stage: 5% of the Base Price of Part-A on receipt of major structural elements and assembly of same in MDL yard and acceptance of the same during test / inspection by the Employer or its authorised representative.
- 6<sup>th</sup> stage: 25% of the Base Price of Part-A on receipt of machinery complete in all respect , at MDL yard and acceptance of the same during test / inspection by the Employer or its authorised representative.
- 7<sup>th</sup> stage: 20% of the Base Price of Part-A on completion of erection of complete crane.
- 8<sup>th</sup> stage: 10% of the Base Price of Part-A on taking over by the Employer. Half the Retention Money is payable at this stage.
- 9<sup>th</sup> stage: Remaining Retention Money on completion of defect liability period..

These payments will be made in the proportions of currency specified in the Price Schedule/Contract. Bank guarantees are to meet the requirement indicated at para 13.4 and 13.5 of Vol. I – Instructions to Tenderers.

For Part B of the Price Schedules, for 5 years recommended spares, payment shall be made on receipt of items and it's acceptance by the Engineer/Employer.

For part C –payment based on actual usage, quarterly ending on June/ September./ December / March.

Terminal Taxes, Duties and Levies on completed crane as indicated by the contractor shall be reimbursed at actuals on production of documentary evidence showing payment of Terminal Taxes and Duties to respective authorities.

Bank Guarantee is to meet the requirement indicated at Para 13.4 and 13.5 of vol-1 – Instruction to tenderers.

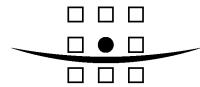
#### **14.5 Plant and Materials Intended for the Works**

Delete the Clause.

#### **14.7 Payment**

Delete the clause and substitute with the following:

“The Employer shall pay, after deduction of taxes at source (TDS), to the Contractor within 25 to 30 days from the date of receipt of invoice, duly certified by the Engineer along with work done certificate to be obtained by the contractor from the Engineer and Employer on completion of the milestones indicated in clause 14.4 above.



Payment in foreign currency shall be made through bank transfer. Payment in Indian Rupees shall be made through Electronic Clearance System (ECS) from the Employers bank to the Contractors bank account. For this purpose the Contractor shall provide the necessary details / complete the necessary formalities.”

#### **14.8 Delayed Payment**

In 2<sup>nd</sup> & 3<sup>rd</sup> line substitute the words “compounded monthly” with “by simple method”.

In 2<sup>nd</sup> line of 2<sup>nd</sup> paragraph substitute the words “calculated at the annual rate” with “calculated at the simple annual rate”.

Delete the 2<sup>nd</sup> paragraph “unless otherwise.....such currency” and read as “these financial charges shall be calculated @ 10% p.a. at simple interest for INR and @LIBOR monthly at simple rate for foreign currency.

#### **14.9 Payment of Retention Money**

The 2nd line in 2nd paragraph which reads as “outstanding balance of the Retention Money shall be certified by the Engineer for” with “outstanding balance of the Retention Money shall be due for”.

#### **14.12 Discharge**

Insert the following new paragraph at the end of Sub-Clause 14.12

“This discharge shall state that the Contractor has no claims against the Employer arising out of the Contract other than claims specifically identified, evaluated and accepted from the operation of release by the Contractor”.

#### **14.15 Currencies of Payment**

Delete sub –Para (a) and (d).

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#### **15.2 Termination by Employer**

Delete item (f) “ gives or offers to give .... relation to the Contract,” and replace with:-

The Contractor has in the judgement of the Employer, engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this Clause:

“corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official, or the threatening of injury to person, property or reputation, in connection with the procurement process or in contract execution in order to obtain or retain business or other improper advantage in the conduct of business; and

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the client, and includes collusive practices among tenderers (prior to or after tender submission) designed to establish tender prices at artificial, non-competitive levels and to deprive the client of the benefits of free and open competition.

#### **15.4 Payment after Termination**

At the end add sub-paragraph:

“ (d) On termination of contract, amount advanced if any to the contractor or part thereof corresponding to the undelivered supply/ the work not completed, shall be recoverable from Tenderer / contractor at the prevailing bank interest rate.”

#### **16.1 Contractors Entitlement to Suspend Works**

Delete the clause.

#### **16.2 Termination by the Contractor**

Delete Sub Clause (a).

#### **16.4 Payment on Termination**

Delete sub clause (a) “return the .....the Contractor” and (c) “pay to the Contractor .....result of this termination.”

#### **17.1 Indemnities**

Delete 2<sup>nd</sup> paragraph “The Employer shall indemnify.....and damage to property].”

#### **17.4 Consequences of Employer’s Risks**

In paragraph 2, delete Sub-Clause “(b) payment of any.....shall also be included” and read as “(b) payment of any such cost, which shall be included in the Contract Price”

#### **18.1 General Requirements for Insurance**

Delete the third paragraph “Wherever the Employer is.....particular conditions”.

Add the following at the end of sub-clause (b) of 6<sup>th</sup> paragraph:

“and sub-clause 18.4 [Insurance of Contractor’s Personnel] and copies of policies effected by Contractor’s sub-contactors and receipts of the current premium paid there under.”

#### **18.2 Insurance for works and Contractors Equipment:**

Delete sub-clause (d) and replace with the following:

(d) shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works,

Also delete the last paragraph “ If, more than one year .....under Sub-clause 18.1 [General Requirements for Insurance].

At the end of clause add sub-clause as under:

(f) shall cover collision and other risks to works / operation on, under, in or through the sea, since the site where work or part of the work to be executed is sea.

**19.2 Notice of Force Majeure**

Delete paragraph 3, “Notwithstanding any.....under the Contract”.

**19.4 Consequences of Force Majeure**

From the 3<sup>rd</sup> line delete the words “and/or incurs Cost” and also delete Sub-paragraph (b) “if the event .....payment of any such Cost.”

**19.6 Optional Termination, Payment and Release**

Delete sub-clause (c) “any other.....the works”, (d) “the cost.....no greater cost, and (e) “the cost of repatriation.....at the date of termination”.

**20.2 Appointment of the Dispute Adjudication Board**

Delete the clause and replace with the following new

**20.2 Engineer’s Decision**

If a dispute of any kind whatsoever arises between the Employer and Contractor in connection with, or arising out of the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after repudiation or termination of the Contract, including any dispute as to any opinion, instruction, determination, certificate or evaluation of the Engineer, the matter in dispute shall, in the first instance, be referred in writing to the Engineer. Such reference shall state that it is being made in accordance with this Clause. Within thirty (30) days of having received such notification the Engineer shall give notice of his decision to the Employer and Contractor. Such decision shall state that it is being made in accordance with this Clause.

Unless the Contract has already been repudiated or terminated, the Contractor shall in every case, continue to proceed with the Works with all due diligence and care, and both Employer and Contractor shall give effect to every decision of the Engineer unless and until the same shall be revised as hereinafter provided, in an amicable settlement or arbitrator’s award.

If either the Employer or the Contractor is dissatisfied with any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the thirtieth (30<sup>th</sup>) day after having received notification by either party, then either the Employer or Contractor, on or before the thirtieth (30<sup>th</sup>) day after the expiry of the thirtieth (30<sup>th</sup>) day give notice to the other party, with a copy for the information of the Engineer, of his intention to commence arbitration, as hereinafter provided, as a matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as to such dispute and subject to provisions of this Clause, no arbitration in respect thereof shall be commenced unless such notice is given.

If the Engineer has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor on or before the thirtieth (30<sup>th</sup>) day after the day on which the Engineer’s decision was made, the said decision shall become final and binding upon the Employer and Contractor.

### **20.3 Failure to Agree Dispute Adjudication Board**

Clause 20.3 will be deleted and not used.

### **20.4 Obtaining Dispute Adjudication Board's Decision**

Clause 20.4 will be deleted and not used.

### **20.5 Amicable Settlement**

Delete the Clause 20.5 and replace by the following Sub-Clause:

Where a notice of intention to commence arbitration as to a dispute has been given in accordance with Clause 20.2, arbitration of such dispute shall not be commenced unless an attempt has been made by the parties to settle the dispute amicably. Provided that, unless the parties otherwise agree, arbitration may commence on or before the fifty sixth (56<sup>th</sup>) day after the day on which notification by either party to commence arbitration was given, whether or not any attempt at obtaining an amicable settlement was made.

### **20.6 Arbitration**

Delete the Clause 20.6 and replace by the following:

Any dispute in respect of which:

- (a) The decision, if any, of the Engineer has not become final and binding pursuant to Clause 20.2 and
- (b) Amicable Settlement has not been reached within the period stated in Clause 20.5 shall be finally settled under the rules of Indian Arbitration & Conciliation Act 1996 by three arbitrators, one appointed by each party and third Presiding Arbitrator by the two arbitrators so appointed. The said arbitrators shall have full power to open up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Engineer related to the dispute. The arbitrators as the case maybe, shall award their decision in person to the parties in dispute giving reasons for their decision on each and every dispute/claim referred. The arbitration proceedings shall be held in Mumbai. The cost of arbitration shall be shared equally by both parties regardless of its outcome.

Neither party shall be limited in the proceedings before such arbitrator/s to the evidence or arguments put before the Engineer for the purpose of obtaining his decision under Clause 20.2. No such decision shall disqualify the Engineer from being called as a witness and giving evidence before the arbitrator/s on any matter relevant to the dispute.

Arbitration may commence prior to or after completion of the Works, provided that the obligations of the Employer, the Engineer and the Contractor shall not be altered by reason of the arbitration being conducted during the progress of the Works.

#### **Applicable to CPSUs:**

Any dispute / differences between the parties arising out of and in connection with the contract shall be settled amicably by mutual negotiations.

In case of unresolved differences / dispute between Employer and Contractor, Enterprise, shall be referred by either party to the Department of Public Enterprises, as per extant guidelines

**20.7 Failure to Comply with Dispute Adjudication Board's Decision**

Clause 20.7 will be deleted and not used.

**20.8 Expiry of Dispute Adjudication Board's Appointment**

Clause 20.8 will be deleted and not used.

## PARTICULAR CONDITIONS OF CONTRACT

### (B) ADDITIONAL CLAUSES TO THE GENERAL CONDITIONS OF CONTRACT

#### 1 GENERAL PROVISIONS

##### 1.1.6.10 Protected Place

“**Protected Place**” means the places identified or defined within the Defence of India Regulations 1914, which are effective upon commencement of the Works and any amendments made thereafter.

##### 1.15 Jurisdiction of Courts:

All contracts shall be deemed to have been wholly made in Mumbai and all claims there under are payable in Mumbai City and it is the distinct condition of the order that no suit or action for the purpose of enforcing any claim in respect of the order shall be instituted in any Court other than that situated in Mumbai City, Maharashtra State, India i.e. courts in Mumbai shall alone have jurisdiction to decide upon any dispute arising out of or in respect of the contract.

##### 2.6 Book Examination

The Employer/ The Engineer has right to examine the books of the contractor, including the break-up of the data required.

#### 4 THE CONTRACTOR

##### 4.25 The Site is a Protected Place

The Site is a Protected Place under the Defence of India Regulations and no person shall be employed or allowed on the Site without the prior authority in writing of the Employer. All persons employed or allowed on the Site shall at all times conform with all regulations laid down by the Employer / the Engineer for personnel employed upon the Site.

##### 4.26 Secrecy and Access to Employer's Premises

The Contractor shall take all steps necessary to ensure that all persons employed on any work in connection with the Contract have noted that the Indian Official Secrets Act 1923 (XIX of 1923) as per ECLOSURE-1 applies to them and shall continue to apply even after completion of the Works under the Contract.

Passes for Contractor's personnel and labour to work at the Employers premises and at the Site, will be issued by the Employer's Security Department after clearance by the Employer's Personnel Department and local police authorities. All Security and Safety Regulations of the Employer shall be strictly complied with.

##### 4.27 Documents Relating to the Works

The Contractor shall not disclose to third parties, any details of the Works in the form of drawings, photographs, documents or correspondence of any kind, on which he is engaged without prior approval of the Employer.

#### **4.28 Publicity**

The Contractor shall not permit or allow any information regarding the Works herein embraced to be published in any scientific or engineering journal, newspaper, periodical, trade or other publication or broadcast on television and radio or by any other medium such as the internet.

### **6 STAFF AND LABOUR**

#### **6.12 Epidemics**

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or local Municipal / medical or sanitary authorities for the purpose of dealing with and overcoming the same.

#### **6.13 Sanitary Requirements of Local Authorities**

The Contractor shall comply with the sanitary requirements of the local Municipal / Medical Health Authorities and bear the Cost of any charges levied by such authorities for the execution of work on the Contractors behalf.

#### **6.14 Anti-Malaria Precautions**

The Contractor shall carry out all anti-malarial instructions and precautions given to him by the Engineer or Local Authorities and shall bear the cost of any charges levied by Local Authorities.

#### **6.15 Drinking Water**

The Contractor shall make adequate supply and distribution arrangement of drinking and other water available at Site for his and his Sub-Contractor's supervisory staff and labour to the satisfaction of the Engineer.

#### **6.16 Employment of Expatriate and Foreign Personnel**

The Contractor shall ascertain the current Regulations in force from the appropriate authorities regarding the employment of expatriate or foreign personnel prior to bidding and ensure that the Contract Price includes all Costs in this respect.

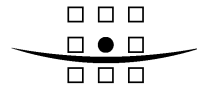
The Contractor shall be responsible for the timely acquisition and subsequent maintenance of the necessary permits for all of his employees and those of his Sub-Contractor's who are required to work or reside in India at any time during the course of the Contract.

### **14 CONTRACT PRICE AND PAYMENT**

#### **14.16 Post Payment Audit**

The Employer reserves the right until the end of the Defects Notification period to carry out a post-payment audit and technical examination of the final Contract Price including all supporting data.

If, as a result of such audit and technical examination, any overpayment is discovered in respect to any work done by the Contractor or alleged to have been done by him under the Contract, it



shall be recovered by the Employer from the Contractor under the Contract. If any underpayment is discovered the amount shall be duly paid to the Contractor by the Employer.

#### **14.17 No Responsibility Upon the Engineer for Payment**

Nothing in this Contract or arising out of the relationship between the Employer and the Engineer shall place any responsibility upon the Engineer for any payment to the Contractor for in respect of the Works.

### **18 INSURANCE**

#### **18.5 Insurance for Design**

The Contractor shall effect professional indemnity insurance, which shall cover the risk of professional negligence in the design of the Works. This insurance shall be for a limit not less than Rs. 15 Crores (or equivalent foreign currency). The Contractor shall maintain the professional indemnity insurance in full force and effect until 2 years from the expiry of the Defects Notification Period. The Contractor undertakes to notify the Employer promptly of any difficulty in extending, renewing or reinstating this insurance.

### **20 CLAIMS, DISPUTES AND ARBITRATION**

#### **20.9 Failure to Comply with Engineer's Decision**

Where neither the Employer nor the Contractor has given notice of their intention to commence arbitration of a dispute within the period stated in Clause 20.2 and related decision has become final and binding, either party may, if the other party fails to comply with the decision, and without prejudice to any other rights it may have, refer the failure to the arbitration in accordance with Clause 20.2. The provision of Clause 20.1 shall not apply for such references.

#### **INSERT THE FOLLOWING NEW CLAUSES:**

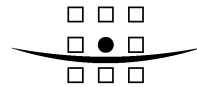
### **21 NOTICES**

- (a) Any notice to be given to the Contractor under the terms of the Contract shall be served by sending the same by registered post to or leaving the same at the Contractor's principal place of business (or at its registered office in the event of the Contractor being a Company)
- (b) Any notice to be given to the Employer under the terms of the Contract shall be served by sending the same by registered post to or leaving the same at the Employer's principal place of business (or at its registered office in the event of the Employer being a Company)

### **22 DUTIES AND TAXES**

#### **22.1 Foreign Taxation**

The prices bid by the Contractor shall include for all taxes, duties and other charges imposed outside India on the production, manufacture, sale and transport of the crane parts, equipment, erection plant and equipment, materials and other supplies (both permanent, temporary or



consumable) to be used on or furnished under the Contract and on the services to be performed under the Contract.

## **22.2 Local Taxation**

The prices tendered by the Contractor shall exclude for all terminal taxes, duties, levies that may be levied according to the laws and regulations in force in India and/or Maharashtra State. The price shall also exclude Custom duty, CVD, cess/surcharge thereon and octroi for input imported material required for the execution of the contract. However, MDL shall reimburse custom duty, CVD, cess/surcharge and octroi on (and upto) the assessable value of imports as indicated in the Price Schedule by the Contractor. Payment of custom duty, CVD, cess/surcharge on item imported beyond assessable value indicated by the Contract, shall not be reimbursed by the Employer. MDL will not pay import duties for the Contractors Equipment required by him for the execution of the Contract.

All terminal taxes / duties / levies shall be reimbursed by the Employer to the Contractor, on production of documentary evidence.

Tax at Source (TDS) shall be deducted from the payments made to the Contractor towards income tax and Value Added Tax (VAT) on Works Contract (as levied by Government of Maharashtra) at prevailing rates. The Contractor shall obtain 'Tax Determination Certificate' in respect of Income tax on payments (Indian Rupee and foreign currencies) from Indian Income Tax authority and provide the same to the Employer before payment. Delay in producing 'Tax Determination Certificate' by the Contractor will not be considered ad delay in payment by the Employer. Indian Income Tax (Corporate and TDS) are to be borne by the Contractor.

Nothing in the Contract shall relieve the Contractor from any responsibility to pay business taxes, income taxes or any other tax whatsoever that may be levied in India and/or Maharashtra State.

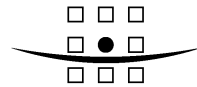
## **22.3 Income Taxes on Staff and Labour**

The Contractor's staff, personnel and labour will be liable to pay personal income taxes in India in respect of such part of their salaries and wages as are chargeable under the laws and regulations for the time being in force and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.

## **22.4 Registration with Maharashtra State / Central Govt.**

The successful tenderer will be required to register under Maharashtra Sales Tax Act in the light of Maharashtra State Government directives / instructions. This registration should be in the name of the successful tenderer. An attested copy of the certificate for registration under the MST Act in the proforma prescribed by the State Government of Maharashtra (India) shall be submitted within 30 days of the receipt of notification of award from the Employer.

The successful tenderer shall register with Maharashtra State or Govt. of India or any other Statutory Authority as required. The documentary evidence of such registration shall be submitted to the Employer.



## **22.5 Increase/Decrease in Duties and Taxes during extension in time of completion.:**

The Contractor will not be entitled to any increase in rate of terminal taxes, duties & levies occurring during the period of extension in time of completion, if delay is attributed to the Contractor. However, if there is decrease in rates of duties, taxes & levies during the extended period, the Employer shall take the benefit of such reduction.

## **23 LIABILITY OF GOVERNMENT OF INDIA**

It is expressly understood and agreed by and between the Contractor and the Employer that the Employer is entering into this Agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Employer is an independent legal entity with power and authority to enter into Contract solely in its own behalf under the applicable laws of India and general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Employer is not an agent, representative or delegate of Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any note, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, Contractor hereby expressly waives, releases and foregoes any and all action or claims, including cross claims, impleader claims or counterclaims against the Government of India arising out of this Contract and covenants not to sue the Government of India as to any manner, claims, cause of actions or things whatsoever arising of or under this Agreement.

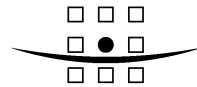
## **24 AGENTS / AGENCY COMMISSION**

The Tenderer / Contractor confirms and declare to the Employer his status as either the Original Manufacturer of equipment or as the Stockist / Supplier of the equipment / Machinery/Items referred to in this Contract and that he has not engaged any individual or firm, whether Indian or Foreign whatsoever, to intercede, facilitate or in any way to recommend to the Employer or any of its functionaries, whether officially or unofficially, to the award of the contract to the contractor / Supplier nor has any amount has been paid, promised, or intended to be paid to any such individual or firm in respect of any such intercession, facilitation, or recommendation. The Tenderer / Contractor shall agree that if it is established at any time to the satisfaction of the Employer that the present declaration is in any way incorrect or if at later stage it is discovered by the Employer that the Tenderer / Contractor has engaged any such individual / Firm and paid or intended to pay any amount, Gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the contractor / supplier shall be liable to refund that amount to the Employer. The Tenderer / Contractor will also be debarred from entering into any supply contract with the Employer for a minimum period of five years. The Employer will also have a right to consider cancellation of the contract either wholly or in part, without any entitlement or compensation to the Tenderer/Contractor who shall be in such event be liable to refund all payment made by the Employer, along with interest at the rate of 2% p.a. above the LIBOR. The Employer will also have the right to recover any such amount from any contract concluded earlier with the Employer.

## **PROFORMA SCHEDULES AND ENCLOSURES**

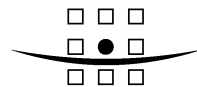
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SCHEDULE II	Subcontractors
SCHEDULE III	Deviations from Employers Requirements
SCHEDULE IV	Deviations from Conditions of Contract
SCHEDULE V	Day work Schedule
ENCLOSURE-1	Extract of provisions of the official secrets act, 1923.



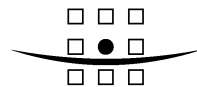
**SCHEDULE I: PRICE SCHEDULES (SAMPLE)**

Item	General Summary Page	Total		
		Indian Rs.	Foreign Currency (FC) on FOB port of despatch	Foreign Currency (FC) on CIF Mumbai
<b>Part A: Crane Design, Supply, Erection and Commissioning</b>				
1	Total of preliminary and detailed design			
2	Fabrication and supply of major structural elements such as crane jib portal column machinery house			
3	Manufacture and supply of Indian elements of the crane, including all mechanical and electrical and ancillary elements, but excluding item 2 above			
4	Manufacture and supply of overseas elements of the crane, including all mechanical and electrical and ancillary elements, but excluding item 2 above			
5	Total of Site establishment, temporary works and supervision			
6	Total of test & inspection by Classification society (Name of Classification Society: .....)			
7	Total of Installation and erection of the crane			
8	Total of Final Testing and Commissioning			
9	<b>Subtotal of Item 1 to 8 above (Total Base price of part-A)</b>			
10	Terminal Taxes/ duties /levies on (Item 9) above amount (Specify Terminal Tax, duty, levy and associated percentage)			



**ROYAL HASKONING**

Item	General Summary Page	Total		
		Indian Rs.	Foreign Currency (FC) on FOB port of despatch	Foreign Currency (FC) on CIF Mumbai
11	<b>Total of Part A (Item 9 + Item 10)</b>			
<b>Part B: Spares</b>				
12	Total of 5 years Recommended Spares ref Employers Requirements clause 82.2 Individual itemised price list is to be attached separately. <b>(Total Base price of part B)</b>			
13	Terminal Taxes on above amount (Item 12) (Specify Terminal Tax and associated percentage)			
14	<b>Total of Part B</b>			
<b>Part C: Day-work</b>				
15	Total cost of day-work (Details to be provided in Schedule V) <b>(Total Base price of part C)</b>			
16	Terminal Taxes on above amount (Item 15) (Specify below in part-I, Terminal Tax and associated percentage)  ----- ----- -----			
17	<b>Total of Part C</b>			
18	<b>For Indian Bidders</b> Total of Part A, Part B & Part C (i.e item no: 11+14+17) (Amount considered for comparison of tenders / Accepted contract amount)- Amount carried in Letter of Tender	<b>(In words .....)</b>	<b>(In words .....)</b>	<b>(In words .....)</b>
19	<b>For Foreign Bidders</b> Total of item no: 9+12+15	<b>(In words .....)</b>	<b>(In words .....)</b>	<b>(In words .....)</b>
	Contractors Name.....  Contractors Address..... ..... ..... Tele.....			



**ROYAL HASKONING**

Item	General Summary Page	Total		
		Indian Rs.	Foreign Currency (FC) on FOB port of despatch	Foreign Currency (FC) on CIF Mumbai
	Fax..... Signature..... with stamp and seal  Witness.....			

**Note:**

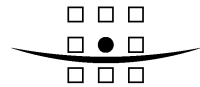
**1. Indian Bidders:**

- (1) Please note that terminal taxes, duties & levies on supply of completed 100T L.L crane and Spares for 5 years shall be reimbursed by the Employer / Purchaser subject to documentary evidence. Bidders to indicate the nature of taxes, Duties & levies considered by them along with the applicable percentages. For example Custom Duty----%, CVD----%, Octroi----%, VAT---% etc.

**2. Foreign Bidders:**

- (i) Please quote the price on FOB (port of Despatch) and CIF Mumbai basis. The terminal taxes, duties & levies as applicable in India on import of 100T L.L crane and Spares for 5 years shall be borne by the Employer or reimbursed on documentary evidence. However, All Taxes, Duties payable outside India to the Contractor's account
- (ii) The price at sr.no.8 of the price schedule should be inclusive of the cost of services to be provided by the supplier in Employer's premises till completion of Guarantee/ defect liability period.

**3. Tenderer to submit the itemised list of Spares indicating quantity, unit and unit prices along with the Price bid (Part-II) while the itemised list with the Prices blanked along with the Technical –BID (Part-I)**



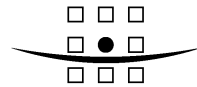
**SCHEDULE II: SUBCONTRACTORS**

Element of Work	Approximate Value (to be completed only for the Price Bid)	Name & Address of Subcontractor	Statement of Similar Works Previously Executed by the Subcontractor

**Notes:**

1. The tenderer shall enter in this Schedule a list of the items of work that he intends to sub-contract and appropriate value of the work for which he proposes to use sub-contractors, together with the names and addresses of the proposed subcontractors. The tenderer shall also enter a statement of similar works previously executed by the proposed subcontractors, including description, location and value of work, year completed, and name and address of the employer/engineer. Notwithstanding such information the tenderer, if awarded the Contract, shall remain entirely and solely responsible for the satisfactory completion of the Works.





**SCHEDULE IV: DEVIATIONS FROM CONDITIONS OF CONTRACT**

All deviations from the Conditions of Contract (General Conditions and Particular Conditions) shall be filled in by the tenderer clause by clause in this Schedule. If deviations are discussed in the covering Letter of Tender, then reference to the said letter shall be made below.

Item (or Clause) No.	Contractual requirement	Deviation proposed by the tenderer	Reason for proposed deviation	Price Tag in Rupees / foreign currency (+ or -)
(1)	(2)	(3)	(3)	(4)

The tenderer hereby certifies that the above mentioned are the only deviations from the Conditions of Contract.

COMPANY SEAL

SIGNATURE \_\_\_\_\_  
NAME \_\_\_\_\_  
DESIGNATION \_\_\_\_\_  
COMPANY \_\_\_\_\_  
DATE \_\_\_\_\_

**SCHEDULE V: DAYWORKS SCHEDULE**

Sr.No.	Particulars / Description of Item	Unit	Max. Qty.	Rate
A)	Labour:			
	1) Gas / Arc Welder / Cutters	Day	10	
	2) Skilled labour	Day	20	
	3) Semi-skilled labour	Day	20	
	4) Un-skilled labour	Day	20	
B)	Material:			
	1) Steel plate including painting	Tonne	5	
	2) Steel section including painting	Tonne	5	
C)	Equipment:			
	1) Gas / Arc Welding Set with gear	Day	10	
	2) Compressor	Day	20	
	3) Gas Cutting gear	Day	20	
	4) Main Erection Crane (Capacity)	Day	5	
	5) Handling Crane (Capacity)	Day	10	

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

DESIGNATION \_\_\_\_\_

COMPANY SEAL

COMPANY \_\_\_\_\_

DATE \_\_\_\_\_

**CONTRACT AGREEMENT**

**This agreement** made the .....day of .....20.....

Between.....of.....  
 .....(hereinafter called “the Employer” of the one part,

and.....of.....  
 .....(hereinafter called “the Contractor”) of the other part

**Whereas** the Employer desires that the Works known as ..... should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

**The Employer and the Contractor agree** as follows

In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.

The following documents shall be deemed to form and be read and construed as part of this Agreement:

The letter of Acceptance dated .....

The Letter of Tender dated.....

The addenda nos.....

The Conditions of Contract

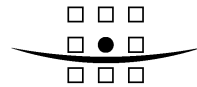
The Employers Requirements

The completed Schedules, and

The Contractor’s Proposal

In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to design, execute and complete the Works and remedy any defects therein, in conformity with the provision of the Contract.

The Employer hereby covenants to pay the Contractor, in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract price at the times and in the manner prescribed by the Contract.



**CONTRACT AGREEMENT CONT'D**

**In Witness** whereof the parties hereto have caused this Agreement to be executed the day and year before written in accordance with their respective laws.

Signed by.....  
For and on behalf of the Employer  
(who is acting on behalf of Indian Navy)  
in the presence of

Signed by .....  
For and on behalf of the Contractor  
  
in the presence of

Witness.....

Witness.....

Name.....

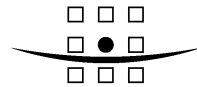
Name.....

Address.....  
.....

Address.....  
.....

Date.....

Date.....



## TENDER SECURITY

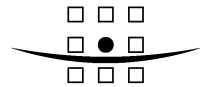
WHEREAS M/s. \_\_\_\_\_ intend to submit a Tender (hereinafter called the Tender) to M/s. Mazagon Dock Limited ( MDL, hereinafter named Company ) for the invitation to tender by MDL vide reference no. \_\_\_\_\_ dated \_\_\_\_\_ for the requirement of \_\_\_\_\_ (equipment, items, materials etc.)

Now, by this letter, we the undersigned (Bank's Name and address) whose registered office is at: \_\_\_\_\_ bind ourselves unconditionally and irrevocably for payment to M/s. Mazagon Dock Limited of the sum of (currency / amount) as Tender Security / Earnest Money Deposit to indemnify MDL in case of default. The conditions of the above obligations are such that if M/s. \_\_\_\_\_ shall not keep their Tender being submitted to Mazagon Dock Limited as set forth in the instructions to Tenderers valid and unaltered until six months from the due date \_\_\_\_\_ of the tender, viz. \_\_\_\_\_ refused to sign a formal agreement in accordance with the terms of the tender or after having signed the agreement does not perform the ORDER/ CONTRACT, then this obligation remains in full force and effect, otherwise to be null and void.

In case this obligation is effective, we, (Bank's Name) undertake to pay to M/s. Mazagon Dock Limited any amount up to the above indicated sum, upon written request, without any demur or protestation and without reference to M/s. \_\_\_\_\_ within 15 days from the date of such demand in any manner in which the Company may direct and also without the necessity of instituting and proceeding whether judicial or otherwise, at any time upon the ORDER/ CONTRACT committing any one or more of the following:

- (a) Withdraws his tender during the validity period or any extension sought / granted thereof, or
- (b) If the ORDER/CONTRACT varies or, modifies his tender in a manner not conforming to Tender Conditions and / or not acceptable to MDL during the validity period or any extension of the validity duly agreed to by the bidder, or
- (c) If a bidder whose offer has been accepted fails to furnish Security Deposit within twenty-eight days of award of the ORDER/ CONTRACT or by the date mutually agreed to whichever is later.

We, (Bank's Name), agree that our liability to pay is not dependant on conditions on your proceedings against the ORDER/ CONTRACT and we shall be liable to pay an amount not exceeding the aforesaid amount as and when demanded by you merely on claim being raised by you and even before any legal proceedings are taken against the ORDER/ CONTRACT.



**ROYAL HASKONING**

We, (Bank's Name), undertake not to revoke this guarantee during its currency except with the previous consent of the Purchaser in writing. The guarantee herein contained shall not be revocable by notice or by reasons of dissolution or winding up of the business of the ORDER/ CONTRACT or any change in the constitution or composition of the ORDER/ CONTRACT.

This guarantee shall remain valid, in case the Tender is accepted, until the due performance of the ORDER/ CONTRACT resulting from such acceptance inclusive of furnishing Security Deposit in a manner specified by MDL and in any other case until \_\_\_\_\_ unless a claim or demand is made on us in writing on or before (validity + 4 weeks) , we will be relieved and discharged from all liability thereunder.

We, (Bank's Name), have power to issue guarantee in your favour under Memorandum and Articles of Association and the undersigned has full power to do so under the Power of Attorney dated \_\_\_\_\_ granted to him by the Bank.

After the here above mentioned date, the Guarantee shall lapse automatically without necessity to be returned to the Bank.

This guarantee shall be governed by Indian laws and the courts at Mumbai, India alone shall have the jurisdiction.

Date

Signature of a person duly authorised to sign on behalf of the Bank, with Seal of the Bank

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\* INDIGENOUS VENDORS TO SUBMIT ON NON\_JUDICIAL STAMP PAPER OF RS. 100.00 FROM NATIONALISED/SCHEDULED BANK ONLY

\*\* FOREIGN VENDORS TO SUBMIT ON LETTERHEAD OF BANK OF INTERNATIONAL REPUTE.

**PERFORMANCE BANK GUARANTEE**

**THIS DEED OF GUARANTEE** executed at Mumbai \_\_\_\_\_ day of month \_\_\_\_\_ of (the year) by the Bank of ( Bank's name and address)) (hereinafter called the 'SURETY' which expression shall include its heirs, successors, administrators, and assigns) of the ONE PART in favour of M/s. MAZAGON DOCK LIMITED, Dockyard Road, Mazagon, Mumbai 400010, a Company registered under the Indian Companies Act, 1913 ( hereinafter called the 'PURCHASER' which term shall include its heirs, successors, administrators and assigns) of the OTHER PART.

WHEREAS M/s. (Firm's Name) registered under \_\_\_\_\_ having its Registered Office (Firm's address) (hereinafter called the 'CONTRACTOR' which expression shall include its heirs, successors, administrators and assigns) have accepted an Order / entered into a Contract vide Ref. No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter called the said Order / Contract) with the purchaser for the supply, delivery at site, installation, commissioning and handing over of certain equipment, item, material etc., as stated in the said Order / Contract as per the terms and conditions provided in the Order / Contract.

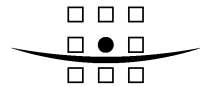
AND WHEREAS under the said Order / Contract the Contractor is required to furnish a Bank Guarantee for (currency / amount) (In Words) being ten percent of the Order / Contract price of (currency / amount) as specified in the said Order / Contract for the execution of the said Order / Contract till all defects are remedied.

NOW THIS DEED WITNESSES AS FOLLOWS:

In pursuance of the terms and conditions of the said Order / Contract and on the request of the Contractor, we the Surety do hereby undertake to pay to the Purchaser on demand without any demur the sum of (Currency/Amount) (In Words) being ten percent of the Order / Contract price in the event of the Contractor failing to fulfil any of the terms and conditions of the said Order / Contract.

We, the Surety, do hereby agree that the Purchaser shall be the sole judge to decide whether the Contractor has committed a breach of any of the terms or conditions of the said Order / Contract and that the decision of the Purchaser will be final and binding on the Surety. The Purchaser and the Contractor shall be at a liberty to carry out any modifications in the said Order / Contract during the currency of the said Order/Contract and any extensions thereof and any such modifications will be duly intimated to the Surety. Any accounts settled between the Contractor and the Purchaser shall be conclusive evidence against the Surety of the amount due and shall not be questioned by the Surety.

We, the Surety, further agree that the guarantee herein contained shall remain in full force and effect for a period upto ----- (the date six months after the expiry of defect notification period of the work) and that the guarantee shall continue to be enforceable till all the obligations under or arising by virtue of the said Order / Contract have been fully discharged by the Contractor till the Purchaser certifies in writing that the terms and conditions of the said Order / Contract have been fully and properly carried out by the Contractor. We the Surety, further undertake not to revoke



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this guarantee during the currency of the same except with the previous consent of the Purchaser in writing.

We, the Surety, further agree that liabilities and obligations of the Surety arising under or by virtue of this bond shall not be discharged by any variation of the terms or conditions of the said Order / Contract by any grant of time given or any indulgence shown by the Purchaser to the Contractor. It is agreed that the liabilities under this guarantee shall not exceed (currency/amount) (In words).

This guarantee shall remain in full force till \_\_\_\_\_ unless a claim or demand is made on us in writing on or before (validity + 4 weeks), we will be relieved and discharged from all liability thereunder.

This guarantee shall be governed by Indian laws and the courts at Mumbai, India alone shall have the jurisdiction.

Date:

Signature of a person duly authorised to sign on behalf of the Bank with Seal of the Bank

- 
- \* INDIGENOUS VENDORS TO SUBMIT BANK GUARANTEE ON NON-JUDICIAL STAMP PAPER OF RS. 100.00 FROM NATIONALISED / SCHEDULED BANK ONLY.
  - \*\* FOREIGN VENDORS TO SUBMIT BANK GUARANTEE ON LETTERHEAD OF BANK OF INTERNATIONAL REPUTE.

**ENCLOSURE-1**

## **EXTRACT OF PROVISIONS OF THE OFFICIAL SECRETS ACT, 1923(ENCLOSURE-I)**

### **SECTION 2(B); "PROHIBITED PLACE"**

It is defined as the place of any work of Defence Dockyard and other so belonging or occupied and used for the purpose of building, repairing, making or storing any ammunitions of war.

For the purpose of the above definition, sketch includes any photograph or other mode of representing any place or thing.

### **SECTION 3: "PENALTIES FOR SPYING"**

If any per unlawfully -

- a) approaches, inspects, passes over or is in the vicinity of any clear place;  
or
- b) make any sketches intended to be directly or indirectly useful to an enemy  
; or
- c) obtains, collects, records or communicates to any other person any secret official code.

Shall be liable for imprisonment of 14 years in case of Defence Installation.

### **SECTION 4: "COMMUNICATION WITH FOREIGN AGENTS"**

If Any person has been in communication with or attempted to communicate with foreign agents regarding the vital information of any "PROHIBITED PLACE" would be guilty of violating the provisions of this Act.

### **SECTION 5: "WRONGFUL COMMUNICATION OF INFORMATION"**

If any person having in his possession or control any official document;

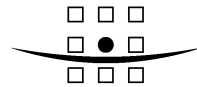
- a) Willfully communicates to any person, other than a person, who is authorised to communicate it.
- b) Used the information in his possession for the benefit of any foreign power.
- c) Retain in his possession when he has no power to retain it
- d) Fails to take reasonable care of it.

Shall be guilty of an offence under this Act.

### **SECTION 6: "UNAUTHORISED USE OF UNIFORMS"**

If any person for the purpose of gaining admission or of assisting any other person to gain admission to a "PROHIBITED PLACE" wears uniforms without lawful authority shall be guilty of offence under this Section.

### **SECTION 7: "INTERFERING WITH OFFICERS OF POLICE"**



No person in the vicinity of any "PROHIBITED PLACE" shall abstract any Police Officer engaged on guard, sentry or similar duty. If any person move in the provisions of this section, shall be punishable with imprisonment, which may extend up to 3 years.

**SECTION 8: "DUTY OF GIVING INFORMATION"**

It shall be duty of every person to give on demand to a superintendent of Police or any other Police Officer not below the rank of Inspector, any information in his power relating to an offence under this Act.

If any person fails to give such information, shall be punishable with imprisonment to 3 years or fine or with both.

**SECTION 9: "INCITEMENT"**

Any person who attempts to commit or debate the commission of an offence under this Act shall be punishable with the same punishment and be liable to be proceeded against in the same manner as if he had committed such offence.

**SECTION 10: "PENALTY FOR HARBOURING SPIES"**

If any person whom he knows or has reasonable grounds for supposing to be person who is about to commit or who has committed offence under this Act shall be guilty of offence under this Section.

**SECTION 11: "SEARCH WARRANTS"**

If a presidency Magistrate, Magistrate First Class or Sub-Divisional magistrate is satisfied with the information that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant search warrant to any Police Officer to enter at any time any premises to force to search premises or the places.