

**SPECIAL TERMS & CONDITIONS  
OF EXPRESS INDUSTRY COUNCIL OF INDIA (EICI)  
FOR E-AUCTION CUM E-TENDER**

1. The Special Terms & Conditions (STC) of Express Industry Council of India (EICI) shall prevail in case of any conflict between the terms of the STC and any terms of the Buyer Specific Terms & Conditions (BSTC) & General Terms & Conditions (GTC) of MSTC.
2. By bidding for a lot the Bidder agrees to be bound by the conditions of STC of EICI, and the BSTC & GTC of MSTC.
3. This e-Auction shall be conducted within the framework of the Customs rules and regulations and other applicable laws.
4. The Bidder understands that the highest bid in the auction for each sale lot of Auction Goods shall be subject to the approval and confirmation of Customs and EICI (Customs and EICI are together called the “Seller”) , whose decision shall be final and binding on the Bidders.
5. Auction Goods shall comprise of all categories of customs import and export uncleared / unclaimed goods which are lying in the custody of EICI for which Customs has issued the requisite “no objection” for sale/disposal thereof.
6. Auction Goods may be sold in one or more “Lots” as found suitable, convenient and advantageous in the opinion of EICI or as directed by Customs.
7. Any sale lot of Auction Goods or part thereof may be withdrawn by EICI/Customs from sale at any time before it is actually sold without disclosing or assigning any reason whatsoever for such withdrawal.
8. All MSTC Registered Bidders are eligible to participate in EICI auctions subject to compliance with these Terms and Conditions. A Bidder may be barred from participating in EICI auctions in case of violation of any terms of GTC and/or BSTC of MSTC and/or the EICI STC, without prejudice to any other action that may be taken as per the applicable laws in force.
9. Apart from this STC, certain Lots of Auction Goods may have specific terms and conditions attached. The Bidders/Buyers are expected to comply with the Lot-wise terms and conditions as may be specified, in addition to this STC. It shall be the Bidders responsibility to check the specific terms and conditions as stated for a Lot.
10. **E-Auction cum E-Tender Result / Status:** The highest bid (‘H 1’) will be on Subject-to-Approval (“STA”) basis which will be communicated by MSTC to H 1 bidders immediately after closing of e-Auction. It shall be the Bidders responsibility to check results online and no physical intimations/letters will be sent to the successful Bidders. The Successful Bidder/Buyer for each Lot will be issued an e-mail notification by MSTC informing him that his bid/s has / have been provisionally accepted on STA basis subject to approval by the

Seller vide issuance of **Bid Provisionally Approved - Sale Intimation Letter**. The highest bid will be decided after comparing the bids received through e-Auction cum e-Tender on STA basis. The respective Lot will be recorded as STA after closing of the auction when the highest bid is equal to or greater than the Reserve Price (R.P.). This Para overrides Para 4 of BSTC.

11. **Bid Approval and Security Deposit** : After online approval of the Final Bidders List from EICI, MSTC will issue an e-mail notification confirming the sale /rejection of the Lot to the Successful Bidder, vide the **Bid Approved - Sale Intimation Letter**. The Successful Bidders will deposit the **Security Deposit ('S/D') @ 25% of the Bid amount** within 7 working days from the date of intimation of Bid Approval through RTGS/NEFT/e-payment with MSTC. Failure to deposit the S/D within the stipulated time will result in deactivation of Bidder's account by MSTC from MSTC system for a minimum period of six (6) months.
12. **Payment Period**: In case of confirmed Lots, payment for full material value plus all duties & taxes will have to be made within 14 days from the date of MSTC issuing the **Bid Approved - Sale Intimation Letter**. Failure to deposit balance Sale Value (after depositing S/D, as stated above) shall lead to forfeiture of S/D deposited by the buyer.
13. Notwithstanding anything contained in any of the Terms & Conditions, the Successful Bidder who is issued the Bid Approved notification will have the option to make full payment in all respects with applicable Duties/Taxes within the period of making S/D payment and shall accordingly be issued the Delivery Order by MSTC.
14. The **Final Bid Approval or Rejection** shall be given within Forty-five (45) **working days** (excluding the date of the e-Auction) by EICI.
15. **Validity of Bids**: All Bids will be valid for acceptance by MSTC for a period of 45 (Forty-five) days from the date of closing of e-Auction cum e-Tender, excluding the date of closing. In case the 45<sup>th</sup> day falls on a holiday or remains closed for MSTC, such bids will be deemed to be automatically extended to be valid upto the next working day of MSTC.
16. **Acceptance Letter** : MSTC will issue **Acceptance Letter** to the Bidder on receipt of S/D, advising the Bidder to deposit the balance Sale/Material Value along with all applicable duties and taxes via RTGS/NEFT/e-payment with MSTC within seven (7) days from the date of issuance of Acceptance Letter by MSTC (including the date of issue). The entire balance sale value along with applicable taxes duties and taxes will have to be paid by the Buyer in one lump-sum and no installment payment will be allowed, unless otherwise stipulated in the terms and conditions of the Lot. In case the last day for remittance of payment happens to be a public holiday, the amount can be remitted on the next working day without any penalty.
17. For delayed payment of balance sale value along with taxes and duties, late payment charge will be levied on full material value excluding duties & taxes @ 1% per week or part thereof for a maximum period of 7 calendar days shall be charged. However, this shall not confer any right to the Bidder to make any Late Payment of Balance Sale Value or applicable Duties and Taxes. MSTC / Seller reserves the right not to accept the payment of the Balance Sale

Value with or without the additional charges after the expiry of the due payment time as mentioned above.

18. **Delivery Order** : Upon receipt of complete Bid Amount and on receipt of intimation from EICI regarding finalization of the Customs Bill of Entry (BoE), MSTC will issue a Delivery Order to the successful bidder. Auction Goods can only be removed by the Buyer upon production of original Delivery Order issued by MSTC.
19. **Default in Payment:** In case the successful Bidder/ Buyer defaults in making payment of the balance Sale/Material Value or duties and taxes, and any amount deposited by the Bidder/ Buyer till date shall stand forfeited. MSTC and /or EICI may initiate any further action as may be deemed appropriate in the circumstances or as may be directed by the Customs authorities.
20. **Re-auction** : In the event of failure to make partial or complete payment of the Bid Amount by a Bidder/Buyer within the specified timelines, the sale relating to such Auction Lot(s) shall be treated as 'cancelled' without prejudice to any other rights and remedies available to EICI, including the right to auction/re-auction of such Lot of Auction Goods with immediate effect.
21. **STATUTORY PAYMENTS** : Leviable duties/charges as applicable, if any shall be borne by the successful Bidder/Buyer. The rate of Excise Duty, Sales Tax/ VAT, Income Tax, Education Cess or any other statutory Duty/ Tax/ Levy/Charge etc. will be applicable and payable by the successful Bidder as prevailing on the date of actual physical delivery of materials. The rates of Customs Duties and Taxes displayed on the e-Auction Website are only indicative and based on the rates prevailing before the commencement of the e-Auction.
22. No sale shall be invalidated by successful Bidder/Buyer by reason of any defect or default in any of the Lots of Auction Goods being incorrectly described and no compensation/claim shall be paid in respect of such defaults or errors of description, as the Bidder is deemed to have physically inspected the Lots of Auction Goods prior to participating in the e-Auction cum e-tender.
23. **Inspection of Materials:**
  - a) MSTC registered bidder, holding MSTC Identity Card (ID) shall directly approach the MIAL Security Pass issuing section, located at the entrance of Air Cargo Complex (ACC), Sahar, Andheri(E), Mumbai - 400099 for obtaining entry pass to the EICI inspection site.
  - b) If MSTC registered bidder, wishes to bring an associate along with him or only wishes to send his authorised representative, in such case the bidder shall intimate EICI at [bomauctionunit@eiciindia.org](mailto:bomauctionunit@eiciindia.org) and [sandesh@eiciindia.org](mailto:sandesh@eiciindia.org) through his MSTC registered E-mail ID minimum **four** working days before the date of inspection of auctionable

goods, regarding the name of person joining him / representing him to visit EICI premises for inspection and attach scanned copy of his MSTC photo ID.

- c) EICI will accordingly prepare a recommendation letter which is to be collected and submitted by the associate / authorised representative to MIAL Pass Security Section for issuance of entry passes for inspection. The associate or authorised representative of the bidder will have to carry authorisation letter from the registered Bidder, copy of MSTC ID of the bidder and copy of an Identity proof in the form of Driver's License/ Voter ID Card / Passport / PAN card or any Government identity proof to obtain entry pass to inspect the goods in EICI premises.
  - d) The descriptions of item/lots appearing in the auction and in advertisements for e-Auction cum e-Tender are provided based on information available as per the Customs approved valuer. Nevertheless, neither those descriptions nor any oral statements made by Seller or MSTC concerning any item/lot shall be construed as a warranty, either express or implied. ITEM/LOTS ARE SOLD ON "AS IS WHERE IS BASIS" and "WITH ALL FAULTS". By participating in the e-Auction, the Bidder acknowledges that all item/lots were available for physical inspection prior to the auction and have been duly inspected in accordance with these terms to verify the description to his satisfaction before bidding. Any clarification with respect to the Auction Goods, requisite permissions/NOC/licenses, applicable duties/taxes etc. may be sought by the Bidders from EICI prior to the date of e-auction and no dispute regarding the material or its physical condition will be entertained thereafter. Participation in the e-auction by filing a bid implies that the Bidder has after physical inspection and clarifying all details accepted the ITEM/LOTS ON "AS IS WHERE IS BASIS" and "WITH ALL FAULTS". Any dispute relating to such Lots of Auction Goods post- the closure of E-auction will not be entertained.
24. The Auction Goods are sold on "AS IS WHERE IS BASIS" and on "WITH ALL FAULTS" basis. The Auction Goods lot-wise shall be displayed in full with all faults and flaws and no selection or sorting of the material will be allowed. Quantities, qualities, sizes, measurements, numbers and weights stated are approximates. Auction Goods are sold on assumption that the Bidders have physically inspected the lots to their satisfaction prior to the bidding and are hence in the know of what they are bidding for. No reliance must be placed on any description and the basis of the bid will be assumed to be physical verification alone by the bidder irrespective of whether the bidder actually physically inspects or verifies the shipment or not. No complaints will be entertained after sale and the principle of "Caveat Emptor" will apply and the Bidder alone shall be responsible for checking the quality and suitability of goods before placing any bid..
25. **CAUTION:** The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding by him) and no complaint / representation will be entertained by MSTC / Seller in this regard. Therefore Bidders must be careful to check (the Bid Amount / No. of zeroes / No. of digits / Unit of Measurement etc.) and rectify their bid (if required) before submitting their bid into the live e-Auction floor by clicking the 'Bid' button.

26. The Bidders agree and accept not to hold MSTC / Seller liable for any delay in final approvals of STA bids, which it is understood are to be granted by Customs.
27. **Obtaining NOC/ License/ Permission :** The successful Bidder/Buyer will be responsible for obtaining and providing the requisite License or NOC or permission, if required for a particular lot/s of Auction Goods, from the respective regulatory authority, as per the requirement expressly stated in the terms and conditions for such Lot. EICI shall only process the Bill of Entry (BoE) for clearance of a Lot, upon receipt of the NOC/License from the successful Bidder/Buyer. EICI shall not be responsible for any delays attributable to receipt of requisite License or NOC or permission. Cancellation of sale by successful Bidder/Buyer on account of failure to obtain the requisite License or NOC or permission will constitute failure to comply with the e-Auction cum e-Tender terms and the S/D in such cases shall stand forfeited.
28. MSTC / Seller does not provide guarantee or warranty or undertake any responsibility for the make, manufacture, description, quantity, quality, condition, size, weight, grade, accuracy, soundness, completeness, etc., of the goods mentioned in the Auction Goods displayed in the system. The Lots shall be removed in full from the site by the Buyer/ Successful Bidder at his own cost and with all faults and flaws, if any, in description or otherwise and no selection or sorting of the material shall be allowed. No complaint shall be entertained nor will any action be maintainable against either MSTC or EICI or Customs authority for any Auction Goods put up for e-auction cum e-tender or for cancellation/removal of any auction Lot, which is at the sole discretion of EICI or Customs, as the case may be.
29. In case of lots of Auction Goods requiring License/NOC formalities, the onus shall remain with the successful Bidder/Buyer to comply with the customs and/or any other statutory requirements in order to finalize the BoE. Bidders are put to notice to study specific terms and conditions as may be stipulated for any Lot of Auction Goods on the auction site.
30. Bill of Entry (BoE) will be filed with Customs Buyer-wise. All sale Lots of Auction Goods bid by one Buyer shall be included in one Bill of Entry irrespective of the number of sale lots of Auction Goods purchased. The Buyer will have to make complete payment of Bid Amount for all the Lots without exception within the prescribed time period. Delivery of goods shall be given to the actual Buyer or to his/ her representative duly authorized on the original letter head of the firm under his seal and signature.
31. **DELIVERY :** The Auction Goods shall lie at the risk and responsibility of the Buyer in all respects from the time of the closure of e-Auction cum e-Tender. Delivery must be taken by the Buyer at his own expense within 7 (seven) days from the date of issue of Delivery Order (DO) by MSTC subject to clearance of BoE by Customs. No liability shall arise or be maintainable against EICI or MSTC on account of delays in customs clearance of any Lot. In case, any Lot of Auction Good is withdrawn, the complete amount deposited till the declaration of withdrawal including inter alia S/D or complete Bid Amount, as the case may be, shall be refunded to the Buyer.

32. **Delivery Period :** Delivery Period will be 7 (seven) days counted from the date of issue of Delivery Order (DO) by MSTC or date of issue of Release Order by EICI subject to grant of 'out of charge' by Customs.
33. **DEFAULT IN LIFTING:** In case of any default in lifting of materials by the Buyer after completion of all formalities within the prescribed free time limit, the outstanding material shall be lifted subject to payment of demurrage directly to EICI for the period of delay. The delayed lifting of the Lot/s of Auction Goods by the Buyer beyond the prescribed period of 7 days would attract demurrage @ Rs. 5 per Kg. per day.
34. However it must be noted by the Bidders that it will be the sole discretion of EICI not to allow the Buyer to lift the Auction Goods with or without the demurrage charges after the expiry of the stipulated free delivery period
35. Delivery shall be given only during office hours on any working day, i.e. 10:00 AM to 4:00 PM. EICI will issue Gate Pass to remove the goods at the time of delivery.
36. If the Auction Goods are not removed / taken delivery within 14 days of issuance of DO, the sale shall stand cancelled and all payments made will be forfeited without prejudice to any other rights and remedies available to EICI, including the right to auction / re-auction of such Lot/s of Auction goods with immediate effect.
37. In case the successful Bidder/Buyer desire to take delivery of the goods through a representative, he/she must authorize the representative by a letter of authority, duly attesting the signature of the authorized representative along with a Self-Certified/ Notarized Photocopy of his Photo ID Card issued by MSTC, which shall be presented to the officer in whose charge the sold goods are held in person. Delivery by proxy will be at the successful Bidders/Buyers responsibility and risk and no claim shall lie against EICI on any account whatsoever. The successful Bidder/ Buyer shall co-ordinate the date and time with EICI in advance and take prior appointment before placement of Trucks to ensure speedy removal of materials.
38. For the purpose of removing the materials, the successful Bidder/Buyer shall employ or engage only his/ their own personnel and shall keep EICI fully indemnified against any claims, damages, losses including consequential damages whatsoever arising for wages, injuries, compensation, death etc.
39. While removing materials, if any accident or damage to the property/ life etc. occurs by reason of any act of negligence/ omission/ default or non-compliance with any of these Terms & Conditions or any statutory regulations or rules and regulations applicable within EICI's premises, on the part of the Bidder's/Buyer's/ his representative or employees resulting in death or injury to any persons or damages to the property of EICI or any third Party then in such an event the successful Bidder/Buyer will have to pay compensation to any such person including the employees of EICI for such injury/ for damage to property of such persons. The Bidder/Buyer shall in such an event keep EICI indemnified from any

such demands, claims, losses including consequential damages or the cost of legal proceedings relating thereto.

40. EICI shall not be responsible or liable for any claims, damages, loss or liabilities, whether direct or consequential, of the Bidders/Buyers if the purchased Lots of Auction Goods cannot be delivered due to circumstances beyond their control or due to orders issued by Customs. Participation in the e-Auction cum e-tender is at the sole risk of the Bidder. EICI shall however in case of cancellation of any such Lot of Auction Goods refund the amount received to such successful Bidder/Buyer.
41. No exemption certificate will be given to any Bidder/Buyer in respect of any taxes, Octroi or any other statutory charges.
42. Photography, videography, capturing images of documents and/ or goods by mobile phones or through any other electronic device is strictly prohibited. Anyone found in violation shall be debarred from participating in the inspection and / or participating in the e-Auction/ e-Tender and the decision of EICI in this regard shall be final.
43. The Bidder may not use any part of EICI /MSTC website on any other website or link the Website without prior written consent of EICI or MSTC, as the case may be.
44. Any Bidder may be debarred /blacklisted by Customs / EICI / MSTC for any reason including inter alia:
  - a. Acts of misconduct, or
  - b. Abetment of acts of misconduct, or
  - c. Providing any false or incorrect information, or
  - d. Failure to comply with payment terms as a Successful Bidder, or
  - e. Violation of any e-Auction cum e-tender Terms & Conditions of MSTC or EICI, or
  - f. Contravention of any provision of Customs Act, Rules or Regulations or any other applicable law.

Customs / EICI / MSTC may debar/blacklist or revoke its decision based on consideration of facts and circumstances in each case, and the decision of Customs /EICI /MSTC, as the case may be, in this regard shall be final. Notwithstanding any action of debarring/blacklisting, Customs / EICI / MSTC reserve their respective rights to take appropriate legal action against any such Bidder as per law.

45. Notwithstanding anything else stated anywhere herein, in the event of failure on the part of the successful Bidder/Buyer to fulfill his contractual obligations, EICI / MSTC reserve the right to debar, suspend, blacklist or permanently ban such a Bidder from participating in any future e-tender/ e-auction conducted on behalf of EICI and appropriate legal action may be initiated as per the applicable laws.

46. EICI reserves the rights to transfer, assign or sub-contract all or any of its rights and duties and responsibilities set out in these Terms and Conditions to another party for which prior intimation will be given to the concerned parties and MSTC.
47. No delay or failure by EICI / MSTC to exercise any powers, rights or remedies under these Terms and Conditions shall operate as a waiver of them nor shall any single or partial exercise of any such powers, rights or remedies include any other or further exercise of them.
48. These Terms and Conditions shall be construed in accordance with and governed by the laws of India and each party agrees to submit to the exclusive jurisdiction of the courts of India.
49. **Representation and Warranties by the Bidder:**

a) The Bidder can only make a bid and use the e-Auction Services if they are validly registered with MSTC and their registration is current. The Bidder agrees to comply with any instructions or notifications posted on the MSTC Website from time to time in relation to use of the e-Auction Services.

b) All auctions shall be conducted in Indian currency and **only Bidders in India are permitted to participate in the e-Auction cum e-Tender**. The Bidder is responsible for ensuring that they have sufficient funds to cover the cost of the Bid Amount and make payment in accordance with the applicable payment method/schedule.

c) By bidding for an item the Bidder agrees to be bound by any conditions of sale included in the Lots description for the Auction Goods on the MSTC website.

d) By bidding for a Lot of Auction Goods through MSTC website, the bidder acknowledges and agrees that if he has placed the highest bid and MSTC website has confirmed provisional acceptance of the bid on STA basis, then the bidder has entered into a legally binding contract to buy the said Lot, subject to approval by customs authorities.

e) EICI has full discretion to refuse to accept any bid or withdraw any Lot of Auction Goods without assigning any reason at any time during the course of the e-auction till the physical delivery thereof.

f) EICI reserves the right to cancel or stop an e-Auction cum e-tender at any time, such as where the Auction Good/Materials in any Lot /item displayed for auction is directed to be released to the consignee by the customs authorities. No liability for cancellation of any Lot/item from the e-auction cum e-tender shall be maintainable against EICI.

g) All Bidders/Buyers shall be deemed to have read and acquainted themselves with these Special Terms and Conditions of EICI and agree that by participating in the e-auction cum e-tender and filing their bids they have accepted these terms and conditions and shall be bound by them.



50. No sale shall be invalidated by reason of any defect in any of the Lots/item of Auction Goods or on account of any of the Lots being inadequately or incorrectly described and no compensation shall be paid in respect of such default or deficiency of description. No liability for any defects in any form in any Lot/item shall be maintainable against EICI as it will be assumed that all bids are placed based on physical inspection and the principle of Caveat Emptor i.e the Bidder having satisfied himself about the item bid for prior to bidding.
51. EICI / MSTC reserve the sole right to make any announcements during the e-auction cum e-tender including any amendments in the conditions mentioned in the catalogue and / or addition /deletion of Lots/items of Auction Goods being offered for sale.
52. EICI reserves the right to modify and amend the 'Special Terms and Conditions of EICI' from time to time, subject to the amendment being made prior to commencement of an e-auction cum e-tender and subject to the amended STC being duly displayed on its website. The Addendum so issued shall form a part of the original STC.
53. EICI shall not in any way be responsible for failure to deliver the goods bid for as per delivery schedule due to force majeure events including causes beyond their control such as strikes, lockouts, cessation of labour, Government action or inaction, breakdown in internet connectivity to the servers on which the bids are placed, technical glitches on the e-auction website, shortened hours, acts of god or other causes or contingency whatsoever. The bidder shall in such circumstances not be entitled to cancel the contract and the period of delivery shall be extended accordingly as may be notified.

**54. ARBITRATION & JURISDICTION:**

Any dispute arising in connection with the interpretation or implementation of these terms and conditions shall be resolved by arbitration of a single arbitrator under the Arbitration and Conciliation Act, 1996. The language of the arbitration shall be English. The place of arbitration shall be **Mumbai, India**. Only the Courts at **MUMBAI, 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 cum e-Tender.

55. If any term herein is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from these Terms and shall in no way affect the legality, validity or enforceability of the remaining terms.
56. The final decision in the entire process of e-auction cum e-tender shall be exercised at the sole discretion of EICI on behalf of Indian Customs and consequently the Bidder expressly consents to the decisions taken by EICI.

## **DISCLAIMER**

THE E-AUCTION CUM E-TENDER IS HELD SUBJECT TO FINAL APPROVAL FROM CUSTOMS. IN THE EVENT THAT CUSTOMS DENIES OR CANCELS RELEASE OF ANY LOTS OF AUCTION GOODS OR PART THEREOF, THEN NO CLAIM SHALL LIE OR BE MAINTAINABLE AGAINST EICI OR MSTC.

EICI RESERVES THE RIGHT TO NOT RELEASE THE GOODS AND CANCEL THE E-AUCTION HELD OR TO BE HELD WITHOUT ASSIGNING ANY REASON, AND NO CLAIM SHALL LIE OR BE MAINTAINABLE AGAINST EICI IN SUCH CIRCUMSTANCES.

NOTE: ALL LOTS OF AUCTION GOODS WILL BE KEPT ON “STA” (SUBJECT TO APPROVAL) BASIS AFTER CLOSING OF ABOVE E-AUCTION CUM E-TENDER.