

CLAIMS, DISPUTES AND RECOVERY OF DAMAGES OR LOSSES FOR CEYPETCO BY LATE DELIVERY AND DELIVERY OF LESSER QUANTITY THAN AGREED

- (A) ANY CLAIM WHATSOEVER ARISING BETWEEN THE SUCCESSFUL SUPPLIER/ BIDDER AND CEYPETCO TO THIS CONTRACT, UNDER THE TERMS OF THIS CONTRACT SHALL BE LODGED IN WRITING **WITHIN SIXTY (60) DAYS** OF RECEIPT OF PRODUCT BY CEYPETCO OR IN THE CASE THE CARGO IS NOT DELIVERED TO CEYPETCO **WITHIN SIXTY (60) DAYS** OF THE LAST DATE OF TWO DAY DELIVERY LAYCAN AS NOTIFIED BY CEYPETCO. OTHERWISE ANY SUCH CLAIM SHALL BE DEEMED TO HAVE BEEN WAIVED.
- (B) EVERY ENDEAVOUR SHALL BE MADE TO SETTLE ANY DIFFERENCE OR DISPUTE BETWEEN CEYPETCO AND THE SUCCESSFUL SUPPLIER/ BIDDER ARISING FROM ANY TRANSACTION BY MUTUAL NEGOTIATIONS, FAILING WHICH SUCH DIFFERENCES OR DISPUTES SHALL BE SETTLED BY ARBITRATION.
- (C) THE VENUE OF ARBITRATION SHALL BE **COLOMBO, SRI LANKA**.
- (D) THE ARBITRATION SHALL FOLLOW UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (**UNCITRAL**) PROCEDURES.
- (E) THIS TENDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE **LAWS OF SRI LANKA EXCLUDING ANY CONFLICT OF LAWS AND RULES**.
- (F) THE LANGUAGE OF ARBITRATION SHALL BE ENGLISH. THE ARBITRATION TRIBUNAL SHALL CONSIST OF THREE ARBITRATORS, ONE TO BE APPOINTED BY THE SUCCESSFUL SUPPLIER/ BIDDER, ONE BY CEYPETCO AND THE TWO ARBITRATORS THUS APPOINTED SHALL CHOOSE THE THIRD ARBITRATOR.
- (G) ARBITRATION SHALL BE A CONDITION PRECEDENT TO THE INSTITUTION OF ANY LEGAL ACTION BY EITHER PARTY AGAINST THE OTHER.
- (H) THE SUCCESSFUL SUPPLIER/ BIDDER IS FULLY RESPONSIBLE TO DELIVER THE CARGO WITHIN THE AGREED UPON DELIVERY DATE /LAYCAN. FAILURE TO COMPLY WITH THE AGREED UPON DELIVERY DATE /LAYCAN WILL MAKE THE SUCCESSFUL SUPPLIER/ BIDDER LIABLE FOR LIQUIDATED DAMAGES OF **ZERO POINT ONE PERCENT (0.1%)** OF THE DAP VALUE PER DAY PRO-RATA FOR EACH DAY OF DELAY AFTER 2400 HRS. OF THE LAST DAY OF THE DELIVERY LAYCAN UNTIL VESSEL TENDER NOR AT DISCHARGE PORT AT COLOMBO. IF THE DELAY EXCEEDS SIX (6) DAYS AFTER THE LAST DATE OF THE AGREED DELIVERY LAYCAN WITHOUT OBTAINING PRIOR APPROVAL, CEYPETCO WILL RESERVE RIGHT TO TERMINATE THE CONTRACT.
- (I) THE SUCCESSFUL SUPPLIER/ BIDDER IS FULLY RESPONSIBLE TO DELIVER THE AGREED QUANTITY OF CARGO UNDER THE SHIPMENT. IN THE EVENT OF FAILURE TO DELIVER THE AGREED QUANTITY BELOW PLUS/MINUS FIVE PERCENT (+/-5%) (CONTRACTUAL PER SHIPMENT QUANTITY VS. B/L QUANTITY) THE SUCCESSFUL SUPPLIER/ BIDDER WILL BE HELD LIABLE FOR THE PAYMENT OF DAMAGES OR LOSSES TO CEYPETCO AT THE RATE OF USD 10,000 PER EACH 1,000 MT OF SHORT LOADED QUANTITY OR PART THERE OF ON PRO-RATA BASIS.
- (J) IF THE BIDDER FAILS TO DELIVER FULL SHIPMENT UNLESS AGREED FOR AN ALTERNATIVE, CEYPETCO WILL RESERVE THE RIGHT TO FORFEIT THE PERFORMANCE SECURITY GUARANTEE.