

DEENDAYALPORTAUTHORITY



TENDER DOCUMENTS FOR

“Construction of SWD out side of Custom Bonded area.”

SUPERINTENDING ENGINEER (P)

Project Division

Administrative Office

Building Gandhidham-

370201

Kutch

District

Gujarat

State India

INDEX

STANDARD GENERAL CONDITIONS FOR CIVIL CONTRACTS

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DEENDAYAL PORT AUTHORITY

COMPETITIVE BIDDING NIT NO: **P-01/2024**

NAME OF WORK

Construction of SWD out side of Custom Bonded area.

PERIOD OF DOWNLOADING OF BID DOCUMENTS

FROM : 06/01/2024

TO : 07/02/2024 up to 16:00 Hrs.

LAST DATE AND TIME FOR RECEIPT OF BIDS

DATE: 07/02/2024 TIME 16:00 HRS.

TIME AND DATE OF OPENING OF BIDS

16:15 Hrs. On 07/02/2024 (Technical bid only)

PLACE OF OPENING OF BIDS

CHAMBER OF SUPERINTENDING ENGINEER (P),
PROJECT DIVISION,
ANNEXE, A.O. BUILDING,
GANDHIDHAM-KUTCH (GUJARAT STATE),
PIN 370201.

OFFICER INVITING BIDS

SUPERINTENDING ENGINEER (P), DEENDAYAL PORT AUTHORITY

DEENDAYAL PORT AUTHORITY**NOTICE INVITING TENDER**Tender No. **P-01/2024****ONLINE TENDERING (E-Tendering)**NAME OF WORK: **"Construction of SWD out side of Custom Bonded area."**

E/Online Tenders are invited by SUPERINTENDING ENGINEER (P) for the above work as per the details given in the table below.

WorkDescription	Tender Fee(InRs.)	Estimated cost(InRs.)	EMD(InRs.)	Date of Pre-Bid Meeting	Last Date and time of online Submission of bid documents	Date and time of online opening
Construction Of SWD out side of Custom Bonded area	1770.00(Incl. GST) (In To be remitted through digital transfer only in favour of DEENDAYAL PORT AUTHORITY,) (bank account details as per condition in NIT)	8,10,45,616.65	8,10,456/- (in the form of Bank Guarantee Drawn in favour of Board of Deendayal Port Authority, issued by any Nationalized /scheduled bank(Except Co-op bank) having branch at Gandhidham as per enclosed format)	-----	Upto 16:00 Hours on 07/02/2024	@16:15 Hours On 07/02/2024

Detailed tender notice along with complete tender documents can be downloaded from web site <https://kpt.nprocure.com> from **06/01/2024 to 07/02/2024 @ 16:00hrs**. Tender Notice is also available on <http://deendayalport.gov.in>. Technical Bid will be opened on **07/02/2024 @ 16:15 Hrs**. Date of opening of price bid shall be notified after scrutiny & evaluation of Technical Bid. For further details and general enquiries prospective bidders may contact **SUPERINTENDING ENGINEER (P), Room No.302, 2nd Floor, A.O. Building, Annexe, Gandhidham-370201, Kutch District, Gujarat State, INDIA**, during working hours before the last date and time of downloading of tender documents.

**SUPERINTENDING ENGINEER(P)
DEENDAYAL PORT AUTHORITY**

DEENDAYALPORTAUTHORITYN
OTICEINVITINGONLINETENDER

Details about E/Online tender:

DepartmentName	Civil Engineering Department
Circle/Division	Project Division, A.O.Building, Gandhidham- Kutch-370201.
Tender NoticeNo.	P-01/2024
Name of Work	"Construction of SWD outside of Custom Bonded area."
EstimatedContract Value(INR)	Rs.8,10,45,616.65
PeriodofCompletion(inMonths)	11 Months
BiddingType	Open
BidCall(Nos.)	One
Tnder Currency Type	Single
Tender Currency Settings	Indian Rupee(INR)
QualifyingCriteria:	<ol style="list-style-type: none"> 1. Average annual financial turn over during the Last three years ending 31st March of the previous financial years, should be at least Rs.243.14 Lacs. 2. Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following: Three similar completed works each costing not less than Rs. 324.18 Lacs. Or Two similar completed works each costing not less than Rs. 405.23 Lacs.

Or

One similar completed works each costing not less than **Rs. 648.36 Lacs.**

- 3. “Similar Works” means Building/RCC SWD /Culvert work If the bidder has executed the work in private organization necessary TDS certificate issued by the component authority shall be submitted.**

The Sub Contract experience shall be considered for pre- qualification only if same is carried out in Govt./semi Gov/ public limited companies subject to submission of sub contract permission issued by the respective authority prior to execution of the work further, if sub contract permission is not authenticated, the respective party shall be de-barred for participation in tenders of DPA for minimum 2 years. The decision taken by DPA shall be final.

In case of Micro and Small Enterprise (MSMEs) holding valid certificate issued by any agencies/ organization under the Ministry of Micro, Small and Medium Enterprise indicating the list of activity related to the subject tender ONLY shall become eligible for exemption from payment of tender fee/ EMD. Such bidder shall upload in Preliminary proposal a scanned copy of valid certificate, as well as duly filled in and signed ‘Bid Securing Declaration’ as per format provided in the tender document (Annexure II), failing which the bid shall be considered non-responsive. Such bidders shall upload the scanned copy of valid certificate in Preliminary bid. List of activity related to the subject tender as per National Industrial Classification-2008 for exemption of tender fee and EMD are listed below”

NIC codes regarding similar work is mentioned below:

NIC Code	Activities
Section F	Construction
Division 41, Group 410, Class 4100	Construction of Building
Sub-Class 41001	Construction of Buildings carried out on own-account basis or on a Fee or contract basis
Sub-Class 41003	Assembly and erection of prefabricated constructions on The site
Division 43	Specialized construction activities
Group433	Building completion and finishing (All sub-class activities under this group shall be exempted)

4. Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated asunder:

Assessed Available Bid capacity= $AXNX2-B$
Where, "N"=Number of years prescribed for completion of the subject contract.

"A"=Maximum value of works executed in any one year during last seven years(at current price level)

"B" = Value at current price level of existing commitment sand ongoing works to be completed in the next 'N' years. The Bidder shall furnish statements showing the value of existing commitmentsandongoingworksaswellasthestipulatedperiodofcompletionremainingforeachof theworkspreferablycountersignedbytheNodalOfficeorhisnominee-incharge.

5. Integrity Pact agreement need to be submitted in Preliminary bid stage duly scanned, stamped, signed and dated by the bidder along with two witness name, address and signatures (to be arranged by the bidders) as per format available in

Annexure-I in the tender document failing which bid submitted by the bidder will be considered non-responsive.

Further, in case of Joint Venture (JV), Integrity Pact Agreement need to be submitted by all the parties of JV (one IP agreement for all parties in one JV) with bidder's stamp and signature (all parties of one JV) and two witness name, address and signature (to be arranged by the bidder) failing which the bid will be considered non-responsive.

JointVenture

Applicable

1. In case of JV to qualify experience in similar works, merging of work order value executed by two or more of its member JV either as a whole or as member of JV shall not be permitted to qualify eligible works in terms of similar completed works. Only no. of work orders executed by members of JV shall be merged to evaluate experience.
2. Lead partner should have executed at least one similar work costing Rs.324.18 lakhs as per Minimum Eligibility Criteria.
3. The works reckoned for the above purpose are those executed by the tenderer as prime contractor or proportionately as member of joint venture or as a sub-contractor, authorized and approved by the Employer of the work(s) against which the tenderer has claimed his experience.
4. In the case of bid submitted by JV/Consortium, the lead partner of the JV shall meet the Minimum Eligibility Criteria of Financial Turnover.
5. EMD as required shall be furnished by the lead member of the Joint venture.

Rebate	Applicable
Bid Document Fee:	Rs. 1,770.00 (Including GST @ 18%)
Bid Document Fee Payable To:	DEENDAYAL PORT AUTHORITY, Gandhidham, by digital transfer only. (as mentioned in condition below)
Bid Security/EMD(INR):	Rs. 8,10,456.00
Bid Security/EMD(INR) In Favour Of:	Bank Guarantee in favor of The Board of DEENDAYAL PORT AUTHORITY, Gandhidham
Bid Document Downloading Start Date	06/01/2024
Bid Document Downloading End Date	07/02/2024 upto 16:00 Hrs.
Date & Place of Pre Bid Meeting	NIL
Last Date & Time for Receipt of Bids	07/02/2024 @ 16:00 hrs.

Bid Validity Period 120Days

Condition Tender Fee to be remitted through online transfer in Bank of Baroda account no. 10080100022427 - Deendayal Port Authority - (IFSC code BARB0GANKUT). Scanned copy of RTGS no. and date of transfer may be uploaded on (n) procure website. EMD to be submitted in form of B.G. of Nationalized/Scheduled Bank (except Co-op bank) shall be submitted in electronic format through online (by scanning) while uploading the bid. This submission shall mean that Integrity pact, EMD and tender fee are received. Accordingly, offer of those shall be opened who's IP agreement, EMD & tender fee is received electronically. However, the bidder shall send the Bank Guarantee in original to SUPERINTENDING ENGINEER(P),DEENDAYAL PORT AUTHORITY at the time of tender opening or send the same through R.P.A.D./speed post in person so as to reach to Superintending Engineer, Project Division, A.O.Building, Annexe Gandhidham(Kutch),Gujarat 370201 within 7 days from the date of opening

Remarks Submission of EMD, and other Documents during of five hours within 7 days from the date of opening of tender by R.P.A.D /Speed post in person in the chamber of Superintending Engineer, Project Division, A.O.Building, Annexe, Gandhidham(Kutch), Gujarat 370201.

Bid Opening Date Technical Bid will be opened on 07/02/2024 @16:15Hrs. Date of opening of price bid shall be notified after scrutiny & evaluation of Technical Bid.

Documents required to be submitted by scanning through online

- a. Document in support of fulfilling qualifying criteria as indicated above.
- b. EMD in the form of BG.
- c. Tender fee by digital transfer only.
- d. Integrity Pact agreement as per tender conditions.
- e. As indicated in clause 4 of section 1 - In instructions to bidders.

Officer-Inviting Bids: SUPERINTENDING ENGINEER(P) ,
DEENDAYAL PORT AUTHORITY.

BidOpeningAuthority: SUPERINTENDING ENGINEER(P)
,DEENDAYAL PORT AUTHORITY.

Address: SUPERINTENDING ENGINEER(P),DEENDAYAL
PORT AUTHORITY. A.O.Building, Annexe,
Gandhidham-370201,Kutch District, Gujarat
State
, INDIA,

ContractDetails: Telephone:(O)02836-220009

SUPERINTENDINGENGINEER(P)
DEENDAYALPORTAUTHORITY

Note:

In case bidder need any clarifications or if training is required to participate in online tenders, they can contact (n) Procure Support team at following address:-

(n) Code Solutions-A division of
GNFCLtd.,(n) Procure Cell,
403, GNFC Infotower, S.G. Road,
Bodakdev, Ahmedabad-380054

(Gujarat).Contact Details:

Airtel:+91-79-40007501,40007512,40007516,40007517,40007525
BSNL:+91-79-2684511,26854512,26854513(EXT:501,512,516,517,525)
Reliance:+91-79-30181689
Fax:+91-79-26857321,40007533
E-mail:nprocure@gnvfc.net
TOLL FREE NUMBER:1-800-233-1010(EXT:501,512,516,517,525)

SECTION -1

INSTRUCTIONS TO BIDDERS

GENERAL

1. Scope of Bid

- 1.1 The EXECUTIVE ENGINEER, Project Division, DEENDAYAL PORT AUTHORITY, invites bids by E-Tendering for the construction of works of **“Construction of SWD outside of Custom Bonded area.”** detailed in the table given in NIT. The bidders may submit on-line bids for the work detailed in the table given in NIT.
- 1.2 The successful bidder will be expected to complete the works by the intended completion date specified in the contract data.

2. Source of Funds.

- 2.1 The employer has arranged the funds from internal resources and will have sufficient funds in Indian currency for execution of the works.

3. Eligible Bidders.

- 3.1 The invitation for Bids is open to all eligible bidders meeting the eligibility criteria as defined in clause no .4
- 3.2 All bidders shall provide in Section-2, form of Bid and Qualification Information, a statement that the Bidder is not associated, nor has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid Government-owned enterprises may only participate if they are legally and financially autonomous, operate under company law and are not an dependent agency of the Employer subject to fulfilment of Minimum Qualifying criteria.
- 3.3 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the employer in accordance with clause 37.

4. Eligibility Criteria

- 4.1
 - a. Experience of similar works executed during the last seven years, and details like monetary value, clients, and proof of satisfactory completion.
 - b. Documentary evidence of adequate financial standing and proof from client for satisfactory completion of works.
 - c. Equipment requirement/schedule.
 - d. Managerial/Manpower requirement
 - e. Project Planning and Quality Control procedure to be adopted.

f. Information regarding projects in hand, current litigation, orders regarding exclusion, expulsion or black listing, if any.

g. Trained & Certified workmen proposed to be employed at the work site of the project. The Contractor must undertake to employ of certified worker to the extent of 20% of total strength. Valid certificates by a recognized University, technical Board, or Ministry of Government of India would only be taken cognizance of.

4.2 If the Employer has not undertaken pre-qualification of potential bidders, All bidders shall include the following information and documents with their bids in Section-2.

- a. Copies of original documents defining the constitution or legal status, place of registration, and principal place of business, written power of attorney of the signatory of the Bid to commit the Bidder.
- b. Total monetary value of construction work performed for each of the last five years.
- c. Experience in works of a similar nature and size for each of the last five years, and details of works underway or contractually committed, and Employers who may be contacted for further information on those contracts.
- d. Major items of construction equipment proposed to carry out the contract.
- e. Qualifications and experience of key site management and technical personnel proposed for the contract.
- f. Reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years.
- g. Evidence of adequacy of working capital for this contract (access to line(s) of credit and availability of other financial resources).
- h. Authority to seek references from the Bidder's bankers.
- i. Information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount

- j. Proposal for subcontracting components of the works amounting to more than 10 percent of the Bid Price (for each qualification should attached);and
 - K . The proposed methodology and program of construction, backed with equipment planning and deployment, duly supported with broad calculations and quality control procedures proposed to be adopted justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones (for all contracts over Rs 10M).
 - I. PAN, Registration with Provident Fund Authorities, GST Registration No.Copy.
- i. To qualify for award of the contract, bidders are advised to note the minimum qualification criteria specified below.
 - i. Average annual financial turnover during the last three years ending 31st March of the previous financial year should be at least **Rs. 243.14 Lacs.**
 - ii. Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following.
 - a. Three similar completed works each costing not less than the **Rs.324.18 lacs.**
 - or
 - b. Two similar completed works each costing not less than the **Rs.405.23 Lacs.**
 - or
 - c. One similar completed works each costing not less than the **Rs.648.36 Lakhs.**
 - iii. **Similar Works” means Building / RCC SWD / Culvert work. If the bidder has executed the work in private organization necessary TDS certificate issued by the component authority shall be submitted. If the bidder has executed the work in private organization necessary TDS certificate issued by the component authority shall be submitted.**
 - iv. If the similar work is executed as sub-contractor, it is mandatory to upload the sub-contract permission letter obtained from the Govt./Public sector officer in case work belongs to the Govt/Public sector, or from the owner of the project in case work belongs to private organization. Also the completion certificate/form 3A authenticated by concern Govt./Public sector or owner of the project shall be uploaded along with TDS certificate deducted for that particular work issued by the competent authority shall be submitted along with bid submission.

- v. In addition to above, the criteria regarding satisfactory performance of the work, Personnel, establishment, plant, equipment, etc. may be incorporated according to the requirement of the project.
- ii. To qualify for a package of contracts made up of this and other contracts for which bids are invited in the NIT, the bidder must demonstrate having experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts.
- iii. Sub- contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria except to the extent stated in 4.4 above.
- iv. Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:

Assessed Available Bid capacity = $\frac{AX}{N \times 2} - B$, Where

“N”= Number of years prescribed for completion of the subject contract.

“A”= Maximum value of works executed in any one year during last seven years (at current price level)

“B”= Value at current price level of existing commitments and on going works to be completed in the next 'N' years.

Note: For bring the value of works to current level, following multiplying factors shall be applicable with reference to escalation based on WPI.

Financial Year	2022-23	2021-22	2020-21	2019-20	2018-19	2017-18	2016-17
Index	152.5	139.40	123.40	121.80	119.80	114.90	111.60
Multiplying factor	1.00	1.09	1.24	1.25	1.27	1.33	1.37

The Bidder shall furnish statements showing the value of existing commitments and ongoing works as well as the stipulated period of completion remaining for each of the works preferably countersigned by the Nodal Officer or his nominee-in charge.

- v. Even though the bidder meets the above qualifying criteria, they are subject to be disqualified if they have:
 - Made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements: and/or
 - Record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history or financial failures etc.,

b. One Bid per Bidder

- 5.1. Each bidder shall submit only one bid. A bidder who submits more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause the entire proposal with the Bidder's participation to be disqualified.

5.2 Joint Venture.

Companies/Contractors may jointly undertake contract/contracts. The number of partners in JV/Consortium shall be limited to maximum of three. Each entity would be jointly and severally responsible for completing the task as per the contract, however declaration of the Lead member (JV has to designate one partner as Lead Member in their MOU) to be indicated by bidders. The firms with at least 26% equity holding each are allowed to jointly meet the eligibility criteria.

6 Cost of Bidding

- 6.1 The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible and liable for those costs.

7. Site Visit

- 7.1 The Bidder, at his own responsibility and risk is encouraged to visit and examine the site of works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the works. The costs of visiting the site shall be at the Bidders' own expense..

B. BIDDING DOCUMENTS

8. Content of Bidding Documents

- 8.1 The set of bidding documents comprises the documents listed in the below and addenda issued in accordance with clause-10:

Invitation for Bids (NIT)

SECTION 1 Instruction to Bidders

SECTION 2 Forms of Bid, Qualification Information and letter of Acceptance

SECTION 3 Conditions of Contract and Special

ConditionsSECTION 4 Contract Data

SECTION 5 Site Conditions and Specifications

SECTION 6 Forms of Securities

SECTION 7 Drawing

SECTION 8 Bill of

quantities

- 8.2. One set of bidding documents will be issued to the bidder. The document should be completed and returned with the bid.
- 8.2.1 The bidding documents shall be downloaded. The documents should be completely filled and submitted through on line Tendering process and one copy shall be submitted within 7 days of the date of opening of the tender.
- 8.3 The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, terms, technical specifications, bill of quantities, forms, drawings, annexure in the bid document. Failure to comply with the requirements of the bid document shall be at the bidder's own risk. Pursuant to clause 26 hereof, bids which are not substantially responsive to the requirements of the bid documents shall be rejected.

9. Clarifications of the Bidding Documents

- 9.1 A prospective bidder requiring any clarification of the bidding documents may notify the employer in writing or by electronic form and be confirmed by hardcopy at the Employer's address indicated in the invitation to bid. The employer will respond to any request for clarification which he received earlier than days(Suggested 7 days) prior to the deadline for submission of bids. The clarification shall be uploaded on Website of www.kpt.nprocure.Com.

9.2 Pre-bid meeting

- 9.2.1 The bidder or his official representative is invited to attend a pre-bid meeting which will take place at Old Board Room, Administrative office, Gandhidhamon---- @ ---- hrs.
- 9.2.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 9.2.3 The bidder is requested to submit any questions in writing or by cable to reach the Employer not later than one week before the meeting

9.2.4. Minutes of the meeting, including the text of the questions raised (without identifying the source of enquiry) and the responses given will be transmitted without delay to all purchasers of the bidding documents without delay. Any modification of the bidding documents listed in Sub-Clause 8.1 which may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 10 and not through the minutes of the pre-bid meeting

9.2.5 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.

10. Amendment of Bidding Documents

10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by using addends.

10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated by uploading online on <http://kpt.nprocure.com>. Or in writing or by cable to all the purchasers of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum by cable to the Employer.

10.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bid, the Employer shall extend as necessary the deadline for submission of bids, in accordance with sub-clause 20.2 below.

C. PREPARATION OF BID:

11. Language of Bid

11.1 All documents relating to the bid shall be in the English language.

12. Documents comprising the Bid

12.1 The bid submitted by the bidder shall comprise the following:

A) Technical Bid:

(i) Bid Security(EMD).

(ii) Qualification Information Form and Document (Pursuant to clause 4 hereof) and any other materials required to be furnished and submitted by the bidder in accordance with these instructions. The documents listed under Sections 2, 4 and 8 of Sub-Clause 8.1 shall be filled in without exception.

B) Financial Bid:

- i. Contractors Bid duly filled and digitally signed by bidder.
- ii. Priced bill of quantity duly filled and digitally signed by bidder.

13. Bid Prices

- 13.1 The contract shall be for the whole works as described in sub clause 1.1 based on the priced Bill of Quantities submitted by the Bidder.
- 13.2 The bidder shall fill in rates and prices for all items of the works described in the bill of quantities. Items for which no rate or price is entered by the bidder will not be paid by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.
- 13.3 All duties, taxes, and other levies payable by the contractor under the contract, or for any other cause shall be included in the rates, prices and total Bid Price submitted by the bidder.
- 13.4 The rates and prices quoted by the bidder are subject to adjustment during the performance of the contract. In accordance with the provisions of clause 47 of the conditions of contract.

14. Currencies of Bid and Payment

- 14.1 The unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees.

15. Bid Validity

- 15.1 Bids shall remain valid for a period 120 days from the last date of submission of Bid. A bid valid for a shorter period shall be rejected by the Employer as non-responsive.
- 15.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be permitted to modify his bid.

16. Bid Security (Earnest Money Deposit - EMD)

- A. Earnest money Deposit (EMD) shall be Rs. 8,10,456/- to be submitted in form of Bank guarantee in favour of Deendayal Port Authority. EMD in any other form shall not be accepted. Micro and Small Enterprises shall be exempted from submission of EMD as indicated in the NIT conditions.
- B. The EMD up to Rs. 5 lakhs be payable by Digital transfer. EMD beyond Rs.5 lakhs be payable in the form of Bank Guarantee for the entire amount from any Nationalized / Scheduled Bank (Except Co - Operative Banks) from any branch in India preferably from the local branch where the port is situated. Bank Guarantee submitted as Earnest Money shall be valid for 28 days beyond the validity of the bid. Bank Guarantee shall be verified independently by the Port with the bank before finalization of technical offer. In the event of lack of confirmation of issue of the Bank Guarantee by the Bank, the bid shall stand disqualified.
- C. EMD of unsuccessful bidders other than L1 and L2 be refunded immediately after ranking of price bids. Earnest Money of L2 be refunded immediately after entering into agreement with L1 and acceptance of Performance Guarantee from L1.
- D. EMD shall be refunded suo-motto without any application from the bidders.
- E. The Bid Security of the successful bidder will be discharged after he has signed the Agreement and furnished the required Performance Security.
- F. The Bid Security may be forfeited, if
 1. The bidder withdraws the Bid after Bid opening during the period of Bid Validity;
 2. The Bidder does not accept the correction of the Bid Price pursuant to clause 27.
 3. The successful Bidder fails within the specified time limit to
 - a. sign the Agreement or
 - b. furnish the required Performance Security.

- G. In case of Micro and Small Enterprise (MSMEs) holding valid certificate issued by any agencies/ organization under the Ministry of Micro, Small and Medium Enterprise indicating the list of activity related to the subject tender ONLY shall become eligible for exemption from payment of tender fee/ EMD. Such bidder shall upload in Preliminary proposal a scanned copy of valid certificate, as well as duly filled in and signed 'Bid Securing Declaration' as per format provided in the tender document (Annexure II), failing which the bid shall be considered non-responsive. Such bidders shall upload the scanned copy of valid certificate in Preliminary bid. List of activity related to the subject tender as per National Industrial Classification-2008 for exemption of tender fee and EMD are listed below”.**

NIC codes regarding similar work is mentioned below:

NIC Code	Activities
Section F	Construction
Division 41, Group 410, Class 4100	Construction of Building
Sub-Class 41001	Construction of Buildings carried out on own-account basis or on a Fee or contract basis
Sub-Class 41003	Assembly and erection of prefabricated constructions on The site
Division 43	Specialized construction activities
Group433	Building completion and finishing (All sub-class activities under this group shall be exempted)

17. Alternative Proposals by Bidders

Conditional offer or Alternative offers will not be considered further in the process of tender evaluation.

18. Format and Signing of Bid

- 18.2** The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder in which case such corrections shall be initialled by the person or persons signing the bid.

D Submission of bids

19. Sealing and marking of bids

- 19.1 The bidder shall put Bid security document as per clause No.16, hereof in one envelope and properly seal and mark as "Bid Security". The bidder shall put documents mentioned in clause No.12.1.A (ii) in separate envelope and properly seal and mark as "Technical Bid". Then put both these envelopes into separate envelope, properly seal and mark as "Technical Bid".

The bidder shall seal "Financial Bid" as per Clause No.12.1. (B) hereof, in separate envelope duly marking the envelope as "Financial Bid".

These envelopes than be put inside one outer envelope and sealed, duly marking the outer envelope as "Technical Bid and Financial Bid".

- 19.2 The envelopes shall

(a) be addressed to Nodal Officer/Employer at the following address.

-

_(insert address of office for bid submission), and

(b) bear the following identification:

Bid for.....(name of contract)

Bid reference no.....(Insert number)

DO NOT OPEN BEFORE (time and date for opening, per Clause

23)Name and address of the bidder.

The tender complete in all respect should be put in the tender box (markedtender No_) in the office of_____ upto - _____p.m. on due date and open at_____on the same date inpresence of such of the tenderers who may wish to be present.

- 19.3 In addition to the identification required in Sub-Clause 19.2, the inner envelopes shall indicate the name and address of the bidder of the bidder to enable the bid to be returned unopened in case it is declared late, pursuant to Clause 21, or the bid is declared non responsive. If the outer envelopes are not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Technical bid and financial bid.

20 Deadline for submission of the Bids

- 20.1 Bids must be received by the Employer at the address specified above not later than in the event of the specified date for the submission of bids being declared a holiday by the Employer. The bids will be received up to 07/02/2024 the appointed time on the next working day.
- 20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.
- 20.3 The bidder shall give an undertaking that no change has been made in the hard copy of tender documents he has downloaded from the web site. Discrepancy, if any is noticed at any stage between the Port's tender document and the hard copy submitted by the bidder conditions mentioned in online tender unloaded by Port shall prevail beside the bidder shall be liable for legal action for the lapses.

21 Late Bids

- 21.1 Any bid received by the Employer after the deadline prescribed in Clause 20 will be considered as non-responsive.

22. Modification and Withdrawal of Bids

- 22.1 Bidders may modify or withdraw their bids before the deadline prescribed in Clause 20.
- 22.2 The bidder may finally submit the modified copy to the employer within 07 days of opening of the online tender.
- 22.3 No bid may be modified after the deadline for submission of bids.
- 22.4 Withdrawal or modification of a Bid between the deadline for submission of bids and the expiration of the original period of bid validity in Clause 15.1 above or as extended pursuant to Clause 15.2 may result in the forfeiture of the Bid security pursuant to Clause 16.
- 22.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting bid modifications in accordance with this clause or included in the original bid submission.

E. BID OPENING AND EVALUATION

23. Bid opening

- 23.1 On the due date and appointed time as specified in clause 20, the Employer will first open Technical bids of all bids received (except those received late) including modifications made pursuant to clause 22 in presence of the bidders or their representative who choose to attend. In the event of the specified date for Bid opening being declared a holiday by the Employer, the bids will be opened at the appointed time and location on the next working day.

- 23.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to clause 22 shall not be opened.

Bidder's name, withdrawals, modifications of technical bid, the presence of bid security and such other details, as the Employer may consider appropriate will be announced by the Employer at the opening.

23.3

If all Bidders have submitted unconditional Bids together with requisite bid security, then all bidders will be so informed then and there. If any Bid contains any deviation from the Bids documents and/or if the same does not contain Bid security in the manner prescribed in the Bid documents, then that Bid will be rejected and the Bidder informed accordingly. The sealed financial bid containing priced BOQ will be returned to him without opening. All valid financial bids whose technical bids have been determined to be substantially responsive in accordance with Clause 26 hereof, shall be opened on the specified date from declaring the results of the Technical Bid, in presence of the bidders or their representatives who choose to attend. The Bidder's name, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid modifications and withdrawals, and such other details as the Employer at the opening. Any bid price, discount, or alternative Bid price which is not read out and recorded at Bid opening, will not be taken into account in Bid evaluation.

- 23.4 The Employer shall prepare minutes of the Bid opening, including the information disclosed to those present and the minutes shall form part of the contract.

24 Process to be confidential.

Information relating to the examination, clarification, evaluation and comparison of the bids and recommendations for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced.

25. Clarification of Bids

To assist in the examination and comparison of Bids, the Employer may, at his discretion, ask any Bidder for clarification of his Bid, including breakdown of unit rates. The request for clarification and the response shall be writing or by cable, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to conform the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 27.

Subject to above Para, no Bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, he should do so in writing.

Any effort by the Bidder to influence the Employer's bid evaluation, bid comparison or contract award decisions, may result in the rejection of his bid. No bid may be modified after the deadline for submission of bids

26. Examination of Bids and Determination of Responsiveness

26.1 Prior to detailed evaluation of Bids, the Employer will determine whether each Bid(a) has been properly digitally signed (b) meets the eligibility criteria defined in Clause 4 (c) is accompanied by the required Bid security and; (d) is responsive to the requirements of the Bidding documents.

26.1.1 A substantially responsive Technical and Financial Bid is one which conforms to all the terms, conditions and specification of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which effects in any substantial way the scope, quality or performance of the Works; (b) which limits in any substantial way, the Employer's rights or the Bidder's obligations under the contract; or (c) whose rectification would affect unfairly the competitive position of other Bidders presenting responsive Bids.

26.1.2 If a Technical Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-confirming deviation or reservation.

27 Correction of Errors

27.1 Bids determined to be responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows.

(a) Where there is a discrepancy between the rates in figures and in words, the rate in words will govern;

(b) Where there is discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.

27.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the bidder. If the Bidder does not accept the corrected amount the Bid will be rejected, and the Bid security may be forfeited in accordance with sub-Clause.16. F. (b).

28 NIL.

29 Evaluation and Comparison of Bids

- 29.1 The Employer will evaluate and compare only the Bids determined to be responsive in accordance with Clause 26.
- 29.2 In evaluating the Bids, the Employer will determine for each Bid the evaluated Bid Price by adjusting the Bid Price as follows:
- (a) Making any correction for errors pursuant to Clause 27;
 - (b) Making appropriate adjustments to reflect discounts or other price modification offered in accordance with Sub Clause 22.5
- 29.3 The estimated effect of the price adjustment conditions under Clause 47 of the conditions of contract, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.
- 29.4 IF the Bid of the successful Bidder is seriously unbalanced in relation to the Nodal Officer or his nominee's estimate of the cost of work to be performed under the contract, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the implementation/construction methods and schedule proposed

30 NIL.

F. AWARD OF CONTRACT

31 Award Criteria

- 31.1 The Employer will award the Contract to the Bidder whose Bid has been determined to be responsive to the Bidding documents and who has offered the lowest evaluated Bid Price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 3 and (b) qualified in accordance with the provisions of Clause 4. The second bidder (i.e. L2) shall be kept in reserve and may be invited to match the bid submitted by the (L 1) bidder in case such bidder withdraws or is not selected for any reason.

32 Employer's Right to accept any Bid and to reject any or all.

Notwithstanding clause 31, the Employer reserve the right to accept or reject any bid and to cancel the bidding process and reject all bids, at any time prior to the award of contract, without thereby incurring and liability to the affected bidder or bidders on the grounds for Employer's action.

33 Notification of Award and Signing of Agreement.

The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the “letter of Acceptance”) will state the sum that the Employer will pay the Contractor in consideration of the execution, completion and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the “Contract Price”).

- 33.1 The notification of award will constitute the formation of the Contract subject to the furnishing of a performance security in accordance with the provisions of Clause 34.
- 33.2 The Agreement will incorporate all correspondence between the Employer and the successful bidder. It will be signed by the employer and sent to the successful Bidder within (28 days of award of work for global tender and Within 14 days for domestic tender) following the notification of award along with the Letter of Acceptance. Within (28 days for global tender and within 21 days for domestic tender) of receipt, the successful Bidder will furnish the performance security and sign the Agreement with the Employer.
- 33.3 Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other Bidder that his Bid have been unsuccessful and release the Bid security (EMD).

34 Performance Security

- 34.1 Security Deposit shall be 10% of Contract price of which 5% of contract price should be submitted as Bank Guarantee/Digital transfer/FDR within 21 days of receipt of Letter of Acceptance and balance 5% recovered as Retention Money from Running Bills. Recovery of 5% of Retention Money to commence from the first bill onwards @ 5% of bill value from each bill. Retention Money be refunded within 14 days from the date of payment of final bill. Balance SD to be refunded immediately not later than 14 days from completion of defect liability period.
- 34.2 Failure of the successful Bidder to comply with the requirements of Sub-Clause 34.1 shall constitute sufficient grounds for cancellation of the award of work and forfeiture of the Bid security.

“The documentary evidence (copy of paid Challan in Govt. Treasury) of Welfare Cess @ 1% of work done or as amended by Statutory Authority from time to time, paid on final bill shall be submitted before releasing the Performance Guarantee.”

35 Advance Payment

- 35.1 The Employer will provide an Advance Payment on the Contract Price as stipulated in the conditions of Contract, subject to maximum amount, as stated in the Contract Data .clause 51 (Section 3)

36. Conciliator

The employer proposes that CIDC – SIAC Arbitration Centre be appointed as Conciliator under the contract as provided in sub-clause 24.4 of condition of contract. If the bidder disagrees with this proposal, the bidder should so state in bid.

37 Corrupt or Fraudulent Practices

- 37.1 The Employer requires that Bidders/Suppliers/Contractors under this contract, observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Employer:
- (a) defines, for the purpose of these provisions, the terms set forth below as follows:
 - (i) “Corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “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 Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
 - (b) Will reject a proposal for award of work, if he determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
 - (c) Will declare a Bidder ineligible, either indefinitely for a stated period of time, to be awarded a contract/contracts, if he at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for or in executing, the contract.
- 37.2 Furthermore, Bidders shall be aware of the provision stated in sub-clause 59.2 of the conditions of Contract (Section – 3).

SECTION 2

FORMS OF BID, QUALIFICATION INFORMATION AND LETTER OF ACCEPTANCE

TABLE OF FORMS

1. **FORM OF BID**
2. **CONTRACTOR'S BID**
3. **PRE-QUALIFICATION OF BIDDERS**
4. **LETTER OF ACCEPTANCE**
5. **NOTICE TO PROCEED WITH THE WORK**
6. **AGREEMENT FORM**

SPECIMEN FOR FORM OF BID
(To be executed on bidder's letter head)

Date-

Tender No. P-01/2024

Name of Work: Construction of SWD outside of Custom Bonded area.

To

The SUPERINTENDING ENGINEER (P),
Project Division,
DEENDAYAL PORT AUTHORITY,
Ground Floor, A.O.
Building, Gandhidham-
370201,
Kutch District Gujarat-State, INDIA.

We, the undersigned, declare that:

- (a) we have examined and have no reservations to the tender documents, including addenda and clarifications issued vide
- (b) we offer to execute the work in conformity with the tendering documents and in accordance with the delivery schedules specified in the schedule of requirements in accordance with the tender document bearing no **P-01/2024**
- (c) The total price of our tender, excluding any discounts offered in item(d) below, is [insert the total tender price in words and figures, indicating the various amounts and the respective currencies];[in case of techno-commercial offer it shall be mentioned that 'as filled in the price bid']
- (d) The discounts offered and the methodology for their application are:

Discounts. if our tender is accepted, the following discounts shall apply.

Methodology of application of the discounts. The discounts shall be applied using the following method:

- (e) our tender shall be valid for the period of time specified in **[ITB Sub-clause 15.1]**, from the date fixed for the tender submission deadline in accordance with **[ITB Sub-clause 20.1]** , and it shall remain binding upon us and may be accepted at any time before the expiration of that period or any extended period in accordance with **[ITB Sub-clause 15.2]**;
- (f) If our tender is accepted, we commit to submit a performance guarantee in accordance with [insert relevant clause no., ITB Sub-clause 34] for the due performance of the contract, as specified in specimen form for the purpose.
- (g) We, including any subcontractors or contractors for any part of the contract, {Insert the nationality of the Tenderer, including that of all parties that comprise the Tenderer, if the tenderer is a JV. And the nationality each subcontractor and Contractor}
- (h) We have no conflict of interest in accordance with **[ITB Sub-clause no 5]**.

- (i) Our firm, its affiliates or subsidiaries- including any subcontractors or contractors for any part of the contract – has not been declared ineligible by the port, under laws of India or official regulations in accordance with **[ITB Sub-clause no.3]**
- (j) We understand that this tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract agreement is prepared and executed in accordance with **[ITB Sub-clause 33]** and as per specimen from the purpose;
- (k) We understand that you are not bound to accept the lowest evaluated tender or any other tender that you may receive.
- (l) We also make specific note clauses of [ITB, NIT] under which the contract is governed.
- (m) In case of out station firms, having a branch in India for liaison purposes, please mention the name of the contact person and Tel. no., Fax. no., and mail-Id and also the complete postal address of the firm.
- (n) We understand that the communication made with the firm at (m), by the port shall be deemed to have been done with us.

Signed: [insert signature of person whose name and capacity are shown] In the capacity of [insert legal capacity of person signing the form of tender]

Name:[insert complete name of person signing the form of tender]

Duly authorized to sign the tender for and on behalf of: [insert complete name of tenderer]

Dated on _____ day of _____, _____ (insert date of signing)

CONTRACTOR'S BID

Description of the works: - Construction of SWD outside of Custom Bonded area.”

BID

TO

.....(The employer)

Address

S-

GENTLEMEN,

We offer to execute the works described above in accordance above with the conditions of Contract accompanying this bid for the contract price of ____ (in figures)

_____ (in letters)

The advance payment required / not required as per rule.

We accept appointment of _____ as the conciliator's letter.Or

We do not accept the appointment of _____ as the conciliator and proposed instruct that _____ be appointed as conciliator who's daily fees and biographical data are attached.

This bid and your written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any bid you receive.

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force In Indian namely "prevention of corruption act 1988"

We hereby confirm that this bid complies with the bid validity and security required by the bidding documents.

We attach herewith our copy of permanent account number

(PAN)Yours faithfully,

Authorized Signature:

Name & title of signatory

Name of Bidder

Address

Notes:

To be filled in by the bidder, together with his particulars and date of submission at the bottom of the form of bid.

PRE-QUALIFICATION OF BIDDERS

The information to be filled in by the bidder in the following pages will be used for purposes of pre-qualification as provided for in the instructions to tenderers.

1. Only for individual bidders:

1.1 Constitution or legal status of bidder (attach copy)

- Place of registration
- Principal place of business
- Power of attorney of signatory of bid (Attach)

2. Turnover of the firm

YEAR	TURNOVER
2020-21	
2021-22	
2022-23	
Average	

Attachments: Financial reports for the last three years; balance sheets, profit and loss statement, auditors reports(in case of companies/ corporation) etc., list them below and attach copies.

3. Similar works

Particulars	Year	No. of works	Value
Total value of completed similar work as defined in the tender document during last 7 years	2016-17		
	2017-18		
	2018-19		
	2019-20		
	2020-21		
	2021-22		
	2022-23		

Attachments: Supporting documents, viz., successful completion certificates from clients, other documentations to substantiate the similarity of work as per definition of “similar work” employers reserves the right to verify the information;

4. Information on bid capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid.

(A) Existing commitments and on-going works.

Description of work	Place & state	Contract no. & date	Name & address Port or Dept.	Value of contract Rs	Stipulated Period of completion	Value of remaining to be completed	Anticipated date of completion
1	2	3	4	5	6	7	8

(B) Works for which bids already submitted

Description of work	Place & state	Name & address of port or Dept.	Value of contract Rs	Stipulated Period of completion	Date when decision is expected	Remarks if any
1	2	3	4	5	6	7

Attach certificates from the nodal officer or his nominee(s)-in-charge.

5. The following contractor's Equipment are essential for carrying out the works. The bidder should list all information requested below.

Item of equipment	Requirement no. capacity	Owned/leased /to be procured	Nos./ capacity	Age/ condition	Remarks (from whom to be purchased)

6. Qualification and experience of key personnel proposed for administration and execution of the contract. Attach biographical data. Refer also to sub. clause 4.3(e) of instructions to bidders and sub. clause 9.1 of the conditions of contract.

Position	Name	Qualification	Years of experience (general)	Years of experience in the proposed position
Project manager				
Discipline specialist etc.,				

1. Proposed sub-contracts and firms involved

Sections of the works	Value of sub-contract	Sub-contractor (name and address)	Experience in similar work

2. Information on litigation history in which the bidder is involved.

Other party(ies)	Port / Dept	Cause of dispute	amount	Remarks involved showing present status

3. Additional information bidder may like to submit

Duly authorized to sign this authorization on behalf of (insert complete name of tenderer)

Dated on _____ day of _____
[insert date of signing]

LETTER OF ACCEPTANCE
(on letter paper of the port)

_____ (date)

To: _____
(Name and address of the contractor)

Dear Sirs,

Sub: Tender no : **P-01/2024**

“Construction of SWD outside of Custom Bonded area.”

Ref: Your bid dated _____
And [list the correspondence with the bidder]

This is to notify you that your bid dated _____ for execution of the _____ (name of the contract and identification number, as given in the instructions to bidders) for the contract price of rupees _____ (amount in words and figures as corrected and modified in accordance with the tender document is here by accepted by the employer/Board).

You are hereby requested to furnish performance security, in the form detailed in tender document for an amount of Rs. _____ within {_____} days of the receipt of this letter of acceptance valid upto 28 days from the date of completion obligations expiry of taking over certificate subject to removal of defects period i.e. upto _____ and also sign the contract agreement within {_____} days of the receipt of this letter of acceptance, failing which action as stated in the tender document will be taken.

Detailed letter of acceptance will

follow. Please acknowledge receipt.

Yours faithfully,

Authorized signature

DEENDAYAL PORT AUTHORITY

ISSUE OF NOTICE TO PROCEED WITH THE WORKS

_____ dated

To
(Name and address of the

contractors)Dear Sirs,

Sub: Tender no. **P-01/2024**

“Construction of SWD outside of Custom Bonded area..”

Ref: Letter of acceptance no. dated

Pursuant to your furnishing the requisite security as stipulated in [clause 21 of general conditions of contract] and signing of the contract for execution of the

_____ you are hereby instructed to proceed with the execution of the said works in accordance with the contract documents. It is hereby notified that the [site] is being handed over to you for execution of work in accordance with the contract documents.

Yours faithfully,

**SUPERINTENDING ENGINEER (P)
DEENDAYAL PORT AUTHORITY**

SPECIMEN CONTRACT AGREEMENT

(To be executed on Rs.300/- non-judicial stamp paper)

[The successful tenders shall fill in this form in Accordance with the
instructionsindicated]

THIS CONTRACT AGREEMENT is made

The [insert: number] day of [insert: month], [insert: year]

Between

- (1) The Board of Deendayal Port Authority, an autonomous body of the Ministry of Port Shipping & Water ways, Government of INDIA, incorporated under the Major Port Authorities Act, 2021 as amended thereafter, under the laws of India and having its principal place of business at A.O Building, PO Box No-50, Gandhidham, Gujarat State (hereinafter called “the Board”), and,
- (2) [insert name of the contractor], [incorporated under] the laws of [country of contractor] and having its place of business at [insert: address of contractor] (hereafter called “the contractor”)

WHEREAS the employer board invited tenders against tender no.[number] for execution of “**Construction of SWD outside of Custom Bonded area.**” and has accepted a tender by the contractor in accordance with the supply/delivery schedules, in the sum of [insert contract price in words and figures, expressed in the contract currency (ies)] (hereafter called “contractprice”)

All the disputes related to the subject contract shall be resolved through a Conciliation Committee / Council comprising of independent subject experts

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this agreement words and expressions shall have the same meanings as per respectively assigned to them in the conditions of contract refer to.
2. The following documents shall constitute the contract between the employer/ board and the contractor, and each shall be read and construed as an integral part of the contract:
 - (a) This contract agreement;
 - (b) Special conditions of contract;
 - (c) General conditions of contract;
 - (d) Technical requirements (including schedule of requirements andtechnical specifications, drawings);
 - (e) Notice inviting tender;
 - (f) Replies issued to the pre-bid queries, addenda if any issued[numbersand date];
 - (g) The contractor’s bid and original price and delivery schedules;
 - (h) The employer/ board’s notification of award;
 - (i) [correspondence the employer/board has exchanged with the

biddertill and after award of contract[specific letters and dates]]

(j) And [add here any other documents]

AND WHEREAS

EMPLOYER/BOARD accepted the bid of CONTRACTOR for the provision and the execution of WORK at the CONTRACT PRICE as indicated in CONTRACT upon the terms and subject to the conditions of contract. Now this CONTRACT AGREEMENT witnesses and it is hereby agreed and declared as follows:

3. In consideration of the payment to be made to CONTRACTOR for work to be executed by him. CONTRACTOR hereby covenants with EMPLOYER/BOARD what CONTRACTOR shall and will duly provide, execute and complete work and things in CONTRACT, mentioned or described or which are to be implied there from or may be reasonably necessary for completion of work and the times and in the manner and subject to the terms and conditions or stipulations mentioned in CONTRACT.
4. In consideration of the due provision, execution and completion of work by the contractor in accordance with the terms of the contract, the employer / board does hereby agree with contractor that employer /board will pay to contractor the respective amounts for the work actually done by him and approved by employer/board as per payment terms accepted in contract and payable to contractor under provision of contract at such manner as provided for in the contract.
5. in consideration of the due provision, execution and completion of work, contractor done hereby agree to pay such sums as may be due to employer/ board for the services rendered by employer/ board to contractor as set forth in contract and such other sums as may become payable to employer/ board towards loss, damage to the employer/ board's equipment, materials etc. and such payments to be made at such time and in such manner as is provided in the contract.

IN WITNESS where of the parties hereto have caused this agreement to be executed in accordance with the laws of INDIA on the day, month and year indicated above.

For and behalf of the employer/ board

Signed: [insert signature]

In the capacity of [insert title or other appropriate designation] In the presence of [insert identification of official witness]

For any behalf of the contractor

Signed: [insert signature of authorized representatives of the contractor] In the capacity of [insert title or other appropriate designation]

In the presence of [insert identification of official witness]

SECTION 3

CONDITIONS OF CONTRACT AND SPECIAL CONDITIONS

CONDITIONS OF CONTRACT

A. General

1. Definitions

- 1.1 Terms which are defined in the Contract Data are not also defined in the Conditions Contract but keep their defined meanings Capital initials are used to identify defined terms.

The Conciliator is the person appointed jointly by the Employer and the contractor to resolve disputes in the first instance as provided for in Clauses 24 and 25. The name of the Adjudicator is defined in the Contract Data.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.

Compensation Events are those defined in Clause 44

The **Completion Date** is the date of Completion of the Works as certified by the Nodal Officer or his nominee in accordance with Sub Clause 55.1

The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contract Data** defines the documents and other information which comprise the Contract.

The **Contractor** is a person or corporate body whose Bid to carry out the Works has been accepted by Employer.

The **Contractor's Bid** is the completed Bidding documents submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the letter of acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days, **months** are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Period** is the Period named in the Contract Data and calculated from the Completion Date.

The **Employer** is the party who will employ the contractor to carry out the Works.

The **Nodal Officer** or his nominee is the person named in the ContractData (or any other Competent person appointed and notified to the contractor to act in replacement of the Nodal Officer or his nominee) who is responsible for supervising the Contractor, Administering the Contract, certifying payments due to the Contractor, issuing and valuing Variations to the contract, awarding extensions of time and valuing the Compensation Events.

Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the employer's Letter of Acceptance.

The **Intended completion Date** is the date on which it is intended that the Contractor shall complete the works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Nodal Officer or his nominee by issuing an extension of time.

Materials are all supplies, including consumables, used by the contractor for incorporation in the Works.

Plant is any integral part of the Works which is to have mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract Data.

Site Investigation Reports are those which were included in the Bidding documents and are factual interpretative reports about the surface and subsurface conditions at the site.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Nodal Officer or his nominee.

The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Date.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the site.

Temporary Works are works designed, constructed, installed and removed by the Contractor which are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Nodal Officer or his nominee which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install and turn over to the Employer as defined in the Contract Data.

The **Trained Work Person** are those employed/proposed to be employed by the Contractor at the Project Site, who have participated and are in possession of a valid Competency Certificate through a programme run under the auspices of a University, State Technical Board, Ministry of Government of India.

2. Interpretation

- 2.1 In interpreting these Condition of Contract, singular also means plural, male also means female or neuter and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Nodal Officer or his nominee will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
 - (1) Agreement
 - (2) Letter of Acceptance and notice to proceed with Works Contractor's Bid.
 - (3) Contract Data
 - (4) Conditions of Contract including Special Conditions of Contract
 - (5) Specifications
 - (6) Drawings
 - (7) any other documents listed in the Contract Data as forming part of the Contract and
 - (8) Bill of quantities

3. Language and Law

- 3.1 The language of the Contract and the law governing the Contract are stated in the Contract Data.

4. Nodal Officer or his nominee's Decisions

- 4.1 Except where otherwise specifically stated, the nodal officer or his nominee will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

5. Delegation

- 5.1 The Nodal officer or his nominee may delegate any of the duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

6. Communications

- 6.1 Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act 1872).

7. Joint venture:

Companies/Contractors may jointly undertake contract/contracts. The number of partners in JV/Consortium shall be limited to maximum of three. Each entity would be jointly and severally responsible for completing the task as per the contract, however declaration of the Lead member (JV has to designate one partner as Lead Member in their MOU) to be indicated by bidders. The firms with at least 26% equity holding each are allowed to jointly meet the eligibility criteria.

8. Subcontracting

- 8.1 The Contractor may subcontract with the approval of the Nodal Officer or his nominee but may not assign the Contract without the approval of the Employer in writing. Subcontracting does not alter the Contractor's obligations.

Other Contractor

- 8.2 The Contractor shall co-operate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of other contractors. The Contractor shall as referred to in the Contract Data, also provide facilities and services for them as described in the Schedule. The employer may modify the schedule of other contractors and shall notify the contractor of any such modification.

9. Personnel

- 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel as referred to in the Contract Data to carry out the functions stated in the Schedule or other personnel approved by the Nodal Officer or his nominee. The Nodal Officer or his nominee will approve any proposed replacement of Key personnel only if their qualifications, abilities, and relevant experience are substantially equal or better than those of the personnel listed in the Schedule.

- 9.2 If the Nodal Officer or his nominee asks the Contractor to remove a person who is a member of the Contractor's staff of his work force stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connections with the work in the Contract.

10. Employer's and Contractor's Risks

- 10.1 The Employer carries the risks which this contract states are Employer's risks and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Employer's Risks

- 11.1 The Employer's risks are;

- (a) In so far as they directly affect the execution of the Works in the country where the Permanent works are to be executed:
 - (i) War and hostilities (whether war be declared or not), invasion, act of foreign enemies;
 - (ii) Rebellion, revolution, insurrection, or military or usurped power, or civil war,
 - (iii) Ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste, from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - (iv) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and
 - (v) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors and arising from the conduct of the Works;
 - (vi) floods, tornadoes, earthquakes and landslides
 - (vii) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract;
 - (viii) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible; and
 - (ix) any operation of the forces of nature (in so far as it occurs on the Site) which an experienced contractor:
 - (i) could not have reasonably foreseen, or
 - (ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures.

- A. prevent loss or damage to physical property from occurring by taking appropriate measures, or
- B. insure against

12. Contractor's risks

- 12.1 All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

13. Insurance

- 13.1 The Contractor shall provide in the joint names of the employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles state in the Contract Data for the following events which are due to the Contractors risks.

- a) Loss of or damage to the works plant and materials.
- b) Loss of or damage to Equipment;
- c) Loss of or damage property (except the Works, Plant, Materials and Equipment in connection with the Contract, and
- d) Personal injury of death.

- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Nodal Officer or his nominee for the Nodal Officer or his nominee's approval before Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment of the premiums shall be a debt due.

- 13.4 Alternate to the terms of insurance shall not be made without the approval of the Nodal Officer or his nominee.

- 13.5 Both parties shall comply with all conditions of the insurance policies.

14. Site Investigation Reports

- 14.1 The Contractor, in preparing the Bid, shall rely on the Investigation Report referred to in the Contract Data, supplemented by any information available to the Bidder.

15. Queries about the Contract Data

- 15.1 The Nodal Officer or his nominee will clarify queries on the Contract Data.

16. Contractor to Construct the Works.

- 16.1 The Contractor shall construct and install the Works in accordance with the Specification and Drawings.

17. The Works to Be Completed by the Intended Completion Date.

- 17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor as updated with the approval of the Nodal Officer or his nominee, and complete them by the Intended Completion Date.

18. Approval by the Nodal Officer or his nominee.

- 18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Nodal Officer or his nominee, who is to approve them if they comply with the specifications and Drawings.
- 18.2 The Contractor shall be responsible for design of Temporary Works.
- 18.3 The Nodal Officer or his nominee's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 18.4 NIL.**
- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Nodal Officer or his nominee before their use.

19. Safety

- 19.1 The Contractor shall be responsible for the safety of all activities on the Site.

20. Discoveries.

- 20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The contractor is to notify the Nodal Officer or his nominee of such discoveries and carry out the Nodal Officer or his nominee's instructions for dealing with them.

21. Possession of the Site.

- 21.1 The Employer shall give possession of all parts of the Site to the Contractor, free from encumbrances. If possession of a part is not given by the date stated in the Contract Data the Employer is deemed to have delayed the start of the relevant activities and this will be a Compensation Event.

22. Access to the Site

- 22.1 The Contractor shall allow the Nodal Officer or his nominee and any person authorised by the Nodal Officer or his nominee access to the Site to any place

where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured, fabricated and/or assembled for the works.

23. Instructions

- 23.1 The Contractor shall carry out all instructions of the Nodal Officer or his nominee which comply with the applicable laws where the Site is located.

24. Disputes

- 24.1 If the Contractor believes that a decision taken by the Nodal Officer or his nominee was either outside the authority given to the Nodal Officer or his nominee by the Contract or that the decision was wrongly taken, the decision shall be referred to the conciliator within 28 days of the notification of the Nodal Officer or his nominee's decision.

25. Settlement of Disputes

- 25.1 If a dispute of any kind whatsoever arises between the Employer and the 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 after termination of the Contract, including any disagreement by either party with any action, inaction, opinion, instruction, determination, certificate or valuation of the Nodal Officer or his nominee, the matter in dispute shall, in the first place be referred to the Disputes Review Board [DRD] in case of contracts valuing more than Rs.5 crores and above, and for contracts valuing less than Rs. 5 crores, the disputes will firstly be settled by the Conciliator, failing which any party may invoke arbitration clause.

Unless the Contract has already been repudiated or terminated or frustrated the Contractor shall in every case, continue to proceed with the Works with all due diligence and the Contractor and the Employer shall give effect forthwith to every decision of the Nodal Officer or his nominee unless and until the same shall be revised, as hereinafter provided, by the conciliator or in a Dispute Review Board recommendation / Arbitral Award.

25.2 Decision by Conciliator

- (i) The Conciliator shall give a decision in writing within 28 days of receipt of a notification of a dispute.
- (ii) Conciliator shall be paid daily at the rate specified in the contract Data together with reimbursable expenses of the types specified in the contract data and the cost shall be divided equally between the Employer and the contractor, whatever decision is reached by the conciliator, either party may refer a decision of the conciliator within 28 days of the conciliator's written decision. If neither party refers the disputes to arbitration within 28 days, the conciliator's decision will be final and binding.

25.3 Arbitration clause:

Any dispute in respect of in contracts where party is dissatisfied by the Conciliators decision, shall be decided by arbitration as set forth below:

- (i) A dispute with Dispute review expert shall be finally settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996, or any statutory amendment thereof. The arbitral tribunal shall consist of 3 arbitrators, one each to be appointed by the Employer and the Contractor, and the third to be appointed by the mutual consent of both the arbitrators, falling which by making a reference to CIDC-SIAC Arbitration Centre from their panel.
- (ii) Neither party shall be limited in the proceeding before such arbitrations to the evidence or arguments already put before the Nodal Officer or his nominee or the Board, as the case may ne, for the purpose of obtaining said recommendations/decision. No such recommendations/decision shall disqualify the Nodal Officer or his nominee or any of the members of the Board, as the case may be, from being called as a witness and giving evidence before the arbitrators or any matter whatsoever relevant to the dispute.
- (iii) The reference to arbitration shall proceed notwithstanding that the works shall not then be or be alleged to be complete , provided always that the obligations of the Employer, the Nodal Officer or his nominee and the Contractor shall not be altered by reason of the arbitration being conducted during the progress of the works. Neither party shall be entitled to suspend the works to which the dispute relates, and payment to the contractor shall be continued to be made as provided by the contract.
- (iv) If one of the parties fail to appoint its arbitrations in pursuance of sub-clause[i], within 14 days after receipt of the notice of the appointment of its arbitratorby the other party, then chairman of the nominated Institution shall appoint arbitrator within 14 days of the receipt of the request by the nominated institution. A certified copy of the chairman's order, making such an appointment shall be furnished to both the parties.
- (v) Arbitration proceedings shall be held at, and the language of the arbitration proceeding and that of all documents and communications between the parties shall be 'English'
- (vi) The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equality by the Employer and the Contractor. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its case prior to, during and after the arbitration proceedings shall be borne by each party itself.
- (vii) All arbitration awards shall be in writing and shall state the reasons for the award.

- (viii) Performance under the contract shall continue during the arbitration proceedings and payments due to the contractor by the employer shall not be withheld, unless they are subject matter of the arbitration proceedings.

26. Replacement of Conciliator

- 26.1 Should the Conciliator resign or die, or should the Employer and the Contractor agree that the conciliator is not fulfilling his functions in accordance with the provisions of the Contract; a new Conciliator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days the Conciliator shall be appointed by the Appointing Authorities designated in the Contract Data at the request of either party within 14 days of receipt of such request.

B. TIME CONTROL

27. Program

- 27.1 Within the time stated in the contract data the contractor shall submit to the Nodal officer or his nominee for approval a program showing the general methods arrangements, order, and timing for all the activities in the works along with monthly cash flow forecast.
- 27.2 An updates of the program shall be a program showing the actual progress achieved on each activity and the effect of the timing of the progress achieved on the timing of the remaining work including any changes to the sequence of the activities.
- 27.3 The contractor shall submit to the Nodal Officer or his nominee, for approval an updated program at intervals no longer than the period stated in the contract data. If the contractor does not submit an updates program within this period, the Nodal Officer or his nominee may withhold the amount stated in the contract data from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue program has been submitted.
- 27.4 The nodal officer or his nominee's approval of the program shall not alter the contractor's obligations. The contractor may revise the program and submit it to the nodal officer or his nominee again at any time. A revise program is to show the effect of variations and compensation events.

28. Extension of the intended completion date.

- 28.1 The nodal officer or his nominee shall extend the intended completion date if a compensation event occurs or a variation is issued which makes it impossible for completion to be achieved by the intended completion date without the contractor taking steps to accelerate the remaining work and which would cause the contractor to incur additional cost.

28.2 The nodal officer or his nominee shall decide whether and by how much to extend the intended completion Date within 21 days of the contractor asking the Nodal Officer or his nominee for a decision upon the effect of a compensation event or variation and submitting full supporting information. If the contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new intended completion date.

29. The Early Warning Provisions shall be as per clause 32.

30. Delays Ordered by the Nodal Officer or his nominee

30.1 The Nodal Officer or his nominee may instruct the contractor to delay the start or Progress of any activity within the works.

31. Management Meeting.

31.1 Either the Nodal Officer or his nominee or the contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

31.2 The Nodal Officer or his nominee shall record the business of management meetings and is to provide copies of his record to those attending the meeting and to the employer. The responsibility of the parties for actions to be taken is to be decided by the Nodal Officer or his nominee either at the management meeting or after the management meeting and stated in writing to all attended the meeting.

32. Early warning

32.1 The contractor is to warn the Nodal Officer or his nominee at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the contract price or delay the execution of works. The Nodal Officer or his nominee may require the contractor to provide an estimate of the expected effect of the event or circumstances on the contract price and completion Date. The estimate is to be provided by the contractor as soon as reasonably possible.

32.2 The contractor shall co-operate with the Nodal Officer or his nominee in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Nodal Officer or his nominee.

32.3 The Defect Liability period for the contract shall be 12 months from the date issue of completion certificate.

C. QUALITY CONTROL

33. Identity Defects

- 33.1 The Nodal Officer or his nominee shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Nodal Officer or his nominee may instruct the Contractor to search for a Defect and to uncover and test any work that the Nodal Officer or his nominee considers may have a Defect.

34. Tests

- 34.1 If the Nodal Officer or his nominee instructs the Contractor to carry out a test not specified in the specification to check whether any work has a Defect and the test shows that it does the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

35. Correction of Defects

- 35.1 The Nodal Officer or his nominee shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 35.2 Every time notice of a Defect is given the Contractor shall correct the notified Defect within the length of time specified by the Nodal Officer or his nominee's notice.

36. Uncorrected Defects

- 36.1 If the Contractor has not corrected a Defect within the time specified in the Nodal Officer or his nominee's notice the Nodal Officer or his nominee will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

D. COST CONTROL

37. Bill of Quantities

- 37.1 The Bill of Quantities shall contain items for the construction, supply, installation, testing and commissioning work to be done by the Contractor.
- 37.2 The bill of quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

38. Changes in the Quantities

- 38.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than + 25 percent provided the change exceeds + 10% of initial Contract Price, the Nodal Officer or his nominee shall adjust the rate (S), to allow for the change.

38.2 The Nodal Officer or his nominee shall not adjust rates from changes in quantities if thereby the initial Contract Price is exceeded by more than 15 percent except with prior approval of the Employer.

38.3 If requested by the Nodal Officer or his nominee where the quoted rate (s) of any item(s) is abnormally high, the Contractor shall provide the Nodal Officer or his nominee with a detailed cost breakdown of such rate in the Bill of Quantities.

39. Variations.

39.1 All Variations shall be included in updated programs produced by the Contractor.

40. Payment for Variations.

40.1 Variation permitted shall not exceed +25% in quantity of each individual item, and +10% of the total contract price. With 14 days of the date of instruction for executing varied work, extra work or substitution, and before the commencement of such work, notice shall be given either (a) by the contractor to the Employer of his intention to claim the extra payment or a varied rate or price, or (b) by the Employer to the contractor of his intention to vary rate or price.

40.2 For items not existing in the Bill of Quantities or substitution to items in the Bill of Quantities, rate payable should be determined by methods given below and in the order given below:

- i) Rates and prices in Contract, if applicable plus escalation as per contract.
- ii) Rates and prices in the schedule of rates applicable to the contract plus ruling percentage.
- iii) Market rates of materials and labour, hire charges of plant and machinery used, plus 10% for overheads and profits of Contractors.

40.3 For items in the Bill of quantities but where quantities have increased beyond the variation limits, the rate payable for quantity in excess of the quantity in the Bill of Quantity plus the permissible variation should be:

- i) Rates and prices in contract, if reasonable plus escalation, failing which (ii) and (iii) below will apply
- ii) Rates and prices in the schedule of Rates applicable to the contract plus ruling percentage,
- iii) Market rates of material and labour, hire charges of plant and machinery used plus 15% for overheads and profits of contractor.

40.4 If there is delay in the Employer and the contractor coming to an agreement on the rate of an extra item, rates as proposed by the employer shall be payable provisionally till such time as the rates are finally determined or till date mutually agreed.

40.5 If the Nodal officer or his nominee decides that the urgency of varying the

work prevent a quotation being given and considers not delaying the work, no quotation shall be given and the variation shall be treated as a Compensation Event.

41. Cash flow forecasts.

- 41.1 When the program is updated, the contractor is to provide the Nodal Officer or his nominee with an updated cash flow forecast.

42. Payment Certificates.

- 42.1 The contractors shall submit to the Nodal Officer or his nominee monthly statements of the estimated value of the work completed less the cumulative amount certified previously.
- 42.2 The Nodal Officer or his nominee shall check the Contractors' monthly statement within 14 days and certify the amount to be paid to the Contractor after taking into account any credit or debit for the month in question in respect of materials for the works in the relevant amount and under conditions set forth in sub clause 51(3) of the Contract Data (Secure Advance).
- 42.3 The value of work executed shall be determined by the Nodal Officer or his nominee.
- 42.4 The value of work executed shall comprise the value of quantities of the items in the Bill of quantities completed.
- 42.5 The value of work executed shall include the valuation of variations and Compensation Events.
- 42.6 The Nodal Officer or his nominee may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

43. Payments

- 43.1 Bills shall be prepared and submitted by the Contractor, joint measurements shall be taken continuously and need to be connected with billing stage. System of 4 copies of measurements, one each for Contractor, Employer and Nodal Officer or his nominee, and signed by both Contractor and Employer shall be followed.
- 43.2 75% of bill amount shall be paid within 14 days of submission of the bill. Balance amount of the verified bill should be paid within 28 days of the submission of the bill.
- 43.3 For delay in payment beyond the periods specified in 43.2 above, interest at a pre-specified rate (suggested rate **SBI PLR + 2%**) p.a as on due date of

payment) should be paid.

Contractor shall submit final Bill within 60 days of issue of defects liability certificate. Client's Nodal Officer or his nominee shall check the bill within 60 days after its receipt and return the bill to Contractor for corrections, if any 50% of undisputed amount shall be paid to the contractor at the stage of returning the bill.

- 43.4 The Contractor should re-submit the bill, with corrections within 30 days of its return by the Nodal Officer or his nominee. The re-submitted bill shall be checked and paid within 60 days of its receipt.
- 43.5 Interest at a pre-specified rate (suggested rate SBI PLR+ 2% p.a. as on due date of payment) shall be paid if the bills is not paid within the time limit specified above.
- 43.6 If an amount certified is increased in later certificates as a result of an award by the Conciliator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute
- 43.7 Items of the Works for which no rate or price has been entered in will not be paid for by the employer and shall be deemed covered by other rates and prices in the Contract.

44. Compensation Events

- 44.1 The following mutually agreed Compensation Events unless they are caused by the Contractor would be applicable.
 - (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
 - (b) The Employer modifies the schedule of other contractors in a way which affects the work of the contractor under the contract.
 - (c) The Nodal Officer or his nominee orders a delay or does not issue drawings, specifications or instructions required for execution of works on time.
 - (d) The Nodal Officer or his nominee instructs the Contractor to uncover to carry out additional tests upon work which is then found to have no Defects.
 - (e) The Nodal Officer or his nominee unreasonably does not approve for a subcontract to be let.
 - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of letter of Acceptance from the information issued to Bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the site.
 - (g) The Nodal Officer or his nominee gives an instruction for dealing with an

unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.

- (h) Other contractors, public authorities, utilities or the Employer does not work within the dates and other constraints stated in the Contract that cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effect on the Contractor of any of the Employer's Risks.
- (k) The Nodal Officer or his nominee unreasonably delays issuing a Certificate of Completion.
- (l) Other Compensation Events listed in the Contract Data or mentioned in the contract.

Whenever any compensation event occurs, the contractor will notify the employer, within 14 days and provide a forecast cost of the compensation event.

- 44.2. If a Compensation Event would cause additional cost or would prevent the work being completed before the intended Completion Date, the Contract Price shall be increased and/or the intended Completion Date shall be extended. The Nodal Officer or his nominee shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

- 44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast has been provided by Contractor, it is to be assessed by the Nodal Officer or his nominee and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable the Nodal officer or his nominee shall adjust the Contract Price based on Nodal Officer or his nominee's own forecast. The Nodal Officer or his nominee will assume that the Contractor will react competently and promptly to the event.

45. Tax

- 45.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at sources as per applicable law. The rates to be quoted are exclusive of Service Tax. Contractor claims for reimbursement of service tax, as applicable on the contract on question as per provisions of service tax laws and amendments thereon from time to time, will be made on submission of the documentary evidence. Service tax element will not be considered for the purpose of evaluation of bid price.

46. Currencies

- 46.1 All payments shall be made in Indian Rupees unless specifically mentioned.

47. Price Adjustment

- 47.1 Contract price shall be adjusted for increase or decrease in rates and prices of labour, materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given.

The price adjustment shall apply for the work done from the start date given in the Contract data upto end of the initial intended completion date or extensions granted by the Nodal Officer or his nominee and shall not apply to the work carried beyond the stipulated time for reason attributable to the contractor.

- (I) The Price adjustment for increase or decrease in the cost shall be paid in accordance with the following formula:

$$V = 0.85 \times Q \times R \times [(P - P_o)/P_o]$$

Where,

V = Variation in price on account of Labour / Diesel / Cement / Steel / All Commodities during the month under consideration.

P_o = Market rate of Diesel / Cement / Steel / All Commodities on the date of opening of Technical bid. (Consumer Price Index for Labour).

P = Market rate of Diesel / Cement / Steel / All Commodities during the month under consideration. (Consumer Price Index for Labour).

Q = Percentage of Labour / Diesel / Cement / Steel / All Commodities. R = Value of work done during the month under consideration.

Note : i) Escalation to be computed for relevant items. Percentage that shall govern the escalation under Q shall be predetermined and indicated in tender document for each component i.e. Labour, Fuel, Cement, Steel, All Commodities etc.

- 47.2 NIL.

- 47.3 To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of this or other clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amount to cover the contingency of such other rise or fall in costs..

SUBSEQUENT LEGISLATION

If , after the date 28(Twenty eight)prior to the date for submission of tenders for the contract there occur changes to any National or Statute Stature, Ordinance or Decree or other law or any regulation or bye law of any local or other duly constituted authority or introduction of any such statute, ordinance, decree, law, regulation orbye law which causes additional or reduced cost to the contractor in execution of the contract, such additional or reduced cost shall, after due consultation with the employer and the contractor be determined by the nodal officer or his nominee and shall be added to or deducted from the contract price and the nodal officer or his nominee shall notify the contractor accordingly with a copy to the employer.

48. Retention

48.1 The employer shall retain from each payment due to the contractor the proportion stated in the contract data until completion of the whole of the works.

48.2 Retention money shall be deducted at 5% from each running bill, subject to a maximum of 5 percent of the contract price. Retention money shall be refunded within 14 days from the date of payment of final bill.

49. Liquidated damages

49A. In case of delay in completion of the contract, liquidated damages (L.D) maybe levied at the rate of 1/2%of the contract value per week of delay or part thereof, subject to a maximum of 10 per cent of the contract price.

(i) The owner, if satisfied ,that the works can be completed by the contractor within a reasonable time after the specified time for completion , may allow further extension of time at its discretion with or without the levy of

L.D. In the event of extension of time at its discretion with L.D, the owner will be entitled without prejudice to any other right or remedy available in that behalf per cent (1/2%) of the contract value of the works for each week or part of the week subject to the ceiling defined in sub-clause 49A.

(ii) The owner ,if not satisfied that the works can be completed by the contractor, and in the event of failure on the part of the contractor to complete work with in further extension of time allowed as aforesaid, shall be entitled, without prejudice to any other right, or remedy available in that behalf, to rescind the contract.

(iii) The owner, if not satisfied with the progress of the contract and in the event of failure of the contractor to recoup the delays in the mutually agreed time frame, shall be entitled to terminate the contract.

(iv) In the event of such termination of the contract as described in

clauses 49A(ii) or 49A(iii) or both the owner shall be entitled to recover L.D. up to ten per cent (10%) of the contract value and forfeit the security deposit made by the contractor besides getting the work completed by other means at the risk and cost of the contractor.

- (v) The ceiling of LD shall be 10% of the cost of work.
- (vi) In case part / portions of the work can be commissioned and port operates the portion for commercial purpose, the rate of LD will be restricted to the uncompleted value of work, the maximum LD being on the entire contract value.

Note: Contract price for LD shall be inclusive of tender price plus taxes and duties. For calculation of incentive payment, contract price shall be exclusive of tender price plus taxes and duties.

50. Incentives or Bonus

For early completion of the contract before the stipulated date of completion of work, an incentive amount @ 0.25 % of the contract price may be paid to the contractor for every fortnight of early completion, subject to maximum cap of 5% of the contractor price. The port if satisfied, that the works can be completed by the contractor within a reasonable time after the specified time for completion, may allow extension of time at its discretion, the extension which the contractor make himself eligible for incentive, the extension shall be considered only till the actual date of completion and no incentive shall be payable. For calculation of incentive payment, contract price shall be exclusive of tender price plus taxes and duties.

51. Advance payment

The Employer shall make the following advance payments:

- 51.1. Mobilization Advance shall be paid up to 10% of contract price, payable in two equal instalments. The first instalment shall be paid after mobilization has started and next instalment shall be paid after satisfactory utilization of earlier advance.
- 51.2. Construction / installation equipment advance shall be paid upto 5% of contract price.
- 51.3. Mobilization advance and Construction equipment advance shall be paid at SBI PLR + 2% p.a. (as on date of payment) interest at the discretion of employer and against bank guarantee for such advance and against hypothecation of construction equipment to the employer. However, availing of advance payment be optional with the bidder exercising the option along with the tender.
- 51.4. Equipment advance shall be paid in two or more equal instalments. First instalment shall be paid after construction equipment has arrived at the site and next instalment shall be paid after satisfactory utilization of earlier advances (s).

- 51.5 Recovery of Mobilization and Construction Equipment advance will start when 15% of the work is executed and recovery of total advance should be completed by the time 80% of the original contract work is executed.
- 51.6 The Nodal Officer or his nominees shall make advance payment in respect of materials and plant brought to site for but not yet incorporated installed in the works in accordance with conditions stipulated in the Contract Date. 75% of cost of materials and plant brought to site for incorporation into the works only shall be paid as secured advance. Materials which are of perishable nature should be adequately insured.

52. Performance Securities

“Security Deposit shall be 10% of Contract price of which 5% of contract price should be submitted as Bank Guarantee/Digital transfer/FDR within 21 days of receipt of Letter of Acceptance and balance 5% recovered as Retention Money from Running Bills. Recovery of 5% of Retention Money to commence from the first bill onwards @5% of bill value from each bill. Retention Money be refunded within 14 days from the date of payment of final bill. Balance SD to be refunded immediately not later than 14 days from completion of defect liability period.

Failure of the successful Bidder to comply with the requirements of above shall constitute sufficient grounds for cancellation of the award of work and forfeiture of the Bid security

“The documentary evidence (copy of paid Challan in Govt. Treasury) of Welfare Cess @ 1% of work done or as amended by Statutory Authority from time to time, paid on final bill shall be submitted before releasing the Performance Guarantee.”

53. NIL.

54. Cost of Repairs.

- 54.1 Loss or damage to the works or materials to be incorporated in the works between the start date and the end of the defects correction period shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. FINISHING THE CONTRACT.

55. Completion

- 55.1 After completion of the work, as a whole the contractor will serve a written notice to the Nodal Officer or his nominee/Employer to this effect. The Nodal

Officer or his Nominee/Employer upon receipt of this notice shall conduct a complete joint survey of the work within 7 days and prepare a defects list jointly. The defects pointed out by the Nodal Officer or his nominee/Employer would be rectified by the contractor within 14 days and thereafter acceptance report be signed jointly by the contractor and

the employer. This joint acceptance report shall be treated as "completion Certificate".

56. Taking over

- 56.1 The employer shall take over the site and the works within seven days of the Nodal Officer or his nominee issuing a certificate of completion.

57. Final Account

- 57.1 The Contractor shall supply to the Nodal Officer or his nominee a detailed account of the total amount that the Contractor considers payable under the contract before the end of the Defects Liability period. The Nodal Officer or his nominee shall issue a defects liability certificate and certify any final payment that is due to the contractor within 60 days of receiving the contractor's account if it is correct and complete. If it is not, the Nodal Officer or his nominee shall issue within 15 days a schedule that states the scope of the corrections or additions that are necessary for the correction and certify payment of 50% of the undisputed amount to the contractor. If the final account is still unsatisfactory after it has been resubmitted the Nodal Officer or his nominee shall decide on the amount payable to the contractor and issue a payment certificate, within 60 days of receiving the contractor's revised account.

58. Operating and Maintenance Manuals

- 58.1 If "as built" Drawings and /or operating and maintenance manuals are required the contractor shall supply them by the dates stated in the Contract Data.
- 58.2 If the contractor does not supply the drawings and /or manuals by the dates stated in the contract data, or they do not receive the Nodal Officer or his nominees approval, the Nodal Officer or his nominee shall withhold the amount stated in the contract data from payments due to the contractor.

59. Termination

- 59.1 The employer or the Contractor may terminate the contract if the other party causes a fundamental breach of the contract.
- 59.2 Fundamental breaches of contract include, but shall not be limited to the following:
- (a) the contractor stops work for 28 days when no stoppage of work is shown on the current program and the stoppage has not been authorized by the Nodal Officer or his nominee.
 - (b) The Nodal Officer or his nominee instructs the contractor to delay the progress of the work and the instruction is not withdrawn within 28 days.
 - (c) The employer or the contractor becomes bankrupt or goes into liquidation other than for a reconstruction restructure or

amalgamation.

- (d) A payment certified by the Nodal Officer or his nominee is not paid by the employer to the contractor within 50 days of the date of the Nodal Officer or his nominee's certificate.
- (e) The Nodal Officer or his nominee gives Notice the failure to correct a particular defect is a fundamental breach of contract and the contractor fails to correct it within a reasonable period of time determined by the Nodal Officer or his nominee.
- (f) The contractor does not maintain a security which is required.
- (g) The contractor has delayed the completion of works by the number days for which the maximum amount of liquidated damages can be paid as defined in the contract data and
- (h) If the contractor, in the judgment of the employer has engaged in corrupt or fraudulent practices in competing for or in the executing the contract.
- (i) If the contractor has contravened clause 9.00

For the purpose of this paragraph: "corrupt practice" means the offering, giving receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution. "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 employer, and includes collusive practice. Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the employer of the benefits of free and open competition".

59.3 When either party to the contract gives notice of a breach of contract to the Nodal Officer or his nominee for a cause other than those listed under sub clause above, the Nodal Officer or his nominee shall decide whether the breach is fundamental or not.

59.4 Notwithstanding the above, the employer may terminate the contract for convenience subject to payment of compensation to the contractor including loss of profit on uncompleted works. Loss of profit shall be calculated on the same basis as adopted for calculation of extra/additional items.

59.5 If the contract is terminated the Contractor shall stop work immediately, make the site safe and secure and leave the site as soon as reasonably possible.

60. Payment upon Termination.

60.1 If the contract is terminated because of a fundamental breach of contract by the contractor, the Nodal Officer or his nominee shall issue a certificate for the value of the work done less advance payments received

upto the date of the issue of the certificate, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the contract data. Additional liquidity damages shall not apply, if the total amount due to the employer exceed any payment due to the contractor, the difference shall be a debt payable to the employer.

- 60.2 If the contract is terminated at the employer's convenience or because of a fundamental breach of contract by the employer, the Nodal Officer or his nominee shall issue a certificate for the value of the work done, the reasonable cost of removal of equipment, repartition of the contractors personnel employed solely on the works, and the contractor's costs of protecting and securing the works and loss of profit on uncompleted less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract and less taxes due to be deducted at source as per applicable law.

61. Property

- 61.1 All materials on the Site, Plant, Equipment, Temporary Works and Works for which payment has been made to the contractor by the Employer, are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

62. Release from Performance.

- 62.1 If the Contract is frustrated by the outbreak of war or by other event entirely outside the control of either the Employer or the Contractor, the Nodal Officer or his nominee shall certify that Contract has been frustrated. The Contractor shall leave the Site and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made.
- 62.2 The contractor shall be registered under The Building and Other Constructions Workers (Regulation of Employment and Conditions of Service) Act, 1996.

63. NIL.

F. SPECIAL CONDITIONS OF CONTRACT

1. LABOUR

The contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Nodal Officer or his nominee, deliver to the Nodal Officer or his nominee a return in detail, in such form and at such intervals as the Nodal Officer or his nominee may prescribe, showing the staff and numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Nodal Officer or his nominee may require.

2. COMPLIANCE WITH LABOUR REGULATIONS:

During continuance of the contract, the Contractor and his sub contractors shall abide at all times by all existing labour enactment and rules made there under, regulations, notifications and by laws of the State or Central Government or local authority and any other labour law (including rules)

regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or Central Government or the local authority. Salient features of some of the major labour laws that are applicable to construction industry are given below. The Contractor shall keep the Employer indemnified in case any action is taken against the employer by competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor the Nodal Officer or his nominee/Employer shall have the right to deduct any money due to the Contractor including his amount of performance security. The Employer/Nodal Officer or his nominee shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

- **SALIENT FEATURES OF SOME MAJOR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK.**
 - (a) Workmen Compensation Act 1923:- The act provides for compensation in case of injury by accident arising out of and during the course of employment.
 - (b) Payment of Gratuity Act 1972:- Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more on death at the rate of 15 days wages for every completed year of service. Act is applicable to all establishments employing 10 or more employees.

- (c) Employees P.F and Miscellaneous Provision Act 1952:- The Act Provides for monthly contribution by the employer plus workers @ 12%/8.33%. the benefits payable under the Act are:
- (i) Pension to family pension retirement or death, as the case may be.
 - (ii) Deposit linked insurance on the death in harness of the worker,
 - (iii) payment of P.F accumulation on retirement/death etc.
- (d) Maternity Benefit Act 1951:- The Act provides for leave and some other benefits to workmen/ employees in case of confinement or miscarriage etc.
- Contract Labour (Regulation & Abolition) Act 1970:- The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The Principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more contract labour.
- (e) Minimum Wages Act 1948:- The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, Runways are scheduled employment.
- (f) Payment of Wages Act 1936:- It lays down as to by what date the wages are to be paid when it will be paid and what deductions can be made from the wages of the workers.
- (g) Equal Remuneration Act 1979:- The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.
- (h) Payment of Bonus Act 1965:- The Act is applicable to all establishments employing 20 or more employees. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs.3500/- per month or less. The bonus to be paid to employees getting Rs.2500/- per month or above upto 3500/- per month shall be worked out by taking wages as Rs.2500/- per month only. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of this Act.
- (i) Industrial Disputes Act 1947:- The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lockout becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- (j) Industrial Employment's (Standing Orders) Act 1946:- It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50).

The provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get same certified by the designated Authority.

- (k) Trade Unions Act 1926:- The Act lays down the procedure for registration of trade union of workmen and employers. The Trade Union registered under the Act have been certain immunities from civil and criminal liabilities.

- (l) Child Labour (Prohibition & Regulation) Act 1986:- The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of Children in all other occupations and processes. Employment of Child Labour is prohibited in Building and Construction Industry.

- (m) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979:-

The Act is applicable to an establishment which employs 5 or more inter- state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home upon the establishment and back, etc.

- (n) The Building and Other Construction workers (Regulation of Employment and Conditions of Service Act 1996 and the Cess Act of 1996:- All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the Building or Construction work and other welfare measures, such as Canteens, First- Aid facilities. Ambulance, Housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.

- (o) Factories Act 1948:- The Act lays down the procedure for approval at plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrence to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 more persons without the aid of power engaged in manufacturing process.

SECTION 4

CONTRACT DATA

CONTRACT DATA

Items marked "N/A" do not apply in this contract.

The following documents are also part of the contract	clause reference
The schedule of other contracts	(8 (Section -3
))	
The schedule of key personnel	(9 (Section -3))

The above insertions should correspond to the information provided in the invitation of bids.

The employer is

Name :- DEENDAYAL PORT AUTHORITY,
Address: A.O building, PO Box No-50, Gandhidham, (Gujarat)

Name of authorized representative is: Chief Engineer
Address: A.O building, PO Box No-50, Gandhidham,
(Gujarat)

The nodal officer or his nominee is:

Name: SUPERINTENDING ENGINEER (P)
Address: Annexe, Ground floor, A.O. Bldg, Gandhidham

Name of authorized representative is: Asst. Exe. Engr. (P)/Asst. Engr.
/ J.E. Address: Estate Office, Old Kandla

The name and identification number of the contract is **"Construction of SWD outside of Custom Bonded area."**

The works consist of " _____ "

The start date shall be _____

The intended completion date for the whole
Of the work is **11 months** with the following milestones: (17 &

28 (section 3)) Milestone dates: NIL.

The following documents also form part of the contract

The contractor shall submit a program for the works
Within Fifteen days of delivery of the letter of acceptance/work order.

The site possession dates shall be
Section 1

Section 2 The site possession dates shall be given after the
award of work.

Section 3

The site is located inside cargo jetty complex, new kandla and is defined in
drawing . (1)

The defect liability period is 1(One) Year. (35)

The minimum insurance cover for physical property, injury and death is Rs.
10.00 Lacs (Rs. Ten Lacs) per occurrence with the number of occurrences
limited to four. After each occurrence, contractor will pay additional premium
necessary to make insurance valid for four occurrences always.

The following event shall also be compensation events: (44)

1. The employer terminates the contract for his convenience

2. _____.

3. _____.

4. _____.

The period between programme updates shall be **15** days (27)

The amount to be withheld for late submission of an updated programme shall be
Rs. 5,000/-. (27)

The language of the contract documents is English(3)

The law, which applies to the contract, is law of union of India
(3)

)The currency of the contract is Indian rupees. (46)

Fees and types of reimbursable expenses to be paid to the Dispute
Review Expert (25)

Appointing authority for the conciliator CIDC - SIAC Arbitration
Center is DEENDAYAL PORT AUTHORITY (26)

The Formula (e) for adjustment of price are:

A(i) Escalation is payable for contracts with duration more than 12 months and whose estimated cost is more than Rs. 5 crores. However, only statutory variation limited to duties and taxes are considered for adjustment in contract price.

A(ii) For calculation Escalation, base price should be taken as on the date of opening of the bids.

B The contract document should specify the suitable percentage of input for labour, materials like cement, steel, bitumen, POI and other materials and equipments usage for the purpose of calculating escalation.

C Escalation should be calculated, based on

- Notified fair wages and in the absence of which consumer price index for labour would be applicable,
- Market rate for cement and steel
- Average official retail price of bitumen and POL, and
- Whole sale price index for other materials,
- Published Government Documents should be used for calculation of escalation amount

D Escalation Reimbursement should be calculated for to the extent of 85% of the escalation so calculated.

E Beyond the contract period and during extended completion period, the variation in price will be at the frozen consumer price index / market rates prevailing on the original schedule date of completion of work expect when the delay is on port account.

R= Value of work as defined in Clause 47.1 of condition of contract.

Adjustment formula:

(I) Price adjustment for increase or decrease in the cost shall be paid in the accordance with the following formula:

$$V=0.85 \times Q \times R \times \{(P - P_o) / P_o\}$$

V= Variation in price on account of labour / Diesel / Cement / Steel/ Bitumen during the month under consideration.

P_o = Market rate of diesel / steel, / cement, / bitumen on the date of opening of the bids. (Consumer Price Index for Labour)

P= Market rate of diesel / steel, / cement, / bitumen during the month under consideration. (Consumer Price Index for Labour)

Q= Percentage of labour / diesel / cement / steel / bitumen component. R= Value of work during the month under consideration.

Note: Escalation to be computed for relevant items. Percentage that shall govern the escalation under Q shall be predetermined and indicated in Tender for each component i.e. Labour, Fuel, Cement, Steel, Bitumen etc.

SECTION-5

SPECIAL CONDITIONAND SPECIFICATIONS

SITE CONDITIONS AND SPECIFICATIONS

- (1) The provision in special condition which form a part of the contract shall have precedence over those specified in Section 1, 2, 3, 4 and 6 of Contract in case of diversity if any.
- (2) The following clauses will **not** applicable. **(i) Section 1**

- **CLAUSE 4.1 c, d, e, 4.1 g, 4.2 d,e, j, k**
- **CLAUSE 4.3 iv, 4.4, 4.5**
- **CLAUSE 8.2**
- **CLAUSE 9.2**
- **CLAUSE 13.4,**
- **Clause 19, 20.1**
- **Clause 22.2, 22.5**
- **Clause 23.2, 23.3, 23.4, 27.1, 27.2**
- **Clause 36,**

35(ii) Section 2

SPECIMEN FOR FORM OF BID

- **Clause (c), (d) & (g)**

CONTRACTOR'S BID

- **Advance payment**

- We accept the appointment of _____ as the conciliator
(Not Applicable)
- **(OR)**
- We do not accept the appointment of _____ as the conciliator and
proposed instead that _____
be appointed as conciliator whose daily fee and biographical data are
attached. **(Not Applicable)**

Pre qualification of bidder

- **Table 5, 6 & 7**

(iii) (Section 3)

- **Para 2 of Clause 1.1**
- The Conciliator is the person appointed jointly by the Employer and the contractor to resolve disputes in the first instance as provided for in Clauses 24 and 25. The name of the Adjudicator is defined in the Contract Data.
- **CLAUSE 8.1, 9.1**
- **Clause 21, 24, 25 ,26**
- **Clause 43.2, 43.3, 43.4, 43.5, 43.6, 43.7**
- **Clause 44, 45**
- **Clause 47, 48, 49(vi)**
- **Clause 50,**

51(iv) (Section 4)

- Conciliator is not applicable under Contract Data
- The formula (e) for adjustment of price
- Schedule of other contractors.
- Schedule of key personnels.
- Compensation events.

(v) (Section 6)

- FORMS FOR DISPUTE REVIEW BOARD AGREEMENT.
- SPECIMEN BG FOR ADVANCE PAYMENT.

(a) Section-I Clause No. 5.2 & Section-3, Clause No. 7 are modified as under :-

Companies/Contractors may jointly undertake contract/contracts. The number of partners in JV/Consortium shall be limited to maximum of three. Each entity would be jointly and severally responsible for completing the task as per the contract, however declaration of the Lead member (JV has to designate one partner as Lead Member in their MOU) to be indicated by bidders. The firms with at least 26% equity holding each are allowed to jointly meet the eligibility criteria.

- (a) A legally binding Joint venture / Consortium Agreement signed by authorized signatories of all the partners of the JV/Consortium, as per the proforma at **Section-6** shall be enclosed with the bid.
- (a) Power of attorney duly executed and signed by legally authorized signatories of all the partners, authorizing the Lead Partner (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV/Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV /Consortium and

to carry out the entire execution of the contract including payment, exclusively through Lead Partner, as per the proforma at **Section-6**, which shall be duly authenticated by a notary public or equivalent certifying authority, shall be enclosed with the bid.

- (b) The bid and in the case of the successful bidder, the Agreement, shall be signed and / or executed in such a manner for making it legally binding on all partners (including operative parts of the ensuing Contract in respect of Agreement of Arbitration, etc.). The Contract shall be signed by legally authorized signatories of all partners.
- (c) The Lead Partner shall be authorized to receive instructions for and on behalf of the partners of the Joint venture and entire execution of the Contract including payment shall be carried out exclusively through the Lead Partner. A Statement to this effect should be included in the Joint Venture Agreement.
- (d) All partners of the Joint Venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a Statement to this effect should be included in the Joint Venture Agreement.
- (e) Bid Security as required shall be furnished by Lead Member of Joint venture.
- (f) Performance Guarantee, as required, will be furnished by Lead Member of Joint venture.
- (g) Participation by a firm in more than one JV /Consortium is not permissible. A firm who submits bid on individual capacity is not eligible to be a partner of a JV /Consortium. In case a firm's name appears in more than one bid then both application may be rejected.
- (h) Each partner must submit the complete documentation, or portions applicable thereto, required qualifying the firm for bidding.
- (i) All the partners of the JV/Consortium shall be jointly and severally liable for due performance, recourse/sanctions within the joint venture in the event of default of any partner and arrangements for providing the required indemnities.
- (j) Notwithstanding demarcation or allotment of work among the partners, each partner shall be liable for non-performance of the whole contract irrespective of their demarcation or share of work.
- (k) The Lead Partner shall be authorized to act on behalf of the JV/Consortium.
- (l) All the correspondences between the Employer and the contractor shall be routed through the Lead Partner.

- (m) In the event of default by the Lead Partner, it shall be construed as default of the Contractor; and Employer will take action under relevant clause(s) of the Bid Document and/or General Terms and Conditions of Contract.
 - (n) An undertaking that all the partners are jointly and severally liable to the Employer for the performance of the contract shall be enclosed with the bid.
 - (o) In the event of any partner leaving the JV, it shall be intimated to the Employer within 30 days by other partner(s). Failure to do so shall be construed as default of the contractor and the Employer may take action under relevant clause(s) of the Bid Document and/or General Terms and Conditions of Contract.
 - (p) The contractor shall not alter its composition or legal status without the prior written permission of the Employer. Failure to do so shall be construed as default of the contractor and the Employer may take action under relevant clause(s) of the Bid Document and/or General Terms and Conditions of Contract.
 - (q) One of the partners of JV/Consortium should have downloaded the bid documents.
- (3) Arbitration Clause
- (I) Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, designs, drawings and instructions here in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or any other thing whatsoever, in any way arising out of or relating to the contract, design, drawings, specifications, estimates, instructions, orders or to the conditions or otherwise concerning the works or regarding the execution or failure to execute the same whether arising during the progress of work or after the completion thereof as described here in after shall be referred to the Chairman for sole arbitration by himself or by any officer appointed by him.
 - (II) It will be no objection to any such appointment that the arbitrator is an employee of the Board or the Government, that he had to deal with the matter to which the contract relates and that in course of his duties as an employee of the Board or the Government, he had expressed views on all or any of the matters in dispute or of different.
 - (III) The arbitrator who has been dealing with arbitration case being transferred or vacating his office or in the event of his death or being unable to act for any reason, the Chairman holding the office, shall arbitrate himself or appoint any officer to act as arbitrator.

- (IV) It is also a term of the contract that no person other than the Chairman himself or any officer appointed by him shall act as arbitrator.
- (V) It is a term of the contract that only such question and disputes as were raised during progress of work till its completion and not thereafter shall be referred to arbitration. However, this would not apply to the questions and disputes relating to liabilities of parties during the guarantee period after completion of the work.
- (VI) It is a term of the contract that the party invoking arbitration shall give a list of disputes with amounts of claim in respect of each said disputes alongwith the notice seeking appointment of arbitrator.
- (VII) It is also a term of contract that if the contractor does not make any demand for appointment of arbitrator in respect of any claims / disputes in writing, as aforesaid, within 120 days of receiving the intimation from the Engineer -in-charge that the final bill is ready for payment, the claim of the contractor shall be deemed to have been waived and absolutely barred and the Port Trust shall be discharged and released of all liabilities under the contract in respect of these claims.
- (VIII) It is also a term of the contract that the arbitrator shall adjudicate only such disputes / claims as referred to him by the appointing authority and give separate award against each dispute/claims as referred to him. The arbitrator will be bound to give claim wise detail and speaking award and it should be supported by reasoning.
- (IX) The award of the arbitrator shall be final, conclusive and binding on all the parties to the contract.
- (X) The arbitrator may from time to time, with the consent of both the parties, enlarge the time for making and publishing the award.
- (XI) Arbitration shall be conducted in accordance with the provision of Indian Arbitration Act, 1996 or any statutory modifications or re-enactment thereof and rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause.
- (XII) It is also a terms of the contract that if any fees are payable to the arbitrator, this shall be paid equally by both the parties.
- (XIII) It is also a term of the contract that the arbitration shall be deemed to have been entered on the reference on the date he issued the first notice to both the parties calling them to submit their statement of claims and counter statement of claims.

(XIV) Venue of arbitration shall be such place as may be fixed by the arbitrator at his sole discretion.

- (4) The tenderers are expected to have full knowledge of the site of work and local working conditions in the Port before submitting the tenders. The port is basically an operational area dealing mainly with stacking, loading and unloading of import/export cargo and movement of traffic in or out of the port. The Engineer-in-Charge will after issue of work order will give to the contractor possession of so much of the site as in the opinion of Engineer-in-Charge may be required to enable the contractor to commence and proceed with the construction of work and will from time to time as the works proceed

give to the contractor possession of such portion of the site as may in the opinion of Engineer-in-Charge be required to enable the contractor to proceed with construction works without interruption of the work in accordance with the requirement. However, all efforts will be made to handover entire clear site at the time of starting of work. No claims/disputes about idling of power machineries and hot mix plant etc. what-so-ever forhanding over the site of work late for starting the work shall be entertained.

- (5) If the contractor suffers any delay the Engineer-in-Charge may grant at his discretion an extension of time for completion of work. However, no claims/disputes etc. arising out of extension of time so granted shall be entertained.

The contractor while filling up their rates in the tender should consider the above aspects.

- (6) The layout and levels of all structures etc. shall be made by the Contractor at his own cost from the nearby existing structures/facilities and bench markreference pillar, as directed by the Engineer-in-Charge. He shall give all help with instruments, materials, and men to the engineer-in-Charge for checking the detailed layout and correctness of the layout and level. The approval of the Engineer-in-Charge shall not be deemed to imply any warranty and shall not relieve the contractor of his sole responsibility in carrying out the work correctly.
- (7) Workmanship shall be the best possible quality and all work shall be carried out by skilled workmen except for those which normally require unskilled persons. If the laws of the local Government/Municipal of other authority require the employment of licensed or registered workmen for various trades, the contractor shall arrange to have the work done by such licensed/registered personnel.
- (8) If required before commencement of work the Engineer and the Contractor shall jointly survey and record all required ground levels on the site. The Contractor shall supply all necessary equipment and attendance for carrying out such surveys. The contractor shall prepare record drawings showing the agreed levels which shall be signed by the Engineer and the Contractor.

- (9) All materials to be used in the works shall be subjected to inspection and test. Samples of all materials, proposed to be used, and in the permanent works shall be submitted to the Engineer-in-Charge for approval before those are brought to site. Samples required for approval and testing must be supplied allowing sufficient time for testing and approval, due allowance being made for the fact that if the first samples are rejected further samples shall be required. Delay in the execution of work due to late submission of samples will not be acceptable as a reason for delay in the completion of the works.

Materials shall be tested before dispatching to the site, where possible. Materials shall also be tested on the site and those may be rejected if found not suitable or not in accordance with the specifications notwithstanding the results of tests at the contractor's work or elsewhere or of test certificates or of any approval given earlier.

- (10) The work shall be carried out in accordance with the best standards of workmanship and to entire satisfaction of Engineer-in-Charge.
- (11) An order book is to be maintained by the contractor at the site of work and orders and instruction written in the order book shall be deemed to have been legally issued to the contractor and the contractor shall sign each entry in the order book as a token of having seen the same. The order book shall be property of the Board and shall be handed over to the Engineer-in-Charge of the work in good condition after the completion of the work or whenever required by the Engineer-in-Charge.
- (12) The contractor shall be required to execute the work in such a way so as not to cause any damage, hindrance or interference with port activities going on in the area or nearby. He should not also deposit the materials at such places which may cause inconvenience to the public and the work going on in the nearby area.
- (13) The contractor shall have to make good all damages done by him to the structures nearby while executing the work and no extra payment shall be made to him on that account.
- (14) All the materials required to be used in the work shall have to be got approved from the Engineer-in-Charge before use, before stacking at the site of work.
- (15) For the purpose of measurements, the method prescribed in the 'Indian Standard' specifications shall be applicable in addition to those prescribed in Boards Schedule of Rates unless stated otherwise stated in contract. In case of any ambiguity the decision of the Engineer-in-charge shall be final.

- (16) The notes and datas furnished in DEENDAYAL PORT AUTHORITY, Schedule of Rates in force will be considered for measurement purpose in the case of lead, weight, allowance for voids etc. of the materials.
- (17) All the labour acts, rules and regulations in force from time to time are to be followed by the contractor.
- (18) The contractor shall have to obtain necessary licence from the Assistant Labour Commissioner (Central) Gopalpuri in case he has to engage 20 or more workers on any day during the execution of work.
- (19) Barricading, including proper lighting arrangement in the night at the required places shall have to be provided by the contractor at his own cost, including necessary arrangements for proper movement of traffic by carefully maintained approaches and road diversions with suitable sign boards for indications of road signs etc. as directed by the Engineer-in-Charge.
- (20) Income tax deduction at applicable rates and surcharge as applicable thereon shall be made while making the payment to the contractor for carrying out the work and only net amount shall paid as directed by the Central Board of the direct taxes, Ministry of Finance, Government of India.
- (21) GST clause :
 - (i) The contractor shall quote the price exclusive of GST. The contractor shall quote prevailing GST rate separately which shall be reimbursed by DPA after ascertaining necessary compliance as per Goods & Service Tax – 2017. The contractor should have valid GST registration number to become eligible for Participating in the bid. However, GST will not be considered for evaluation of bid Price. All other duties, taxes, cesses applicable if any, shall be borne by the contractor.
 - (ii) GST Registration should be invariably mentioned in the bid / tender, failing which the bid / tender will be treated as non-responsive and liable to be discharged.
 - (iii) GST & PAN No. may be furnished with documentary evidence along with the Tender Documents.
 - (iv) It is mandatory to upload scanned copies of all the documents including GST registration certificate as stipulated in the bid document. If such document is not uploaded his bid will become invalid and cost of bid document shall not be refunded.

- (v) The TDS under GST Act is required to be deducted @ 2% (1% CGST and 1% SGST or 2% IGST) from payment / credit given to contractors / professionals and others for work order/contracts exceeding Rs.2,50,000.00
- (vi) Contractor / Service provider / supplier etc., has to ensure timely and proper filling of GSTR 1 so that DEENDAYAL PORT AUTHORITY can avail input tax credit in timely manner. In case DPA not allowed input tax credit due to failure on part of the contractor / service provider / supplier etc., it will be a financial loss to the DPA and therefore same shall be recovered from the payment / deposit of the contractor / service provider/supplier.
- (22) All the work until handed over to the Engineer-in-Charge shall stand at the risk of the contractor who shall be responsible to make good at his own cost. All the losses and damage caused by or due to fires, weather, tides or any other reasons. Contractor shall hand over the work in good order and conditions and in conformity in every respect with the requirements of the contract. Each concrete road will be taken over for use on completion as per decision of Engineer-in-charge.
- (23) All the grass, shrubs, plants and foreign matter etc. in the alignment of the site and within the site of work shall have to be cleared, if required without any extra cost.
- (24) During the execution of work the contractor shall employ only such persons who are careful, perfectly skilled and experienced in his field of work. The Engineer-in-Charge shall be at liberty to object and ask the contractor to remove from the work any person employed by the contractor for execution of work, in the opinion of Engineer-in-Charge, misconducts or he is found negligent in the proper performance of his duties as such persons shall not be again employed on the work without permission of Engineer-in-Charge.
- (25) All the precautions regarding the safety of the work shall have to be taken and the instruction of Engineer-in-charge in this respect shall have to be followed strictly.
- (26) The Engineer-in-charge may delete any number of items included in his tender (contract) without assigning any reasons and without any financial liability.
- (27) All the tools, plants, scaffolding, ladder etc. and other machinery etc. required temporary for the purpose of execution of work will have to be arranged by the contractor at his own cost, and storing of such tools, plants etc. will have to be made by him.
- (28) The contractor has to make his own arrangement for the storage of materials at site or work.

- (29) Unless otherwise specifically mentioned the rates quoted for all items includes for all lead and lift and no extra claims shall be entertained on this account.
- (30) For execution of work, contractor has to construct temporary offices, store, labour room toilet etc. at his own cost. Nothing will be paid for these purpose and on completion of the work, before handing over the site contractor has to dismantle all these temporary structure erected by him. Completion certificate will be issued only after compliance of above aspect.
- (31) The contractor shall have to obtain quarry permits from the office of the Geologist, Department of Geology and Mines, Anjar-Kutch before quarrying any secondary materials like Quarry spall, crushed metal, sand, earth, murrum, rubble etc.
- (32) All the royalties of materials, quarry fees, octroi, wharfage charges, any taxes etc. are payable by the contractor directly to the authority concerned and the rates quoted shall be deemed to be inclusive of all such charges.
- (33) All royalties of Metals, quarry fees etc. payable by the contractor directly to the authorities concerned and rates tendered shall be deemed to be inclusive of all charges Before claiming refund of security deposit the contractor shall produce "NO dues certificate" from Geologist, Anjar.
- (34) The working drawings of the proposed works shall be supplied to the contractor during the progress of works as and when found necessary by Engineer-in-charge and decision of Engineer-in-charge regarding requirement of detailed drawings shall be final and binding to the contractor and no claims/disputes what-so-ever regarding non-availability of drawings shall be entertained.
- (35) The contractor shall not deposit and store any materials in such a way so as not to cause inconvenience to the Port users and hindrance in the port activities.
- (36) Nothing extra shall be paid for change of quarry against lead etc.
- (37) Though the drawings to be supplied will be exhaustive the decision of the Engineer-in-charge regarding any change in the drawings shall be final and binding to contractor and no dispute / claim regarding extra payment shall be allowed on account of such changes.
- (38) The tenderer shall examine carefully the condition of contract, specifications and drawings etc. before submitting the tender. He shall also visit and inspect site of work and acquaint himself with all local condition in the oil jetty of port, availability of construction materials and labourers nature of soil and working condition at and around the site before submitting the tender. No dispute/claims what-so-ever shall be entertained for the work of any nature arising out of local conditions.

- (39) If available, electric supply will be given by D.P.A., otherwise the contractor has to make his own arrangement for electric supply. The charges for electric supply consumption will be borne by contractor as per prevailing rates.
- (40) FORCE MAJURE: This will be restricted to acts of God only.
- (41) During the execution of works dewatering manually or by pumping is to be done by the contractor at his own cost, if found necessary and no claim on this account shall be entertained.
- (42) As per site condition the approach etc. will be required which the contractor shall provide & maintain at his own cost. Contractor shall consider these aspects while quoting the rates in tender. Nothing extra will be paid for the same.
- (43) The guarantee period of the whole work will be 01 year from the date of completion of work.
- (44) All works within the scope of this Tender must be completed within a period of 11 months from the date of written order of the Engineer-in-charge to commence the work.
- (45) It must be clearly understood that the rates quoted in the tender are to include for everything required to be done as per instructions for tendering, conditions of contract, specifications and drawings referred to therein and also for all such work as is necessary for the proper completion of the works although specifically mention thereof may not have been made in the tender schedule, specification or drawings, the rates are for works in-situ should be inclusive of all incidentals necessary for carrying out the "Works".
- (46) The Contract is liable to be cancelled in case either contractor himself or any of his employees is found to be Engineer of Gazetted rank of Government Officer, employee of an Engineering Department of Government of India or DEENDAYAL PORT AUTHORITY within two years of retirement and do not process the permission from the concerned authority for working as contractor or his employee or his employee.
- (47) The tenderers are not expected to make any post tender modifications. Hence, the tenderer should not make any correspondence regarding the tenders after submission of the same of due date and time. No cognizance of any correspondence shall be taken and if any tenderer persists with the same, necessary action will be initiated against him. All the tenders received on or before the due date & time shall be opened, if otherwise found in order.

- (48) In the case of discrepancy between the schedule of quantities, the specification and / or the drawings, the following order of preference shall be observed:-
- i) Description of schedule of quantities.
 - ii) Particular specification and special condition, if any.
 - iii) Drawings.
 - iv) C.P.W.D. specifications.
 - v) Indian standard specifications of B.I.S.
- (49) While evaluating the tender, due regard will be paid to national defence.
- (50) The Engineer-in-charge reserves the right to make necessary changes in the diameter of bars provided in the drawings and no claims whatsoever on account of change in diameter of bars will be entertained.
- (51) The contractor has to provide sufficient barricades to site of work so that traffic plying nearby should not damage the recently concreted work. In case of any damage on account of above, the entire responsibility will remain with contractor and nothing extra will be paid on this account.
- (52) The mixer shall be equipped with approved water measuring device capable of accurate measurement of water required per batch. The mixer shall preferably be equipped with a mechanically operated pump for filling the mixer tank or suitable arrangement as approved by Engineer-in-Charge.
- (53) The form work shall be made up from either MS plate or water proof plywood of good quality. The rate shall include the cost of materials and labour for the operations involved such as:
- a. Splayed edges, notching allowances for over laps and passing at angles, battens, centering, shuttering, strutting, propping, bolting, nailing, wedging, easing, striking and stripping of the same.
 - b. Filletting to form stop-chamfered edges or splayed external angles not exceeding 20 mm. width.
 - c. Dressing with oil to prevent adhesion of concrete with shuttering.
 - d. Raking or circular cutting.
- (54) All the form work shall be inspected by the Engineer-in-charge and their suitability ascertained the form shall be thoroughly scraped, cleaned before reusing the same.
- (55) Water used for mixing and curing shall be clear and free from injurious amount of oil, acids, alkalis, salts sugar, organic materials or other substances that may be deleterious for concrete and steel and water shall not be used.

- (56) DEENDAYAL PORT AUTHORITY shall employ third party quality monitoring to the work for the purpose of quality proof. The contractor shall extend all necessary assistance, services as may be required, without any extra cost, necessary test shall be carried out if directed by the third party.

(57) SUBMISSION OF BID

Bidders who wish to participate will have to procure/ should have legally valid Digital Certificate, as per Information Technology Act-2000, using which they can sign their electronic bids. The bidders can procure the Digital Certificate from (n) code solutions a division of GNFC Ltd, who are licensed certifying authority by Government of India. All bids should be digitally signed. For details regarding Digital signature certificate and related matters, the below mentioned address should be contacted: (n) code Solutions, A Division of GNFC, 301 GNFC Info tower, Bodakdev, Ahmedabad. Tel. 91 79 26857316/17/18 Fax: 91 79 26857321 E-mail: nprocure@gnvfc.net Mobile: 9327084190 / 9898589652.

The accompaniments to the tender documents as described under Clause 4 of Section-1 shall be Scanned and submitted On-Line along with Tender documents. However, the originals/ attested hard copies shall have to be forwarded subsequently so as to reach the office of SUPERINTENDING ENGINEER (P) within 7 days of opening of the tenders.

The envelopes shall be addressed to:
The SUPERINTENDING ENGINEER
(P),

Project Division
2nd Floor, Room No.302, A.O. Bldg
Building DEENDAYAL PORT
AUTHORITY
Gandhidham-370201,
Kutch District Gujarat-State, INDIA

And submitted on
<http://kpt.nprocure.com> bear the
 following identification:

**Accompaniments for “Construction of SWD outside of
 Custom Bonded area..”**

Bid reference No
 Name and address of the bidder.

(58) BILL TO BE SUBMITTED MONTHLY

A Bill shall be submitted by the contractor each month on or before the date fixed by the Engineer-in-charge for all works executed in the previous month, and the Engineer-in-charge shall take or cause to be taken the requisite measurement for the purpose of having the same verified, and the claim, as far as admissible, adjusted as far as possible, before the expiry of ten days from the presentation of the bill. If the contractor does not submit the bill within the time fixed as aforesaid, the Engineer-in-charge may depute within seven days of the date fixed as aforesaid, a subordinate to measure up the said work in the presence of the contractor whose countersignature to the measurement list will be sufficient warrant, and the Engineer-in-charge may prepare a bill from such list.

(59) Contractor to be given a week to file objections to the measurements recorded by the Department.

Before taking measurement of any work as has referred to in Clause 6, 7, and 8 hereof, the Engineer-in-charge or a subordinate deputed by him shall give reasonable notice to the contractor if the contractor fails to attend at the measurements after such notice or fails to countersign or to record the difference within a week from the date of measurement in the manner required by the Engineer-in-charge then in any such event the measurement taken by the Engineer-in-charge or by the subordinate deputed by him as the case may be shall be final and binding on the contractor and the contractor shall have no right to dispute the same.

(60) BILLS TO BE ON PRINTED FORMS

The contractor shall submit all bills on the printed forms to be had on application at the office of the Engineer-in-charge and the charges in the bills shall always be entered at the rates specified in the tender or in the case of any extra work ordered in pursuance of these conditions and not mentioned or provided for in the tender at the rates hereinafter provided for such work.

(61) PAYMENT OF CONTRACTOR'S BILL TO BANK

Payments due to the contractor may, if so desired by him be made to his bank instead of direct to him, provided that the contractor furnishes to the Engineer- in-charge (1) an authorisation in the form of a legally valid document such as a power of attorney conferring authority on the bank to receive payment and (2) his own acceptance of the correctness of the account made out as being due to him by the Board or his signature on the bill or other claim, preferred against the Board before settlement by the Engineer-in-charge of the account or claim by payment to the bank, while the receipt given by such bank shall constitute a full and sufficient discharge for the payment the contractor should, wherever possible, present his bills duly receipted and discharged through his bankers. Nothing herein contained shall operate to create in favour of the any rights of equities vis-à-vis the Board.

- (62) Prospective bidders may raise query relating to bidding conditions bidding process and / or rejection of its bid. The reason for rejecting a tender or non issuing a tender to prospective bidder will be disclosed where written enquiries are made by the concerned bidder.

(63) SPECIAL CONDITION IN RESPECT OF CEMENT

- a) Ordinary Portland Cement of 53 grade complying with the requirements of IS 12269 shall be used in all works. The cement which has set or partially set shall not be used. The cement shall be used in the works only after approval of the engineer in charge.
- b) The contractor shall procure the cement conforming to relevant Indian Standard holding license to use ISI Certification mark for their product.
- c) For verification of such purchase all the bills of manufacturer / supplier / dealer will have to be furnished to the Nodal officer or his nominee
- d) Supply of cement shall be taken in 50 Kg bags bearing manufacturer's name, his registered trade mark, date of manufacture, batch number and ISI marking.
- e) Every consignment of cement must have identification marks on packages indicating date of manufacture and grade and type of cement, cement brought to works shall not be more than 6 weeks old from the date of manufacture.
- f) Every delivery of cement shall be accompanied by a manufacturer's test certificate confirming that the supplied cement conforms to relevant specifications.
- g) Nodal officer or his nominee shall be at his liberty to carry out testing of cement at his discretion from Port laboratory or

Government approved laboratory as per relevant before / during use. The contractor shall make all the necessary arrangements for the same and all the charges to be borne by the contractor.

Each consignment shall be stored separately so that it can be readily identified and inspected. The arrangement of cement shall be such as to ensure the utilization of cement in the order of its arrival at the stores.

- h) In order to ensure due progress, the contractor shall at all times maintain on the site at least such stock of cement as the Engineer-in-charge may from time to time consider necessary.
- i) Cement in bulk shall be transported to the site in properly designed and approved bulk carriers. The contractor shall provide suitable unloading and storage facilities. The contractor shall submit full details of unloading, handling and storage facilities for the approval of the Engineer-in-charge before any cement in bulk is received by the Contractor.
- j) Cement brought to site and cement remaining unused shall not be removed from site without the permission of the Nodal officer or his nominee.
- k) In case concrete mixing is with Batching Plant, Nodal Officer may allow cement to be used in bags/ silos/ Bulk etc.
- (i) The batching plant shall be capable of separately proportioning each type of material by weight. The batching and mixing shall be carried out preferably in a forced action central batching and mixing plant having necessary automatic controls to ensure accurate proportioning and mixing. Calibration of the batching and mixing plant shall be carried out at regular intervals, as per IS.
- (ii) The contractor shall also maintain a daily production record for that plant, including details of which mixes were supplied and which delivery dockets were dispatched.
- (iii) There should be a record of what materials were used for that day's production including water and admixtures.
- (iv) The production of concrete at each plant shall be systematically controlled. This is to ensure that all the concrete supplied shall be in accordance with these requirements and with the specification.

- (v) Contractor to make a quality manual and keep authenticated copy of all relevant Indian Standards. Work instructions, process control chart, applicable forms/ formats, shall be made and maintained. Contractor shall also follow all applicable regulations like environment allaws, weight and measured permanent etc. Records shall be maintained by the contractor to provide confirmation of the quality and quantity of concrete produced.
 - l) The cement may be purchased from the reputed manufacturer like Ultra-tech, ACC, Birla, sanghi or equivalent after approval of Engineer- In-Charge.
- (64) SPECIAL CONDITION IN RESPECT OF STEEL REINFORCEMENT &Structural Steel
- a) The contractor shall procure the steel reinforcement confirming relevant Indian standard of various diameters holding license to use ISI Certification for their product from Primary Manufacturer/ Supplier/ Dealer. In any circumstances, steel reinforcement produced by re- rolling mills shall not be allowed to use in the work.
 - b) Every delivery of Steel reinforcement shall be accompanied by a manufacturer's test certificate conforming that the supplied Steel reinforcement conform store levant specifications.
 - c) The Reinforcement Bars & Structural Steel shall be procured from primary producers like SAIL, VIAZAG, TATA, RINL. If the reinforcement bars of these manufactures are not available in market, the equivalent product may be allowed with prior approval of engineer in-charge. The structural steel shall also procured from SAIL,VIZAG,RINL or equivalent.
 - d) The reinforcement binding wire shall conform to IS : 280 "Mild Steel Wire for General Engineering Purpose", with size 1 mm or more.
 - e) Each consignment of Reinforcement brought at site shall be accompanied by a Manufacturer's Batch test certificate.
 - f) Reinforcement bars shall be stored on site on timber or concrete supports, suitable space and of sufficient height to keep steel clear of the ground. The reinforcement shall be stored separately size wise.

- g) The testing shall be carried out as per Approved Quality Assurance Plan. The cost of all above tests on Reinforcement shall be deemed to be included in the rates entered in the Bill of Quantities of related items of the work.
- h) For verifications of such purchase all the bills of manufacturer / supplier / dealer will have to be furnished to the Nodal officer or his nominee.
- i) The contractor shall have to procure the steel reinforcement of various sizes/diameters as per the working drawings, which shall be supplied only during execution of the work. No claims/disputes arising about details of steel reinforcement so provided shall be entertained.
- j) In case, if particular size(s) of steel reinforcement is not available with the approved manufacturers, the contractors shall have to intimate the Nodal officer or his nominee in writing along with documentary proof in this regard. Nodal officer or his nominee, at his discretion, may allow to use alternate diameter of reinforcement bars provided that no claims/disputes arising out in respect of payment for difference in rate of steel shall be entertained.
- k) Nodal officer or his nominee shall be at liberty to carry out independent testing of steel reinforcement at his discretion from any of Government Approved laboratory as per relevant I.S. specifications before use. The contractor shall make all the necessary arrangements for same and all the charges to be borne by the contractor.
- l) The contractor shall procure the steel reinforcement bars of standard length as per relevant I.S.
- m) Steel reinforcement which remaining unused shall not be removed from site without the permission of the Nodal officer or his nominee.
- n) shall be made on the basis of lengths of bars actually placed & measured in the work multiplied by the standard weight per unit length as given in the relevant IS code. The rates shall include for cutting & wastage, straightening, short & long length, & weight tolerance as per relevant IS codes & placing in position. Authorized laps, chair /separators, lifting hooks stiffening ring shall be measured and paid.

(65) GST REGISTRATION

The GST Registration No. should be invariably mentioned in the bid tender quotation failing which bid/tender quotation will be considered as non- responsive and be liable for discharge.

(66) PAN REGISTRATION

Income Tax PAN registration NO. may be furnished with documentary evidence along with the tender documents.

(67) SETTINGOUT

The Contractor shall be responsible for the true and proper setting out of the "Works" and the correctness of the positions, levels, dimensions and alignment of all parts of the works and for the provision of all necessary instruments, appliances and labour in connection herewith. If at any time during the progress of the works any error shall appear or arise in the position levels, dimensions or alignment of any part of the works, the Contractor shall immediately notify the Engineer/Engineer-in-Charge or his Representatives who will direct the Contractor in what way the work shall be carried out and the Contractor, on being required to do so by the Engineer/Engineer-in-Charge or his Representative, shall at this own expense rectify such error to the satisfaction of the Engineer / Engineer-in-Charge or Engineer's Representatives at any stage of the work or the checking of any setting out or any line or level by the Engineer/Engineer-in-Charge or Engineer's Representative shall not in any way relieve the Contractor of his obligations under the contract.

The Contractor shall carefully protect and preserve all benchmarks, site rails, pegs and other things used in setting out the works to the approval of the Engineer-in-Charge.

(68) NOTICE OF ADDRESS

The Contractor shall notify in writing to the Engineer an address at Gandhidham/ Adipur for the service on the Contractor any communication or any notice to be given to him under the Contract and any such notice/communication to the Contractor shall be deemed to be duly served if sent by registered post to or left at such address or if delivered to the agent or representative of the Contractor. Any notice/communication to the Contractors shall also be deemed to be duly served if sent by registered Post to or left at the principal place of business or if the Contractor be a company the registered office of the Contractor or at the contractors last known address.

(69) Special Conditions for Environmental Protection

- The contractor(s) shall strictly follow up the environmental rules as per the Environmental (Protection) Act 1986 while execution of the work and as directed by Engineer In-Charge.
 - All construction materials i.e Cement, Aggregates, sand & fill materials which are to be used in construction work shall be covered with Tarpaulin or other fabric materials as directed by Engineer In Charge.
 - The Contractor(s) should stacked and disposed the waste materials in such a manner which are not destroy the environment.
 - The contractor(s) shall sprinkles the water to minimize the dust emission.
 - Machine mixers, vibrators, way batches plant , diesel generator sets and other vehicles engines shall not be left running when not in use
 - Emission of NO₂ and SO₂ shall be maintained within the work site areas as per the International Regulations.
 - To prevent and minimize vibration and noise levels from machineries/vehicles during construction activities the contractor(s) shall take the remedial action to minimize noise pollution.
 - Provide adequate silencers attached with all vehicles and machines.
 - Install suitable mufflers on engine exhaust and compressor component.
 - The diesel generators set shall be used of noise less.
 - To contractor(s) shall stacked/stored the construction materials at adequate distance from coastal area.
 - The contractor(s) shall provide the barrier to prevent the construction materials from mixing up with surface /ground water.
 - The contractor(s) should discharge Waste generated during construction work as per CPCB/GPCB regulations
- (71) While evaluating tenders, regard would be paid to National Defence Security consideration.
- (72) All the surplus materials are to be returned to store in good conditions as directed by the Engineer in charge. In case of storage the recovery shall be made from the contractor as per rules.

- (73) All the materials required to be used in the work shall have to be got approved from the Engineer in charge before use.
- (74) Scrap materials obtained during demolition/excitation of work is to be deposited at sub store of water supply section without any cost.
- (75) The TDS under GST act is required to be deducted @ 2 % (1% CGST and 1 % SGST or 2% IGST) from payment / credit given to contractors / Professional and others for work order/contracts exceeding Rs. 2.50 Lacks
- (76) DEENDAYAL PORT AUTHORITY shall employ third party monitoring to the work for the purpose of quality proof, the contractor shall extend all necessary assistance services as may be required without any extra cost necessary test shall be carried out if directed of the third party.
- (77) The bricks required for the work shall be got tested from the Port Laboratory Kandla if felt necessary. The Contractor shall make available the number of bricks so required, but the cost of testing shall be borne by the department.
- (78) For preparing mix design of concrete for RCC works the contractor has to supply construction materials in required quantity to the Port laboratory free of cost. RCC mix design, the laboratory test of C.C. cubes, construction materials and grading of aggregate shall be got conducted by the contractor at the Port laboratory, New Kandla, whenever necessary and approved by the Engineer-in-charge, However, no charges will be recovered from the contractor for Concrete Mix Design.
- (79) The cubes cast at site shall be brought to Port Laboratory, Kandla for testing and test results shall conform to IS 456:2000 (latest edition). Testing charges of the cubes for 28 days test only shall be borne by the contractor. The testing charges of extra cement concrete cube cast for indicative results shall not be payable by the contractor if the results is not satisfactory the concrete work will have to be dismantled and redone by the contractor at his own cost. The transportation of the CC cubes etc. from the site of work to the port laboratory shall be done by the contractor at no extra cost.

SR.NO.	TYPE OF STRUCTURE	SLUMP REQUIRED
1	Footing foundation	50
2	Columns, pillars, post etc.	75
3	Beams, lintel, plinth band etc.	75
4	Slab	50
5	Piles	--
6	Chajjas	75
7	Walls, pilasters, buttresses, railing, Balustrades	75
8	Stair	75
9	Domes	-
10	Fins	75

- (80) All cc flooring, work is to be finished with neeru (cement slurry) However the bonafide use of cement used for the purpose shall be taken into consideration while calculating theoretical consumption of cement.
- (81) Contractor has to engage 01 No. Civil Engineer and 01 No. of clerical staff for smooth functioning of work.

(82) INTEGRITY PACT

- 86.1 The bidder has to execute Integrity pact agreement with DEENDAYAL PORT AUTHORITY (As per Appendix enclosed). Shri S.K.Sarkar, IAS (Retd.) and **Shri Saurabh Chandra, IAS (Retd.)** has been nominated as Independent External Monitor for Integrity Pact whose address is as under:

(1) **Shri S.K.Sarkar, IAS (Retd.)** (2) **Shri Saurabh Chandra, IAS (Retd.)**
B-104, Nayantara Aptt., A-9, Sector-30,
Plot No.08-B, Sec-07, Dwarka, Noida (UP) 201301
New Delhi – 110 075 Mobile No. 9871322133
Mobile No. 98111 49324 Email:
saurabh7678@yahoo.co.in Email :-
sksarkar1979@gmail.com

Scanned copy of pre- contract Integrity Agreement (as per appendix) is to be uploaded along with the preliminary bid. Original hard copy of Pre contract Integrity Pact Agreement shall be submitted by post or hand immediately after closing date of online E-tender failing which tender shall be considered irrelevant.

- 87.. For tenders costing Rs. 5 crores & above: 100 saplings (min. 3 ft. height) have to be planed.

The plantations have to be made within 4-6 months from the date of award of work and has to be maintained till the completion of the maintenance period of contract. After the completion of the maintenance period of contract, contractor has to hand over the plantation to the DPA. The maintenance shall include trimming, watering, providing temporary guards, etc.

The location of the plantation and type of saplings to be planned shall be manually decided by the Engineer-in-charge of DPA and the contractor. The cost of the above plantations and its maintenance has to be borne by the contractor as a part of their social responsibility. No extra payment shall be made to the contractor for the above. In the event of failure by the contractor to execute the above work, it shall be done departmentally at the cost and risk of contractor.

89. The contractor shall be registered under The Building and Other Constructions Workers (Regulation of Employment and Conditions of Service) Act, 1996.
90. The payment from 2nd bill to pre-final bill, shall be released, subject to the condition that the documentary evidence (copy of paid Challan in Govt. Treasury) of the Welfare Cess @ 1% of work done or as amended by Statutory Authority from time to time, paid to concerned authority is submitted for the previous bill.
91. The documentary evidence (copy of paid Challan in Govt. Treasury) of Welfare Cess @ 1% of work done or as amended by Statutory Authority from time to time, paid on final bill shall be submitted before releasing the Performance Guarantee.
92. Bank Guarantee submitted towards Performance Security should be of Nationalized / Scheduled Bank having its branch at Gandhidham.
93. All applicable labour and other acts, rules and regulations shall be followed by the contractor.

94. The contractor shall carry out the as per specification & time line failing which Notice will be issued and after three notice. If performance not satisfactory, Contractor will debar for participating in new tenders of civil Engineering Department for a period two years.
95. The rate quoted by Contractor shall be Realistic. During the Evolution of Tender if rates quoted by contractor are found unrealistic, the tender shall be considered non - responsive and Engineer -in- charge reserve right to reject the said tender and no any correspondence shall be entertained in this regard.
96. If case L-1 bidder quoted very low rate as compared to tender cost, they will be asked to justify the quoted rates as to whether the rates quoted are workable or otherwise. The Engineer-in-charge reserves the right to cancel the bidding process without assigning any reason whatsoever.

**SUPERINTENDING ENGINEER(P)
DEENDAYAL PORT AUTHORITY**

SECTION 6

FORMS OF SECURITIES AND OTHER FORMATS

FORMS OF SECURITIES AND OTHER FORMATS

Acceptable forms of securities are annexed. Bidders should not complete the performance and advance payment security forms at this time. Only the successful bidder will be required to provide performance and advance payment securities in accordance with one of the forms, or in a similar form acceptable to the employer.

SPECIMEN BANK GUARANTEE FOR STAGE PAYMENT

(To be executed on non-judicial Stamp Paper of appropriate applicable value)

[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instruction indicated]

In consideration of the Board of Deendayal Port Authority incorporated by the Major Port Authorities, 2021 (hereinafter called "The Board" which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the Board of Trustees of the port of [insert name of port], its successors and assigns) having agreed to release Performance Guarantee / Security Deposit to (hereinafter called the "contractor")

(Name of the contractor/s)

under the terms and condition of the contract, vide from the demand under the condition of the contract, vide _____'s letter No _____

(Name of the Department)

Date _____ made between the contractors and the Board for execution of _____ covered under Tender No. _____

dated _____ (hereinafter called "the said contract") for the payment of Advance Payment in cash or Lodgement of Government Promissory Loan Notes for the due fulfilment by the said contractors of the terms and condition of the said contract, on production of a bank Guarantee for Rs. _____ (Rupees _____) only we, the

(Name of the Bank and Address) _____ (hereinafter

referred to as "the Bank") at the request of the contractors do hereby undertake to pay to the Board an amount not exceeding Rs. _____ (Rupees _____) only against any loss or damage caused to or suffered by the Board by reason of any breach by the contractors of any of the terms and conditions of the said contract.

2. We, _____, do hereby

(Name of Bank)

(Name of Branch)

Undertake to pay the amount due and payable under this guarantee without any demur merely on a demand from the Board stating that the amount claimed is due by way of loss or damage caused to or which would be caused to or suffered by the Board by reason of the contractors failure to perform the said contract. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to any amount not exceeding Rs. _____ (Rupees _____) only.

- 3 We, _____, undertake to pay to the
(Name of Bank and Branch)

Board any money so demanded notwithstanding any dispute or disputes raised by the contractor(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the Contractor(s) shall have no claim against us for making such payment.

4. We, _____ further agree with the Board that the
(Name of Bank and Branch)

guarantee herein contained shall remain in full force and effect during the period that would be taken for performance of the said contract and that it shall continue to be enforceable till all the dues of the Board under or by virtue of the said contract have been fully paid and its claims satisfied or discharged or till the _____

(Name of the user department)

of the said certifies that the terms and conditions of the said contract have been fully and properly carried out by the said Contractors and accordingly discharge this guarantee. PROVIDED HOWEVER that the Bank shall be the request of the Board but at the cost of the Contractors, renew or extend this guarantee for such further period or periods as the Board may require from time to time.

5. We, _____ further agree with the Board that
the (Name of Bank and Branch)

Board shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said contract or to extend the time of performance by the said contract or to extend the time of performance by the said Contractors from time to time or to postpone for any time or from time to time any of the powers exercisable by the board against the said Contractors and to forbear or enforce any of the terms and conditions relating to the said contract and we shall not be relieved from our liability by reason of any such variation or extensions being granted to the contractors or for any forbearance, act or omission on the part of the Board or any indulgence shown by the board to the Contractors or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).
7. It is also hereby agreed that the Courts in [**Gandhidham**] would have exclusive jurisdiction in respect of claims, if any, under this Guarantee.

8. We, _____ Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Board in writing.
9. Notwithstanding anything contained herein:
- (a) Our liability under this Bank Guarantee shall not exceed Rs. _____ (Rupees _____ only);
 - (b) This Bank Guarantee shall be valid upto _____; and
 - (c) We are liable to pay the guarantee amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written claim or demand on or before _____ (date of expiry of Guarantee)."

Date _____ day of _____ 20

For (Name of Bank)

(Name)

Signature

SPECIMEN BANK GUARANTEE PERFORMANCE

GUARANTEE/ SECURITY DEPOSIT

(To be executed on non-judicial Stamp Paper of appropriate applicable value)

[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instruction indicated]

In consideration of the Board of Deendayal Port Authority incorporated by the Major Port Trusts Authorities Act, 2021 (hereinafter called "The Board" which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the Board of Trustees of the port of [insert name of port], its successors and assigns) having agreed to release advance payment to (hereinafter called the "contractor")

(Name of the contractor/s) Under the terms and conditions of the contract, vide _____'s letter No _____

(Name of the Department)

Date _____ made between the contractors and the Board for execution of _____ covered under Tender No. _____

dated _____ (hereinafter called "the said contract") for the payment of Security Deposit in cash or Lodgement of Government Promissory Loan Notes for the due fulfillment by the said contractors of the terms and conditions of the said contract, on production of a bank Guarantee for Rs. _____ (Rupees _____) only we, the (Name _____ of the _____ Bank and Address) _____

_____ (hereinafter referred to as "the Bank") at the request of the contractors do hereby undertake to pay to the Board an amount not exceeding Rs. _____ (Rupees _____) only against any loss or damage caused to or suffered or which would be caused to or suffered by the Board by reasons of any breach by the contractors of any of the terms and conditions of the said contract.

2. We, _____, do hereby (Name of Bank) (Name of Branch)

Undertake to pay the amount due and payable under this guarantee without any demur merely on a demand from the Board stating that the amount claimed is due by way of loss or damage caused to or which would be caused to or suffered by the Board by reason of any breach by the contractors of any of the terms and conditions of the said contract or by reason of contractors failure to perform the said contract. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to any amount not exceeding Rs. ____ (Rupees ____) only.

3 We, _____, undertake to pay to the (Name of Bank and Branch)

Board any money so demanded notwithstanding any dispute or disputes raised by the contractor(s) in any suit or proceeding pending before any Court or Tribunal relating

thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.

4. We, _____ further agree with the Board that
the (Name of Bank and Branch)
guarantee herein contained shall remain in full force and effect during the period that would be taken for performance of the said contract and that it shall continue to be enforceable till all the dues of the Board under or by virtue of the said contract have been fully paid and its claims satisfied or discharged or till the _____
_____(Name of the user department)
of the said certifies that the terms and conditions of the said contract have been fully and properly carried out by the said Contractors and accordingly discharge this guarantee. PROVIDED HOWEVER that the Bank shall be the request of the Board but at the cost of the Contractors, renew or extend this guarantee for such further period or periods as the Board may require from time to time.
5. We, _____ further agree with the Board that
the (Name of Bank and Branch)
Board shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said contract or to extend the time of performance by the said contract or to extend the time of performance by the said Contractors from time to time or to postpone for any time or from time to time any of the powers exercisable by the board against the said Contractors and to forebear or enforce any of the terms and conditions relating to the said contract and we shall not be relieved from our liability by reason of any such variation or extensions being granted to the contractors or for any forbearance, act or omission on the part of the Board or any indulgence shown by the board to the Contractors or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).
7. It is also hereby agreed that the Courts in [**Gandhidham**] would have exclusive jurisdiction in respect of claims, if any, under this Guarantee.
8. We, _____ Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Board in writing.
9. Notwithstanding anything contained herein:
 - (a) Our liability under this Bank Guarantee shall not exceed Rs. _____ (Rupees _____ only);
 - (b) This Bank Guarantee shall be valid upto _____; and

(c) We are liable to pay the guarantee amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written claim or demand on or before _____(date of expiry of Guarantee).”

Date _____ day of _____ 20

For (Name of Bank)

(Name)

Signature

Specimen EMD (Bank Guarantee Format)

[The Bank shall fill in this Bank Guarantee Form in association with the instructions indicated. To be executed on non-judicial Stamp Paper of appropriate applicable value]

(Bank's name and address of Issuing Branch or Office)

Beneficiary: _____ (Name and Address of Employer/Board)
Board of Deendayal Port Authority

Date: _____

Tender Guarantee No.: _____

We have been informed that [name of the Tenderer] (hereinafter called "the Tenderer") has submitted to you its Tender dated (hereinafter called "the Tenderer") for the execution of [name of Contract] under Invitation for Tenders No.[Number]. Furthermore, we understand that, according to your conditions, Tenders must be supported by an EMD.

At the request of the Tenderer, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] ([amount in words]) upon receipt by us your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because of Tenderer:

- (a) Has withdrawn its Tender during the period of tender validity specified by the Tenderer in the Form of Tender; or
- (b) Having been notified of the acceptance of its Tender by the Employer/Board during the period of Tender validity, (i) fails or refuses to execute the Form of Agreement, if required, or (ii) fails or refuses to furnish the performance guarantee, in accordance with the Instructions to Tenderers.

This guarantee will expire unless otherwise extended or informed by the Employer/Board:

- (a) If the Tenderer is the successful Tenderer, upon our receipt of copies of the contract signed by the Tenderer and the performance guarantee issued to you upon the instruction of the Tenderer; or
- (b) If the Tenderer is not the successful tenderer, upon the earlier of
 - (i) Our receipt of a copy of your notification to the Tenderer of the name of the successful Tenderer; or
 - (ii) Twenty-eight days after the expiration of the Tenderer's tender or any extended period thereof;

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

_ [Signature(s)]

[Authorization letter from the issuing bank that the signatory of this BG is authorised to do so should also be enclosed]

AGREEMENT

This agreement made this _____ day of _____ between the Board of Deendayal Port Authority, a body corporate under Major Port Authorities Act, 2021, having which Administrative office building at Gandhidham (Kutch). (Here in after called the "Board" which expression shall unless excluded repugnant to the context, be deemed to include their successors in office) of the one part and _____ (herein after called the "CONTRACTOR" which expression shall unless excluded by or repugnant to the context be deemed to include his heirs, Executors, Administrators, Representatives and assigns or successors in office) of the other part.

WHEARS the Board is desirous of carrying out the work of _____
_____ and whereas the Contractor has offered to execute and complete such works at a totalcost of Rs. _____

AND WHEREAS the contractor has agreed to deposit the Performance Security Deposit as follows for due fulfillment of all the conditions of the contract:

- (1) Rs. _____ paid in the form of Digital Transfer /BG/FDR/ Bank Guarantee towards 5% of Contract value as Performance Guarantee. Additional 5% to be recovered from running bills in the form of Retention Money.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

1. In this agreement words and expressions shall have the same meaning as are respectively assigned to them in the conditions of contract hereafter referred to.

2. The following shall be deemed to form and be read and construed as part of this agreement relating to the said work, viz.
 - a. Notice Inviting Tender (Page No. _____ to _____)
 - b. The tender submitted by the contractor including Schedule "A" and "B". (page No. _____ to _____)
 - c. General Rules and direction for the guidance of the tenders. (Page No. _____ to _____)
 - d. Schedule of drawing (Page No. _____ to _____)
 - e. General and Special Conditions of the Contract. (Page No. _____ to _____)
 - f. The Specifications, designs and method of construction (Page No. _____ to _____)
 - g. The schedule of items of work with quantities and rates. (Page No. _____ to _____)
 - h. Correspondence exchanged before the issue of letter of acceptance by which the conditions of contract are amended, varied or modified in any way by mutual consent (to be enumerated). (Page No. to _____)
 - i. Work Order No. _____ issued vide letter No. _____ (Page No. _____ to _____)
 - j. Additional drawings, specifications and written instructions when issued by or approved in writing by the Engineer – in – charge. (Page No. _____ to _____).

3. The Contractor hereby covenants with the Board to complete and maintain the said works to the satisfaction of the Board in conformity in all respects, with the provision of the said contract.

4. The Board hereby covenants to pay the Contractor in consideration of such work "the contract price" at the time and in the manner prescribed by the said Contract.

IN WITNESS WHEREOF the parties hereunto have set their hands and seals the day and year first above written signed and sealed by the Contractor in the presence of :

M/s. _____

 (Name, signature Designation
 and
 Seal of the Contractor)

WITNESS

1. _____

2. _____

Contractor

Signed , sealed &
 deliveredBy Chief
 Engineer on

behalf of the Board in the

Chief Engineer Presence of :

DEENDAYAL PORT AUTHORITY.

FOR & ON BEHALF OF THE
 BOARD OF DEENDAYAL
 PORTAUTHORITY :

Witness : (Name, Signature, address)

1. _____

2. _____

(Dy. HOD & XEN)
 The common seal of the
 Board of DEENDAYAL
 PORTAUTHORITY affixed
 in
 the presence of :

SECRETARY
 DEENDAYAL PORT AUTHORITY

DISPUTES REVIEW BOARD AGREEMENT

(To be executed on Rs. 300/- non-judicial Stamp Paper)

THIS AGREEMENT, made and entered into thisDay of
20 Between (“the Employer/
 Board”) and
 (“the contractor”), and the Disputes Review Board
 (“th
 eDRBoard”) consisting of one/three DRBoard Members, (Members from
 either party,
 i.e. contractor and Employer/Board)

(1)

.....(2)

.....(3)

.....

[Note: Delete whatever is not applicable]

WITNESSETH, that

WHEREAS, the Employer/Board and the contractor have contracted for
 the execution of

Project name).....(the “contract”) and WHEREAS,
 the contract provides for the establishment and operation of the DRBoard
 NOW THEREFORE, the parties hereto agree as follows:

1 .The parties agree to the establishment and operation of the
 DRBoard in accordance with this DRBoard Agreement.

1. Expect for providing the services required hereunder, the DRBoard
 Members should not give any advice to either party or to the Nodal
 Officer or his nominee concerning conduct of the works.

The DRBoard Members:

- (a) Shall have no financial interest in any party to the contract or the Nodal
 Officer or his nominee, or a financial interest in the contract, except for
 payment for services on the DRBoard.

- (b) Shall have had no previous employment by, or financial ties to, any party to the contract, or the Nodal Officer or his nominee, expect for fee based consulting services on other projects, all of which must be disclosed prior to appointment to the DRBoard.
 - (c) Shall have disclosed in writing to the parties prior to signature of this Agreement any all recent or close professional or personal relationships with any director, officer, or employee of any party to the Nodal Officer or his nominee, and any and all prior involvement in the project to which the contract relates;
 - (d) Shall not, while a DRBoard Member be employed whether as a consultant or otherwise by either arty to the contract, or the Nodal Officer or his nominee, expect as a DRBoard Member.
 - (e) Shall not, while a DRBoard Member, engage in discussion or make any agreement with any party to the contract, or with the Nodal Officer or his nominee, regarding employment whether as a consultant or otherwise either after the contract is completed or after services as a DRBoard Members.
 - (f) Shall be and remain impartial and independent of the parties and shall disclose in writing to the Employer/Board, the contractor, the Nodal Officer or his nominee, and one another any fact or circumstances which might be such to cause either the Port or the contractor to question the continued existing of the impartiality and independence required of DRBoard Members.
3. Except for its participation in the DRBoard activities as provided in the contract and in this Agreement none of the Employer / Board, the contractor, the Nodal Officer or his nominee, and one another any fact or circumstances which might be such to cause either the Employer/Board or the contractor to question the continued existence of the impartiality and independence required of DRBoard Members.
4. The contractor shall:
- a) Furnish to each DRBoard Member one copy of all document which the DRBoard may request including contract document, progress report,

- variation orders, and other document, pertinent to the performance of the contract.
- b) In co-operation with the Employer/Board, co-ordinate the site visits of the DRBoard, including conference facilities and secretarial and copying services.
5. The DRBoard shall serve throughout the operation of the contract. It shall begin operation following execution of this Agreement, and shall terminate its activities after issuance of the taking over certificate and the DRBoard's issuance of its Recommendation on all disputes referred to it.
 6. DRBoard Member, shall not assign or subcontract any of their work under this Agreement.
 7. The DRBoard Members are independent and not employees or agents of either the Employer/Board or the Contractor.
 8. The DRBoard Members are absolved of any personal or professional liability arising from the activities and the Recommendations of the DRBoard.
 9. Fees and expenses of the DR Board Member[s] shall be agreed to and shared equally by the Employer/Board and the Contractor. If the DRBoard requires special services, such as accounting, data research and the like, both the parties must agree and cost shall be shared by them as mutual agree.
 10. DR Board's site visit:
 - a. The DR Board shall visit the site and meet with representative of the Employer/Both and the contractor and the nodal officer or his nominee at regular intervals, at times of critical construction events, and at the return request of either party. The timing of site filing agreement shall be fixed by the DR Board
 - b. Site meeting shall consist of an informal discussion of the status construction of the works followed by an inspection of the work, both attended by personal from the employer/Board, the contractor and the nodal officer or his nominee

- c. If request by either parties or the DR Board, the employer/Board will prepare minutes of the meeting and circulate them for comments of the parties and the nodal officer or his nominee.

11.Procedure for disputes referred to the DR Board:

- a) If either party objects to any action or inaction of the other party or the Nodal Officer or his nominee, the objecting party may file a written Notice of Dispute to the other party with a copy to the Nodal Officer or his nominee stating that it is given pursuant to clause [number] and stating clearly and in detail the basis of the dispute.
- b) The party receiving the Notice of Dispute will consider it and respond in writing within 7 days after receipt.
- c) This response shall be final and conclusive on the subject, unless a written appeal to the response is filed with the responding party within 7 days of receiving the response. Both parties are encouraged to pursue the matter further to attempt to settle the dispute. When it appears that the dispute cannot be resolved without the assistance of the DRBoard either party may refer the dispute to the DRBoard by written Request for Recommendation to the Board, the other party and the Nodal Officer or his nominee stating that it is made pursuant to [insert relevant clause no.]
- d) The Request for recommendation shall state clearly and detail the specific issues of the dispute to be considered by the DRBoard.
- e) When a dispute is referred to the DRBoard, and the DRBoard is satisfied that the dispute requires the DRBoard's assistance, the DRBoard shall decide when to conduct a hearing on dispute. The DRBoard may request that written documentation and arguments from both parties be submitted to each DRBoard Members before the hearing begins. The parties shall submit insofar as possible agreed statements of the relevant facts.

- f) During the hearing, the contractor, the Employer/ Board, the Nodal Officer or his nominee shall each have ample opportunity to be heard and to offer evidence.

The DRBoard's Recommendation for resolution of the dispute will be given in writing, to the Employer/Board, the contractor and the Nodal Officer or his nominee as soon as possible, and in any event not more than 28 days after the DRBoard's final hearing on the dispute..

12. Conduct of Hearing:

- a) Normally hearing will be conducted at the sites, but any location that would be more convenient and still provide all required facilities and access to necessary documentation may be utilized by the DRBoard. Private sessions of the DRBoard may be held at any location convenient to the DRBoard.
- b) The Employer/ Board, the Nodal Officer or his nominee and contractor shall have representatives at all hearing.
- c) During the hearing, no DRBoard Member shall express any opinion concerning the merit of any facet of the case.
- d) After the hearings are concluded, the DRBoard shall meet privately to formulate its Recommendation. All DRBoard deliberation shall be conducted in private, with all individual views kept strictly confidential. The DRBoard's Recommendations, together with an explanation of its reasoning shall be submitted in writing to both parties and to the Nodal Officer or his nominee. The pertinent contract provision, applicable laws and regulations, and the facts and circumstances involved in the dispute.

The DRBoard shall make every effort to reach a unanimous Recommendation. If this proves impossible, the majority shall decide, and the dissenting member may prepare a written minority report for submission to both parties.

[Notes: Delete if it is one member DRBoard]

13 If during the contract period, the Employer/ Board and the contractor are of the opinion that the Disputes Review Board is not performing its function properly, the Employer/ Board and the contractor may together disband the Disputes Review Board. In such an event, the disputes shall be referred to Arbitration straightaway.

The Employer/Board and the contractor shall jointly sign a notice specifying that the DRBoard shall stand disbanded with effect from the date specified in the notice. The notice shall be posted by a registered letter with AD or delivery of the letter, even if here refuses to do so.-

SPECIMEN FORMAT FOR DECLARATION*(To be executed on bidder's letter head)*

To _____

(Project Title)

Ref: _____

The undersigned, having studied the pre-qualification submission for the abovementioned project, hereby states:

- (a) The information furnished in our bid is true and accurate to the best of my knowledge.
- (b) That in case of being pre-qualified, we acknowledge that the Employer may invite us to participate in due time for the submission of tender on the basis of provisions made in the tender documents to follow.
- (c) When the call for tenders is issued, if the legal, technical or financial conditions, or the contractual capacity of the firm or joint venture changes, we commit ourselves to inform you and acknowledge your sole right to review the pre-qualification made.
- (d) We enclose all the required pre-qualification data format and all other evaluation.
- (e) We also state that no changes have been made by us in the downloaded tender document and also understand that in the event of any discrepancies observed, the printed tender document No. _____ is full and final for all legal/contractual obligations (delete if not required).

Date:

Place:

Name of the Applicant: _____

Represented by (Name & Capacity) _____

**SPECIMEN LETTER OF AUTHORITY FROM BANK
FOR ALL BGs**

(To be executed on Bank's Letter Head)

Date:

To,
The Board of Trustees of Port [insert
port],

Dear Sir,

Sub: Our Bank Guarantee No. _____

dated _____

for Rs. _____ favouring
yourselves issued on
a/c of

M/s. _____

(Name of contractor)

We confirm having issued the above mentioned guarantee
favouring yourselves, issued on account of
M/s.

_____ validity for expiry
upto date _____ and claim expiry date
upto _____

We also confirm 1) _____ 2)
_____ is/are empowered to sign such Bank
Guarantee on behalf of the Bank and his/their signatures is/are binding on the
Bank.

Name of signature of Bank Officer

**SPECIMEN LETTER OF AUTHORITY FOR
SUBMISSION OF BID**

(To be executed on Rs.300/- non Judicial Stamp Paper)

To
The (PORT Address)

Dear Sir,

We
----- do hereby confirm that Shri (Name,
designation and Address) is/are authorized to represent us to bid, negotiate
and conclude the agreement on our behalf with you against tender no and
his specimen
signature is appended here to ..

We confirm that we shall be bound by all and whatsoever our said signatory
shall commit.

We understand that the communication made with him by the Employer/Board
shall be deemed to have been done with us in respect of this Tender.

[specimen signature]

Yours faithfully,

Signature:

Name & Designation:

For & on behalf of:

PROFORMA OF JOINT VENTURE/CONSORTIUM
AGREEMENT

(To be submitted on Non-judicial Stamp Paper of appropriate value)

This Joint Venture /Consortium Agreement is made and entered into on this day of20... by and between (i) M/s ***Name of the firm to be filled-in***....., (ii) M/s.....(***Name of the firm to be filled-in***) , primarily for the work under the DEENDAYAL PORT AUTHORITY.

All the partners of the Joint Venture /Consortium hereinafter individually referred to as

the parties and collectively as the Joint Venture/Consortium‘.

1. Formation of Joint Venture/Consortium

1.1. (i) M/s... (***Name of the firm to be filled in***) is engaged in

.....(**Details of the works undertaken by the party**)

(ii) M/s... (***Name of the firm to be filled in***) is engaged in

.....(**Details of the works undertaken by the party**)

(iii)

1.2. On behalf of Board of Trustees of Deendayal Port (hereinafter referred to as Employer), the (Designation of HOD), DEENDAYAL PORT AUTHORITY has invited bids from the experienced, resourceful and bonafied Contractor with proven technical and financial capabilities of executing the work (**Name of work**).

1.3. The parties have been exploring together the ways and means of col ion for the purpose of an offer to be made for the said project of the DEENDAYAL PORT AUTHORITY and have mutually agreed to enter into a Joint Venture/Consortium Agreement to submit a common bid for the project and to carry out the project works in the event of award of the contract, in association with each other and (***.....Name of Partner to be filled in.....***) shall be the Lead Partner and (i) (***.....Name of Partner to be filled in.....***), (ii) (***.....Name of Partner to be filled in.....***) shall be the other partner(s).

NOW THEREFORE IT HAS BEEN AGREED TO BETWEEN THE
PARTIES ASFOLLOWS

1.4. The Joint Venture/Consortium will be known as.....(**...Name of JV to be filled in.....**)and shall consist of (i) (**.....Name of the firm to be filled in.....**), (ii) (**.....Name of the firm to befilled- in.....**), ,parties to the present agreement.

1.5. The recitals are true and correct and form an integral part of this agreement and are representations of the parties to which they relate and have been relied upon by the parties to enter into the present agreement.

1.6. Notwithstanding the date of signature of this agreement, its effective date will be the date of submission of bid.

1.7. All costs incurred by the parties before the date of award of contract will be borne by the parties concerned. All costs in implementation of this Joint Venture/Consortium Agreement after award of contract till the expiry of this agreement will be borne by the parties as hereinafter provided.

1.8. The Joint Venture/Consortium will be dissolved and this agreement will ceaseto have effect on completion of this project, maintenance and fulfilment of all other conditions under the contract, upon receipt of payment of all amounts from the Employer and on settlement of accounts between the parties as hereinafter provided.

1.9. The contract, if awarded by the Employer, Letter of Acceptance shall be issued in the name of (**....Name of JV/Consortium to be filled in.....**) and the Contract shall be signed by legally authorized signatories of all the parties.

1.10. All the parties of the JV/Consortium shall be jointly and severally liable during the bidding process and the bid document shall be signed by legally authorized signatory of all the parties.

1.11. The financial contribution of each partner to the JV/Consortium operation shall be:

(i) M/s..... (**Name of the partner to befilled-in**) -

(ii) M/s..... (**Name of the partner to be filled-in**) -

(iii)

1.12. All the parties of the JV/Consortium shall be jointly and severally liable for the execution of the project in accordance with the Contract terms, in the event of award of contract. The delineation of duties, responsibilities and scope of work shall be:

a) The Lead Partner shall provide suitable experienced personnel at site, for general planning, site management and equipment operations, during entire period of contract execution.

b) (.....**Name of Partner to be filled-in**.....) shall carry out the following works :-

c) (.....**Name of Partner to be filled-in**.....) shall carry out the following Works:-

d)

1.13. The parties hereto agreed that each of them shall duly and properly perform all the functions and all costs related to their respective works.

1.14. The parties hereto shall be at liberty to enter into liaison work/correspondence with statutory and local authorities as the circumstances warrant individually or collectively.

1.15. It is hereby agreed and undertaken that, all the parties are jointly and severally liable to the Board of DEENDAYAL PORT AUTHORITY for the performance of the contract.

1.16. Notwithstanding demarcation or allotment of work between JV/Consortium partners, JV/Consortium each partner shall be liable for non performance of the whole contract irrespective of their demarcation or share of work.

1.17. The Lead Partner shall be authorized to act on behalf of the JV/Consortium.

1.18. All the correspondences between the Employer and the JV/Consortium shall be routed through the Lead Partner.

1.19. The Lead Partner is authorized: (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV /Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV/Consortium and to carry out the entire execution of the contract including payment, exclusively through Lead Partner.

1.20. In the event of default of the Lead Partner, it shall be construed as default of the Developer/Contractor; and Employer shall be entitled to take action under relevant clause(s) of the Department Bid Document and/or

Conditions of Contract.

1.21. All the parties of the JV/Consortium shall be jointly and severally liable for due performance, recourse/sanctions within the joint venture in the event of default of any

partner and arrangements for providing the required indemnities.

1.22. The JV/Consortium shall have a separate JV/Consortium Bank account (distinct from the Bank account of the individual partners) to which individual partners shall contribute their share capital / or working capital. The financial obligation of the consortium shall be discharged through the said JV/Consortium Bank account only and also all payment received by consortium from the DEENDAYAL PORT AUTHORITY shall be through that account only.

The parties hereto have mutually agreed to the terms and conditions set forth hereinabove and have assured each other to duly perform the reciprocal promises and obligations on either side for effective implementation of the JV/Consortium for proper and due completion of the works envisaged, in the event of award of contract to the JV/Consortium and have affixed their signature in this indenture on this the
.....day of.....20...

(i) Signature Name

Designation seal &

Common seal of the

firm

(ii) Signature Name

Designation

seal&

Common seal of the firm

Witness1

Witness2

**PROFORMA OF POWER-OF-ATTORNEY FOR LEAD MEMBER
OF JV/CONSORTIUM**

(To be submitted on Non-judicial Stamp Paper of appropriate value)

By this Power-of-Attorney **executed** on **this**day of(month) of 20..., we,

(i) (.....*Name of legally authorized signatory of first partner to be filled in*.....), (ii) (.....*Name of legally authorized signatory of second partner to be filled in*),

..... hereby jointly authorize and agree the Lead Partner, M/s (... *Name of the lead partner to be filled in*.....), (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV /Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV /Consortium and to carry out the entire execution of the contract including payment for the work of (...Name of work) exclusively through Lead Partner.

(i) Signature Name
Designation seal &
Common seal of the
firm

(ii) Signature Name
Designation seal &
Common seal of the
firm

.....

.....

Signature, name and seal of the certifying authority/Notary Public

EXCEPTIONS AND DEVIATIONS

As pointed out in the Tender Call Notice, Bidder may stipulate here exceptions and deviations to the bid conditions, if considered unavoidable.

Sr. No.	Page No. of Bid Document	Clause No. of Bid Document	Subject Deviation

Note: however, the Bidders to note that unacceptable deviations, if any, the bid shall be liable for rejection. Bidder is discouraged to deviate from bid conditions, specifications, delivery schedules, commercial terms as per the tender document.

Duly authorized to sign this authorization on behalf of: [insert complete name of Tenderer]

Date on____day of____,____[insert

INTEGRITY PACT IN DEENDAYAL PORT AUTHORITY

The Central Vigilance Commission (CVC) has been promoting integrity, transparency, equity and competitiveness in transactions by various organizations of the Government of India. Public procurement is an area of concern for the CVC, and many steps have been taken to put proper systems in place. In this context, Integrity Pact (IP), a tool conceptualized and promoted by Transparency International, an international NGO, aimed at preventing corruption in public contracting, has been found useful. It has been decided by Ministry of Shipping that all organizations under the Ministry will implement IP. IP should cover every tender / procurement above a specified threshold value. The threshold value of contracts / procurements / transactions incorporating IP would be such that it covers 90% by value of all contracts / procurements / transactions of the organization in the last 3 years. Presently the threshold is fixed as Rs. 3.00 crore. IP essentially envisages an agreement between prospective vendors / bidders, and DEENDAYAL PORT AUTHORITY, committing the persons / officials of both sides not to resort to any corrupt practice in any aspect of the contract at any stage. Only those vendors / bidders, who commit themselves to IP with DPA, would be considered competent to participate in the bid process. Any violation would entail disqualification of the bidders and exclusion from future business dealings. IP, in respect of a particular contract should cover all phases of the contract, from the stage of Notice inviting Tender (NIT) / pre-bid stage, till the conclusion of the contract, i.e. final payment or the warranty / guarantee period. IP would be implemented through Independent External Monitor (IEM), who are eminent persons appointed by the organization, with approval of CVC. The term of appointment for an IEM would be 3 years. Name of the IEM will be mentioned in NIT. The IEM would review independently and objectively assess, as to whether and to what extent parties have complied with their obligations under the IP. IEM would have access to all contract documents, whenever required. The bidders may raise disputes / complaints if any, with the IEM. The IEM would examine complaints received by them and give their recommendations / views to the Chairman of Port Trust. Recommendations of IEM would be in the nature of advice and would not be legally binding. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization. **Shri S.K.Sarkar, IAS (Retd.)** and **Shri Saurabh Chandra, IAS (Retd.)** has been appointed IEM by DPA from 2013 to 2016. Draft condition to be incorporated in the Draft Tender papers 1) Then bidder has to execute Integrity pact agreement with DEENDAYAL PORT AUTHORITY (As per Appendix) **Shri S.K.Sarkar, IAS (Retd.)** and **Shri Saurabh Chandra, IAS (Retd.)** has been nominated as Independent External Monitor for Integrity Pact whose address is as under;

(1) **Shri S.K.Sarkar, IAS (Retd.)** (2) **Shri Saurabh Chandra, IAS (Retd.)**
B-104, Nayantara Aptt., A-9, Sector-30,
Plot No.08-B, Sec-07, Dwarka, Noida (UP) 201301
New Delhi – 110 075 Mobile No. 9871322133

Mobile No. 98111 49324

Email: saurabh7678@yahoo.co.in

Email :- sksarkar1979@gmail.com 2) Scanned copy of Pre-Contract Integrity Pact Agreement (As per Appendix) is to be up loaded along with the bid. Original hard copy of Pre Contract Integrity Pact Agreement shall be submitted by post or hand immediately after closing date of online E-tender failing which tender shall be considered irrelevant.

INTEGRITY PACT

BETWEEN

DEENDAYAL PORT AUTHORITY (DPA) hereinafter referred to as "The Principal"

AND

(Name of The bidders and consortium members)..... hereinafter referred to as "The Bidder/Contractor"

Preamble;-The Principal intends to award, under laid down organizational procedures, contract(s) / Concession for Tender No. **P-01/2024**. The Principal values full compliance with all relevant laws of the land rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s). In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

(1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

(a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

(b) The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

(c) The Principal will exclude from the process all known prejudicial persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC / PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 - Commitments of the Bidder(s) / Contractor(s)

(1) The Bidder(s) / Contractor(s) commits themselves to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commits themselves to observe the following principles during participation in the tender process and during the contract execution.

a. The Bidder(s) / Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in tender process or the

execution of the contract or to any third person any material or other benefit, which he / she is not legally entitled to, in order to obtain in exchange of advantage of any kind whatsoever during the tender process or during the execution of the contract.

b. The Bidder(s) / Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids, or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

c. The Bidder(s) / Contractor(s) will not commit any offence, under the relevant Prevention of Corruption Act / Indian Penal Code / PC Act; further the Bidder(s) / Contractor(s) will not use improperly, for purposes of competition, or personal gain, or pass on to others, any information or document provided by the Principal, as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The Bidder(s) / Contractor(s) of foreign origin shall disclose the name and address of the Agents / Representatives in India, if any. Similarly, the Bidder(s) / Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the

Bidder(s) / Contractor(s). Further, as mentioned in the Guidelines all the payments made to Indian agent / representative have to be in Indian Rupees only.

e. The Bidder(s) / Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with the award of the contract.

f. Bidder(s) / Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.

(2) The Bidder(s) / Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts.

If the Bidder(s) / Contractor(s), before award or during execution has committed a transgression through a violation of Section-2 above, or in any other form, such as to put their reliability or credibility in question, the Principal is entitled to disqualify the Bidder (s) / Contractor(s), from the tender process, or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings".

Section 4 - Compensation for Damages

(1) If the Principal has disqualified the Bidder(s), from the tender process prior to the award, according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit / Bid Security.

(2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor, liquidated damages of the Contract Value or the amount equivalent to Security Deposit / Performance Bank Guarantee, whichever is higher.

(3) The Bidder(s) agrees and undertakes to pay the said amounts, without protest or demur,

subject only to condition that, if the Bidder(s) / Contractor(s) can prove and establish that the termination of the contract, after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder/Contractor shall compensate the principal, only to the extent of the damage in the amount proved.

Section 5 - Previous transgression

(1) The Bidder declares that, no previous transgressions occurred in the last three years with any other company in any country confirming to the anti-corruption approach or with any other Public Sector Enterprises in India, that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of Business dealing".

Section 6 - Equal treatment of all Bidders / Contractors

(1) In case of a Joint Venture, all the partners of the Joint Venture will enter into agreement with identical conditions as this on which all Bidders.

(2) There is no provision of sub-contract in the tender, any violation of the same, Contractor shall be held solely responsible for the same.

Section 7 - Criminal charges against violating Bidders / Contractors

If the principal obtains knowledge of conduct of a Bidder or Contractor or of an employee, or a representative, or an associate of a Bidder or Contractor, which constitutes corruption, or if the Principal has substantive suspicion, in this regard, the Principal will inform the same to the Chief Vigilance Officer (CVO) and the CVO will take further necessary action as deemed fit in accordance with the CVC Manual.

Section 8 - External Independent Monitor

(1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

(2) The Monitor is not subject to instructions by the representative of the parties and performs his / her functions neutrally and independently. The Monitor would have access to all Contact documents, whenever required. It will be obligatory for him / her to treat the information and documents of the Bidders / Contractors as confidential. He / she reports to the Chairperson of the Board of the Principal.

(3) The Bidder(s) / Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Bidder / Contractor will also grant the Monitor, upon his / her request and demonstration of a valid interest, unrestricted and unconditional access to the project documentation. The Monitor is under contractual obligation, to treat the information and documents of the Bidder / Contractor with confidentiality.

(4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s) / Contractor(s) with confidentiality. The Monitor has also signed declaration on "Non-Disclosure of Confidential Information" and of "Absence of Conflict of Interest". In case of any conflict of interest arising at a later date, the IEM shall inform Chairman, DPA and recues himself / herself from that case

(5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder / Contactor. The parties offer to the Monitor the option to participate in such meetings.

(6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he / she will so inform the Management of the Principal and request the management to discontinue, or take corrective action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

(7) The Monitor will submit a written report to the Chairperson of the Board of the Principal, within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

(8) If the Monitor has reported to the Chairperson of the Board of the Principal, a substantiated suspicion of an offence under relevant IPC / PC Act and the Chairperson of the Board of the Principal has not, within reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

(9) The word "**Monitor**" would include both singular and plural.

Section 9 - Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidder and exclusion from future business dealings.

If any claim is made / lodged during this time, the same shall be binding and continue be valid despite the lapse of this Pact as specified above, unless it is discharged / determined Chairperson of the Principal.

The Pact duration in respect of unsuccessful Bidders shall expire after 6 months of the award of the contract.

Section 10 - Other Provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e., Gandhidham, Gujarat.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Bidder / Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement, turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail.

Superintending Engineer (Project)
Deendayal Port Authority
અધીક્ષક હાથેક્ષિત (પરિયોજના)
દેનદયાલ પત્તન પ્રાધિકરણ

(For & on behalf of the Principal)

(Office Seal)

Place : Gandhidham

Date : ____/____/20____

Witness-1:

(Sign, Name & Address)

Witness-2 :

(Sign, Name & Address)

(For & on behalf of the
Bidder/Contractor)
(Office Seal)

ANNEXURE-II

FORMAT OF BID SECURITY DECLARATION FROM BIDDERS
(On Bidders Letter head)

Bid Security Declaration Form

Date: _____ Tender No. **P-01/2024**

To (insert complete name and address of the Employer/ Purchaser)
I/We. The undersigned, declare that:

I/We understand that, according to your conditions, bids must be supported by a Bid Securing Declaration.

I/We accept that I/We may be disqualified from bidding for any contract with you for a period of three year from the date of notification if I am /We are in a breach of any obligation under the bid conditions, because I/We

a) have withdrawn/modified/amended, impairs or derogates from the tender, my/our Bid during the period of bid validity specified in the form of Bid; or

b) having been notified of the acceptance of our Bid by the purchaser during the period of bid validity (i) fail or reuse to execute the contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to Bidders.

I/We understand this Bid Securing Declaration shall cease to be valid if I am/we are not the successful Bidder, upon the earlier of (i) the receipt of your notification of the name of the successful Bidder; or (ii) thirty days after the expiration of the validity of my/our Bid.

Signed: (insert signature of person whose name and capacity are shown)
in the capacity of (insert legal capacity of person signing the Bid Securing Declaration)

Name: (insert complete name of person signing the Bid Securing Declaration)
Duly authorized to sign the bid for an on behalf of (insert complete name of Bidder)
Dated on _____ day of _____ (insert date of signing)
Corporate Seal (where appropriate)

SECTION-7

BILL OF QUANTITIES
