

# **DEENDAYAL PORT AUTHORITY**



## **TENDER DOCUMENTS FOR**

**“MAINTENANCE CONTRACT FOR FENDERS INSIDE  
CARGO JETTY AREA FOR TWO YEARS**

## **TECHNICAL BID**

**Executive Engineer (Harbour)**

**HARBOUR DIVISION**

**Deendayal Port Authority**

**Nirman Bhavan, 1st Floor**

**New Kandla – 370 210**

**Kutch District**

**Gujarat State**

**INDIA**

**Telephone: (0) 270325**

**kphdivision@gmail.com**

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## STANDARD GENERAL CONDITIONS FOR CIVIL CONTRACTS

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# DEENDAYAL PORT AUTHORITY

DC: 1

COMPETITIVE BIDDING

AGREEMENT NO: - HD-10/24

BID NO: - HD-10/24

NAME OF WORK: Maintenance contract for fenders inside cargo  
jetty area for two years

## PERIOD OF DOWNLOADING OF BID DOCUMENTS

FROM	:	DATE	___/___/___	TIME	___	HRS
TO	:	NOT APPLICABLE				
TIME AND DATE OF PRE-BID CONFERENCE	:	NOT APPLICABLE				
LAST DATE AND TIME FOR RECEIPT OF BIDS	:	DATE	09/07/2024	TIME	12:00	HRS
*TIME AND DATE OF OPENING OF BIDS	:	DATE	09/07/2024	TIME	12:05	HRS
PLACE OF OPENING OF BIDS	:	HARBOUR DIVISION, NIRMAN BHAVAN, NEW KANDLA, KUTCH (GUJARAT STATE).				
OFFICER INVITING BIDS	:	EXECUTIVE ENGINEER (HARBOUR)				

# **DEENDAYAL PORT AUTHORITY**

**Notice No.HD-10/24**

**Tender No.HD-10/24**

## **ONLINE TENDERING (E- Tendering)**

**Name of Work:** Maintenance contract for fenders inside cargo jetty area for two years.

Tenders in E-tendering system are invited by EXECUTIVE ENGINEER (HARBOUR) for the above work as per the details given in the table below.

Work Description	Tender Fee (In Rs.)	Estimated cost (In Rs.)	EMD (In Rs.)	Date of Pre Bid Meeting	Last Date and time of online Submission of bid documents
Maintenance contract for fenders area inside cargo jetty area for two years	1180/- including GST (To be paid via digital mode of payment)	2,27,21,526.34 And Credit item for Rs. 7,78,400.00	2,27,215.00 (To be paid via digital mode of payment)	---	09/07/2024 UPO 12:00 HRS.

Detailed tender notice along with complete tender documents can be downloaded from website <https://kpt.nprocure.com> & <https://eprocure.gov.in> from /06/2024 to 09/07/2024 @ 12:00 hrs. Tender Notice is also available on <http://Deendayalport.gov.in>. Technical Bid will be opened on 09/07/2024 @ 12:05 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 Shri M.R. Makhijani, Executive Engineer (Harbour), Harbour Division, Nirman Building, New Kandla- (Kutch). Phone no. 02836-270325 during working hours before the last date and time of submission of tender document.

Executive Engineer (Harbour)

Deendayal Port Authority

**DEENDAYAL PORT AUTHORITY**  
**NOTICE INVITING ON LINE TENDER**

Details about tender:

Department Name : Civil Engineering Department

Circle/ Division : Harbour Division, Nirman Bhavan, New Kandla-(Kutch)-370210.

Tender Notice No. : **HD-10/24**

Name of Work : MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY AREA FOR TWO YEARS

Estimated Contract Value (INR) : Rs. 2,27,21,526.34 And Credit item for Rs. 7,78,400.00

Period of Completion (in Months) : 24 Months

Bidding Type : Open

Bid Call (Nos.) : One

Tender Currency Type : Single

Tender Currency Settings : Indian Rupee (INR)

Qualifying Criteria

1. Average annual financial turnover during the last three years ending 31st March 2023, should be at least Rs. 68.16 Lakhs.
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:
  - i. Three similar completed works, each costing not less than Rs. 90.89 Lakhs.
  - ii. Two similar completed works, each costing not less than Rs. 113.61 Lakhs.
  - iii. One similar completed work, costing not less than Rs. 181.77 Lakhs.
3. Similar Works means contractor shall have the experience of Repair/maintenance/supply & installation of Marine fendering work on wharf/jetty/marine structure with allied civil work in that particular contract is acceptable.

The contractors those who are registered with DPA in A1 Class and above for fendering works shall be directly eligible and need not to submit documents for qualification except copy of registration with DPA in appropriate class and category. However, they have to submit EMD, Tender fee and Bid capacity calculations.

If the similar work is executed in private organization as main contractor, it is mandatory to upload TDS certificate for that particular work.

The contractor has to submit hard copy of tender documents duly stamped and signed.

The sub-contract experience shall be considered for pre-qualification only if same is carried out in Govt. / Semi

Govt./Public Limited Companies subject to submission of sub-contract permission issued by the respective authority prior to execution of the work. If sub contract permission is not authenticated, the respective party shall be considered as Non-responsive. The decision taken by DPA shall be final.

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 as under:

Assessed Available Bid capacity =  $A \times N \times 2 - B$ , 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.

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 Office or his nominee-in charge.

5. Integrity Pact document signed by the DPA authority should be submitted in Preliminary bid stage duly scanned, stamped, signed and dated by the bidder along with witness signature, name and address as per format in the tender document (ANNEXURE I.)

Joint Venture	: Not Allowed
Rebate	: Applicable
Bid Document Fee :	: <b>Rs. 1180.00 (Including 18% GST)</b>
	: To be paid via digital mode of payment ONLY. The details are mentioned below: -
Bid Document Fee Payable To:	Account no.: - 2177002100004628
	IFSC Code: - PUNB0217700
	Punjab National Bank, Kandla Branch
Bid Security/ EMD (INR) :	: <b>Rs. 2,27,215.00</b>
	: To be paid via digital mode of payment ONLY. The details are mentioned below: -
Bid Security/ EMD (INR) In Favour Of :	Account no.: - 2177002100004628
	IFSC Code: - PUNB0217700
	Punjab National Bank, Kandla Branch
Bid Document Downloading Start	: Date /06/2024 Time _____ Hrs

Date

Bid Document Downloading End Date : Date 09/07/2024 Time 12:00 Hrs

Date & Place of Pre Bid Meeting : Not Applicable

Receipt of Bids : Date 09/07/2024 Time 12:00 Hrs

Bid Validity Period : 120 Days

Condition : Payment towards E.M.D. & tender fee shall be submitted through digital mode/online transfer in the account of Port as mentioned below:

Account no :- 2177002100004628

IFSC Code :- PUNB0217700

Punjab National Bank, Kandla Branch

and proof for transfer of payment with transaction number shall be uploaded at Preliminary bid stage by scanning. This submission shall mean that E.M.D. & tender fee are received. Accordingly offer of those shall be opened whose E.M.D & tender fee is received electronically.

*In case of Micro and Small Enterprises (MSEs) holding valid certificate issued by any agencies/ organization under The Ministry of Micro, Small and Medium Enterprises indicating the list of activity related to the subject tender as per National Industrial Classification-2008 mentioned in the table below only shall become eligible for exemption from payment of Tender Fee/EMD. Such bidder shall upload the scanned copy of valid certificate in preliminary bid 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.*

Level	Description
Section F	Construction
Division 42	Civil Engineering
Group 429 & Class 4290	Construction of Other Civil Engineering Projects
Sub-Class 42902	Construction of waterways, harbours and river works, dredging of waterways.
Sub-Class 42909	Other Civil Engineering Projects n.e.c.

The Employer / Authorized person of Employer shall sign the IP in the Presence of a witness, who shall also affix his/her signature thereof and then the same IP shall be uploaded by them on n-procure portal;

#### INTEGRITY PACT:

Remarks

The potential bidders shall download and print the IP Agreement signed by the Employer and their witness and affix his/her signature on the IP Agreement in the presence of a witness from his/her side, who shall also affix his/her signature thereof. Having completed the signing procedure, the potential Bidder shall upload the

duly filled and signed IP Agreement on n-procure portal in preliminary bid stage.

The procedure mentioned above regarding signing of Integrity Pact Agreement by both the parties (Employer and Potential bidders) shall be completed online. However, in case of any technical glitch due to which if any potential bidder is unable to upload the IP Agreement, then he/ she shall submit the Hard Copy of the dully filled, signed IP Agreement, to the Department concerned of DPA within a period of seven days and prior to opening of the Technical Bid, failing which Bid of potential Bidder shall be treated as disqualified.

In case of Joint Venture, IP agreement need to be executed in the name of JV and all the parties of JV need to stamp and sign the agreement

: Submission of Integrity Pact and other Documents during office hours: On date 09/07/2024 to 15/07/2024 by R.P.A.D Speed post in the chamber of Executive Engineer (Harbour), Harbour Division, Nirman Bhavan, New Kandla (Kutch)-370210. Phone: 02836-270325

For further details and general enquiries prospective bidders may contact Shri M.R. Makhijani, Executive Engineer (Harbour), Harbour Division, Nirman Building, New Kandla-(Kutch). Phone no. 02836-270325 during working hours before the last date and time of submission of tender document.

Bid Opening

: Preliminary Bid shall be opened on 09/07/2024. Date of opening of Technical & price bid shall be notified after scrutiny & evaluation of Preliminary bid & Technical Bid respectively.

Documents required to be submitted by scanning through online

- a. Proof for Payment of Tender Fees & EMD with transaction number shall be uploaded at Preliminary bid stage by scanning. This submission shall mean that E.M.D. & tender fee are received. Accordingly offer of those shall be opened whose E.M.D & tender fee is received electronically.
- b. Documents in support of fulfilling qualifying Criteria as indicated above.
- c. Integrity Pact agreement duly signed by the DPA authority and bidder should be submitted in Preliminary bid stage duly scanned, stamped, signed and dated along with witness signature, name and address as per format in the tender document (**ANNEXURE I**).
- d. As indicated in clause 4 of section 1 – Instructions to Bidders.
- e. 'Bid Securing Declaration' form as per format available in tender document (**ANNEXURE II**) for bidders claiming relaxation for tender fee and EMD.

Officer- Inviting Bids

: Executive Engineer (Harbour),  
Harbour Division, Nirman Bhavan,  
New Kandla, Kutch 370210.

Bid Opening Authority

: Executive Engineer (Harbour)



Address : Harbour Division, Nirman Bhavan, New Kandla (Kutch)-370210.

Contact Details : 02836- 270325

**Note :**

In case bidders 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 GNFC Ltd.,  
(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](mailto:nprocure@gnvfc.net)  
TOLL FREE NUMBER : 1-800-233-1010 (EXT: 501, 512, 516, 517, 525)

## **INFORMATION AND INSTRUCTIONS FOR CONTRACTORS FOR E-TENDERING FORMING PART OF NIT AND TO BE POSTED ON WEBSITE**

1. Information and instructions for Contractors will form part of NIT and to be uploaded on website.
2. The intending bidder must have class-III digital signature to submit the bid.
3. The Bid Document as uploaded can be viewed and downloaded free of cost by anyone including intending bidder. But the bid can only be submitted after uploading the mandatory scanned documents.
4. Bidders may modify or withdraw their bids before last date and time of submission of bid as notified.
5. While submitting the modified bid, contractor can revise the rate of one or more item(s) any number of times (he need not re-enter rate of all the items) but before last time and date of submission of bid as notified.
6. On opening date, the contractor can login and see the bid opening process. After opening of bids he will receive the competitor bid sheets.
7. Contractor can upload documents in the form of JPG format and PDF format.
8. It is mandatory to upload scanned copies of all the documents including GST Registration No., 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.
9. If the contractor is found ineligible after opening of bids, his bid shall become invalid and cost of bid document shall not be refunded.
10. If any discrepancy is noticed between the documents as uploaded at the time of submission of bid and hard copies as submitted physically by the contractor the bid shall become invalid and cost of bid document shall not be refunded.
11. Certificate of Financial Turn Over: At the time of submission of bid contractor may upload Affidavit/ Certificate from CA mentioning Financial Turnover of last 3 (three) years or for the period as specified in the bid document and further details if required may be asked from the contractor after opening of technical bids. There is no need to upload entire voluminous balance sheet.
12. Contractor must ensure to quote rate of each item. If any cell is left blank and no rate is quoted by the bidder, rate of such item shall be treated as "0" (ZERO).
13. The Draft information and instructions to Contractors may be modified suitably by NIT approving authority as per requirement.
14. All the mandatory document required/prescribed for pre-qualification have to be enclosed by the bidder failing which his offer shall be rejected and treated as non- responsive. However, additional documents required if any for verification of the original documents shall be submitted by the bidder if required by DPA.

### **List of Documents to be scanned and uploaded within the period of bid submission:**

- i. Payment towards E.M.D. & tender fee shall be submitted through digital mode/online transfer in the account of Port and proof towards payment with transaction No. shall be submitted in preliminary bid stage by scanning while uploading the bid. This submission shall mean that E.M.D. & tender fee are received.
- ii. Integrity Pact document duly signed by the DPA authority, and the bidder should also be submitted in Preliminary bid stage duly scanned, stamped, signed and dated along with witness signature, name and address as per procedure and format in the tender document.
- iii. Certificates of Work Experience of successfully completed works issued by the client.
- iv. Certificate of Financial Turnover from CA.
- v. Any other Document as specified in the press notice.
- vi. Affidavit as per provisions of NIT.
- vii. Certificate of Registration for GST and acknowledgement of up to date filed return if required.
- viii. Bid capacity calculations along with balance financial liability of works in hand.

# **SECTION -1**

## **INSTRUCTIONS TO BIDDERS**

## **GENERAL**

### **1. Scope of bid**

- 1.1 The Executive Engineer (Harbour), Deendayal Port Authority, invites bids by E-Tendering for the works " **MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY AREA FOR TWO YEARS**" 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 sources 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 clause no.4
- 3.2 All bidders shall provide in section 2, forms of bid and qualification information, a statement that 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.
- 3.3 Government-owned enterprises may only participate if they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the employer subject to fulfillment of minimum qualifying criteria.
- 3.4 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 on similar works executed during the last seven years; and details like monetary value, clients, proof of satisfactory completion.
  - b. Documentary evidence of adequate financial standing and proof from client for satisfactory completion of works
  - c. ~~Solvency certificate from bankers for Rs. — lakhs not older than six months as on the date of submission of the bid. .~~ **(Not Applicable, please refer Section-5)**
  - d. Equipment requirement/schedule. **(Not Applicable, please refer Section-5)**
  - e. Managerial / Manpower requirement. **(Not Applicable, please refer Section-5)**
  - f. Project planning and quality control procedure to be adopted. **(Not Applicable, please refer Section-5)**
  - g. Information regarding projects in hand, current litigation, orders regarding exclusion, expulsion or black listing, if any.
  - h. 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. **(Not Applicable, please refer Section-5)**
- 4.2.1 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 of the contract. **(Not Applicable, please refer Section-5)**
  - (e) Qualifications and experience of key site management and technical personal proposed for the contract. **(Not Applicable, please refer Section-5)**
  - (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 lines 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) Proposals for subcontracting components of the works amounting to more than 10 percent of the bid price( for each, the qualifications should be annexed );and **(Not Applicable, please refer Section-5)**
  - (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 capacity 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) **(Not Applicable, please refer Section-5)**
- 4.3 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 2023**, should be at least **Rs. 68.16 Lakhs**.
  - (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 **Rs. 90.89 Lakhs**.
    - b) Two similar completed works each costing not less than **Rs. 113.61 Lakhs**.
    - c) One similar completed work costing not less than **Rs. 181.77 Lakhs**.
  - (iii) Similar Works means contractor shall have the experience of Repair/maintenance/supply & installation of Marine fendering work on wharf/jetty/marine structure with allied civil work in that particular contract is acceptable.
- The contractors those who are registered with DPA in A1 Class and above for **fendering works** shall be directly eligible and need not to submit documents for qualification except copy of registration with DPA in appropriate class and category. *However they have to submit EMD, Tender fee and Bid capacity calculation.*
- If the similar work is executed in private organization as main contractor, it is mandatory to upload TDS certificate for that particular work.

The contractor has to submit hard copy of tender documents duly stamped and signed.

*The sub-contract experience shall be considered for pre-qualification only if same is carried out in Govt. / Semi Govt./Public Limited Companies subject to submission of sub-contract permission issued by the respective authority prior to execution of the work. If sub contract permission is not*

*authenticated, the respective party shall be de-barred for participation in tender of DPA for minimum 2 years. The decision taken by DPA shall be final.*

**\*\*Details in respect of Employer of the project viz Postal and mail address along with contact number may be furnished in respect of similar work submitted.**

**Note: Figures to be computed and indicated in the individual projects.**

iv) 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.  
**(Not Applicable, please refer Section-5)**

- 4.4 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. **(Not Applicable, please refer Section-5)**
- 4.5 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. (Not Applicable, please refer Section-5)**
- 4.6 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 =  $A \times N \times 2 - B$ ,  
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 bringing value of works to current level, multiplying factor to be indicated in tender 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	114.9	111.60
Multiplying factor	1	1.09	1.24	1.25	1.27	1.33	1.37

The Bidder shall furnish statements showing the value of existing commitments and on-going 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.

- 4.7 Even though the bidders meet 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 or poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc., and/or

## **5. One Bid per Bidder**

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

5.2 **Joint Venture**

Companies/Contractors may jointly undertake contract/contracts. Each entity would be jointly and severally responsible for completing the task as per the contract, however declaration of the Lead member to be indicated by bidders, however JV has to designate in their MOU. The firms with at least 26% equity holding each be allowed to jointly meet the legibility criteria.

Note: JVs/ Consortia be allowed in all contracts of estimated cost of more than Rs.5 crores. However, there shall be no limit on the number of partners. **(Not Applicable, please refer Section-5)**

6. **Cost of Bidding**

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

7. **Site Visit**

- 7.1 The bidder, at the Bidder's 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 table below and addenda issued in accordance with Clause 10:

- DC 1 : Bid Reference
- NIT : Invitation for Bids
- SECTION 1 : Instruction to Bidders
- SECTION 2 : Forms of Bid, Qualification Information and letter of Acceptance.
- SECTION 3 : Conditions of Contract
- SECTION 4 : Contract Data
- SECTION 5 : Specifications and Special Conditions
- SECTION 6 : Drawing
- SECTION 7 : Bill of Quantities
- SECTION 8 : Forms of Securities

- 8.2 One set of the bidding documents will be issued to the bidder. The document should be completed and returned with the bid. (Not Applicable, please refer Section-5)

- 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 hard copy 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. Copies of the Employer's response will be forwarded to all purchasers of the bidding documents, including a description of the enquiry but without identifying its source.

### **9.2 Pre – bid meeting (Not Applicable, please refer Section-5)**

- 9.2.1 The bidder or his official representative is invited to attend a pre-bid meeting which will take place at Harbour Division, Nirman Bhavan, New Kandla, Kutch, Gujarat. **(Not Applicable, please refer Section-5)**
- 9.2.2 The purpose of the meeting will be to clarify issues and to answer question on any matter that may be raised at that stage. **(Not Applicable, please refer Section-5)**
- 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. **(Not Applicable, please refer Section-5)**
- 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. **(Not Applicable, please refer Section-5)**
- 9.2.5 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder. **(Not Applicable, please refer Section-5)**

## **10. Amendment of Bidding Documents**

- 10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by using addenda.
- 10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated 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 bids, the Employer shall extend as necessary the deadline for submission of bids, in accordance with Sub-Clause 20.2 below.

## **C. Preparation of Bids**

### **11. Language of the 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
- 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 7 of Sub-Clause 8.1 shall be filled in without exception.

#### **B) Financial Bid**

Bill of Quantity dully filled and digitally signed by the 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 for 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 shall be fixed for the duration of the contract and shall not be subject to adjustment on any account.

#### 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 not less than 120 days after the deadline date for bid submission specified in clauses 20. 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 and also shall submit an extension for EMD, if it is in the form of Bank Guarantee.

#### 16. Bid Security (Earnest Money Deposit - EMD)

- A. Earnest money Deposit (EMD) should be 1 % of the estimated cost of work and maximum amount of earnest money should be Rs. 50.00 lakhs.
- B. The EMD up to Rs. 5 lakhs be payable either by digital/online transfer & EMD beyond Rs.5 lakhs can also 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 Guarantees 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. **In case of Micro and Small Enterprises (MSEs) holding valid certificate issued by any agencies/ organization under The Ministry of Micro, Small and Medium Enterprises indicating the list of activity related to the subject tender as per National Industrial Classification-2008 mentioned in the table below only shall become eligible for exemption from payment of Tender Fee/EMD. Such bidder shall upload the scanned copy of valid certificate in preliminary bid 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.**

Level	Description
Section F	Construction
Division 42	Civil Engineering
Group 429 & Class 4290	Construction of Other Civil Engineering Projects
Sub-Class 42902	Construction of waterways, harbours and river works, dredging of waterways
Sub-Class 42909	Other Civil Engineering Projects n.e.c.

- D. EMD of unsuccessful bidders other than L1 is refunded immediately after ranking of price bids. Earnest money of L1 is refunded immediately after entering in to agreement and acceptance of performance Guarantee from L1.

- E. EMD is refunded suo-motto without any application from the bidders.
- F. The bid security of the successful bidder will be discharged after he has signed the Agreement and furnished the required Performance security.
- G. The Bid security may be forfeited, if
  - a) The bidder withdraws the bid after bid opening during the period of bid validity.
  - b) The bidder does not accept the correction of the Bid price, pursuant to Clause 27; or
  - c) The successful bidder fails within the specified time limit to
    - (i) Sign the Agreement or
    - (ii) Furnish the required Performances security.

**17 Alternative proposals by bidders**

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

**18 Format and signing of bid**

- 18.1 The Price Bid to be submitted on-line shall be signed digitally by a person or persons duly authorized to sign on behalf of the Bidder.
- 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 initialed 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". 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". (Not Applicable, please refer Section-5)
- 19.2 The envelopes shall (Not Applicable, please refer Section-5)
  - (a) be addressed to Nodal Officer/Employer at the following address.  
Executive Engineer, HARBOUR DIVISION, Deendayal Port Authority, Nirman Bhavan,  
New Kandla – Kutch, Gujarat,  
and;
  - (b) bear the following identification:

Bid for “: **MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY AREA FOR TWO YEARS.**”  
Bid reference no - **HD- 10/24.**  
DO NOT OPEN BEFORE ( 01/07/2024, as per Clause 23)  
Name and address of the bidder.

The tender complete in all respect should be put in the tender box (marked tender No\_\_\_\_\_) in the office of \_\_\_\_\_ upto \_\_\_\_\_ p.m. on due date and open at \_\_\_\_\_ on the same date in presence 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. **(Not Applicable, please refer Section-5)**

## **20 Deadline for submission of the Bids**

- 20.1 Bids must be received by the Employer at the address specified above not later than 01/07/2024 in the event of the specified date for the submission of bids being declared a holiday by the Employer. The bids will be received upto the appointed time on the next working day. **(Not Applicable, please refer Section-5)**
- 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 In case of tender document being downloaded from the web site, at the time of submission of (the hard copy of) the tender document. The tenderer shall give an undertaking that no change have been made in document. He shall be issued a printed set of document under acknowledgment with a condition that the printed version of the port tender document will be treated as authentic tender and if any discrepancy is noticed at any stage between the Port's tender document and the one submitted by the tenderer, the conditions mentioned in the Port's printed document shall prevail. Besides, the tenderer shall be liable for legal action for the lapses. **(Not Applicable, please refer Section-5)**

## **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 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clauses 18 & 19, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate. **(Not Applicable, please refer Section-5)**
- 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. **(Not Applicable, please refer Section-5)**

## **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. **(Not Applicable, please refer Section-5)**
- 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 may consider appropriate, will be announced by 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. **(Not Applicable, please refer Section-5)**

- 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.

**26. Examination of Bids and Determination of Responsiveness**

- 26.1 Prior to detailed evaluation of Bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in Clause 4 (b) has been properly signed by an authorized signatory (accredited representative) holding power of Attorney in his favor. The Power of Attorney shall inter alia include a provision to bind the Bidder to settlement of disputes clause; (c) is accompanied by the required Bid security and; (d) is responsive to the requirements of the Bidding documents.
- 26.2 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 affects 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.
- 26.3 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-conforming 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; and **(Not Applicable, please refer Section-5)**
- (b) Where there is a 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. **(Not Applicable, please refer Section-5)**

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**

The Employer will evaluate and compare only the bids determined to be responsive in accordance with Clause 26.

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

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.

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.

**E. 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 (L1) 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 29, 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 any liability to the affected bidder or bidders of the grounds for Employer's action.

**33 Notification of Award and Signing of Agreement**

33.1 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”).

33.2 The notification of award will constitute the formation of the Contract subject only to the furnishing of a performance security in accordance with the provision of Clause 34.

33.3 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.

Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful and release their Bid security (EMD).

#### **34. Performance Security**

34.1 Security deposit shall consist of two parts; a) Performance Guarantee to be submitted at award of work, and b) Retention money to be recovered from Running Bills.

Performance guarantee should be 10% of Contract price of which 5% of contract price should be submitted as Bank Guarantee, FDR or Online Transfer within (21 days in case of domestic bid and within 28 days in case of global bids) 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 shall be refunded within 14 days from the date of payment of final bill.

34.2 Failure of the Successful Bidder to comply with the requirement as mentioned above shall constitute sufficient grounds for cancellation of the award of work and forfeiture of EMD and/or may be disqualified from bidding for any contract with DPA for a period of three years from the date of notification.

34.3 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 . (Not Applicable, please refer Section-5)**

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.

#### **36. Conciliator**

36.1 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 the bid. **(Not Applicable, please refer Section-5)**

**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 any thing 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.
- (d) Submission of fraudulent documents shall be treated as major violation of the tender procedure and in such cases the Port shall resort to forfeiture of EMD/SD/BG of the bidder, apart from blacklisting the firm for the next 3 years.

**37.2** Furthermore, Bidders shall be aware of the provision stated in sub-clause 59.2 of the conditions of Contract.

## **SECTION: 2**

### **FORMS OF BID, QUALIFICATION INFORMATION**

#### **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 of Tender Submission \_\_\_\_\_, Tender No. \_\_\_\_\_

To

The Executive Engineer (Harbour),  
Deendayal Port Authority,  
Nirman Bhavan, 1<sup>st</sup> floor,  
Deendayal Pin 370-210,  
Dist- Kutch (Gujarat).

We, the undersigned, declare that:

- (a) we have examined and have no reservations to the tender documents, including addenda and clarifications issued
- (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
- (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'] **(Not Applicable, please refer Section-5)**
- (d) The discounts offered and the methodology for their application are: **Discounts.** if our tender is accepted, the following discounts shall apply. [Specify in detail each discount offered and the specified item of the Schedule of Requirements to which it applies.] [in case of Techno-Commercial offer it shall be mentioned that "as filled in the Price Bid "]  
**Methodology of application of the discounts.** The discounts shall be applied using the following method:[ Specify in detail the method that shall be used to apply the discounts ]. [ in case of Techno-Commercial offer it shall be mentioned that " as filled in the Price Bid "] **(Not Applicable, please refer Section-5)**
- (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- clause20.1]** , and it shall remain binding upon us and may be accepted at any time before the expiration of that period or any extended period 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]. **(Not Applicable, please refer Section-5)**
- (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: - **"MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY AREA FOR TWO YEARS."**

BID

TO

----- (The employer)

Address

-----

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 the appointment of \_\_\_\_\_  
as the conciliator.

(OR)

We do not accept the appointment of \_\_\_\_\_ as the

conciliator and propose instead that \_\_\_\_\_  
be appointed as

(Not  
Appli  
cable,  
pleas  
e  
refer  
Sectio  
n-5)

Conciliator whose 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  
India 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/ JV

YEAR	TURN OVER
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 completed similar work as defined in the tender document during last 7 years	2017-18		
	2018-19		
	2019-20		
	2020-21		
	2021-22		
	2022-23		
	2023-24		

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 of port	Value of contract Rs	Stipulated Period of completion	Value of remaining to be completed	Anticipated date of completion

--	--	--	--	--	--	--	--

(B) Works for which bids already submitted

Description of work	Place & state	Name& address of port	Value of contract Rs	Stipulated Period of completion	Date when decision is expected	Remarks if any

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. **(Not Applicable, please refer Section-5)**

Item of equipment	Requirement no. capacity	Owned/leased /to be procured	No.s/ 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. **(Not Applicable, please refer Section-5)**

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

7. Proposed sub-contracts and firms involved **(Not Applicable, please refer Section-5)**

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

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

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

9. 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 letterhead paper of the port)

\_\_\_\_\_ (date)

TO: \_\_\_\_\_  
(Name and address of the contractor)

Dear Sirs,

Sub: **"MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY  
AREA FOR TWO YEARS."**

Tender no

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



## ISSUE OF NOTICE TO PROCEED WITH THE WORKS

(Letterhead of the Port)

\_\_\_\_\_dated

To  
( Name and address of the contractors)

Dear Sirs,

Sub: **MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY  
AREA FOR TWO YEARS"**

Tender no.

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 here by notified that the [site] is being handed over to you for execution of work in accordance with the contract documents.

Yours faithfully,

( signature, name and title of  
Signatory authorized to sign on  
Behalf of employer/board)

## **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 instructions indicated]

THIS CONTRACT AGREEMENT is made

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

Between

(1) The Deendayal Port Authorities, an autonomous body of the ministry of SHIPPING of the Government of INDIA, incorporated under the Major Port Authorities' Act 2021 thereafter, under the laws of India and having its principal place of business at [insert address of port (hereinafter called "the port" )], 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 [tender title and brief description] and has accepted a tender n 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 "contract price")

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 and technical specifications, drawings );
  - (e) Notice inviting tender;
  - (f) Replies issued to the pre-bid queries, addenda is any issued[numbers and 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 bidder till 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 witnesseth 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 ad 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 [insert name of the contract governing law country] 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**

## 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 names of the Adjudicator is defined in the Contract Data. **(Not Applicable, please refer Section-5)**

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 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 Contract Data (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 instructions clarifying queries about the Conditions of Contract.

2.1.1 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).

2.2 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) Bill of quantities and
- (8) Any other documents listed in the Contract Data as forming part of the Contract.

## **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 except to the Conciliator 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. Each only would be jointly and severally responsible for completing the task as per the contract, however declaration of the Lead member to be indicated by bidders, however JV has to designate in their MOU. The firms with at least 26% equity holding each be allowed to jointly meet the legibility criteria.

Note: JVs/Consortia be allowed in all contracts of estimated cost of more than Rs.5 crores. However, there shall be no limit on the number of partners. **(Not Applicable, please refer Section-5)**

## **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 . (Not Applicable, please refer Section-5)**

- 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. Employers Risks**

- 11.1 The Employers 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 traveling 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
- (b) 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;
- (c) 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
- (d) 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 Contractors risks.



- 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. ( Not applicable, please refere section 5)**

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 authorized 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. **(Not Applicable, please refer Section-5)**

## **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. **(Not Applicable, please refer Section-5)**

## **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 conciliators decision will be final and binding. **(Not Applicable, please refer Section-5)**

## **25.3 Arbitration (Not Applicable, please refer Section-5)**

Any dispute in respect of in respect of 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, failing 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 be, 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 arbitrator by 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 equally 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.
- (ix) All the disputes related to the subject contract shall be resolved through a conciliation committee / councils comprising of independent subject experts.

## **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. **(Not Applicable, please refer Section-5)**

## **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 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 nominees, 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 data 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 data.**

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

The nodal officer or his nominee shall decide whether and by how much to extend the intended completion Data 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 assessing the new intended completion data.

**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 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 started 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 Data. The estimates are to be provided by the contractor as soon as reasonably possible.

32.2 The contractor shall cooperate 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. **(Not Applicable, please refer Section-5)**

**C. QUALITY CONTROL**

**33. Identity Defects**

33.1 The Nodal Officer or his nominee shall check the Contractor's work and notify 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 labor, 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 (i) and (ii) 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 labor, 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 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 (Not Applicable, please refer Section-5)**

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.

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.

43.4 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.

- 43.5 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.
- 43.6 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.
- 43.7 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.
- 43.8 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 (Not Applicable, please refer Section-5)**

- 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 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 form 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 Date 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. Any new Taxes, levies, duties imposed after signing the Contract shall be reimbursed by the employer on production of documentary evidence. **(Not Applicable, please refer Section-5)**

#### **46. Currencies**

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

#### **47. Price Adjustment. (Not Applicable, please refer Section-5)**

47.1. 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.

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 in the Contract data. This Clause is applicable for all the civil works having tender cost more than Rs.1crore and duration is more than 6 months. 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) Price adjustment for increase or decrease in the cost shall be paid in accordance with the following formula:

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

V	=	Variation in price on account of labour / diesel / cement / steel / bitumen during the month under consideration.
Po	=	Market rate of labour / diesel / cement / steel / bitumen on the date of opening of the bids. (Consumer Price Index for Labour)
P	=	Market rate of labour / diesel / cement / steel / 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: 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, 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 or bye 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 max 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) may be 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 9A.

- (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 within 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.

#### **50. Incentives or Bonus (Not Applicable, please refer Section-5)**

For early completion of the contract before the stipulated date of completion of an incentive amount at the rate of 0.25 per cent of the contract price per full week of early completion, subject to a maximum of five per cent (5%) of the contract price may be paid to the contractor.

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 extension of time at its discretion, by virtue of which the contractor make him self 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 (Not Applicable, please refer Section-5)**

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 installments. The first installment shall be paid after mobilization has started and next installment 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 leader.
- 51.4 Equipment advance shall be paid in two or more equal installments. First installment shall be paid after construction equipment has arrived at the site and next installment 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 consist of two parts; a) Performance Guarantee to be submitted at award of work, and b) Retention money to be recovered from Running Bills.

Performance guarantee should be 10% of Contract price of which 5% of contract price should be submitted as Bank Guarantee, FDR or Online Transfer within (21 days in case of domestic bid and within 28 days in case of global bids) 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 shall be refunded within 14 days from the date of payment of final bill and performance guarantee shall be released after completion of defect liability period of 12 months, payment of welfare cess of Final bill & NOC from Geology Department.

Failure of the Successful Bidder to comply with the requirements as mentioned above shall constitute sufficient grounds for cancellation of the award of work and forfeiture of bid security i.e. EMD”

## **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, the contractor will serve a written notice Nodal Officer or his nominee/Employer to 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. 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
- (g) 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.
- (h) If the contractor has contravened clause 7 and clause 9 of condition of contract.

For the purpose of this paragraph: "corrupt practice" means the offering, giving receiving or soliciting of any thing of value to influence the action or public officials 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. 59.2 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.
- 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 employed solely on the works, and the contractor's costs of protecting and securing the works and loss of profit on uncompleted works 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.

## **63. BLANK**

## **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.
- e) 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 labor.

- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) 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.
- k) 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.
- l) 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.
- m) 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 Labor is prohibited in Building and Construction Industry.
- n) 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, traveling expenses from home upon the establishment and back, etc.



- o) 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.
- p) 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 contractors	(8)	}	<b>(Not Applicable, please refer Sect-5)</b>
The schedule of key personnel	(9)		

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

The employer is

Chairman,

Deendayal Port Authority .

Address: A.O. Building, P.O. Box No. 50, Gandhidham.

Employer's authorized representative is Chief Engineer, Deendayal Port Authority .

The nodal officer or his nominee is Executive Engineer

Nirman Bhavan, Deendayal Pin 370-210

Dist- Kutch (Gujarat)

Nodal officer's authorized representative is AXEN / AE / J.E

The conciliator appointed jointly by the employer and contractor is:

Name: - \_\_\_\_\_

**(Not Applicable, please refer Sect-5)**

Address: - \_\_\_\_\_

The name and identification number of the contract is: -" **MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO JETTY AREA FOR TWO YEARS ."**

The work consist of \_\_\_\_\_

The start date shall be \_\_\_\_\_

The following documents also form part of the contract

The contractor shall submit a program for the works immediately after delivery of the letter of acceptance.

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

The site is located inside cargo jetty area, New Kandla.

The defect liability period is 12 Months from the date of completion.

The minimum insurance cover for physical property, injury and death is Rs.10 (lakhs) 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 events shall also be compensation events:

The employer terminates the contract for his convenience

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The period between programme updates shall be 15 days

The amount to be withheld for late submission of an updated programme shall be Rs. 5000/-

The language of the contract documents is English

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

The currency of the contract is Indian rupees

Fees and types of reimbursable expenses to be paid to the dispute review expert

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Appointing authority for the Arbitrator is Chairman, DPA

The formulae for adjustment of prices 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 calculating escalation, base prices 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, POL and other materials and equipment usage for the purposes of calculating escalation.

C. Escalation should be 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 & POL and

Wholesale 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 conditions of contract.

Adjustment formula:

Price adjustment for increases or decreases in the cost shall be paid in accordance with the following formula:

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

V = Variation in price on account of labour / diesel / cement / steel / bitumen during the month under consideration.

P<sub>o</sub> = Market rate of labour / diesel / cement / steel / bitumen on the date of opening of the bids. (Consumer Price Index for Labour)

P = Market rate of labour / diesel / cement / steel / 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: 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, etc.

SECTION 5

SPECIFICATIONS

AND

SPECIAL CONDITIONS

NAME OF WORK : MAINTENANCE CONTRACT FOR FENDERS INSIDE CARGO  
JETTY AREA FOR TWO YEARS

Details of deviations / exclusions / alteration to Clause(s) of sections of this tender are as under :-

**(A) GENERAL SPECIAL CONDITION**

The following clauses are not be applicable :

**Section -1 :**

- Clause 4.1 (c), d, 4.1 e, 4.1 f, 4.1 h;
- Clause 4.2.1 (d), (e), (J), (k);
- Clause 4.3(iv),
- Clause 4.4 & 4.5;
- Clause 5.2;
- Clause 8.2;
- Clause 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5;
- Clause 19.1, 19.2, 19.3 However, the prospective bidder has to submit the tender document and its accompaniments duly signed on or before 7 days from the date of opening of tender (i.e. preliminary bid & technical bid stage).
- Clause 20.1 – However, the online Bids must be received by the Employer at the address specified above not later than 01/07/2024;
- Clause 20.3;
- Clause 22.2, 22.5;
- Clause 23.2, 23.3;
- Clause 27.1;27.2
- Clause 35, 36.

**Section - 2 :**

- The clauses (c) (d) (g) (j) & (k) of the SPECIMEN FOR FORM OF BID will not be Applicable;
  - Following statements of Contractor's Bid are not applicable : "Advance Payment"
    - " We accept the appointment of \_\_\_\_\_ as the conciliator.
    - (OR)
    - We do not accept the appointment of \_\_\_\_\_ as the conciliator and propose instead that \_\_\_\_\_ be appointed as Conciliator whose daily fees and biographical data are attached.”;
- Table no. 5, 6 & 7 of Pre-qualifications of bidders of Section – 2.

**Section – 3:**

- 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 names of the Adjudicator is defined in the Contact Data.;
- Clause 7, 8, 9 ;
- Clause 21, 24, 25, 26;32.3
- Clause 43;
- Clause 44, 45;
- Clause 47,
- Clause 50.

- Clause 51.

**Section - 4 :**

a) Following statements of Contract Data are not applicable :

The schedule of other contractors (8)

The schedule of key personnel (9)

“The conciliator appointed jointly by the employer and contractor is:

Name: - \_\_\_\_\_

Address: - \_\_\_\_\_ “

b) Formulae for Price Adjustment.

**Section - 8 :**

Following forms are not applicable :

- Specimen B.G. for Advance Payment & stage payment.
- Form of Disputes review board agreement.
- Joint Venture Partner information form

The provision in special conditions which form a part of the contract shall have precedence over those specified in General Conditions in case of diversity, if any.

- 1) The tender for the work shall remain open for acceptance for 120 days from the date of its opening.
- 2) The stamp duty paper of requisite value shall be furnished by the contractor within 10 days from the date of issue of pre-acceptance letter, failing which he will not be permitted to start the work.
- 3) The tenderers are expected to have full knowledge of the site of work and local working conditions in the Port before submitting the tenders as 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, or his authorized agent from time to time will give instruction as regards for maintenance work required to be carried out by the contractor as maintenance work will be carried out round the clock for railway movement, The contractor while filling up their rates in the tender should consider the above aspects.
- 4) The work shall be done strictly in accordance with specifications, latest IS codes in practice for different building trades, in addition to the specifications given in Schedule "B" of the tender. Approved plan and the instructions issued by the Engineer-in-charge from time to time.
- 5) The work shall be carried out in accordance with the best standards of workmanship and to entire satisfaction of Engineer-in-Charge.
- 6) An order book is to be maintained by the authorized representative of contractor at the site of work and orders and instructions 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 and shall properly comply with the instructions. The order book shall be the 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. The instructions regarding the maintenance work required to be carried out shall also be recorded by the Engineer-in-charge or his authorized representative in the order book.
- 7) 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 deposit the materials at such places which may cause inconvenience to the public and the work going on in the nearby area.
- 8) The contractor shall have to make good all damages done by him to the nearby structures while executing the work and no extra payment shall be made to him on that account.
- 9) 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.
- 10) 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 in contract. In case of any ambiguity the decision of the Engineer-in-charge shall be final.
- 11) 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 co-efficient of painting etc. of the materials.
- 12) The contract is liable to be cancelled in case either contractor himself or any of his employees, if found to be an Engineer of gazetted rank of Government Officer, employee in an Engineering Department of Government of India or Deendayal Port



Authority within two years or retirement and do not possess the permission from the concerned authority for working as contractor or his employee.

- 13) All the labour acts; rules and regulations in force from time to time are to be followed by the contractor.
- 14) The contractor shall have to obtain necessary license from the Assistant Labour Commissioner (Central) Adipur in case he has to engage 10 or more workers on any day during the execution of work.
- 15) Contractor has to follow all the rule regarding EPF, ESIC and deduct contribution from salary for EPF and equal contribution from contractor to be deposited in the UAN account of employee.
- 16) All payment to labour shall be done in ECS mode.
- 17) The contractor shall comply with at his own cost the Rules and Regulations in force from time to time for the entry of his persons for carrying out the work in the Port area.
- 18) If required, 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.
- 19) Income tax at prevailing rate and surcharge as applicable thereon shall be deducted while making the payment to the contractor for carrying out the work and only net amount shall be paid as directed by the Central Board of the direct taxes, Ministry of Finance, Government of India.
- 20) The Engineer-in-Charge will be entitled to deduct and adjust any sums of money payable by the contractor to the board under the terms of any contract executed by him or on his behalf or from the security deposit or from any sums due or becomes due from the present contract.
- 21) 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 loss and damage caused by or due to fires, weather or any other reasons and the contractor shall hand over at the time of completion of work all the work in good order and conditions and in conformity in every respect with the requirements of the contract and instruction of Engineer in charge.
- 22) The contractor shall have to arrange the entry permit for him and his staff, labours etc. from C.I.S.F., Deendayal Port Authority as the work is inside cargo jetty area.
- 23) Necessary Indian Dock Safety Regulation for the safety purpose shall be adhered by the contractor and he will be held responsible for any violation of the same. The set of such conditions (regulation) is available with safety officer and the contractor is required to go through it before tendering.
- 24) During the execution of the 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, who is in the opinion of the Engineer-in-charge misconducts of he is found to be negligent in the proper performance of his duties and 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 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 and safety of materials at site or work.
- 29) Unless otherwise specifically mentioned the rates quoted for all items include 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 as directed. 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, Bhuj-Kutch before quarrying any secondary materials like 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) On completion of work, letter intimating the quantities of quarried materials consumed by the contractor concerned in the work as per the quantities of final bill shall be furnished to the Geologist, Department of Geology & Mines, GOG, Bhuj, with specific intimation to furnish the details of outstanding dues against the concerned contractor on account of royalty. Contractor has to obtain the "No due Certificate" for the quantity of quarried material used in work., failing which action for release of balance security deposit in accordance with the Tender conditions will not be initiated.
- 34) The contractor shall in accordance with requirement of Engineer-in-charge afford all reasonable facilities to any other contractor employed by the Port Authority and their workman for work, not included in this contract which the Board may enter into at any time. No disputes on this account shall be entertained.
- 35) 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 cargo 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.
- 36) The Bank Guarantee if submitted in lieu of Security Deposit must be from Any Nationalized / Scheduled Bank (Except Co-Operative Bank) having its branch at Gandhidham.
- 37) While evaluating Tenders, due regards will be paid to national defense.
- 38) The bidder shall give an undertaking that they have not made any payment or illegal gratification to any person authority connected with bid process so as to influence the offence under the PC Act in connection with the bid.
- 39) The tenderers are not expected to make any post tender modifications hence the tenders should not make any correspondence regarding the tender after submission of the same of due date and time. No cognizance of any correspondence shall be taken, if any tenderer persists with the same, necessary action will be initiated against him. All the tenders reached on or before the due date & time shall be opened, if otherwise found in order

- 40) 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.
- 41) The payment from 2nd bill to the 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.
- 42) The period of contract will be 24 months & the period of contract can be further increased with mutual consent with same rates, terms and conditions.
- 43) Deendayal Port Authority has included electronic clearing system. The tenders are required to furnish details of Bank Account as per format enclosed.
- 44) The tenderers should submit firm offer without any price variation and no escalation will be considered.
- 45) The services of fire watch for carrying out any hot works, as required by the Port authority, shall be made free of cost by the department. However, all the necessary arrangements like obtaining a fire watch permit from the concerned authority, transportation of man and materials, if any, for fire prevention etc. shall have to be done by the contractor at his own cost. No claim what-so-ever on account of delay in arrangements or arrival of fire watch services shall be entertained.
- 46) In the event of the contractor(s) committing a default or breach of any of the provisions of the boards contractor's labour regulations and model rules for the protection of health and sanitary arrangements for the workers as amended from time to time or furnishing any information or submitting or filling any statement under the provisions of the above regulations and rules which is materially incorrect, he/they shall without prejudice to any other liability, pay to the board a sum not exceeding Rs.200/- for every default breach or furnishing, making, submitting filling such materially incorrect statements and in the event of the contractor (s) defaulting continuously in this respect, the penalty may be enhanced to Rs.200/- per each day of default subject to a maximum of 5 percent of the estimated cost of the work put to tender the decision of the engineer-in-charge shall be final and binding on the parties.
- 47) **GST REGISTRATION**
- While submitting tender, INCOME TAX PAN, GST Registration has to be mentioned. The GST Registration No. should invariably be mentioned in the bid/tender/quotation, failing which the bid / tender / quotation will be considered as non – responsive and be liable for discharge.
  - Tenderers are required to furnish their bank account details as per enclosed Performa in order to arrange payment through Electronics Clearing System.
  - Information regarding income tax, Permanent account number (PAN), GST Registration number may be enclosed along with the documents.
  - The contractor has to quote for the GST Registration No. invariably failing which bid will be liable to be rejected and discharged.

- It is mandatory to upload scanned copies of all documents including GST Registration, PAN etc. as stipulated in the bid documents. If such documents not uploaded his bid will become invalid and cost of bid document shall not be refunded.
- Certificate of registration of valid GSTIN, PAN etc. and acknowledgement of up to date filed return if required.
- 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. All other duties, taxes, cesses applicable if any, shall be borne by the contractor.
- The contractor shall quote the price exclusive of GST. The applicable GST shall be paid extra to the contractor after producing GST Invoice as per the certified Bill by the department. However, element of GST shall not consider for evaluation of bid.
- "Contractor/service provider/supplier etc. has to ensure timely & proper filling of GSTR 1 so that Deendayal Port Authority can avail input tax credit in timely manner. In case DPT not allowed input credit due to failure of part of the contractor/service provider/supplier etc., it will be a financial loss to DPT & therefore same shall be recovered from the payment/deposit of the contractor/service provider/supplier.
- TDS provision under GST Acts, 2017 are in force from 01.10.2018 and accordingly TDS under GST Act will be deducted @ 2 % (1% CGST and 1 % SGST or 2 % IGST ) from payment / credit give to contractor/ professional and other for work order / contract exceeding Rs. 2,50,000/-.

**48) 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 what so ever, 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.

The arbitrator, who has been dealing with the 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 then holding the office shall arbitrate himself or appoint any officer to act as arbitrator.

‘(iii) 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.

‘(iv) 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.

‘(v) 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 along with the notice seeking appointment of arbitrator.

‘(vi) It is also a term of the 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 Authority shall be discharged and released of all liabilities under the contract in respect of these claims.

‘(vii) 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/claim referred to him. The arbitrator will be bound to give claim wise detail and speaking award and it should be supported by reasoning.

‘(viii) The award of the arbitrator shall be final, conclusive and binding on all the parties to the contract.

‘(ix) The arbitrator from time to time, with the consent of both the parties, enlarge the time for making and publishing the award.

‘(x) 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 there under and for the time being in force shall apply to the arbitration proceedings under this clause.

‘(xi) It is also a term of the contract that if any fees are payable to the arbitrator, this shall be paid equally by both the parties.

‘(xii) 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.

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

- 49) 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 take 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 expire 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 the date fixed aforesaid, subordinate to measure up the said work in the presence of the contractor whose counter signature to the measurement list will be sufficient warrant and the engineer-in-charge may prepare a bill from such list.
- 50) Before taking measurement of any work the engineer-in-charge or a subordinate deputed by him shall give reasonable notice to the contractor if the contractor fail to attend at the measurement 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 final and binding on the contractor and the contractors, contractor shall have no right to dispute the same.

- 51) The contractor shall submit all bills on the printed form 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 purpose of these conditions and not mentioned or provided for in the tender at the rate hereinafter provided for such work.

52) **INTEGRITY PACT**

- (A) The potential bidders shall download and print the IP Agreement signed by the Employer and their witness and affix his/her signature on the IP Agreement in the presence of a witness from his/her side, who shall also affix his/her signature thereof. Having completed the signing procedure, the potential Bidder shall upload the duly filled and signed IP Agreement on n-procure portal in preliminary bid stage.
- (B) The procedure mentioned above regarding signing of Integrity Pact Agreement by both the parties (Employer and Potential bidders) shall be completed online. However, in case of any technical glitch due to which if any potential bidder is unable to upload the IP Agreement, then he/ she shall submit the Hard Copy of the dully filled, signed IP Agreement, to the Department concerned of DPA within a period of seven days and prior to opening of the Technical Bid, failing which Bid of potential Bidder shall be treated as disqualified.
- (C) In case of Joint Venture, IP agreement need to be executed in the name of JV and all the parties of JV need to stamp and sign the agreement.

- 53) The rate quoted by Contractor shall be realistic. During the evaluation of tender, if rates quoted by contractor are found un-realistic, the tender shall be considered non-responsive, and Engineer-in-charge reserves right to cancel the tender and no any correspondence shall be entertained in this regard.
- 54) The work is required to be carried out round the clock i.e., 24 hrs as and when required.
- 55) Executive Engineer (H) reserves the right to increase / decrease the quantum of work. No. any claim on this shall be entertained.

**Materials arranged by the contractor**

**Special conditions for cement**

- (1) The contractor shall procure ...(as specified in the tender) 53 grade (conforming to Relevant IS (as specified in the tender) OPC cement, as required in the work, from reputed manufacturers of cement having a production capacity not less than one million tons or more per annum as approved by the Ministry of Industry, Government of India, and holding license to use ISI certification mark for their product.
- (2) The supply of cement shall be taken in 50 kg. bags bearing manufacturer's name, date of manufacturing, batch number and ISI marking. The cement shall be brought at site in bulk supply of approximately 50 tons or as decided by the Engineer-in-charge. The cement godown of the capacity to store a minimum of 200 bags of cement shall be constructed by the contractor at site of work for which no extra payment shall be made. In case of big projects with mass consumption of cement, the same can be brought in Silos.

- (3) Samples of cement arranged by the contractor shall be taken by the Engineer-in-charge and got tested in accordance with provisions of relevant BIS codes. In case the test results indicate that the cement arranged by the contractor does not conform to the relevant BIS codes, the same shall stand rejected, and it shall be removed from the site by the contractor at his own cost within a week's time of written order from the Engineer-in-charge to do so. The cement shall be used on the work only after satisfactory test results have been received. The contractor shall supply free of charge the cement required for testing including its transportation cost to testing laboratories. The cost of tests shall be borne by the contractor.
- (4) Double lock provision shall be made to the door of the cement godown. The keys of one lock shall remain with the Engineer-in-Charge or his authorized representative and the keys of the other lock shall remain with the contractor. The contractor shall be responsible for the watch and ward and safety of the cement godown. The contractor shall facilitate the inspection of the cement godown by the Engineer-in-Charge at any time.
- (5) The actual issue and consumption of cement on work shall be regulated and proper accounts maintained as provided in the contract. The theoretical consumption of cement shall be worked out as per procedure prescribed in the contract and shall be governed by conditions laid therein. In case the cement consumption is less than theoretical consumption including permissible variation, recovery at the rate so prescribed shall be made. In case of excess consumption no adjustment need be made.
- (6) The damaged cement shall be removed from the site immediately by the contractor on receipt of a notice in writing from the Engineer-in-charge. If he does not do so within 3 days of receipt of such notice, the Engineer-in-charge shall get it removed at the cost of the contractor.
- 7) The cement procured by the contractor should not have aged more than 6 weeks.

**56) Special conditions for steel**

The contractor shall procure TMT bars of Fe415/ Fe500/ Fe550 grade as per tender conditions.

- (a) The grade of the steel such as Fe415/Fe500/Fe 550 or other grade to be procured is to be specified as per BIS 1786-2008.
- (b) The TMT bars procured from primary producers shall conform to manufacture's specifications.
- (c) The TMT bars procured shall conform to the specifications as laid by Tempcore, Thermex, Evcon Turbo & Turbo Quench as the case may be.
- (d) For TMT bars procured either from primary producers or secondary producers, the specifications shall meet the provisions of IS 1786 : 2008 pertaining to Fe 415D or Fe 500D or Fe 550D grade of steel as specified in the tender.
- (2) The contractor shall have to obtain and furnish test certificates to the Engineer-in-charge in respect of all supplies of steel brought by him to the site of work.
- (3) Samples shall also be taken and got tested by the Engineer-in-Charge as per the provisions in this regard in relevant BIS codes. In case the test results indicate

that the steel arranged by the contractor does not conform to the specifications as defined under para (1) above, the same shall stand rejected, and it shall be removed from the site of work by the contractor at his cost within a week's time of written orders from the Engineer-in-Charge to do so.

- (4) The steel reinforcement bars shall be stored by the contractor at site of work in such a way as to prevent their distortion and corrosion, and nothing extra shall be paid on this account. Bars of different sizes and lengths shall be stored separately to facilitate easy counting and checking.
- (5) For checking nominal mass, tensile strength, bend test, re-bend test etc. specimens of sufficient length shall be cut from each size of the bar at random, and at frequency not less than that specified below:

Size of bar	For consignment below 100MT	For consignment above 100MT
Under 10 mm dia bars	One sample for each 25 MT or part thereof	One sample for each 40 MT or part thereof
10mm to 16mm dia bars	One sample for each 35 MT or part thereof	One sample for each 45 MT or part thereof
Over 16mm dia bars	One sample for each 45 MT or part thereof	One sample for each 50 MT or part thereof

- (6) The contractor shall supply free of charge the steel required for testing including its transportation to testing laboratories and the testing charges shall be borne by the contractor.
- (7) The actual issue and consumption of steel on work shall be regulated and proper accounts maintained. The theoretical consumption of steel shall be worked out as per procedure prescribed in the contract. In case the consumption is less than theoretical consumption including permissible variations (+3% for cutting into pieces +/- 2% for variation in weight) recovery at the rate so prescribed shall be made. In case of excess consumption no adjustment need to be made.

**57) Removal of rejected/sub-standard materials**

(a) Whenever any material brought by the contractor to the site of work is rejected, entry thereof should invariably be made in the Site Order Book under the signature of the Assistant Engineer, giving the approximate quantity of such materials.

(b) As soon as the material is removed, a certificate to that effect shall be recorded by the JE/AE against the original entry, giving the date of removal and mode of removal, including the registration number of the truck and a copy of gate pass wherever applicable.

**58) Deviation in quantities**

Normally deviation means deviation in quantities of agreement items, i.e. where there is increase or decrease in the quantities of items of work specified in the agreement.

Rates for such deviated items shall be calculated strictly as per the provision of agreement clauses.

**59) Deriving the Market rates**

As per provisions of variation clauses sometimes rates are to be determined based on market rates in certain conditions. In such



cases the contractor within 14 days of receipt of order for execution of deviated quantities, extra or substituted items beyond permissible limits and before the commencement of such work shall give notice, for revision of rates, supported by proper analysis, for such quantities. Engineer-in-Charge shall consider the analysis submitted by contractor and determine the rates on basis of market rates.

Further in case market rates are less than the agreement rates then in such a case Engineer-in-Charge should give notice to the contractor within one month of occurrence of the excess and should decide the rates based on market rates considering the reply of contractor.

The analysis of rates on market rates should be on similar lines as adopted in the justification of tender except that market rates of material/labour, hire charges of plant and machinery intended to be used prevailing at the time of such order or occurrence shall be adopted. Over and above the market rates so arrived 10% would be added for overheads and profit of the contractor.

**60) 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 work.
- All constructions 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.
- Machine mixers, vibrators, way batches plant, diesel generator sets and other vehicles engines shall not be left running when not in use.
- Emission of NO<sub>2</sub> and SO<sub>2</sub> shall be maintained within the work as per International Regulations.
- To prevent and minimize vibration and noise levels from machineries / vehicles during removal of civil wastes 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 shall discharge Waste generated during construction work as per CPCB/GPCB regulations.

- 61) Labours deployed by Contractor will be paid their wages directly through bank in their respective account positively on or before third working day of each month by the contractor and it will be contractors responsibility to open accounts of labours if necessary and copy of same shall be submitted to this office every month.
- 62) DPA may appoint Third Party Inspection Agency. Contractor has to obey the instructions given by TPI during execution of the work including necessary testing / inspection etc. This work may also be inspect by any Government / Vigilance Department and they may order for certain testing / inspection of executed work etc. Contractor has to assist to them and also bear the expenses for such testing and results. The test results/observations are binding on the contractor. Such incidental costs are included in the quoted bid.
- 63) The contractor shall carry out work as per specifications & time line failing which notice will be issued and after three notices, if performance not found satisfactory, the contractor will be debarred for participating in new tenders of Civil Engineering department for period of two years.
- 64) The fendering items shall be guaranteed against any kind of manufacturing defects/performance for the period of 12 months from the date of installation of fendering items.
- 65) The work has to be carried out in tidal condition. The contractor shall acquaint himself with local tidal variations and quote his rates accordingly.
- 66) In case, contractor does not rectify the defects specified by Engineer in charge or his nominee during the specified time period, the same will be carried out by DPA at risk and cost of contractor and the assessed cost will be recovered from the performance guarantee or from the payment of any ongoing work of contractor in DPA.
- 67) The rubber fenders shall be subject to inspection by Third Party appointed by Deendayal Port Authority. The contractor has to arrange at his own cost of such arrangement for testing, retesting as required by Engineer-in-charge, Deendayal Port Authority.
- 68) The work shall be done strictly in accordance with the specifications laid down in/ as per relevant IS or other relevant standards in addition to specifications given in Schedule "B" approved plans and orders issued from time to time by the Engineer-in-charge.

**69) Special Condition for credit items**

**1 Applicable only for Credit Items**

- i. Quantity considered for credit item is tentative, actual quantity may vary on either side.
- ii. Contractor has to pay GST as applicable on credit item along with the amount payable for credit item.
- iii. The amount quoted by the contractor against credit item shall be deposited in advance with DPA only after that contractor will be allowed to commence the work.

- 70) The port is basically an operational area. If Engineer in charge or his representatives ask the contractor to complete a particular activity within prescribed time period and if the contractor is failed to achieve the same, an amount of Rs. 2500/- per day will be recovered from the contractor's bill.

CONTRACTOR

EXECUTIVE ENGINEER(H)  
DEENDAYAL PORT AUTHORITY

# **SECTION 6**

## **DRAWING**

## **SECTION 7**

### **BILL OF QUANTITIES**

## **SECTION 8**

### **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 EMD (Bank Guarantee Format)**

[The Bank shall fill in this Bank Guarantee Form in association with the instructions indicated. To be executed on Rs.300/- non Judicial Stamp Paper]

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

{  
Beneficiary: \_\_\_\_\_ (Name and Address of Employer/Board)

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 the 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 authorized to do so should also be enclosed]

**SPECIMEN BANK GUARANTEE PERFORMANCE  
GUARANTEE/ SECURITY DEPOSIT**

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

[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 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 Authorityees of the port of [insert name of port], its successors and assigns) having agreed to exempt \_\_\_\_\_ (hereinafter called the "contractor")

(Name of the contractor/s)

from the demand 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 Security Deposit in cash or Lodgment of Government Promissory Loan Notes for the due fulfillment 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 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 [insert city] 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 ADVANCE PAYMENT**

**(Not Applicable, please refer Section-5)**

(To be executed on Rs.100/- non-judicial Stamp Paper)

[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 Authorities incorporated by the Major Port 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 Authority ees 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 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 Security Deposit in cash or Lodgment of Government Promissory Loan Notes for the due fulfillment 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.

9. 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.
10. 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.
11. This guarantee will not be discharged due to the change in the constitution of the Bank  
or the Contractor(s).
12. It is also hereby agreed that the Courts in [Gandhidham] would have exclusive  
jurisdiction in respect of claims, if any, under this Guarantee.
13. 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:  
(b) 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

## STAGE PAYMENT

### (Not Applicable, please refer Section-5)

(To be executed on Rs.100/- non-judicial Stamp Paper)

[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 Authorities incorporated by the Major Port 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 Authority ees of the port of [insert name of port], its successors and assigns) having agreed to release stage payment 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 Security Deposit in cash or Lodgment of Government Promissory Loan Notes for the due fulfillment 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 starting 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 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:  
(c) 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

## DISPUTES REVIEW BOARD AGREEMENT

### (Not Applicable, please refer Section-5)

(To be executed on Rs100/- non-judicial Stamp Paper)

THIS AGREEMENT, made and entered into this .....Day of .....20 .....  
Between ..... (“The Employer/ Board”) and ..... (“the  
contractor”), and the Disputes Review Board (“ the DRBoard “) 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.
- 2 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, except 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 existence 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 DRBoard 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 agreed.
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 visit shall be fixed by the DRBoard
  - 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 DRBoard:
- 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 hearing is 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 he 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 above mentioned 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 Authority ees of Port [insert port],

Dear Sir,

Sub: Our Bank Guarantee No. \_\_\_\_\_ dated \_\_\_\_\_ for  
Rs. \_\_\_\_\_ favoring 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.100/- 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:

<b>JOINT VENTURE PARTNER INFORMATION FORM</b>
---

**(Not Applicable, please refer Section-5)**

*[The Tenderer shall fill in this Form in accordance with the instructions indicated below].*

Date: *[insert date (as day, month and year) of Tender Submission]*

Tender No.: *[insert number of Tendering process]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Tender's Legal Name: <i>[insert Tenderer's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i> JV's Legal Lead Partner {insert name and address}
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration and details of registration]</i>
4. JV's Party year of Registration: <i>[insert JV's Party year of registration]</i>
5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative information Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of [check the box(es) of the attached original documents] <input type="checkbox"/> Articles of incorporation or registration of firm named in 2, above, in accordance with tender document. <input type="checkbox"/> In case of government owned entity from India, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with Tender Documents <input type="checkbox"/> <u>PAN Number</u> <input type="checkbox"/> <u>Sales Tax / VAT registration number</u> <input type="checkbox"/> <u>Service Tax Registration Number</u> <input type="checkbox"/> Any other documents required for statutory compliance

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

Date on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [insert date of signing]

<b>EXCEPTIONS AND DEVIATIONS</b>
----------------------------------

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, and 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 date of signing]

## **ANNEXURE I**

### **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(s) for Tender No.HD-10/24 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

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 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. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at (page Nos. 7-20)
  - 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". Copy of the "Guidelines on Banning of business dealings" is placed at (Page No. 7-20).

### **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 Contract 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**

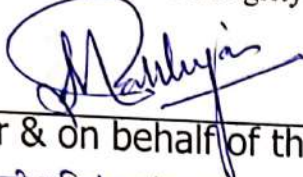
9.1 This Pact shall be operative from the date of signing of IP by both the Parties till the final completion of contract of successful bidder and for all other bidders six months after the contract has been awarded. Issues like warranty , guarantee , etc. should be outside the purview of IEMs.

9.2 If any claim is made / lodged during this time, the same shall be binding and continued to be valid despite the lapse of this pact, as specified above unless it is discharged / determined by the Chairmperson, DPA.

## **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 intensions.

- (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.



(For & on behalf of the Principal)

अधिशाली अभियंता (बंदरगाह)  
दीनदयाल पोर्ट प्राधिकरण  
EXECUTIVE ENGINEER (HARBOUR)  
DEENDAYAL PORT AUTHORITY

(Office Seal)

(For & on behalf of the  
Bidder/Contractor)

(Office Seal)

Signature of Witness:

(Name & Address)

Anil Rautiya

Room No-111,  
Mirman Building  
Kandla.

Signature of Witness:

(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_

Place : Gandhidham

Date : \_\_\_\_/\_\_\_\_/2024

Note : The bidder has to execute Integrity Pact agreement with Deendayal Port Authority (As per Appendix), and Shri S.K. Sarkar, IAS (Retd.) and Shri Saurabh Chandra, IAS (Retd.), has been appointed by DPA as Independent External Monitors for Integrity Pact. whose address are as under:

Shri S.K. Sarkar, IAS (Retd.)  
B-104, Nayantara Aptt.,  
Plot 8 B, Sec-07, Dwarka,  
New Delhi - 110 075.  
Mobile No.98111 49324  
Email : [sksarkar1979@gmail.com](mailto:sksarkar1979@gmail.com)

Shri Saurabh Chandra, IAS (Retd.)  
A-9, Sector - 30  
Noida (U.P.) - 201301  
Mobile No.9871322133  
Email : [saurabh7678@yahoo.co.in](mailto:saurabh7678@yahoo.co.in)

**ANNEXURE II**

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

Bid Security Declaration Form

Date: \_\_\_\_\_ Tender No. \_\_\_\_\_

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)**

# GUIDELINES ON BANNING OF BUSINESS DEALINGS

(Effective from 01/01/2023)



# DEENDAYAL PORT AUTHORITY

(Formerly known as Kandla Port Authority) GANDHIDHAM -  
KUTCH - GUJARAT - 370 201.

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## **1. Introduction**

- 1.1 "Board" of Deendayal Port Authority (DPA) constituted by the Central Government in accordance with sub-section (1) of section 3 of the Major Port Authorities Act, 2021, has to ensure preservation of rights enshrined under the above Act. DPA has also to safeguard its commercial interests. DPA is committed to deal with Agencies, who have a very high degree of integrity, commitment and sincerity towards the work undertaken. It is not in the interest of DPA to deal with Agencies who commit deception, fraud or other misconduct while participating in tenders/in the execution of contracts awarded/orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on DPA to observe principles of natural justice before banning the business dealings with any Agency.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity for hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.
- 1.3 The objective of these guidelines is to have a common procedure for Banning of Business Dealings with Agencies across the Company.

## **2. Scope**

- 2.1 These guidelines are applicable to the sale and procurement of goods & services including contracts / projects across all the Departments and Divisions of DPA.
- 2.2 The General Conditions of Contract (GCC) of DPA provide that DPA reserves the rights to keep on hold participation in tenders or to ban business dealings if any Agency has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.
- 2.3 Similarly, in the case of sale of material, there is a clause in Sale Order to deal with the Agencies / customers / buyers, who indulge in lifting of material in unauthorized manner. This should also include all activities including unauthorized selling of the material. If such a stipulation does not exist in any Sale Order, the same may be incorporated.
- 2.4 However, absence of such a clause as mentioned at para 2.2 & 2.3 above does not in any way restrict the right of the Board (DPA) to take action / decision under these guidelines in appropriate cases.



- 2.5 The procedure for (i) Board wide Hold on participation of the Agency in Tenders (ii) Suspension and (iii) Banning of Business Dealings with Agencies, has been laid down in these guidelines.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its poor / inadequate performance or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e., future business dealings.

### **3. Definitions**

In these Guidelines, unless the context otherwise requires:

- i) 'Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer' shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, partnership firm, Limited Liability Partnership, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer' in the context of these guidelines is termed as 'Agency.'
- ii) 'Inter-connected Agency' shall mean two or more companies having any of the following features:
- If one is a subsidiary of the other;
  - If the Functional Director(s), Partner(s), Manager(s) or Representative(s) are common;
  - If management is common;
  - If one owns or controls the other in any manner;
  - If the agencies have same authorized signatory (ies)
  - If they have the same address/same Permanent Account Number / same Bank Account Number / common email ID.

Note: This list is only illustrative in nature.

- iii) 'Competent Authority' and 'Appellate Authority' shall mean the following:

<b>Area of Banning/ Suspension</b>	<b>Competent Authority</b>	<b>1st Appellate Authority</b>	<b>2nd Appellate Authority</b>
Board-wide banning	HoD of the Board	Chairman, DPA	--
Banning / Suspension of business dealings with Foreign supplier of imported coal & coke	HoD's Committee	Chairman, DPA	DPA Board**

Board wide Suspension of business dealings with Agency	Officer nominated by Chairman of Board. For Department headed by HoDs, the respective HoDs will nominate the officer for this purpose.*	Chairman of the Board. For Departments headed by HoDs, the respective HoDs will be the Appellate Authority.	--
Board wide Hold on participation of the Agency in Tenders #	Officer nominated by Chairman of Board. For Departments headed by HoDs, the respective HoDs will nominate the officer for this purpose.*	Chairman of the Board. For Departments headed by HoDs, the respective HoDs will be the Appellate Authority.	--

\* For Board – The nominated officer shall be a Direct Reporting Officer (DRO) not below the rank of Head of the Department for “Competent Authority” for the purpose of suspension of business dealings with the Agency as well as for Board wide Hold on participation of the Agency in tenders under these guidelines. For Corporate Office, in case of procurement of items / award of contracts to meet the requirement of Corporate Office only, Head of Department shall be the Competent Authority and HoD concerned shall be the Appellate Authority. The Management of Subsidiary shall define / appoint the “Competent Authority”, Appellate Authority & Standing Banning Committee in their respective cases.

# This provision for Hold on participation of the Agency in tenders shall be applicable only in such case where Standing Banning Committee recommends for keeping on Hold the participation in tenders and which shall be limited to particular Department / Division.

\*\* This would be applicable only in cases of banning of business dealings with Foreign Suppliers of imported coal and coke.

- iv) ‘Investigating Department’ shall mean any Department or Division investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.

#### **4. Initiation of Banning/Suspension**

Action for banning/suspension of business dealings with any Agency should be initiated by the Concerned Department such as Indenting / Contracting / Executing Departments, etc. having business dealings with Agency or by the department which floated the tender (in case where the tenderer has committed deception, fraud or other misconduct) subsequent to noticing the irregularities or misconduct on their part.

## **5. Suspension of Business Dealings**

- 5.1 If the conduct of any Agency (except Foreign Suppliers of imported coal and coke) dealing with DPA is under investigation by any department of any Department, the Concerned Department may consider whether the allegations under investigations are of serious nature and whether pending investigations, it would be advisable to suspend (temporarily discontinue) business dealings with the Agency. Recommendation in the matter shall be submitted to the Competent Authority for this purpose.
- 5.2 If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, decides that it would not be in the interest of Department of DPA to continue business dealings pending investigation, it may suspend business dealings with the Agency. The Suspension Order to this effect shall be issued by the Head of Concerned Department or by his representative / concerned executive with the approval of the Head of the Concerned Department, indicating a brief of the charges under investigation and the period of suspension. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. Ordinarily, the order of suspension would operate for a period not more than six months and may be communicated to the Agency and also to the Investigating Department.

Further to the suspension, the investigation, recommendation by the Standing Banning Committee (SBC) and final decision by the Competent Authority to be completed within six months from order of suspension.

- 5.3 The order of suspension of business dealings with the Agency under investigation shall be communicated to all Departmental Heads within the Board. During the period of suspension, no fresh contract will be entered into with the Agency. Suspension would be valid only for the concerned Board.
- 5.4 As far as possible, the Agency under suspension should be allowed to complete the job of existing contracts, unless the Competent Authority, having regard to the circumstances of the case, decides otherwise. Once the order for suspension is issued, existing offers against ongoing tenders (prior to issuance of contract)/ new offers of the Agency shall not be entertained during the period of suspension.
- 5.5 For suspension of business dealings with Foreign Suppliers of imported coal & coke, following shall be the procedure :-
- i) Suspension of the foreign suppliers shall apply throughout the Board including Subsidiaries.

ii) The complaint against any foreign supplier shall be investigated by Board or by any other Investigating Department. If the gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of DPA to continue to deal with such Foreign Supplier, pending investigation, the recommendation on such matter by Investigating Department (including Board) may be sent to Chairman, DPA to place it before a Committee consisting of the following:

1. Head of Finance Department,
2. Head of Department
3. Head of Law / Legal Division

The committee shall expeditiously examine the report; give its comments / recommendations within twenty one days of receipt of the reference by DPA.

iii) The comments / recommendations of the Committee shall then be placed before DPA Board's Committee. If DPA Board's Committee decides that it is a fit case for suspension, Board's Committee shall pass necessary orders which shall be communicated to the foreign supplier by Head of Department.

5.6 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

5.7 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months' time, the Competent Authority with approval of Head of the Department may extend the period of suspension by another three months, during which period the investigation must be completed.

## **6. Grounds on which Banning of Business Dealings can be initiated**

6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;

6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or DPA, during the last five years preceding date of tender opening or during execution of contract, provided such information is known to DPA;

6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc. during the last five years preceding date of tender opening or during execution of contract, provided such information is known to DPA;

- 6.4 If the Agency continuously refuses to return / refund the dues of DPA without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in Arbitration or Court of Law;
- 6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence, provided such information is known to DPA;
- 6.6 If business dealings with the Agency have been banned by the Central or State Govt. or any other public sector enterprise at the time of submitting his bid or on the date of tender opening or at the time of placement of order, provided such information is known to DPA;
- 6.7** If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts and / or fudging / forging / tampering of documents; **Ω**
- 6.8 If the Agency uses intimidation / threatening / misbehaves with DPA Official or brings undue outside pressure or influence on the Board (DPA) or its official in acceptance / performances of the job under the contract;
- 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations / delayed the tendering process;
- 6.10 Wilful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by Board (DPA) or not;
- 6.11 Based on the findings of the investigation report of Investigating Department against the Agency for mala-fide / unlawful acts or improper conduct on its part in matters relating to the Board (DPA) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive undue benefit;
- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the Board (DPA), forcefully occupies tampers or damages the Board's properties including land, water resources, forests / trees, etc.
- 6.15 If the Agency resorts to unauthorized sale of materials purchased from the Board.
- 6.16 If the Agency has committed a transgression through violation of any of its commitments under the Integrity Pact entered with DPA.

**(Note:** The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealings for any good and sufficient reason).<sup>9</sup>

Ω No experience certificate shall be issued by Engineer in Charge / Executing Authority against the contract to the Agency found to have submitted forged / fabricated documents / indulged in corrupt/ fraudulent practices.

## **7. Banning of Business Dealings.**

- 7.1 A decision to ban business dealings with any Agency by any one of the Departments of DPA will apply throughout the Board including Divisions, i.e., Board-wide banning.
- 7.2 There will be a Standing Banning Committee (SBC) in each Department to be appointed by Competent Authority for processing the cases of “Banning of Business Dealings”. However, for procurement of items / award of contracts, to meet the requirement of Board only, the Committee shall be HoD each from Operations, Finance & Law Departments. The proposal of the Concerned Department for initiating action under the Guidelines for Banning of Business Dealings based on their own findings and / or upon receipt of advice of the Investigating Department shall be forwarded through respective Head of Department to the Standing Banning Committee for consideration.
- 7.3 The functions of the Standing Banning Committee shall, inter-alia include:
  - i) To examine in detail the allegations / irregularities / misconduct mentioned in the proposal for banning forwarded by the Department, hold preliminary meeting and decide if a prima-facie case for banning under the guidelines exists. If during preliminary meeting, SBC is of opinion that prima facie no case is made out, it shall return the case to the Concerned Department.
  - ii) If it is decided to proceed for banning action, to recommend for issue of show-cause notice (as per para 9) to the Agency by the Concerned Department, as to why action should not be taken against the Agency, including its interconnected agencies, under the Guidelines for Banning of Business Dealings with them. Agency should be asked to submit its reply within 15 days of the show-cause notice.
  - iii) To examine the reply given by the Agency to show-cause notice and call the Agency for personal hearing, if required.

- iv) To submit final recommendation to the Concerned Department for banning of business dealings with the Agency or Board wide Holdon participation of the Agency in tenders or exoneration.
- 7.4 If banning is recommended by the Standing Banning Committee of any Department / Division, the proposal containing the facts of the case, proper justification of the action proposed, relevant supporting documents along with the recommendation of the SBC and proposed banning period should be sent by the Concerned Department and duly forwarded by the Head of the Department / Division, to the Competent Authority. Based on this proposal, a decision for banning or otherwise shall be taken by the Competent Authority. At this stage if it is felt by the Competent Authority that there is no sufficient ground for banning, then the case with detailed reasons shall be sent back to the respective Department / Division for necessary action at their end. The Competent Authority may consider and pass an appropriate Speaking Order:
- a) For exonerating the Agency if the charges / allegations are not established;
  - b) For banning the business dealings with the Agency or
  - c) For putting on Hold the participation of the Agency in tenders in the concerned Department / Division.
- 7.5 If the Competent Authority decides that it is a fit case for banning of business dealings with the Agency, the Competent Authority shall pass necessary orders which shall be routed back to the Department concerned for issuance of banning orders to the Agency. However, in cases where there is a shortage of suppliers and banning may hurt the overall interest of DPA, endeavour should be to pragmatically analyze the circumstances, try to reform the Supplier and to get a written commitment from them that their performance will improve.
- 7.6 If the Competent Authority decides to ban business dealings, the period for which the ban would be operative shall be mentioned. If applicable, the order may also mention that the ban would extend to the interconnected agencies of the Agency. The Speaking Order for banning would be conveyed by the Concerned Department to the Agency concerned and copy circulated to all Departments of DPA.
- 7.7 The Banning period may range from 1 year to 3 years depending on the gravity of the case as decided by the Competent Authority. Ordinarily, the period of banning shall be in the range of 1-2 years from the date of issuance of order depending on the severity of the irregularities / lapses committed / termination of contract due to poor performance, etc. However, in case of fraud / forgery / corrupt / fraudulent practice or tampering of documents by the Agency as given in para 6.7 above, the

period of banning to be imposed on the Agency would be three years. The period of suspension, if any, shall be accounted for up to a maximum of 6 months in the period of banning provided the banning order is issued within the period of suspension.

- 7.8 As far as possible, the Agency under banning should be allowed to complete the job of existing contracts, unless the Competent Authority, having regard to the circumstances of the case, decides otherwise. Once the order for banning is issued, existing offers against ongoing tenders (prior to issuance of contract) / new offers of the Agency shall not be entertained during the period of banning. In addition, if the Agency has been banned under provisions of Para 6.7, then the particular contract in which the irregularity has been proved will be terminated with immediate effect. In exceptional cases, where it would not be prudent to terminate the said contract with immediate effect, the contract may be allowed to continue for such minimum period during which alternate arrangement(s) can be made. The same shall however require the approval of the Chairman / HoD where the exigency to continue the contract has been clearly brought out.
- 7.9 In case the Competent Authority has decided to exonerate the Agency, the Concerned Department will issue the exoneration letter to the Agency concerned as well as communicate to all Departmental Heads within the Department / Division. If the Agency has been suspended in the case under consideration, in the same letter to the Agency it must be clarified that the Suspension has also been revoked.
- 7.10 Procedure for Banning of Business Dealings with Foreign Suppliers.
- i) Banning of the Agencies shall apply throughout the Company including Subsidiaries.
  - ii) The complaint against any Foreign Supplier shall be investigated by Head of Department of DPA or any other Investigating Department. After investigation, depending upon the gravity of the misconduct, Investigating Department may send their report to Head of Department of DPA to place it before a Committee referred at 5.5 (ii) above. The Committee shall examine the report and give its comments / recommendations within 21 days of receipt of the reference by Head of Department, DPA.
  - iii) The comments / recommendations of the Committee shall be placed by Head of Department before DPA Board's Committee constituted for the above purpose. If DPA Board's Committee decides that it is a fit case for initiating banning action, it will direct Chairman of DPA to issue show-cause notice to the Agency for replying within a period of 15 days of receipt of the show-cause notice or reasonable time.



- iv) On receipt of the reply or on expiry of the stipulated period, the case shall be submitted by DPA Board's Committee to Chairman of DPA for consideration & decision.
- v) The decision of the Chairman of DPA shall be communicated to the Agency by DPA.

**8. Department / Division wide Hold on participation of the Agency in Tenders**

- 8.1 If the SBC recommends for Board wide Hold on participation of the Agency in Tenders on coming to a conclusion that the charge against the Agency is minor in nature, the Concerned Department shall put up a proposal to the Competent Authority containing facts of the case, proper justification of action proposed, relevant documents alongwith the recommendations of the Committee and proposed period for Hold from participation in tenders. If the Competent Authority decides that it is a fit case for Board wide Hold on participation of the Agency in tenders, the Competent Authority may pass necessary orders which shall be communicated to the Agency by the Concerned Department. The period of Hold may range from 6 months to 1 year.
- 8.2 The effect of Board wide Hold on participation of the Agency in tenders would be that the Agency would not be considered for any type of Tenders for such period as mentioned in the order at any stage before issuance of contract. Other existing contracts with the Agency would continue unless otherwise decided by the Competent Authority. However, no repeat orders would be placed on the party for the period as mentioned in the order.
- 8.3 The modalities for effecting Hold on participation of the Agency in tenders and re-entry after completion of period of Hold shall be worked out by the concerned Department / Division as the Hold is Department / Division specific.

**9. Show-cause Notice**

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice shall be issued to the Agency by the Concerned Department. Statement containing the imputation of misconduct should be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defence. It must be clearly mentioned in the Show-Cause Notice that DPA hereby proposes to initiate action against the Agency in terms of the Guidelines on Banning of Business Dealings. Generally, all communication with the Agency shall be through email mentioned by Agency in contract or last known email and postal address.

- 9.2 If the Agency requests for inspection of any relevant document in possession of DPA, necessary facility only for inspection of documents may be provided.

**10. Appeal against the Decision of the Competent Authority**

- 10.1 The Agency may file an appeal against the order of Board-wide banning of business dealings / suspension / Board wide Hold on participation of the Agency in tenders. The appeal shall lie to the respective Appellate Authority only. Such an appeal shall be preferred within 30 days of receipt of the order.
- 10.2 Appellate Authority would consider the appeal and pass appropriate Speaking Order which shall be communicated by the Concerned Department to the Agency as well as the Competent Authority whose Order has been appealed.

**11. Circulation of the names of Agencies with whom Business Dealings have been banned**

- 11.1 The Board shall upload/update the list of banned agencies along with the period of banning immediately on issue of the banning order on the Board's website as well as DPA Tenders website for wider circulation. Other Boards would check the list of banned Agencies before proceeding on tenders at their respective Boards. Boards having SAP/SRM system shall disable the banned vendors in SAP/SRM from issuance of further Enquiry/Purchase Order till the expiry of the banning period.
- 11.2 Depending upon the gravity of misconduct established, the Competent Authority may advise Head of Vigilance Department / HoD for circulating the names of Agency with whom business dealings have been banned, to the Government Departments, other Boards, Public Sector Enterprises, etc., for such action as they deem appropriate. The updated list of banned Agencies must be uploaded by Board on DPA Tenders website for wider circulation.
- 11.3 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Investigating Department / Standing Banning Committee / DPA Board's Committee together with a copy of the order of the Competent Authority / Appellate Authority may be provided.
- 11.4 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, DPA may, on receipt of such information, without any further enquiry or investigation, issue an order banning business dealings with the

Agency and its interconnected Agencies. In event of receipt of information, the procedure for banning in DPA will still have to be followed though no investigation will be called for, and the banning period proposed should be co-terminus with the period of banning in the organization which has issued the banning order but limited to the maximum period of banning as per the extant banning guidelines of DPA. On completion of the banning period as per DPA banning order, the Agency will be eligible for participating in any tenders in DPA irrespective of banning status in the other organization.

- 11.5 Based on the above, Departments / Divisions may take necessary action for implementation of the Guidelines for Banning of Business Dealings and same be made a part of the tender documents.

## **12. Saving**

Any amendment to the guidelines shall require the approval of Chairman, DPA.

X-X-X-X

Date :

DEENDAYAL PORT AUTHORITY  
Form of application by the Contractor for seeking extension of time  
Part-I

1	Name of Contractor	
2	Name of Work as given in the agreement	
3	Agreement No.	
4	Estimated Amount put to tender	
5	Date of Commencement of Work as per Agreement	
6	Period allowed for completion of work as per agreement	
7	Date of Completion stipulated in agreement	
8	Period for which extension of time has been given previously	
	(a) 1 <sup>st</sup> extension vide E.E.'s No. Total extension previously given	
9	Reasons for which extension have been previously given (copies of the previous application should be attached)	
10	Period for which extension is applied for	
11	Hindrance on account of which extension is applied for which dates on which hindrance occurred and the period for which these are likely to last. (a) Serial No. : 01 (b) Nature of hindrance : (c) Date of occurrence : (d) Period for which hindrance is likely to last (e) Period for which extension required for this particular hindrance. (f) Overloading period if any, with reference to	

	<p>item.</p> <p><b>(g)</b> Net extension applied for</p> <p><b>(h)</b> Remarks if any Total period on account of hindrance mentioned above ____ month ____ days.</p>	
13	Extension of time required for extra work	
14	<p>Dates of extra work and amount involved;</p> <p>(a) Total value of extra work</p> <p>(b) Proportionate period of extension of time based on estimated amount put to tender on account of extra work.</p>	
14	Total extension of time required for 11 & 12	

Submitted to the Sub Divisional Officer.....