



COCHIN PORT TRUST

Tele:91-0484 -2666414/0484-2582400

Telefax:91-0484-2666414

E-mail: coptce@gmail.com

ce@cochinport.gov.in,

Website: www.cochinport.gov.in

TENDER DOCUMENT FOR REPLACEMENT OF FENDERS AT GOI JETTY AND SUPPLY OF SPARE FENDERS

(e-Tendering Mode)

Website: www.tenderwizard.com/COPT

Tender No. T10/T-1913/2020-C

**COCHIN PORT TRUST
CHIEF ENGINEER'S OFFICE
COCHIN-682 009**

Price: Rs.788 /-(750+5% GST)

COCHIN PORT TRUST

TENDER DOCUMENT FOR REPLACEMENT OF FENDERS AT GOI JETTY AND SUPPLY OF SPARE FENDERS [TENDER No. T10/T-1913/2020-C]

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COCHIN PORT TRUST

Chief Engineer's Office
Cochin Port Trust
W/Island, Cochin – 682009, KERALA
Tele: 91-0484-2666414/0484-258-2400
website: www.cochinport.gov.in



Tender No. T10/T-1913/2020-C

Date:19/02/2020

1. NOTICE INVITING TENDER

1. Limited Tenders in Electronic Tendering mode (**e-tenders**) on percentage basis are invited by Cochin Port Trust (CoPT) from the following three bidders for the work of “**Replacement of fenders at GoI Jetty and Supply of spare fenders**”.
 - (i) M/s. IRM Offshore and Marine Engineers Pvt. Ltd.,
Village Rancharda, Ahmedabad-382 115,Gujrat
 - (ii) M/s HI-TECH Elastomers Ltd.,
Ambawadi, Ahmedabad-380 015; and
 - (iii) M/s. Brahans Polymers Pvt. Ltd.,
TTC Industrial Area, MIDC, Navi Mumbai- 400 709
2. The bidders having valid EPF and ESI registration only shall be considered for qualification in the tenders, unless authentic proof for any exemptions is produced.
3. **Pertinent information on this tender is given in the following Tables:**
 - i) **Schedule of different activities till submission of the bid are detailed as under:**

Table 1. 1

Sl. No.	Particulars	Date and Time
1	Tender e- publication date	19-02-2020
2	Download period of Bid Documents	19-02-2020 to 04-03-2020
3	Date of pre-bid meeting	Not applicable
4	Last date and time of submission of bid	04-03-2020 up to 1500 hrs
5	Date and time of opening the bid	04-03-2020 after 1530 hrs

ii) **Bid information :**

Table 1.2

i)	Estimated Amount put to Tender	: Rs. 13,87,050/-
ii)	Earnest Money Deposit	: Rs.14,000/- furnished through Demand Draft or Banker's Cheque drawn in favour of Financial Adviser & Chief Accounts Officer, CoPT from any Nationalised Bank/ Scheduled Bank in India.
iii)	Cost of Bid document	: Rs.788/- (Rs.750+GST @ 5%) furnished through Demand Draft /Banker's cheque drawn in favour of the FA & CAO, CoPT, from any Nationalised Bank/ Scheduled Bank in India, being the cost of single copy of the tender document.
iv)	Validity period of Tender	: 120 days from the Last Date for Receipt of Tenders.
v)	Time for Completion	: 2 (Two) months.

4. The work under this tender includes (i) Dismantling of existing damaged Arch fenders and replacement with new Arch fenders at GoI Jetty; and (ii) Supply of spare fenders.
5. Tender documents can be downloaded from the e-Tendering portal www.tenderwizard.com/COPT on the dates specified in the above table by making online requisition. Bid document will also be available in Cochin Port website (www.cochinport.gov.in) as well as Central Public Procurement (CPP) Portal, which can be downloaded for submission. The cost of bid document shall be furnished in the form of Demand Draft/ Banker's Cheque drawn in favour of FA & CAO, CoPT along with the submission of bid.
6. The bidders need to obtain the one time User ID & password for log-in to in **e-Tender** system from the service provider **M/s. KEONICS** by paying registration amount of **Rs.1124/-** by online payment using Credit/Debit Card/Net banking or DD in favour of "KSEDCL, Bangalore.
7. The intending bidder must have valid Class-II or III digital signature certificate to submit the bid. For further details and to obtain the digital signature, please contact e-Tender Help Desk No. 080 – 40482000 / 9746118529.
8. Tenders shall be submitted "**online**" strictly in accordance with the Instructions to Tenderers and Terms & Conditions given in the Tender Document.
9. The bidder is responsible to download Addenda/ Amendments/ Errata/ Replies to the queries of the bidder etc., if any, issued by the Employer, from the website before submission of the bid. Any shortfall in submissions of the

said Addenda/ Amendments/Errata/Replies to the queries of the bidder duly signed etc. along with the downloaded documents while submitting the bid will not be considered. Incomplete bid documents may be rejected.

10. All bids are to be submitted online on the website www.tenderwizard.com/COPT. No Bids shall be accepted off-line.
11. Cochin Port Trust will not be held responsible for any technical snag or network failure during online bidding. It is the bidders responsibility to comply with the system requirement i.e. hardware, software and internet connectivity at bidder's premises to access the e-Tender portal. Under any circumstances, Cochin Port Trust shall not be liable to the bidders for any direct/indirect loss or damages incurred by them arising out of incorrect use of the e-Tender system or internet connectivity failures.
12. The bidder shall submit the originals of DD/Bankers Cheque towards the cost of tender and EMD and Power of Attorney along with letter of submission in a sealed cover to the **Chief Engineer, Cochin Port Trust, W/Island, Cochin – 682009, KERALA**, before opening date and time of the tender. **Non submission of the original financial instruments towards cost of Tender Document and EMD, before opening date and time of the tender will make the bid liable for rejection.**
13. Bidders who are registered with National Small Industries Corporation (NSIC), Govt. of India Enterprises under "Single Point Registration Scheme" of Ministry of MSME shall be eligible for issue of tender document free of cost and exemption from payment of Earnest Money Deposit. They are required to submit documentary proof of such registration along with the offer, as detailed in Instructions to Tenderers, for claiming the available exemptions and a scanned copy of Exemption Certificate duly notarized shall be uploaded in the e – procurement Portal. If Registration Certificate does not pertain to the category of similar works mentioned in the Minimum Eligibility Criteria, the tender will be rejected.
14. The undersigned reserves the right to reject/cancel/postpone any one or all tenders at any stage of the tender, which will be binding on all bidders.

**DY.CHIEF ENGINEER (PD)
COCHIN PORT TRUST**

COCHIN PORT TRUST

2. INSTRUCTIONS TO TENDERERS

1. Introduction

This tender is invited for “**Replacement of fenders at GoI Jetty and Supply of spare fenders**”.

2. General Instructions

- 2.1 The work is to be executed as described in the Bid document and in particular in the Technical Specifications, Special Conditions, Schedule of Quantities and drawings and in general includes, but is not limited to supplying all materials including consumables and equipment necessary to execute the work as described in the Bid Document.
- 2.2 Before submitting the bid, the bidder shall examine carefully all conditions of contract, specifications, drawings etc. supplied herewith. The bidders shall inspect the site of work to get himself acquainted with the site conditions and to assess and satisfy himself of the difficulties and constraints which may be involved in executing the work in the location. It will be deemed that prior to the submission of tender, the tenderer has visited the site and has satisfied himself as to the nature and location of the work, general and local conditions, particularly those pertaining to transportation, handling and availability and storage of materials, availability of labour, weather conditions, tidal variations at site, working conditions, ground level, nature of soil etc. and that the tenderer has estimated his cost accordingly and the Port Trust will be in no way responsible for the lack of such knowledge and also consequences thereof to the tenderer. Failure to visit the site will in no way relieve the successful bidder of any of the obligations in performing the work in accordance with this Bid Document including addenda/corrigenda, within the quoted price.
- 2.3 A bidder shall be deemed to have full knowledge of all documents, site conditions etc. whether he has inspected them or not. The submission of a bid by the bidder implies that he has read the notice and conditions of contract and has made himself aware of the scope and specifications and other factors bearing on the bid and that they are binding on him.
- 2.4 The bidders may please note that the EMPLOYER will not entertain any correspondence or query on the status of the offers received against this Bid. Bidders are also requested not to depute any of their personnel or agents to visit the Employer’s offices for making such enquiries till finalisation of the bid. Should the EMPLOYER find it necessary to seek any clarification, technical or otherwise the concerned bidder will be duly contacted by the EMPLOYER.
- 2.5 Canvassing in any form by the bidder or by any other agency acting on behalf of the bidder after submission of the bid may disqualify the said bidder. The Employer’s decision in this regard shall be final and binding on the bidder.
- 2.6 EMPLOYER will not be liable for any financial obligation in connection with the work until such time the EMPLOYER has communicated to the

- successful bidder in writing his decision to entrust the Work (covered by the bid document issued to him).
- 2.7 E-mail offers will not be considered. Bidders should prepare their bid themselves. Bids submitted by agents will not be recognized.
 - 2.8 Bids received after the due date and time and any change in bid after the specified date will be rejected. EMPLOYER will not be responsible for the loss of the bid document or for the delay in postal transit.
 - 2.9 In case of an unscheduled holiday on the prescribed closing/opening day of the bid, the next working day will be treated as the scheduled prescribed day of closing/opening of the bid.
 - 2.10 While evaluating the document, regard would be paid to National defence and security considerations, at the discretion of the Cochin Port Trust. Bid received from any bidder may be summarily rejected on National security consideration without any intimation thereof to the bidder.
 - 2.11 If there are varying or conflicting provisions made in any document forming part of the contract, the Chief Engineer, Cochin Port Trust, Cochin – 682009 shall be the deciding authority with regard to the intention of the document which will be binding on the Bidder.
 - 2.12 In case the department desires to inspect the equipments/ machinery for confirmation of its availability and capacity etc., necessary arrangements shall be made by the contractor for such inspection at his own cost.
 - 2.13 Any error in description, any omissions there from shall not vitiate the contract or release the contractors from the execution of whole or any part of the works comprised therein according to drawing and specifications or from any of his obligations under the contract
 - 2.14 All the Bank Guarantees (BGs) to be furnished except for EMD by the contractors in connection with the tender shall be sent to the Chief Engineer, Cochin Port Trust directly by the issuing bank under registered post with AD. The contractor shall take the responsibility of sending BGs directly to the Port Trust by the issuing bank.
 - 2.15 ***The contractor / approved sub contractor, if any, shall comply with all the provisions of the Indian Workmen's Compensations Act, Provident Fund Regulations, Employees Provident Fund and ESI Act etc. amended from time to time and rules framed there under and other laws affecting the contract labour that may be brought in to force from time to time.***
 - 2.16 ***The contractor/ approved sub contractor, if any, shall be registered under EPF and ESI Act and the employees employed under them shall be covered in the EPF and ESI scheme. The contractors shall regularly remit the employer and employee contribution to the authorities. If not, the Department would remit the same and the amount so remitted shall be deducted from the part/final bill of contractors.***
 - 2.17 ***The contractor shall be registered under GST and shall furnish documentary evidence in support of valid GST registration.***
 - 2.18 Bidders who are registered with National Small Industries Corporation (NSIC), Govt. of India enterprises under “Single Point Registration Scheme”

of Ministry of MSME shall be eligible for issue of tender document free of cost and exemption from payment of Earnest Money Deposit. **They are required to submit documentary proof of such registration along with the offer, as detailed in Instructions to Tenderers, for claiming the available exemptions and a scanned copy of Exemption Certificate duly notarized shall be uploaded in the e-procurement Portal. If Registration Certificate does not pertain to the category of Similar Works, the tender will be rejected.**

- 2.19 In the Letter of submission, the Bidder shall compulsorily indicate 2 nos. of current active e-mail IDs to which further Bid related communication can be sent by CoPT. All communication from CoPT shall be deemed to have been delivered when the e-mail is sent to the specified e-mail ID and the date of sending the e-mail by CoPT shall be considered as the receipt by the Bidder. CoPT shall no way be responsible for the non-receipt of any such communication by the Bidder due to whatever reason this occur.

3. Invitation for Bids:

The Invitation for Bids is open to the bidders indicated in para 1 of NIT.

4. Downloading of Tender Documents:

Tender documents can be downloaded from the e-Tender portal www.tenderwizard.com/COPT on the dates specified in NIT by making online requisition. Tender document can also be downloaded from Cochin Port website www.cochinport.gov.in or Central Public Procurement (CPP) Portal. Demand Draft /Banker's cheque for cost of tender document drawn in favour of the FA & CAO, CoPT from any Scheduled / Nationalised Bank having its branch at Cochin shall be submitted at the time of submission of bids and scanned copy of the same shall be attached with the e-tender.

In case of tender document being downloaded from the website, at the time of submission of the tender document, the tenderer shall give an undertaking that no changes have been made in the document. CoPTs Tender document will be treated as authentic and if any discrepancy is noticed at any stage between the Port's tender document and the one submitted by the tenderer, the Port's document shall prevail. For the discrepancies found at any time, the tenderer shall be liable for legal action.

5. One Bid per Bidder:

Each bidder shall submit only one bid.

6. The Bidder

The Bidder shall be a single entity only.

7. Cost of Bidding:

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

8. Site visit:

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

9. Clarification of the Bidding Documents:

- 9.1 The Tenderers are advised to examine the Tender Document carefully and if there be or appear to be any ambiguity or discrepancy in the documents, or any clarifications needed on the Tender Documents; these shall be referred to the Chief Engineer in writing at the following address, so as to reach them at least by **25-02-2020**. It is to be noted that queries/ clarifications will not be answered after this date.

THE CHIEF ENGINEER,
CHIEF ENGINEER'S OFFICE,
COCHIN PORT TRUST,
WILLINGDON ISLAND,
KOCHI-9,
KERALA, INDIA.
Ph:- 91-0484-2666414/2582400.
Fax:-91-0484-2666414.
Email: coptce@gmail.com/ ce@cochinport.gov.in

9.2 Pre-Bid Meeting:

No pre bid meeting will be held for this tender.

10. Amendment of Bidding Documents:

The Chief Engineer, Cochin Port Trust shall have the right to omit or suspend certain items of work or revise or amend the Bid documents prior to the due date of submission of the Bid by issuance of addendum/corrigendum. Any addendum / corrigendum thus issued shall be part of the tender documents. The addendum/corrigendum, if any, shall only be hosted in the e-tender portal as well as in the website of the Cochin Port. It is the responsibility of the Bidders to download such addendum/ corrigendum hosted in the website and submit the same duly signed along with the Bid. In order to afford the Bidders with reasonable time to take addendum into account, or for any other reason, the Port Trust may, at its discretion, extend the due date for submission of Bid and bid extension notice shall be hosted in the web site.

11. Preparation of bids:

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

12. EPF and ESI Registration

The bidders having EPF and ESI registration only shall be considered for qualification in the tenders, unless authentic proof for any exemptions is produced.

13. Bid Prices:

13.1 Percentage Basis Contract

The Bidder shall fill the percentage above / below in the Bidder's Quoting Area under "Percentage Quoted" in the Schedule-II (Schedule of Quantities to be done on Contract) both in **figures and words**. The Bidder shall also fill 'Above / Below' column and also the amount corresponding to the percentage entered both in figures and words under "Bidder's Quoted Amount (Rs.)" and "Bidder's Quoted Amount in Words".

13.2 On scrutiny, if there are differences between the percentage given in figures and in words or in amount worked out, the following procedure shall be followed:-

- a) When there is a difference between the percentage quoted in figures and in words, the percentage which corresponds to the amount worked out and filled in words shall be taken as correct.
- b) When the quoted amount is not worked out or it does not correspond to the percentage written either in figures or in words, then the percentage quoted in words, shall be taken as correct and Quoted amount worked out accordingly.
- c) When the percentage quoted in figures and in words tallies but the Quoted amount is not worked out correctly, the percentage quoted shall be taken as correct and the amount quoted worked out accordingly.
- d) When the sign (+) / (-) and Above / Below does not correspond with each other, the words under Above / Below shall be taken as correct.

13.3 Rates Quoted

The rate quoted by the Tenderer shall be inclusive of the cost of provision of plant and equipment, materials, labour, execution, supervision, maintenance, overheads and profits and every incidental and contingent cost and charges whatsoever excluding Goods and Service Tax (GST). GST as may be applicable from time to time shall be shown separately in the invoice.

13.4 The Contract shall be for the whole Work based on the priced Bill of Quantities submitted by the Bidder. **The Bidder should ensure that his tendered percentage as per Financial Bid (Schedule-II) is not mentioned anywhere in any documents in Bid submission, directly or indirectly. If any such mention is made, the tender will become invalid and shall become liable for rejection.**

14. Currencies of Bid and Payment:

The unit rates and the prices in the Schedule II of this document are entirely in Indian National Rupees (INR).

15. Bid Validity:

Bids shall remain valid for a period not less than 120 (One twenty) days after the deadline date for bid submission. A bid valid for a shorter period shall be rejected by the Employer as non-responsive. Should any tenderer withdraw his tender before these periods, or make any modification in the terms and

conditions of the tender which are not acceptable to the department, the earnest money deposited by the tenderer shall be forfeited.

16. Bid Security / Earnest Money Deposit (EMD):

16.1 Each tender should be accompanied by an Earnest Money amounting to **Rs.14,000/- (Rupees Fourteen Thousand only)**. EMD shall be deposited /furnished either through Demand Draft or Banker's Cheque drawn in favour of Financial Adviser & Chief Accounts Officer, Cochin Port Trust from any Nationalised Bank/ Scheduled Bank in India. The Earnest Money deposit will not carry any interest. Any bid not accompanied by an acceptable Bid Security shall be treated as Non-responsive and shall be rejected by the Employer.

16.2 Forfeiture of Bid security / EMD

Bid Security/EMD will be forfeited in the following cases:

- (a) If a Bidder withdraws his bid during the period of bid validity.
- (b) The Bidder does not accept the correction of the Bid Price pursuant to any arithmetical errors.
- (c) In case of a successful bidder fails
 - (i) to commence the work, within the specified time limit,
 - (ii) to sign the Agreement or furnish the required Performance Security within the specified time limit.

17. No Alternative Proposals by Bidders:

Bidders shall submit offers that comply with the requirements of the bidding documents. Alternatives will not be considered.

18. Format and Signing of Bid:

18.1 Tenderer shall prepare one set of his Tender duly completed, signed, along with other documents mentioned hereinafter. Form of Bid shall be signed by a person or persons duly authorised to sign on behalf of the Bidder with signature duly witnessed and company seal affixed. The Power of Attorney (in original) authorizing the signatory/s of the Tenderer shall be enclosed. All pages of the bid where entries or amendments have been made shall be signed by the person or persons signing the bid.

18.2 If the tender is made by an individual it shall be signed by his full name and his address shall be given. In the event of the tender being submitted by a registered partnership firm, it must be signed individually by each partner thereof. In the event of absence of any partner, it must be signed on his behalf by person holding a proper power-of- attorney authorising him to do so and to bind the partner in all matters pertaining to the contract including the arbitration clause, such power-of-attorney to be attached with the tender which must disclose that the firm is duly registered under Indian Partnership Act. If the tender is made by a Limited Company it shall be signed by a duly authorised person who shall produce with the tender satisfactory evidence of the authorisation. In the case of a Limited Company the tender should be accompanied by the Memorandum and Articles of Association of the Company.

19. Bid Submission:

- 19.1 Bid shall be submitted **through e-tender mode** before 15.00Hrs on **04-03-2020**.
- 19.2 For online submission, the scanned copies of the documents as detailed in **Clause 21** below need be submitted through e-Tendering mode on www.tenderwizard.com/COPT.
- 19.3 Financial Proposal (Schedule-II) in the provided format shall be submitted only through e-tendering mode on www.tenderwizard.com/COPT. **In no case shall filled in Financial Proposal (Schedule II) be submitted in hard copy, as it shall result in rejection of the tender.**
- 19.4 Tenders shall be submitted “**online**” strictly in accordance with the Instructions to Bidders and Terms & Conditions given in the Tender Document. The Bidders should submit scanned copy of all the required documents such as DD / Pay Order / Banker’s Cheque towards the Cost of tender and EMD etc. through the e-tendering portal.
- 19.5 The Bidder shall submit the originals of: (i) DD/ Pay Order/ Bankers Cheque/ BG towards the cost of Tender Document and EMD, as applicable and (ii) Power of Attorney, if applicable, **along with letter of submission** in a sealed cover duly mentioning the Tender No. & Name of Work, due date of opening of Bid and Name of the Bidder to the **Chief Engineer, Cochin Port Trust, W/Island, Cochin – 682009, KERALA upto 15.00 hrs. on 04-03-2020**
- 19.6 **Non submission of the original financial instruments towards Cost of Tender Document and EMD within the above period will lead to disqualification of Bids.**
- 19.7 The successful Bidder shall submit original copy of complete Proposal already submitted in e-mode within 7 days of receipt of Letter of Acceptance issued for the Work.

20. Information Required in The Bid

- 20.1 Proposal shall contain the following:
- a) Earnest Money Deposit as described in Clause 16.1 above.
 - b) Cost of tender document.
 - c) Check list as per **Schedule-I**.
 - d) Letter of Submission (*Annexure- 1*)
 - e) Power of Attorney (in original) in favour of signatory/s to the Tender, duly authenticated by Notary Public. (vide *Annexure-2*)
 - f) Bid document including all Addenda/Corrigenda.**
 - g) Partnership deed or Memorandum and Articles of Association of the company and Registration certificate of the company as the case may be.
 - h) Copies of PAN, GST, EPF and ESI registration.

- i) Broad details and specifications including properties of the materials to be used. The submission of the above details at the time of tender is only for reference and shall not relieve the tenderer of his responsibility of manufacturing of the fender as approved by the classification society.
- j) A declaration to the effect that (vide ***Annexure-3***):-
 - i) No conditions are incorporated in the financial bid. In case any conditions are specified in the financial bid, the tender will be rejected summarily without making any further reference to the bidder.
 - ii) We have not made any payment or illegal gratification to any persons/ authority connected with the bid process so as to influence the bid process and have not committed any offence under PC Act in connection with the bid.
 - iii) We disclose with that we have made / not made payments or propose to be made to any intermediaries (agents) etc in connection with the bid.
 - iv) We do hereby confirm that no changes have been made in the tender document downloaded and submitted by us for the above bid. 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 Port's document shall prevail.
- k) Details of the bidder for refund of EMD through e-payment system as per ***Annexure-4***.
- l) An undertaking that the BGs for Performance Guarantee as per Clause 35 of Instruction to Tenderers shall be produced, as per the proforma at ***Annexure-5***.
- m) Form of Bid duly signed and sealed.

20.2 **Financial Bid** shall contain Schedule of Quantities- Schedule-II shall be duly filled in and fully priced, which shall be submitted only **in e-tendering mode**.

21. List of documents to be uploaded for online submission.

- i) Scanned copy of financial instruments towards cost of tender document and EMD / Bid security,
- ii) Scanned copies of Annexures-1 to 3 & 5, duly signed,
- iii) Scanned copy of Form of Bid duly signed,
- iv) Scanned copy of Registration certificate of the company/ partnership deed as the case may be, and
- v) Technical Bid document including all addendum/corrigendum and General Conditions of Contract with Amendments in PDF format.

22. Deadline for Submission of the Bids:

E-tenders attaching all documents shall be submitted 'on-line' in the **e tender portal** strictly in accordance with the terms and conditions of tender document before ***the time and the day notified*** in Table.1.1 of NIT. The

original documents as prescribed in clause 21 above shall also be submitted before the time and date specified therein.

23. Late Bids:

Any Bid received by the Employer after the Bid due date will be returned unopened to the bidder.

24. Bid Opening

24.1 The Officer inviting the tender or his duly authorized assistant will open the tenders in the presence of intending Bidders who may be present at the time in person or through their authorized representative.

24.2 **The Proposal: The Proposal** shall be opened in the office of the **Chief Engineer, Cochin Port Trust** after **15.30 Hours** on the last date fixed for receiving the Tenders. Submission of EMD and Cost of document is verified initially. In case the Earnest Money and Cost of Bid document is not deposited or is not in order, the Bid will not be opened further and hard copy submitted will be returned.

24.3 If all Bidders have submitted unconditional Bids together with requisite Bid Security/EMD, then all Bidders will be so informed. If any Bid contains any deviation from the Bids documents and /or if the same does not contain Bid Security/EMD in the manner prescribed in the Bid documents then that Bid will be rejected and the Bidder will be informed accordingly. The Financial Quote submitted in e- mode will not be opened in that case.

24.4 In the event of a tender being rejected, the Earnest Money paid with such unaccepted tender shall be refunded to the Bidder.

25. Opening of Financial Quote:

If the contents (Cost of Bid Document, EMD) submitted by the bidders in the Proposal are in order, only then the Financial Quote of that Bidder's will be opened on the same day or any other day as intimated through website.

26. 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 in writing, but no change in the price or substance of the Bid shall be sought, offered, or permitted.

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.

27. Examination of Bids and Determination of Responsiveness:

27.1 Prior to detailed evaluation of Bids, Cochin Port Trust will determine whether each Bid :

(a) has been properly signed by an authorised signatory (accredited

representative) holding Power of Attorney in his favour. The Power of Attorney shall inter alia include a provision to bind the Bidder to settlement of disputes clause;

- (b) is accompanied by the required Bid security and;
- (c) Undertakes in the Bid that he has not incorporated any conditions in the Financial Bid

A responsive 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

- i) which affects in any substantial way the scope, quality or performance of the Works;
 - ii) which limits in any substantial way, the Employer's rights or the Bidder's obligations under the Contract; or
 - iii) whose rectification would affect unfairly the competitive position of other Bidders presenting responsive Bids.
- (d) is responsive to the requirements of the Bidding documents;

27.2 If a Bid is not substantially responsive, it shall be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

28. Correction of Errors:

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 percentage in figures and in words, the percentage in words will govern
- (b) Where there is a discrepancy between the amount corresponding to the percentage quoted and the percentage quoted, lower one will govern;

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 shall be rejected and the Bid Security shall be forfeited in accordance with Clause 17.2.

29. Evaluation and Comparison of Bids:

The Employer will evaluate and compare only the Bids determined to be responsive in accordance with Clause 27. 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 28;
- (b) making appropriate adjustments to reflect discounts or other price modifications offered.

30. Alteration of tender documents:

No alteration shall be made in any of the tender documents or in the Bill of

Quantities and the tender shall comply strictly with the terms and conditions of the tender document. The Employer may however ask any tenderer for clarifications of his tender if required. Nevertheless, no tenderer will be permitted to alter his tender price after opening of the tender.

31. Alternative conditions and Proposal:

The Tenderer shall note that alternative or qualifying tender conditions, or alternative design proposal for whole or part of the work will not be acceptable. Tenders containing any qualifying conditions or even Tenderer's clarifications in any form will be treated as non-responsive and will run the risk of rejection. Financial Bid of such Tenderer's will not be opened.

32. Award of Contract:

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.

33. Release of Bid Security / EMD:

The Bid Security/EMD of unsuccessful bidder other than L1 and L2 will be refunded immediately after ranking of the Bids. The Bid Security of L2 bidder shall be refunded immediately after entering into agreement with L1 bidder and acceptance of the Performance Security. The Bid Security of the Successful bidder will be discharged after he has signed the Agreement and furnished the required Performance Security.

34. Performance Security:

34.1 Within not later than 21 days from the date of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in the form of Bank Guarantee (BG) for an amount equivalent to 10% of the Contract Price rounded off to the nearest Rs.1,000/- in the following forms:

- (i) Banker's Cheque/Demand Draft/Pay Order of a Scheduled Bank.
- (ii) An irrevocable Bank Guarantee (BG) enforceable and encashable at Cochin, drawn from any scheduled bank operating in India as per the proforma.

34.2 If the Performance Security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued by a Nationalised /Scheduled Indian bank having its branch at Cochin acceptable by *Cochin Port Trust*. The BG shall be issued in favor of *Cochin Port Trust* in the proforma at *Annexure-A*.

34.3 In the event of the tenderer, after the issue of the communication of acceptance of offer by the Board, failing /refusing to execute the agreement as hereinafter provided, the tenderer shall be deemed to have abandoned the contract and such an act shall amount to and be construed as the contractor's calculated and the willful breach of the contract, the cost and consequence of which shall be to the sole account of the tenderer and upon such an event the Board shall have full right to claim damages therefore either together with or in addition to the forfeiture of Earnest Money Deposit.

34.4 The above Performance Security shall be refunded to the contractor on furnishing the Bank Guarantee for Performance Guarantee of fenders

amounting to 25% of contract value as per Clause 35.1 below.

35. Performance Guarantee for Fenders

- 35.1 The Contractor shall furnish Performance Guarantee in the form of irrevocable Bank Guarantee as security for due performance of the fenders-in the proforma at Annexure-B. The above Performance Guarantee shall be produced in Bank Guarantee, issued by Nationalised banks/ Scheduled Banks in India of value equal to 25% of the contract value.
- 35.2 The Bank Guarantee thus furnished shall be valid for 5 years from the date of completion of the whole work and completion of the same as certified by the Engineer- in-Charge.
- 35.3 Any payment to the successful bidder will be made only after producing the Performance Guarantee in the form of Irrevocable Bank Guarantee. The BG thus furnished will be retained as a security for the due and proper fulfillment of performance of the fenders for 5 years from the date of completion of the installation of the fenders and completion of the same as certified by the Engineer-in-Charge. Such BGs shall be encashed in full or part as decided by the Chief Engineer, whose decision will be final and binding on the Contractor on failure of Contractor to perform or non fulfillment by the Contractor of the terms and conditions of the work of providing and fixing of the fenders or on performance failure of fenders supplied / installed as per the requirement in the contract.

36. Signing of Agreement

The successful tenderer will be required to execute an Agreement at his expense within 28 (twenty eight) days from the date of work order, on proper value Kerala State Stamp Paper in the prescribed form. The agreement as finally executed will include the Employer's Bid Documents and the Bidder's offer as finally accepted by the EMPLOYER together with addendum/corrigendum, bid clarification and all correspondences exchanged between EMPLOYER and the bidder, if any. Till the formal agreement is executed, the Letter of Acceptance together with the offer as finally accepted along with correspondences shall form a binding contract between the two parties.

37. Fraud and Corrupt Practices:

The bidder and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this document, the Port shall reject the tender without being liable in any manner whatsoever to the bidder, if it determines that the bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process. In such an event, the Port shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Port for, inter alia, time, cost and effort of the Authority, in regard to the Tender, including consideration and evaluation of such Bidder's Proposal. Such

Bidder shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) “corrupt practice” means
 - (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or
 - (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;
- (b) “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- (d) “undesirable practice” means
 - (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or
 - (ii) having a Conflict of Interest; and
- (e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

38. Rejection of Tender:

Any Tender not conforming to the foregoing instructions will not be

considered. The Employer does not bind himself to accept the lowest or any tender and has the right to reject any tender without assigning any reason thereof. No representation whatsoever will be entertained on this account.

SIGNATURE OF BIDDER

COCHIN PORT TRUST

3. FORM OF BID

To

The Board of Trustees,
Cochin Port Trust

Through

The Deputy Chief Engineer (PD)
Cochin Port Trust, Cochin -9

Tender for the work of **“Replacement of fenders at GoI Jetty and Supply of spare fenders”**.

I/We have read and examined the Notice inviting tender, General rules and directions, General conditions of Contract, Contract Data, Technical Specifications, Drawings, Special conditions & other documents and rules referred to in the General Conditions of Contract and all other contents in the tender document for the work.

I/We hereby tender for the execution of the work specified in the underwritten memorandum within the time specified in such memorandum at the rates specified in the schedule attached hereto and in accordance in all respects with the specifications designs, drawings and instructions in writing referred to in Clause 16 of the General Conditions of Contract and with such materials as are provided for, by and in all other respects in accordance with such conditions so far as applicable.

MEMORANDUM

- | | |
|--|--|
| a) General description of work | : Replacement of fenders at GoI Jetty and Supply of spare fenders. |
| b) Estimated cost | : Rs.13,87,050/- |
| c) Earnest Money | : Rs.14,000/- |
| d) Security Deposit | : 10% of the value of the contract awarded |
| e) Percentage, if any, to be deducted from the bills | : N.A. |

- f) Time allowed for commencement of work from the date of receipt of work order : 7 (Seven) days
- g) Time allowed for the work from the date of commencement of work. : 2 (Two) months
- h) Schedule, specifications, conditions, drawings etc. : As per “Contents” sheet attached

I/ We agree to keep the tender open for 120 days from the due date of submission and not to make any modifications in its terms and conditions

Should this tender be accepted, I/We hereby agree to abide by and fulfill all the terms and provisions of the said conditions of contract annexed here to so far as applicable or in default thereof forfeit and pay to the Board the sum of money mentioned in the said conditions and to execute an agreement with the Board in the prescribed form or in default thereof to forfeit the earnest money deposited by me/us.

The sum of Rs..... is hereby forwarded in Bankers cheque or Demand Draft of a scheduled bank / Bank Guarantee issued by a Scheduled bank drawn in favour of Financial Adviser and Chief Accounts Officer of the Port Trust as earnest money (a) the full value of which is to be absolutely forfeited to the Board in office without prejudice to any other rights or remedies of the said Board in office should I/We fail to commence the work specified in the Contract data or should I/We not deposit the full amount of Performance Security specified in the above Memorandum in accordance with Clause 52 of the said conditions of contract otherwise the said sum of Rs. shall be retained by the Board as on account of such security deposit as aforesaid or (b) the full value of which shall be retained by the Board on account of the security deposit to execute all the works referred to in the tender documents upon the terms and conditions contained or referred to therein and to carry out such deviations as may be ordered, upto maximum of the percentage mentioned in Clause 40.1 of Conditions of Contract and those in excess of that limit at the rates to be determined in accordance with the provision contained in Clause 40.3 of the Conditions of Contract.

Dated the day of 2020.

Signature of the Tenderer

Address :

Witness :

Address :

Occupation :

ACCEPTANCE

The above tender (as modified by you as provided in the letters mentioned hereunder) is accepted by me for and on behalf of the Board of Trustees for a sum of Rs.....(Rupees)

The letters referred to below shall form part of this contract Agreement

- a) ..
- b) ..
- c)

Dated.....

Dy. Chief Engineer (PD)
Cochin Port Trust

COCHIN PORT TRUST

4. FORM OF AGREEMENT

AGREEMENT No. ... of

AGREEMENT FOR THE WORK OF “Replacement of fenders at GoI Jetty and Supply of spare fenders”.

THIS AGREEMENT IS MADE on this day of BETWEEN THE BOARD OF TRUSTEES OF COCHIN PORT TRUST , a body corporate under the Major Port Trust Act, 1963 having office on Willingdon Island, Cochin – 682009 represented by its *Chief Engineer/*Deputy Chief Engineer/*Superintending Engineer Shri..... S/o aged years residing at Village Taluk District (hereinafter referred to as the Employer which expression shall include his successors, assignees and administrators in the office) of the one part and M/s. represented by Shri. aged S/o residing at Village Taluk District (hereinafter referred as “Contractors” which expression shall include their successors, assignees and administrators) of the other part.

WHEREAS the Employer invited tenders for vide Tender Notice Date and the Contractor submitted a tender for the same giving rates subject to the terms and conditions etc. of the tender document.

AND WHEREAS the said tender submitted by the Contractor has been accepted by the Employer vide work order No dated, issued to the Contractor while accepting their tender.

NOW THESE PRESENTS WITNESSETH and the parties hereby agree as follows.

1. The tender submitted by the Contractor for execution for the Board, of the work specified in the under written memorandum within the time specified in such memorandum at the rates specified in the schedule attached hereto and in accordance in all respects with the specifications, designs, drawings and instructions in writing referred to in Clause 16 of the “General Conditions of Contract” and with such materials as are provided for, by and in all other respects in accordance with such conditions is accepted.

2. It is mutually understood and agreed that, notwithstanding that the works has been sectioned, every part of it shall be deemed to be supplementary to and complementary of every other part and shall be read with it or into it.
3. The Contractor agreed to abide by and fulfill all the terms and provisions of the said Conditions of Contract or in default thereof forfeit and pay to the Board the sum of money mentioned in the said conditions.
4. The sum of Rs...../- [Rupees.....only) has been deposited by the Contractor with Financial Adviser and Chief Accounts Officer of the Port Trust as Performance Security (a) the full value of which is to be absolutely forfeited to the Board in office without prejudice to any other rights or remedies of the said Board in office should the Contractor fail to commence the work specified in under written memorandum or should the Contractor not deposit the full amount of security deposit specified in under written memorandum otherwise the said sum of Rs...../- shall be retained by the Board as on account of such security deposit as aforesaid or (b) the full value of which shall be retained by the Board on account of the security deposit to execute all the works referred to in the tender documents upon the terms and conditions contained or referred to therein and to carry out such deviations as may be ordered, upto maximum of the percentage mentioned in Clause 40.1 of the Conditions of Contract and those in excess of that limit at the rates to be determined in accordance with the provisions contained in Clause 40.3 of the Conditions of Contract.
5. It is mutually agreed that the tender submitted in its entirety shall form part of this agreement. Apart from the tender the following shall also form part of the agreement
 - a) The Letter of Acceptance ;
 - b) Bill of Quantities and
 - c) Letters exchanged between the Employer and the Tenderer upto the issue of Letter of Acceptance as separately listed and annexed here to.

MEMORANDUM

- | | |
|--|--|
| a) General description of work | : Replacement of fenders at GoI Jetty and supply of spare fenders. |
| b) Estimated cost | : Rs.13,87,050/- |
| c) Tendered cost | : |
| d) Earnest Money | : Rs.14,000/- |
| e) Security Deposit | : 10% of the value of the contract awarded |
| f) Percentage, if any, to be deducted from the bills | : N.A. |

- g) Time allowed for commencement of work from the date of receipt of work order : 7 (Seven) days
- h) Time allowed for the work from the date of commencement of work. : 2 (Two) months
- i) Schedule, specifications, conditions, drawings etc. : As per "Contents" sheet attached

IN WITNESS WHEREOF THE CONTRACTOR hereunto set his hand and seal on behalf of M/s..... and on behalf of the Board of Trustees of COCHIN PORT TRUST, the *CHIEF ENGINEER / *DEPUTY CHIEF ENGINEER / *SUPERINTENDING ENGINEER has set his hand and seal and common seal of Trustees has been hereunto affixed the day and year first written above.

CONTRACTOR

*(Retain only the authority signing the agreement)

Signed, sealed and delivered

By Shri.....

Of M/s.....

(COMMON SEAL OF THE FIRM)

Signed and affixed seal in the presence of :

1) Signature with address :

2) Signature with address :

Signed, sealed and delivered by the

*CHIEF ENGINEER/*Dy. CHIEF ENGINEER

Cochin Port Trust on behalf of Board of

Trustees of Port of Cochin.

EMPLOYER

Signed and affixed the common seal of

Board of Trustees of the Port of Cochin

In the presence of

1)

2)

*(Retain only the authority signing the agreement)

COCHIN PORT TRUST

5. CONTRACT DATA

Items marked “N/A” do not apply in this Contract.

Sl. No.	Description	Reference Clause No. in GCC
1	<i>The following documents are also part of the Contract</i>	
	The Schedule of other Contractors	(8.2)
	The Schedule of Key personnel NA	(9)
2	The Employer is:	(1)
	The Board of Trustees, Cochin Port Trust, Cochin -9	
	Name of Authorized Representative:	
	Name : Dr. M. Beena, The Chairman, Cochin Port Trust, Cochin -9	
3	The Engineer is	
	Name : Shri. G. Vaidyanathan, The Chief Engineer, Cochin Port Trust, Cochin-9	
	Name of Nominee /Engineer-in-charge is: Will be notified in LoA	
4	Name of Contract :- Replacement of fenders at GoI Jetty and Supply of spare fenders Tender No: T10/T-1913/2020-C	(1)
5	10 copies of Contract Agreement shall be furnished by the Contractor	[7.1]
6	Tender document and other data are available at Cochin Port web site and e –tender portal. www.cochinport.gov.in www.tenders.gov.in www.tenderwizard.com/COPT	(7.2)

Sl. No.	Description	Reference Clause No. in GCC				
7	The Intended completion Date for the whole of the Work is 2 (Two) Months with the following milestones:	(17, 28)				
8	Milestone dates: <table border="1" data-bbox="347 465 1214 692"> <tr> <td data-bbox="347 465 791 618">Physical works to be completed</td> <td data-bbox="791 465 1214 618">Period from the date of receipt of LoA to proceed with the work</td> </tr> <tr> <td data-bbox="347 618 791 692">NA</td> <td data-bbox="791 618 1214 692">NA</td> </tr> </table>	Physical works to be completed	Period from the date of receipt of LoA to proceed with the work	NA	NA	
Physical works to be completed	Period from the date of receipt of LoA to proceed with the work					
NA	NA					
9	The following shall form part of the Contract Document: <ol style="list-style-type: none"> (1) Agreement (2) Letter of Acceptance (3) Bill of Quantities (4) Contractor's Bid (5) Correspondence exchanged after the opening of the Bid and before the issue of Letter of Acceptance by which the Condition of Contract are amended, varied or modified in any way by mutual consent (to be enumerated). (6) Contract Data (7) General Conditions of Contract (8) General Description and Conditions of Contract (9) Special Conditions of Contract (10) Technical Specifications (11) Drawings and (12) Any other documents listed in the Contract Data as forming part of the Contract. 	(2.3)				
10	The Contractor shall submit a Program for the Works within 7 days of date of the Letter of Acceptance.	(27)				
11	The site possession date The site will be handed over within 7 days after issue of LoA and the site is free from encumbrances.	(21)				
12	The start date shall be 7 days from the date of receipt of the Letter of Acceptance (LoA) by the Contractor.	(1)				
13	The site is GoI Jetty near Port's CFS Shown in drawing at					

Sl. No.	Description	Reference Clause No. in GCC
	Annexure-C1	
14	The Defects Liability Period is FIVE (5) years from the date of completion of work.	(35)
15	The minimum insurance cover for physical property, injury and death is Rs.5 lakhs (Rupees Five lakhs) per occurrence with the number of occurrences unlimited. After each occurrence, Contractor will pay additional premium necessary to make insurance valid always.	(13)
16	The following events shall also be Compensation Events: NIL	(44)
17	The period between Programme updates shall be 30 days.	(27)
18	The amount to be withheld for late submission of an updated Programme shall be Rs.2500/- .	(27)
19	The language of the Contract documents is English .	(3)
20	The law, which applies to the Contract, is the law of Union of India.	(3)
21	The currency of the Contract is Indian Rupees .	(46)
22	The proportion of payments retained (retention money) shall be 5% from each bill subject to a maximum of 5% of the contract price. : NIL	(48)
23	The maximum amount of liquidated damages for the whole of the works is 10% of the contract price.	[49]
24	The amounts of the advance payments : NIL	[51]
	The advance payments as applicable to the contract are: NIL	
25	Repayment of advance payment for mobilization : NA	[51]
26	Repayment of advance payment for Construction and equipment: NA	[51]
27	Repayment of secured advance: NA	[51]
28	The date by which “as-built” drawings are required is within 60 days of issue of certificate of completion of whole or section of the work, as the case may be: NA	(58)
29	The amount to be withheld for failing to supply “as built”	(58)

Sl. No.	Description	Reference Clause .No. in GCC
	drawings and/or operating and maintenance manuals by the date required is NIL .	
30	Schedule of Rates Applicable: NA	
31	Base Rate for materials to be considered for price variation: NA	(47)
32	Permissible wastage on theoretical quantities of : NA (a) Cement : 2% (b) Steel Reinforcement and structural steel sections for each diameter, section and category : 5.99 % (c) Bitumen/Bitumen emulsion : 2.5%	(47)

COCHIN PORT TRUST

6. GENERAL DESCRIPTION AND CONDITIONS OF WORKS

6.1. General

The present tender is for (i) supplying and fixing rubber fenders after replacing the existing damaged fenders at Govt. of India (GoI) Jetty along Ernakulam channel near to Port's CFS and (ii) supplying of spare fenders.

6.2. Scope of work

6.2.1. The scope of work under this tender includes:

- i) Dismantling and taking away the damaged 2 Nos. Flat Top Arch Fenders (600 H) and 1 No. Arch type Fender (300 H).
- ii) Supplying and fixing
 - (a) 2 Nos. Flat Top Arch Fenders (600 H)
 - (b) 1 No Arch Fenders (300 H) at GOI Jetty Frontage; and
- iii) Supplying spare fenders
 - (a) 1 No. Flat Top Arch Fender (600 H); and
 - (b) 1No. Arch Fender (300 H).

6.2.2. The design of fenders to be supplied by the Contractor for replacement and as spare shall be as per the Drawings included in this document which has already been certified by the Classification Society. No changes shall be made to the design of fenders and accessories and it shall strictly be in accordance with the design / drawings supplied by the Employer. As such, the involvement of the Classification Society is limited to the stages of manufacturing & testing only.

6.3. Site conditions

6.3.1. Location

The work has to be carried out at GoI Jetty which is located along Ernakulam channel between the CoPT's Ro-Ro jetty and Indian Navy's North Jetty. The Jetty is connected to the Port's main road leading to FACT's Q10 berth. Jetty area is operational and protected area and hence security rules and regulations including obtaining passes etc. for work are to be observed by the contractor. The work is to be carried out without disturbing the normal Jetty operations. **A General layout showing the location of GoI Jetty is enclosed at Annexure- C1.**

6.3.2. Reference Level

6.3.2.1. All the levels indicated in the drawings and/or specifications are with reference to Port Chart Datum, which is at 0.582 m below Mean Sea Level. The contractor shall establish reference benchmarks at suitable spots. The maintenance of these reference benchmarks will be the responsibility of the contractor for which no payment will be made.

6.3.2.2. The tenderers shall make their own arrangements for inspecting the area and satisfying themselves regarding the water depth available in this area. However, the sounding chart in the location of the berth is enclosed for reference.

6.3.3. Tide and Flood Levels

- 6.3.3.1. The tides at Cochin are semi-diurnal with a marked daily inequality. The contractor shall carefully investigate the records of all past states of tides and flood and shall be held to have satisfied himself on all the tide and flood levels likely to prevail during the period of contract so far as it may affect the work.
- 6.3.3.2. The various tidal levels in the area as per Naval Hydrographic Chart No.2004 are as indicated below for the general guidance to the tenderer.

Tide Levels with reference to Port Chart Datum (in metres)

Highest High Water Level	: +1.20m
Mean High Water Spring (MHWS)	: +0.92m
Mean Low Water Spring (MLWS)	: +0.80m
Mean Sea Level (MSL)	: +0.582m
Mean High Water Neap (MHWN)	: +0.60m
Mean Low Water Neap (MLWN)	: +0.30m
Lowest Low Water Level	: +0.20m

6.3.4. Current

The maximum current expected in the area of work is about 0.5 metre/sec.

6.3.5. Waves

The work site is in the inner harbour area where generally calm conditions prevail throughout the year.

6.3.6. Wind

Wind at Cochin is highly influenced by the land and sea breezes. Wind direction changes from north-east during morning hours to west during evening for the period of October to May. During peak of south-west monsoon, especially from June to September, predominant wind direction remains south-west both during morning and evening hours. Due to strong monsoon winds, effect of land winds is not dominant during south-west monsoon. During the non-monsoon periods, the predominant wind direction is from north east during the morning and west during the evening which shows influence of land breeze.

6.3.7. Rainfall

The climate is characterized by dry and wet seasons. The wet seasons starts in late May and ends in November. During this period, two monsoons pass by one after another. The major monsoon is south-west monsoon which lasts from June to September. This is followed by north-east monsoon during October and November. The average annual rainfall is about 3000mm; and the major portion is during south-west monsoon.

6.3.8. Temperature

Cochin experiences moderate temperatures throughout the year. The temperature varies from 22°C to 34°C. The low temperature occurs during

the southwest monsoon, December and January. Daytime temperature goes upto 30°C even during this period. The hot months are from March to May.

6.4. Drawings

The work shall be carried out as per the drawings enclosed with the tender document and also according to other drawings that would be supplied to the contractor from time to time

6.5. Time Schedule and monitoring of progress

6.5.1. Tenderer shall prepare and attach with the tender a detailed work schedule indicating key activities and critical items for completing the work within the stipulated contract period. This time schedule forms the basis for monitoring the progress of work.

6.5.2. The Contractor shall furnish to the Engineer-in-Charge monthly progress reports of the work during execution in the approved proforma indicating delay, if any, its reason and proposal to cover up the delay

6.6. Materials / Facilities To Be Provided By Department

6.6.1. Contractor's work area:

Land will be made available to the contractor to the possible extent, free of rent for setting up site office, store, etc., adjacent to the work site for the duration of contract. The site shall be cleared or leveled, if so required by the contractor, at his cost.

6.6.2. Power

Electric power required for the work can be supplied from GoI's nearest point free of cost. However, the cost of drawing temporary lines/ cables/ providing switches and making connection etc, shall be borne by the Contractor. If there is any disruption in the power supply due to supply failure / restrictions imposed by the Kerala State Electricity Board, the department shall not be held responsible and the Contractor has to make suitable alternative arrangements like generator, welding set etc. at their cost.

6.7. Contractor's responsibility

6.7.1. All materials for use on the works shall be supplied and provided by the contractor at his own cost and shall conform to relevant BIS Specification unless otherwise specified.

6.7.2. Samples of all materials including fixtures, if any, to be incorporated in the work shall be got approved by the Engineer-in-Charge before procurement.

6.7.3. The contractor shall thoroughly study the specifications and drawings and errors/omissions/modifications if any shall be brought to the notice of the Engineer-in-Charge well in advance so that a final decision in the matter could be given in time.

6.7.4. All labour, skilled or unskilled shall be provided by the contractor. Settling any dispute with the labour will be contractor's responsibility.

6.7.5. The contractor shall be solely responsible for any damage or injury to the persons or things caused or suffered during the execution of the work and these shall be made good or compensated at his risk & cost.

- 6.7.6.** The contractor shall take all care and precautionary measures for avoiding any kind of damage/accident in the work site on any account. The department shall not entertain any claim from the contractor whatsoever towards compensation for any damage/accidents at the site due to negligence from his part, during the execution of work.
- 6.7.7.** The contractor shall prior to commencement of the work insure in the joint names of the Employer and the contractor against all loss or damage from whatever cause arising for which he is responsible under the terms of contract.
- 6.7.8.** The work shall be arranged by the contractor without causing any damage to Port's/ any other structures. Any damage caused by the contractor's operation shall be compensated/ made good at contractor's risk and cost to the satisfaction of the Engineer-in-Charge of the works, failing which department will do the rectification work and the cost incurred will be recovered from any sum due to him from the Port.
- 6.7.9.** All plants and equipment and consumables required for the whole work shall be provided by the contractor at his own cost.
- 6.7.10.** The contractor shall not construct any structure, even of temporary nature, for any purpose at site, except with the written permission of the Engineer-in-Charge of the work and any construction so put up shall be removed by the contractor whenever the Engineer-in-Charge calls upon the contractor to do so.
- 6.7.11.** The Contractor shall be responsible for the true and proper setting out of the works in relation to original points, lines and levels of reference given by the Engineer-in-charge and for the correctness of the position, levels, dimensions and alignment of all parts of the works and for the provision of all necessary instruments, appliances and labour in connection therewith. If at any time during the progress of work any error shall appear or arrive in the position, levels, dimensions or alignment of any part of the works, the contractor on being required to do so by the Engineer-in-Charge shall, at his own cost, rectify such error to the satisfaction of the Engineer-in-Charge, unless such error is based on incorrect data supplied by the Engineer-in-Charge, in which case the expense of rectifying the same shall be borne by the department. The checking of any setting out or of any line or level by the Engineer-in-charge shall not in any way relieve the contractor of his responsibility for the correctness thereof and the contractor shall carefully protect and preserve all bench marks, pegs, other things used in setting out the work and measurement purpose.
- 6.7.12.** Qualified Engineers with sufficient experience in works of similar nature shall be available at site throughout the contract period during working hours in order to receive instructions from department and to implement them properly and in time.
- 6.7.13.** The contractor shall observe all safety regulations during the execution of the work. Safety measures, precautions, warning signals etc. shall be done at the contractor's cost as directed by the Engineer-in-charge of the work. The contractor shall provide all necessary personnel protection equipments such

as helmet, lifeguard, goggles, boots etc. to the workmen at his own risk and cost.

- 6.7.14.** The information and data shown in the drawing and detailed elsewhere in the tender document are furnished for general information and guidance only and the Port Trust in no case will be held responsible for the strict accuracy thereof or any deduction, interpretation or conclusion drawn by the tenderer.
- 6.7.15.** The contractor shall provide necessary arrangements as desired by the Engineer-in-Charge for inspection of work without any extra cost from commencement till completion of work.
- 6.7.16.** The Contractor shall ensure that no labourers with criminal background are engaged for the work.
- 6.7.17.** All fossils, coins, articles of value or antiques and structures and other remains or things of geological or archaeological interest discovered in the site of work shall be deemed to be the absolute property of the Port Trust and the contractor shall take responsible precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal, acquaint the departmental officers of such recovery and carry out at the expense of the department, the Engineer-in-Charge's orders as to the disposal of the same.
- 6.7.18.** Water required for the construction works shall be provided by GoI free of cost.
- 6.7.19.** The contractor shall take all precautions not to damage any cables/pipes etc. passing through the vicinity of project area and if any damage is caused by him, the same shall be rectified at his own risk and cost.
- 6.7.20.** The contractor shall remove all materials brought to work site / stacked at the work site or anywhere else within the Port area and clear the site at his cost to the full satisfaction of the Engineer-in-Charge before the site is returned to the Port Trust. All such materials including debris, tools & plants etc. shall be disposed off to any place as pointed out by the Engineer-in-Charge or be taken away from the location and shall be cleared in every respect and reinstated to its original condition at no extra cost to the Port Trust immediately after completion of the work. In case, any such material is found left in the work site or anywhere in the Port area, rent for the storage space occupied by the contractor, either for stacking the materials/debris or for areas used for such purpose but not cleared thereafter, will be recovered as per the prevailing Scale of Rates of Cochin Port Trust, for the rent applicable for open storage space for commercial purpose, for the period for which the area had been occupied by the contractor. In addition to the above, in case the Port requires the area immediately for its use, Port will repossess the land after restoring it to its original condition, material will be confiscated and disposed off at the risk and cost of the contractor, after issuing two notices giving 15 days' time each for removing the material. All expenses incurred on this shall be recovered by disposing off the material if any confiscated. If any balance amount still remains to be realized that will be recovered from the contractor by appropriate means.

- 6.7.21.** The Cochin Port is an International Ship & Port Facility Security (I S P S) Code compliant Port and the contractor is obliged to comply with the provisions of the Code in force and as amended from time to time. The site for the proposed work is a protected area and hence security rules and regulations including obtaining entry /exit passes including photo passes if any for vehicles, men & materials etc. for entering the area shall be observed by the contractor at his cost.
- 6.7.22. The contractor shall extend all the facilitation and cooperation for other contractors for simultaneous execution of other works in the area, if any, entrusted by Cochin Port Trust.**
- 6.7.23.** The existing fenders and its accessories replaced by the contractor shall be the property of Contractor.
- 6.7.24.** The contractor shall provide boat/ dinghy/ machuva (s) etc., at his own cost, as and when required by the departmental personnel for supervision works, throughout the contract period.
- 6.7.25.** Tolls as per rules have to be paid by the contractor for vehicles using the Port's road for supplying the material etc.
- 6.8. Workmanship**
- 6.8.1.** All the works shall be done strictly according to relevant B.I.S. specifications unless otherwise specified.
- 6.8.2.** The whole work shall be completed in a diligent manner within the contract period and defect or imperfection if any, observed during the defect liability period/ guarantee period, shall be rectified at contractor's cost to the full satisfaction of the Engineer-in-Charge within the time allowed.
- 6.9. Temporary works**
- 6.9.1.** All scaffolding, staging, bracing and other temporary works required for proper execution of the works, shall be provided by the contractor at his own cost, unless stated otherwise and that should be inclusive of all materials, labour, supervision and other facilities. The layout and details of such temporary works shall have prior approval of the Engineer-in-Charge, but the contractor shall be responsible for proper strength and safety of the same. All temporary works shall be so constructed as not to interfere with any permanent work or with the work of other agencies. If it is necessary to remove any of the temporary works at any time to facilitate execution of works or work by other agencies, such removal and re erection, if required, shall be carried out by the Contractor at the direction of Engineer-in-Charge without any delay and any extra cost on this account shall be borne by the contractor.
- 6.9.2.** On completion of the works, temporary works if any provided by the contractor shall be removed from the site and the area shall be reinstated to the original condition at his own risk and cost.
- 6.10. Time For Completion**
- 6.10.1.** The time allowed for carrying out the work as mentioned in the memorandum shall be strictly observed by the contractor. The work shall

throughout the time period be preceded with diligence, time being deemed to be the essence of the contract.

6.10.2. The completion of work may entail working in monsoon period/rainy season without any extra cost. The contractor shall take such an eventuality into consideration while quoting for the work. Normally, no extension of time will be admissible for work in monsoon.

6.10.3. The whole work shall be completed in the stipulated time, accordance with the provisions under Memorandum included under “Form of Tender” or such extended time as may be allowed under Clause 29 of General Conditions of Contract (GCC).

6.11. Working time

The normal working time of the Port Trust is from 8 a.m. to 4.30 p.m. on all working days with half an hour interval from 12 noon to 12.30 p.m. If the Contractor wishes to carry out the work beyond normal working hours and or on holidays, he should get specific approval from the Engineer-in-Charge for the same. Necessary supervision will be arranged by the department and the expenditure to be incurred in this connection will be borne by the department.

6.12. Method of Execution

The contractor shall clearly indicate in their tender the method proposed by them for executing the various items of works. During the actual execution of the works if modifications or changes in the method of execution of work is found necessary the contractor shall obtain approval from the Engineer-in-charge of work for such modifications or changes in the method. No claim from the contractor for additional payment shall be entertained by the department on the above account.

6.13. Alterations and Additions

The Employer shall have power and authority from time to time and at all times to make amendments or additions or alterations or changes in the scope of the work, and specifications, drawings and bill of quantities and give such further instructions and directions as may appear to the Employer necessary and proper for the guidance of the Contractor and the good and efficient execution of the works and the contractor shall receive, obey and be bound by the same according to the true intent and meaning thereof as if the same had been mentioned or referred to in the scope of the work, specifications, Bill of Quantities and Schedules and drawings. The Employer may also vary or alter the lines, levels or positions of any of the works contemplated or may order any of the works contemplated thereby to be omitted, with or without the substitution of any other works in lieu thereof, or may order any work or any portion of works executed or partially executed to be removed, changed or altered, if required, and may order that other work shall be substituted in lieu thereof and any difference in the cost occasioned by any such diminution or alteration so ordered and directed shall be added to or deducted from the Contract Price based on rates available in the contract or where the rates are not specified a suitable rate backed up by rate analysis shall be

submitted by the contractor and agreed upon between the contractor and the Employer. In the event of disagreement, the Employer shall fix such rates or prices as shall in their opinion, be reasonable and proper having regard to the circumstances. The contractor shall give to the Employer before the tenth day of every month, a statement in writing of any extra work which he may have performed during the preceding month, failing which any claim for which he may afterwards make for payment on account of any such extra work will not be allowed.

6.14. General Conditions for Supply and Installation

- 6.14.1.** The Port Trust may at their option forfeit the Performance Security/Guarantee produced as per Clause 34/35 of Instructions to Tenderers and will encash the B.G produced if the contractor fails to effect the supply and installation or perform or observe the conditions of contract. The Port Trust will also be at liberty to deduct any sum that may become due to the Port Trust from any sums of money due or that may become due under any other contract to the contractor. This is without prejudice to the Port Trust under terms of contract.
- 6.14.2.** The contractor is to deliver the material in accordance with the specification described in the schedule, General Conditions of Contract(GCC), General Description of Contract, Technical Specifications and Drawings of works, Special Conditions of Contract etc. subject to the maximum quantity noted in the tender within the period specified in the tender and observe, perform, fulfill and keep all the conditions herein set forth, failing which he shall be subject to pay the Liquidated Damages as per Clause 49 of GCC.
- 6.14.3.** In every case in which the payment or allowance mentioned in Clause 49 of GCC shall have exceeded 10 % of the Contract value the Chief Engineer, Cochin Port Trust shall have power either to cancel the contract all together or without canceling the contract to have the supply and installation completed without further notice at the contractor's risk and expense, as he may deem best suited to the interests of the Board, and the contractor shall have no claim to compensation for any loss that he may incur in any way and shall be liable for any loss that the Board may sustain on that account but shall not be entitled to any gain or repurchases made against defaults.
- 6.14.4.** If the contractor shall be hindered in the supply and installation on account of reasons beyond his control so as to necessitate an extension of the time allowed in the tender, he shall apply in writing to the Chief Engineer who may grant it in writing if reasonable grounds be shown for it, and without such written authority, the contractor shall not claim exemption from the payment or allowance mentioned in Clause 49 of GCC.
- 6.14.5.** The contractor shall give notice to the Engineer in charge of his intention of making delivery of the material and on the material being approved a receipt shall be granted to him by the Engineer in Charge and no material shall be considered as delivered until so approved.
- 6.14.6.** On the completion of the delivery of the material the contractor shall be furnished with a certificate to that effect by the Engineer in Charge but the delivery will not be considered complete until the contractor shall have

removed all the rejected materials and shall have the approved materials stacked or placed in such position as may be pointed out to him.

- 6.14.7.** If at any time after the commencement of supplies, the Board shall for any reason whatsoever not require the whole or a part thereof as specified in the tender to be supplied, the Chief Engineer shall, in addition to his power to cancel the contract in case of default on the part of the contractor, have power to terminate all liability of the Board there under at any time after giving due notice in writing to the contractor of his desire to do so. In the event of such a notice being given: (a) the Chief Engineer shall be entitled to direct the contractor to complete the supply of materials which are ready for delivery up to the date of expiry of the notice and thereafter to cease their supply. All the articles or supplies received and accepted up to that date shall be paid for, at the tendered rate; and (b) the contractor shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have delivered in consequence of the full execution of the contract but which he did not obtain owing to its premature termination or for any loss which he might have sustained on this account.
- 6.14.8.** The material shall be of the best description and in strict accordance with the specifications, and the contractor shall receive payment for such materials only as is approved and passed by the Engineer in Charge.
- 6.14.9.** In the event of the material being considered by the Chief Engineer or Engineer in Charge to be inferior to that described in the specification, the contractor shall on demand in writing forthwith remove the same at his own charge and cost, and in the event of his neglecting to do so within such period as may be prescribed by the Chief Engineer or Engineer in Charge, that officer may have such rejected material removed at the contractor's risk and expense , the expense incurred being liable to be deducted from any sums due or which may become due to the contractor.
- 6.14.10.** No material shall be brought to site or delivered on Sundays or holidays, without the written permission of the Chief Engineer or Engineer in Charge.
- 6.14.11.** The contract shall not be sublet without the written permission of the Chief Engineer. In the event of the contractor subletting the contract without such permission, he shall be considered to have thereby committed a breach of contract and shall forfeit his Performance Security /Security Deposit and shall have no claim for any compensation for any loss that may occur from the material he may have collected or engagements entered into.
- 6.14.12.** On the breach of any term or condition on this contract by the contractor, the Board shall be entitled to forfeit the Performance Security / Security Deposit/ Performance Guarantee that may at the time be remaining and to realize and retain the same as damage and compensation for the said breach, but without prejudice to the right of the Board to recover any further sums as damages from any sums due or which may become due to the contractor by the Board or otherwise howsoever.

SIGNATURE OF TENDERER.

7. SPECIAL CONDITIONS OF CONTRACT

- 7.1. Special Conditions shall be read in conjunction with the General Conditions of Contract, Specifications, Drawings and any other document forming part of this Contract wherever the context so requires.

Notwithstanding the Sub-division of the documents into these separate section and volume every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the Contract so far as it may be practicable to do so.

Where any portion of the General Conditions of Contract is repugnant to or at variance with any provision of the Special Conditions, the provisions of the Special Conditions shall be deemed to over-ride the provisions of the General Conditions of Contract and shall to the extent of such repugnancy of variations, prevail.

7.2. Measurements of Work Done.

In addition to Clause-26 of GCC 'Computerized Measurement Book' measurement of the work can be done as detailed below.

- 7.2.1. Executive Engineer (hereinafter called the Engineer's Nominee) shall, except as otherwise provided, ascertain and determine by measurement the value in accordance with the Contract of work done.
- 7.2.2. All measurement of all items having financial value shall be entered in Measurement Book and/or level field book so that a complete record is obtained of all works performed under the Contract.
- 7.2.3. All measurements and levels shall be taken jointly by the Engineer's Nominee or his authorised representative and by the Contractor or his authorised representative from time to time during the progress of the work and such measurements shall be signed and dated by the Engineer's Nominee and the Contractor or their representatives in token of their acceptance. If the Contractor objects to any of the measurements recorded, a note shall be made to that effect with reason and signed by both the parties.
- 7.2.4. Department shall not entertain any claim from Contractor for any loss or damages on this account. If the Contractor or his authorised representative does not remain present at the time of such measurements after the Contractor or his authorised representative has been given a notice in writing three (3) days in advance or fails to countersign or to record objection within a week from the date of the measurement, then such measurements recorded in his absence by the Engineer's Nominee or his representative shall be deemed to be accepted by the Contractor.
- 7.2.5. The Contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for measurements and recording levels.
- 7.2.6. Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provision in the

relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.

- 7.2.7.** The Contractor shall give not less than seven days' notice to the Engineer's Nominee or his authorised representative in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer's Nominee or his authorised representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of measurements without such notice having been given or the Engineer's Nominee's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.
- 7.2.8.** Engineer's Nominee or his authorised representative may cause either themselves or through another officer of the department to check the measurements recorded jointly or otherwise as aforesaid and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.
- 7.2.9.** It is also a term of this Contract that recording of measurements of any item of work in the measurement book and/or its payment in the interim, on account or final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the Contractor from liabilities from any over measurement or defects noticed till completion of the defects liability period.

7.3. Liquidated Damages

For levying LD as per Clause-49 of General Conditions of Contract, the Employer is not required to have documentary evidence to quantify or prove the losses suffered by the Employer due to delay in completion of work by the contractor, as per agreement conditions.

7.4. Insurance of Works

- 7.4.1.** The insurance cover for the loss of or damage to the works, plant, materials and equipment stated in the Clause 13 of GCC shall be as follows:
- a) The insurance cover for the works for the time being executed to the estimated current contract value thereof plus 10(ten) percent thereon to allow any additional costs and professional fees resulting from the loss or damage.
 - b) The constructional plant and other things brought on to the site by the Contractor to the replacement value of such constructional plant and other things.

7.4.2. It shall be the responsibility of the Contractor to notify the insurer of any change in the nature and extent of the works and to ensure the adequacy of the insurance cover at all times in accordance with the provisions of this clause.

7.5. Payments of Salary/Wages and Other Benefits etc. to Contract / Casual Workers

7.5.1. The Contractor shall make all payments of salary/wages and other benefits etc. to the contract / casual workers deployed for the work through Bank/Cheque only.

7.5.2. All the payments to the Contractor would be released only on submission of undertaking to comply with the clause 7.5.1 above.

7.6. Clause 45 and Clause 80 of GCC shall be modified as below;

Clause 45-Rates for items to be inclusive of Taxes

The rate quoted by the Contractor shall be inclusive of the cost of provision of plant and equipment, materials, labour, execution, supervision, maintenance, overheads and profits and every incidental and contingent cost and charges whatsoever excluding Goods and Service Tax (GST). GST as may be applicable from time to time shall be shown separately in the invoice. 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.

The invoice to be submitted by the Contractor should include the GST Registration Number of the Contractor as well as the Employer.

Clause 80-Taxes and Duties:

80.1 - Deleted

80.2 - Deleted

80.3 Income Tax

The Contractor and his staff shall be responsible for payment of all personal income taxes to the concerned authorities as per the law in force from time to time. Deduction of Income Tax shall be made by the Employer from each certificate of payment to the Contractor at the rate of 2% plus surcharge or such other rates as may be specified by the Central Government from time to time, on the gross amount of the Contractor's bill for payment.

80.4 The Contractor shall comply with all the GST Regulations viz. timely uploading of bills, issue of debit/ credit notes etc.

7.7. Clause 25 of GCC shall be modified as below;

Clause 25: Settlement of Disputes & Arbitration

25.1 General

Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, design, 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 thing whatsoever in any way

arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:-

If the Contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request the Engineer in writing for written instruction or decision. Thereupon, the Engineer shall give his written instructions or decision within a period of one month from the receipt of the Contractor's letter.

If the Engineer fails to give his instructions or decision in writing within the aforesaid period or if the Contractor is dissatisfied with the instructions or decision of the Engineer, the Contractor may, within 15 days of the receipt of Engineer's decision, appeal to the Chairman who shall afford an opportunity to the Contractor to be heard, if the latter so desires, and to offer evidence in support of his appeal. The Chairman shall give his decision within 30 days of receipt of Contractor's appeal. If the Contractor is dissatisfied with this decision then:

a) The Dispute in respect of contract of value upto Rs. 1crore shall not be referred for adjudication through arbitration and.

b) If the value of the contract is exceeding Rs. 1 crore and upto Rs.5 crores,

(i) The Dispute shall be resolved through arbitration by a sole arbitrator appointed by the Chairman of Cochin Port Trust :

(ii) The Contractor shall within a period of 30 days from receipt of the decision of the Chairman, give notice to the Chairman for appointment of arbitrator, failing which, the said decision shall be final, binding and conclusive and not referable to adjudication by the arbitrator.

If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

c) If the value of the Contract is above Rs. 5 crores, the Contractor shall within 30 days of receipt of the decision of the Chairman, appoint an arbitrator and give notice to the Chairman and the dispute shall be resolved through Arbitral Tribunal as detailed below:

The Arbitral Tribunal shall be a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two Arbitrators appointed by the Parties. A Party requiring Arbitration

shall appoint an Arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its Arbitrator. If the other Party fails to appoint its Arbitrator, the Party appointing Arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996 or any statutory modifications or reenactment thereof

d) In case the dispute or difference is relating to interpretation and application of the provisions of commercial contract between Central Public Sector Enterprises (CPSE), Port Trust inter se or CPSE and Government Department, such disputes or difference shall be taken up by either Party for resolution through Administrative Mechanism for resolution of CPSEs Disputes (AMRCD) as mentioned in DPE OM F.No.4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018.

25.2 It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the rejection by the Chairman of the appeal.

25.3 It is also a term of this contract that no person other than person / persons appointed as aforesaid should act as arbitrator / arbitrators and if for any reason that is not possible, the matter shall not be referred to arbitration at all.

25.4 It is also a term of this contract that if the Contractor does not make any demand for appointment of arbitrator in respect of any claims in writing as aforesaid within 120 days of receiving the intimation from the Engineer 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 Employer or his authorized representative shall be discharged and released of all liabilities under the contract in respect of these claims.

25.5 The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) or any statutory modifications or reenactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.

25.6 It is also a term of this contract that the Arbitrator / Arbitral Tribunal shall adjudicate only on such disputes as are referred to him/them and give separate award against each dispute and claim referred and in all cases where the total amount of the claims by any party exceeds Rs. 1,00,000/- the arbitrator shall give reasons for the award.

25.7 It is also a term of the contract that if any fees are payable to the arbitrator these shall be paid equally by both the parties.

25.8 It is also a term of the contract that the arbitrator/arbitrators shall be deemed to have entered on the reference on the date he / they issues notice to both the parties calling them to submit their statement of claims and counter statement of claims. The venue of the arbitration shall be at Cochin. The fees, if any, of the arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who

may direct to any party by whom and in what manner, such costs or any part thereof shall be paid and fix or settle the amount of costs to be so paid.”

25.2 Settlement of Disputes through Conciliation

In the event of any dispute or differences between the Parties which could not be resolved amicably by mutual consultations / Arbitration, then the Chairman of Cochin Port Trust may refer such unresolved disputes or differences to a Conciliation Committee / Council comprising of independent subject experts, set up by the Port Trust to enable speedy disposal of pending / new cases. Recourse to such Conciliation shall be open before during or after the arbitration proceedings. The award of the Conciliation Committee / Council, if agreed by both the Parties, shall then be placed for consideration of the Board of Trustees of Cochin Port subject to the delegation of powers.

7.8. The Clause 48 of “General Conditions of Contract - Retention” stands deleted.

7.9. The Clauses 52.2 of the General Conditions of Contract related to Security Deposit, stands modified to the extent detailed below:

7.9.1 Performance Security shall be 10% of the Contract value

7.9.2 Performance Guarantee for fenders

7.9.2.1 The successful tenderer will be required to furnish Performance Guarantee in the form of irrevocable Bank Guarantees as security for due performance of the fenders in the proforma at Annexure-B. The above Performance Guarantee shall be produced in Bank Guarantee, issued by Nationalised banks/ Scheduled Banks in India of value equal to 25% of the contract value. Performance Guarantee thus furnished will be treated as Security Deposit against rectifying any damages/ imperfections/ defects/ deficiency in performance which are noticed during the defect liability period.

7.9.2.2 The Bank Guarantee thus furnished shall be valid for 5 years from the date of completion of the whole work and completion of the same as certified by the Engineer –in- Charge.

7.9.2.3 Any payment to the Contractor will be made only after producing the Performance Guarantee in the form of Irrevocable Bank Guarantee. The BG thus furnished will be retained as a security for the due and proper fulfillment of performance of the fenders & accessories for 5 years from the date of completion of the installation of the fenders and completion of the same as certified by the Engineer-in-Charge. Such BGs shall be encashed in full or part as decided by the Chief Engineer, whose decision will be final and binding on the contractor on failure of contractor to perform or non fulfillment by the contractor of the terms and conditions of the work of providing and fixing of the fenders or on performance failure of fenders supplied and installed as per the requirement in the contract.

7.9.2.4 The Performance Security furnished by the tenderer shall only be released after furnishing the B.G. for 25% of contract value towards Performance Guarantee & acceptance thereof by the department.

SIGNATURE OF TENDERER

COCHIN PORT TRUST

8. TECHNICAL SPECIFICATIONS OF FENDERS

8.1. General

- 8.1.1. The location, layout of the GoI Jetty and details of fenders are shown in the drawings.
- 8.1.2. Fenders and other accessories offered may be indigenous or imported.
- 8.1.3. If the fenders offered are imported ones, all formalities in connection with the import such as DGTD clearance, import license etc., as applicable, foreign exchange payment, customs clearance and payment of customs duties etc shall be observed by the tenderers.
- 8.1.4. Delivery of the fenders and accessories and fixing shall be made within 2 (two) months from the date of commencement of work. Failing to deliver the fenders and accessories and fixing within the specified time will render the contractor liable for payment of liquidated damages as per relevant conditions of contract.

8.2. Technical Specifications

8.2.1. Type and Size of Fenders & Frontal Frames.

The fenders and accessories required for replacement are as given below:

- i) Flat Top Arch Fenders (600 H) with 30mm thick UHMW-PE face pad
- ii) Arch type Fender (300 H)

8.2.2. Performance Details of Fenders

Performance requirements of the fenders are as given in Table 8.1 below:

TABLE 8.1

Description of the fendering system	Max. Permissible Deflection (%)	Min. Energy Absorption (Tonne metre)	Max. Permissible Reaction Force (t)	Max. Permissible Hull Pressure (t/m ²)
Flat Top Arch Fender 600H	52.5	12.4/m	49.70/m	35 t/sq. m
Arch Fender 300H	50	2.5/m	30.1/m

8.2.3. Rubber compound for fender body

The material used for the fender body shall be natural or synthetic rubber of high quality having sufficient resilience, anti-aging weather and wear resistance properties to meet all normal service conditions Natural rubber/ Synthetic rubber content shall not be less than 40%. The material shall be homogeneous, and shall not have any defective impurities, pores or cracks etc. and shall satisfy the physical test requirements as given in the following table based on the standards set by ASTM 2000-77a or its equivalent.

The tables below give the requirements of physical properties of rubber compounds which are to be used for making fenders and these properties shall be confirmed during quality assurance testing prior to fender manufacturing.

Property	Testing Standard		Condition	Requirement
	ASTM	Others		
Tensile Strength	ASTM Others ASTM D 412 Die C	DIN 53504; AS1683.11; BS ISO 37; JIS K 6251	Original	16.0 MPa (min)
			Aged for 96 hours at 70°C	12.8 MPa (min)
Elongation at Break	ASTM D 412 Die C	DIN 53504; AS 1683.11; BS ISO 37; JIS K 6251	Original	350%
			Aged for 96 hours at 70°C	280%
Hardness	ASTM D 2240	BS ISO 7619-1; DIN ISO 7619-1; AS 1683.15.2; JIS K 6253-3	Original	78° Shore A (max)
			Aged for 96 hours at 70oC	Original +8° Shore A (max)
Compression Set	ASTM D 395 Method B	AS 1683.13 Type 1; ISO 815-1; JIS K 6262	22 hours at 70°C	30% (max)
Tear Resistance	ASTM D 624 Die B	AS 1683.12; BS ISO; JIS K 6252-1	Original	70kN/m (min)
Ozone Resistance	ASTM D 1149	DIN ISO 1431-1; AS 1683-24; BS ISO 1431-1; JIS K 6259	50pphm at 20% strain, 40°C, 100 hours	No cracks
Seawater Resistance	ASTM D 471	BS ISO 1817	28 days at 95°C	Hardness: • }10° Shore A (max) Volume: +10/- 5% (max)
Abrasion Loss	–	BS 903 A9 Method B	3000 revolution	1.5cc (max)
Bond Strength	ASTM D429... Method B	BS ISO 813	Rubber to steel	7N/mm (min)
Dynamic Fatigue	ASTM D430- 95... Method B	–	15,000 cycles	#Grade 0–1

#Grade 0 = No cracking has occurred

Grade 1 = Cracks at this stage appear as pin pricks to the naked eye. Grade as 1 if the pin pricks are less than 10 in number and less than 0.5 mm in length

The above properties are to be confirmed during quality assurance testing conducted at 3rd party laboratory in the presence of certifying agency prior to the fender manufacture.

The rubber compound analysis shall also be carried out to ascertain the contents given in the table below by taking a sample of 5gms of rubber from all the manufactured fenders brought at site (taken in the presence of departmental representative) itself at a Govt. of India laboratory or NABL certified third party lab approved by the Engineer-in-Charge:

Test	Standard	Specification
Density	ASTM D297 / ISO 2781	Max. 1.20 g/cc
Polymer %	ASTM D6370 / ISO 9924-1	Min.40%

8.2.4. Frontal Pad

Frontal pads having proper and integrated arrangements with the fender body and frontal frame shall be provided. The pads shall be made of high molecular polyethylene, having low friction coefficient to avoid spark during berthing. It shall have the following physical properties.

- i) Density : 0.95 to 1.05 gm/cc
- ii) Tensile Strength : Not less than 250 kg/sq. cm.
- iii) Elongation : Not less than 20%
- iv) Compressive strength : Not less than 200 kg /sq. cm
- v) Friction Coefficient : Not greater than 0.2

8.2.5. Fixtures

All bolts, nuts, washers, sleeves etc. shall be of Stainless Steel of 316 Grade of approved quality. The material for resin anchor sleeve, if required shall be made of synthetic resin and proved satisfactory to the following requirements.

Physical Properties:

- Tensile strength (230⁰c) : Min. 300 Kg/m² ASTM 638
- Water Absorption : Max 3% (Weight Change)
- Chemical Resistance : Max 1%, 10% NaCl (Weight Change)
- Elongation (230⁰c) : 20% ASTM 638

8.2.6. Design of fenders

The design of fenders to be supplied by the Contractor for replacement and as spare shall be as per the Drawings included in this document which has already been certified by Classification Society. No changes shall be made to the design of fenders and accessories and it shall strictly be in accordance with the design / drawings supplied by the Employer. As such, the involvement of the Classification Society is limited to the stages of manufacturing & testing only

8.2.7. Performance test.

Representative samples of the fenders, minimum of one sample from each lot approved for despatch from factory to the site, shall be tested for performance in the presence of the Surveyor or the duly authorized officials

of the classification society appointed with the approval of the department and an Engineer from the Port Trust deputed by the Chief Engineer and performance curves viz, load –deflection and energy deflection curves shall be submitted along with the supply of the fenders.

Performance testing to establish design data may use either of two methods as mentioned in PIANC Guidelines for design of fender systems-2000.

8.2.8. Test Apparatus

The test apparatus shall be equipped with a calibrated load measuring device such as load cell(s) or pressure transducer and linear transducer(s) for measuring displacement capable of providing continuous monitoring of fender performance.

The test apparatus shall be capable of recording and storing load-cell and transducer data at intervals of 0.01H-0.05 H, where H is a fender's nominal height, and storing manually entered inputs. Also information related to serial nos., date, time at start, test ambient temperature etc. shall be furnished.

For fender tests, all equipment used to measure and record force and deflection shall be calibrated, and certified accurate to within ± 1 (one) percent in accordance with ISO or equivalent JIS or ASTM requirements. Calibration shall be performed within one year of the use of the equipment, or less, if the normal calibration interval is shorter than one year. Calibration of Test Apparatus shall be checked annually by a qualified third-party organization, using instrumentation, which is traceable to a certified, national standard.

8.2.9. Test Protocol

The performance test shall deflect specimens according to either of the two methods, Method CV or Method DV. Clear and unambiguous calculations must be provided for any adjustments made to the test results.

8.2.10. Supporting Protocols

Supporting Protocols shall cover temperature stabilization, Velocity Factor (VF) and Temperature Factor (TF) as mentioned in PIANC Guidelines for the Design of Fenders Systems – 2002.

8.2.11. Verification/Quality Assurance Testing

a) Energy/Reaction Compliance Testing

Samples for verification testing shall be actual fender elements fabricated for the project following the PIANC Guidelines for the Design of Fenders System – 2002.

b) Break in Deflection

Break-in deflection of actual elements should be at least manufacturer rated deflection. At least one cycle should be performed.

c) Other Testing

Effect of contact angle and durability tests should be carried out as per PIANC Guidelines for the Design of Fenders Systems – 2002 recommendations.

d) Dimensions

Fenders shall meet manufacturer's specified dimensional tolerance.

e) Steel frame, Frontal Frame, Hardware, Chains and Related Accessories

All steel hardware for securing of fenders shall be of Stainless Steel grade AISI 316 or equivalent.

8.2.12. Physical Properties

Tensile strength (230 ⁰ c)	:Min. 300 Kg/m ² ASTM 638
Water Absorption	:Max 3% (Weight Change)
Chemical Resistance	:Max 1%, 10% NaCl (Weight Change)
Elongation	:20% ASTM 638

8.2.13. Certificate from approved classification society

The fenders shall be certified by independent testing agency such as IRS or Lloyds or BV or other approved Classification Society appointed with the concurrence of Chief Engineer, CoPT.

The Contractor has to manufacture and supply the fenders as per the Drawings at *Annexure C2 to C5*). The performance test shall also be conducted under the supervision of the classification society in the presence of an Engineer from the Port Trust deputed by the Chief Engineer. A certificate to the above effect as well as the fender units conform to the technical requirements stipulated in the contract, issued by the Classification Society shall be furnished along with fenders supplied. Chemical composition of the rubber shall be tested in an approved laboratory as per ASTM D297/D6370 and the test shall be witnessed by the above Classification Society.

All cost and fee payable to the Classification Society for rendering the above services shall be borne by the supplier and shall be included in the rate quoted.

8.2.14. Installation

While submitting the tender, tenderer shall specify the method by which the fender is installed. The installation work shall be carried out in accordance with the requirements of the Engineer-in-Charge, employing sound engineering techniques and modern methods with the approval of the Engineer-in-Charge.

8.2.15. Rate

The rates quoted for the item of providing and fixing fenders shall be inclusive of all charges such as packing and forwarding charges, freight, transit/risk insurance charges, taxes, duties including customs duty if

applicable, all fixtures and accessories such as frontal frame, frontal pad etc., making necessary holes in the concrete structure for providing anchor bolts etc. complete. The fixtures shall include all materials required for the installation of the fenders to the RCC frontage and bolts, nuts, washers etc. required for fixing frontal frame to fender body and for fixing frontal pad to frontal frame etc. Any fittings or accessories which may not be specifically mentioned in the specification but which are used or necessary are to be provided by the contractor without extra charge and the fender fixed must be complete in all respects.

SIGNATURE OF TENDERER

COCHIN PORT TRUST

**REPLACEMENT OF FENDERS AT GOI JETTY FRONTAGE AND
PROCUREMENT OF SPARE FENDERS**

LETTER OF SUBMISSION- COVERING LETTER
(On the Letter Head of the Bidder)

Date :

To

The Deputy Chief Engineer (PD),
Cochin Port Trust.

Sir,

Sub : Tender for “**Replacement of fenders at GoI Jetty and Supply of spare fenders**” .

Being duly authorized to represent and act on behalf of
(Hereinafter referred to as “the Bidder”) and having reviewed and fully understood all of the requirements of the bid document and information provided, the undersigned hereby apply for the project referred above.

We are submitting our Bid enclosing the following, with the details as per the requirements of the Bid Document, for your evaluation.

- (i) Tender Document along with Addendum No ----,
- (ii) Power of Attorney – (Annexure 2).
- (iii) Declaration – Annexure -3.
- (iv) Bid Security/EMD In the form of DD bearing No -----dated -----, for Rs..... issued bybank / in the form of BG as per Annexure - A.
- (v) Bankers Details – Annexure-4.
- (vi) Undertaking as per Annexure-5.
- (vii)

Signature

(Authorised Signatory)

**PROFORMA OF POWER- OF-ATTORNEY/LETTER OF
AUTHORITY**

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

To

The Deputy Chief Engineer (PD),
Cochin Port Trust,
Cochin 682009.
Kerala, India.

Dear Sir,

We _____
—

do hereby confirm that Mr./Ms./Messrs _____ [***INSERT
NAME AND ADDRESS***] , whose signature is given below, is /are authorized to represent us to bid, negotiate and conclude the agreement on our behalf with you against Tender for _____ [***INSERT TITLE OF WORK AND
TENDER No.]***

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

Signature of the authorized person:

Name & Designation :

Yours faithfully,

Signature, name and seal of the certifying authority

COCHIN PORT TRUST

DECLARATION

We M/s (*Name & address of the bidder*) hereby declare that:-

- 1) No conditions are incorporated in the Financial Bid. In case any conditions are specified in the Financial Bid, the tender will be rejected summarily without making any further reference to the bidder.

- 2) We have not made any payment or illegal gratification to any persons/ authority connected with the bid process so as to influence the bid process and have not committed any offence under PC Act in connection with the bid.

- 3) We disclose with that we have * made / not made payments or propose to be made to any intermediaries (agents) etc in connection with the bid.

- 4) We do hereby confirm that no changes have been made in the tender document downloaded and submitted by us for the above bid. 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 Port's document shall prevail.

SIGNATURE OF TENDERER

** Note: Delete whichever is not applicable.*

DETAILS OF THE PARTY OPTING FOR REFUND OF EMD THROUGH E-PAYMENT SYSTEM

Name of the Party :

Bank A/c No :

Account type : (Savings / Current / Overdraft)

Bank Name :

Branch :

IFSC Code Number : (11 digit code)

Centre (Location) :

FAX No. :

E-Mail ID : (For forwarding information of remittance)

Mobile No :

SIGNATURE OF TENDERER

**PROFORMA OF UNDERTAKING TO FURNISH BANK GUARANTEE FOR
PERFORMANCE OF FENDERS**

To

The Chief Engineer
Cochin Port Trust

Sub: Replacement of fenders at GoI Jetty and Supply of spare fenders

~~~

We hereby undertake to furnish Bank Guarantee for performance of the fenders as stipulated in Clause 35 of the Instruction to Tenderers of Tender Document.

**Signature of the Tenderer**

**PROFORMA OF BANK GUARANTEE FOR PERFORMANCE  
GUARANTEE/ SECURITY DEPOSIT**

*(To be executed on non-judicial Stamp Paper of appropriate value)  
[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]*

In consideration of the Board of Trustees of the Port of *[insert name of Port]* incorporated by the Major Port Trusts Act, 1963 as amended by Major Port Trust (Amendment) Act 1974 (hereinafter called “The Board” which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the Board of Trustees of the Port of *[insert name of Port]*, its successors and assigns) having agreed to exempt \_\_\_\_\_ (hereinafter called the “Contractor”)“

(Name of the Contractor/s)

from the demand under the terms and conditions of the Contract, vide letter No. \_\_\_\_\_

(Name of the Department)

date \_\_\_\_\_ made between the Contractors and the Board for execution of \_\_\_\_\_

covered under Tender No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter called “the said contract”) for the payment of Security Deposit in cash or Lodgement of Government Promissory Loan Notes for the due fulfilment by the said Contractors of the terms and conditions of the said Contract, on production of a Bank Guarantee for Rs. \_\_\_\_\_

(Rupees \_\_\_\_\_) only we, the (Name of the Bank and Address) \_\_\_\_\_

\_\_\_\_\_ (hereinafter referred to as “the Bank”) at the request of the Contractors do hereby undertake to pay to the Board an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) only against any loss or damage caused to or suffered or which would be caused to or suffered by the Board by 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 amounts due and payable under this guarantee without any demur merely on a demand from the Board stating that the amount claimed is due by way of loss or damage caused to or which would be caused to or suffered by the Board by reason of any breach by the Contractors of any of the terms and conditions of the said contract or by reason of 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, \_\_\_\_\_ (Name of Bank and Branch) \_\_\_\_\_, undertake to pay to the 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, \_\_\_\_\_ (Name of Bank and Branch) further agree with the Board that the 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 (Name of Bank and Branch) that the 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 be 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\*

The date will be thirty (30 )days after the end of the period of Defect Liability as specified in the Contract.

**PROFORMA OF IRREVOCABLE BANK GUARANTEE FOR  
PERFORMANCE OF FENDERS**

*(To be submitted on Non-judicial Stamp Paper of Rs.500/-)*

Ref: Bank Guarantee No \_\_\_\_\_

Date \_\_\_\_\_

To

Cochin Port Trust

W/Island,

Cochin 682009.

Dear Sirs,

In consideration of Board of Trustees of Port of Cochin (hereinafter referred to as the 'Port Trust' which expression unless repugnant to the context or meaning thereof includes its successors, administrators and assigns) having awarded to M/s \_\_\_\_\_ with its Registered / Head Office at \_\_\_\_\_ (hereinafter referred to as the "CONTRACTOR" which expression shall unless repugnant to the context or meaning thereof, include its successor, administrators, executors and assigns), a "CONTRACT" by issue of Port Trust's work order dated \_\_\_\_\_ the same having been unequivocally accepted by the Contractor resulting in a "CONTRACT" bearing No. \_\_\_\_\_ dated \_\_\_\_\_ value at \_\_\_\_\_ for \_\_\_\_\_ and the CONTRACTOR having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to \_\_\_\_\_, to Port Trust under the terms and conditions of an agreement between Board of Trustees of Port of Cochin and ..... For the execution of the work ( hereinafter called "the said agreement") .

2. We \_\_\_\_\_ having its \_\_\_\_\_ Head \_\_\_\_\_ office at \_\_\_\_\_ (hereinafter referred to as the "Bank", which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Port Trust on demand any and all money payable by the Contractor to the extent of \_\_\_\_\_ as aforesaid at any time upto \_\_\_\_\_ without any demur, reservation, contest, recourse or protest and/or without any reference to the CONTRACTOR. Any such demand made by the Port Trust on the Bank shall be conclusive and binding notwithstanding any difference between Port Trust and CONTRACTOR.

3. We, \_\_\_\_\_ Bank Ltd., do hereby undertake to pay to the Port Trust any money without demur 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, \_\_\_\_\_ Bank Ltd., further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Port Trust under or by virtue of the said Agreement have been fully paid and its claim satisfied or discharged or till Engineer-in-charge on behalf of the Port Trust certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee.

5. We, \_\_\_\_\_ Bank Ltd., further agrees with the Port Trust that the Port Trust 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 Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Port Trust against the said contractor(s) and to forebear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said contractor(s) or by any such matter or things 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. We, \_\_\_\_\_ Bank Ltd., lastly undertake not to revoke this guarantee except with the previous consent of the Port Trust in writing and further agrees that the guarantee herein contained shall continue to be in endorsable till the Port Trust discharges its guarantee.

8. We, \_\_\_\_\_ Bank Ltd. also agrees that Port Trust at its option shall be entitled to enforce this Guarantee against the Bank as principal debtor, in the first instance without proceeding against CONTRACTOR and notwithstanding any security or other guarantee that Port Trust may have in relation to the CONTRACTOR's liabilities.

9. This guarantee shall be valid upto \_\_\_\_\_ unless extended on demand by Port Trust. Notwithstanding anything mentioned above, our liability against this guarantee is restricted to Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only) and unless a claim in writing is lodged with us within six months of the date of expiry of or the extended date of expiry of this guarantee all our liabilities under this guarantee shall stand discharged.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

**WITNESSES**

\_\_\_\_\_

(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_

(Signature)

\_\_\_\_\_  
(Name)

Bank's Rubber Stamp

\_\_\_\_\_

\_\_\_\_\_

(Name)

(Name)

\_\_\_\_\_

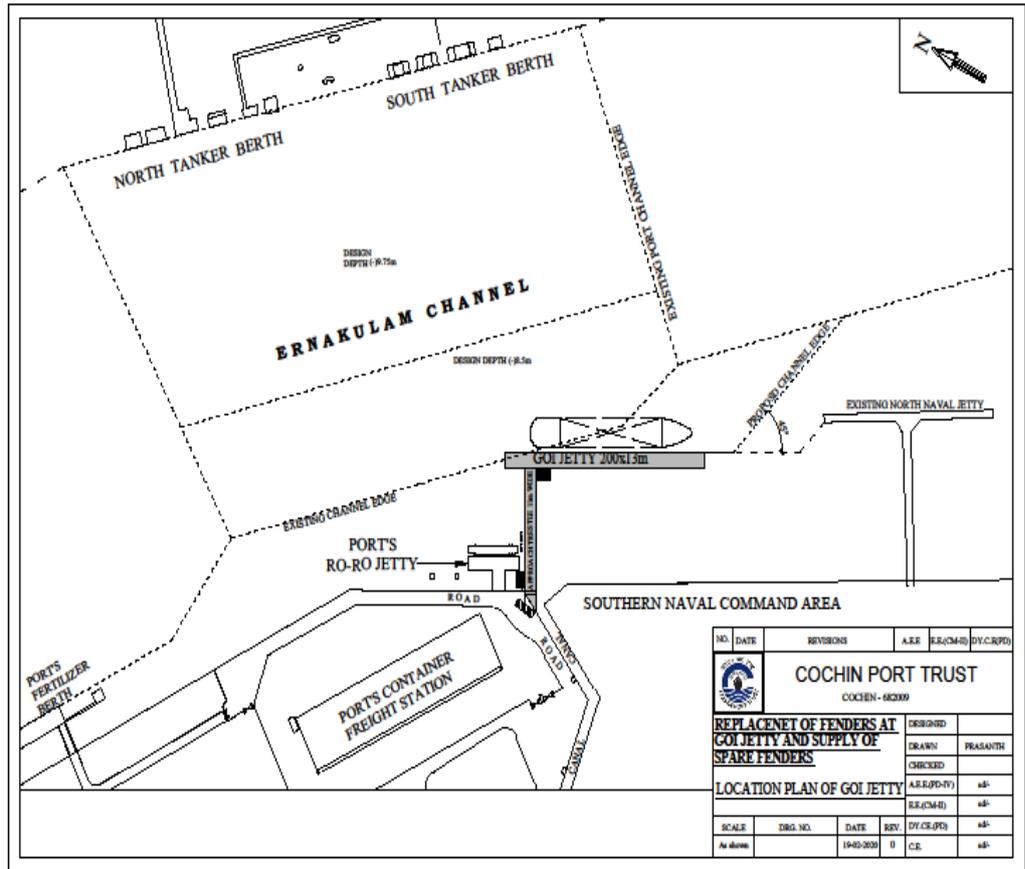
(Official address)

(Designation with Bank Stamp)

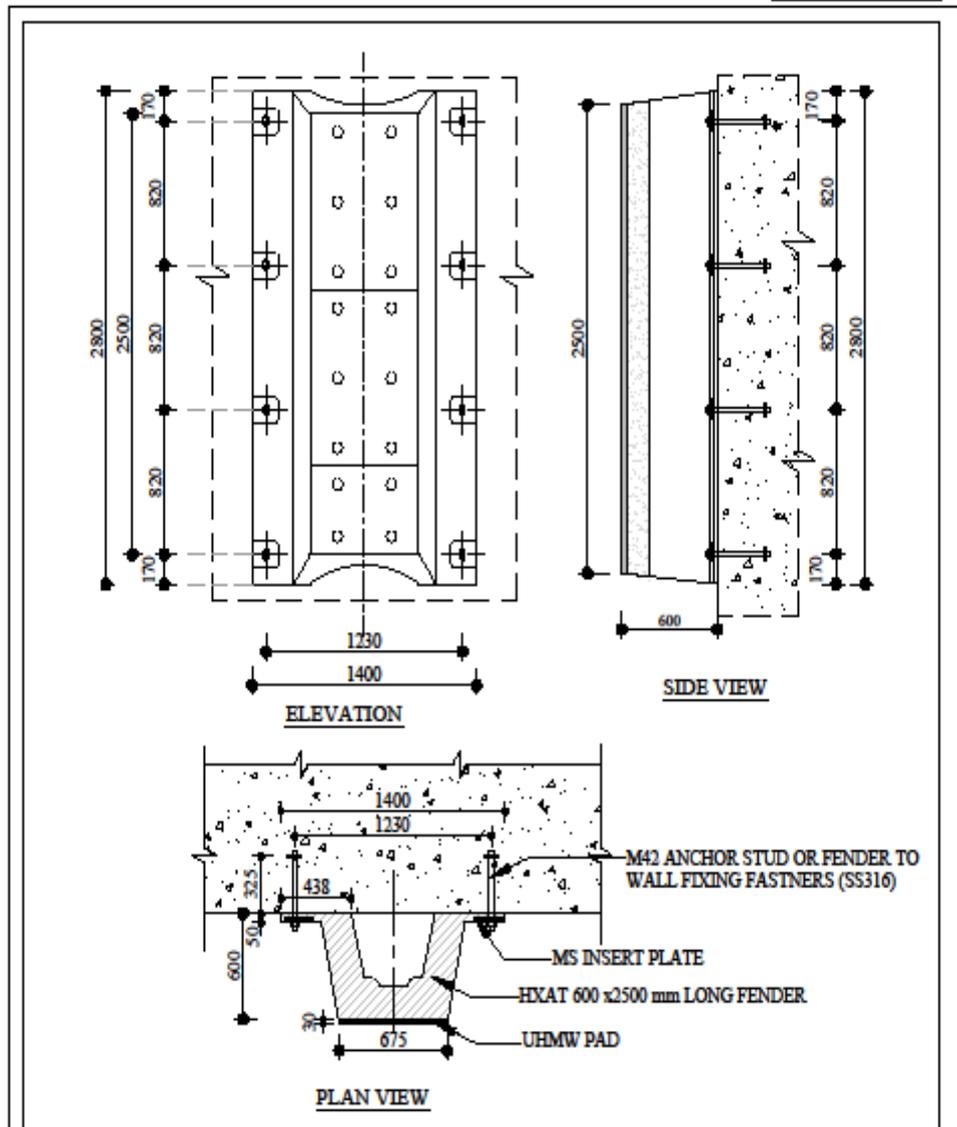
Attorney as per Power of Attorney

No. \_\_\_\_\_

Dated \_\_\_\_\_



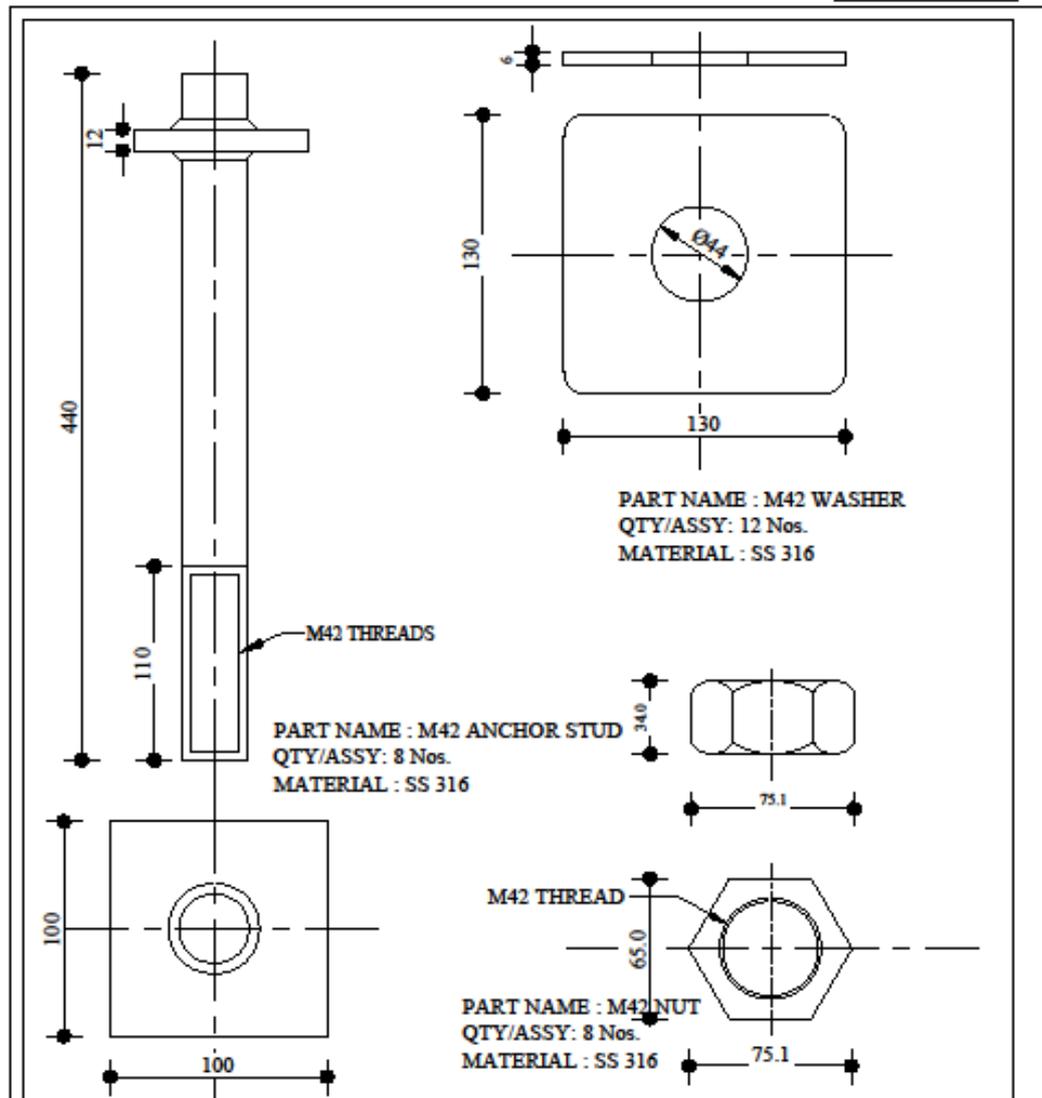
Annexure-C1



**NOTES :-**

1. ALL DIMENSIONS ARE IN MILLIMETRES.
2. MANUFACTURING AND TESTING OF FENDER SHALL BE AS PER CLAUSE 8 OF TECHNICAL SPECIFICATION
3. MATERIAL -SS 316

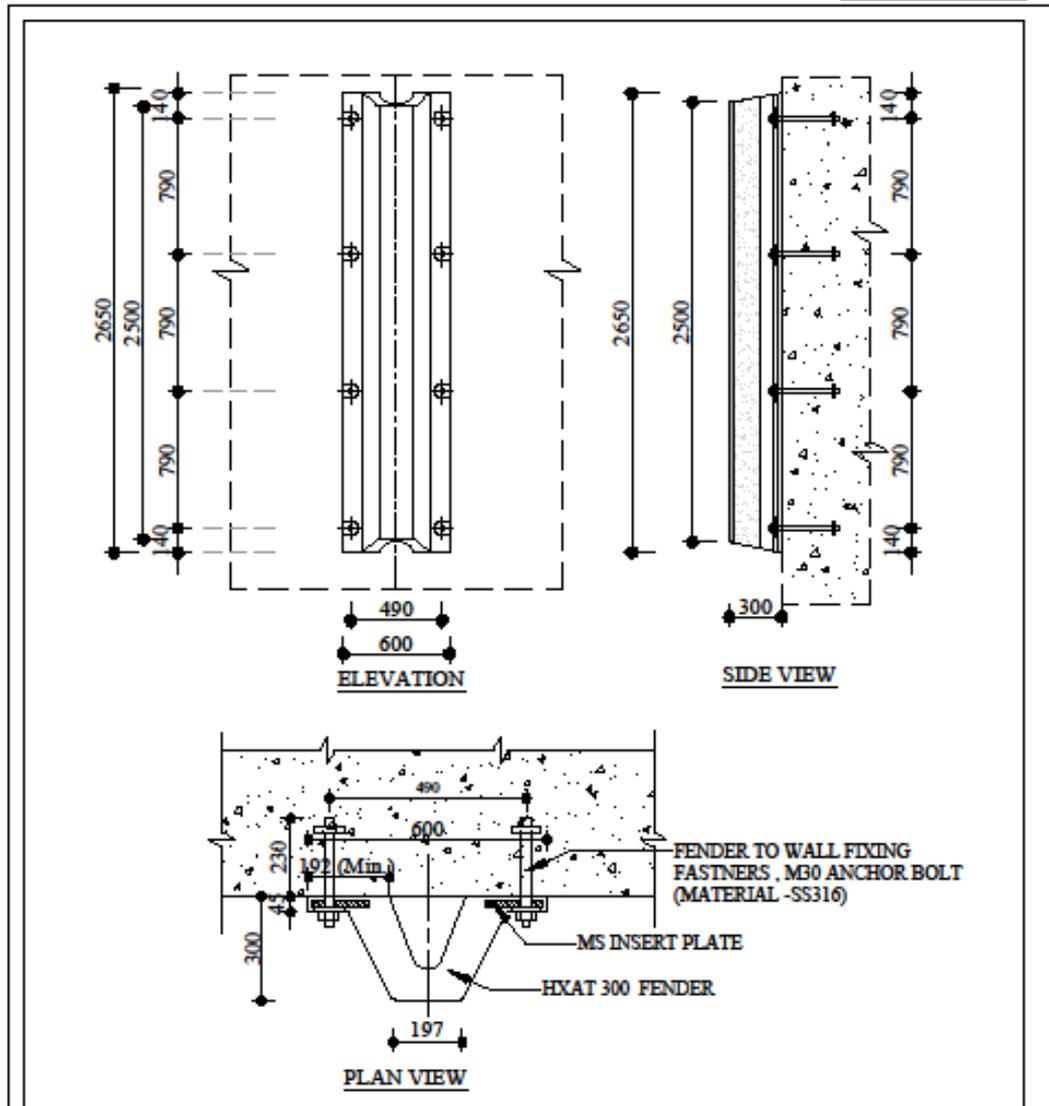
| NO.                                                                                 | DATE     | REVISIONS                                                                                                                    | A.E.E | E.E.(CM-II)   | DY.C.E.(PD) |
|-------------------------------------------------------------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------|-------|---------------|-------------|
|  |          | <b>COCHIN PORT TRUST</b><br>COCHIN - 682009                                                                                  |       |               |             |
|                                                                                     |          | <b>REPLACENET OF FENDERS<br/>                     AT GOI JETTY AND SUPPLY<br/>                     OF SPARE FENDERS</b>      |       | DESIGNED      |             |
|                                                                                     |          | <b>DETAILS OF 600 H x 2500 mm LONG<br/>                     FLAT TOP ARCH TYPE FENDERING<br/>                     SYSTEM</b> |       | DRAWN         | PRASANTH    |
|                                                                                     |          |                                                                                                                              |       | CHECKED       |             |
|                                                                                     |          |                                                                                                                              |       | A.E.E.(PD-IV) | ad-         |
|                                                                                     |          |                                                                                                                              |       | E.E.(CM-II)   | ad-         |
| SCALE                                                                               | DRG. NO. | DATE                                                                                                                         | REV.  | DY.CE.(PD)    | ad-         |
| NTS                                                                                 |          | 19-02-2020                                                                                                                   | 0     | C.E.          | ad-         |



**NOTES :-**

1. ALL DIMENSIONS ARE IN MILLIMETRES.
2. MANUFACTURING AND TESTING OF FENDER SHALL BE AS PER CLAUSE 8 OF TECHNICAL SPECIFICATION
3. MATERIAL -SS 316

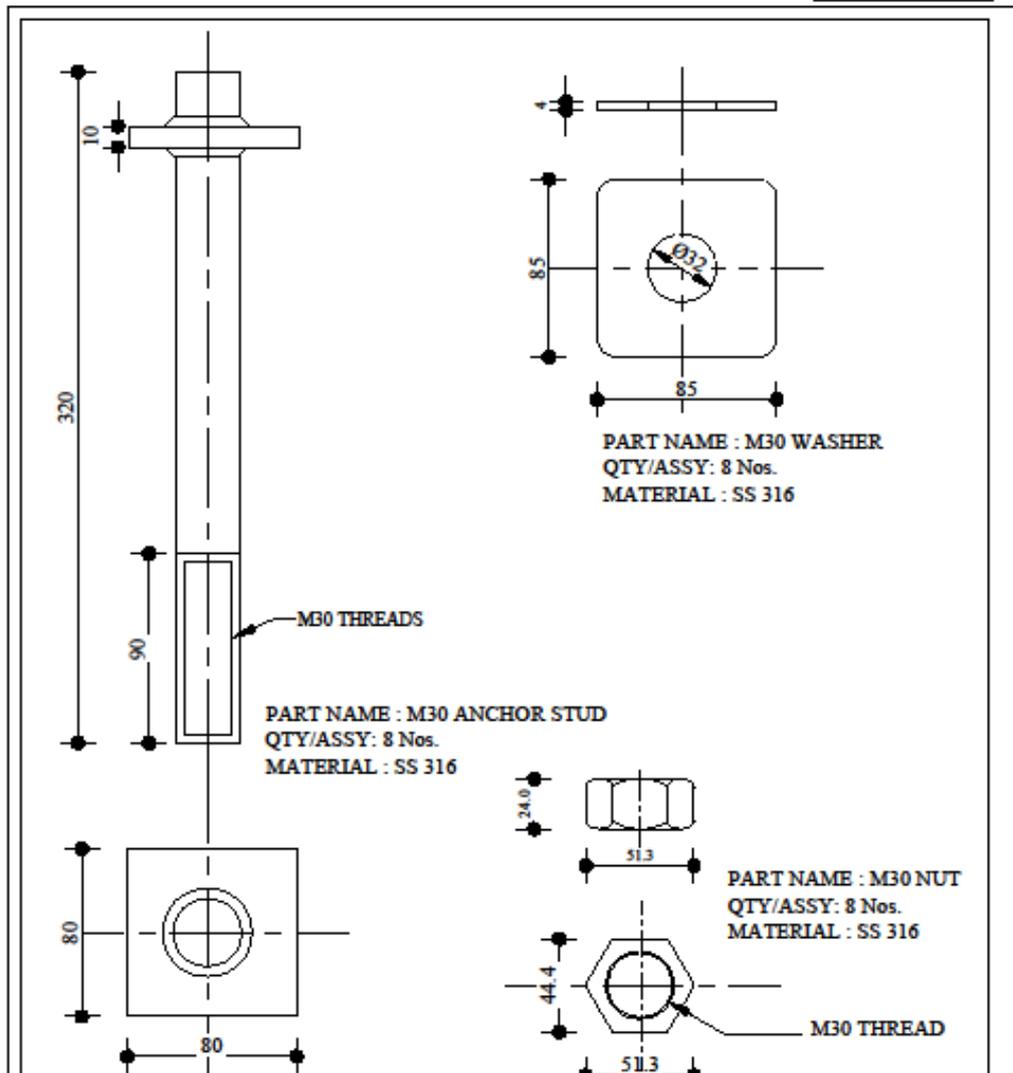
| NO.                                                                                                                                                                                 | DATE     | REVISIONS  | A.E.E         | E.E.(CM-II) | DY.C.E.(PD) |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|---------------|-------------|-------------|
|  <b>COCHIN PORT TRUST</b><br>COCHIN - 682009                                                     |          |            |               |             |             |
| <b>REPLACENET OF FENDERS<br/>                     AT GOI JETTY AND SUPPLY<br/>                     OF SPARE FENDERS</b><br>FASTNERS OF 600 H FLAT TOP<br>ARCH TYPE FENDERING SYSTEM |          |            | DESIGNED      |             |             |
|                                                                                                                                                                                     |          |            | DRAWN         | PRASANTH    |             |
|                                                                                                                                                                                     |          |            | CHECKED       |             |             |
|                                                                                                                                                                                     |          |            | A.E.E.(PD-IV) | ad-         |             |
|                                                                                                                                                                                     |          |            | E.E.(CM-II)   | ad-         |             |
| SCALE                                                                                                                                                                               | DRG. NO. | DATE       | REV.          | DY.CE.(PD)  | ad-         |
| NTS                                                                                                                                                                                 |          | 19-02-2020 | 0             | C.E.        | ad-         |



**NOTES :-**

1. ALL DIMENSIONS ARE IN MILLIMETRES.
2. MANUFACTURING AND TESTING OF FENDER SHALL BE AS PER CLAUSE 8 OF TECHNICAL SPECIFICATION
3. MATERIAL -SS 316

| NO.                                                                                                                                | DATE     | REVISIONS  | A.E.E.        | E.E.(CM-II) | DY.C.E.(PD) |
|------------------------------------------------------------------------------------------------------------------------------------|----------|------------|---------------|-------------|-------------|
| <br><b>COCHIN PORT TRUST</b><br>COCHIN - 682009 |          |            |               |             |             |
| <b>REPLACENET OF FENDERS<br/>                     AT GOI JETTY AND SUPPLY<br/>                     OF SPARE FENDERS</b>            |          |            | DESIGNED      |             |             |
| <b>DETAILS OF 300 H x 2500 mm LONG<br/>                     ARCH TYPE FENDERING SYSTEM</b>                                         |          |            | DRAWN         | PRASANTH    |             |
|                                                                                                                                    |          |            | CHECKED       |             |             |
|                                                                                                                                    |          |            | A.E.E.(PD-IV) | ad-         |             |
|                                                                                                                                    |          |            | E.E.(CM-II)   | ad-         |             |
| SCALE                                                                                                                              | DRG. NO. | DATE       | REV.          | DY.CE.(PD)  | ad-         |
| NTS                                                                                                                                |          | 19-02-2020 | 0             | C.E.        | ad-         |



**NOTES :-**

1. ALL DIMENSIONS ARE IN MILLIMETRES.
2. MANUFACTURING AND TESTING OF FENDER SHALL BE AS PER CLAUSE 8 OF TECHNICAL SPECIFICATION
3. MATERIAL -SS 316

| NO.                                                                   | DATE     | REVISIONS                                                                                                                       | A.E.          | E.E.(CM-II) | DY.CE.(PD) |
|-----------------------------------------------------------------------|----------|---------------------------------------------------------------------------------------------------------------------------------|---------------|-------------|------------|
|                                                                       |          |  <b>COCHIN PORT TRUST</b><br>COCHIN - 682009 |               |             |            |
| <b>REPLACENET OF FENDERS AT GOI JETTY AND SUPPLY OF SPARE FENDERS</b> |          |                                                                                                                                 | DESIGNED      |             |            |
|                                                                       |          |                                                                                                                                 | DRAWN         | PRASANTH    |            |
| <b>FASTNERS OF 300 H ARCH TYPE FENDERING SYSTEM</b>                   |          |                                                                                                                                 | CHECKED       |             |            |
|                                                                       |          |                                                                                                                                 | A.E.E.(PD-IV) | ad-         |            |
|                                                                       |          |                                                                                                                                 | E.E.(CM-II)   | ad-         |            |
| SCALE                                                                 | DRG. NO. | DATE                                                                                                                            | REV.          | DY.CE.(PD)  | ad-        |
| NTS                                                                   |          | 19-02-2020                                                                                                                      | 0             | C.E.        | ad-        |

**Schedule-II**

**COCHIN PORT TRUST**

**9. SCHEDULE OF QUANTITIES**

**Tender No:T10/T-1913/2020-C**

**NAME OF WORK: REPLACEMENT OF FENDERS AT GOI JETTY  
AND SUPPLY OF SPARE FENDERS**

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**Attached in Financial Bid – Schedule II**

## **SECTION-II**

# **GENERAL CONDITIONS OF CONTRACT**

# **COCHIN PORT TRUST**



## **GENERAL CONDITIONS OF CONTRACT**

**2016**

**GENERAL CONDITIONS OF CONTRACT**  
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## **GENERAL GUIDELINES**

1. This book of “General Conditions of Contract (GCC)“ is applicable to both types of tenders i.e. “Percentage rate tenders and item rate tenders”.
2. This GCC is applicable to Civil, Electrical and Mechanical works, except dredging work.
3. All blanks are confined to Contract Data. The blanks provided therein shall be filled up carefully for each tender as applicable.
4. Authority approving the Notice Inviting Tenders (NIT) shall fill up all the blanks in Contract Data before issue of tender document.
5. Additional clauses or modifications to the clauses in the GCC, as applicable specifically to the work shall be incorporated under Special Conditions of Contract.

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## GENERAL CONDITIONS OF CONTRACT

### A. General

#### 1 Definitions

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

**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 Engineer 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 the Employer.

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

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

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

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

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

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

**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 Engineer or his nominee by issuing an extension of

time.

**Market Rate** is the rate as decided by the Engineer on the basis of the cost of materials and labour at the site where the work is to be executed plus 10% to cover all overheads and profits.

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

The **Engineer 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 Engineer 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.

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

**Ruling Percentage** is the percentage by which the tendered amount of the works actually awarded is higher or lower than the corresponding estimated amount of the works actually awarded.

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 sub-surface 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 Engineer 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 **Sub Contractor** 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 Engineer or his nominee which varies the Original 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.

## 2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter and the other way

around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer or his nominee will provide instructions clarifying queries about the Conditions of Contract.

- 2.2 If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
  - (1) Agreement
  - (2) Letter of Acceptance and notice to proceed with works
  - (3) Contractor's Bid
  - (4) Contract Data
  - (5) Conditions of Contract including Special Conditions of Contract
  - (6) Specifications
  - (7) Drawings
  - (8) Bill of quantities and
  - (9) 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 Engineer or his nominee's Decisions**

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

### **5 Delegation**

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

### **6 Communications**

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

## **7. Contract Agreement**

- 7.1 A suitable form is annexed as “FORM OF AGREEMENT” to the Tender Document. Upon signing the Contract Agreement, the Contractor shall make copies of Contract Documents, as indicated in the Contract Data, in hardbound cover which shall cover documents used in Contract/Agreement and provide the same to the Employer at no extra cost.
- 7.2 Data made available by the Employer in accordance with provisions of the Condition of Contract shall be deemed to include data listed elsewhere in the Contract and open for inspection at the office of the Engineer as indicated in the Contract data of the Cochin Port Trust (by prior appointment with the Engineer).

## **8 Subcontracting**

- 8.1 The Contractor may subcontract with the approval of the Engineer 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.

Notwithstanding any subcontracting with such approval as required under above and notwithstanding that the Engineer shall have received copies of any sub-contract, the Contractor shall be solely responsible for the quality and proper execution of the works, performance of all conditions of contract in all respects as if such subletting had not taken place and as if such work has been done directly by the Contractor.

If any Sub-Contractor engaged upon the works at the site executes any work, which in the opinion of the Engineer or his nominee is not in accordance with the Contract condition, written notice may be given to the Contractor requesting him to terminate such sub contract and the Contractor, upon receipt of such notice shall terminate such sub contract and the said Sub Contractor shall forthwith leave the works, failing which the Employer shall have right to remove such Sub Contractors from site. No action taken by the Employer under this clause shall relieve the Contractor of any of his liabilities under the contract or give rise to any compensation, extension of time or otherwise.

- 8.2 **Other Contractors**

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

## **9 Personnel**

- 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel as referred to in the Contract Data to carry out the functions stated in the Schedule or other personnel approved by the Engineer or his nominee. The Engineer or his nominee will approve any proposed replacement of key personnel only if their qualifications, abilities, and relevant experience are substantially equal to or better than those of the personnel listed in the schedule.
- 9.2 If the Engineer or his nominee asks the Contractor to remove a person who is a member of the Contractor's staff or from his work force stating the reasons, the Contractor shall ensure that the person leaves the site within seven days and has no further connections with the work in the contract.

## **10 Employer's and Contractor's Risks**

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

## **11 Employer's Risks**

- 11.1 The Employers risks are
- (a) 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;
  - (b) 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
  - (c) any operation of the forces of nature (insofar 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.

12.2 Excepted risks are riot (in so far as it is uninsurable) war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military usurped power or a cause solely due to use of occupation by the Employer of any portion of the work, any operation of the forces of nature that the Contractor could not have foreseen or reasonably provided against. (All of such are herein collectively referred to as the excepted risks).

### **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 stated in the Contract Data for the following events which are due to the Contractors risks.

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

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Engineer or his nominee for approval before the start date. All such insurances 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 any payments due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of insurance shall not be made without the approval of the Engineer 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 Site 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 Engineer 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.
- 16.2 The Contractor shall execute the whole and every part of the work in the most substantial and workmanlike manner both as regards materials and otherwise in every respect in strict accordance with the Specifications. The Contractor shall also conform exactly, fully and faithfully to the design, drawings and instructions in writing in respect of the work signed by the Engineer or his nominee and the Contractor shall be furnished free of charge one copy of the contract documents together with specifications, designs, drawings and instructions as are not included in the Specifications specified in Contract Data or in any Bureau of Indian Standard or any other published standard or code or, Schedule of Rates or any other printed publication referred to elsewhere in the Contract.
- 16.3 The Contractor shall comply with the provisions of the contract and with the care and diligence execute and maintain the works and provide all labour and materials, tools and plants including for measurements and supervision of all works, structural plans and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these, is specified or is reasonably inferred from the contract. The Contractor shall take full responsibility for adequacy, suitability and safety of all the works and methods of construction.

## **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 Engineer or his nominee, and complete them by the Intended Completion Date.

## **18 Approval by the Engineer or his nominee**

- 18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works or Permanent Works, in the case of Contractor's design to the Engineer 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 Engineer or his nominee's Approval shall not alter the Contractor's responsibility for design of the Temporary Works.

18.4 All Drawings prepared by the Contractor for the execution of the temporary works, are subject to prior approval by the Engineer 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 Engineer or his nominee of such discoveries and carry out the Engineer or his nominee's instructions for dealing with them.

## **21 Possession of the Site**

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

## **22 Access to the Site**

22.1 The Contractor shall allow the Engineer or his nominee and any person authorised by the Engineer or his nominee access to the Site or 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 Engineer 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 Engineer or his nominee was either outside the authority given to the Engineer or his nominee by the Contract or that the decision was wrongly taken, the decision shall be referred to the Employer within 28 days of the notification of the Engineer or his nominee's decision.

## **25. Settlement of Disputes & Arbitration**

Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, design, 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 thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:-

- i) If the Contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-charge on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly within 15 days request the Engineer in writing for written instruction or decision. Thereupon, the Engineer shall give his written instructions or decision within a period of one month from the receipt of the Contractor's letter.

If the Engineer fails to give his instructions or decision in writing within the aforesaid period or if the Contractor is dissatisfied with the instructions or decision of the Engineer, the Contractor may, within 15 days of the receipt of Engineer's decision, appeal to the Chairman who shall afford an opportunity to the Contractor to be heard, if the latter so desires, and to offer evidence in support of his appeal. The Chairman shall give his decision within 30 days of receipt of Contractor's appeal. If the Contractor is dissatisfied with this decision, the Contractor shall within a period of 30 days from receipt of the decision, give notice to the Chairman for appointment of arbitrator failing which the said decision shall be final, binding and conclusive and not referable to adjudication by the arbitrator.

- ii) Except where the decision has become final, binding and conclusive in terms of Sub-Para (i) above disputes or difference shall be referred for adjudication through arbitration by a sole arbitrator appointed by the Employer or his authorized representative. If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the rejection by the Chairman of the appeal.

It is also a term of this contract that no person other than a person appointed by the Employer or his authorized representative as aforesaid should act as arbitrator and if for any reason that is not possible, the matter shall not be referred to arbitration at all.

It is also a term of this contract that if the Contractor does not make any demand for appointment of arbitrator in respect of any claims in writing as aforesaid within 120 days of receiving the intimation from the Engineer

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 Employer or his authorized representative shall be discharged and released of all liabilities under the contract in respect of these claims.

The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) or any statutory modifications or reenactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.

It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs.1,00,000/- the arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator these shall be paid equally by both the parties.

It is also a term of the contract that the arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties calling them to submit their statement of claims and counter statement of claims. The venue of the arbitration shall be at Cochin. The fees, if any, of the arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who may direct to any party by whom and in what manner, such costs or any part thereof shall be paid and fix or settle the amount of costs to be so paid.

## **26. Computerised Measurement Book**

Engineer or his nominee shall, except as otherwise provided, ascertain and determine by measurement, the value of work done in accordance with the contract.

All measurement of all items having financial value shall be entered by the Contractor and compiled in the shape of the Computerised Measurement Book having pages of A-4size as per the format of the department so that a complete record is obtained of all the items of works performed under the Contract.

All such measurements and levels recorded by the Contractor or his authorized representative from time to time, during the progress of the work, shall be got checked by the Contractor from the Engineer or his authorized representative as per interval or program fixed in consultation with Engineer or his authorized representative. After the necessary corrections made by the Engineer or his nominee, the measurement sheets shall be returned to the Contractor for incorporating the corrections and for resubmission to the Engineer for the dated signatures by the Engineer or his nominee and the Contractor or their representatives in token of their

acceptance.

Whenever bill is due for payment, the Contractor would initially submit draft computerized measurement sheets and these measurements would be got checked/test checked from the Engineer- and/or his authorized representative. The Contractor will, thereafter, incorporate such changes as may be done during these checks/test checks in his draft computerized measurements, and submit to the department a computerized measurement book, duly bound, and with its pages machine numbered. The Engineer and/or his authorized representative would thereafter check this MB, and record the necessary certificates for their checks/test checks.

The final, fair, computerized measurement book given by the Contractor, duly bound, with its pages machine numbered, should be 100% correct, and no cutting or over-writing in the measurements would thereafter be allowed. If at all any error is noticed, the Contractor shall have to submit a fresh computerized MB with its pages duly machine numbered and bound, after getting the earlier MB cancelled by the department. Thereafter, the MB shall be taken in the Divisional Office records, and allotted a number as per the Register of Computerised MBs. This should be done before the corresponding bill is submitted to the Division Office for payment. The Contractor shall submit two spare copies of such computerized MB's for the purpose of reference and record by the various officers of the department.

The Contractor shall also submit to the department separately his computerized Abstract of Cost and the bill based on these measurements, duly bound, and its pages machine numbered along with two spare copies of the bill. Thereafter, this bill will be processed by the Division Office and allotted a number as per the computerized record in the same way as done for the measurement book meant for measurements.

The Contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for measurements and recording levels.

Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the Specifications notwithstanding any provision in the relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.

The Contractor shall give not less than seven days' notice to the Engineer or his authorised representative in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before

the same is covered up or placed beyond the reach of measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer or his authorised representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of measurements without such notice having been given or the Engineer's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.

Engineer or his authorised representative may cause either themselves or through another officer of the department to check the measurements recorded jointly or otherwise as aforesaid and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.

It is also a term of this Contract that recording of measurements of any item of work in the measurement book and/or its payment in the interim, on account or final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the Contractor from liabilities from any over measurement or defects noticed till completion of the Defects Liability Period.

## **B. TIME CONTROL**

### **27. Program**

- 27.1 Within the time stated in the Contract Data the Contractor shall submit to the Engineer 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 update of the Program shall be a program showing the actual progress achieved on each activity and the effect 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 Engineer on the first day of each week or such longer period as the Engineer may from time to time direct, a progress report in an approved form showing up-to-date total progress, progress achieved against planned progress, during the previous week and progress forecast for the following week for all important items in each section or portion of the Works, in relation with the approved Program.
- 27.4 The Contractor shall submit to the Engineer or his nominee, for approval an updated Program at intervals no longer than the period stated in the Contract Data. If the Contractor does not submit an updated Program within this period, the Engineer or his nominee may withhold the amount stated in the Contract Data

from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.

**28. Revised Program**

28.1 The Engineer 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 Engineer or his nominee again at any time for approval. A revised Program is to show the effect of Variations and Compensation Events.

**29. Extension of the Intended Completion Date**

29.1 The Engineer or his nominee shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work and which would cause the Contractor to incur additional cost.

29.2 The Engineer or his nominee shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Engineer or his nominee for a decision upon the effect of a Compensation Event or Variation or any other events causing delay, beyond the control of the Contractor and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

29.3 Such Request for extension of time, to be eligible for consideration, shall be made by Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed form. The Contractor may also, if practicable, indicate in such a request the period for which extension is desired.

**30. Delays Ordered by the Engineer or his nominee**

30.1 The Engineer or his nominee may instruct the Contractor to delay the start or progress of any activity within the Works.

**31. Management Meetings**

31.1 Either the Engineer 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 Engineer 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 Engineer or his nominee either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

### **32. Early Warning**

- 32.1 The Contractor is to warn the Engineer 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 Engineer or his nominee may require the Contractor to provide an estimate of the expected effect of the event or circumstance on the Contract Price and Completion Date. The estimate is to be provided by the Contractor as soon as reasonably possible.
- 32.2 The Contractor shall cooperate with the Engineer 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 Engineer or his nominee.
- 32.3 The Contractor shall immediately give notice in writing to the Engineer or his nominee upon happening of any event as detailed below if the work is delayed by:
- i) force majeure, or
  - ii) abnormally bad weather, or
  - iii) serious loss or damage by fire, or
  - iv) civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the work, or
  - v) delay on the part of other Contractors or tradesmen engaged by Engineer in executing work not forming part of the Contract, or
  - vi) any other cause which, in the absolute discretion of Engineer, is beyond the Contractor's control.

### **33. Force Majeure**

"Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control,
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which, having arisen, such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war and hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (ii) rebellion, revolution, insurrection, or military or usurped power, or civil war;
- (iii) ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste, from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and
- (v) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Sub Contractors and arising from the conduct of the Works;
- (vi) floods, tornadoes, earthquakes and landslides.

## **C. QUALITY CONTROL**

### **34. Identify Defects**

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

### **35. Tests**

35.1 If the Engineer 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 if the test shows that it has defect, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

### **36. Defect Liability**

36.1 The Engineer 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.

36.2 Every time notice of a Defect is given, the Contractor shall correct the notified defect within the length of time specified by

the Engineer or his nominee's notice. To the intent that the works shall, at or as soon as practicable after the expiration of the Defects Liability Period, be delivered to the Employer in the condition required by the Contract, fair wear and tear excepted, to the satisfaction of the Engineer, the Contractor shall :

- (a) complete the work, if any, outstanding on the date stated in the Taking-Over Certificate within the date to be intimated by the Engineer and
- (b) execute all such work of amendment, reconstruction, and remedying defects, shrinkages or other faults as the Engineer may, during the Defects Liability Period or within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to its expiration, instruct the Contractor to execute.

### **36.3 Cost of Remedying Defects**

All work referred to in Sub-Clause 36.2 shall be executed by the Contractor at his own cost if the necessity thereof is, in the opinion of the Engineer, due to:

- (a) The use of materials, Plant or workmanship not in accordance with the Contract, or
- (b) Where the Contractor is responsible for the design of part of the Permanent Works, any fault in such design, or the neglect or failure on the part of the Contractor to comply with any obligation, expressed or implied, on the Contractor's part under the Contract.

### **36.4 Defects Liability Certificate**

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer and delivered to the Employer, with a copy to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the Works and remedy any defects therein to the Engineer's satisfaction. The Defects Liability Certificate shall be given by the Engineer within 28 days after the expiration of the Defects Liability Period, or, if different defects liability periods shall become applicable to different Sections or parts of the Permanent Works, the expiration of the latest such period, or as soon thereafter as any works instructed, pursuant to Clauses 36, have been completed to the satisfaction of the Engineer.

### **36.5 Unfulfilled Obligations**

Notwithstanding the issue of the Defects Liability Certificate the

Contractor and the Employer shall remain liable for the fulfillment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time such Defects Liability Certificate is issued and, for the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.

**36.6 Uncorrected Defects.**

If the Contractor has not corrected a Defect within the time specified in the Engineer's or his nominee's notice the Engineer 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 % provided the change exceeds (+)10% of initial Contract Price, the Engineer or his nominee shall adjust the rate(s), to allow for the change.

38.2 The Engineer or his nominee shall not adjust rates for changes in quantities if thereby the Initial Contract Price is exceeded by more than 10% except with the prior approval of the Employer.

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

**39. Variations**

39.1 The Engineer shall make any Variation of the form, quality or quantity of the Works or any part thereof that may, in his opinion, be necessary and for that purpose, or if for any other reason it shall, in his opinion, be appropriate, he shall have the authority to instruct the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any work included in the Contract,

- (b) omit any such work,
- (c) change the character or quality or kind of any such work,
- (d) change the levels, lines, position and dimension of any part of the Works,
- (e) execute additional work of any kind necessary for the completion of the Works,
- (f) change any specified sequence or timing of construction of any part of the Works.

No such Variation shall in any way vitiate or invalidate the Contract, by the effect, if any, of all such Variations shall be valued in accordance with Clause 40. Provided that where the issue of an instruction to vary the works is necessitated by some default of or breach of contract by the Contractor or for which he is responsible, any additional cost attributable to such default shall be borne by the Contractor. All Variations shall be included in updated Programs produced by the Contractor.

#### **39.2 Instructions for Variations**

The Contractor shall not make any such Variation without an instruction of the Engineer. Provided that no instruction shall be required for increase or decrease in the quantity of any work where such increase or decrease is not the result of an instruction given under this clause, but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

### **40. Payments for Variations**

- 40.1 Variation permitted shall not exceed (+) 25% in quantity of each individual item, and (+)10% of the total contract price. Within 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 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 derived from the rate of similar items in 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 Contractor.

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 shall be as determined by methods given below:

- i) Rates and prices in the Schedule of Rates applicable to the Contract plus Ruling percentage.
- ii) Market rates of material and labor, hire charges of plant and machinery used plus 10% for overheads and profits of Contractor.

whichever is lower, but not less than the rate in the Bill of Quantities

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 Engineer 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 Engineer or his nominee with an updated cash flow forecast.

#### **42. Payment Certificates**

42.1 The Contractor shall submit to the Engineer or his nominee monthly statements of the estimated value of the work completed less the cumulative amount certified previously.

42.2 The Engineer or his nominee shall check the Contractors' monthly statement within 14 days and certify the amount to be paid to the Contractor after taking into account any credit or debit for the month in question in respect of materials for the works in the relevant amounts and under conditions set forth in sub-clause 51.6 of the Contract Data (Secured Advance).

42.3 The value of work executed shall be determined by the Engineer or his nominee.

42.4 The value of work executed shall comprise the value of the 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 Engineer or his nominee may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

### **43. Payments**

43.1 Bills shall be prepared and submitted by the Contractor. Joint measurements shall be taken continuously and need not be connected with billing stage. System of 4 copies of measurements, one each for Contractor, Employer and Engineer or his nominee, and signed by both Contractor and Engineer or his nominee shall be followed.

43.2 Payment of Bills for civil works shall be regulated as detailed hereunder:

43.2.1 Interim Bills shall be paid within 21 days of date of submission of bills in full shape by the Contractor. 75% of the bill amount shall be paid within 7 days of submission of the bill, if on request by the Contractor. Balance amount of the verified bill shall be paid within 21 days of the submission of the bill.

43.2.2 Final Bill shall be paid within 3 months as detailed below on issue of Taking Over Certificate by the Engineer or his nominee. The Contractor shall submit final Bill within 30 days of issue of Taking Over Certificate. Engineer or his nominee shall check the bill within 30 days after its receipt and return the bill to Contractor for corrections, if any. The Contractor should re-submit the bill with corrections within 15 days of its return by the Engineer or his nominee. The re-submitted bill shall be checked and paid within 30 days of its receipt.

43.3 Payment for Electrical and Mechanical works shall be regulated as detailed below:

43.3.1 The Contractor shall be entitled upon certificates of the Engineer or his nominee to payments in accordance with the following provisions:

**1) For supply portion :** 75% of the value, as certified by the Engineer or his nominee, of the materials from time to time delivered on the site.

Balance 25% after completing the work in all respects, commissioning and handing over the installation to the Employer to the satisfaction of the Engineer and his nominee and his certification.

**2) For erection portion :**

i) 85% of the value as certified by the Engineer or his nominee, of the installation portion on completion of the erection work under contract, for which payments are claimed.

ii) Balance 15% along with other payments if any, after completing the work in all respects, commissioning and taking over the installation by the Employer to the satisfaction of the Engineer and his nominee and his certification.

43.3.2 For HT works, the work shall not be considered as completed until the installation is energized after obtaining approval certificate from Central Electrical Authority(CEA) and upon the issuance of taking over certificate by Engineer or his nominee. The final payment shall be made only after taking over the installation by the Employer.

43.4 All the interim payments shall be regarded as payment by way of advances against final payment only and shall not preclude the requiring of bad, unsound and imperfect or unskilled work to be rejected, removed, taken away and reconstructed or re-erected. Any certificate given by the Engineer or his nominee relating to the work done or materials delivered forming part of such payment, may be modified or corrected by any subsequent such certificate(s) or by the final certificate and shall not by itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the contract and specifications. Any such interim payment, or any part thereof shall not in any respect conclude, determine or affect in any way powers of the Engineer- or his nominee-charge under the contract or any of such payments be treated as final settlement and adjustment of accounts or in any way vary or affect the contract.

43.5 Pending consideration of extension of date of completion interim payments shall continue to be made as herein provided, without prejudice to the right of the department to take action under the terms of this contract for delay in the completion of work, if the extension of date of completion is not granted by the competent authority.

43.6 No further claims shall be made by the Contractor after submission of the final bill and these shall be deemed to have been waived and extinguished.

43.7 If an amount certified is increased in a later certificate as a result of an award by the Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in the award. 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.
- 43.9 All payments to the Contractor under the contract shall unless otherwise stated elsewhere be made to the Contractor in Indian currency through e- payments through designated Bank.

#### **44 Compensation Events**

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

Whenever any compensation event occurs, the Contractor will notify the Employer, within 14 days and provide a forecast cost

of the compensation event.

- 44.2 If a Compensation Event would cause additional cost or would prevent the work being completed in the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Engineer 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 the Contractor, it is to be assessed by the Engineer or his nominee and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable the Engineer or his nominee shall adjust the Contract Price based on Engineer or his nominee's own forecast. The Engineer or his nominee will assume that the Contractor will react competently and promptly to the event.

#### **45. Rates for items to be inclusive of Taxes**

- 45.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales tax and other taxes, but excluding service tax 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.

Service Tax shall be claimed by the Contractor in the invoice except for those services which are covered under Negative list of Services under section 66D of the Finance Act and Mega Exemption Notification No 25/2012-ST dated 20.06.2012. The rate of Service Tax shall be as per the provisions of Point of Taxation Rules, 2011 and value on which service tax to be applied shall be as per the provisions of Service Tax (Determination of Valuation Rules), 2006. Where the contractor is an individual, HUF, Partnership firm or Association of Person, Service Tax shall be claimed under Reverse Charge Mechanism.

#### **46. Currencies**

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

#### **7. Price Adjustment.**

- 47.1 No price adjustment shall be made for works except for the provisions under clause 47.1.A herein under and clause 47.2 for any subsequent change in legislation.

47.1.A For Civil contract works, with intended completion period of the contract more than 12 months, Price adjustment shall be made for the variation in price of materials such as cement, reinforcement steel, structural steel, bitumen and bitumen emulsion. Compensation for variation in cost of the materials shall be regulated as described below subject to the condition that such compensation for variation in prices shall be only for the work done during the stipulated period of the contract including such period for which the validity of the contract is extended.

The rates quoted for the items in the Schedule of Quantities shall be based on the Base rates of the materials provided in the Contract Data and these base rates are applicable at the Supplier's local delivery point and shall not include cost of loading to Contractor's vehicle, transporting to work site and unloading and stacking at work site.

During execution and actual procurement by the Contractor, increase or decrease in the cost of materials over the Base rate (which results in an increase or decrease of cost to the Contractor in carrying out the works) shall form an addition or reduction as the case may be to or from the contract price and shall be paid to or allowed by the Contractor accordingly, provided that such increase or decrease shall relate only to the quantities of material which the Engineer is satisfied as reasonably required for the works. While considering the reasonable requirement of the materials for the work, allowance towards wastage/unusable cutting bits shall be permitted as provided in the Contract Data. The prices of materials considered for regulating the payment as aforesaid shall be the price charged by the suppliers approved by the Engineer at the supplier's local delivery point and this shall not include the cost of loading to the Contractor's vehicle, transporting to the work site and unloading and stacking at work site

#### **47.2 Subsequent Legislation**

If, after 28 (Twenty eight) days prior to the last date for submission of tenders for the contract, there occur changes to any National or State Statute, 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 state 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 Engineer or his nominee and shall be added to or deducted from the contract price and the Engineer 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 For civil works, Retention Money shall be deducted at 5% of the gross amount of the bill from the first Running Account bill onwards till the recovered sum amounts to 5% of the contract value or the value of the work done whichever is higher. Retention money shall be refunded to the Contractor within 14days from the date of payment of final bill.
- 48.3 No retention money shall be deducted for Electrical and Mechanical works.

**49. Liquidated Damages**

- 49A In case of delay in completion of the contract, liquidated damages (L.D) may be levied at the rate of half per cent (½%) of the contract price per week of delay, subject to a maximum of 10 per cent of the contract price. The amount of Liquidated damages can be adjusted or set-off against any sum payable to the Contractor.
- 49A(i) The Employer, 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 granted being with L.D, the Employer will be entitled without prejudice to any other right or remedy available in that behalf, to recover from the Contractor as agreed damages equivalent to half per cent (½%) of the contract value of the works for each week or part of the week subject to the ceiling defined in sub-Clause 49 A.
- 49A(ii) The Employer, 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.
- 49A(iii) The Employer, 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.
- 49A(iv) In the event of such termination of the contract as described in clauses 49A(ii) or 49A(iii) or both the Employer shall be entitled

to recover L.D. upto 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.

**49B Reduction of Liquidated Damages**

If, before the Time for Completion of the whole of the Works or, if applicable, any Section, Taking Over Certificate has been issued for any part of the Works or of a Section, the liquidated damages for delay in completion of the remainder of the Works or of that section shall, for any period of delay after the date stated in such Taking Over Certificate, and in the absence of alternative provisions in the Contract, be reduced in the proportion which the value of the part so certified bears to the value of the whole of the Works or Section, as applicable. The provisions of this Sub-Clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.

**50. Nominated Sub Contractors**

50.1 All specialists, merchants, tradesmen and others executing any work or supplying any good, materials, Plant or services for which provisional Sums are included in the Contract, who may have been or be nominated or selected or approved by the Employer or the Engineer, and all persons to whom by virtue of the provisions of the Contract, the Contractor is required to subcontract shall, in the execution of such work or the supply of such goods, materials, Plant or services, be deemed to be Sub Contractors to the Contractor and are referred to in this Contract as “Nominated Sub Contractors”.

**51. Advance payment**

The Employer shall make the following advance payments (as admissible in the contract data) if requested by the Contractor in writing:

51.1 Mobilisation Advance shall be paid upto 5% of Contract price, payable in two equal installments. The first installment shall be paid after mobilisation has started and next installment shall be paid after satisfactory utilisation of earlier advance for which, the Contractor shall furnish proof of the satisfactory utilization of the amount.

51.2 Construction/ installation equipment Advance shall be paid upto 5% of Contract price, limited to 90% of assessed cost of machinery. Equipment advance will be paid in two or more installments. First installment shall be paid after Construction Equipment has arrived at the site and next installment shall be paid after satisfactory utilisation of earlier advance (s).

- 51.3 Mobilisation Advance and Construction Equipment Advance shall be paid at 14% interest rate and against Bank Guarantee for Mobilisation Advance and against hypothecation of Construction Equipment to the Employer.
- 51.4 Recovery of Mobilisation 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.
- 51.5 The above advance payments shall be admissible only for the works where estimated cost put to tender is more than Rs. 5.0 crores.

**51.6 Secured Advance**

The Engineer or his nominee shall make advance payment in respect of materials and plant brought to site but not yet incorporated and installed in the Works in accordance with conditions stipulated in the Contract Data.

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.

The Contractor, on signing an indenture in the form to be specified by the Engineer, shall be entitled to be paid during the progress of the execution of the work upto 75% of the assessed value of any materials which are in the opinion of the Engineer nonperishable, non-fragile and noncombustible and are in accordance with the contract and which have been brought on the site in connection therewith and are adequately stored and/or protected against damage by weather or other causes but which have not at the time of advance been incorporated in the works. When materials on account of which an advance has been made under this sub-clause are incorporated in the work the amount of such advance shall be recovered/deducted from the next payment made under any of the clause or clauses of this contract.

Such secured advance shall also be payable on other items of perishable nature, fragile and combustible with the approval of the Engineer provided the Contractor provides a comprehensive insurance cover for the full cost of such materials. The decision of the Engineer shall be final and binding on the Contractor in this matter. No secured advance, shall however, be paid on high-risk materials such as ordinary glass, sand, petrol, diesel etc.

**52. Securities**

- 52.1 Security Deposit (SD) shall be at 10% of the contract value or

value of the work done whichever is higher and it shall consist of two parts:

- a) Performance Security to be submitted at award of the work
- b) Retention Money to be recovered from Running Bills as detailed in Clause 48 above.

The total amount thus deposited towards SD will be retained as security for the due and proper fulfillment of the contract and will not carry any interest. Such deposit shall be forfeited on failure to perform or non-fulfillment by the Contractor of the terms and conditions of the contract.

**52.2 Performance Security** shall be as below:

- a) For civil works : 5% of the Contract value
- b) For all Electrical and Mechanical works : 10% of the Contract value

**52.3** The Performance Security shall be provided by the Contractor to the Employer not later than 21 days for domestic bids and 28 days for international bids from the date of letter of acceptance and shall be furnished in one of the following forms:

- i) Banker's Cheque/Demand Draft/Pay Order of a Scheduled Bank.
- ii) An irrevocable Bank Guarantee(BG) enforceable and encashable at Cochin, drawn from any scheduled bank operating in India as per the proforma.

**52.4** The BG furnished towards the Performance Security shall be valid for a period until a date 30days from the day of expiry of the defect liability period stipulated as per the terms of the contract.

**52.5** Unless performance Security is furnished within the period as specified in clause 52.3 above or such extension of that period as may be permitted by the Engineer in writing, the Earnest Money will be liable to forfeiture and the contract to cancellation.

**52.6** Performance Security will be released / refunded to the Contractor not later than 30 days from the date of completion of Defect Liability / warranty period of the work.

### **53. Removal of Craft or Plant which has sunk**

The Contractor shall forthwith and with dispatch at his own cost raise and remove any craft or plant (floating or otherwise) belonging to him or to any sub-Contractor employed by him (including also any plant which is held by the Contractor or any sub-Contractor under agreement for hire or hire-purchase) which may be sunk in the course of the construction completion or maintenance of the Works or otherwise deal

with the same as the Engineer may direct or until the same shall be raised and removed, the Contractor shall set all such buoys and display at night such lights and do all such things for the safety of navigation as may be required by the Engineer or by Employer. In the event of the Contractor not carrying out his obligation imposed upon him by this clause the Employer may provide buoy and light such sunken craft or plant and raise and remove the same (without prejudice to the right of the Employer to hold the Contractor liable under General Conditions) and the Contractor shall refund to the Employer all costs incurred in connection therewith.

### **Contractor's Temporary Moorings**

Should the Contractor need, in connection with implementing the Works, to provide temporary moorings for his craft he may be allowed to do so in location and manner approved by the Engineer subject to all necessary permissions being first obtained by the Contractor from the authorities concerned. The Contractor shall not lay his temporary moorings such as to interfere with the port traffic and such moorings shall be removed if and when required by the Employer.

## **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 Liability 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 to the Engineer or his nominee/Employer to this effect. The Engineer or his nominee/Employer upon receipt of this notice shall conduct a complete joint survey of the work within 7 days and prepare a defects list jointly. The defects pointed out by the Engineer 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'.

#### **55.2 Substantial Completion of Parts**

If any part of the Permanent Works has been substantially completed and satisfactorily passed any Tests on Completion prescribed by the Contract, the Engineer may issue a Taking-Over Certificate in respect of that part of the Permanent works before completion of the whole of the Works and, upon the issue of such Certificate, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work in that part of

the Permanent Works during the Defects Liability Period.

### **55.3 Surfaces Requiring Reinstatement**

Provided that a Taking Over Certificate given in respect of any Section or part of the Permanent Works before completion of the whole of the Works shall not be deemed to certify completion of any ground or surfaces requiring reinstatement, unless such Taking Over Certificate shall expressly so state.

## **56. Taking Over**

56.1 The Engineer or his nominee shall take over the Site and the Works within seven days of the Engineer or his nominee issuing a certificate of Completion.

### **56.2 Taking Over Certificate**

When the whole of the Works have been substantially completed and have satisfactorily passed any Tests on Completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer, with a copy to the Employer, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the Contractor for the Engineer or his nominee to issue a Taking-over Certificate in respect of the Works. The Engineer or his nominee shall, within 21 days of the date of delivery of such notice, either issue to the Contractor, with a copy to the Employer, a Taking- Over Certificate, stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract, or give instruction in writing to the Contractor specifying all the work which in the Engineer's opinion, is required to be done by the Contractor before the issue of such Certificate. The Engineer or his nominee shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the Works specified therein. The Contractor shall be entitled to receive such Taking Over Certificate within 21 days of completion, to the satisfaction of the Engineer or his nominee, of the Works so specified and remedying any defects so notified.

### **56.3 Taking Over of Sections or Parts**

Similarly, in accordance with the procedure set out in above Clause 55, the Contractor may request and the Engineer or his nominee shall issue a Taking Over Certificate in respect of :

- (a) any Section in respect of which a separate Time for Completion is provided in the Contract Data , or
- (b) any substantial part of the Permanent Works which has been both completed to the satisfaction of the Engineer and, otherwise

than as provided for in the Contract, occupied or used by the Employer, or

- (c) any part of the Permanent Works which the Employer has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract or has not been agreed by the Contractor as a temporary measure).

## **57. Final Account**

57.1 The Contractor shall supply to the Engineer or his nominee a detailed account of the total amount that the Contractor considers payable under the Contract within 30 days of issue of Taking Over Certificate and the Engineer or his nominee shall 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 Engineer or his nominee shall issue within 30 days a schedule that states the scope of the corrections or additions that are necessary for the correction. If the Final Account is still unsatisfactory after it has been resubmitted the Engineer 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. Submission of 'As built Drawings'**

58.1 "As built" Drawings are required to be submitted by the Contractor by the dates stated in the Contract Data. 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 Engineer or his nominee's approval, the Engineer 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 authorised by the Engineer or his nominee:
- (b) the Engineer or his nominee instructs the Contractor to delay the progress of the Works 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 Engineer or his nominee is not paid by the Employer to the Contractor within 50 days of the date of the Engineer or his nominee's certificate:
- (e) the Engineer or his nominee gives Notice that 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 Engineer or his nominee.
- (f) the Contractor does not maintain a security which is required.
- (g) the Contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in the Contract data and
- (h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the Contract.
- (i) the Contractor threatens or misbehaves with or physical attack on any of the employee / officer of the Port

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

- 59.3 When either party to the Contract gives notice of a breach of contract to the Employer for a cause other than those listed under Sub Clause 59.2 above, the Employer 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 Engineer 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 any extra cost of completing the Works through other means which may be incurred by the Employer. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.
- 60.2 If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Engineer or his nominee shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment repatriation of the Contractor's personnel 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 Engineer or his nominee shall certify that the 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.

**F. LABOUR LAWS AND MISCELLANEOUS CLAUSES**

**63. Labour**

- 63.1 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.
- 63.2 The Contractor shall, if required by the Engineer or his nominee, deliver to the Engineer or his nominee a return in detail, in such form and at such intervals as the Engineer or his nominee may

prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Engineer or his nominee may require.

**64. Compliance with labour regulations.**

64.1 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 bye 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 the 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 Engineer or his nominee/Employer shall have the right to deduct any money due to the Contractor including his amount of performance security. The Employer/Engineer 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.

64.2 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.

**65. Safety, Security and Protection of the Environment.**

65.1 Subject and without prejudice to any other provision of the Contract, the Contractor shall take all reasonable precautions:

- a) In connection with the sea or any harbours, docks, rivers, streams waterways drains, watercourses, lakes, reservoirs and the like to prevent:
  - (i) Silting
  - (ii) Erosion of their beds or balks
  - (iii) Pollution of the water so as to affect adversely the quality or appearance thereof or cause injury or death to animal and plant life.

- b) In connection with underground water resources (including percolating water) to prevent
  - (i) Any interference with the supply to or abstraction from such sources
  - (ii) Pollution of the water so as to affect adversely the quality thereof.
- (c) All works shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out the work and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in regard or in relation to such liability.
- (d) The Contractor at his own cost shall make such provisions for lighting of Works, Temporary Works, Materials and Plant and shall provide all such marks and lights as may be required by the Employer or the Engineer or any other authority having jurisdiction over the Site together with all labour stores and services required for their efficient working and use at any time, day or night.
- (e) The Contractor shall also provide at his own cost every description of watching and maintenance required in connection with the foregoing, and all other services for protecting and securing all places dangerous whether to Contractor's workmen or to other persons until the Works are handed over to the Employer, or till such time when the Engineer decides that such services are no longer required.
- (f) All lights provided by the Contractor shall be placed or screened such as not to interfere with any navigation lights or with any traffic or signal lights of any local or other authority.

**66. Insurance of Works and Contractor's Equipment**

- 66.1 The Insurance shall be issued by any Insurance Company from its Branch at Cochin which has been determined by the Contractor to be acceptable to the Employer.

**67. War Risks Insurance**

- 67.1 If the Contractor receives instructions from the Employer to insure against war risks, such insurance if normally available shall be effected, at the cost of the Employer, with the Insurance Company acceptable to the Employer and shall be in the joint names of the Employer and the Contractor.

**68. Royalties**

Except where otherwise stated, the Contractor shall pay all

tonnage and other royalties, rent and other payments or compensation. If any, for getting stone, sand, gravel, clay or other materials by him and his subordinates and his subcontractors and required for the works, at the rates and such conditions as notified by the State Government and shall be realized from the Contractor by way of deductions from the interim certificates and/or final certificate for payments to the Contractor for the gross quantity of material used for or in connection with the work. The royalty will not be deducted if the Contractor submits the Mineral Dispatch Permit (MDP) for the quantity executed by the Contractor for the requisite quantity of material incorporated in works for which MDPB issued.

**69. Transport of Contractor's Equipment or Temporary Works**

69.1 If it is found necessary for the Contractor to move one or more loads of heavy constructional plant or equipment materials or pre-constructed units or parts of units of work over roads, highways or bridges on which such oversized and overweight items are not normally allowed to be moved, the Contractor shall obtain prior permission from the concerned authorities. Payments for complying with the requirements, if any, for protection of or strengthening of the roads, highways or bridges shall be deemed to be included in his contract price.

**70. Transport of Materials or Plant**

70.1 The Contractor shall save harmless and indemnify the Employer in respect of all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any claim made by the concerned authorities in respect of damage or injury to roads, highways or bridges. In case of failure of the Contractor to settle such claims and in case the Employer is held responsible for payment to the authorities, then the Employer shall settle the claim and the Employer's expenses in this regard, as certified by the Engineer, may be deducted by the Employer from any money due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly with a copy to the Employer.

**71. Labour Laws & Regulations**

The Contractor shall at all times during the continuance of the Contract comply fully with all existing Acts, regulations and bye-laws including all statutory amendments and re-enactment of State or Central Govt. and other local authorities and any other enactments and act that may be passed in future either by the State or the Central Govt. or local authority, including Indian Workmen's Compensation Act, Contract Labour (Regulation And Abolition) Act 1970 and Equal Remuneration Act 1976, Employees' State Insurance Act, 1948, Factories Act, Minimum Wages Act, Provident Fund Regulations. Employees' Provident Fund Act and schemes made under the same Act, Health and

Sanitary Arrangements for Workmen, Insurance and other benefits and shall keep the Employer indemnified in case any action is commenced for contravention by the Contractor. If the Employer is caused to pay or reimburse any amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated here-forth on the part of the Contractor, the Engineer shall have the right to recover from the Contractor any sum required estimated to be required for making good the loss or damage suffered by the Employer. The Contract shall maintain the records prescribed under ESI Regulations & EPF scheme and make the contribution towards ESI and EPF in respect of persons employed by Contractor. The Contractor shall also make available such records for inspection by ESI Inspector and EPF organization during the inspection and furnish copies of all such records to the Employer regularly.

**71.1. Accident Prevention Officer**

The Contractor shall have on his staff on site an officer dealing with all matters regarding safety and protection against, accidents of all staff and labour. This officer shall be qualified for this work and shall have the authority to issue instructions and shall take protective measures to prevent accidents.

**71.2 Disorderly Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his staff and labour and for the preservation of peace and protection of Persons and property in the neighborhood of the Works from the same.

**71.3 Health and Safety**

Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour and, in collaboration with and to the requirements of the local health authorities, to ensure that medical staff, first aid equipment and stores, sick bay and suitable ambulance services are available at the camps, housing and on the site at all times throughout the period of the Contract and that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements.

**71.4 Supply of Water**

The Contractor shall, so far as is reasonably practicable, having regard to local conditions provide on the Site, to the satisfaction of the Engineer's Representative, an adequate supply of drinking and other water for the use of the Contractor's staff and work people.

**71.5 Alcoholic Liquor or Drugs**

The Contractor shall not import, sell, give, barter or otherwise dispose of any alcoholic liquor, or drugs or permit or suffer any such importation, sale, gift, barter disposal by his sub-contract agents or employees.

**71.6 Arms and Ammunition**

The Contractor shall not give, barter or otherwise dispose of to any persons or person, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

**71.7 Festivals and Religious Customs**

The Contractor shall in all dealings with labour in his employment have due regard to all recognised festivals, days of rest and religious or other customs.

**71.8 Epidemics**

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

**71.9 Employment of Person in the Service of Others**

The Contractor shall not recruit or attempt to recruit his staff and labour from amongst persons in the service of the Employer or other agencies engaged for any works of the Employer.

**71.10 Housing for Labour**

Save in so far as the Contract otherwise provides, the Contractor shall provide and maintain such accommodation and amenities as he may consider necessary for all his staff and labour employed for the purposes of or in connection with the Contract, including all fencing water supply (both for drinking and other purposes), electricity supply, sanitation, cook houses fire prevention and fire-fighting equipment, furniture other requirements in connection with such accommodation or amenities. On completion of the Contract, unless otherwise agreed with the Employer, the temporary camps/housing provided by the Contractor, shall be removed and the site reinstated to its original condition, all to the approval of the Engineer. The land for construction of labour camps shall be allotted only outside the security area to the extent available and such areas allotted as per the prevailing lease rent.

**71.11 Fair Wages, Records, Inspection**

The Contractor shall pay the labourers engaged by him on the work not less than a fair wage which expression shall mean whether for time or piecework the respective rates of wages as

notified under the provisions of the Minimum Wages Act from time to time.

The Contractor shall maintain records of Wages and other remuneration paid to his employee in such form as may be convenient and to the requirements of the Employer/Engineer and the Labour Enforcement Officer (Central), Ministry of Labour, Govt. of India, or such other authorized person appointed by the Central Govt. The Contractor shall allow inspection of the aforesaid Wage Records and Wage Slips to the Engineer and to any of his workers or to his agent at a convenient time and place after due notice is received, or to any other person authorized by him on his behalf.

#### **71.12 Reporting of Accidents**

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the local police authorities immediately by the available means.

#### **71.13 Observance by Sub-Contractors**

The Contractor shall be responsible for observance by his sub-Contractors of the foregoing provisions.

#### **71.14 Port Entry Permission**

The Contractor shall submit prior application for Port entry passes to the concerned Port authority for his labours and the staffs engaged in the works.

The Contractor shall retain the original passes obtained by them in respect of their labour and staff engaged in the Works and produce the same to the Engineer as and when called for. It should not be either destroyed or allowed to be taken by the labour/staff after its use.

#### **71.15 Site - Protected Area**

The Site of Work is a protected area. Entry to the Port premises is regulated by entry passes. These passes will be issued by the Central Industrial Security Force or any other authority authorized by the Employer. The Contractor should furnish a list of person for whom the passes are to be issued to the Engineer and arrange to obtain the passes from the appropriate authority, based on the recommendation of the Engineer and abide by the Rules of the Cochin Port Trust with regard to entry etc. For the entry of trucks and other vehicles also, the Contractor should obtain necessary permits at his own cost .

The Contractor shall retain the original passes obtained by them in respect of their labour and staffs engaged in the Works and produce the same to the Engineer as and when called for. It should not be either destroyed or allowed to be taken by the labour/staff after its use.

**72. Life Saving Appliances and First Aid**

72.1 The Contractor shall provide and maintain upon the Works sufficient proper and efficient life saving appliances and first aid equipment to the approval of the Engineer. The appliances and equipment shall be available for use at all times.

**73. Action in case Work not done as per Specifications**

All works under or in course of execution or executed in pursuance of the contract shall at all times be open and accessible to the inspection and supervision of the Engineer or his authorised subordinates in charge of the work and all the superior officers, officer of the Quality Control Organisation of the Department, Vigilance Commissions, and the Contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself.

If it shall appear to the Engineer or his nominee or his authorised subordinates in charge of the work or to the Chief Vigilance Commissioner or his subordinate officers, that any work has been executed with unsound, imperfect, or unskillful workmanship, or with materials or articles provided by him for the execution of the work which are unsound or of a quality inferior to that contracted or otherwise not in accordance with the contract the Contractor shall, on demand in writing which shall be made within twelve months of the completion of the work from the Engineer or his nominee specifying the work, materials or articles complained of notwithstanding that the same may have been passed, certified and paid for forthwith rectify, or remove and reconstruct the work so specified in whole or in part, as the case may require or as the case may be, remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost. In the event of the failing to do so within a period specified by the Engineer or his nominee in his demand aforesaid, then the Contractor shall be liable to pay compensation at the same rate as under Clause 49 of the contract (for non-completion of the work in time) for this default.

In such case the Engineer or his nominee may not accept the item of work at the rates applicable under the contract but may accept such

items at reduced rates as the competent authority may consider reasonable during the preparation of on account bills or final bill if the item is so acceptable without detriment to the safety and utility of the item and the structure or he may reject the work outright without any payment and/or get it and other connected and incidental items rectified, or removed and re-executed at the risk and cost of the Contractor. Decision of the Engineer or his nominee to be conveyed in writing in respect of the same will be final and binding on the Contractor.

**74. Action where no Specifications are specified**

In the case of any class of work for which there are no such specifications as referred to in Clause 16, such work shall be carried out in accordance with the Bureau of Indian Standards Specifications. In case there is no such specification in Bureau of Indian Standards, the work shall be carried out as per manufacturers' specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the Engineer or his nominee.

**75. Bribes**

75.1 If the Contractor, or any of his Sub Contractors, agents or servants gives or offers to give to any person any bribe, gift, gratification or commission as an inducement or reward for doing or forbearing to do any action in relation to the Contract or any other contract with the Employer, or for showing or forbearing to show favour or disfavor to any person in relation to the Contract or to any other contract with the Employer, then the Employer may enter upon the Site and the works and terminate the employment of the Contractor and the provisions of Clause 59 hereof shall apply as if such entry and termination had been made pursuant to that Clause.

- (i) The bidders shall give an undertaking that they have not made any payment or illegal gratification to any person/authority connected with the bid process so as to influence the bid process and have not committed any offence under the Prevention of Corruption Act in connection with the bid.
- (ii) The bidders shall disclose any payments made or proposed to be made to any intermediaries (agents etc) in connection with the bid.

**76. Details to be Confidential**

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

for the purpose of the Contract the same shall be referred to the decision of the Employer whose award shall be final.

**77. Contractor's Temporary works, office etc**

77.1 The Contractor shall submit to the Engineer for his approval not less than 15 days before commencement of erection of any part of Temporary Works, drawings and detailed proposals for the method of construction of Temporary works such as office, store, false work and temporary platforms, pre-casting yard, workshop, etc. which he intends to construct for the execution of the contract and no such work shall be constructed before obtaining the written approval of Engineer or his nominee. These temporary works, office, store etc. shall be erected at or near the work area subject to approval of the Employer and the land space for the same will be allotted free of ground rent to the extent available. The Contractor shall obtain permission for any Temporary Works and would ensure that during execution of works the statutory requirements of the concerned authorities such as Cochin Port Trust, Police, Customs, etc. would be complied with.

**77.2 Submission of Reports, Returns etc**

All reports, statements, returns, drawings, diagrams etc. which the Contractor is required to submit to the Engineer during the progress of the Works, shall be furnished in triplicate without any additional cost.

**78. Water Supply**

78.1 Water required for the construction works including curing work shall be arranged by the Contractor on his own at his cost.

**79. Power Supply**

79.1 The Electricity connection for lighting, welding and other mechanical works to the extent available will be made available by the Employer within the Port area. Drawing of power lines/cables etc. from the available source of supply of power to the actual work site, providing switches and making connections etc. shall be arranged by the Contractor at his cost. The temporary lines and connections by the Contractor shall be approved by the Engineer's representative before availing power. The Contractor shall provide Energy Meter to read consumption in units.

79.2 The Contractor shall indicate his requirement of power to the Engineer within 15 days from the date of the letter of acceptance of the tender. The Contractor shall pay to the Employer, the power charges as per the prevailing Tariff schedule of Cochin

Port Trust in force during the work of the Contractor. The Contractor shall also pay the connection and disconnection charges as applicable.

- 79.3 The Contractor shall submit a complete drawing of the power points, wiring, diagram indicating all electrical loads, earthing etc. in complete shape along with the completion report. The Energy Meter provided is calibrated by Kerala State Electrical Inspectorate /TMR division, KSEB and such a Certificate to be produced. For non supply of power at any stage port will not be responsible and the Contractor shall not have any claim whatever for loss or damage.
- 79.4 If there is any disruption in the power supply due to supply failure/restrictions imposed by the Kerala State Electricity Board, the department shall not be held responsible and the Contractor has to make suitable alternative arrangements like generator, welding set etc. at their cost.

## **80. Taxes and Duties**

- 80.1 The Contractor shall pay Sales Tax, Excise Duty and other levies as applicable from time to time in respect of all materials, equipment and other items purchased for the work.

### **80.2 Sales / Turnover Tax on Works Contract**

Deduction of Sales/Turnover tax on works Contract shall be made by the Employer from each certificate of payment to the Contractor at the rate applicable for such Contractors, as TDS or such other rates as may be specified by the State Government from time to time. TDS certificates will be issued to the Contractor which he may produce before the Tax Authority for adjustment against his tax liability as per assessment.

### **80.3 Income Tax**

The Contractor and his staff shall be responsible for payment of all personal income taxes to the concerned authorities as per the law in force from time to time. Deduction of Income Tax shall be made by the Employer from each certificate of payment to the Contractor at the rate of 2% plus surcharge or such other rates as may be specified by the Central Government from time to time, on the gross amount of the Contractor's bill for payment.

## **81. Noise and Disturbance**

- 81.1 All works shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out the work and from

and against all claims demands proceedings damages costs charges and expenses whatsoever in regard or in relation to such liability.

## **82. Safety Code**

82.1 Necessary Indian Dock Safety regulations for the safety purpose shall be adhered to by the Contractor and he will be held responsible for any violations of the same. The set of such conditions (regulation) is available with Cochin Port Trust and the Contractor is required to go through it before tendering.

82.2 Besides the above, the Contractor shall also scrupulously adhere to and observe the following safety codes:

(i) The Contractor has to provide sufficient barricades to site of work so that traffic plying nearby should not damage the recently concreted work. In case of any damage on account of above, the entire responsibility will remain with Contractor and nothing extra will be paid on this account.

(ii) Suitable and strong scaffolds should be provided for the workmen for all work that cannot be safely done from ground.

(iii) No portable single ladder shall be over 8 meters in length. The width between the side rails shall not be less than 30 cm (clear) and the distance between the two adjacent rungs shall not be more than 30 cm.

(iv) Hoisting machines and tackles used in the works including their attachments, anchorage and supports shall be in perfect condition as per stipulations of the relevant Rules. The ropes used an hoisting or lowering materials or as means or suspension shall be of durable quality and adequate strength and free from defects.

(v) The excavated material shall no be placed within 1.5 meters of the edge of the trench or half of the depth of the trench, whichever is more. All trenches and excavation shall be provided with necessary fencing to lighting. Every opening in the floor of a building or in a working platform be provided with suitable fence to prevent the fall of persons or materials. No floor, roof or other parts of the structure shall be so overloaded with debris or materials as to render it unsafe.

(vi) Workers employed on mixing and handling materials such cement, cement mortars concrete, lime mortar and asphalt shall be provided with protective footwear and rubber hand gloves and thin cloth for covering face and head.

(vii) Those engaged in welding work shall be provided with welder protective eye shield and glove.

(viii) All safety rules shall be strictly followed while working on live electrical systems or installations as stipulated in the relevant Rules.

### **83. Port Trust Rules**

83.1 The Contractor shall observe the Conservancy Rules relating to the harbour and shall always take such necessary additional steps to keep the harbour waters free of noxious or unhygienic matters coming from his works as are required by the Employer. Under no circumstances shall inflammable materials be allowed to spill into the harbour waters.

83.2 The Contractor shall always observe and comply with the working rules and regulations of the Port Trust in force or as issued from time to time.

83.3 The Contractor's plants, equipments, floating crafts, dredgers, materials etc. which are brought to site for facilitating the proper execution of the contract work within the port area are not liable to port dues and charges like wharfage, berth hire and other charges during the period of contract and until expiry of defect liability period.

### **84. Execution of work**

84.1 The Contractor shall be required to execute the work in such a way so as not to cause any damage, hindrance or interference with port activities going on in the area or nearby. He should not also deposit the materials at such places which may cause inconvenience to the public and the work going on in the nearby area. The Contractor shall have to make good all damages done by him to the structures nearby while executing the work and no extra payment shall be made to him on that account.

84.2 All the materials required to be used in the work shall have to be got approved from the Engineer-in-Charge before stacking at the site of work.

84.3 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.

### **85. Drawings & Designs**

(a) General details of the works are shown on the drawings

accompanying the tender document. The Engineer will supply to the Contractor from time to time during the progress of the works such further working drawings as will be necessary in his opinion for the proper and adequate execution and maintenance of the Works in accordance with the Engineer's designs and/or any modification thereof as decided by the Engineer and the Contractor shall carry out the work in accordance with the said working drawings. Two sets of such working drawings will be issued. If the Contractor requires more sets he will have to make his own arrangement at his cost.

Residual Design, Detailing & Engineering: - Generally, detailed design and engineering of the work shall be provided by the Engineer. During execution of the work the residual design, detailing and engineering, if needed, is to be carried out by the Contractor at no extra cost to the Employer. Such design, detailing & engineering shall be got approved by the Contractor from the Engineer. For equipments/ Installations detailed drawings need to be produced by the Contractor at no extra cost to the Employer. Such detailing & engineering shall be got approved by the Contractor from the Engineer.

- (b) In the event of the Contractor proposing any alteration/ modification to the Engineer's design, detail, method of construction, he shall at his own expenses prepare and submit for approval of the Engineer copies in duplicate (in the first instance) of detailed working drawings which may be required for such alteration/ modification and at the same time call the attention of the Engineer to any alternative detail or modification of the contract drawings which the Contractor may wish to make at least 30 days prior to the commencement of the work or part of the work to which such drawings relate. The Contractor shall at the same time, if so required by the Engineer, furnish calculation sheets in duplicate relating to the strength and anticipated deflections in respect of such altered/ modified works. The Engineer will, after any such alteration which he may approve, record on the copies as amended his approval and will return one copy of the drawings and calculation sheets to the Contractor, who shall carry out the work in accordance therewith. The Contractor shall forward to the Engineer three additional copies of the working drawings and calculation sheets as approved in addition to these working drawings and calculation sheets as approved. In addition to these, working drawings are also to be submitted (the same procedure as in the case of the Contractor) in respect of any work proposed to be executed by sub-Contractors. The approval of the Engineer of all or any of the calculation sheets, drawings shall not relieve the Contractor of responsibility in connection with the execution of the altered/ modified or Sub

Contractor's work.

- (c) Three complete sets of tracing film of all drawings showing every and all works 'As Made' under the Contract shall be made by the Contractor at his own expense and delivered to the Engineer within one month of the completion of the various sections of the work or at such times as directed by the Engineer. All departure /alteration /modifications from the Contract Drawings and supplementary working drawings issued by the Engineer also shall be incorporated in the "As Built" drawings. The drawings shall be fully dimensioned, of an approved size and as approved by the Engineer.

## **86. Monsoon Period**

86.1 Normally Monsoon period will be reckoned from 1<sup>st</sup> June to 30<sup>th</sup> September.

## **87. Reports**

The following reports shall be submitted for review as an input to the Management meeting to be held as per Clause No 31 of Conditions of Contract

### **87.1 Daily reports**

The Contractor shall submit daily report indicating daily activities, weather condition, actual manpower, equipment and the materials arriving on site.

### **87.2 Monthly Reports**

Monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in triplicate. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7days after the last day of the period to which it relates. Reporting shall continue until the Contractor has completed all work, which is known to be outstanding at the completion date, stated in the Taking-Over Certificate for the Works.

Each report shall include:

- a) Charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each Sub-Contractor,
- b) Photographs in hardcopy & digital copy and videography in two sets showing the various stages of progress on the Site monthly;

- c) For the supply of manufactured items, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
  - i. Commencement of manufacture,
  - ii. Contractor's/ Engineer's inspections,
  - iii. Tests,
  - iv. Shipment and arrival at the Site;
- d) Copies of quality assurance documents, test results and certificates of Materials;
- e) Safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- f) Comparisons of actual and planned progress, with details of any events or circumstances which may jeopardise the completion In accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

## **88. Completion Documents**

88.1 To treat that the work has been completed and issue a final payment certificate, the following documents will be deemed to form the completion documents:

- i) The Technical documents according to which the work was carried out.
- ii) The set of construction drawings showing therein the modifications and corrections made during the course of execution signed by the Engineer.
- iii) Certificates of final levels and dimensions as set out for various works.
- iv) Certificates of tests performed for various works.
- v) "As Built" Drawings.

## **89. Changes in firm's Constitution to be intimated**

The Contractor shall intimate the Engineer in writing of any change made in the constitution of the firm

## **90. Indemnities**

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design

(if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and

(b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:

(i) arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, and

(ii) is attributable to any negligence, willful act or breach of the Contract by the Contractor, the Contractor's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

**G. SALIENT FEATURES OF SOME MAJOR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN 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. The 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 contributions by the Employer plus workers @ 12% / 8.33%. The benefits payable under the Act are:

(i) Pension or family pension on 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.

The employees employed by the Contractor for the work of Port Trust have to be enrolled under the relevant scheme of the EPF & MP Act 1952. The Contractor shall produce documents pertaining to the same for verification to the Engineer/ his nominee. Further the Contractor has to pay the necessary monthly contributions to the said scheme in respect of the employees employed by him for the work of CoPT and shall produce necessary document to show that the monthly contribution in respect of these employees due to the said scheme are paid.

In case the contractor has not paid the EPF contribution same will be recovered in the running bill and paid to the EPF Organization. Any delay in payment of contribution payable under the Act may be recovered as an arrear of Land Revenue

- (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 As per the provision of the Act and amendment issued from time to time. 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) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979:The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in

another state). The Inter-State migrant workmen, in establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home upon the establishment and back,

- (k) 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.
- (l) ESI Act, 1948:-
- (i). As per the Govt. Notification dt. 20.7.09, Cochin Port Trust has registered under the ESI Act with ESI Corporation and provision of ESI Act, 1948 are applicable to contract/casual employees drawing wages/Salary upto Rs.15,000/- per month and working in Cochin Port Trust . Workers covered under ESI Act, are entitled for full medical care for self and family. Besides, cash benefit in the event of sickness, maternity and employment injury. Accordingly, the contractual/casual employees drawing wages upto Rs. 15,000/-per month employed either directly by Port Trust or through contractor are covered under ESI Act, 1948. It is obligatory on the part of the employer to calculate and remit ESI contribution comprising of employers' share of 4.75% plus employees' share of 1.75% which is payable on or before 21st of the following month, to which the salary relates.
- (ii). In case the Contractor employs more than 20 employees, they should register their name with ESI scheme as per ESI Act, 1948 and obtain ESI Code. Both Employers share of 4.75% and Employees contribution of 1.75 % (recovered from employees), totally 6.5% to be paid as contribution to ESI in their Code on or before 21st of following month to which the salary relates and acknowledgment for the same shall be submitted to the Port while claiming the bill. The bill without the acknowledgement of ESI contribution will not be entertained. In case the contractor has not paid the ESI contribution same will be recovered in the running bill and paid to the ESI Corporation in contractor's code. Any delay in payment of

contribution payable under the Act may be recovered as an arrear of Land Revenue.

- (iii). In case the contractor employs less than 20 employees, the list of employees' name, their father's name, identification proof, one passport photo shall be submitted to the Port Trust. The contribution of ESI amount, both Employers share of 4.75% and Employees of 1.75% (recovered from Employees salary), totally 6.5% shall be paid by the contractor in the Cochin Port Trust Code on or before 21st of the following month to which the salary relates or otherwise payment to the contractor will be withheld. If the contractor fails to comply with the above instruction, then the Principal Employer (Cochin Port Trust) will make payment to the ESI Corporation. Such amount will be deducted from any amount due to the contractor. Any delay in payment of contribution payable under the Act may be recovered as an arrear of Land Revenue.
- (iv). As per the above Government Notification i) All intending tenderer at the time of tender shall disclose all necessary documents as to whether they are covered under ESI Act or not.
- ii) in case they are covered under ESI Act, they have to furnish the details of registration.

**CONTRACT DATA**

Items marked “N/A” do not apply in this Contract.

| Sl. No. | Description                                                                                                    | Reference Cl.No. |
|---------|----------------------------------------------------------------------------------------------------------------|------------------|
| 1       | <i>The following documents are also part of the Contract</i>                                                   |                  |
|         | The Schedule of other Contractors<br>i)<br>ii)                                                                 | (8.2)            |
|         | The Schedule of Key personnel<br>i)<br>ii)                                                                     | (9)              |
| 2       | The Employer is                                                                                                | (1)              |
|         | <b>The Board of Trustees,<br/>Cochin Port Trust,<br/>Cochin -9</b>                                             |                  |
|         | Name of Authorized Representative:                                                                             |                  |
|         | Name : Shri / Smt..... <i>[INSERT NAME]</i><br>The Chairman,<br>Cochin Port Trust<br>Cochin -9                 |                  |
| 3       | The Engineer is                                                                                                |                  |
|         | Name : Shri <i>[INSERT NAME]</i><br>Chief Engineer/Chief Mechanical Engineer<br>Cochin Port Trust,<br>Cochin-9 |                  |

| Sl. No.                        | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Reference Cl.No. |  |                                |                                                                 |  |  |  |  |  |  |  |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--|--------------------------------|-----------------------------------------------------------------|--|--|--|--|--|--|--|
|                                | Name of Nominee is                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
|                                | Name : Shri..... <i>[INSERT NAME]</i><br><i>[INSERT DESIGNATION OF THE OFFICER]</i><br><b>Cochin Port Trust</b><br><b>Cochin-9</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
| 4                              | Name of Contract :- <b>[INSERT TITLE OF WORK]</b><br><b>Tender no: [INSERT TENDER NO.]</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | (1)              |  |                                |                                                                 |  |  |  |  |  |  |  |
| 5                              | ..... <b>[ INSERT NUMBER ]</b> copies of Contract Agreement shall be furnished by the Contractor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | [7.1]            |  |                                |                                                                 |  |  |  |  |  |  |  |
| 6                              | Tender document and other data are available at ..... <b>[INSERT ADDRESS OF OFFICE]</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | (7.2)            |  |                                |                                                                 |  |  |  |  |  |  |  |
| 7                              | The Intended completion Date for the whole of the Work is <b>[INSERT CONTRACT PERIOD]</b> Months / Days with the following milestones:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | (17,28)          |  |                                |                                                                 |  |  |  |  |  |  |  |
| 8                              | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" data-bbox="297 1178 1149 1251">Milestone dates:</td> </tr> <tr> <td data-bbox="297 1251 732 1402" style="width: 50%; text-align: center;">Physical works to be completed</td> <td data-bbox="732 1251 1149 1402" style="width: 50%; text-align: center;">Period from the date of receipt of LoA to proceed with the work</td> </tr> <tr> <td data-bbox="297 1402 732 1476"> </td> <td data-bbox="732 1402 1149 1476"> </td> </tr> <tr> <td data-bbox="297 1476 732 1549"> </td> <td data-bbox="732 1476 1149 1549"> </td> </tr> <tr> <td data-bbox="297 1549 732 1619"> </td> <td data-bbox="732 1549 1149 1619"> </td> </tr> </table> | Milestone dates: |  | Physical works to be completed | Period from the date of receipt of LoA to proceed with the work |  |  |  |  |  |  |  |
| Milestone dates:               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
| Physical works to be completed | Period from the date of receipt of LoA to proceed with the work                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                  |  |                                |                                                                 |  |  |  |  |  |  |  |
| 9                              | The following shall form part of the Contract Document:<br>(1) Form of Agreement<br>(2) Letter of Acceptance<br>(3) Contractor's Bid                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | (2.3)            |  |                                |                                                                 |  |  |  |  |  |  |  |

| Sl. No. | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Reference Cl.No. |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
|         | <p>(4) Contract Data</p> <p>(5) Conditions of Contract including Special Conditions of Contract</p> <p>(6) Specifications</p> <p>(7) Drawings</p> <p>(8) Bill of quantities and</p> <p>(9) Any other documents listed in the Contract Data as forming part of the Contract.</p> <p>(10) Correspondence exchanged after the opening of the Bid and before the issue of Letter of Acceptance by which the Condition of Contract are amended, varied or modified in any way by mutual consent (to be enumerated).</p> |                  |
| 10      | The Contractor shall submit a Program for the Works within ---- days <b>[INSERT PERIOD]</b> of date of the Letter of Acceptance.                                                                                                                                                                                                                                                                                                                                                                                   | (27)             |
| 11      | <p><b>The site possession date</b></p> <p>The site will be handed over within .....days <b>[INSERT PERIOD]</b> after issue of LoA and the site is free from encumbrances.</p>                                                                                                                                                                                                                                                                                                                                      | (21)             |
| 12      | The start date shall be ..... days <b>[INSERT PERIOD]</b> from the date of receipt of the Letter of Acceptance (LoA) by the Contractor.                                                                                                                                                                                                                                                                                                                                                                            | (1)              |
| 13      | <p>The site is located at .....</p> <p><b>Shown in</b> drawing no. ....</p>                                                                                                                                                                                                                                                                                                                                                                                                                                        |                  |
| 14      | The Defects Liability Period is .....<br><b>[INSERT PERIOD AS APPLICABLE]</b>                                                                                                                                                                                                                                                                                                                                                                                                                                      | (35)             |

| Sl. No. | Description                                                                                                                                                                                                                                                                                      | Reference Cl.No. |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 15      | The minimum insurance cover for physical property, injury and death is <b>Rs. ....lakhs (Rupees .....lakhs) [INSERT AMOUNT]</b> per occurrence with the number of occurrences unlimited. After each occurrence, Contractor will pay additional premium necessary to make insurance valid always. | (13)             |
| 16      | The following events shall also be Compensation Events:<br><b>(Add the events as applicable to the Contractor)</b><br>1.                                                                                                                                                                         | (44)             |
| 17      | The period between Programme updates shall be 30 days.                                                                                                                                                                                                                                           | (27)             |
| 18      | The amount to be withheld for late submission of an updated Programme shall be Rs. .... <b>[INDICATE THE AMOUNT ]</b>                                                                                                                                                                            | (27)             |
| 19      | The language of the Contract documents is <b>English.</b>                                                                                                                                                                                                                                        | (3)              |
| 20      | The law, which applies to the Contract, is the law of Union of India.                                                                                                                                                                                                                            | (3)              |
| 21      | The currency of the Contract is <b>Indian Rupees.</b>                                                                                                                                                                                                                                            | (46)             |
| 22      | The proportion of payments retained (retention money) shall be 5% from each bill subject to a maximum of 5% of the contract price.                                                                                                                                                               | (48)             |
| 23      | The maximum amount of liquidated damages for the whole of the works is <b>10%</b> of the contract price.                                                                                                                                                                                         | [49]             |
| 24      | The amounts of the advance payments :                                                                                                                                                                                                                                                            | [51]             |
|         | The advance payments as applicable to the contract are:<br><b>[INSERT AS APPLICABLE]</b><br>1. ....<br>2. ....<br>3. ....                                                                                                                                                                        |                  |

| Sl. No. | Description                                                                                                                                                                                                                                                                                                                                                 | Reference Cl.No. |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 25      | Repayment of advance payment for mobilization :<br><b>[INSERT ANY SPECIAL CONDITIONS]</b>                                                                                                                                                                                                                                                                   | [51]             |
| 26      | Repayment of advance payment for Construction and equipment:<br><b>[INSERT ANY SPECIAL CONDITIONS]</b>                                                                                                                                                                                                                                                      | [51]             |
| 27      | Repayment of secured advance:<br><br><b>[INSERT ANY SPECIAL CONDITIONS]</b>                                                                                                                                                                                                                                                                                 |                  |
| 28      | The date by which “as-built” drawings are required is within 90 days of issue of certificate of completion of whole or section of the work, as the case may be.                                                                                                                                                                                             | (58)             |
| 29      | The amount to be withheld for failing to supply “as built” drawings and/or operating and maintenance manuals by the date required is Rs..... <b>[ INDICATE THE AMOUNT ]</b>                                                                                                                                                                                 | (58)             |
| 30      | Schedule of Rates Applicable: DSR..... + ....%                                                                                                                                                                                                                                                                                                              |                  |
| 31      | <p>Base Rate for materials to be considered for price variation</p> <p>(i) Cement consumed for various items of work<br/>: Rs. ....per tonne</p> <p>(ii) Reinforcement steel used under various items<br/>:Rs ..... per tonne</p> <p>(iii) Structural Steel used under various items:<br/>Rs. .... per tonne</p> <p>(iv) Bitumen under various items in</p> | <b>(47)</b>      |

| Sl. No. | Description                                                                                                                                                                                                                                      | Reference Cl.No. |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
|         | <p style="text-align: center;">: Rs..... per tonne</p> <p style="text-align: center;">(v) Bitumen emulsion (MS &amp;RS) under various items<br/>in : Rs..... per tonne</p> <p style="text-align: center;"><b>[STRIKE OFF AS APPLICABLE ]</b></p> |                  |
| 32      | <p>Permissible wastage on theoretical quantities of</p> <p>(b) Cement : 2%</p> <p>(b) Steel Reinforcement and structural steel sections for each diameter, section and category : 5.99 %</p> <p>(d) Bitumen/Bitumen emulsion : 2.5%</p>          | <b>(47)</b>      |